

Trade Compliance Flash: U.S. Imposes Broad New Economic Sanctions and Export Controls Targeting Russia in Response to Invasion of Ukraine

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Key Takeaways

Overview of New U.S. Economic Sanctions

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Overview of New U.S. Export Controls

This past week, in response to Russia's invasion of Ukraine, the United States imposed several waves of increasingly severe economic sanctions and export controls, with the possibility for more to come as Russia continues military action against Ukraine and potentially even North Atlantic Treaty Organization (NATO) members. The U.S. has closely coordinated with its allies and partners – particularly in the EU, U.K., and other NATO member states – in imposing these sanctions and export controls, as they have implemented many similar parallel measures.

A few key highlights from an eventful week, which are covered in detail below, include the following:

- The U.S. sanctions response began on February 21, 2022, after Russia's announcement that it recognized the independence of separatist-held regions of Ukraine and would send troops there to "maintain peace." President Biden issued [Executive Order 14065](#) (E.O. 14065) imposing what amounts to an embargo on the two separatist-held regions of the so-called Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR).
- On February 22-23, 2022, the U.S. issued a " [first tranche](#)" of economic sanctions against Russia for its invasion of those regions, including several impactful designations on the Specially Designated Nationals and Blocked Persons List (SDN List) and the rescission of waivers relating to sanctions previously imposed with respect to Nord Stream 2.
- On February 24, 2022, the U.S. announced further economic sanctions against Russia, targeting primarily the banking and financial sector of the Russian economy and various Russian elites, as well as sweeping new export controls to restrict Russia's ability to obtain U.S. controlled goods, software, and technology. On the same day, the U.S. also imposed [new sanctions on Belarus](#) for its role in supporting and facilitating Russia's invasion of Ukraine. These sanctions are focused on Belarus' defense and financial sectors, which are closely tied to Russia.
- On February 25, 2022, the U.S. made the rare move of [sanctioning a head of state](#) as it sanctioned Russian President Vladimir Putin, as well as the Russian Minister of Foreign Affairs Sergei Lavrov and members of Russia's Security Council, calling them "directly responsible" for "Russia's unprovoked and unlawful further invasion of Ukraine."

- On February 26, 2022, the U.S. along with the EU and several allies and partners announced further [coordinated sanctions on Russia](#), pledging to take the significant step of removing certain Russian banks from the international Society for Worldwide Interbank Financial Telecommunication (SWIFT) payment system, impose restrictive measures on the Russian Central Bank, and limit the sale of foreign citizenships to Russians. The group also committed to launching a transatlantic task force for the effective implementation of the financial sanctions by identifying and freezing the assets of sanctioned persons.
- On February 28, 2022, the U.S. issued [Directive 4 Under E.O. 14024](#), imposing severe sanctions on the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation, effectively prohibits any transaction by U.S. persons involving those entities in the absence of U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) authorization. U.S. allies and partners committed to imposing similar measures, which altogether are aimed at preventing the Central Bank from deploying its international reserves in ways that would undermine the impact of U.S. sanctions. For example, these restrictions are aimed at disrupting any attempt by Russia to prop up the depreciating ruble by restricting global supplies of the ruble and access to reserves that might be exchanged to support it. The U.S. also sanctioned several Russian entities and an individual who were deemed to be close to President Putin.

Viewed together, and in combination with the significant financial sanctions against Russia imposed by U.S. allies, these measures form the most comprehensive restrictions ever imposed against the financial system of a large foreign government, with the potential to destabilize the Russian currency and financial markets. While such measures will be felt in all sectors of the Russian economy – because of their impact on all payments – it is possible U.S. regulators will go further as these latest sanctions do not entail some of the most punitive options that the U.S. has discussed previously. In particular, the sanctions do not heavily focus on the oil and gas sector of the Russian economy, and even those sanctions that have been imposed contain certain exceptions relating to oil and gas at least in the near term.

We provide our key initial takeaways regarding these significant new actions and a detailed overview of the numerous new U.S. economic sanctions and export controls imposed during the past week.

Key Takeaways

- **Time is of the essence to evaluate sanctions risk and take action**. As described further below, many of the new U.S. sanctions have relatively short wind down periods, which will necessitate prompt action to assess potential compliance and enforcement risk. Whether that means ensuring screening tools are updated with the latest additions to OFAC's sanctions lists or conducting more nuanced analyses of current business relationships or pending transactions involving newly sanctioned entities or regions, immediate attention will need to be paid to these issues to mitigate risk effectively.
- **New export control rules create the need to reevaluate any exports, reexports, or transfers involving Russia**. The breadth of U.S. export jurisdiction and licensing requirements with respect to Russia was greatly expanded by the new rules adopted by the U.S. Department of Commerce. A prompt review of pending and anticipated export transactions implicating Russia is advisable to ensure compliance with the newly expanded rules. This is particularly true if your company will be impacted by the two new foreign-produced direct product rules.
- **The coordinated, multilateral nature of these measures is intended to ensure minimal disruption to close U.S. allies and produce a coherent response**. The active coordination behind the global response to Russia's invasion of Ukraine appears to have resulted in a more tailored U.S. approach designed to minimize unintended collateral consequences for close U.S. allies and, where possible, rely upon similar measures being taken by those countries. For instance, the new foreign-produced direct product rules exempt exports from a number of close U.S. allies implementing similar export control restrictions to the U.S., all of which are intended to curtail Russia's access to strategically important goods, software, and technology.
- **Secondary sanctions de-emphasized**. Likewise, the U.S. sanctions imposed against Russian financial institutions, in particular, do not rely on or invoke secondary sanctions authorities and do not contain explicit secondary sanctions provisions, possibly indicating that each allied country will be responsible for targeting their own transactions with Russia but not transactions without

a nexus to the sanctioning country. This is a notable departure from the post-Countering America's Adversaries Through Sanctions Act (CAATSA) approach utilized by the U.S. with respect to sanctions targeting Russia and seems intended to ease concerns among U.S. allies that companies from those countries could be targeted under U.S. secondary sanctions authorities.

- **This is likely only the beginning**. Considering Russia's continued aggression and promises from the U.S. and allies to impose severe costs on Russia, expect to see more severe measures rolled out in the coming days and weeks. As an example, SWIFT-related sanctions targeting Russian financial institutions were widely thought to be too severe and politically unpalatable to pursue initially. Within days of the commencement of the invasion, however, the U.S. and key allies had changed their view and aligned on a plan to remove certain Russian financial institutions from the SWIFT system. The sanctions imposed against Russia's Central Bank earlier today also exemplify the willingness of U.S. authorities (and their NATO partners) to take severe action against the Russian economy. Similar expansions to the current multilateral sanctions strategy could become the norm in the near term.

Overview of New U.S. Economic Sanctions

Sanctions on Separatist-held Regions of Ukraine

President Biden issued [E.O. 14065](#), titled "Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to Continued Russian Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine," on February 21, 2022, effectively imposing an embargo on the DNR and LNR regions. This E.O. prohibits U.S. persons from engaging in most – if not all – activities in the two regions (as well as other regions that may be specified in the future) (altogether the Covered Regions), including the following:

- New investment in the Covered Regions
- Importing (directly or indirectly) goods, services, or technology from the Covered Regions into the U.S.
- Exporting, re-exporting, selling, or supplying (directly or indirectly) goods, services, or technology from the U.S. or by a U.S. person (wherever located) to the Covered Regions
- Approving, financing, facilitating, or guaranteeing a transaction by a non-U.S. person that would be prohibited for a U.S. person

In addition, the E.O. provides the authority for OFAC to impose further blocking sanctions on persons that are determined:

- To operate in the Covered Regions
- To be a leader, official, senior executive officer, or member of the board of directors of an entity operating in the Covered Regions
- To be owned or controlled by a person blocked under the E.O.
- To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person blocked under the E.O.

Sanctions Against Russia

On February 22-23, 2022, the U.S. issued a "first tranche" of sanctions against Russia pursuant to [E.O. 14024](#), "Blocking Property with Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," dated April 15, 2021, which include the following:

- **SDN designation of two major Russian financial institutions and a number of their subsidiaries**, which are involved in various business areas:
 - **Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank** (VEB), a major Russian financial institute

that services Russia's sovereign debt and finances its economic development, for "being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, the Government of Russia (GoR)" and for operating in the financial services sector of the Russian economy

- **25 subsidiaries of VEB**, "including banks and other financial firms, electronic component producers, a coal mining company, [and] a sporting activities company" that are located in Russia, Belarus, Ukraine, and Hong Kong
- **Promsvyazbank Public Joint Stock Company (PSB)**, Russia's eighth largest bank that finances its defense ministry and sector, for operating in the defense and financial services sectors of the Russian economy
- **17 PSB subsidiaries**, including financial, technology, and real estate-related entities, as well as **five vessels** owned by a PSB subsidiary
- **SDN designation of several individuals** alleged to be "elites close to Putin" – as well as family members of the same – "participating in the Russian regime's kleptocracy."
- **Further restrictions on dealings in Russia's sovereign debt** under the new OFAC Russia-related [Directive 1A](#) pursuant to E.O. 14024, which amends the prior OFAC [Directive 1](#) to extend the prohibitions to cover participation in the secondary market bonds issued after March 1, 2022, by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation. These three entities have also been added to OFAC's Non-SDN Menu-Based Sanctions List (NS-MBS List).
- **Further sanctions relating to Nord Stream 2**. In his announcement concerning this first tranche of sanctions, President Biden stated that the U.S. has "worked with Germany" to ensure that the pipeline Nord Stream 2 would not proceed and that further sanctions would be issued in the event of further Russian invasion. On February 23, President Biden [terminated a waiver](#) in place that paused U.S. sanctions imposed earlier in 2021 relating to Nord Stream 2. Thus, certain sanctions under the Protecting Europe's Energy Security Act (PEESA) and the related E.O. 14039 are now effective, and OFAC has [added the following](#) to the SDN List:
 - **Nord Stream 2 AG** (a.k.a., New European Pipeline AG)
 - **Matthias Warnig**, CEO of Nord Stream 2 AG

On February 24, 2022, the Biden administration [announced further sanctions](#) against Russia pursuant to [E.O. 14024](#), "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation." These economic sanctions target primarily the banking and financial sector of the Russian economy, as well as various Russia elites:

- **SDN designations of certain Russian financial institutions and their subsidiaries**, including:
 - **VTB Bank PJSC** (VTB Bank), Russia's second largest financial institution, "for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly" the GoR, and "for operating or having operated in the financial services sector of the Russian Federation economy"
 - **20 VTB Bank subsidiaries**, which include banks, holding companies, and other financial companies located in Russia and eight other countries
 - **PJSC Bank Financial Corporation Otkritie** (Otkritie), "for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, the GoR, and for operating or having operated in the financial services sector of the Russian Federation economy"

- **12 Otkritie subsidiaries**, which include an insurance company, a bank, and other financial services companies in Russia and Cyprus
- **OJSC Sovcombank** (Sovcombank), which OFAC described as "the third largest privately owned financial institution in Russia by total assets, and Russia's ninth largest bank overall"
- **22 Sovcombank subsidiaries**, which include of financial services companies in Russia and Cyprus
- **JSC Bank Novikombank** (Novikombank), described by OFAC as "state-owned and among the 50 largest financial institutions in Russia" that operates in Russia's defense sector "serves as the core financial institution for Russian defense company Rostec, which fully owns the bank"
- **Further restrictions on dealings in Russia's financial sector :**
 - OFAC issued the new Russia-related Directive 2 under E.O. 14024, titled "Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions" (the "Russia-related CAPTA Directive"). This Russia-related CAPTA Directive prohibits U.S. financial institutions from:
 - *the opening or maintaining of a correspondent account or payable-through account for or on behalf of any entity determined to be subject to the prohibitions of the Russia-related CAPTA Directive, or their property or interests in property; and*
 - *the processing of transactions involving any such entities determined to be subject to the Russia-related CAPTA Directive, or their property or interests in property.*
 - Thus far, the entities subject to the Russia-related CAPTA Directive consist of **PJSC Sberbank of Russia** (Sberbank) and **25 of its foreign financial institution subsidiaries** that were identified as being 50 percent or more-owned, directly or indirectly, by Sberbank, which include several banks, trusts, insurance companies, and other financial companies located in Russia and six other countries. The sanctions imposed against Sberbank and its subsidiaries will effectively cut off Russia's largest financial institution from transacting in U.S. dollars.
- **Further restrictions on dealings in Russian debt instruments, including for several new Russian entities :**
 - OFAC also issued [Directive 3 under E.O. 14024](#), titled "Prohibitions Related to New Debt and Equity of Certain Russia-related Entities" (the Russia-related Entities Directive), which prohibits U.S. persons from dealing or transacting in "new debt of longer than **14 days** maturity and new equity of Russian state-owned enterprises, entities that operate in the financial services sector of the Russian Federation economy, and other entities determined to be subject to the prohibitions in this directive"
 - The 13 entities subject to Russia-related Entities Directive thus far are listed in Annex 1 of Directive 3 and consist of 11 state-owned enterprises and two private entities that operate in the financial services sector, including but not limited to, the following:
 - **Sberbank**, Russia's largest financial institution
 - **Credit Bank of Moscow PJSC**, Russia's largest non-state public bank
 - **Gazprombank JSC**, Russia's third largest financial institution
 - **JSC Alfa-Bank**, Russia's largest privately owned financial institution
 - **JSC Sovcomflot**, Russia's largest maritime and freight shipping company

- **OJSC Russian Railways**, one of the world's largest railroad companies
 - **PJSC Gazprom**, the world's largest natural gas company
 - **PJSC Gazprom Neft**, one of Russia's largest oil producers and refiners
 - **PJSC Transneft**, which manages Russia's network of petroleum-related pipelines
- Notably, six of the entities subject to the Russia-related Entities Directive are already subject to debt or additional restrictions related to dealings in debt pursuant to directives under E.O. 13662
- **SDN designations of various individuals:**
- OFAC designated certain Russian individuals on the SDN List pursuant to E.O. 14024 as "elites" – and their family members – close to President Putin and believed "to participate in, or benefit from, the Russian regime's kleptocracy"

On February 25, 2022, the United States [sanctioned](#) Russian President Putin, the Russian Minister of Foreign Affairs Sergei Lavrov, and members of Russia's Security Council by designating them on the SDN List pursuant to E.O. 14024.

According to the announcement on February 26, 2022, certain select Russian banks will be removed from the international SWIFT payment system as a part of [further sanctions on Russia](#), although the specific banks to be targeted have not yet been announced.

On February 28, 2022, OFAC issued [Directive 4](#) under E.O. 14024, "Prohibitions related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation," which prohibits U.S. persons from any transaction involving these entities, including any transfer of assets to such entities or any foreign exchange transaction for or on behalf of such entities. Notably, although U.S. persons are effectively prohibited from engaging in any transaction with these entities, they were added to [OFAC's NS-MBS List](#), not the SDN List, meaning that affirmative blocking obligations do not apply. In addition, OFAC [designated](#) several parties, including the Russian Direct Investment Fund (RDIF), a key Russian sovereign wealth fund, and its Chief Executive Officer (CEO) Kirill Dmitriev, on the SDN List pursuant to E.O. 14024 as parties close to President Putin. OFAC also [announced](#) that it is issuing regulations titled "Russian Harmful Foreign Activities Sanctions Regulations" to implement E.O. 14024. A [draft of those regulations](#) is available, with publication expected on March 1, 2022.

OFAC General Licenses, Guidance and Frequently Asked Questions (FAQs)

OFAC issued various General Licenses authorizing certain wind down activities with newly blocked parties/regions and the continuation of some activities in general, as well as some guidance related to the new sanctions in the form of Frequently Asked Questions (FAQs).

OFAC [stated](#) that it has issued these General Licenses "[t]o ensure that these sanctions and prohibitions have an impact on the intended targets and to minimize unintended consequences on third parties." In particular, [according to OFAC](#), the sanctions and general license package was structured "to account for the challenges high energy prices pose to average citizens and doesn't prevent banks from processing payments for them." These General Licenses include:

- OFAC issued the following General Licenses for certain activities in the "Covered Regions" (*e.g.*, DNR and LNR):
- [Ukraine General License 17](#): a wind down license that authorizes certain transactions involving the Covered Regions through 12:01 a.m. eastern daylight time, **March 23, 2022**
- [Ukraine General License 18](#): a license that authorizes certain humanitarian exports to the Covered Regions (*e.g.*, agricultural

commodities, medicine, medical devices, etc.)

- **Ukraine General License 19**: a license that authorizes certain transactions for the receipt or transmission of telecommunications (not including the sale or supply of equipment or technology, etc.)
- **Ukraine General License 20**: a license that authorizes certain transactions for the conduct of the official business of certain international organizations (*i.e.*, the United Nations (UN), International Centre for Settlement of Investment Disputes (ICSID), Multilateral Investment Guarantee Agency (MIGA), etc.)
- **Ukraine General License 21**: a license that authorizes certain non-commercial, personal remittances and the operation of accounts to or from the Covered Regions, as long as transfers are not by, to or through blocked person
- **Ukraine General License 22**: a license that authorizes certain transactions for the exchange of personal communications over the internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging
- OFAC issued the following General Licenses relating to the new sanctions on Russia:
 - **General License 2**: a license that authorizes certain transactions involving VEB, or any entity in which VEB owns, directly or indirectly, a 50 percent or greater interest, and the servicing of bonds issued before March 1, 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation
 - **General License 3**: a wind down license that authorizes certain transactions involving VEB, or any entity in which VEB owns (directly or indirectly) a 50 percent or greater interest, through 12:01 a.m. eastern daylight time, **March 24, 2022**
 - **General License 5**: a license that authorizes certain transactions "for the conduct of the official business" of certain international organizations (*e.g.*, ICSID, MIGA, Inter-American Development Bank (IDB) Group, etc.)
 - **General License 6**: a license that authorizes certain humanitarian-related transactions (*e.g.*, agricultural commodities, medicine, medical devices, etc.)
 - **General License 7**: a license that authorizes certain transactions relating to overflights, emergency air landings, and air ambulance services to Russia
 - **General License 8A**: a license that authorizes through 12:01 a.m. eastern daylight time, **June 24, 2022**, certain transactions "related to energy" that involve one or more of the following entities:
 - VEB
 - Otkritie
 - Sovcombank
 - Sberbank
 - VTB Bank
 - Any entity in which one or more of the above entities own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest
 - The Central Bank of the Russian Federation.
 - **General License 9**: a license that authorizes, through 12:01 a.m. eastern daylight time, **May 25, 2022**, certain transactions "ordinarily incident and necessary to" dealings in debt or equity of one or more of the following entities issued prior to February

24, 2022, provided that any divestment or transfer of, or facilitation of divestment or transfer of, covered debt or equity must be to a non-U.S. person:

- VEB
 - Otkritie
 - Sovcombank
 - Sberbank
 - VTB Bank
 - Any entity in which one or more of the above entities own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest
- **General License 10:** a wind down license that authorizes, through 12:01 a.m. eastern daylight time, **May 25, 2022**, certain transactions that (i) include the following "Covered Entities" as a counterparty or (ii) are linked to debt or equity of a Covered Entity provided that any payments to a blocked person are made into a blocked account:
- VEB
 - Otkritie
 - Sovcombank
 - Sberbank
 - VTB Bank
 - Any entity in which one or more of the above entities own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest
- **General License 11:** a wind down license that authorizes, through 12:01 a.m. eastern daylight time, **March 26, 2022**, certain transactions involving one or more of the following entities:
- Otkritie
 - Sovcombank
 - VTB Bank
 - Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest
- **General License 12:** a license authorizing U.S. persons to reject transactions involving one or more of the following blocked persons, through 12:01 a.m. eastern daylight time, **March 26, 2022**:
- Otkritie
 - Sovcombank
 - VTB Bank

- Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest
- OFAC issued the following General License relating to the sanctions on Nord Stream 2:
 - [General License 4](#): a wind down license that authorizes certain transactions involving Nord Stream 2 AG, or any entity in which Nord Stream 2 AG owns (directly or indirectly) a 50 percent or greater interest, through 12:01 a.m. eastern standard time, **March 2, 2022**
- OFAC issued guidance relating to these new sanctions in the form of new and updated FAQs, including:
 - Several [new](#) and [updated](#) FAQs primarily relating to the prohibitions on Russian sovereign debt.
 - [Several FAQs](#) concerning the sanctions imposed on February 24, 2022
 - Notably, OFAC FAQ 969 states that OFAC's 50 Percent Rule applies to foreign financial institutions listed in Annex 1 of Russia-related CAPTA Directive (*i.e.*, Directive 2 under E.O. 14024). Similarly, OFAC FAQ 985 clarifies that OFAC's 50 Percent Rule applies to the entities listed for the prohibitions of the Russia-related Entities Directive (*i.e.*, Directive 3 under E.O. 14024).
 - OFAC FAQ 980 also provides guidance with respect to the scope of these Directives for non-U.S. persons. OFAC confirmed that non-U.S. persons may face potential risk of sanctions for engaging in certain transactions with persons subject to blocking sanctions under E.O. 14024. However, OFAC stated that non-U.S. persons generally do not risk exposure to U.S. blocking sanctions under E.O. 14024 for engaging in transactions with persons subject to the prohibitions (*i.e.*, not blocking sanctions) of the directives under E.O. 14024. OFAC noted that E.O. 14024 and the directives under E.O. 14024 prohibit any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions of those directives, as well as any conspiracy formed to violate any of the prohibitions of those directives. However, OFAC stated that it will not view as "evading or avoiding" efforts by non-U.S. persons to comply with U.S. sanctions by replacing sanctioned suppliers or service providers (including financial institutions) with non-sanctioned persons.

Sanctions Against Belarus

OFAC also announced a number of sanctions targeting entities and individuals in [Belarus](#), in connection with the Lukashenka regime's support for Russia's invasion of Ukraine. That group of sanctions targets includes Belarusian state-owned banks, entities in the Belarusian defense and security industries, Belarusian defense officials, and members of Lukashenka's inner circle. OFAC also issued two new General Licenses relating to the new sanctions.

Overview of New U.S. Export Controls

On February 24, 2022, the U.S. Department of Commerce, Bureau of Industry Security (BIS) [adopted sweeping new U.S. export controls](#) with respect to Russia. Although these controls are primarily targeted at the Russian defense, aerospace, and maritime sectors, U.S. businesses as well as businesses around the world in numerous other technology-related sectors are likely to be affected. In addition to imposing licensing requirements for virtually all U.S. controlled exports to Russia that are not classified as Export Administration Regulation (EAR) 99, BIS has imposed broad new rules that apply to foreign-produced items that contain or are based on U.S.-origin or -controlled technology (*e.g.*, software, technology, and equipment). The new BIS rules (which are currently [available in draft form](#)) were effective as of February 24, 2022, but they will not be published in final form until March 3, 2022. BIS also published some related guidance in the form of a [Russia Rule Fact Sheet](#). Notably, coordinated, parallel export control measures are expected by U.S. allies and partners, particularly the EU and U.K.

The new rules under the EAR include the following:

- **New export license requirements for Russia for *most* items on the Commerce Control List (CCL)**

- A license requirement now applies to **any items** subject to the EAR classified under **any Export Control Classification Number (ECCN)** in Categories 3 through 9 of the CCL (*e.g.*, electronics, telecommunications, information security, sensors, lasers, navigation and avionics, marine, and aerospace and propulsion). Many of these items did not previously require licenses for export to Russia. Certain limited license exceptions may be used for such items, but generally license applications will be subject to a policy of denial (with limited exceptions). Notably, EAR99 items are **not** subject to this license requirement for Russia.
- There are also new rules for *de minimis* calculations for exports to Russia that will capture more items that incorporate U.S. origin content. However, exports (including reexports and transfers) from certain U.S. allies and partners on the Russia Exclusions List are excluded from these *de minimis* provisions for certain items, because those countries are implementing similar export controls. This list generally includes the EU, Australia, Canada, Japan, New Zealand, and the U.K.

- **Two new foreign direct product (FDP) rules specific to Russia and Russian military end users**

- The new Russia FDP Rule:
 - This rule provides that a foreign-produced item is subject to the EAR if it meets both of the following two conditions:
 - First:
 - It is **not** EAR99 **and** it **is** the "direct product" of U.S.-origin "technology" or "software" subject to the EAR specified in any ECCN in product groups D or E in Categories 3-9 of the CCL, **OR**
 - It is **not** EAR99 **and** it **is** produced by any plant or "major component" of a plant that is located outside the U.S. that is itself a "direct product" of U.S.-origin "technology" or "software" subject to the EAR specified in any ECCN in product groups D or E in Categories 3-9 of the CCL (regardless of whether the plant or major component was made in the United States or a foreign country); and
 - Second:
 - There is "knowledge" that the item is destined to Russia or will be incorporated into or used in the "production" or "development of any "part," "component," or "equipment" not designated EAR99 and produced in or destined to Russia.
 - This FDP rule does **not** apply to foreign-produced items that would be classified as EAR99. Unlike the Huawei FDP rule, this rule is **not** limited to certain Russian entities but rather relates to the **entire country** of Russia. Foreign-produced items subject to the EAR under this rule will require a license (subject to a policy of denial with limited exceptions), although certain limited license exceptions may be available. Notably, BIS stated that this rule applies to items that are manufactured in multiple foreign countries (*e.g.*, multi-step manufacturing process occurring in more than one country) when the parties have knowledge that the end item will be exported to Russia.
 - Exports from certain U.S. allies and partners on the Russia Exclusions List are excluded from this rule, because those countries are implementing similar export controls. This list generally includes the EU, Australia, Canada, Japan, New Zealand, and the U.K.
- The new Russia-Military End User (MEU) FDP Rule:
 - This new rule provides that a **foreign-produced item** is subject to the EAR if it meets both of the following two conditions:

- First:
 - The item is a "direct product" of "technology" or "software" subject to the EAR and specified in any ECCN in product groups D and E *in any categories* of the CCL, **OR**
 - The item is produced by any plant or "major component" of a plant located outside the United States where the plant or major component is itself a "direct product" of "technology" or "software" subject to the EAR and specified in any ECCN in product groups D and E *in any categories* of the CCL; and
- Second: there is "knowledge" that
 - The item will be incorporated into, or used in the "production" or "development" of any "part", "component", or "equipment" produced, purchased, or ordered by any entity with a footnote 3 designation in the licensing requirement column of the Entity List, **OR**
 - Any entity with a footnote 3 designation in the license requirement column of the Entity List is a party to any transaction involving the item (*e.g.*, purchaser, intermediate consignee, end user, etc.)
- The Russia-MEU FDP rule is much broader than the new Russia FDP rule in that this rule applies to foreign-produced items **that are EAR99**. However, this rule is also narrower in that it **only applies** to exports involving **certain parties** on the Entity List designated with a footnote 3 (regardless of the role those parties have in the transaction, whether as intermediate consignee, purchaser, end user, etc.). Items under this rule require an export license (subject to policy of denial) and generally **no license exceptions are available**.
- Exports from certain U.S. allies and partners on the Russia Exclusions List are excluded from this rule because those countries are implementing similar export controls. This list generally includes the EU, Australia, Canada, Japan, New Zealand, and the U.K.
- **A license review policy of denial for all exports covered under the new rules (with limited exceptions)**
- **Restriction of the EAR license exceptions that may be used for Russia**
 - Only certain license exceptions are now available for Russia. In particular, ENC may still be used **unless** the export is for Russian government end users or state-owned enterprise (SOE). Also, the Commercial Communication Device (CCD) license exception, which was previously only available for Cuba, is now available for Russia.
- **Expanded scope of items subject to the Russia MEU rules to include *all items subject to the EAR***
 - Previously the MEU restrictions with respect to Russia applied to a narrower subset of items identified in Supplement No. 2 to Part 744 of the EAR. Now all items under the EAR – including EAR99 items – are subject to the MEU rules for Russia. There are limited exceptions for (a) EAR99 food and medicine and (b) for items that are ECCN 5A992.c or 5D992.c unless destined for a Russian government end user or SOE. Note that Russian military end users will no longer be designated on the BIS MEU List, but rather will be on the Entity List with a footnote 3, which relates to the Russia-MEU FDP rule as well.
- **Entity List Additions**
 - BIS moved 45 Russian entities from the MEU List to the Entity List, added two new Russian entities to the Entity List, and revised the entries for two Russian entities on the Entity List.
- **Comprehensive export, reexport, and transfer restrictions for DNR and LNR regions of Ukraine (Covered Regions of Ukraine)**

and revisions to export, reexport transfer (in-country) restrictions for Crimea Region of Ukraine

- These restrictions apply to *all items subject to the EAR* other than EAR99 food and medicine and certain software for Internet-based personal communications. Notably, exports that may fall within the scope of OFAC Ukraine-related General Licenses may still require BIS export licensing.
- **Addition of Russia to the EAR list of countries subject to U.S. arms embargo (Country Group D)**
 - This addition means Russia is subject to additional restrictions under the EAR including for *de minimis* U.S. content, license exception availability, and licensing policy for certain items.
- **Savings clause permitting certain exports**
 - The draft contains a savings clause permitting exports that were previously authorized pursuant to a license exception or that did not require a license that were *en route* aboard a carrier to a port of export on **March 26, 2022**, pursuant to actual orders may proceed under previous eligibility for a license exception or without a license. A similar but broader savings clause may be issued in the final rule.

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