

Biden Administration Increases Sanctions, Export Control Restrictions Amid Russia's Continued Aggression in Ukraine

April 12, 2022

Over the last week, the Biden Administration announced new sanctions and export controls on Russia and “the Putin regime for its atrocities in Ukraine, including in Bucha.” These actions include full blocking sanctions on two of Russia’s largest banks, a ban on new investment in Russia, and additional export restrictions on Russia and Belarus.

OFAC Expands Sanctions on Russian Banks, State-Owned Enterprises, Elites

On April 6, 2022, the Treasury Department’s Office of Foreign Assets Control (OFAC) designated Russia’s largest state-owned bank, JSC Sberbank of Russia (Sberbank), and Russia’s largest privately-owned bank, JSC Alfa-Bank (Alfa-Bank), as Specially Designated Nationals (SDNs) under Executive Order (EO) 14024, making transfers of funds to and from Russia even more challenging. Previously, Sberbank and Alfa-Bank were subject to more limited U.S. sanctions. OFAC also designated members of Russian President Putin’s family and additional members of the Russian Security Council.

The following day, on April 7, 2022, OFAC added PJSC Alrosa (Alrosa), a Russian state-owned enterprise (SOE) and the world’s largest diamond mining company, to its SDN list. The U.S. Department of State also re-designated United Shipbuilding Corporation (USC), an SOE responsible for developing and building the Russian Navy’s warships, pursuant to EO 14024; USC previously had been designated as an SDN under EO 13661. The new designations also include 28 USC subsidiaries as well as members of USC’s board of directors.

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As a result of these designations, all property and interests in property of these individuals and entities that are in the United States or in the possession or control of U.S. persons are blocked and must be reported to OFAC. In addition, any entities that are owned, directly or indirectly, 50% or more by one or more blocked persons are also blocked.

OFAC issued several general licenses in parallel to the new SDN designations and updated some existing authorizations to account for the new SDN designations. The new/updated general licenses authorize certain transactions related to the following:

- energy (General License 8B)
- certain debt or equity (General License 9C)
- certain derivative contracts (General License 10C)
- the wind down of dealings with Sberbank CIB USA, Inc. and Alrosa USA, Inc. (General License 21A, expires June 7, 2022)
- the wind down of dealings involving Sberbank (General License 22, expires April 13, 2022)
- the wind down of dealings involving Alfa-Bank (General License 23, expires May 6, 2022)
- the wind down of dealings involving Alrosa (General License 24, expires May 7, 2022)
- telecommunications and certain internet-based communications (General License 25)
- the wind down of dealings involving Joint Stock Company SB Sberbank Kazakhstan or Sberbank Europe AG (General License 26, expires July 12, 2022).

New Investment and Services Restrictions

On April 6, 2022, President Biden issued a new EO, in coordination with the G7 and EU, that includes a prohibition on new investment in Russia by U.S. persons. This EO also provides OFAC, in consultation with the State Department, the authority to impose restrictions on the provision of certain services to Russia. While the EO provides a framework to ban certain types of services, it does not actually prohibit any services unless and until the U.S. government identifies restricted categories, which it has not done to date. Nevertheless, this new authority does make it more likely that the U.S. government will issue service-related bans going forward.

BIS Expands Export Controls on Russia, Belarus

In conjunction with OFAC's measures, the Commerce Department's Bureau of Industry and Security (BIS) announced new export controls on Russia and Belarus. Prior to this announcement, BIS had imposed a license requirement for all exports, reexports, and transfers (in-country) of U.S. commodities, software, and technology covered by Export Control Classification Numbers (ECCNs) in Categories 3-9 of the Commerce Control List (CCL) to Russia or Belarus. BIS is expanding this license requirement under Section 746.8(a)(1) of the Export Administration Regulations (EAR) to include items classified under any ECCN in Categories 0 through 2 of the CCL as well. There still is no country-wide licensing requirement for EAR99 items, although exports of these items to military end users or for military end uses in Russia or Belarus require a license.

The rule also revises the country-based foreign direct product rule for Russia and Belarus (the "Russia/Belarus FDP rule") to apply to all items on the CCL. As such, foreign-produced items derived from ECCNs in Categories 0 through 9 of the CCL (as opposed to Categories 3 through 9 under the former restrictions) will now be subject to the EAR under the Russia/Belarus FDP rule, along with the license requirement described in Section 746.8(a)(2) of the EAR. BIS also added the following countries to the list of partner countries that have adopted or plan to adopt similar measures as the U.S. government and, therefore, are excluded from the special controls on foreign-produced items: Iceland, Liechtenstein, Norway, and Switzerland.

In addition, License Exception AVS (15 C.F.R. § 740.15) in the EAR is no longer available for aircraft registered in, owned, or controlled by, or under charter or lease by, Belarus, or by a Belarusian national (similar to the treatment afforded to aircraft with connections to Russia/nationals of Russia).

Our team has unparalleled experience and expertise representing a broad range of U.S. and multinational clients in complex sanctions and export control matters. Should you have any questions about this alert, U.S. sanctions and export controls on Russia, or any national security-related matters, please do not hesitate to contact one of the attorneys listed on this alert.

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