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ALERT

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Russia/Ukraine Crisis: U.S. Announces New Tranche of Sanctions and Export Controls

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On February 24, 2023, the one-year anniversary of Russia's invasion of Ukraine, the United States published its most expansive package of new sanctions and export controls targeting Russia in over eight months. The new sanctions restrictions target Russia's metals and mining and financial sectors (among others), as well as non-Russian parties accused of supporting Russia's war effort. In parallel, the Commerce Department expanded existing export controls on industrial and luxury goods and designated more than 80 parties to the Entity List and/or Military End User ("MEU") List.

The new restrictions signal continued U.S. resolve in support of Ukraine, with increased attention on non-Russian parties that assist Russia in evading sanctions and export restrictions.

Financial Services Sanctions

Throughout 2022, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") imposed sanctions on many major Russian financial institutions, including PJSC Sberbank, VTB Bank PJSC, Promsvyazbank PJSC, PJSC Bank Financial Corporation Otkritie, and Sovcombank. These financial institution-focused sanctions have been among the most impactful of the sanctions measures announced to date, as they significantly complicate conducting financial transactions with even non-sanctioned Russian counterparties.

On February 24, OFAC designated ten additional Russian financial institutions to its Specially Designated Nationals and Blocked Persons ("SDN") List, including Credit Bank of Moscow PJSC, one of Russia's ten largest banks by asset value (and which already was subject to sectoral sanctions). OFAC also designated a number of Russian wealth management firms, observing that "[s]anctions evasion and other illicit financial activity often involves support from accountants, investment advisors, wealth management and private equity firms, lawyers, and other financial services providers."

In conjunction with the above designations, OFAC published General License No. 60 and General License No. 61, which authorize through 12:01 a.m. EDT on May 25, 2023, (1) wind down transactions; and (2) divestment or transfer of debt and equity of certain of the banks, as follows:

Wind Down Transactions Authorized (GL No. 60)	Divestment or Transfer of Debt and Equity Authorized (GL No. 61)
Bank Saint-Petersburg PJSC	Bank Saint-Petersburg PJSC
Bank Zenit PJSC	Bank Zenit PJSC
Joint Stock Commercial Bank Primorye	PJSC Bank Uralsib
PJSC Bank Uralsib	JSC Commercial Bank Lanta Bank
SDM-Bank PJSC	SDM-Bank PJSC
PJSC Stock Commercial Bank Metallurgical Investment Bank	PJSC Stock Commercial Bank Metallurgical Investment Bank
PJSC Ural Bank for Reconstruction and Development	
Credit Bank of Moscow PJSC	

Mining and Metals Sector Designation

Executive Order 14024 authorizes the imposition of sanctions on parties operating in designated sectors of the Russian economy. To date, such sanctions have been extended to several key Russian industries, including the technology, defense, financial services, and management consulting sectors.

On February 24, OFAC published a new determination pursuant to Executive Order 14024, extending sanctions to Russia's metals and mining sector. Per an accompanying FAQ, OFAC anticipates defining the "metals and mining sector of the Russian Federation economy" to include any act, process, or industry of extracting, at the surface or underground, ores, coal, precious stones, or any other minerals or geological materials in the Russian Federation, or any act of procuring, processing, manufacturing, or refining such geological materials, or transporting them to, from, or within Russia. In conjunction with the February 24 determination, OFAC imposed sanctions on four Russian steel and metal manufacturers.

Sanctions Evasion

To date, U.S. sanctions and export restrictions with respect to Russia primarily have targeted Russian parties. In what appears to be an evolution in U.S. strategy, the sanctions designations announced on February 24 targeted several non-Russian parties—including Swiss-Italian businessman Walter Moretti and a network of entities and individuals affiliated with Moretti—for assisting Russian parties to evade existing sanctions restrictions. In an accompanying press release, the Treasury Department stated that OFAC "will continue to impose sanctions on actors inside and outside of Russia that circumvent sanctions and enable Russia to procure resources critical to enabling Russia's war of aggression against Ukraine."[1] Future sanctions foreseeably may target parties in countries that provide material support to Russia.

Sanctions Targeting Military Supply Chains

Finally, OFAC imposed sanctions against parties operating in a range of sectors that support Russia's military-industrial complex, including:

- **Manufacturers of Carbon Fiber and Related Advanced Materials**: Treasury observed that carbon fiber and related materials are "used in almost all defense-related platforms including aircraft, ground combat vehicles, ballistic missiles, and military personal protection gear, as well as other weapons systems." OFAC designated multiple Russia-based entities involved in the production of carbon fiber and related materials.[2]

- **Aerospace and Defense Companies**: OFAC expanded existing sanctions targeting Russia's aerospace and defense industries by designating seven Russian entities, including companies with a focus on aircraft engineering, carbon materials and products, rocket-and-space hardware, artillery systems, and other military hardware.

- **Technology and Electronics Firms**: Treasury observed that Russia's defense industry "is reliant on imported microelectronics and other technology both produced domestically and imported from abroad," and OFAC thus designated over twenty entities and individuals, "including persons who produce or import specialized or high-tech equipment used by Russia's defense entities."[3] These designations include cybersecurity firms, server hardware developers, information technology firms, computer programming companies, tech manufacturers, and companies involved in the circumvention of U.S. export restrictions.

New Product Controls and Conforming Changes

Also on February 24, the Bureau of Industry and Security ("BIS") within the U.S. Department of Commerce issued a host of new and expanded export controls targeting Russia. The following actions, *inter alia*, better align the U.S. Export Administration Regulations ("EAR") with restrictions imposed by allied countries.

- BIS expanded the section of the EAR targeting the Russian and Belarusian oil and gas industries to extend restrictions to any modified designed components, parts, accessories, and attachments related to the designated products.

- BIS expanded the section of the EAR targeting Russian and Belarusian commercial and industrial items to include 322 new Harmonized Tariff Schedule ("HTS") codes (including, *inter alia*, various stainless steel and iron products, knives and cutting blades, parts for generators and turbines, automotive products, heat exchange units, loaders and excavators, printing machinery, milling and grinding machines, valves, ball bearings, furnaces and ovens, television cameras and video recorders, and voltage adaptors).

- BIS expanded the section of the EAR targeting exports of chemical and biological precursors to Russia and Belarus to align with controls on certain products (*e.g.*, fermenters, PCR instruments, specified chemicals) imposed by U.S. allies.

- BIS expanded the section of the EAR targeting exports of "luxury goods" to Russia and Belarus to cover new categories of products, including those related to automobiles and aircrafts (*e.g.*, engines, vehicle parts), household and restaurant appliances (*e.g.*, refrigerators, freezers, stoves, dishwashers, microwaves, toasters, washing machines, sewing machines), industrial products (*e.g.*, printers, loaders, photocopiers, disk drives), and other electronics (*e.g.*, telephone sets, smartphones, voice recognition devices, record players, televisions, burglar alarms).

Entity List and MEU List Designations

BIS designated 86 parties to the Entity List, including 79 parties in Russia, five in China, two in Canada, and one each in France, Luxembourg, and the Netherlands (some of which are subsidiaries of Russian or Chinese parties). The Entity List designations impose a license requirement for all items subject to the EAR, and license applications relating to most of the newly designated entities will be subject to a presumption of denial. In addition, 76 of the newly designated entities were designated to the MEU List, which imposes sweeping export restrictions (including with respect to certain foreign-produced items).

The designations—many of which target Russian research institutions, technology developers, aerospace companies, and other parties involved in the advancement of Russia's military and technological goals—align with the categories of parties that were simultaneously sanctioned by OFAC, and BIS indicated that many of the Russian parties were designated due to their attempts to acquire U.S.-origin technology to support Russia's war in Ukraine. These designations will further restrict U.S. and non-U.S. parties' ability to export or re-export U.S.-origin items to Russia.

Iran-Specific Controls

In response to the discovery of Iranian-origin unmanned aerial vehicles ("UAVs") on the battlefield in Ukraine—including UAVs that incorporate U.S.-origin parts or components—BIS strengthened existing export controls on Iran. Specifically, BIS (1) expanded existing U.S. export controls to restrict the export of certain EAR99 items to Iran, even if a U.S. person is not involved in the transaction; and (2) published a new "Iran Foreign Direct Product Rule" that extends U.S. export controls to certain foreign-produced items that are the "direct product" of U.S. technology, when exported to Iran.

Conclusion

In addition to their symbolic impact, the new restrictions announced on February 24 will further complicate the compliance landscape for companies that seek to do business in or with Russia (either directly or indirectly). And as the conflict in Ukraine wears on, the U.S. government foreseeably will increase its use of sanctions and export controls to deter non-Russian parties from providing military, financial, or other support to the Russian government.

1. Press Release, U.S. Dep't of the Treasury, Targeting Key Sectors, Evasion Efforts, and Military Supplies, Treasury Expands and Intensifies Sanctions Against Russia (Feb. 24, 2023), https://home.treasury.gov/news/press-releases/jy1296.
2. *Id.*
3. *Id.*