



International Trade & Regulatory ADVISORY ■

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U.S. Sanctions and Export Controls Against Russia Continue Expansion as Efforts to Target Sanctions Evasion Come into Clearer Focus

On June 2, 2022, the Office of Foreign Assets Control (OFAC) imposed full blocking sanctions on several prominent Russian government officials, a close associate of President Putin and money-manager, Sergei Roldugin, various yachts linked to Putin and the owners and managers of such yachts, a “Kremlin-aligned yacht brokerage,” and a number of other persons, yachts, and aircraft. With these moves, the U.S. Department of the Treasury announced that it “can and will go after those responsible for shielding and maintaining these ill-gotten interests.” Along with other actions taken in recent weeks, we see clear signals that the U.S. government is focusing on sanctions evasion worldwide and targeting those who engage in or enable it.

As mentioned in our previous advisories, many of these new measures are in line with those initiated by the United States when the invasion first began in late February 2022, such as targeting Russian government officials, their family members, Russian-owned financial institutions, as well as state-owned enterprises. Below we summarize the measures enacted since our [last advisory](#). Notable new measures expand on past initiatives to impede Western financing of Russian state and economic activities that contribute to the war effort in Ukraine.

Prohibiting New Investment in the Russian Federation

On April 6, 2022, the White House issued Executive Order 14071 (E.O. 14071), “[Prohibiting New Investment in and Certain Services to the Russian Federation in Response to Continued Russian Federation Aggression](#),” which prohibits new investment in Russia by U.S. persons, including U.S. companies, wherever located. E.O. 14071 also prohibits U.S. persons, wherever located, from approving, financing, facilitating, or guaranteeing a transaction by a foreign person involving new investments in Russia if the transaction by that foreign person would be prohibited if performed by a U.S. person or within the United States.

On June 6, 2022, OFAC provided public guidance on this new investment ban in Russia. According to OFAC guidance on the ban, “[new investment](#)” means “the commitment or contribution of capital or other assets for the purpose of generating returns or appreciation,” pursuant to an agreement entered on or after April 6, 2022. New investment also includes commitments pursuant to the exercise of rights under an agreement entered into before April 6, 2022, where such commitment is made on or after April 6, 2022. However, new investment excludes the “[maintenance](#)” of

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an investment in Russia made prior to April 6, 2022. Such maintenance includes all transactions ordinarily incident to performing under an agreement in effect prior to April 6, 2022, provided that such transactions are “consistent with previously established practices and support pre-existing projects or operations.” Additionally, the investment ban does not prohibit “[the export or import](#) of goods, services, or technology, or related sales or purchases, to or from Russia, provided that such transaction is made pursuant to ordinary commercial sales terms.” Furthermore, U.S. companies can continue to fund projects or operations, in existence prior to April 6, 2022, [of their subsidiaries and affiliates](#) located in Russia as long as the use of the funds by the subsidiary or affiliate is for maintenance.

The investment ban also does not prohibit U.S. individuals or entities from [lending funds to, or purchasing an equity interest in](#), entities located outside of Russia, if such funds are not specifically intended for new projects or operations in Russia and the revenues of the entity located outside Russia are not predominantly derived from its investments in Russia. However, U.S. parties are prohibited from purchasing [debt or equity securities](#) issued by an entity in Russia, but not prohibited from selling or divesting, or facilitating the sale or divestment of, debt or equity securities issued by an entity in Russia to a non-U.S. party.

Prohibitions Related to Certain Accounting, Trust and Corporate Formation, and Management Consulting Services

Additionally, E.O. 14071 announced that the Secretary of the Treasury, in consultation with the Secretary of State, is now authorized to prohibit the exportation, re-exportation, sale, or supply, directly or indirectly, from the United States, or by a U.S. person, wherever located, of any category of services to any person located in the Russian Federation. On May 8, 2022, pursuant to E.O. 14071, Treasury announced that it had determined that it would apply this prohibition, starting June 7, 2022, to [accounting, trust and corporate formation, and management consulting services](#). Treasury identified these specific services as they provide Russian elites and Russian government-owned companies critical support to accrue the capital needed for furthering Russian aggression, as well as evade sanctions.

Further [guidance provided by OFAC](#) clarifies that “**accounting services**” include services related to the measurement, processing, and evaluation of financial data about economic entities, such as a credit rating and audit services; “**trust and corporate formation services**” include services related to assisting persons in forming or structuring legal persons; providing a registered office, business address, correspondence address, or administrative address for legal persons; and providing administrative services for trusts; and “**management consulting services**” include services related to strategic business advice; organizational and systems planning, evaluation, and selection; development or evaluation of marketing programs or implementation; mergers, acquisitions, and organizational structure; staff augmentation and human resources policies and practices; and brand management.

Despite this prohibition, the determination allows these services to be provided: (1) to an entity located in the Russian Federation that is owned or controlled, directly or indirectly, by a U.S. person; and (2) in connection with the wind down or divestiture of an entity located in the Russian Federation that is not owned or controlled, directly or indirectly, by a Russian person. Additionally, [General License 34](#) allows for transactions ordinarily incident and necessary to the wind down, directly or indirectly, from the United States, or by a U.S. person, wherever located, of accounting, trust and corporate formation, or management consulting services to any person located in the Russian Federation through 12:01 a.m. eastern daylight time, July 7, 2022. Similarly, [General License 35](#), allows for transactions ordinarily incident and necessary to the wind down, directly or indirectly, from the United States, or by a U.S. person, wherever located, of credit rating or auditing services to any person located in the Russian Federation through 12:01 a.m. eastern daylight time, August 20, 2022. Based on OFAC guidance, “credit rating services” means services related to assessments of a

borrower's ability to meet financial commitments, including analysis of general creditworthiness or with respect to a specific debt or financial obligation; and "auditing services" means examination or inspection of business records by an auditor, including checking and verifying accounts, statements, or other representation of the financial position or regulatory compliance of the auditee.

As these novel prohibitions affecting accounting, trust and corporate formation, and management consulting services take effect, a number of questions remain about the reach of these prohibitions to the delivery of ordinary account holder statements to individual Russian investors, shareholders, and account holders in U.S. financial institutions and investment vehicles.

Treasury Blocks U.S. Banks from Processing Russian Debt Payments

Since February 28, 2022, [Directive 4](#) under Executive Order 14024, has prohibited U.S. persons from transacting with certain entities of the Russian government, specifically, the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation. However, OFAC issued a general license that permitted U.S. financial institutions to continue processing U.S. dollar-denominated sovereign debt payments by the three Russian government entities, allowing the Russian government to avoid default on its sovereign debt obligations. The U.S. government renewed the general license as different versions were close to expiration. However, OFAC declined to renew the most recent version of the license, [General License 9C](#), when it expired on May 25, 2022, closing this carve-out that allowed for Russian sovereign debt to be paid in U.S. dollars. This follows an earlier U.S. decision, on [April 6, 2022](#), to stop allowing the Russian government to pay bondholders via foreign currency reserves held by the Russian government at U.S. financial institutions, in an effort to deplete its holdings of U.S. dollars. Currently, Russia has yet to announce a plan for paying its U.S. dollar debt obligations to international lenders.

While elements of General License 9C have expired, [General License 13A](#) allows, with certain exceptions, U.S. persons and entities to pay taxes, fees, or import duties, and purchase or receive permits, licenses, registrations, or certifications, that are otherwise prohibited under Directive 4, through 12:01 a.m. Eastern Daylight Time, September 30, 2022. This general license requires such transactions to be "ordinarily incident and necessary to the day-to-day operations in the Russian Federation of such U.S. persons or entities."

While there was a general consensus that General License 13A and its predecessor allowed for transactions to apply for, renew, and maintain intellectual property, OFAC responded to industry requests for clarity and longer term certainty when it issued [General License No. 31](#), which authorizes a wide range of activities related to the protection of intellectual property in Russia. It has no expiration.

Expansion of Restrictions Against Russian Industry Sectors Under the Export Administration Regulations (EAR)

The Bureau of Industry and Security (BIS) is also continuing to impose prohibitions on U.S. goods exported to Russian and Belarusian entities and individuals. On April 8, 2022, [BIS released a final rule](#) that implements highly restrictive license requirements on all categories of items on the Commerce Control List (CCL) to Russia and Belarus. The rule applies restrictions for Categories 3-9 of the CCL established under previous Russia and Belarus rules, discussed in an [earlier advisory](#), to Categories 0-2, and imposes new license requirements for certain items, including particular pumps, valves, hydraulic fluids, and machine tools. License applications, for the most part, involving any such CCL

items for export to Russia and Belarus will be reviewed under a policy of denial. This rule also expands the Foreign Direct Product (FDP) Rules for Russia and Belarus and to Russian and Belarusian Military End Users (MEUs), discussed in an [earlier advisory](#), to all items on the CCL.

Additionally, on May 9, 2022, [BIS launched further export restrictions](#) focused on Russian industrial and commercial sectors by increasing the range of items subject to strict license conditions. This rule builds off of similar restrictions previously focused on the Russian oil and gas sector, as discussed in an [earlier advisory](#). In general, the rule now requires licenses for 205 6-digit Harmonized Tariff Schedule (HTS) codes and their corresponding 478 Schedule B numbers, [identified in the rule](#), for their export, re-export, or transfer (in-country) to Russia. Items now in need of a license before export to Russia represent products used by a variety of industrial and commercial activities outside of the oil and gas sector, from motors and related parts to wood products. These items, which previously did not require a license for export to Russia, are classified as EAR99, but, again, the applicable export licensing requirement for these items is now based on their HTS code. Companies that deal in the export, reexport, or transfer (in-country) of U.S. items, such as products, software, technology, or production equipment, should refer to these two new rules to ensure that proper licenses are gathered prior to any transfer to Russia or to certain Russian entities or individuals.

Notable Sanctions on Russian Entities and Individuals

The United States is continuing to place full blocking sanctions on Russian financial institutions to isolate the financial sector of the country from Western financing. On April 6, full blocking sanctions were imposed on Russia's largest financial institution, Public Joint Stock Company Sberbank of Russia (Sberbank) and 42 of its subsidiaries, and Russia's largest private bank, Joint Stock Company Alfa-Bank (Alfa-Bank) and five subsidiaries. This action freezes Sberbank's and Alfa-Bank's assets touching the U.S. financial system and prohibits U.S. persons from taking part in transactions involving either entity. Sberbank holds nearly one-third of the overall Russian banking sector's assets and is systemically critical to the Russian economy. Alfa-Bank is Russia's largest privately-owned financial institution and Russia's fourth largest financial institution overall. Joint Stock Company Moscow Industrial Bank, a Russian-state owned bank and ten subsidiaries, and Public Joint Stock Company Transkapitalbank and one subsidiary, are also subject to full blocking sanctions as they have been accused of helping other sanctioned Russian banks and clients circumvent U.S. sanctions.

While these financial institutions are now subject to full-blocking sanctions in the United States, general licenses authorize U.S. persons to continue certain transactions with these entities under narrow time periods, including the following:

- [General License No. 8B](#): Transactions involving these entities related to energy, through 12:01 a.m. Eastern Daylight Time, June 24, 2022.
- [General License No. 9C](#): Transactions that are ordinarily incident and necessary to dealings in debt or equity of Alfa-Bank or 50 percent or greater-owned entities, prior to April 6, 2022, through 12:01 a.m. Eastern Daylight Time, June 25, 2022.
- [General License No. 10C](#): Transactions that are ordinarily incident and necessary to the wind down of derivative contracts entered into prior to 4:00 p.m. Eastern Standard Time, April 6, 2022, that involve Alfa-Bank or 50 percent or greater-owned entities, through 12:01 a.m. Eastern Daylight Time, June 30, 2022.
- [General License No. 21A](#): Transactions ordinarily incident and necessary to the wind down of transactions with Sberbank CIB USA, Inc., or any entity in which Sberbank CIB USA, Inc. owns, directly or indirectly,

a 50 percent or greater interest, including the processing and payment of salaries, severance, and expenses; payments to vendors and landlords; and closing of accounts, through 12:01 a.m. Eastern Daylight Time, June 7, 2022.

- [General License No. 26A](#): Transactions ordinarily incident and necessary to the wind down of transactions with Joint Stock Company SB Sberbank Kazakhstan, Sberbank Europe AG, or Sberbank (Switzerland) AG or any entity in which either entity owns, directly or indirectly, a 50 percent or greater interest, through 12:01 a.m. Eastern Daylight Time, July 12, 2022.

Additional Russian industrial companies are also now fully sanctioned by OFAC, including United Shipbuilding Corporation, which develops and constructs the majority of the warships of the Russian Navy and builds vessels for foreign customers, and PJSC Alrosa, which is the world's largest diamond mining company, accounting for 28 percent of global diamond mining. Steel and mining companies owned by recently sanctioned Alexey Mordashov, such as PJSC Severstal and Nord Gold PLC, were also targeted with sanctions, along with family members of Mordashov. There are general licenses available that allow for U.S. entities and individuals to conduct certain transactions with [Severstal](#) and [Nord Gold](#) for a short period of time.

In addition to Russian entities, OFAC is also continuing to place full blocking sanctions on Russian government figures, elites and their family members. These include sanctions on President Putin's adult children, Foreign Minister Lavrov's wife and daughter, and members of Russia's Security Council including former President and Prime Minister of Russia Dmitry Medvedev and Prime Minister Mikhail Mishustin. Sanctions were also levied against various ministers of Russian government agencies, including its ministers of Economic Development, Transport, and Construction, Housing and Utilities, along with Deputy Prime Minister Dmitriy Grigorenko. Senior executives of Sberbank and board members of Gazprombank are also among those now cut off from the U.S. financial system and whose assets in the United States are now frozen.

Conclusion

As the conflict in Ukraine persists, companies that continue to engage in business activities in Russia should continue to adjust to new U.S. sanctions and export controls to ensure compliance during this extraordinary time. While the recent tranches of sanctions and export controls have targeted Russian individuals, entities, and market sectors, there are still sanctions targets available if the United States elects to further escalate sanctions in response to the situation on the ground in Ukraine. Future economic measures by the United States are expected to aim to further degrade Russia's military and economic capabilities through expanded targeting of Russian industries, financial entities, and elites. The U.S. government can also be expected to utilize multiple sources to identify, prevent and punish evasion of sanctions imposed thus far. Companies should continue to monitor and adapt their screening mechanisms and compliance programs to address current and future developments in U.S. sanctions and export controls focused on Russia.

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