

Insights

RUSSIA SANCTIONS UPDATE: NEW SDN DESIGNATIONS, PROHIBITION ON NEW INVESTMENT, EXPANSION OF U.S. EXPORT CONTROL RESTRICTIONS

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The United States has taken further export control and sanctions measures in response to the ongoing conflict in Ukraine. Among the changes: SDN designations of additional persons, entities and vessels, ban on new investment in Russia by U.S. persons, prohibition on provision of certain categories of services to Russia (though the categories have not yet been defined), issuance of temporary denial orders to three Russian airlines, and expansion of the scope of items requiring authorization for export to Russia to include all items on the Commerce Control List (CCL). Organizations should ensure they are continuing to evaluate and update their compliance procedures to address their potential touchpoints to these new sanctions and export control measures.

New SDN Designations Targeting Russian Banks, Darknet Market and Virtual Currency Exchange, State Owned Enterprises, and Russian Elites

The U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) announced on April 5, 6 and 7, additional SDN designations of a number of persons, entities and vessels. U.S. persons are prohibited from providing funds, goods, or services to or for the benefit of any of the designated parties and from receiving funds, goods, or services from any designated parties, unless authorized by OFAC. In addition, any interests in property of those entities that are or come within the United States or within the possession or control of a U.S. person must be blocked and reported. The prohibitions related to dealings with SDNs and the blocking and reporting requirements also extend to entities owned 50% or more, directly or indirectly, by one or more blocked persons, even if such persons are not separately identified on the SDN List. Ongoing activities of non-U.S. persons with such persons may trigger secondary sanctions risks, which could include the non-U.S. party itself being designated as an SDN.

Specifically, the designations included the following pursuant to EO 14024:

- Darknet market Hydra Market (Hydra) and virtual currency exchange Garantex (April 5).

- Public Joint Stock Company Sberbank of Russia (Sberbank) and Joint Stock Company Alfa-Bank (Alfa-Bank) and a number of their subsidiaries (April 6).
- OFAC also issued new general licenses (“GLs”) permitting wind down activities; the general license for wind down activities involving Sberbank and its subsidiaries expires at **12:01 a.m. eastern daylight time April 13, 2022**, while the general license for wind down activities involving Alfa-Bank and its subsidiaries expires at 12:01 a.m. eastern daylight time, May 6, 2022.
- Notably, OFAC has specified that Joint Stock Company Alfa-Bank is a distinct entity from Alfa-Bank (Ukraine), which has not been sanctioned.
- Members of the Russian Security Council, two daughters of the Russian President and the wife and daughter of the Russian Foreign Minister (April 6).
- Public Joint Stock Company Alrosa (Alrosa) and United Shipbuilding Corporation, along with 28 of its subsidiaries and 8 of its board members (April 7).
- OFAC issued a GL for wind down activities involving Alrosa; the general license expires at 12:01 a.m. eastern daylight time, May 7, 2022.

In connection with these new designations, OFAC updated several GLs to EO 14024 that permit U.S. persons to engage in certain activities with designated entities. GL 8B authorizes certain activities related to energy until June 24, 2022, and was updated to include transactions involving Sberbank and Alfa-Bank. GLs 9C and 10C authorize certain activities that are necessary to dealing in otherwise prohibited debt and equity and winding down otherwise prohibited derivative contracts and were updated to include transactions involving Sberbank, Alfa-Bank, and Alrosa. Notably, while these authorizations apply to activities that were entered into prior to the designations of Alfa-Bank and Alrosa, with respect to Sberbank they apply only to activities entered into prior to February 24, 2022. Further, OFAC also issued a general license authorizing wind down activities involving Sberbank CIB USA, Inc. and Alrosa USA, Inc.; this general license expires at 12:01 a.m. eastern daylight time, June 7, 2022.

Separately, OFAC issued General License 25 to EO 14024, authorizing transactions ordinarily incident and necessary to the receipt or transmission of telecommunications involving Russia and the export, reexport, sale or supply by U.S. persons or from the United States to Russia of certain services, software, hardware, or technology incident to the exchange of communications over the internet to the extent such activities are prohibited under the Russian Harmful Foreign Activities Sanctions. Those relying on General License 25 must ensure compliance with the restrictions outlined in paragraph (c) on activities authorized under the general license.

Executive Order 14071 Targeting New Investments in Russia

On April 6, 2022, President Biden issued Executive Order (EO) 14071 prohibiting:

- New investment in Russia by any U.S. person.
- The export, reexport, sale, or supply, directly or indirectly, of any category of services (as defined by the US Secretary of the Treasury) from the United States, or by a U.S. person to any person located in Russia.
- Approval, financing, facilitation, or guarantee by a U.S. person of any of the above transactions to the extent that the transaction would be prohibited if performed by U.S. persons or within the United States.

These prohibitions take effect immediately, although OFAC has not, as of April 10, 2022, specified any categories of services that are covered by the prohibition. Further, as of April 10, 2022, OFAC has not yet defined “new investment” for the purposes of EO 14071. However, in response to [EO 14066 on March 8, 2022](#), OFAC published FAQ 1019, which defined new investment in Russia’s energy sector. [According to FAQ 1019](#), new investment is “a transaction that constitutes a commitment or contribution of funds or other assets for, or a loan or other extension of credit to, new . . . activities (not including maintenance or repair) located or occurring in the Russian Federation . . .” OFAC has not specified whether the same definition of “new investment” will apply to EO 14071; however, the prohibitions in the new EO would appear to be a broadening of the prohibitions in EO 14066.

Denial of Export Privileges to Three Russian Airlines

On April 7, 2022, the U.S. Commerce Department’s Bureau of Industry and Security (BIS) issued Temporary Denial Orders to three Russian airlines: Aeroflot, Azur Air, and UTair. These orders terminate the rights of these airlines to engage in transactions subject to the EAR, including both exports from the U.S. as well as reexports of U.S. origin items outside the United States. The orders are valid for 180 days and are subject to renewal. Importantly, this action signals a clear intent by the U.S. government to fully enforce the new export controls (and sanctions) imposed against Russia.

Expansion of Controls Under the EAR

On April 8, 2022, BIS published for public inspection a Final Rule further expanding license requirements for exports, reexports, and transfers to Russia and Belarus. Under the final rule, a license is now required for the export, reexport or transfer of any items on the Commerce Control List (CCL) to Russia and Belarus—i.e., all items that are not EAR99. This rule also expands the Russia/Belarus Foreign Direct Product Rule so as to cover direct products of U.S.-origin technology or software specified on the CCL and further limits the ability to rely on license exception AVS for

exports to Russia and Belarus to exclude aircraft registered in, owned or controlled by, or under charter or lease by Belarus or a national of Belarus. In effect, this adds Categories 0, 1, and 2 to the license requirements for Russia and Belarus and to the scope of the Foreign Direct Product Rule. The changes introduced by this rule went into effect on April 8, 2022.

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