

April 8, 2022

Russia/Ukraine Crisis: U.S. Imposes Significant New Sanctions in Response to Russian Atrocities in Ukraine

On April 6-7, the Biden administration announced another set of sanctions and export restrictions targeting Russia in response to its ongoing invasion of—and alleged atrocities committed in—Ukraine. The applicable restrictions still do not technically amount to a comprehensive embargo, broadly prohibiting all transactions involving Russia or Russian parties. However, the new sanctions and export controls—in conjunction with previously announced restrictions—represent the most extensive trade-related restrictions that the United States has ever imposed against a non-comprehensively sanctioned country.

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Overview of New Restrictions

On April 6-7, the Biden administration announced the following actions:

- **Prohibition on New Investment in Russia:** President Biden signed an executive order titled “Prohibiting New Investment in and Certain Services to the Russian Federation in response to Continued Russian Federation Aggression” (the “E.O.”). The E.O. prohibits new investment in the Russian Federation by U.S. persons, wherever located. This restriction builds on the prohibition announced on March 8 pursuant to Executive Order 14066, which prohibited new investment in the energy sector in the Russian Federation. Importantly, the E.O. does not define the term “new investment.” However, as discussed in our March 14 [alert](#), the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) has interpreted the term “investment” broadly in the context of prior sanctions authorities:
 - For example, as used in section 233 of the Countering America’s Adversaries Through Sanctions Act (CAATSA), OFAC “interpret[s] the term ‘investment’ broadly as a transaction that constitutes a commitment or contribution of funds or other assets or a loan or other extension of credit to an enterprise.” FAQ 540
 - Similarly, under EO 14066, OFAC guidance defines “new investment in the energy sector in the Russian Federation” as “a transaction that constitutes a commitment or contribution of funds or other assets for, or a loan or extension of credit to, new energy sector activities[.]” FAQ 1019

The White House stated that the new investment ban is intended to “build[] on the decision made by more than 600 multinational businesses to exit from Russia,” suggesting that the U.S. government is seeking to encourage “[t]he exodus of the private sector” from the Russian economy. Notably, the E.O. also prohibits the exportation, reexportation, sale, or supply, directly or indirectly, of “any category of services” as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. This authority provides the U.S. government another mechanism to ratchet up economic pressure on the Russian government, pending developments in Ukraine.

In addition, on April 7, OFAC issued General License No. 25, which authorizes, with exception, (1) all transactions ordinarily incident and necessary to the receipt and transmission of telecommunications involving the Russian Federation; and (2) the exportation, reexportation, sale, or supply to the Russian Federation of services, software, hardware, or technology incident to the exchange of communications over the internet. This general license—which is analogous to licenses that authorize limited subsets of transactions under

comprehensive embargoes (e.g., targeting Cuba and Iran)—suggests that OFAC intends to interpret the new investment restriction broadly, and that U.S. sanctions targeting Russia are approaching a *de facto* embargo.

- Sberbank and Alfa Bank Blocking Designations: On February 24, OFAC imposed sweeping sanctions on several major Russian financial institutions. Of note, on April 5, OFAC designated Public Joint Stock Company Sberbank of Russia (“Sberbank”), the largest Russian financial institution, and Joint Stock Company Alfa-Bank (“Alfa Bank”), Russia’s largest privately owned bank and fourth largest overall, to the Specially Designated Nationals And Blocked Persons (“SDN”) List; as a result, both financial institutions are now subject to full blocking sanctions, as opposed to the more limited financing restrictions previously imposed.¹ These designations mean that U.S. persons, wherever located, broadly are prohibited from dealing with Sberbank or Alfa Bank, absent OFAC authorization.

OFAC also amended three general licenses and issued three new general licenses to authorize time-limited wind-downs of transactions involving Sberbank and Alfa Bank, as set forth below:

- General License No. 8B authorizes energy-related transactions through June 24, 2022 that involve Sberbank and Alfa Bank (in addition to certain Russian financial institutions that previously were designated to the SDN List).
- General License No. 9C authorizes through June 30, 2022 dealings in debt or equity issued by Alfa Bank prior to April 6, 2022 (whereas the authorization for Sberbank and Russian financial institutions that were designated to the SDN List in February retains the earlier restrictions, with the authorization lasting through May 25, 2022 for any new debt or equity issued prior to February 24, 2022). Further, in connection with the subsequent designation of Public Joint Stock Company Alrosa (“Alrosa”), OFAC authorized through July 1, 2022 dealings in debt or equity issued by Alrosa prior to April 7, 2022.
- General License No. 10C authorizes through June 30, 2022 dealings in derivative contracts involving Alfa Bank entered into prior to April 6, 2022 (whereas the authorization for Sberbank and Russian financial institutions that were designated to the SDN List in February retains the earlier restrictions, with the authorization lasting through May 25, 2022 for derivative contracts entered into prior to February 24, 2022). In connection with the designation of Alrosa, OFAC authorized through July 1, 2022 dealings in derivative contracts entered into prior to April 7, 2022.
- General License No. 21A authorizes all transactions ordinarily incident and necessary to wind down transactions involving Sberbank CIB USA, Inc. (or entities 50% or more owned by Sberbank CIB USA, Inc.) and Alrosa USA, Inc. through June 7, 2022.
- General License No. 22 authorizes all transactions ordinarily incident and necessary to wind down transactions involving Sberbank (or entities 50% or more owned by Sberbank) through April 13, 2022.
- General License No. 23 authorizes all transactions ordinarily incident and necessary to wind down transactions involving Alfa Bank (or entities 50% or more owned by Alfa Bank) through May 6, 2022.

¹ OFAC also formally identified 42 subsidiaries of Sberbank, six Alfa Bank subsidiaries (Alfa Capital Markets LTD, Alfa-Direct, Alfa-Forex LLC, Alfa-Lizing OOO, Amsterdam Trade Bank NV, and Subsidiary Bank Alfa-Bank JSC), and five vessels owned by Alfa-Lizing OOO (Lady Leila, Lady Rania, Lady Sevda, Sv Konstantin, and Sv Nikolay) in connection with the designations of Sberbank and Alfa Bank to the SDN List. However, the new designations—and attendant prohibitions—apply to any entity owned, directly or indirectly, 50% or more, individually or in the aggregate, by one or more blocked parties, pursuant to OFAC’s 50 Percent Rule.

- Additional Sanctions Designations: OFAC designated to the SDN List (1) Russian President Vladimir Putin’s adult children, Katerina Tikhonova and Maria Vorontsova; (2) “Russian elites and their family members,” including Maria Aleksandrovna Lavrovna and Yekaterina Vinokurova (Foreign Minister Sergey Lavrov’s wife and daughter), and members of Russia’s Security Council, including former President and Prime Minister Dmitry Medvedev and Prime Minister Mikhail Mishustin; and (3) “critical major Russian state-owned enterprises,” including Alrosa (Russia’s largest diamond mining company) and—by virtue of a U.S. Department of State designation—United Shipbuilding Corporation (“USC”) and USC subsidiaries and board members.

In connection with the designation of Alrosa, OFAC issued a number of general licenses, including General License No. 24, which authorizes all transactions ordinarily incident and necessary to wind down transactions involving Alrosa (or entities 50 percent or more owned by Alrosa) through May 7, 2022.

In parallel, the Bureau of Industry and Security (“BIS”) within the U.S. Department of Commerce announced the designation to the Entity List of 98 Russian and 25 Belarusian entities associated with the defense and technology ministries and companies determined to have acquired or attempted to acquire items subject to the Export Administration Regulations (“EAR”) in support of Russia’s or Belarus’s military. As a result of these designations, U.S. and non-U.S. persons alike are prohibited from providing any items subject to the EAR—including, but not limited to, any U.S.-origin items—to the designated entities, and the license policy is denial (meaning that, as a practical matter, BIS will not approve exports to these entities).

Takeaways

The measures announced on April 6-7 represent yet another substantial effort by the U.S. government to escalate economic pressure on Russia. In particular, the new investment ban—which, on its face, now applies to all sectors of the Russian economy—may significantly limit U.S. persons’ ability to engage in financial transactions with Russian counterparties going forward. Although OFAC has not defined the term “new investment,” this restriction—in conjunction with General License No. 25 (akin to telecommunications-related general licenses published under comprehensive sanctions programs)—suggests that U.S. sanctions targeting Russia are trending toward a *de facto* embargo.

At minimum, the new restrictions underscore the imperative of performing comprehensive restricted party screening (and rescreening) of all counterparties to Russia-related transactions and of scrutinizing such transactions in light of the new investment ban. For many U.S. parties, continued engagement with Russia increasingly is becoming operationally challenging—if not outright prohibited—and these and other developments necessitate ongoing monitoring for further updates.