

## UKRAINE: THE LATEST GLOBAL SANCTIONS AND EXPORT CONTROLS

The following briefing provides an overview of the sanctions and export controls imposed by the US, UK, EU, Poland, Japan, Singapore, Australia, and Ukraine; as well as measures adopted in response by Russia, as at **03:30 pm GMT on 29 August 2024**.

These sanctions are complex, multilateral and continue to change incrementally in real time in response to the situation on the ground in Ukraine. Our team of sanctions experts is monitoring the situation closely and we will endeavour to keep our briefings up to date.

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This briefing was published at **03:30 pm GMT on 29 August 2024**

**Material changes since our last summary on 14 August 2024 are included in red text for ease of identification.**

## US SANCTIONS

### SDNs / Blocking Sanctions

Since 22 February 2022, the US has imposed blocking sanctions on a large number of individuals and entities under its sanctions programs in connection with the situation in eastern Ukraine by listing them as Specially Designated Nationals ("**SDNs**") under the authority of the following US Executive Orders ("**EOs**") [EO 14024](#), [EO 14039](#), [EO 14065](#), [EO 14038](#), [EO 13405](#), [EO 13694](#), and [EO 13818](#).

The blocking sanctions under the above referenced EOs require US Persons (defined below) to block the property and property interests of SDNs and entities owned 50% or more by them directly or indirectly ("**Blocked Persons**") in their possession or control. The US Treasury Department's Office of Foreign Assets Control ("**OFAC**") defines "**US Persons**" to include US citizens or green-card holders globally, anyone physically located in the US, and any US domiciled entity, including their non-US branches. OFAC also requires non-US persons to comply with the sanctions whenever their transactions involve US Persons or the US financial system ("**US Elements**").

Entities listed as SDNs include major Russian financial institutions such as: Vnesheconombank (VEB), Promsvyazbank (PSB), VTB Bank, Bank Otkritie, Sovcombank, Novikombank, Sberbank, Rosbank, and many of their subsidiaries. In addition, OFAC has designated many Russian politicians and oligarchs as SDNs. The OFAC SDN list is searchable at: <https://sanctionssearch.ofac.treas.gov/>.

OFAC's most recent Russia-related SDN designations are:

- [8 February 2024](#): four shipping entities (NS Leader Shipping Incorporated, Oil Tankers SCF MGMT FZCO, Talassa Shipping DMCC, Zeenit Supply and Trading DMCC) and one vessel NS Leader (A8LU7) Crude Oil Tanker.
- [23 February 2024](#): over 500 individuals, entities and vessels, targeting Russia's core financial structure, individuals and entities allegedly facilitating, engaging in, or otherwise supporting the transfer of critical technology and equipment to Russia's military-industrial base, and third-country exporters and transshippers of technology and equipment to Russia. The SDNs designated also include: three individual Russian government officials in response to the death of Aleksey Navalny; individuals and entities allegedly involved in human rights abuses; and entities involved in Russia's future energy production and export capacity.
- [23 February 2024](#): Russian state-owned Joint Stock Company Sovcomflot and 14 crude oil tankers beneficially owned by Joint Stock Company Sovcomflot.
- [20 March 2024](#): Ilya Andreevich Gambashidze, Nikolai Aleksandrovich Tupikin, Company Group Structura LLC, and Social Design Agency.
- [25 March 2024](#): under EO 14024; thirteen entities and two individuals for operating in the financial services and technology sectors of the Russian economy, including allegedly developing or offering services in virtual assets that enable the evasion of US sanctions; and five entities for being owned or controlled by OFAC-designated persons.

- [25 April 2024](#): three individuals and two entities for allegedly facilitating and financing the sale of Iranian unmanned aerial vehicles (UAVs), including to Russia.
- [1 May 2024](#): nearly three hundred individuals, entities and vessels, including persons who allegedly are: engaged in sanctions evasion and circumvention; related to Russia's chemical and biological weapons programs and defense industrial base; or providing critical inputs to Russia's military-industrial base.
- [14 May 2024](#): one Russian national and three entities - Dmitrii Aleksandrovich Beloglazov; Aktsionernoe Obshchestvo Iliadis, International Company Joint Stock Company Rasperia Trading Limited, and Limited Liability Company Titul - for alleged involvement in an attempted sanctions evasion scheme.
- [30 May 2024](#): Mining Industries SARLU
- [12 June 2024](#): Over 300 entities and individuals for allegedly aiding Russian sanctions evasion, engaging with Russia's supply chain, being involved in Russia's future energy production and revenue, operating in Russia's metals and mining sector or defense procurement sectors, or supporting Russia's war effort. The entities designated as SDNs include Moscow Exchange (MOEX), National Clearing Center (NCC, Non-Bank Credit Institution Joint Stock Company National Settlement Depository (NSD), Gas Industry Insurance Company Sogaz, Joint Stock Company National Reinsurance Company, OOO Gazprom Invest, and Limited Liability Company Elecom. The SDN designations include entities located in Russia, Belarus, the BVI, Bulgaria, China, Kazakhstan, Kyrgyzstan, Serbia, South Africa, Türkiye, and the UAE.
- [21 June 2024](#): Twelve individuals for their positions in executive and senior leadership roles at AO Kaspersky Lab, which has allegedly cooperated with Russian military and intelligence authorities in support of the Russian government's cyber-intelligence objectives.
- [9 August 2024](#): Nineteen individuals, fourteen entities, and one aircraft (EW-001PB; Aircraft Manufacture Date 25 Sep 2004; Aircraft Model Airbus 767-32KER; Aircraft Manufacturer's Serial Number 33968) pursuant to Belarus-related EO 14038 (and three of these individuals and two of these entities pursuant to Russia-related EO 14024) for their alleged involvement in support of Russia's war in Ukraine through military resource production and transshipment of goods to Russia, sanctions evasion on behalf of Belarusian defence entities, and revenue generation for Belarusian oligarchs in Alyaksandr Lukashenka's inner circle.
- [23 August 2024](#): Fifty individuals, more than two hundred entities, and seven vessels, including individuals and entities in Asia, Europe and the Middle East pursuant to Russia-related EO 14024 for their alleged support of Russia's war in Ukraine through provision of products and services. The vessels include LNG tankers Asya Energy (T8A4791), Everest Energy (T8A4820), North Air (3E5919), North Mountain (3E5918), North Sky (3E6091), North Way (3E5924), and Pioneer (T8A4750). The entities include airlines AirBridgeCargo Airlines LLC, Atran LLC and LLC Volga Dnepr Airlines.

## **Correspondent and Payable-Through Account Sanctions (CAPTA Sanctions) – Sberbank**

On 24 February 2022, OFAC issued [Directive 2](#) under EO 14024 that prohibits, absent an applicable OFAC license or exemption, US financial institutions, as of 26 March 2022, from opening or maintaining correspondent or payable-through accounts for: (1) Sberbank; (2) the 25 Sberbank subsidiaries listed in Annex 1 to Directive 2; and (3) any other foreign financial institution, as defined in Directive 2, that is 50% or more owned by Sberbank. Directive 2 also prohibits US financial institutions from processing any transactions involving these entities or their property, or in which these entities have an interest.

## **Sectoral Sanctions Prohibitions Related to New Debt and New Equity**

Also on 24 February 2022, OFAC issued [Directive 3](#) under EO 14024, which prohibits the involvement of US Elements in transactions or dealings involving new debt of longer than 14 days maturity or new equity, issued on or after 26 March 2022, of the following companies (and any entities owned 50% or more, directly or indirectly, by them) (without a license):

- Credit Bank of Moscow
- Gazprombank
- Alfa-Bank
- Russian Agricultural Bank
- Sovcomflot
- Russian Railways
- Alrosa
- Gazprom
- Gazprom Neft
- Rostelecom
- Rushydro
- Sberbank
- Transneft

## **Prohibitions on 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**

On 28 February 2022, OFAC issued [Directive 4](#) under EO 14024 prohibiting, absent an applicable license or exemption, the involvement of US Elements in any transaction involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, including any transfer of assets to such entities or any foreign exchange transaction for or on behalf of such entities.

On 24 March 2022, the Treasury also issued guidance (OFAC FAQ [1029](#)) making clear that any transaction involving gold related to the Central Bank of the Russian Federation is covered by existing sanctions.

On 19 May 2023, OFAC issued an [Amended Directive 4](#) under EO 14024 to require US Persons to submit annual reports to OFAC regarding any property in their possession or control in which the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation has an interest. The first report is due by 18 June 2023.

## Russian Sovereign Debt Prohibitions

On 22 February 2022, OFAC issued [Directive 1A](#) under EO 14024 that prohibits US financial institutions from participating, as of 1 March 2022, in the secondary market for ruble or non-ruble denominated bonds issued after 1 March 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. This expanded the pre-existing US sanctions that continue to prohibit US financial institutions from lending to or participating in the primary market for ruble or non-ruble denominated bonds issued by the above Russian issuers as of 14 June 2021.

On 5 April 2022, the US Treasury halted Russia's dollar debt payments from the country's foreign currency reserves held at US banks. Up until this point, the US Treasury had been allowing the Russian government to utilize its frozen reserves held by the Russian Central Bank at US financial institutions to make coupon payments on dollar-denominated sovereign debt on a case-by-case basis.

## Donetsk and Luhansk Regions

On 21 February 2022 President Biden signed [EO 14065](#) imposing US sanctions on trade and commerce involving parts of the Donetsk and Luhansk regions of Ukraine, equivalent to the US sanctions on Crimea. EO 14065 prohibits:

- new investment in the so-called Donetsk People's Republic ("**DNR**") and Luhansk People's Republic ("**LNR**") regions of Ukraine by US Persons, wherever located;
- the import into the United States, directly or indirectly, of any goods, services, or technology from the DNR and LNR regions;
- the exportation, re-exportation, sale or supply, directly or indirectly, from the United States, or by a US Person, wherever located, of any goods, services, or technology to the DNR and LNR regions; and
- any approval, financing, facilitation or guarantee by a US Person, wherever located, of any transactions by a non-US person that the sanctions would prohibit a US Person from engaging in directly.

OFAC to date has issued a number general licenses authorizing certain activity in the DNR and LNR regions otherwise prohibited by EO 14065. A high level summary of the active general licenses is provided below, for the full details and exceptions, please view the general licenses on OFAC's website.

- [General License 18](#) (EO 14065): authorizes all transactions that are ordinarily incident and necessary to the export or re-export of agricultural

commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices, to the DNR and LNR regions. Also authorizes transactions related to the prevention, diagnosis and treatment of COVID-19 in those regions.

- [General License 19](#) (EO 14065): authorizes all transactions that are ordinarily incident and necessary to the receipt of telecommunications and mail involving the DNR and LNR regions.
- [General License 20](#) (EO 14065): authorizes all transactions that are for the official business of certain international organizations (such as the United Nations) by their employees, grantees or contractors in the regions.
- [General License 21](#) (EO 14065): authorizes all transactions that are ordinarily incident to the transfer of non-commercial personal remittances to or from the DNR and LNR regions, or for or on behalf of an individual ordinarily resident in those regions. Also authorizes transactions ordinarily incident and necessary to maintaining, operating, or closing an account of an individual ordinarily resident in those regions, other than an SDN, provided that the transactions processed through the account are (i) of a personal nature and not for the benefit of an entity, including supporting or operating a business, and (ii) do not involve transfers directly or indirectly to the DNR or LNR or for the benefit of persons ordinarily resident in the DNR or LNR unless the transfers are non-commercial personal remittances.
- [General License 22](#) (EO 14065): authorizes all transactions that are ordinarily incident and necessary to the exportation or re-exportation, directly or indirectly, from the United States or by US Persons, wherever located, to persons in the DNR and LNR regions, of services incident to the exchange of personal communications over the internet.
- [General License 23](#) (EO 14065): authorizes transactions that are ordinarily incident and necessary to activities by nongovernmental organizations to support humanitarian projects in the DNR or LNR, such as activities to support democracy, education, non-commercial development projects, related to health, food security, and water and sanitation, and environmental and natural resource protection in the DNR and LNR.
- [General License 24](#) (EO 14065): authorizes all transactions that are related to the provision or receipt of civil maritime services performed by individuals ordinarily resident in DNR or LNR regions of Ukraine, or other such regions of Ukraine as determined by the Secretary of Treasury ("**Covered Regions**"), provided that: (1) the services are performed outside of the Covered Regions, and (2) such services are not performed on behalf of any entity located in or organized under the laws of the Covered Regions. GL 24 does not license any new investment in the Covered Regions prohibited by EO 14065 or any transactions involving blocked individuals pursuant to EO 14065, unless separately authorized.
- [General License 25](#) (EO 14065/EO 13685): authorizes US Persons who are news reporting organizations or individuals regularly employed by a news reporting organization as a journalist or as supporting broadcast or technical personnel to engage in certain transactions ordinarily incident and necessary to their journalistic activities in Crimea and the so-called DNR or LNR regions of Ukraine. "News reporting organization" under GL



25 means an entity whose primary purpose is the gathering and dissemination of news to the general public.

## Import Prohibitions

Since March 2022, the US has imposed prohibitions on the import into the US of certain Russian-origin products under EOs [14066](#) and [14068](#) (including as amended by [EO 14114](#)) as follows:

*8 March 2022 (EO 14066)*

- crude oil;
- petroleum;
- petroleum fuels, oils, and products of their distillation;
- liquefied natural gas;
- coal; and
- coal products.

*11 March 2022 (EO 14068)*

- fish, seafood, and preparations thereof;
- alcoholic beverages;
- non-industrial diamonds;

*28 June 2022 ([Determination pursuant to EO 14068](#))*

- gold (excluding gold that was located outside of Russia prior to 28 June 2022).

*8 February 2024 ([Determination pursuant to EO 14068](#))*

- diamond jewellery and unsorted diamonds (effective 1 March 2024);

*12 February 2024 ([Determination pursuant to EO 14068](#))*

- aluminium, copper, and nickel (excluding that which was produced prior to April 13, 2024);

The US also has imposed prohibitions on the import into the US of the following:

*22 December 2023 ([Determination pursuant to EO 14068](#))*

- salmon, cod, pollack, and crab, and preparations thereof, that were produced wholly or in part in Russia, or harvested in waters under the jurisdiction of Russia or by Russian-flagged vessels, notwithstanding whether such fish, seafood, and preparations thereof have been incorporated or substantially transformed into another product outside of Russia;

*8 February 2024 ([Determination pursuant to EO 14068](#))*

- non-industrial diamonds with a weight of 1.0 carat or greater (effective 1 March 2024); and non-industrial diamonds with a weight of 0.5 carats or greater (effective 1 September 2024), that were mined, extracted, produced, or manufactured wholly or in part in Russia, notwithstanding whether such diamonds have been substantially transformed into another product outside Russia;

8 February 2024 ([Determination pursuant to EO 14068](#))

- diamond jewellery and unsorted diamonds exported from Russia (even if not of Russian origin) (effective 1 March 2024);

14 May 2024 ([H.R. 1042](#))

- unirradiated low-enriched uranium (i) produced in Russia or by a Russian entity or (ii) determined to have been exchanged with, swapped for, or otherwise obtained in lieu of the foregoing, unless authorized by a Department of Energy waiver (effective 12 August 2024).

The import prohibitions also prohibit any approval, financing, facilitation, or guarantee by a US Person, wherever located, of a transaction by a non-US person that a US Person would be prohibited from engaging in directly.

OFAC also has provided guidance at FAQ [1014](#) that EO 14066 does not prohibit the import into the US of non-Russian origin products that have transited through Russia or departed from Russian ports.

The import prohibitions in EO 14068 also prohibit the entry of the products into the United States, including importation for admission into a foreign trade zone located in the United States.

## Export Prohibitions

Since March 2022, the US has imposed prohibitions on the exportation, re-exportation, sale or supply, directly or indirectly, of certain items to Russia under EO [14068](#) as follows:

11 March 2022

- the exportation, re-exportation, sale, or supply, directly or indirectly from the US or by a US Person, wherever located, of luxury goods to any person located in the Russian Federation;
- the exportation, re-exportation, sale, or supply, directly or indirectly, of US dollar-denominated banknotes to the Government of the Russian Federation or any person located in the Russian Federation by a US Person or from the US.

The export prohibitions also prohibit any approval, financing, facilitation, or guarantee by a US Person, wherever located, of a transaction by a non-US person that a US Person would be prohibited from engaging in directly.

OFAC has issued several general licenses authorizing activity otherwise prohibited by the export prohibitions. A high level summary of the active general licenses is provided below, for the full details and exceptions, please view the general licenses on OFAC's website.

- [General License 18](#) (EO 14068): authorizes all transactions that are ordinarily incident and necessary to the transfer of U.S. dollar-denominated banknote non-commercial, personal remittances from (1) the US or a US Person, wherever located, to an individual located in the Russian Federation, or (2) a US Person who is an individual located in the Russian Federation. GL 18 states that the transferring institutions may rely on the originator of a funds transfer with regard to compliance, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance.



- [General License 19](#) (EO 14068): authorizes individuals who are US Persons located in the Russian Federation to engage in transactions that are ordinarily incident and necessary to their personal maintenance within the Russian Federation, including payment of housing expenses, taxes or fees, purchases or receipts of permits, licenses, or public utility services, and the acquisition of goods or services for personal use.
- [General License 20](#) (EO 14068 section 1(a)(iv)/EO 14024): authorizes US Persons to engage in all transactions ordinarily incident and necessary to the official business of third-country diplomatic or consular missions located in the Russian Federation.

## New Investment Prohibitions

President Biden has signed EOs that prohibit new investment in the Russian Federation, as follows:

- 8 March 2022: [EO 14066](#), which at Section 1(a)(ii) prohibits new investment in the energy sector in the Russian Federation by a US Person, wherever located.
- 11 March 2022: [EO 14068](#), which at Section 1(a)(iii) prohibits new investment in any sector of the Russian federation economy as may be determined by the US Secretary of the Treasury, in consultation with the Secretary of State, by a US Person wherever located.
- 6 April 2022: [EO 14071](#), which at Section 1(a)(i) prohibits new investment in the Russian Federation by a US Person, wherever located.

The new investment prohibitions also prohibit any approval, financing, facilitation, or guarantee by a US Person, wherever located, of a transaction by a non-US person that a US Person would be prohibited from engaging in directly.

OFAC has issued FAQs providing guidance on its interpretation of the "new investment" prohibitions in these EOs available on OFAC's website [here](#).

## Services Prohibitions

On 6 April 2022, President Biden signed [EO 14071](#) that among other things prohibits:

- (Section 1(a)(ii)) the exportation, reexportation, sale, or supply, directly or indirectly, from the US or by a US Person, of any category of services as may be determined by the Secretary of Treasury to any person located in Russia; and
- (Section 1(a)(iii)) any approval, financing, facilitation, or guarantee by a US Person, wherever located, of a transaction by a foreign person that would be prohibited for a US Person by the above.

Pursuant to determinations issued on [8 May 2022](#), [15 September 2022](#), and [19 May 2023](#), [12 April 2024](#) and [12 June 2024](#) unless there is an applicable OFAC license or exemption, the provision of the following categories of services from the US or by a US Person, wherever located, to any person located in Russian are prohibited:

- accounting;
- trust and corporate formation;

- management consulting;
- quantum computing;
- architecture;
- engineering;
- warranting services for Russian-origin aluminium, copper or nickel on a global metal exchange (excluding services related to aluminium, copper or nickel produced prior to 13 April 2024);
- services to acquire Russian-origin aluminium, copper or nickel as part of physical settlement of a derivative contract (excluding services related to aluminium, copper or nickel produced prior to 13 April 2024);
- information technology (IT) consultancy and design services (effective 12 September 2024); and
- IT support services and cloud-based services for the following categories of software: enterprise management software and design and manufacturing software (effective 12 September 2024).

On 22 November 2022, OFAC issued a further [determination](#) that the prohibitions in Section 1(a)(ii) of EO 14071 apply, as of 5 December 2022, to the following categories of services (collectively, the "**Covered Services**") as they relate to the maritime transport of crude oil of Russian Federation origin:

- Trading/commodities brokering;
- Financing;
- Shipping;
- Insurance, including reinsurance and protection and indemnity;
- Flagging; and
- Customs brokering.

As a result, as of 5 December 2022, unless there is an applicable OFAC license or exemption, the exportation, reexportation, sale, or supply, directly or indirectly, from the US, or by a US Person, wherever located, of any of the Covered Services to any person located in the Russian Federation is prohibited, except for:

- when the price of the Russian origin crude oil does not exceed the relevant price cap determined by the Secretary of Treasury, in consultation with the Secretary of State; or
- when the Russian origin crude oil is loaded onto a vessel at the port of loading prior to 5 December 2022 and unloaded at the port of destination prior to 18 January 2023.

On 5 December 2022, OFAC issued a further [determination](#) that sets the price cap on Russian-origin crude oil at USD 60 per barrel.

Further, on 3 February 2023, OFAC issued a [determination](#) that the prohibitions in Section 1(a)(ii) of EO 14071 apply, as of 5 February 2023, to the provision of the Covered Services as they relate to the maritime transport of Russian-origin petroleum products.

As a result, as of 5 February 2023, unless there is an applicable OFAC license or exemption, the exportation, reexportation, sale, or supply, directly or indirectly, from the US, or by a US Person, wherever located, of any of the Covered Services to any person located in the Russian Federation is prohibited except for:

- when the prices of the Russian origin petroleum product does not exceed the relevant price cap determined by the Secretary of Treasury, in consultation with the Secretary of State; or
- when the Russian origin petroleum product is loaded onto a vessel at the port of loading prior to 5 February 2023 and unloaded at the port of destination prior to 1 April 2023.

On 3 February 2023, OFAC issued a further [determination](#) that sets the price cap at USD 45 per barrel for Discount to Crude petroleum products (e.g., naphtha, residual fuel oil, and waste oils) and USD 100 per barrel for Premium to Crude petroleum products (e.g., gasoline, motor fuel blending stock, gasoil and diesel fuel, kerosene and kerosene-type jet fuel, and vacuum gas oil.)

## Secondary Sanctions Targeting Russia's Military-Industrial Base

On 22 December 2023, President Biden signed [EO 14114 "Taking Additional Steps With Respect to the Russian Federation's Harmful Activities"](#). EO 14114 adds a new Section 11 of EO 14024 to authorize the imposition of sanctions on foreign financial institutions ("FFIs") determined by the Secretary of Treasury, in consultation with the Secretaries of State and Commerce, to have:

- conducted or facilitated any significant transaction or transactions for or on behalf of persons designated pursuant to EO 14024 Section 1(a)(i) for operating or having operated in the technology, defense and related materiel, construction, aerospace, or manufacturing sectors of the Russian economy; or
- conducted or facilitated any significant transaction or transactions, or provided any service, involving Russia's military industrial base, including the sale, supply, or transfer, directly or indirectly, to Russia of any items or class of items as may be determined by the Secretary of Treasury, in consultation with the Secretaries of State and Commerce.

The types of sanctions that may be imposed on FFIs under EO 14024 Section 11 are:

- blocking sanctions, i.e., an SDN designation; or
- correspondent and payable-through account (CAPTA) sanctions, that prohibit, absent an applicable OFAC license or exemption, US financial institutions from opening of, or prohibit or impose strict conditions on the maintenance of, correspondent accounts or payable-through accounts for FFIs designated under EO 14024 Section 11.

On [22 December 2023](#), OFAC also issued a determination pursuant to Section 11(a)(ii) of EO 14024, providing that this section applies to the items or class of items listed in the Annex of the determination, including (i) certain machine tools and manufacturing equipment, (ii) certain manufacturing materials for semiconductors and related electronics, (iii) certain electronic test equipment, (iv) certain propellants, chemical precursors for propellants and

explosives, (v) certain lubricants and lubricant additives, (vi) certain bearings, (vii) certain advanced optical systems, and (viii) certain navigation instruments.

## **OFAC Guidance on Implementation of the Price Cap Policy for Crude Oil and Petroleum Products of Russian Origin**

On [3 February 2023](#), OFAC published its "[OFAC Guidance on Implementation of the Price Cap Policy for Crude Oil and Petroleum Products of Russian Federation Origin](#)" ("**Price Cap Guidance**"). The Price Cap Guidance explains how OFAC is implementing the agreement between the G7, the EU and Australia to impose a price cap on seaborne Russian origin crude oil and petroleum products. As discussed above, OFAC has imposed a prohibition on US Persons providing or facilitating the provision of the Covered Services as they relate to the maritime transport of Russian origin crude oil and petroleum products, subject to certain exceptions, including if the crude oil or petroleum product is purchased at or below the relevant price cap.

Among other things, the Price Cap Guidance provides further details on: (a) when the price cap "starts" and "stops"; (b) the types of services that are Covered Services, which exclude payment processing by intermediary banks; and (c) the recordkeeping and attestation requirements that if US Person service providers comply with in good faith will provide a safe harbor from OFAC enforcement in the event they inadvertently provide Covered Services related to the maritime transport of Russian origin crude oil or petroleum products purchased above the price cap.

The guidance also states that "petroleum products" means articles defined at heading 2710 of the [US Harmonized Tariff Schedule](#). The Price Cap Guidance

The guidance also provides clarification on when crude oil and petroleum products are no longer considered Russian origin for this purpose due to undergoing "substantial transformation".

On [20 December 2023](#), OFAC published a revised version of the Price Cap Guidance that outlines new expectations for certain service providers to (i) receive attestations within a specified timeframe for each lifting or loading of Russian oil or Russian petroleum products, and (ii) retain, provide, or receive itemized ancillary cost information as required. OFAC expects US service providers to be in compliance with this updated guidance by 19 February 2024.

## **OFAC Alert on Possible Evasion of the Russian Oil Price Cap**

On 17 April 2023, OFAC published guidance titled "[Possible Evasion of the Russian Oil Price Cap](#)" ("**Price Cap Evasion Guidance**"). The Price Cap Evasion Guidance explains that OFAC is issuing the alert to warn US Persons of the possible evasion of the price cap on provision of Covered Services as they relate to the maritime transport of Russian-origin crude oil, particularly involving oil exported through the Eastern Siberia Pacific Ocean (ESPO) pipeline and the ports of the east coast of Russia, such as Kozmino. The Price Cap Evasion Guidance specifically highlights two areas of concern: (1) deceptive practices, specifically AIS "spoofing," used by some tankers to disguise that the tanker has made a port call in Russia or to mask ship-to-ship

transfers of Russian-origin oil; and (2) sellers of Russian-origin oil not itemizing shipping, freight, customs and insurance costs to hide that Russian-origin oil was purchased at a price above the price cap. The Price Cap Evasion Guidance recommends that US Persons providing Covered Services take measures to ensure compliance with the price cap, including: (a) using maritime intelligence services to improve detection of AIS manipulation; and (b) retaining documents showing that Russian-origin oil was purchased at or below the relevant price cap, with shipping, freight, customs, and insurance costs invoiced separately.

## Price Cap Coalition Advisory for the Maritime Oil Industry and Related Sectors

On 12 October 2023, the Price Cap Coalition (the G7 countries, the EU and Australia), published guidance titled "[Advisory for the Maritime Oil Industry and Related Sectors](#)" ("**Coalition Advisory**"). The Coalition Advisory warns of increased risks from recent developments in maritime oil trade and provides recommendations concerning specific best practices for the maritime oil industry.

The Coalition Advisory identifies "*increased safety, environmental, economic, reputational, financial, logistical and legal risks*" that arise from the use of sub-standard vessels and un-tested insurers in transactions that seek to comply with the price cap by excluding Coalition providers of Covered Services. In particular, the Coalition Advisory warns of the risk of oil spills by vessels that may rely on unproven insurance providers, including that the insurers may not have appropriate capital, reinsurance or expertise to handle a major claim.

In addition, the Coalition Advisory indicates heightened diligence expectations for transaction parties as well as service providers, given that "*market assessments indicate that Russian oil prices exceed the price cap, and Coalition services are being used or sought.*" The Coalition Advisory's recommendations for best practices to adopt include: (1) requiring vessels to be insured by legitimate insurance providers with continuous and appropriate maritime insurance coverage for the entire voyage; (2) ensuring that counterparties receive classification from International Association of Classification Societies member classification societies to ensure the vessels are fit for the service intended; (3) promoting the continuous broadcasting of AIS throughout the lifetime of the voyage (other than for legitimate safety concerns); (4) verifying oil record logs to hold accountable record of cargo movements aboard vessels to ensure there are no illegitimate ship-to-ship transfers of crude oil or petroleum products; (5) requesting clarity on shipping and ancillary costs (e.g., freight, customs and insurance) to check that the price has not been inflated to conceal that Russian oil was purchased above the price cap; (6) conducting heightened due diligence in certain circumstances (e.g., when vessels have undergone numerous flag changes or when intermediaries conceal their beneficial ownership); and (7) reporting concerns about vessels that may be involved in illicit or unsafe maritime oil trade, including suspected breaches of the oil price cap.

## Additional General Licenses

Since 24 February 2022, OFAC has issued a number of general licenses under EO 14024 and the Russian Harmful Foreign Activities Sanctions Regulations ("[RuHSR](#)"). A high level summary of the active general licenses

is provided below, for the full details and exceptions to the authorizations, please view the general licenses on OFAC's website.

- [General License 5](#): authorizes transactions for the conduct of the official business of: (1) the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency; (2) the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and (3) the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.
- [General License 6D](#) (RuHSR): authorizes transactions related to: (1) the production, manufacturing, sale, transport, or provision of agricultural commodities, agricultural equipment, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices; (2) the prevention, diagnosis or treatment of COVID-19, including research or clinical studies related to COVID-19; or (3) clinical trials and other medical research activities.
- [General License 7A](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the receipt of and payment of charges for, services rendered in connection with overflights of Russia, or emergency landings in Russia by US registered aircraft or aircraft owned or controlled by or chartered to US Persons. Also authorizes transactions to provide air ambulance services and related medical services, including medical evacuation, to individuals in Russia.
- [General License 8J](#) (RuHSR): authorizes, through 31 October 2024, transactions involving one or more of the following entities that are related to "energy" (as defined in the general license): (1) VEB, Otkritie, Sovcombank, Sberbank, VTB, Alfa-Bank, Rosbank, Bank Zenit, Bank Saint-Petersburg, National Clearing Center (NCC), and any entity owned 50% or more, directly or indirectly, by these financial institutions; and (2) the Central Bank of the Russian Federation.
- [General License 13J](#) (RuHSR): authorizes, through 8 October 2024, US Persons, or entities owned or controlled, directly or indirectly, by a US Person, to pay taxes, fees, or import duties, and purchase or receive permits, licenses, registrations, certifications, or tax refunds, to the extent such transactions are prohibited by Directive 4 under EO 14024, provided such transactions are ordinarily incident and necessary to such US Persons' (or entity owned or controlled by a US Persons') day-to-day operations in the Russian Federation.
- [General License 14](#): authorizes transactions prohibited by Directive 4 under EO 14024 involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation if the entity's sole function in the transaction is to act as an operator of a clearing and settlement system, provided that (1) there is no transfer of assets to or from any Directive 4 entity, unless separately authorized; and (2) no Directive 4 entity is either a counterparty or a beneficiary to the transaction, unless separately authorized.
- [General License 25D](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the receipt or transmission of



telecommunications involving the Russian Federation that are prohibited by RuHSR. Also authorizes the exportation or reexportation, sale, or supply, directly or indirectly, from the US or by US Persons, wherever located, to the Russian Federation of services incident to the exchange of communications over the internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, blogging, social media platforms, collaboration platforms, video conferencing, e-gaming, e-learning platforms, automated translation, web maps, user authentication services, web hosting, and domain registration services, that is prohibited by RuHSR. Further, authorizes the exportation or reexportation, sale or supply, directly or indirectly, from the United States or by US Persons, to the Russian Federation of software, hardware, or technology incident to the exchange of communications over the internet, provided that: (i) if the software, hardware, or technology is subject to the Export Administration Regulations ("EAR"), the exportation, reexportation, sale, or supply to Russia or such software, hardware, or technology is licensed or otherwise authorized by the Department of Commerce pursuant to the EAR; and (ii) if the software, hardware, or technology is not subject to the EAR, the exportation, reexportation, sale or supply to Russia of such software, hardware, or technology would be eligible for a license exception or otherwise authorized by the Department of Commerce if it were subject to the EAR. GL 25D does not authorize the opening or maintaining of a correspondent or payable-through account for or on behalf of an entity subject to Directive 2 under EO 14024 or any debit to an account on the books of a US financial institution of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, any transactions prohibited by EO 14066 or EO 14068, or any transactions involving Joint Stock Company Channel One Russia, Joint Stock Company NTV Broadcasting Company, Television Station Russia-1, Limited liability Company Algorithm, New Eastern Outlook, or Oriental Review unless separately authorized.

- [General License 27](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the following activities by nongovernmental organizations that are prohibited by the RuHSR provided that the only involvement of Blocked Persons is the processing of funds by financial institutions blocked pursuant to EO 14024:
  - (1) activities to support humanitarian projects to meet basic human needs in Ukraine or the Russian Federation,
  - (2) activities to support democracy building in Ukraine or the Russian Federation,
  - (3) activities to support education in Ukraine or the Russian Federation,
  - (4) activities to support non-commercial development projects directly benefitting the people of Ukraine or the Russian Federation, and
  - (5) activities to support environmental and natural resource protection in Ukraine or the Russian Federation.
- [General License 31](#) (RuHSR): authorizes the following transactions in connection with a patent, trademark, copyright, or other form of intellectual property ("IP") protection in the US or the Russian Federation that would be prohibited by RuHSR:



- (1) the filing and prosecution of any application to obtain a patent, trademark, copyright, or other form of IP protection;
  - (2) the receipt of a patent, trademark, copyright, or other form of IP protection;
  - (3) the renewal or maintenance of a patent, trademark, copyright, or other form of IP protection; and
  - (4) the filing and prosecution of any opposition or infringement proceeding with respect to a patent, trademark, copyright, or other form of IP protection, or the entrance of a defense to any such proceeding.
- [General License 38A](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the processing of pension payments to (1) US Persons or (2) non-US persons not located in Russia, that are prohibited by EO 14024, provided that the only involvement of Blocked Persons is the processing of funds by financial institutions blocked pursuant to EO 14024.
  - [General License 40C](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the provision, exportation, or reexportation of goods, technology, or services to ensure the safety of civil aviation involving one or more of the blocked entities listed in the [Annex to GL 40C](#) provided that: (1) the aircraft is registered in a jurisdiction solely outside of the Russian Federation; and (2) the goods, technology, or services provided, exported, or reexported are for use on aircraft operated solely for civil aviation purposes.
  - [General License 42](#) (RuHSR): authorizes all transactions involving the FSB prohibited by EO 14024, provided that such transactions and activities are ordinarily incident and necessary to one or more of the following –
    - (1) Requesting, receiving, utilizing, paying for, or dealing in licenses, permits, certifications, or notifications issued or registered by the FSB for the importation, distribution, or use of information technology products in the Russian Federation, provided that (i) the exportation, reexportation, or provision of any goods or technology that are subject to the Export Administration Regulations is licensed or otherwise authorized by the Department of Commerce; and (ii) the payment of any fees to the FSB for such licenses, permits, certifications, or notifications does not exceed USD 5,000 in any calendar year. This paragraph does not authorize the exportation, reexportation, or provision of goods or technology to or on behalf of the FSB.
    - (2) Complying with law enforcement or administrative actions or investigations involving the FSB.
    - (3) Complying with rules and regulations administered by the FSB.
  - [General License 44](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the exportation, reexportation, sale, or supply, directly or indirectly, from the US or by a US Person, wherever located, of tax preparation or filing services to any individual US Person located in the Russian Federation that are prohibited by EO 14071 Section 1(a)(ii).
  - [General License 46](#) (RuHSR): authorizes all transactions prohibited by EO 14071 Section 1(a)(i) related to the establishment, administration, participation in, and execution of an auction process as announced by the EMEA Credit Derivatives Committee (the "**auction**") to settle credit

derivative transactions with a reference entity of "the Russian Federation". Also authorizes the purchase or receipt of debt obligations of the Russian Federation by US Persons prohibited by EO 14071 Section 1(a)(i) for the period beginning two business days prior to the announced date of the auction and ending eight business days after the conclusion of the auction. Also authorizes all transactions ordinarily incident and necessary to facilitating, clearing, and settling transactions authorized by GL 46 that are prohibited by EO 14071 Section 1(a)(i).

- [General License 50](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the closing of an account of an individual, wherever located, who is not a Blocked Person ("**the account holder**"), held at a financial institution blocked pursuant to EO 14024, and the unblocking and lump sum transfer of all remaining funds and other assets in the account to the account holder, including to an account of the account holder held at a non-blocked financial institution.
- [General License 52](#) (RuHSR): authorizes news reporting organizations that are US Persons, and individual US persons who are journalists, including photojournalists, or broadcast or technical personnel, to engage in the following transactions, where such transactions are ordinarily incident and necessary to such US Persons' journalistic activities or to the establishment or operation of a news bureau, provided that the only involvement of Blocked Persons is the processing of funds by financial institutions blocked pursuant to EO 14024:
  - (1) Compensating support staff (e.g., stringers, translators, interpreters, camera operators, technical experts, freelance producers, or drivers), persons to handle logistics, or other office personnel;
  - (2) Leasing or renting office space;
  - (3) Purchasing, leasing, or renting goods and services (e.g., mobile phones and related airtime); or
  - (4) Paying for all other expenses ordinarily incident and necessary to journalistic activities, including sales or employment taxes.

For GL 52, the term "news reporting organization" means an entity whose primary purpose is the gathering and dissemination of news to the general public. GL 52 does not authorize the opening or maintaining of a correspondent account or payable-through account for or on behalf of any entity subject to Directive 2 under EO 14024, any debit to an account on the books of a US financial institution of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, or any transactions involving Joint Stock Company Channel One Russia, Joint Stock Company NTV Broadcasting Company, Television Station Russia-1, Limited Liability Company Algorithm, New Eastern Outlook, or Oriental Review, unless separately authorized, or any transactions otherwise prohibited by the RuHSR, including transactions involving any Blocked Person other than the Blocked Persons described in GL 52, unless separately authorized.

- [General License 53](#) (RuHSR): authorizes US Persons to engage in all transactions ordinarily incident and necessary to the official business of diplomatic or consular missions of the Government of Russia ("**Russian missions**"), where the transactions are prohibited by Directive 4 of EO

14024. GL 53 also authorizes US Persons to engage in all transactions ordinarily incident and necessary to the compensation of employees of Russian missions, including payment of salaries and reimbursement of expenses, where the transactions are prohibited by Directive 4 of EO 14024.

- [General License 54A](#) (RuHSR): authorizes all transactions ordinarily incident and necessary to the purchase or receipt of any debt or equity securities of VEON Ltd. or VEON Holdings B.V. that are prohibited by section 1(a)(i) of EO 14071, provided that the debt or equity securities were issued prior to 6 June 2022. Except as provided by paragraph (b) of GL 54A, GL 54A also authorizes all transactions ordinarily incident and necessary to facilitating, clearing, and settling of transactions authorized in paragraph (a) of GL 54A that are prohibited by section 1(a)(i) of EO 14071.
- [General License 55B](#) (RuHSR): authorizes all transactions prohibited by the determination of 21 November 2022 made pursuant to section 1(a)(ii) of EO 14071 related to the maritime transport of crude oil originating from the Sakhalin-2 project ("**Sakhalin-2 byproduct**") through 27 June 2025, provided that the Sakhalin-2 byproduct is solely for importation into Japan.
- [General License 56A](#) (RuHSR): authorizes all transactions prohibited by (1) the determination of 21 November 2022 made pursuant to section 1(a)(ii) of EO 14071 related to the importation of crude oil, or (2) the determination of 3 February 2023 made pursuant to section 1(a)(ii) of EO 14071 related to the importation of petroleum products, into the Republic of Bulgaria, the Republic of Croatia, or landlocked EU Member States as described in Council Regulation (EU) 2022/879 of 3 June 2022. GL 56A does not authorize any transactions otherwise prohibited by the RuHSR, including transactions involving any person blocked pursuant to the RuHSR, unless separately authorized.
- [General License 57A](#) (RuHSR): authorizes all transactions prohibited by (1) the determination of 21 November 2022 made pursuant to section 1(a)(ii) of EO 14071 or (2) the determination of 3 February 2023 made pursuant to section 1(a)(ii) of EO 14071 that are ordinarily incident and necessary to addressing vessel emergencies related to the health or safety of the crew or environmental protection, including safe docking or anchoring, emergency repairs, or salvage operations. GL 57A does not authorize any transactions related to the offloading of Russian origin crude oil or petroleum products, except for the offloading of crude oil or petroleum products that is ordinarily incident and necessary to address vessel emergencies authorized pursuant to paragraph (a) of GL 57A, any transactions related to the sale of Russian origin crude oil or petroleum products, or any transactions otherwise prohibited by the RuHSR, including transactions involving any person blocked pursuant to the RuHSR, unless separately authorized.
- [General License 64](#) (RuHSR): authorizes all transactions prohibited by EO 14024 involving Joint-Stock Company Kommersant or any entity owned 50% or more, directly or indirectly, that are ordinarily incident and necessary to the operations of the newspaper *Kommersant*.
- [General License 65](#) (RuHSR): authorizes all transactions prohibited by EO 14024 that are ordinarily incident and necessary to the receipt or transmission of telecommunications involving Megafon PAO (Megafon) or

Digital Invest Limited Liability Company (Digital Invest), or any entity owned 50% or more directly or indirectly by Megafon or Digital Invest ("covered entities"), and involving Tajikistan or Uzbekistan. GL 65 also authorizes the exportation, reexportation, sale, or supply, direct or indirectly from the US or by US Persons to the covered entities of services, software, hardware, or technology incident to the exchange of communications over the internet, such as instant messaging, videoconferencing, chat and email, social networking, sharing of photos, movies, and documents, web browsing, blogging, web hosting, and domain name registration services.

- [General License 84](#) (RuHSR): authorizes US financial institutions that maintain correspondent accounts or payable-through accounts for any foreign financial institution subject to the correspondent account or payable-through account (CAPTA) prohibition of section 11(b)(i) of EO 14024, during the 10-day period beginning on the effective date of the imposition of the prohibition, to engage in the following transactions:
  - Processing only those transactions through the account, or permitting the foreign financial institution to execute only those transactions through the account, for the purpose of, and necessary for, closing the account; and
  - Transferring the funds remaining in the correspondent account or the payable-through account to an account of the foreign financial institution located outside of the US and closing of the correspondent account or the payable through account.
- [General License 93](#) (RuHSR): authorizes all transactions involving any vessel that is blocked solely due to a property interest of Joint Stock Company Sovcomflot ("Sovcomflot") or any entity in which Sovcomflot owns, directly or indirectly, a 50 percent or greater interest, provided that such vessel is not listed on OFAC's SDN list.
- [General License 94](#) (RuHSR and URRSR): authorizes all transactions involving OWH SE i.L. (formerly known as VTB Bank Europe SE), or any entity in which OWH SE i.L. owns, directly or indirectly, a 50 percent or greater interest ("OWH SE i.L. Entities"). Also provides that all property and interests in property of OWH SE i.L. Entities are unblocked.
- [General License 99A](#) (RuHSR): authorizes, through 12 October 2024, all transactions that are ordinarily incident and necessary to the wind down of any transaction involving one or more of the following Blocked Persons, provided that any payment to a Blocked Person is made into a blocked account in accordance with the RuHSR:
  - Moscow Exchange (MOEX)
  - National Clearing Center (NCC);
  - Non-Bank Credit Institution Joint Stock Company National Settlement Depository (NSD); and
  - 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.

Also authorizes, through 12 October 2024, transactions ordinarily incident and necessary to the divestment and transfer or the facilitation of the

divestment or transfer, of debt or equity issued or guaranteed by any of the above-listed Blocked Persons ("Covered Debt or Equity") to a non-US person. Also authorizes, through 12 October 2024, all transactions that are ordinarily incident and necessary to facilitating, clearing, and settling trades of Covered Debt or Equity that were placed prior to 4:00 pm US eastern time on 12 June 2024. Further authorizes, through 12 October 2024, all transactions that are ordinarily incident and necessary to the wind down of derivative contracts entered into prior to 4:00 pm US eastern time on 12 June 2024 that (i) included an above-listed Blocked Person as a counterparty, or (ii) are linked to Covered Debt or Equity, provided that any payments to a Blocked Person are made into a blocked account in accordance with the RuHSR.

- [General License 100A](#) (RuHSR): authorizes, through 12 October 2024, all transactions that are ordinarily incident and necessary to the divestment of debt or equity to a non-US person, who is not a person whose property or interests in property are blocked, or the conversion of currencies, involving one or more of the following Blocked Persons that is acting solely as a securities, trade, or settlement depository, central counterparty or clearing house, or public trading market.
  - Moscow Exchange (MOEX);
  - National Clearing Center (NCC);
  - Non-Bank Credit Institution Joint Stock Company National Settlement Depository (NSD); and
  - 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 101](#) (BSR): (BSR and RuHSR): authorizes, through 10 September 2024, all transactions that are ordinarily incident and necessary to the provision, exportation, or reexportation of goods, technology, or services to ensure the safety of civil aviation involving one or more of the following Blocked Persons, provided that the goods, technology, or services that are provided, exported, or reexported are for use on aircraft operated solely for civil aviation purposes:
  - Aviakompaniya Belkanto LLC;
  - Aviakompaniya Rada LLC;
  - UE RubiStar; or
  - Any entity in which one or more of the above persons owns, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest.

Further authorizes, through 10 September 2024, all transactions that are ordinarily incident and necessary to the wind down of any transaction involving any of the above Blocked Persons, provided that any payment to a Blocked Person is made into a blocked account in accordance with the BSR and the RuHSR.

- [General License 102](#) (RuHSR): authorizes, through 12 November 2024, all transactions that are ordinarily incident and necessary to the transportation, delivery, or storage of currency; cash processing services;

or maintenance of automated teller machines (ATMs) within Hong Kong involving VPower Finance Security (Hong Kong) Limited ("VPower"). Further authorizes, through 12 November 2024, all transactions that are ordinarily incident and necessary to the provision and staffing of customer service centers for mass transit railway stations within Hong Kong involving VPower.

However, this License does not authorize any transactions related to the transportation, delivery, or storage of gold.

- **General License 103 (RuHSR):** authorizes all transactions prohibited by the 8 February 2024 determination made pursuant to sections 1(a)(i)(A) and 1(a)(i)(D) of EO14068 that are ordinarily incident and necessary to the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of diamond jewelry that was physically located outside of the Russian Federation prior to March 1, 2024, and not exported or reexported from the Russian Federation on or after 1 March 2024.
- **General License 104 (RuHSR):** authorizes, through 31 August 2025, all transactions prohibited by the 8 February 2024 determination made pursuant to section 1(a)(i)(B) of EO 14068 that are ordinarily incident and necessary to the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of the following categories of diamonds, provided that the diamonds were physically located outside of the Russian Federation before, and were not exported or re-exported from the Russian Federation since:
  - (1) 1 March 2024, for non-industrial diamonds with a weight of 1.0 carat or greater; or
  - (2) 1 September 2024, for non-industrial diamonds with a weight of 0.5 carats or greater.
- **General License 105 (RuHSR):** authorizes, through 22 October 2024, all transactions ordinarily incident and necessary to one of the following activities involving White Fox Ship Management FZCO or any entity in which White Fox Ship Management FZCO owns, directly or indirectly, a 50 percent or greater interest (collectively, the "**White Fox Blocked Persons**"), provided that any payment to a Blocked Person must be made into a blocked account in accordance with the RuHSR:
  - (1) The safe docking and anchoring in port of any vessels in which any White Fox Blocked Person has a property interest (the "**blocked vessels**");
  - (2) The preservation of the health or safety of the crew of any of the blocked vessels; or
  - (3) Emergency repairs of any of the blocked vessels or environmental mitigation or protection activities relating to any of the blocked vessels.

Further, authorizes through 22 October 2024, all transactions that are ordinarily incident and necessary to the delivery and offloading of cargo involving the White Fox Blocked Persons identified in paragraph (a) of this

general license, provided that the cargo was loaded prior to 23 August 2024.

- General License 106 (RuHSR): authorizes, through 8 October 2024, all transactions that are ordinarily incident and necessary to the wind down of any transaction involving one or more of the following blocked entities:
  - (1) General Technology Group Dalian Machine Tool Import & Export Co Ltd;
  - (2) PJSC Yakutskaya Toplivno Energeticheskaya Kompaniya (YATEC);
  - (3) JSC Holdingovaya Kompaniya SDS Ugol;
  - (4) PJSC Ugolnaya Kompaniya Yuzhnyi Kuzbass;
  - (5) JSC Stroiservis;
  - (6) Guangzhou Chiphome Information Technology Limited;
  - (7) Chengdu Jingxin Technology Co Ltd;
  - (8) Shenzhen Huashuo Semiconductor Co Ltd;
  - (9) AirBridgeCargo Airlines LLC;
  - (10) Speech Technology Center Limited;
  - (11) Idronaut S.R.L.;
  - (12) GRK Bystrinskoye;
  - (13) Aktsionernoe Obschestvo Evraz Nizhnetagilski Metallurgicheski Kombinat (NTMK);
  - (14) Aktsionernoe Obschestvo Evraz Vanadi Tula;
  - (15) Aktsionernoe Obschestvo Evraz Market;
  - (16) LLC Volga Dnepr Airlines;
  - (17) Atran LLC; or
  - (18) 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, provided that any payment to a Blocked Person must be made into a blocked account in accordance with the RuHSR.
- General License 107 (RuHSR): authorizes, through 22 October 2024, all transactions that are ordinarily incident and necessary to one of the following activities involving (i) Ocean Speedstar Solutions OPC Private Limited, (ii) Zara Shipholding Co., or (iii) any entity owned 50% or more, directly or indirectly, individually or in the aggregate, by one or more of the above Blocked Persons, provided that any payment to a Blocked Person must be made into a blocked account in accordance with the RuHSR:
  - (1) The safe docking and anchoring in port of any vessels in which any person listed in paragraph (b) of this general license has a property interest (the “**blocked vessels**”);
  - (2) The preservation of the health or safety of the crew of any of the blocked vessels; or



- (3) **Emergency repairs of any of the blocked vessels or environmental mitigation or protection activities relating to any of the blocked vessels.**

OFAC also has repealed the existing Ukraine-related Sanctions Regulations and replaced them with a more detailed set of regulations titled the Ukraine-/Russia Related Sanctions Regulations ("[URRSR](#)"). The new URRSR now implement the sectoral sanctions under EO 13662, the Crimea sanctions under EO 13685, and provisions of the Ukraine Freedom Support Act (UFSA), the Support for the Sovereignty, Integrity, Democracy, and Economic Stability Act (SSIDES), and the Countering America's Adversaries Through Sanctions Act (CAATSA).

The URRSR contain the following new general licenses:

- [§ 589.509](#): authorizes US financial institutions to invest and reinvest certain blocked funds.
- [§ 589.510](#): authorizes all transactions that are for the conduct of the official business of the US government by employees, grantees, or contractors thereof.
- [§ 589.511](#): authorizes all transactions that are for the conduct of official business of certain international organizations and entities by employees, grantees, or contractors thereof.
- [§ 589.518](#): authorizes certain transactions that are necessary and ordinarily incident to publishing in Crimea.
- [§ 589.519](#): authorizes the receipt of, and payment of charges for, services rendered in connection with emergency landings in Crimea by aircraft registered in the US or owned or controlled by, or chartered to US Persons. Also authorizes US Persons to engage in certain transactions to provide air ambulance and related medical services, including medical evacuation from Crimea, for individuals in Crimea.
- [§ 589.520](#): authorizes certain transactions in support of nongovernmental organizations' activities in Crimea.
- [§ 589.521](#): authorizes US financial institutions to engage in certain transactions related to closing a correspondent or payable-through account for a foreign financial institution listed on OFAC's CAPTA list.

OFAC also issued the following general licenses under Belarus-related EO 14038:

- [§ 548.510](#): authorizes transactions involving the official business of the United States Government by its employees, grantees or contractors.
- [§ 548.511](#): authorizes transactions involving the official business of certain international organizations, including: (1) the United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations; (2) the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency; (3) the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the

foregoing; and (4) the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.

- [General License 8](#): authorizes all transactions prohibited by the Belarus Sanctions Regulations ("**BSR**") that are ordinarily incident and necessary to the wind down of any transaction involving JSC Byelorussian Steel Works Management Company of Holding Byelorussian Metallurgical Company ("**BSW**") or any entity owned 50% or more, directly or indirectly, by BSW, including Bel-Kap-Steel LLC (collectively, "**BSW Entities**") through 8 October 2023, provided that any payment to a BSW Entity must be made into a blocked account in accordance with the BSR.
- [General License 9](#): authorizes all transactions prohibited by the BSR that are ordinarily incident and necessary to the provision, exportation, or reexportation of goods, technology, or services to ensure the safety of civil aviation involving OJSC Belavia Belarusian Airlines or any entity owned 50% or more, directly or indirectly, by OJSC Belavia Belarusian Airlines (collectively, "**Belavia Entities**") through 7 September 2023, provided that the goods, technology, or services that are provided, exported, or reexported are for use on aircraft operated solely for civil aviation purposes. The license also authorizes, through 7 September 2023, all transactions prohibited by the BSR that are ordinarily incident and necessary to the wind down of any transaction involving the Belavia Entities, provided that any payment to a Belavia Entity must be made into a blocked account in accordance with the BSR.

## **Expansion of Sanctions Authorities to Additional Russian Economy Sectors**

The Secretary of Treasury, in consultation with the Secretary of State, has issued determinations on [22 February 2022](#), [31 March 2022](#), [8 May 2022](#), [15 September 2022](#), [24 February 2023](#), and [19 May 2023](#) that under EO 14024 Section 1(a)(i) sanctions may be imposed on persons determined by the US government to operate or have operated in the following sectors of Russia's economy:

- financial services;
- aerospace;
- marine;
- electronics;
- accounting;
- trust and corporate formation;
- management consulting;
- quantum computing;
- metals and mining;
- architecture;
- engineering;
- construction;
- manufacturing; and

- transportation.

## State Department Visa Actions

The US State Department has also imposed visa restrictions on a large number of individuals and entities in connection with the situation in eastern Ukraine including most recently:

- On [30 September 2022](#), visa restrictions on 910 individuals, including members of the Russian and Belarusian military, and other Russian proxies allegedly involved in violating Ukraine's territorial sovereignty. The US State Department also imposed visa restrictions on a Russian soldier, and his immediate family members, for his alleged human rights violation perpetuated against a Ukrainian prisoner of war.
- On [24 February 2023](#), visa restrictions on 1,219 members of Russia's military. The US State Department also designated three Russian military officials under Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2023 for alleged human rights abuses.

The US State Department's press releases with lists of targeted persons is available [here](#).

## GUIDANCE / ALERTS / OTHER UPDATES

### OFAC Guidance for Foreign Financial Institutions on OFAC Sanctions Authorities Targeting Support to Russia's Military-Industrial Base

In conjunction with the issuance of EO 14114, on [22 December 2023](#), OFAC published a sanctions advisory providing guidance for foreign financial institutions on the new OFAC secondary sanctions authorities in EO 14024 (as amended by EO 14114) targeting support for Russia's military-industrial base, including practical guidance on how to identify certain sanctions risks and to implement corresponding controls. The advisory provides examples of activities that could expose foreign financial institutions to sanctions risk, including:

- maintaining accounts, transferring funds, or providing other financial services (i.e., payment processing, trade finance, insurance) for any persons designated for operating in the technology, defense and related materiel, construction, aerospace or manufacturing sectors of Russia's economy;
- maintaining accounts, transferring funds, or providing other financial services (i.e., payment processing, trade finance, insurance) for any persons, either inside or outside Russia, that support Russia's military-industrial base, including those that operate in the specified sectors of Russia's economy; and
- facilitating the sale, supply, or transfer, directly or indirectly, of the specified items to Russian importers or companies shipping the items to Russia.

The advisory also reiterates OFAC's previous guidance on Russia sanctions and export controls evasion.

## OFAC Updated Guidance for Foreign Financial Institutions on OFAC Sanctions Authorities Targeting Support to Russia's Military-Industrial Base

On 12 June 2024, OFAC published an updated sanctions advisory providing guidance for foreign financial institutions on the OFAC secondary sanctions authorities in EO 14024 (as amended by EO 14114) targeting support for Russia's military-industrial base. The updated guidance identifies the following three designation risk areas under EO 14024 Section 11: (a) the facilitation of significant transactions with all Blocked Persons under EO 14024; (b) the facilitation of exports to Russia, either directly or through third countries, of so-called "critical items"; and (c) the facilitation of transactions that involve specified areas of Russia's economy (technology, defense and related materiel, construction, aerospace, and manufacturing) or that otherwise support Russia's military-industrial base, even if they do not involve Blocked Persons or exports of critical items. However, the guidance notes that foreign financial institutions do not risk a secondary sanctions designation for facilitating permissible transactions such as those related to food, agriculture, medicine, energy and telecommunications.

## Alert on Impact of Sanctions and Export Controls on Russia's Military-Industrial Complex

On 14 October 2022, the US Department of the Treasury's OFAC, the Department of Commerce's Bureau of Industry and Security ("**BIS**"), and the Department of State issued an [alert](#) to inform the public of the impact of current US sanctions and export control restrictions targeting Russia's defense capabilities and to warn of the sanctions risks related to providing goods, services, or other support for Russia's military-industrial complex. The alert reminds the public that OFAC is prepared to use its broad sanctions designation authorities against non-US persons that provide ammunition or other support to the Russian military-industrial complex, private military companies, paramilitary groups, or others allegedly participating or supporting Russia's war on Ukraine. The alert also states that OFAC and the Department of State have and will continue to use their sanctions designation authorities against persons inside and outside Russia that engage in sanctions evasion or circumvention.

## Guidance on Heightened Sanctions Risk for Support of Russia as a result of referenda

On 23 September 2022, G7 Leaders issued a [statement](#) condemning Russia's sham referenda, purported annexation, and continued occupation of the Kherson, Zaporizhzhya, Donetsk and Luhansk region of Ukraine and committing to impose further economic costs on Russia for the violation of Ukraine's territorial sovereignty. On 30 September 2022, OFAC issued [FAQ 1091](#), which emphasizes OFAC's willingness and ability to aggressively use its existing sanctions authorities to target individuals and entities whose activities may constitute material assistance, sponsorship, or provision of financial, material, or technological support for, or goods or services (together "**material support**") to or in support of persons sanctioned pursuant to EOs 13660, 14024, and 14065, or sanctionable activity related to Russia's occupation and purported annexation of regions of Ukraine.

## Most Favored Nation Status

On 8 April 2022, President Biden signed into law bill H.R. 7108, revoking normal trade relations with the Russian Federation and the Republic of Belarus. This follows the President's statement on 11 March 2022 that the US, along with the EU and G7 countries, would call for revoking Russia's "most favored nation" ("**MFN**") status—known as "Permanent Normal Trade Relations" in the US. MFN requires WTO members to give the most favorable tariff and regulatory treatment accorded to the product of any one WTO member to "like products" of all other WTO members (subject to certain exceptions). H.R. 7108 suspends normal trade relations between the US and Russia/Belarus, meaning that imports originating in Russia and Belarus will be subject to higher duty rates. H.R. 7108 also authorizes the President to further increase the rates of duty applicable to products of Russia and Belarus. The new law at Section 6 also contains "Reauthorization of Sanctions under the Global Magnitsky Human Rights Accountability Act with Respect to Human Rights Violations and Corruption." Section 6 repeals Section 1265 of the Global Magnitsky Human Rights Accountability Act, which terminated the authority to impose sanctions under the subtitle 6 years after the date of enactment.

## Secondary Sanctions on Russian Gold

On 23 December 2022, President Biden signed into law the National Defense Authorization Act for Fiscal Year 2023 ("**NDAA 2023**") that at Section 5590(a)(1) requires that the US President submit a report to Congress identifying foreign persons that:

"knowingly participated in a significant transaction (A) for the sale, supply, or transfer (including transportation) of gold, directly or indirectly, to or from the Russian Federation or the Government of the Russian Federation, including from reserves of the Central Bank of the Russian Federation held outside the Russian Federation; or (B) that otherwise involved gold in which the Government of the Russian Federation had any interest."

The first report is due to Congress within 90 days of enactment of NDAA 2023 (i.e., by 23 March 2023) and subsequent reports are due "periodically as necessary".

Section 5590(a)(3) authorizes, but does not require, the President to impose the following sanctions on any foreign person identified to have engaged in activity described in Section 5590(a)(1):

- Property blocking – The President may direct OFAC to list the foreign person as a Specially Designated National (SDN), thereby imposing blocking sanctions on them.
- Visa, admission, or parole – The President, through the State Department, may prohibit a foreign person from entering the US, from obtaining or retaining a US visa, or from receiving other US immigration benefits.

Congress has provided the President with authority to waive the imposition of sanctions by certifying that a waiver of sanctions is in the US national interest.

Section 5590(f) also prohibits the imposition of sanctions for engaging in or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices or for the provision of humanitarian assistance.

The NDAA 2023 also requires the President to submit a number of reports to Congress regarding the impact of sanctions on Russia and its invasion of Ukraine (see Sections 5523, 5599, 6807), but these provisions do not authorize or require the imposition of any new sanctions.

### **Treasury, Commerce and DOJ Issue Notice Regarding Third-Party Sanctions and Export Controls Evasion and Increased Focus on Enforcement**

On 2 March 2023, the three agencies issued their first "[Tri-Seal Compliance Note](#)" ("**Compliance Note**"), warning companies of risks arising from attempts by counterparties to evade Russia-related sanctions and export controls. The Compliance Note provides guidance for mitigating the risk, including remaining vigilant in efforts to detect and stop such evasion attempts through effective, robust, and risk-based compliance programs, with an emphasis on third-party due diligence. Our more in-depth analysis of the Compliance Note is available [here](#).

On the same day, Deputy Attorney General Monaco delivered [remarks](#) regarding the DOJ's priorities, including that they will hire more than 25 additional prosecutors to investigate and prosecute sanctions evasions and export controls violations. The remarks amplify the US Government's continued focus on enforcing export controls and sanctions (and not just with respect to Russia).

### **Commerce, Treasury, Justice, State, and Homeland Security issue first Quint-Seal Compliance Note**

On 11 December 2023, the US Departments of Commerce, Treasury, Justice, State, and Homeland Security issued a Quint-Seal Compliance Note (the "[Compliance Note](#)") warning of attempts to evade sanctions and export controls. Among other things the Compliance Note advises individuals and entities participating in the maritime and other transportation industries to identify and manage their compliance frameworks to address these new risks and advises that they should "know your cargo". The Compliance Note provides information on deceptive tactics used to attempt to evade sanctions and export controls, as well as providing examples of recent enforcement actions related to the illicit shipment of cargo. Our more in-depth analysis of the Compliance Note is available [here](#).

### **New Advisory on the Gold Sector issued by State, Treasury, Labor, Commerce and Homeland Security**

On [27 June 2023](#), the US Departments of State, Treasury, Commerce, Homeland Security, Labor, and the US Agency for International Development ("**USAID**") issued a new advisory focusing on the gold sector across sub-Saharan Africa ("**Gold Advisory**"). The Gold Advisory highlights certain alleged risks related to the gold trade, such as conflict and terror financing, money laundering, sanctions evasion, labor and human rights abuses, and environmental degradation. Additional information can be found in our [alserter here](#). Of particular relevance to Russia, the Gold Advisory (a) discusses reports that the Wagner Group (a Russian SDN) has gained control of gold mines and assets in parts of Africa, and (b) provides a table of gold-related sanctions actions by the US government, including under the Russia sanctions program.

## **Publication of Joint Fact Sheet on Understanding UK and US Russia-Related Sanctions and the Provision of Humanitarian Assistance**

On [28 June 2023](#), OFAC and His Majesty's Treasury's Office of Financial Sanctions Implementation ("**OFSI**") published a joint Humanitarian Assistance and Food Security Fact Sheet ("**Fact Sheet**"). The Fact Sheet aims to provide additional clarity regarding US and UK Russia-related sanctions and the relevant authorizations, exceptions, and public guidance. The guidance is particularly aimed at humanitarian actors, NGOs, financial institutions and companies engaged in agricultural trade or the provision of medical supplies and assistance.

## **Publication by US Departments of Commerce, State, Treasury, and Labor of New Business Advisory**

On 23 February 2024, Commerce, State, Treasury and Labor on the *Risks and Considerations for Doing Business in the Russian Federation and Russia-Occupied Territories of Ukraine*, available [here](#). The business advisory aims to provide information to consider heightened risks of engaging in Russia-related business or transactions, including those involving the Russian military-industrial base, which may not already be directly addressed by existing US sanctions or export controls. It includes a Annex with due diligence recommendations spanning human rights and sanctions and export controls compliance.



## US EXPORT CONTROLS

Since 24 February 2022, the US Department of Commerce's Bureau of Industry and Security ("**BIS**") has amended the Export Administration Regulations ("**EAR**") ([15 CFR 730-774](#)) to implement heightened export controls on Russia and Belarus including additional license requirements for exports, reexports, or transfers (in country) to or within Russia or Belarus of goods, technology of software (collectively, "**items**") that are subject to the EAR; limited the availability of license exceptions to overcome these license requirements; expanded the restrictions on military end users and military end uses (collectively, "**MEUs**") with respect to Russia and Belarus; extended the scope of the Foreign Direct Product ("**FDP**") Rules; publicly identified on a list over 100 commercial and private planes that have flown into and out of Russia or Belarus in apparent violation of the EAR; and taken enforcement actions against individuals and entities operating in contravention of the EAR including additional Entity List designations and issuing Temporary Denial Orders ("**TDOs**").

In addition, BIS has imposed comprehensive embargos on the export, reexport and transfer (in country) of items subject to the EAR to the Donetsk and Luhansk regions of Ukraine, which align with existing restrictions on the Crimea region of Ukraine, and imposed a policy of denial to EAR license applications for all three regions (collectively, the "**Covered Regions of Ukraine**").

### Overview of EAR

The EAR has broad jurisdiction and applies extraterritorially to items subject to the EAR everywhere in the world. EAR jurisdiction "follows the goods." This means that the EAR regulates exports, reexports, and in-country transfers of covered items globally, even if a transaction is between non-US persons and takes place outside the United States. Depending on the type of item, the destination, the end user, and the end use, a license may be required from BIS for the export, reexport, or transfer (in-country) of the item.

Items subject to the EAR can include:

- items anywhere in the world produced or manufactured in the United States;
- items in or exported from the United States, regardless of where they were manufactured;
- items manufactured outside the United States that include certain percentages (more than *de minimis*) of controlled US-origin content; and, in certain cases,
- items manufactured outside the United States (i.e., foreign-produced items) that are the direct product of certain controlled US technology or software, or are manufactured by a plant, or a major component of a plant, that is itself a direct product of such technology or software.

### BIS Expanded Export License Requirements to all Items on the Commerce Control List

On 24 February 2022, BIS expanded the export license requirements for exports, reexports, or transfers (in country) to or within Russia for all items subject to the EAR that fall under Export Control Classification Numbers ("**ECCNs**") on the [Commerce Control List](#) ("**CCL**") in Categories 3–9. These

same license requirements were extended to Belarus on 2 March 2022. On 8 April 2022, BIS expanded the license requirements for Russia and Belarus to include all items that fall in Categories 0-2 on the CCL. The CCL categories are:

Category 0 – Nuclear Materials, Facilities And Equipment (and Miscellaneous Items);

Category 1 – Materials, Chemicals, Microorganisms and Toxins;

Category 2 – Materials Processing;

Category 3 – Electronics;

Category 4 – Computers;

Category 5 – Telecommunications and Information Security;

Category 6 – Sensors and Lasers;

Category 7 – Navigation and Avionics;

Category 8 – Marine; and

Category 9 – Aerospace and Propulsion.

Accordingly, an EAR license is now required for the export, reexport, or transfer (in country) of all items subject to the EAR with an ECCN (i.e., all items on the CCL) to or within Russia and Belarus unless a license exception applies, or the transaction is otherwise specifically excluded from the new license requirements. License applications will be subject to a policy of denial.

In addition, items under these ECCNs now will be relevant for *de minimis* calculations. Businesses wholly outside of the United States therefore need to account for these new restrictions when conducting export jurisdiction determinations and evaluating potential exports and reexports to Russia, or Belarus.

## **Consolidation/ Reorganization of EAR**

On 12 June 2024, BIS announced several significant [additional export control restrictions and related actions against Russia](#), in advance of the G7 Summit, and consolidate most of the license requirements for Russia and Belarus that have been issued since February 2022 into a single subpart of the EAR. Previously, these license requirements were disjointed and spread across various sections of the EAR. Specifically, prior to this rule, the license requirements for the Russia and Belarus were primarily found in three sections of part 746 of the EAR (746.5, 746.8 and 746.10). Effective 18 June 2024, all of these license requirements were consolidated into a revised and expanded Section 746.8. While the license requirements were largely consolidated, BIS continues to maintain three separate supplements for industrial goods (Supplements Nos. 2, 4 and 6 to part 746) – though BIS notes that these three lists may be consolidated in future amendments to the EAR; and another supplement for Luxury Goods (Supplement No. 5 to part 746). Additional information on these supplements are provided in the sections below.

## **License Requirements for Luxury Goods**

On 11 March 2022, BIS imposed export license requirements on the export, reexport, or transfer of a broad list of Luxury Goods to or within Russia and Belarus and to certain Russian and Belarusian oligarchs and malign actors,

wherever located. These Luxury Goods are EAR99 items (i.e., they are not on the CCL/ do not have ECCNs). Previously, Luxury Goods had only been restricted for export to North Korea. BIS has issued an extensive list of covered Luxury Goods separate from the list relevant for North Korea, that includes, among other items, tobacco products, clothing, footwear, jewellery, vehicles, boats, antiques, and spirits, wine, and beer. BIS most recently updated the list on 24 February 2023, adding over 270 new entries. On the same day, BIS also amended the list to identify listed items by HS-6 codes (previously, listed items were identified by Schedule B numbers). The full list is available at [Supplement No. 5 to Part 746](#) of the EAR.

Generally, the license requirement applies to items included on the Luxury Goods list that are subject to the EAR, regardless of the monetary value of the item. However, BIS has imposed a monetary threshold for certain, specified entries on the list of Luxury Goods.

Limited license exceptions are available and license applications for such transactions will be subject to a policy of denial. BIS has published Luxury Goods FAQs here: <https://www.bis.doc.gov/index.php/documents/policy-guidance/2975-2022-05-02-bis-faq-luxury-goods/file>.

On [23 January 2024](#), BIS clarified that US-origin luxury goods enumerated in Supplement No. 5 to Part 746 of the EAR are carved out from *de minimis* calculations for exports to specified allied countries. In addition, this section was amended to state that no license is required under the Luxury Good provisions for any enumerated Luxury Good item (i.e., item is listed in Supplement No. 5) that is also classified in an ECCN on the CCL (though the license requirement under the CCL would still apply absent an applicable license exception or authorization).

On 21 March 2024 BIS moved the license requirement for Russian and Belarusian oligarchs and malign actors out of the Luxury Goods section and into the license requirements for SDNs. With this move BIS expanded the license requirements on these specified end users to include to all items subject to the EAR (not just Luxury Goods).

Effective 18 May 2024, BIS has largely migrated the Luxury Goods license requirements from Section 746.10 to Section 746.8, as part of its consolidation efforts.

## **Russian and Belarusian Industry Sector Sanctions: EAR License Requirements Expanded to Include Commercial and Industrial Operations and to Cover Belarus**

On 9 May 2022, BIS expanded the EAR's Russian Industry Sector Sanctions rule at [Section 746.5](#) of the EAR, which previously focused on the deep water and arctic offshore oil and gas sector. The expansion imposed a license requirement (and general policy of denial) for exports, reexports or transfers (in-country) to and within Russia for commercial and industrial items. These items include, among other items, certain hydraulic power engines, wood products, woodworking machinery, refrigerating units, air conditioning machines, letterpress printing machinery, textile machinery, power looms, needles for knitting machines, dry cleaning machines, reaction engines, motors, and other parts of machinery. On 24 February 2023, BIS again expanded the list of covered items and updated it to identify items by HS-6 codes (previously, items had been identified by Schedule B numbers). At the same time, BIS amended Section 746.5 of the EAR to clarify that the license

requirements apply to the items described on the relevant lists and any modified or designed "components", "parts" and "accessories" (including consumables) therefor. The lists of items are available at [Supplement No. 4](#) and [Supplement No. 6](#) to Part 746 to the EAR.

Effective 15 September 2022, BIS added Belarus to the Russia Industry Sector Sanctions, renaming them the "Russian and Belarusian Industry Sector Sanctions." The EAR license requirements at Section 746.5 of the EAR now apply to exports, reexports, or transfers (in country) of the enumerated items to or within either Russia or Belarus.

Effective [19 May 2023](#), BIS added additional items that require a license for export, reexport, or in-country transfer to or within Russia or Belarus. Specifically, BIS added (1) additional HS-6 Codes to the lists of items in Supplement No. 4 to Part 746 of the EAR and (2) new chemicals to Supplement No. 6 to Part 746 of the EAR.

Effective [23 January 2024](#), BIS further expanded the Industry Sector Sanctions by adding 94 six-digit HS codes to the list of items requiring a license for export, reexport, or transfer to or within Russia or Belarus. The expanded list of items includes certain chemicals, lubricants, and metals, and it covers the entirety of Chapter 88 of the HS (aircraft, spacecraft, and parts thereof), for the stated purpose of further restricting Russia's access to inputs for its defense industrial base. The update also expands controls on certain EAR99 antennas, antenna reflectors, and parts thereof, and confirmed that fasteners (such as screws, nuts, bolts, and washers) are excluded from the license requirements under scope of Supplements No. 2, 4, 5, and 7 (though remain subject to other applicable license requirements for MEUs).

On the same day, BIS clarified a new license exception under the relevant section of the Russian and Belarussian Industry Sector Sanctions: a license is not required for any item that is listed in Supplement No. 4 or 6 to Part 746 that is also classified in an ECCN on the CCL.

Effective 18 May 2024, BIS added 522 additional HTS-6 codes entries, including a broad number of EAR99 items, which now require a license for Russia and Belarus. The EAR now controls 22 entire 2-digit chapters of HTS codes to Russia and Belarus, which will make it harder to circumvent U.S. export controls through misclassification of the HTS-6 code.

On the same day, BIS largely migrated the above noted license requirements from Section 746.5 to Section 746.8, as part of its consolidation efforts.

## **Further Restricting Software Exports and Software Updates – Starting September 2024**

Starting 16 September 2024, a license will be required to export, reexport, or transfer (in country) most EAR99 software for (i) the operation of computer numerical control (CNC) machine tools (i.e., operation software) and (ii) businesses. The specified EAR99 business software includes:

- enterprise resource planning (ERP);
- customer relationship management (CRM);
- business intelligence (BI);
- supply chain management (SCM);
- enterprise data warehouse (EDW);

- computerized maintenance management system (CMMS);
- project management software, product lifecycle management (PLM);
- building information modelling (BIM);
- computer aided design (CAD);
- computer-aided manufacturing (CAM); and
- engineering to order (ETO).

Further, the EAR was amended to specify that this license requirements also applies to updates for the above software. There are limited exceptions for the medical and agricultural sectors and for civil end users that are wholly owned subsidiaries of US companies and companies headquartered in certain specified countries, or JVs between such companies.

### **Military End Use and End User ("MEU") Rule for Russia and Belarus**

Since 24 February 2022, BIS expanded the scope of the MEU rule at [Section 744.21](#) of the EAR, as it applies to Russia and Belarus, such that a license is required if, at the time of export, reexport, or in-country transfer, a party knows or has reason to know an item subject to the EAR (including EAR99 items) is intended entirely or in part for a "military end use" in Russia or Belarus, a Russian or Belarussian "military end user" in Russia/ Belarus, or a Russian or Belarussian "military end user" that is identified on the EAR's [Entity List](#) with a footnote 3 designation, wherever located.

BIS will review license applications to send EAR99 food and medicine to such MEUs on a case-by-case basis. Applications for all other items subject to the EAR, including all other EAR99 items, that are destined for Russian and Belarussian MEUs generally are subject to a license review policy of denial.

### **Military-Intelligence End Users and End Uses ("MIEUs") Rule for Russia and Belarus**

On 16 September 2022, BIS expanded the MIEU controls under [Section 744.22](#) of the EAR to reach Belarussian, Russian MIEUs, imposing a license requirement for any item subject to the EAR if, at the time of the export, reexport, or transfer (in-country), there is knowledge or reason to know that the item is intended, entirely or in part, for an MIEU in Russia or Belarus or, in certain circumstances, for a Russian or Belarussian "military-intelligence end user," wherever located.

In addition, BIS imposed an additional "is informed" restriction such that BIS may inform an individual through direct notice or the public through publication in the federal register that an EAR license is required for certain exports, reexports, or in-country transfers of any item subject to the EAR where BIS has determined there is risk of use in or diversion to a Russian or Belarussian MIEU.

MIEU license applications are subject to a presumption of denial review policy.

## Foreign Direct Product ("FDP") Rules Specific to Russia, Belarus, and the Temporarily Occupied Crimea Region of Ukraine

BIS has amended the EAR to implement FDP rules specific to (1) Russia and Belarus (the "**Russia/Belarus/ Temporarily occupied Crimea region of Ukraine FDP Rule**") and (2) Russian and Belarusian MEU. **On 23 August 2024, BIS further expanded the MEU FDP rule to also apply to "procurement entities" outside Russia and Belarus that are supplying the Russian and Belarusian military and intelligence sectors. This amendment included renaming the rule to the "Russia/Belarus-MEU and Procurement FDP Rule".** The new FDP rules are very technical, but primarily impact non-US entities who source US content for further manufacture or incorporation into their products. The rules are designed to restrict the flow of wholly-foreign made items (with certain US content) to or within Russia and Belarus.

The **Russia/Belarus/Temporarily occupied Crimea region of Ukraine FDP Rule** asserts BIS export licensing jurisdiction over items manufactured wholly outside of the United States, when the items are meet specified criteria. Additional details on this rule are available [here](#). The **Russia/Belarus-MEU and Procurement FDP Rule** expands the export licensing jurisdiction in a manner similar to the Russia/Belarus FDP Rule, as it renders certain items manufactured wholly outside of the United States subject to the EAR for transactions involving Russian or Belarusian entities **and procurement entities for Russia's or Belarus's defense and intelligence industries (including entities located in third countries)**, that have been assigned a footnote 3 designation on the Entity List ("**footnote 3 designated entities**"). **Additional details on this rule are available [here](#). [BIS has published its FAQs on both FDP rules here.](#)**

### Entity List Additions

Since 24 February 2022, BIS has added a large number of entities to the BIS Entity List to restrict access to items subject to the EAR. An Entity List designation imposes license requirements in addition to those found elsewhere in the EAR for the export, reexport, or transfer when an Entity List entity is party to the transaction. The specific covered items and license application review policy are identified in each relevant entry. The Entity List is available at [Supplement No. 4 to Part 744](#).

As noted, Russian and Belarusian MEU also have been identified on the Entity List with a footnote 3 designation, however, this list of MEU is not exhaustive.

On 23 February 2024, the Commerce Department added 93 additional entities to the Entity List in response to the two-year anniversary of the Russian invasion of Ukraine. 63 of the entities are based in Russia, eight are based in China, sixteen in Turkey, four in the UAE, two in the Kyrgyz Republic, and one each in India and South Korea. More than 50 of the entities will also receive a "footnote 3" designation as Russian-Belarusian military end-users, which subjects these entities to a license requirement for all items subject to the EAR and a license review policy of denial, with limited exceptions.

On 18 June 2024, BIS published eight addresses to the Entity List, marking the first time an address alone (not an entity name) was designated on the list. BIS noted making this change to allow address-only listings helps BIS to target shell companies which may continue to use the same address but can

easily be dissolved and reformed to evade US sanctions and export controls, without specifying an associated entity name. **On 23 August 2024, BIS added four more addresses in Turkey and Hong Kong.** These addresses are identified as those with "High Diversion Risk." BIS notes parties must conduct sufficient client screening and due diligence for the listed addresses, similar to what is expected for listed entities.

**On 23 August 2024, BIS published guidance and FAQ for address screening [here](#).** The most recent version of the list is available [here](#).

## **Limitations on EAR License Exceptions for Russia and Belarus**

There are very narrow circumstances in which a license exception will overcome requirements imposed under the Russia Final Rule or Belarus Final Rule. Available [license exceptions](#) are restricted to only certain sections of the EAR Part 740 exceptions for Temporary Imports, Exports, Re-exports, and Transfers in Country (TMP); certain government activities (GOV); Technology and Software Unrestricted (TSU); Baggage (BAG); Aircraft, Vessels, and Spacecraft (AVS); Encryption Commodities, Software, and Technology (ENC); and Consumer Communication Devices (CCD).

On 18 June 2024, BIS further reduced the availability and scope of CCD for Russia and Belarus.

## **New EAR License Exception for Certain Medical Devices**

On April 25, 2024, BIS announced the introduction of "License Exception Medical Devices ("MED")" which has been implemented at Section 740.23 of the EAR. The license exception facilitates the delivery of humanitarian medical devices to civilians in Russia, Belarus, and the temporarily occupied areas of Ukraine. License Exception MED specifically permits, subject to the specified criteria and limitations, certain exports, reexports, and transfers to the mentioned regions of low-level "medical devices" classified as EAR99 that otherwise would require an EAR license under the Russian and Belarusian Industry Sector Sanctions at EAR Section 746.5, the Luxury Goods license requirements at EAR Section 746.10, or the trade embargo restrictions on the occupied regions of Ukraine at EAR Section 746.6. These items include low-level "parts," "components," "accessories," and "attachments" exclusively for use with "medical devices" as described as in the license exception.

## **Policy of Denial for License Applications for Russia, Belarus, and Covered Regions of Ukraine**

Applications for the export, re-export, or transfer (in-country) of items subject to the EAR that require a license for Russia, Belarus, or the Covered Regions of Ukraine are subject to a review policy of denial, except for very limited circumstances.

Applications related to certain categories, including safety of flight, maritime safety, civil nuclear safety, humanitarian needs, government space cooperation, and applications from companies headquartered in partner countries to support civil telecommunications infrastructure, government-to-government activities, and to support limited operations of US or specified partner country companies in Russia/Belarus— will be reviewed on a case-by-case basis.



Effective 24 February 2023, BIS added a case-by-case license review policy for certain applications for the disposition of items by companies closing operations in Russia or Belarus. BIS will review such applications to determine whether disposition of the relevant items would benefit the Russian or Belarusian government or military.

## **Exclusion of Certain Countries from the Expanded Licensing Requirements for Russia and Belarus**

Countries identified by BIS that are listed in [Supplement No. 3](#) to part 746 of the EAR, the so-called "Russia and Belarus Exclusions List," are carved out from certain of the expanded Russia and Belarus license requirements. Most recently, BIS added Taiwan to the list on 24 February 2023.

These are countries that BIS has determined "*are committed to implementing substantially similar export controls*" on Russia and Belarus, and notably include NATO countries and partner nations. Countries included on this list are excluded – in whole or in part – from the requirements under the new Russia/Belarus FDP rules (both the general and MEU FDP rule) and the expanded *de minimis* application to items controlled only for anti-terrorism (AT) reasons or for 9A991 items, which include certain civil aircraft and related parts and components.

[BIS has published its FAQs on excluded countries here.](#)

## **BIS List of Commercial and Private Aircraft Exported to Russia in Apparent Violation of EAR – Puts Aerospace Industry on Notice of EAR Risks Associated with Engaging with these Aircraft**

Since 18 March 2022, BIS has maintained a list in which it has publicly identified over 100 commercial and private planes that flew into Russia or Belarus "in apparent violation" of the EAR (i.e., were exported or re-exported to Russia without a required license). In its press releases on the matter, BIS noted that this list puts the public on notice "*that providing any form of service to these aircraft requires authorization. Absent such authorization, any person anywhere – including within Russia – risks violating the EAR and would be subject to BIS enforcement actions.*" BIS specifically noted that it was notifying "all persons and companies in the United States and abroad," highlighting that non-US persons and entities can be equally liable for violations of the EAR. Such violations, including violations of General Prohibition ("GP") 10 (described below), can result in significant civil fines and criminal penalties, including imprisonment (for individuals). In addition, there can be considerable internal costs and reputational harm to a company.

The current and archived versions of the list of planes is available [here](#), though BIS stated the list is not exhaustive. BIS has published several rounds of updates to the list – both removing aircraft (seemingly after BIS issued a GP 10 authorization) and adding new aircraft identified by BIS as operating in apparent violation of the EAR.

BIS specifically noted that by publishing this list the general public is on notice that any actions taken with regard to the listed aircraft, including, among other things, repair, maintenance, refuelling and the provision of spare parts, are subject to GP 10 under the EAR. GP 10 prohibits proceeding with a transaction if you know or have reason to know that an export violation has or is about to occur. If there is such knowledge:

*"You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR."*

BIS has identified on the list both US and non-US-produced aircraft. These non-US-produced airframes were included on the list based on BIS's determination that the aircraft exceed a *de minimis* amount – greater than 25 percent – of controlled US-origin content by value and are therefore subject to the EAR.

### **Prohibitions on Russian Vessels and Aircraft**

On 22 April 2022, President Biden [prohibited](#) Russian-affiliated vessels from entering US ports. Specifically, vessels sailing under the Russian flag, or that are owned or operated by Russian or Russian interest, will not be allowed to dock in a US port or to access US shores, except in very limited circumstances. The prohibition aligns with similar actions imposed by Europe, the UK, and Canada and follows President Biden's previous [prohibition](#) (effective 2 March 2022) on airlines and aircraft which are owned, certified, operated, registered, chartered, leased, or controlled by, for, or for the benefit of a national of Russia from flying in domestic US airspace.

### **Clarification that Section 744.7 Prohibitions on Certain Exports of All Items Subject to the EAR for End Use by a Non-US Aircraft or Vessel Extends to In-Country Transfers**

Effective 24 February 2023, BIS amended Section 744.7 of the EAR to clarify that the license requirement at Section 744.5 extends to in-country transfers, in addition to exports and reexports.

Accordingly, a license requirement applies to the export, reexport, or transfer (in-country) of any item subject to the EAR (including EAR99 items) to or for the use of a non-US vessel or aircraft, globally, "unless a license exception or NLR permits the shipment to be made: (1) To the country in which the vessel or aircraft is located, and (2) To the country in which the vessel or aircraft is registered, or will be registered in the case of a vessel or aircraft under construction, and (3) To the country, including a national thereof, which is currently controlling, leasing, or chartering the vessel or aircraft." The prohibition extends to vessel and aircraft regardless of whether they are operating or under construction. This end use restriction is in addition to license requirements for items specified on the CCL.

### **BIS/FinCEN Export Controls Joint Alert**

On 28 June 2022, the US Treasury Department Financial Crime Enforcement Network ("FinCEN") and BIS issued a [joint alert](#) urging financial institutions to remain vigilant for possible attempts by individuals and entities to evade BIS export controls on Russia. The joint alert provides an overview of BIS's current export restrictions, a list of commodities of particular concern for export

control evasion, and select transactional and behavioural red flags to assist financial institutions in identifying suspicious transactions. Our more in-depth analysis of the joint alert is available [here](#).

On 19 May 2023, FinCEN and BIS issued a [supplemental joint alert](#). The supplemental joint alert provides new information regarding BIS export controls related to Russia and evasion techniques, reinforces ongoing U.S. Government efforts to restrict Russia from obtaining goods and technology to bolster its military and defense industrial base, and identifies additional red flags that may indicate suspicious transactions.

### **BIS Updates List of HS Codes Identified for Heightened Risk of Diversion to Russia**

On 23 February 2024, BIS (in coordination with the EU, UK, and Japan) updated the Common High Priority Items List, identified for heightened risk of diversion to Russia, to include HS codes for Computer Numerical Control (CNC) machine tools. This addition increased the list to 50 HS codes, which are divided into four tiers. The full list is available [here](#) and BIS' previous guidance on this topic is available [here](#), [here](#) and [here](#).

### **BIS/FinCEN Export Controls Joint Notice and New Key Term for Reporting Evasion of U.S. Export Controls Globally**

On [6 November 2023](#), BIS and FinCEN issued their third joint notice alerting financial institutions to the continued threat of attempts by individuals and entities to evade the export control restrictions on Russia, providing examples of red flags that should trigger additional scrutiny ("**6 November Joint Notice**"). The 6 November Joint Notice also announced a new Suspicious Activity Report ("**SAR**") key term ("**FIN-2023-GLOBALEXPORT**") for financial institutions to use while filing Suspicious Activity Reports regarding potential U.S. export controls evasion activity, including instances that are not specific to the Russia-related export controls. A previous joint notice encouraged financial institutions to use the key term "FIN-2022-RUSSIABIS" when filing SARs related to suspected Russian export controls evasion.

The issuance of a third joint alert underscores the seriousness to which both FinCEN and BIS are placing on detecting and preventing export control evasion. In addition, in contrast to the prior joint alerts, the 6 November Joint Notice includes a specific, stand-alone discussion on BIS's enforcement authority whereas previous joint alerts only provided examples in the footnotes. The November 6 Joint Notice reminds financial institutions that in addition to criminal penalties for willful violations, "[a]dministrative penalties may also be imposed even in cases where there is no willful intent, which means that administrative cases can be brought in a much wider variety of circumstances than criminal cases." The November 6 Joint Notice also provides greater emphasis on the Disruptive Technology Strikeforce (the DOJ and BIS joint enforcement group focused on illicit transfers of advanced technologies), and provides examples of technology types that merit scrutiny.

While the messaging to financial institutions remains firmly worded in their risk-based obligations to detect and report on suspicious activity involving export control violations and evasion, it may represent a further step toward the possible future use of General Prohibition 10 against domestic or foreign financial institutions, which we have discussed previously [here](#).

## Changes to BIS Charging Letters

On 2 June 2022, BIS issued a [final rule](#) to, among other things, implement a change allowing BIS to make enforcement case charging letters publicly available upon issuance. The change applies to all BIS enforcement actions, including enforcement actions related to the Russia and Belarus-specific export controls. Previously, charging letters were only made public after the final resolution of the administrative case (i.e., investigation), which was typically years after the charging letter was issued. BIS stated that allowing charging letters to be made available to the public prior to the final disposition of enforcement cases will benefit interested parties with more timely, enhanced visibility into BIS's enforcement activities and priorities. Documents other than charging letters will continue to be made available publicly only after the final administrative disposition of the applicable case.

### Russia Related Charging Letters

- On 6 June, 2022, BIS publicly released for the first time a [charging letter](#) on the same day it was issued to the alleged violator. The charging letter, which was posted to the BIS website, stated that Roman Abramovich, a Russian oligarch, engaged in three alleged violations of the EAR by flying two different US-origin aircraft into Russia in March 2022 without the required license. BIS had previously identified both aircraft in its public list of aircraft that have operated in apparent violation of the EAR. In the Commerce Department press release, BIS stated that "[i]n publicly announcing this Charging Letter, BIS is ensuring that the exporting community and public writ large know who is allegedly violating [the EAR]. It also incentivizes those who may be in violation to cease and voluntarily self-disclose such violations."
- On 31 August 2022, BIS issued a Charging Letter against PJSC Lukoil for violating the EAR. The Charging Letter alleges that PJSC Lukoil exported a US manufactured aircraft bearing tail number VP-CLR and manufacturer serial number ("**MSN**") 34865, owned by PJSC Lukoil, from Dubai to Moscow, Russia on temporary sojourn without an EAR license on 12 March 2022. The aircraft was also not eligible for authorization under license exception AVS. In a related action, the DOJ obtained a warrant on 31 August 2022 to seize PJSC Lukoil's Boeing-737 bearing tail number VP-CLR and MSN 34865. This Charging Letter is the first of its kind and indicates that BIS and DOJ have started to enhance the enforcement of export controls for Russia with respect to aircraft. MSN 34685 is currently believed to be in Russia.

Additional BIS charging letters are available [here](#).

## BIS Issues TDO Against Russian Nationals for Illegally Exporting Sensitive US-Sourced Microelectronics with Military Applications to Russia

On [31 August 2023](#), BIS issued a TDO for three individuals, Arthur Petrov, Zhanna Soldatenkova, and Ruslan Almetov, and four entities, Astraferos Technokosmos LTD, Ultra Trade Service LLC, Juzhoi Electronic LLC, and LLC Electrocom VPK, for allegedly engaging in a Russia-based illicit procurement network in order to supply the Russian military. BIS issued the TDO because three individuals allegedly fraudulently procured large quantities of US manufactured microelectronics subject to US export controls on behalf

of Electrocom VPK, a Russia-based supplier of critical electronics components to the Russian military, using shell companies and falsely represented to US exporters that the shell company was purchasing the items for fire security systems. These individuals also allegedly stated that the ultimate end users and destinations of the electronics were companies in Cyprus, Latvia, or Tajikistan, when instead, the components were destined for Electrocom VPK in Russia. The relevant technologies have significant military applications and include various types of electronic components that have been recovered in Russian hardware found on the battlefield in Ukraine, including Russian guided missiles, drones, and electronic warfare and communications devices. Over the course of the alleged conspiracy, more than \$225,000 worth of controlled US-manufactured electronic components with military applications were procured and shipped to Russia. None of the individuals, nor the entities used to perpetrate the scheme, ever applied for an export license from BIS.

This TDO was issued in coordination with the Disruptive Technology Strike Force co-led by the US Departments of Justice and Commerce, and it also involved the unsealing of a criminal complaint in the Southern District of New York against Petrov, who was arrested on 26 August 2023 and remains in custody.

### **BIS Issues TDO Against Russian Nationals for Illegally Exporting Electronics with Military Applications to Russia**

On [7 November 2023](#), BIS issued a TDO for seven individuals, Nikolay Goltsev, Salimdzhon Nasriddinov, Kristina Puzyreva, Oleg Zenchenko, Yekaterina Vetoshkina, Pavel Chernikov, Vladimir Bochkarev, and three entities, SH Brothers Group Inc. ("SH Brothers"), SN Electronics, Inc. ("**SN Electronics**"), and Suntronic F.Z.E. ("**Suntronic**"), for allegedly participating in a sophisticated global procurement scheme. The scheme allegedly involved the unlawful sourcing and purchasing of millions of dollars in dual-use electronics (including electronics that have been found in seized Russian weapons platforms and signals intelligence equipment in Ukraine, such as the Torn-MDM radio reconnaissance complex, the RB-301B electronic warfare complex, missile systems, Ka-52 helicopters, Orlan-10 unmanned aerial vehicles, and T-72B3 battle tanks) for end-users in Russia, including companies affiliated with the Russian military. Many of the electronic components shipped by the defendants through SH Brothers and SN Electronics were, according to the Department of Commerce, "of the highest concern due to their critical role in the production of advanced Russian precision-guided weapons systems, Russia's lack of domestic production, and limited global manufacturers." SH Brothers allegedly made hundreds of shipments valued at over \$7 million to Russia, and Suntronic is alleged to be a front company used for those procurement operations.

This TDO was issued in coordination with the Disruptive Technology Strike Force and Task Force KleptoCapture, and it also involved the unsealing of an indictment in the Eastern District of New York against the above seven individuals, who were previously arrested on October 31, 2023.

### **BIS Has Denied Export Privileges for Ten Russian and One Belarussian Airline, as Well as a Number of**

## **Individuals, and Companies, Globally, for Apparent Violations of the EAR**

The TDOs deny the subjects from participating in transactions which involve items subject to the EAR for 180 days (BIS has the option to extend/renew after that time, and has done so, as noted above). Specifically, the TDOs prohibit these airlines from engaging in any transactions or other dealings that involve items subject to the EAR – which greatly restricts their ability to acquire or otherwise deal in US-origin goods or goods that contain more than 25% controlled US-origin content. The TDOs also prohibit third parties from engaging in certain activity when it involves a TDO entity and items subject to the EAR.

BIS has issued TDOs on the following Russian airlines, due to BIS' determination that they have engaged in ongoing apparent violation of the Russian and Belarusian related export controls:

- Aeroflot: issued on April 2, 2022, renewed on October 7, 2022, renewed on March 31, 2023, and further renewed on September 23, 2023 (now for a period of 1 year).
- Azur Air: issued on April 2, 2022, renewed on October 7, 2022, renewed on April 3, 2023, and further renewed on September 23, 2023 (now for a period of 1 year).
- UTair: issued on April 2, 2022, renewed on October 7, 2022, further renewed on April 3, 2023, and further renewed on September 23, 2023 (now for a period of 1 year).
- AviaStar: issued on April 21, 2022, renewed on October 19, 2022, and further renewed on April 19, 2023.
- Rossiya: issued on May 20, 2022, renewed on November 21, 2022, and further renewed on May 16, 2023.
- Belavia Belarusian Airlines: issued on June 16, 2022 and renewed on December 19, 2022
- Nordwind Airlines: issued on June 24, 2022 and renewed on December 20, 2022 and June 15, 2023.
- Pobeda Airlines: issued on June 24, 2022 and renewed on December 23, 2022 and June 21, 2023.
- S7 Airlines: issued on June 24, 2022 and renewed on December 23, 2022 and June 21, 2023.
- Smartavia Airlines: issued on May 16, 2023.
- Ural Airlines: issued on October 17, 2022 and renewed on April 12, 2023.
- Pegas Touristik (an entity related to Nordwind Airlines): issued on June 15, 2023.

On 13 December 2022, BIS issued a TDO against three individuals and two US companies allegedly set up as shell companies to evade US export controls on Russia, identified below, for alleged unauthorized shipments of items subject to the EAR, including advanced semiconductors, to Russia. The TDO prohibits Boris Livshits, Svetlana Skvortsova, Aleksey Ippolitov, Advanced Web Services, and Strandway, LCC from engaging in any transaction with items subject to the EAR. In the BIS [press release](#), John



Sonderman, Director of the Office of Export Enforcement, stated: "The evasion of export controls in order to support Russia's war machine will not be tolerated," and that the "Office of Export Enforcement will continue to leverage our unique authorities and global reach to target those who violate U.S. export control laws."

In addition, on 16 May 2023, BIS [issued](#) a TDO against Florida company MIC P&I, LLC, freight forwarder Intermodal Maldives, and Oleg Patsulya and Vasili Besedin, along with Smartavia Airlines, for allegedly engaging in the attempted provision of U.S.-origin civil aircraft parts to Russian airlines in violation of the EAR.

Further, On 9 June 2023, BIS issued a [TDO](#) against Aratos Group, a network of defense related companies in the Netherlands and Greece, and its president, Nikolaos Bogonikolos. In the BIS press release, Assistant Secretary for Export Enforcement Matthew S. Axelrod stated: "The Aratos Group acted as a procurement agent for Russian intelligence services, falsifying documents to evade U.S. export controls," and that "this temporary denial order, issued as part of our Disruptive Technology Strike Force efforts, is designed to prevent Aratos Group from helping Putin acquire the technologies he needs to perpetuate his unlawful war against the Ukrainian people." On 9 June 2023, BIS also [renewed](#) the TDO against Boris Livshits, Svetlana Skvortsova, and Aleksey Ippolitov as well as Advanced Web Services and Strandway LLC.

BIS publishes TDOs and other enforcement actions here:  
<https://www.bis.doc.gov/index.php/enforcement>.

## **BIS Expands Renewal Period for TDOs**

On [29 August 2023](#), BIS issued a final rule amending the EAR to create an additional option for the renewal of TDOs ("29 August 2023 Final Rule"). The additional option allows BIS, under certain circumstances, to request that the Assistant Secretary for Export Enforcement to renew an existing TDO for a period of no more than one year rather than the 180-day renewal period. In order to qualify for this heightened period, BIS must demonstrate "a pattern of repeated, ongoing and/or continuous apparent violations" by the TDO entity. The 29 August 2023 Final Rule also highlights and reiterates the importance of TDOs in order to address entities that have engaged in a pattern of repeated, ongoing, and/or continuous apparent violations of the Russia- or Iran-related restrictions.

## **BIS Expands Export Controls on Iranian UAVs and Their Use by Russia**

Effective 24 February 2023, BIS imposed heightened export controls under the EAR to target Iran's supply of UAVs to Russia. These include:

- Adding new license requirements under Section 746.7 of the EAR for specific EAR99 items destined to Iran (regardless of whether US persons are involved in the transaction and related activity). The covered items are identified by HS-6 code in Supplement No. 7 to Part 746 of the EAR (these same items were also added to Supplement No. 4 or 5, as applicable, to Part 746 of the EAR to impose license requirements for their export, reexport, or in-country transfer to Russia and Belarus).
- A new FDP Rule for Iran that largely mirrors the Russia and Belarus FDP Rules, though is more narrowly tailored.



On [19 May 2023](#), BIS expanded on the rule issued on 24 February 2023 by adding to the list of non-US-produced items identified in Supplement No. 7 to Part 746 of the EAR that require a license when destined to Russia, Belarus, and Iran.

On [23 January 2024](#), BIS further expanded the restrictions, adding antennas, antenna reflectors, and parts thereof to the Supplement No. 7 to Part 746.

### **Commerce Department, DOJ, State Department, and Treasury Department Issue Advisory regarding Iran-related UAV activity.**

On 9 June 2023, the Departments of Commerce, Justice, State, and Treasury published a [guidance](#) to industry regarding Iran's UAV-related activities ("**UAV Guidance**"). The UAV Guidance largely summarizes existing policies and regulations, but this is the first time the relevant information has been compiled in one publication. Among other things, as noted in the DOJ [press release](#), the UAV Guidance "informs private industry of key components Iran seeks to develop its UAV program and entities involved in the procurement, production, and proliferation of Iranian UAVs." It also includes a list of select red flags that might indicate evasion efforts and best practices for due diligence, which "may include screening current and new customers, intermediaries, and counterparties through the Consolidated Screening List maintained by the Department of Commerce and the SDN List maintained by the Department of the Treasury, as well as conducting risk-based due diligence on customers, intermediaries, and counterparties." In addition, the UAV Guidance:

- reminds industry of the penalties for violating relevant US sanctions and export controls;
- highlights the additional enforcement resources the US Government has dedicated in the past year (including the Task Force KleptoCapture and Disruptive Technology Strike Force); and
- identifies recent enforcement actions for illicit Iran-related UAV activity as case studies for industry.

### **Warrant Issued for Seizure of Boeing Aircraft Owned by Rosneft**

In a 8 March 2023 [press release](#), DOJ announced the unsealing of a warrant authorizing seizure of a Boeing aircraft operated by Rosneft in violation of the EAR. The warrant was issued as a result of a multi-agency investigation by the FBI, BIS, OFAC, and others, in coordination with the Task Force KleptoCapture. BIS Special Agent-in-Charge Carson is quoted in the press release, stating "[o]ur enforcement action today makes clear that the U.S. Government will not tolerate Russian companies and oligarchs evading BIS export controls in order to support Russia's war effort. BIS's Office of Export Enforcement, working with our Kleptocapture partners, will continue to aggressively investigate export violations and bring violators to justice."

### **Commerce Department Issues Guidance on Best Practices for Medical-related Items**

On 19 July 2023, the Department of Commerce issued guidance laying out best practices for submitting export license applications for medical-related

items that are destined to Belarus, Russia, or the covered regions of Ukraine ("[Medical Exports Guidance](#)"). The Medical Exports Guidance states that "the U.S. Government reviews all export license applications to evaluate whether approving the application would benefit the Russian or Belarusian government or defense sector, particularly with regard to the usefulness of the items for the treatment of battlefield casualties or the production of chemical and biological weapons and biotechnological (including biopharmaceutical) products." The purpose of the Medical Exports Guidance is to help exporters proactively address this review policy. Exports of medical-related items should consult the Medical Exports Guidance when preparing export license applications to "assist the [US government] in processing your application more efficiently and expeditiously." Notably, the guidance also includes a "Best Practices Checklist" to help exporters quickly identify whether they have considered all aspects of the Medical Export Guidance in their license application.

## **United States-Australia-Canada-New Zealand-United Kingdom Release Joint Guidance on Countering Russian Evasion**

On September 26, 2023, the above governments, collectively the "Export Enforcement Five" or "E5" issued [joint guidance](#) to industry and academia identifying high priority items critical to Russian weapons systems and urging specific actions to prevent diversion of these items to Russia through third countries. The joint guidance includes a list of 45 prioritized Harmonized System (HS) codes, of which 9 are highest priority, and identifies anomalous patterns or "transactional and behavioural red flags" associated with importers that may raise diversion concerns.

## **Guidance on Contract Clauses, Foreign Corporate Service Providers, and Other Topics**

BIS issued guidance on 23 August 2024 related to the EU "No re-export to Russia" clause. The guidance makes clear and reaffirms that even though the US does not require contractual clauses, unauthorized reexports to Russia violate the EAR regardless of what the contract says. BIS guidance further reaffirms this is because the EAR requirements apply to items subject to the EAR and these requirements are not affected by contract provisions, though such clauses may help mitigate risk. The guidance states "language used in these instances should ensure that overseas customers understand that BIS export controls under the EAR continue to apply to the items after the initial sale and that most items cannot be reexported to Russia without a license from BIS."

On the same day, BIS also issued guidance to foreign corporate service providers located outside the United States. The guidance notes such providers should ensure that their addresses are not used by customers to evade or violate US export controls. Identifying and resolving potential red flags, in accordance with BIS "Know Your Customer" guidance, monitoring customer shipments to US embargoed territories or destinations that are otherwise subject to heightened export controls are steps BIS notes should be taken to mitigate risk. BIS also reminds foreign service providers that they may be liable as "BIS may take action against companies or other persons involved in violations of the EAR if circumstances warrant this, even when that entity is not a principal party to the export transaction." In addition, they will be subject to additional export restrictions if their address is identified by BIS as a

"High Diversion Risk" on the Entity List. The BIS guidance on the above topics, as well as its other Russia and Belarus-related FAQs, are available [here](#).

## UK SANCTIONS

UK sanctions on Russia are set out in The Russia (Sanctions) (EU Exit) Regulations 2019 (as amended) (the "**UK Russia Regulations**"). A consolidated version of the Regulations is available [here](#), with supporting guidance available [here](#).

The Regulations apply within the UK and to conduct by UK citizens and UK incorporated entities anywhere in the world.

In the sections below, we provide an overview of the key provisions.

A number of the restrictions described below are framed by reference to a person that is "*connected with Russia*", which is defined as:

- an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,
- an individual who is, or an association or combination of individuals who are, located in Russia,
- a person, other than an individual, which is incorporated or constituted under the law of Russia, or
- a person, other than an individual, which is domiciled in Russia.

In addition to the individual prohibitions referenced below, there are broad circumvention provisions, prohibiting activities the object or effect of which is to circumvent the prohibitions.

## UK Financial Sanctions

### Asset freeze etc.

Regulations 11 to 15 of the UK Russia Regulations impose an asset freeze on a number of individuals and entities, including various Russian banks and state-owned entities.

On 13 June 2024, the Central Counterparty National Clearing Centre, the National Settlement Depository and the Moscow Exchange Group were each added by the FCDO to the list of designated persons. The effect of this is an immediate suspension of GBP trading on the Moscow Exchange and settlement of instruments denominated in GBP via the National Clearing Centre.

The full list of "designated persons" is available online [here](#).

There is a prohibition on dealing with funds or economic resources owned, held or controlled by designated persons, and a prohibition on making funds or economic resources available, directly or indirectly, to or for the benefit of designated persons.

The asset freezing prohibitions also apply in relation to entities which are owned or controlled by designated persons. For these purposes, a designated person owns or controls an entity where:

- a designated person holds directly or indirectly more than 50% of the shares in the entity;
- a designated person holds directly or indirectly more than 50% of the voting rights in the entity;

- a designated person holds the right directly or indirectly to appoint or remove a majority of the board of directors of the entity; or
- it is reasonable, having regard to all the circumstances, to expect that the designated person would (if it chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that the affairs of the entity are conducted in accordance with the designated person's wishes.

The Office of Financial Sanctions Implementation ("**OFSI**"), which is responsible for implementing and enforcing UK financial sanctions, has issued guidance which states that "*when making an assessment on ownership and control, OFSI would not simply aggregate different designated persons' holdings in a company, unless, for example, the shares or rights are subject to a joint arrangement between the designated parties or one party controls the rights of another. Consequently, if each of the designated person's holdings falls below the 50% threshold in respect of share ownership and there is no evidence of a joint arrangement or that the shares are held jointly, the company would not be directly or indirectly owned by a designated person.*"

This contrasts with the position set out in FAQ guidance by the European Commission (see EU Sanctions section below).

OFSI has published guidance on the level of due diligence it expects persons to conduct when determining ownership and control. The guidance states that OFSI expects "*careful scrutiny of information obtained as part of any ownership and control assessments,*" and provides a list of areas of enquiry that OFSI may expect to be undertaken, depending on the sanctions risks and nature of the transaction. The guidance is available online [here](#).

On 6 October 2023, the UK Court of Appeal handed down judgment in *Mints v. PJSC National Bank Trust and PJSC Bank Okritie Financial Corporation*. The judgment addressed the interpretation of the ownership and control test in the context of the asset freeze provisions. The Court of Appeal held in comments that were *obiter* (meaning they are not binding on other courts) that entities which are not personally owned by designated persons can still be controlled by them where a designated person is able to exert influence over it by virtue of the political office they hold at the relevant time. The Court of Appeal determined that the control test for these purposes essentially applies whenever a designated person "*calls the shots*". Given Mr Putin sits at the apex of a command economy, he *could* therefore be deemed to control everything in Russia. The Court of Appeal did not say in terms that every company in Russia is controlled by Mr Putin (and therefore the subject of the asset freeze). But the inference is that this "*absurd consequence*" arises from the broad language used in the legislation, which only Parliament can fix.

In response, the Foreign, Commonwealth and Development Office ("**FCDO**") issued a statement on 16 October 2023, supported by OFSI, stating that the Government is carefully considering the impact of the Court of Appeal's judgment, and exploring its options to help clarify the position. The FCDO stated that the Government would look to designate a public body where possible when designating a public official if it considered that the relevant official was exercising control over the public body. The FCDO further confirmed that there is no presumption on the part of the Government that a private entity based in or incorporated in Russia or any jurisdiction in which a

public official is designated is in itself sufficient evidence to demonstrate that the relevant official exercises control over that entity.

On 17 November 2023, the FCDO and OFSI issued guidance concerning public officials and the test of ownership and control. After affirming existing guidance setting out the indicators of control, the FCDO stated that it "*does not generally consider designated public officials to exercise control over a public body in which they hold a leadership function*" and that sanctions measures targeting public officials are not intended to prohibit routine transactions with public bodies, including the payment of taxes, fees, import duties, the purchase or receipt of licences, permits or public utility services or any other ordinary and incidental payments. Whether a designated individual is said to control a public body will depend on the circumstances and whether it would be reasonable to expect that the affairs of the public body could in fact be conducted in accordance with the designated person's wishes if the designated person so chose (*i.e.*, the statutory test). A relevant consideration in this context is whether the designated person derives a significant personal benefit from payments to the public body, such that they amount to payments to that person. The FCDO further affirmed its previous statement that there is no presumption on the part of the UK government that a private entity is subject to the control of a designated public official simply because that entity is based or incorporated in a jurisdiction in which that official has a leading role in economic policy or decision-making. Specifically, the UK government does not consider that President Putin exercises indirect or *de facto* control over all entities in the Russian economy simply by virtue of his presidency.

The *Mints* decision has been appealed to the Supreme Court.

On 12 July 2022, OFSI and the National Crime Agency ("**NCA**") issued a ['Red Alert'](#) on financial sanctions evasion by "*Russian elites and enablers*". The alert states that designated persons are using a range of techniques to evade sanctions, including the transfer of assets to trusted proxies (such as relatives or employees) and other ways of relinquishing an asset while in fact retaining influence. The alert summarises the offences that could apply relating to sanctions circumvention and facilitation. The document also gives a list of "*indicators*" of suspected sanctions evasion and industry recommendations, including transactions being documented and not taken at face value.

In December 2023, OFSI amended its guidance concerning the treatment of payments from, to or via designated banks. Previous guidance stated that the UK's asset freezing restrictions are not engaged in circumstances where the only connection to a designated bank is that the payment has been received *indirectly* from such a bank (*i.e.*, the designated bank is not the immediate counterpart but rather appeared earlier in the payment chain). In December, following the introduction of new restrictions on processing payments by banks designated for purposes of the UK Russia Regulations (described below), OFSI updated its guidance to confirm that Regulation 17A(2) now prohibits UK banks from processing payments which have previously been processed by designated banks.

Regulation 19B (introduced in May 2024) disqualifies designated persons from acting as directors of UK companies or otherwise taking part in or being concerned in the promotion, formation or management of a UK company.

## **Asset Freeze Licences**

OFSI has published a number of [General Licences](#) in relation to the asset freeze provisions.

OFSI can also issue specific licences in limited circumstances. On 12 July 2023, OFSI issued a [blog post](#) containing guidance on licence applications, noting that applicants must provide evidence to support an application and demonstrate that all criteria of the relevant licensing ground have been met. Where an application has insufficient details or evidence, the application will not be considered and will be returned to the applicant for re-submission. OFSI published a further [blog post](#), outlining the process involved in obtaining a licence, on 27 February 2024.

On 13 February 2024, OFSI amended its [general guidance concerning licensing timeframes](#) to state that:

*"We aim to review all new licensing applications as soon as practicable. We will prioritise cases at times of high demand, and in particular where there are issues of personal basic needs or wider humanitarian issues at stake, which are of material impact or urgency, or which are deemed to be of particular strategic, economic or administrative importance.*

*If there are particular aspects of your application that you believe make your case especially urgent, please set these out clearly in your application for our consideration.*

*You will receive an acknowledgement with a case reference number, and we will contact you again when we have begun the formal process of review. Given the high volume of applications we receive, we will not be able to provide regular updates or respond to requests for further information during the course of our review, unless we have specifically requested further information from you.*

*Once you have submitted your application, please do not contact us to seek updates or discuss the status of the application unless you are directly asked to provide further information, or there has been a material change of circumstances that may require more immediate review."*

On 14 December 2023, a new licensing ground was introduced, enabling OFSI to authorise otherwise prohibited activity related to divestments from Russia.

## **Dealing with transferable securities and money-market instruments**

Regulation 16 of the UK Russia Regulations contains a prohibition on dealing with transferable securities or money-market instruments with a maturity over 30 days issued after:

- 1 August 2014 by Russian entities listed in paragraphs 1 to 5 of Schedule 2 to the UK Russia Regulations, non-UK entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of, such an entity;
- 12 September 2014 by Russian entities listed in paragraphs 6 to 11 of Schedule 2 to the UK Russia Regulations, non-UK entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of, such an entity;



- 1 March 2022:
  - by any UK-incorporated entity which is more than 50% owned by an entity listed in Schedule 2 to the UK Russia Regulations, or any entity acting on behalf of, or at the direction of, such an entity;
  - by a person "*connected with Russia*", unless that person is an entity that was (on 1 March 2022) domiciled in a country other than Russia, or is a branch or subsidiary of an entity domiciled in a country other than Russia;
  - by any entity which is more than 50% owned by, or acting on behalf of or at the direction of, a person "*connected with Russia*" unless the person "*connected with Russia*" is an entity that was (on 1 March 2022) domiciled in a country other than Russia, or is a branch or subsidiary of an entity domiciled in a country other than Russia; or
  - by or on behalf of the Government of Russia; or
- 16 December 2022 by any entity for the purposes of an activity mentioned in Regulation 18B(2) (described below – which broadly concerns new investment in Russia).

## Loans and credit arrangements

Regulation 17 of the UK Russia Regulations contains a restriction on granting or being part of an arrangement to grant a new loan or credit with a maturity of over 30 days to:

- the Government of Russia;
- Russian entities listed in Schedule 2 to the UK Russia Regulations, entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of such an entity;
- any entity after 1 March 2022 but before 29 October 2022 which is:
  - "*connected with Russia*", unless that entity was (on 1 March 2022) domiciled in a country other than Russia; or
  - more than 50% owned by, or acting on behalf or at the direction of, a person "*connected with Russia*", unless the person "*connected with Russia*" is an entity that was (on 1 March 2022) domiciled in a country other than Russia;
- any entity after 29 October 2022 which is:
  - "*connected with Russia*", other than an entity that (on 29 October 2022) was incorporated or constituted in a country other than Russia, or a person which is more than 50% owned by such an entity;
  - more than 50% owned by a person within the paragraph above; or
  - more than 50% owned by an individual "*connected with Russia*";
- any entity after 16 December 2022, for the purpose of financing an activity mentioned in Regulation 18B(2) (described below – which broadly concerns new investment in Russia).

Effectively, all companies outside Russia owned directly or indirectly by an individual or other person "*connected with Russia*" are brought into scope of the prohibition, including UK companies.

## **Correspondent banking relationships etc.**

Regulation 17A of the UK Russia Regulations imposes a prohibition on UK credit and financial institutions establishing or continuing correspondent banking relationships with designated persons or their subsidiaries.

Regulation 17A also includes a ban on the provision of banking services by a correspondent to a respondent, including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, providing customers of the respondent with direct access to accounts with the correspondent (and *vice versa*) and providing foreign exchange services.

UK credit and financial institutions are also prohibited from processing (*i.e.*, clearing or settling) a payment in any currency to, from or via a Regulation 17A designated person or its subsidiaries. There is an exception for processing a payment for any fee or charge required to permit an aircraft to overfly, land in or take off from Russia.

While a number of banks have been designated for the purposes of both Regulation 17A and Regulations 11 to 15 (the asset-freezing restrictions), the latter provisions did not prohibit processing a payment which is received indirectly from such entities where the only connection to the designated bank is that the payment has been received indirectly from such a bank (*i.e.*, the designated bank was not the immediate counterpart but rather appeared earlier in the payment chain). The prohibition in Regulation 17A effectively closes this gap in relation to these entities.

## **Provision of financial services relating to foreign exchange reserve and asset management**

Regulation 18A of the UK Russia Regulations contains a prohibition on providing financial services to any of the following persons where those services are for the purpose of foreign exchange reserve and asset management:

- the Central Bank of the Russian Federation;
- the National Wealth Fund of the Russian Federation;
- the Ministry of Finance of the Russian Federation; and
- a person owned or controlled directly or indirectly by, or acting on behalf of or at the direction of, any of the above.

The term "*foreign exchange reserve and asset management*" means activities relating to the following reserves or assets:

- money-market instruments (including cheques, bills and certificates of deposit);
- foreign exchange;
- derivative products (including futures and options);
- exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
- transferable securities;
- other negotiable instruments and financial assets (including bullion); and

- special drawing rights.

On 14 December 2023, the UK Russia Regulations were amended to include an affirmative reporting obligation for relevant firms to report to OFSI if they know or have reasonable cause to suspect, that they hold funds or economic resources for a "*prohibited person*", being those entities which are the subject of Regulation 18A.

### **Investments in relation to non-government controlled Ukrainian territory.**

Regulation 18 of the UK Russia Regulations includes broad restrictions on investments in the Autonomous Republic of Crimea and city of Sevastopol, as well as the non-government controlled areas of the Donetsk, Luhansk, Kherson and Zaporizhzhia oblasts of Ukraine.

These investment prohibitions include a ban on directly or indirectly:

- acquiring or extending an existing participation, or acquiring any ownership interest in, land in non-government controlled Ukrainian territory;
- acquiring or extending an existing participation, or acquiring any ownership interest in or control over, an entity which has a place of business in non-government controlled Ukrainian territory;
- granting any loan or credit, entering into an arrangement to grant a loan or credit or otherwise providing funds to (or for the purposes of funding) an entity which has a place of business in non-government controlled Ukrainian territory; and
- establishing a joint venture in non-government controlled Ukrainian territory or with an entity which has a place of business in non-government controlled Ukrainian territory.

There is also a prohibition on the provision of investment services directly related to any of the activities above.

### **Investments in relation to Russia**

Regulation 18B of the UK Russia Regulations includes broad investment restrictions in relation to Russia, including prohibitions on:

- directly acquiring any ownership interest in land located in Russia;
- indirectly acquiring any ownership interest in land located in Russia for a "*prohibited purpose*";
- directly acquiring any ownership interest in or control over an entity "*connected with Russia*";
- indirectly acquiring any ownership interest in or control over an entity "*connected with Russia*" for a "*prohibited purpose*";
- directly or indirectly acquiring any ownership interest over any entity for a "*prohibited purpose*";
- establishing a joint venture with a person "*connected with Russia*";
- opening a representative office or establishing a branch or subsidiary in Russia; and
- the provision of investment services directly related to any of the activities above.

The "*prohibited purpose*" referenced is making funds or economic resources available, directly or indirectly, to a person "*connected with Russia*", or for the benefit of a person "*connected with Russia*".

There are limited exceptions to, and licensing powers in relation to, these provisions.

## **Trust services**

Regulation 18C of the UK Russia Regulations contains a restriction on the provision of trust services to persons designated for the purposes of this restriction or to persons "*connected with Russia*" (unless, in the latter scenario, provided pursuant to an ongoing arrangement whereby the trust services were provided to or for the benefit of persons "*connected with Russia*" immediately before 16 December 2022).

On 21 March 2023, the trust services restrictions were extended to all persons already designated for the purposes of an asset freeze under the UK Russia Regulations.

The prohibition is subject to a number of exceptions, including for the provision of trust services:

- relating to transferable securities and money market instruments (other than those which are the subject of the restrictions in Regulation 16, described above);
- provided in relation to the discharge of or compliance with UK statutory or regulatory obligations;
- provided to a trust for categories of charitable services; and
- provided to a qualifying pension scheme.

OFSI published General Licence INT/2023/2589788 on 21 March 2023 to permit the winding down of trust services provided to designated persons within a 90-day period following their designation under Regulation 18C. The full text of the licence is available [here](#).

## **UK Trade Restrictions - Guidance**

The UK Export Control Joint Unit ("**ECJU**") has issued a voluntary [compliance code of practice for export licensing](#) to help exporters put processes in place to assist them to meet their licence obligations and pass compliance audits. The code is voluntary and is intended to provide advice and best practice guidance on how to develop export control compliance procedures.

The following eight elements make up the code as practical measures that can be put in place to ensure export control compliance:

- committing to compliance;
- nominating responsible personnel;
- informing and training staff;
- company compliance procedures;
- handling suspicious enquiries or orders;
- record-keeping;
- provision for audits; and

- integrating with quality management practices.

The Department for Business and Trade has issued guidance in relation to the risks of circumventing UK trade sanctions ([Notice NTE 2023/08](#)). This guidance sets out an expectation for "traders" (i) to conduct "*strong due diligence on counterparties [...] in relation to sanctions*," and, for existing relationships, (ii) to repeat due diligence "*at intervals to ensure that the risk has not changed*".

The guidance also calls for strong "*internal governance in relation to sanctions*". It lists examples of "*Key Risk Indicators*", grouped by customer, product and location, and indicates that traders are expected to tailor their due diligence/internal governance processes on the basis of the risks identified.

OFSI has also published guidance for high value dealers, luxury goods markets and art market participants, noting that markets in art, cars, antiques, precious metals and stones, wine and spirits, and jewellery have vulnerable characteristics which can be used by designated persons to circumvent restrictions. The guidance is available [here](#).

The UK Government has published a list of [Common High Priority Items](#), identifying the items which are critical to Russian weapons systems and its military development. The accompanying guidance states that businesses should undertake due diligence to ensure that the end destination of these products is not Russia.

On 6 December 2023, the NCA issued a '[Red Alert](#)' to financial institutions and other members of the UK regulated sector warning that Russia is trying to procure high-risk UK sanctioned goods through intermediary countries for use on the battlefield in Ukraine. The alert sets out a list of 14 red flags which may be indicative of illicit or suspicious activity, such as customers that significantly overpay for an item on the Common High Priority list, transactions involving entities with little to no web presence, or where the item or service does not fit the purchaser's line of business. Whilst issued to the regulated sector, the alert will also be relevant to other business sectors for anti-money laundering purposes, in particular customs brokers, freight forwarders and other transportation and logistics providers.

## Export Restrictions

The UK Russia Regulations include restrictions on the export, supply, delivery or making available of listed items to or for use in Russia or to a person "*connected with Russia*".

The relevant items to which these controls apply are:

- dual-use goods and technology, as listed in [Council Regulation \(EC\) No 428/2009](#);
- military goods, as listed in [Schedule 2](#) to the Export Control Order 2008;
- critical-industry goods and technology, as listed in [Schedule 2A](#) to the UK Russia Regulations;
- aviation and space goods and technology, as listed in [Schedule 2C](#) to the UK Russia Regulations;
- maritime goods and technology, as listed in Chapters 4 and 5 of [Annex I](#) of the Merchant Shipping Notice 1874;

- oil refining goods and technology, as listed in [Schedule 2D](#) to the UK Russia Regulations;
- quantum computing and advanced materials goods and technology, as listed in [Schedule 2E](#) to the UK Russia Regulations;
- energy-related goods, as listed in Part 2 of [Schedule 3](#) to the UK Russia Regulations;
- luxury goods, as listed in [Schedule 3A](#) to the UK Russia Regulations;
- defence and security goods and technology, as listed in [Schedule 3C](#) to the UK Russia Regulations;
- so-called "G7 dependency and further goods list goods", which includes various miscellaneous goods required for the functioning of the Russian economy, as listed in [Schedule 3E](#) to the UK Russia Regulations;
- jet fuel and fuel additives, as listed in [Part 8 of Schedule 2A](#) of the UK Russia Regulations;
- sterling or EU member state denominated banknotes; and
- Russia's vulnerable goods, as listed in [Schedule 3I](#) of the UK Russia Regulations.

In each case there is also an express prohibition on the provision of technical assistance, financial services or funds or brokering services (defined broadly) relating to these items to a person "*connected with Russia*" or for use in Russia.

There are, separately, restrictions on the export, making available, supply, delivery or making available of military goods or infrastructure-related goods to a person "*connected with*", or for use in, non-government controlled Ukrainian territory, and on the provision of technical assistance, brokering services, financial services and funds related to military goods or infrastructure-related goods to a person "*connected with*", or for use in, non-government controlled Ukrainian territory.

On 11 June 2024, the UK Court of Appeal handed down judgment in *Celestial Aviation Services Limited v. Unicredit Bank GmbH, London Branch*. The judgment concerned the scope of the prohibition (set out in Regulation 28(3) of the UK Russia Regulations) on providing financial services or funds "*in pursuance of or in connection with an arrangement whose object or effect*" is the supply of restricted goods to or for use in Russia or to a Russian person, within the context of demands made by two Irish leasing companies against various letters of credit issued in support of civil aircraft leases granted in favour of two Russian airlines. Overturning the High Court in part, the Court of Appeal held that the words "*in connection with*" were broad and denoted a factual connection. Whilst the original issuance of the LCs before the sanctions were implemented was permissible, making payment thereunder would be "*in connection with*" the leases given the LCs provided security for the performance of the lessees' obligations thereunder. The Court of Appeal held that the fact payment would be made to persons unconnected with Russia (*i.e.*, the Irish lessors), and that the leases had been terminated by the time the demands were made did not affect the conclusion reached. Accordingly, the bank's payment obligations under the LCs were suspended until the UK licence process was completed. In comments that were *obiter* (*i.e.*, non-binding), the Court considered Section 44 of the Sanctions and Anti-

Money Laundering Act 2018, which provides that no person will be liable in any civil proceedings for any act done in the reasonable belief that the act is in compliance with UK sanctions. The Court (i) took account of the fact the bank was required to form a view about new legislation at short notice when determining whether the bank's belief (that it was prohibited from making payment) was reasonable, and (ii) held that Section 44 did not protect against claims to recover a debt which was otherwise lawfully due, or prevent interest or costs from being awarded. The purpose of Section 44 was to ensure that a person was not pressurised into doing something that risked breaching sanctions by a fear of being exposed to civil claims, and not to protect parties against pre-existing liabilities.

## Import restrictions

The UK Russia Regulations include restrictions on importing the following items from Russia or of Russian origin into the UK, or directly or indirectly acquiring these items with the intention that they enter the UK, or supplying or delivering these items to the UK:

- "revenue generating goods", as listed in [Schedule 3D](#) to the UK Russia Regulations;
- oil and oil products, as listed in [Schedule 3F](#) to the UK Russia Regulations;
- iron and steel products, as listed in [Schedule 3B](#) to the UK Russia Regulations, which have been processed in a third country (*i.e.*, anywhere outside of the UK, Isle of Man or Russia) and which incorporate one or more iron or steel products originating in Russia;
- gold, gold jewellery and products related to gold, as listed in [Schedule 3G](#) to the UK Russia Regulations, including gold processed in a third country which incorporates gold that originated in or has been exported from Russia on or after 21 July 2022;
- diamonds of Russian origin which have been processed in a third country;
- coal and coal products, as listed in [Schedule 3H](#) to the UK Russia Regulations; and
- liquified natural gas.

In relation to each category there is an express prohibition on the provision of related technical assistance, financial services or funds or brokering services (defined broadly).

On 11 December 2023, the Department for Business and Trade issued General Trade Licence [GBSAN0001](#), which permits the import into the UK (and related services and actions) of certain Russian origin iron and steel products where they: (i) are for the purpose of reusable packaging; (ii) were manufactured or produced before 21 April 2023; or (iii) were previously in free circulation in the UK. Those wishing to rely on the licence will need to register on SPIRE and maintain transaction records.

There are also broader prohibitions on the import, acquisition or supply or delivery (to any destination) of the following items of Russian origin:

- iron and steel products, as listed in [Schedule 3B](#) to the UK Russia Regulations;



- "revenue generating goods", as listed in [Schedule 3DA](#) to the UK Russia Regulations;
- diamonds and diamond jewellery, as listed in [Schedule 3GA](#) to the UK Russia Regulations; and
- metals, as listed in [Schedule 3BA](#) to the UK Russia Regulations.

In relation to each category there is an express prohibition on the provision of related technical assistance, financial services or funds or brokering services (defined broadly).

The prohibited metals include copper, nickel, aluminium, lead, zinc, tin and cobalt (amongst others). This prohibition does not apply to products located in the UK having been lawfully imported there before the metals prohibition came into effect on 15 December 2023. A general licence was issued by the UK Government to address trading warrants on the LME. This general licence was amended by the UK Government on 12 April 2024, acting in collaboration with the US, to prevent UK persons (and non-UK persons in the UK) from acquiring a warrant relating to Russian metal that was produced after 23:59 on 12 April 2024. Existing stock of Russian metal on a global exchange was exempted from these measures to minimise the risk to market stability, allowing such warrants to continue to be traded and withdrawn. The licence is available [here](#).

There is also a prohibition on the import of military goods as listed in [Schedule 2](#) to the Export Control Order 2008 from Russia.

## **Oil price cap**

Regulation 46Z9B of the UK Russia Regulations imposes prohibitions on:

- the direct or indirect supply or delivery by ship of Russian origin oil and oil products from a place in Russia to a third country, or from one third country to another third country; and
- providing financial services, including insurance, to facilitate the supply or delivery of Russian origin oil and oil products from a place in Russia to a third country, or from one third country to another third country.

These restrictions on the maritime transport of oil and oil products are subject to an exception known as the "Oil Price Cap", which means they do not apply where the price per barrel of the oil or oil products is below a specified price. The price caps are \$60 a barrel for crude oil; \$100 a barrel for premium petroleum products and \$45 a barrel for other petroleum products.

OFSI can impose civil monetary penalties on a person who fails to comply with these restrictions. A team within OFSI has been established to create the licensing and enforcement system for the Oil Price Cap; to engage with industry; and to monitor the level and impact of the cap on an ongoing basis.

OFSI has published the following General Licences to enable trading, wind down, and payment processing for Russian oil (HS code 2709) and petroleum products (HS code 2710):

- [GL INT/2024/4423849](#) enables acts that would otherwise be prohibited if they comply with the relevant price cap and other requirements of the licence. This licence is subject to a reporting requirement, for which OFSI has provided [template documents](#).

- [GL INT/2022/2470056](#) authorises correspondent banking and payment processing, allowing relevant institutions to process, clear or send payments from any person in connection with the provision of financial services and funds relating to the maritime transport of Russian oil.
- [GL INT/2022/2470156](#) authorises acts that would otherwise be prohibited if they relate to certain exempt projects (e.g., oil from the Sakhalin-2 Project to Japan), or exempt countries (e.g., execution of contracts concluded before 4 June 2022 for delivery to Bulgaria / import of vacuum gas oil under code 2710 into Croatia).
- [GL INT/2023/3074680](#), permitting the trading in derivatives and futures related to the supply or delivery by ship of Russian oil and oil products.

OFSI has provided [guidance](#) and issued a [blog entry](#) concerning these restrictions.

The Price Cap Coalition has also published international [guidance](#) setting out recommendations for identifying key evasion methods and information on how to report suspected breaches.

The Price Cap Coalition further introduced changes to the attestation model to strengthen the compliance regime and reduce routes for circumvention; including a requirement for per-voyage attestations and itemised ancillary cost information upon request. These changes came into effect on 19 February 2024.

## Professional and business services

Regulation 54C of the UK Russia Regulations includes a prohibition on directly or indirectly providing the following services to a person "*connected with Russia*":

- accounting services;
- business and management consulting services;
- public relations services;
- advertising services;
- architectural services;
- auditing services;
- engineering services; and
- IT consultancy and design services.

For these purposes:

- "*accounting services*" includes accounting review services (excluding auditing services), compilation of financial statements services (excluding such preparation services of business tax returns when provided as a separate service), and bookkeeping services (excluding bookkeeping services related to tax returns).
- "*business services and management consulting services*" broadly includes advisory, guidance and operational assistance services provided for business policy and strategy and the overall planning, structuring and control of an organisation.

- "*public relations services*" includes services provided by a person related to improving the image of their clients and their relationship with the general public and other institutions.
- "*advertising services*" includes planning, creating and placement services of advertising; purchase or sale of advertising space or time (on commission); and sale of various forms of advertising space or time (except on commission).
- "*architectural services*" includes advisory and pre-design architectural services, architectural design services, contract administration services, and urban planning and landscape architectural services.
- "*auditing services*" includes services consisting of examination of the accounting records and other supporting evidence of an organisation for the purpose of expressing an opinion as to whether financial statements of the organisation present fairly its position as at a given date, and the results of its operations for the period ending on that date (in accordance with generally accepted accounting principles).
- "*engineering services*" includes various forms of engineering services and engineering design services, integrated engineering services, engineering related scientific and technical consulting services, and technical testing and analysis services.
- "*IT consultancy and design services*" includes IT consulting services and IT design and development services for applications.

There is no exemption for services that are provided to the Russian subsidiaries of UK parent companies. Relevant UK guidance suggests, however, that a licence may be sought in such circumstances.

On 22 December 2023, the Department for Business and Trade ("**DBT**") issued updated [guidance](#) on the scope of these restrictions and compliance advice, as well as guidance on the licensing regime.

## **Legal advisory services**

Regulation 54D of the UK Russia Regulations imposes a prohibition preventing the provision of non-contentious legal advice in relation to or in connection with any activity that would, if committed by a UK person or performed within the UK, be in breach of the UK Russia Regulations. This restriction applies even if the activity is undertaken entirely outside of the UK and is legal in the jurisdiction in which it is performed.

The prohibition is subject to limited exceptions.

On 11 August 2023, following lobbying by the Law Society (in consultation with this firm, among others) DBT issued a [General Trade Licence](#) authorising the provision of Legal Advisory Services in relation to the following matters:

- "*as to whether an act or a proposed act complies with, or could trigger punitive measures (which includes administrative penalties) in relation to, restrictive measures, including sanctions, export and import controls on or concerning Russia or the non-government controlled Ukrainian territory, imposed by any jurisdiction; and/or*
- *in relation to, or in connection with compliance with, or addressing the risk of punitive measures (which includes administrative penalties) in relation to, (i) restrictive measures, including sanctions, export and import controls*

*on or concerning Russia or the non-government controlled Ukrainian territory, imposed by any jurisdiction; (ii) any laws of Russia that have as their object or effect the frustration of any laws specified at (i), including sanctions, export and import controls or other restrictive measures imposed by Russia; (iii) or any criminal law imposed by any jurisdiction; and/or*

- *where the legal advisory services are provided in relation to the discharge of or compliance with UK statutory or regulatory obligations."*

Reliance on this General Licence is subject to a requirement to register with the DBT.

Relevant official guidance is available online [here](#).

It remains prohibited for a UK person or a person within the UK to provide legal advisory services to non-UK persons in relation to certain financial or trade activity which would, if the activity were done by a UK person or were taking place in the UK, be in breach of the UK Russia Regulations.

## Aircraft and ships

In addition to the export restrictions referred to above, the UK Russia Regulations impose various restrictions related to aviation and shipping:

- Regulation 57A prohibits UK port access from being granted to any ship owned, controlled, chartered or operated by persons "*connected with Russia*" or which flies the Russian flag or is registered in Russia.
- The government has the power to control the movement of Russian ships or specified ships by requiring them to leave or enter specified ports, proceed to a specified place or remain where they are.
- The government and harbour authorities have the power to detain Russian ships or specified ships at ports or anchorages.
- Registration of ships on the UK Ship Register is prohibited where they are owned, controlled, chartered or operated by a designated person or persons "*connected with Russia*", or where they are a specified ship.
- Regulation 46A imposes a prohibition on the provision to, or for the benefit of, a designated person of technical assistance relating to Russian ships or specified ships.
- There is also a prohibition on the export, supply or delivery of maritime goods and technology (as specified in Chapter 4 (Navigation Equipment) and Chapter 5 (Radio-Communication Equipment) of Annex 1 of [Merchant Shipping Notice 1874](#) for placing on board a Russian-flagged vessel).

OFSI has issued [guidance](#) for maritime shipping, along with a [blog](#) post on how to stay compliant with financial sanctions in the maritime sector.

## Interception and monitoring services

The UK Russia Regulations include a prohibition on the provision of "*interception and monitoring services*" (*i.e.*, any service that has as its object or effect the interception of a communication in the course of its transmission by means of a telecommunication system) to or for the benefit of the Government of Russia.

## Enforcement

OFSI has issued [guidance](#) concerning enforcement and monetary penalties for breaches of financial sanctions, along with a [blog](#) written by Giles Thomson, the Director of OFSI. This guidance was updated in 2022, when OFSI was granted new powers to impose monetary penalties on a strict liability basis for civil breaches of financial sanctions under s.146(1A) of the Policing and Crime Act 2017 (as [amended](#) by the Economic Crime (Transparency and Enforcement) Act 2022). This legislative provision and OFSI's updated guidance came into force on 15 June 2022.

OFSI has stated that when considering any breach of financial sanctions it will continue to act proportionately and will assess factors such as the severity of the breach, the expected knowledge of the person and their exposure to financial sanctions risk, due diligence efforts to prevent such breaches, and the importance of self-disclosure.

OFSI has also gained the power to publicise details of financial sanctions breaches committed after 15 June 2022 even where a monetary penalty has not been imposed.

On 17 October 2022, OFSI and OFAC co-published a [blog](#) to announce an "enhanced partnership" between these financial sanctions implementation authorities. The initiative is intended to bring significant benefits to both organisations and to reinforce their coordination and collaboration, including in relation to measures imposed against Russia in response to the invasion of Ukraine. The enhanced partnership is also intended to support OFSI's move to become "a larger and more proactive organisation". In practice, OFAC and OFSI officials working on sanctions implementation and enforcement are expected to now be further exchanging best practices and strengthening working relationships at all levels.

On 1 December 2023, the FCA published an updated [memorandum of understanding](#) setting out arrangements for co-operation and the exchange of relevant information between it and OFSI.

On 11 December 2023, the UK government [announced](#) that it will create a new enforcement unit, the Office of Trade Sanctions Implementation ("OTSI"), which will be part of the DBT and will have new civil enforcement powers for trade sanctions breaches – mirroring those which already exist for financial sanctions. OTSI is expected to become operational in 2024.

On 14 December 2023 OFSI issued its [Annual Report](#), setting out its approach to enforcement cases.

On 22 February 2024, the FCDO published the first UK [sanctions strategy paper](#), entitled "*Deter, disrupt and demonstrate – UK sanctions in a contested world*", which sets out the UK government's approach to using sanctions.

On 1 May 2024, OFSI introduced [Frequently Asked Questions](#) (FAQs), a form of additional guidance addressing specific issues in relation to financial sanctions restrictions.

## EU SANCTIONS

EU sanctions on Russia are set out in Council Regulations (EU) No. 833/2014, 269/2014, 692/2014 and 2022/263 (each as amended).

In addition, by Council Regulation (EU) No. 2024/1485 of 27 May 2024, the EU recently set up a new sanctions' framework targeting human rights violations in Russia. This new sanctions' framework, in particular, includes designations of individuals and entities deemed responsible for serious human rights violations or abuses, for repression of civil society and democratic opposition, and for undermining democracy and the rule of law in Russia. Furthermore, it introduces trade restrictions on exporting equipment which might be used for internal repression, as well as on equipment, technology or software intended primarily for use in information security and the monitoring or interception of telecommunication.

These sanctions apply, in particular, within the EU and to conduct by all EU nationals and EU-incorporated entities wherever in the world. Council Regulation (EU) No. 2024/1745 of 24 June 2024 newly introduced certain "best-effort" requirements for EU parent companies to ensure that third-country entities which they own or control do not participate in activities undermining EU sanctions against Russia (see below).

The last consolidated versions of these Regulations are available here: Council Regulation (EU) No. [833/2014](#) (so far, a consolidated version reflecting all most recent changes has only been published in English), [269/2014](#), [692/2014](#), [2022/263](#) and [2024/1485](#).

The European Commission has issued extensive Frequently Asked Questions (FAQs) on several aspects of the sanctions related to Russia and the EU's expectations on due diligence, which are available [here](#). These FAQs continue to be updated frequently. In addition to these FAQ, certain competent authorities in the EU Member States have issued guidance as well (which sometimes deviates from the FAQ of the European Commission).

In its [FAQ](#), the European Commission, *inter alia*, states the following:

- EU sanctions do not apply to non-EU companies or non-EU individuals that do business entirely outside the EU. However, for example, if a non-EU entity "*imports products via the Union or carries out payments in the Union, then it has to comply with EU sanctions as it is entering the EU internal market.*"
- EU nationals working for non-EU companies are personally bound by EU sanctions and can be held personally liable for participating in transactions which breach EU sanctions, for instance if such EU nationals facilitate transactions carried out by a non-EU entity.
- Decisions taken by a non-EU entity which need to be cleared or "*green-lighted*" by an EU parent company "*would be relevant, in that the latter (the EU parent entity) is bound in respect of its own actions.*"

In addition, recently the Council of the European Union has updated its [EU Best Practices for the effective implementation of restrictive measures](#) which, *inter alia*, include significant updates to the guidance on the notions of ownership and control as well as "acting on behalf or at the direction of." In particular, other than before, the "ownership" test threshold is now specified as possession of 50% or more of the proprietary rights of an entity or having

majority interest in it (in the past, the guidance referred to "more than 50%"), which aligns the Council's position with the US position and results in a deviation from the UK position.

In the sections below, we provide an overview and high-level commentary of some of the key current provisions.

In addition to the individual prohibitions referenced below, as also described below, there are broad circumvention prohibitions, essentially making it an offence to engage in activities the object or effect of which is to circumvent the prohibitions.

## FINANCIAL SANCTIONS

### Asset freezes etc.

Council Regulation (EU) No. 269/2014 imposes an asset freeze on a large number of individuals and entities, including Russian banks and state-owned entities (see Annex I to this [Regulation](#)).

In addition, [Council Regulation \(EU\) No. 2024/1485](#) imposes an asset freeze on a number of individuals and one entity deemed responsible for serious human rights violations or abuses, for repression of civil society and democratic opposition, and for undermining democracy and the rule of law in Russia (see Annex IV to Council Regulation (EU) No. 2024/1485).

There is a prohibition on dealing with funds or economic resources belonging to, owned, held or controlled by designated persons, and a prohibition on making funds or economic resources available, directly or indirectly, to or for the benefit of designated persons.

In its [FAQ](#), the European Commission has stated, *inter alia*, that there is a presumption that these asset freezing prohibitions also apply in relation to non-designated entities which are owned or controlled by designated persons (note that the guidance published by the competent German authority ([German Central Bank \(Bundesbank\)](#)) deviates from the European Commission's guidance, in particular to the extent non-designated EU entities are concerned). The European Commission guidance states that this presumption can be rebutted on a case-by-case basis by the entity concerned, *"if it can be demonstrated that some or all of its assets are outside the control of the listed person, and/or that funds or economic resources made available to it would in fact not reach the listed person."*

For these purposes, according to recently updated [guidance](#) by the Council of the European Union, ownership requires holding 50% or more of the proprietary rights or having a majority interest in an entity (in the past, the guidance referred to "more than 50%"). Both the [guidance](#) by the Council of the European Union and the [FAQ](#) of the European Commission state that in determining whether an entity is owned by designated persons, the aggregated ownership of the entity should be taken into *account, i.e.* shareholdings of several designated persons need to be aggregated (so that, *"for example, if one designated person owns 30% of the entity and another designated person owns 25% of the entity, the entity should, in principle, be considered as owned by designated persons"*). This contrasts directly with the position in the UK, outlined above. In addition, also the guidance published by competent German authorities ([German Federal Ministry for Economic Affairs and Climate Action](#) and [German Central Bank \(Bundesbank\)](#)) deviates from the European Commission's guidance in this respect.



Whether a non-designated entity is "controlled" by another person for these purposes is a factual aspect which in practice is often difficult to determine with certainty. *Inter alia*, the [FAQ](#) of the European Commission refer to certain guidance setting out non-conclusive criteria relevant for the determination of control. Also the recently updated [guidance](#) by the Council of the European Union lists such criteria, including a reference to situations where persons have *de facto* the power to exert a dominant influence over an entity. In addition, this recently updated [guidance](#) by the Council of the European Union gives examples for circumstances that may qualify as indications that a designated person or entity has control over a non-designated entity, warranting further due diligence ("red flags"). Those circumstances include majority shareholdings by designated persons, buyback options, transfers of shares close to the time of designation, the use of front persons, and the use of trusts, shell companies and limited liability companies.

### Exemptions and licences

Council Regulation (EU) No. 269/2014 provides for certain limited exemptions from the asset freezing prohibitions, such as, *inter alia*, with respect to the addition of interest or payments due under contracts that were concluded prior to the designation of a designated person to frozen accounts of such designated person provided that any such interest or payments are frozen as well.

Further, Council Regulation (EU) No. 269/2014 provides for certain licensing powers for EU Member State allowing them to authorise, under certain limited circumstances, the release of frozen funds or economic resources belonging to designated persons or the making available of funds or economic resources to designated persons. These derogations, *inter alia*, include the ability of EU Member State authorities to issue relevant licences:

- with respect to AlfaStrakhovanie Group if this is necessary to allow a payment due by AlfaStrakhovanie Group to be made to a national or resident of, or an entity established in, the EU, in a country member of the European Economic Area, or in Switzerland, the US, Japan, the UK, South Korea, Australia, Canada, New Zealand, Norway, Liechtenstein or Iceland (so-called "**partner countries**") and such payment constitutes the indemnity or benefit provided further to the materialisation of a risk;
- with respect to Bank Rossiya, Promsvyazbank, VEB.RF, VTB Bank, Otkritie FC Bank, Novikombank, Sovcombank, Sberbank, Credit Bank of Moscow, Dalnevostochniy Bank, Alfa-Bank, Rosbank, Tinkoff Bank, MRB Bank, CMRBank and AlfaStrakhovanie Group if this is necessary for the purchase, import or transport of agricultural and food products, including wheat and fertilisers;
- if this is strictly necessary for the setting-up, certification or evaluation of a firewall which (i) removes the control by designated persons or entities over the assets of a non-designated EU entity and (ii) ensures that no further funds or economic resources accrue for the benefit of the designated persons or entities;
- with respect to designated individuals who, prior to their designation, "*held a significant role in international trade in agricultural and food products, including wheat and fertilisers*" if this is necessary for the sale, supply, transfer or export of agricultural and food products, including wheat and fertilisers, to third countries in order to address food security;

- except for in relation to frozen funds or economic resources held by central securities depositories, where funds concerned were frozen as a result of the involvement of a designated entity acting as intermediary bank during a transfer of those funds from Russia to the EU in particular if the transfer of such funds is (i) between two non-designated persons or entities and (ii) carried out using accounts at non-designated credit institutions;
- except for in relation to frozen funds or economic resources held by central securities depositories, where a payment concerned was frozen as a result of a transfer from Russia to the EU initiated through or from a designated entity, if, in particular, the transfer of that payment is between two non-designated persons or entities and the beneficiaries of such transfer are nationals or residents of an EU Member State, of a country member of the European Economic Area or of Switzerland (only one licence per applicant may be granted under this option); or
- if this is necessary for the sale and transfer within 6 months from the date of the listing of the relevant designated person of proprietary rights in a legal person, entity or body established in the EU where those proprietary rights are directly or indirectly owned by a designated person provided that the proceeds of such sale and transfer remain frozen.

#### **Reporting obligation**

Council Regulation (EU) No. 269/2014 provides for a reporting obligation for EU operators, generally requiring them, in particular, to supply immediately any information which would facilitate implementation of Council Regulation (EU) No. 269/2014 to the competent authority of the EU Member State where they are resident or located within two weeks of acquiring this information, such as:

- information on funds and economic resources frozen or information held about funds and economic resources within the territory of the EU belonging to, owned, held or controlled by designated persons/entities which have not been treated as frozen by persons obliged to do so; and
- information held on funds and economic resources within the territory of the EU belonging to, owned, held or controlled by designated persons/entities which have been subject to any move, transfer, alteration, use of, access to, or dealing in the two weeks preceding the designation of those persons/entities.

Council Regulation (EU) No. 269/2014 also specifies the details which at least need to be submitted concerning the relevant funds or economic resources, including, *inter alia*, information identifying the persons/entities owning, holding or controlling the frozen funds and economic resources, including their name, address and VAT registration or tax identification number.

In its [FAQ](#), the European Commission published guidance on the reporting requirements. *Inter alia*, this guidance indicates that the European Commission assumes that (i) the reporting obligation applies with respect to any persons designated under Council Regulation (EU) No. 269/2014 (*i.e.*, also to persons designated historically) and (ii) under certain circumstances there may be a requirement for banks and other operators to proactively check existing records for any relevant transactions or transfers that occurred in the past in the two weeks preceding relevant designations.

In addition, there is an obligation for central securities depositories to report the aforementioned information as well as information on extraordinary and unforeseen loss and damage concerning the relevant funds and economic resources to the competent authority of the EU Member State where they are located within two weeks of acquiring it and every three months thereafter, and to transmit it simultaneously to the European Commission. The European Commission has published a common [template](#) for such reports.

Also Council Regulation (EU) No. 2024/1485 of 27 May 2024 provides for a reporting obligation for EU operators, generally requiring them, in particular, to supply immediately any information which would facilitate compliance with this Regulation to the competent authority of the Member State where they are resident or located and to transmit such information, directly or through the Member State, to the Commission, such as information on accounts and amounts frozen or information held about funds and economic resources within the territory of the EU belonging to, owned, held or controlled by designated persons/entities which have not been treated as frozen by persons obliged to do so.

#### **Guidance**

In its [FAQ](#), the European Commission addresses several aspects relating to asset freezes and the prohibition on making funds/economic resources available to designated persons, *inter alia*, confirming that EU banks are required to freeze payments received from designated banks.

In addition, the European Commission published a [guidance note](#) on the implementation and recognition of safeguards ("firewalls") to prevent designated persons from exercising control rights connected to ownership or effective control over non-designated entities in the EU to enable the non-designated entities to operate, under strict conditions, unimpeded by the ownership or control of a designated person or entity.

#### **Restrictions related to Russian state-owned entities**

Council Regulation (EU) No. 833/2014 imposes a prohibition on directly or indirectly engaging in "*any transactions*" with (1) certain listed Russian state-owned entities (see Annex XIX to Council Regulation (EU) No. 833/2014 for a full list), (2) any entity or body established outside the EU directly or indirectly more than 50% owned by one of these listed entities, or (3) any entity or body acting on behalf or at the direction of any of these entities or bodies.

#### **Exemptions and licences**

Council Regulation (EU) No. 833/2014 provides for certain limited exemptions from the prohibition, such as, *inter alia*, for (1) under certain circumstances, transactions which are strictly necessary for the direct or indirect purchase, import or transport of natural gas or certain metals from or through Russia into the EU, a country member of the European Economic Area, Switzerland, or the Western Balkans, or (2) for the reception of payments from listed entities due pursuant to contracts performed before certain cut-off dates.

Further, there is the possibility for EU Member States to authorise transactions if they are strictly necessary for the divestment and withdrawal by 31 December 2024 by the entities concerned by the prohibition or their subsidiaries in the EU from entities established in the EU.

## Guidance

In its [FAQ](#), the European Commission addresses several aspects relating to the above prohibition, stating, *inter alia*, that the prohibition applies to (1) the conclusion of new contracts with the specified entities after 16 March 2022, (2) the execution of existing contracts with the specified entities after 15 May 2022 and (3) *"the provision of any sort of economically valuable benefit (such as services or payments), even in the absence of such contractual relationship."*

In addition, in its [FAQ](#), the European Commission provides some guidance on the question of the meaning of "acting on behalf or at the direction" in the context of the afore-mentioned prohibition. According to the European Commission, *inter alia*, a non-EU company previously directly or indirectly more than 50% owned by one of the entities listed in Annex XIX to Council Regulation (EU) No. 833/2014 *"is likely to be 'acting on behalf or at the direction of' an entity in Annex XIX (...) if the ownership structure of the company is modified to reduce the shareholding owned by the entity in Annex XIX to 50% or below according to the ownership designation criterion, in particular where the share transfer is operated within the same corporate group and/or the transfer occurs close to the date of inclusion into Annex XIX of the relevant entity or of the issuance of guidance clarifying the implementation of the measure and/or if any material influence over the relevant entity is maintained (e.g. veto rights or any other influence over the management of the entity.)"* The European Commission takes the view that in such a situation, *"there are reasonable grounds to suspect that the share transfer has been put in place in bad faith to camouflage the effective ownership or control and to circumvent the applicability"* of the afore-mentioned prohibition.

## Transaction ban to protect arbitration

Council Regulation (EU) No. 833/2014 provides a prohibition on directly or indirectly engaging in any transaction with certain listed entities (see Annex XLIII to Council Regulation (EU) No. 833/2014 – so far, no entities have been listed). The purpose of this prohibition is to protect arbitration as the list of entities shall include (Russian) entities that lodged a claim before a Russian court against a national of an EU Member State or an entity incorporated in the EU to obtain an injunction, order, relief, judgment or other Court decision pursuant to Russian legislation (Article 248 of the Arbitration Procedure Code of the Russian Federation or equivalent Russian legislation) ensuring exclusive competence of courts in Russia in disputes the basis for which are EU (or other) sanctions, in connection with any contract or transaction the performance of which has been affected by the EU sanctions against Russia under Council Regulations (EU) No. 269/2014 or 833/2014.

## Exemptions

There are certain exemptions from the prohibition, such as, under certain circumstances, to transactions that are necessary for the purchase, import or transport of pharmaceutical, medical or agricultural and food products, including wheat and fertilisers, whose purchase, import and transport is allowed under Council Regulation (EU) No. 833/2014.

## **Specialised financial messaging services (such as SWIFT)**

Certain listed Russian banks are excluded from the SWIFT messaging system. Precisely, Council Regulation (EU) No. 833/2014 contains a prohibition on providing specialised financial messaging services, which are used to exchange financial data, to certain banks or to any legal person, entity or body established in Russia whose proprietary rights are directly or indirectly owned for more than 50% by these banks (see Annex XIV to Council Regulation (EU) No. 833/2014 for a full list of the relevant banks).

There is no exemption or possibility for EU Member State authorities to grant authorisations for relevant services.

### **Guidance**

In its [FAQ](#), the European Commission, *inter alia*, confirms that branches of the listed Russian banks are considered as entities established in Russia and, therefore, subject to the prohibition.

## **Russian System for Transfer of Financial Messages (SPFS) and related transaction ban**

Council Regulation (EU) No. 833/2014 contains a prohibition for entities established in the EU and operating outside of Russia to directly connect to the System for Transfer of Financial Messages (SPFS) of the Russian Central Bank or equivalent specialised financial messaging services set up by the Russian Central Bank. According to the recitals of [Council Regulation \(EU\) No. 2024/1745](#), this prohibition does not concern entities established and operating in Russia, including subsidiaries of EU entities, and it generally does not prohibit EU entities from dealing with Russian entities which use the SPFS, provided that those EU entities do not connect to the SPFS themselves.

In addition, there is a prohibition on directly or indirectly engaging in any transaction with certain listed non-Russian entities that use the SPFS (see Annex XLIV to Council Regulation (EU) No. 833/2014 – so far, no entities have been listed).

### **Exemptions**

Certain exemptions apply, *inter alia*, to the execution until 26 September 2024 of contracts concluded with listed entities before 24 March 2024 or to the reception of payments due by a listed entity pursuant to contracts performed before 24 March 2024.

## **Transaction ban on banks and crypto assets providers that facilitate transactions supporting Russia's defence-industrial base**

Council Regulation (EU) No. 833/2014 contains a prohibition on directly or indirectly engaging in any transaction with (i) certain listed third-country entities that are credit or financial institutions or entities providing crypto assets services involved in transactions that facilitate the export, sale, supply, transfer or transport to Russia of dual-use and certain other restricted goods and technology (see Annex XLV to Council Regulation (EU) No. 833/2014 – so far, no entities have been listed) or (ii) entities acting on behalf or at the direction of such entities.

## Exemptions

Certain exemptions apply, *inter alia* to transactions that are necessary for the export, sale, supply, transfer or transport of pharmaceutical, medical or agricultural and food products, including wheat and fertilisers, whose export, sale, supply, transfer or transport to Russia is allowed under the EU sanctions against Russia.

## Dealing with transferable securities and money-market instruments

Council Regulation (EU) No. 833/2014 imposes a prohibition on purchasing, selling, providing investment services for or assistance in the issuance of, or otherwise dealing with transferable securities and money-market instruments

- with a maturity exceeding 90 days that were issued after 1 August 2014 by Russian entities listed in Annex III to Council Regulation (EU) No. 833/2014, non-EU entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of such an entity;
- with a maturity exceeding 30 days that were issued after 12 September 2014 by Russian entities listed in Annexes III, V and VI to Council Regulation (EU) No. 833/2014, non-EU entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of such an entity;
- with any maturity that were issued after 9 March 2022 by Russia and its government, the Russian Central Bank or any entity acting on behalf or at the direction of the Russian Central Bank; and
- with any maturity that were issued after 12 April 2022 by Russian entities listed in Annexes III, V, VI, XII or XIII to Council Regulation (EU) No. 833/2014, non-EU entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of such an entity.

There is no exemption from the above prohibitions and no possibility for EU Member State authorities to grant authorisations for relevant activities.

## Guidance

In its [FAQ](#), the European Commission addresses several aspects relating to the above prohibitions. *Inter alia*, it states the following:

- The prohibitions also apply in relation to derivative products where the underlying securities fall within the scope of the prohibitions.
- EU sanctions generally do "*not impose any impediments to receive income payments, dividend payments or principal repayments of existing securities from Russian issuers,*" such as coupon payments by the Russian state on its Eurobonds (however, restrictions apply, in particular, where issuers are subject to an asset freeze).

## Loans and credit arrangements

Council Regulation (EU) No. 833/2014 imposes a prohibition on making, or being part of arrangements to make, any new loans or credit:

- with a maturity exceeding 30 days after 12 September 2014 to Russian entities listed in Annexes III, V and VI to Council Regulation (EU)



No. 833/2014, non-EU entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of such an entity;

- with any maturity after 23 February 2022 to Russia and its government, the Russian Central Bank or any entity acting on behalf or at the direction of the Russian Central Bank; and
- with any maturity after 26 February 2022 to Russian entities listed in Annexes III, V, VI, XII or XIII to Council Regulation (EU) No. 833/2014, non-EU entities which are more than 50% owned by those listed entities, or any entity acting on behalf of, or at the direction of such an entity.

### **Exemptions**

Certain exemptions apply to the above-mentioned prohibitions, such as to (1) loans or credit that have a specific and documented objective to provide financing for non-prohibited imports or exports of goods and non-financial services between the EU and any third state provided that the national competent authorities in the EU Member States have been notified within three months of the date of the loan or credit, or (2) under certain circumstances, to drawdowns or disbursements made under contracts concluded before certain points in time provided that the national competent authorities in the EU Member States have been notified within three months of the date of the drawdown or disbursements. However, there is no possibility for EU Member State authorities to grant authorisations for relevant loans or credit.

### **Further restrictions related to securities**

Council Regulation (EU) No. 833/2014 imposes the following further prohibitions concerning trading in or providing services relating to securities:

- a prohibition on listing or providing services for the transferable securities of any entity established in Russia with over 50% public ownership on trading venues registered or recognised in the EU as well as on admitting to trading such securities on such trading venues;
- a prohibition on EU central securities depositories providing relevant services (core services, non-banking-type ancillary services and banking-type ancillary services as defined in the Annex to [Council Regulation \(EU\) No. 909/2014](#)) to any Russian national or natural person residing in Russia or any entity established in Russia for transferable securities issued after 12 April 2022. The prohibition does not apply to nationals of, or to natural persons having a temporary or permanent residence permit in, an EU Member State, a country member of the European Economic Area or Switzerland; and
- a prohibition on selling transferable securities denominated in any official currency of an EU Member State issued after 12 April 2022, or denominated in any other currency issued after 6 August 2023, or units in collective investment undertakings providing exposure to such securities, to any Russian national or natural person residing in Russia or any entity established in Russia. The prohibition does not apply to nationals of, or to natural persons having a temporary or permanent residence permit in, an EU Member State, a country member of the European Economic Area or Switzerland.



## Reserves/assets of the Russian Central Bank

Council Regulation (EU) No. 833/2014 imposes a prohibition on any transactions related to the management of reserves as well as of assets of the Russian Central Bank and any transactions with any entity acting on behalf or at the direction of the Russian Central Bank, such as the Russian National Wealth Fund.

### Exemption and licenses

An exemption applies to any balance sheet management transactions linked to assets and reserves of the Russian Central Bank or of any entity acting on behalf or at the direction of the Russian Central Bank carried out on or after 28 February 2022. According to the recitals of [Council Regulation \(EU\) No. 2024/576](#), the balance sheet management transactions that shall benefit from the exemption relate in particular to "*the reinvestment of cash balances, accumulating due to immobilised coupon or dividend and redemption payments and maturing deposits, in line with a prudent investment policy, in accordance with applicable regulatory requirements*". However, any other transactions, in particular any direct or indirect transfer to or for the benefit of the Russian Central Bank or any entity acting on behalf or at the direction of the Russian Central Bank shall remain prohibited.

Furthermore, the EU Member State authorities may grant authorisations for such transactions if it is strictly necessary to ensure the financial stability of the EU as a whole or of the EU Member State concerned.

### Reporting and other obligations

Council Regulation (EU) No. 833/2014 includes an obligation for natural persons and entities (including, *inter alia*, the European Central Bank, national central banks, financial sector entities, insurance and reinsurance entities, central securities depositories and central counterparties) to report to the competent authority of the EU Member State where they are resident or located and simultaneously to the European Commission:

- at least every 3 months in an updated form, information on the assets and reserves of the Russian Central Bank and of any entity acting on behalf or at the direction of the Russian Central Bank which they hold or control or are counterparty to;
- immediately information on extraordinary and unforeseen loss or damage to the assets and reserves of the Russian Central Bank or of any entity acting on behalf or at the direction of the Russian Central Bank.

The relevant provision also specifies the details which at least need to be submitted concerning the relevant assets and reserves, including, *inter alia*, information identifying the persons/entities owning, holding or controlling such assets and reserves, including their name, address and VAT registration or tax identification number.

In its [FAQ](#), the European Commission published guidance on the reporting requirements. In addition, the European Commission has published a common [template](#) for reporting immobilised assets of the Russian Central Bank or of any entity acting on behalf or at the direction of the Russian Central Bank.

Furthermore, there are, *inter alia*, the following further obligations for central securities depositories which hold immobilised assets and reserves of the

Russian Central Bank or of any entity acting on behalf or at the direction of the Russian Central Bank with a total value exceeding EUR 1 million:

- as of 15 February 2024: (i) to separately account for cash balances accumulating exclusively due to the EU sanctions prohibition, (ii) to separately register revenues accruing from or generated by such cash balances from 15 February 2024 in their financial accounts, and (iii) to refrain from disposing of net profits determined in respect of such accrued revenues in accordance with national law (including by deducting all relevant expenses linked to or resulting from the management of the immobilised assets and the risk-management associated with the immobilised assets and after deduction of corporate tax under the general regime of the EU Member State concerned) by way of distribution in the form of dividends or in whatever form to the benefit of shareholders or any third party (this requirement shall not apply to net profits not constituting the financial contribution mentioned below);
- to make a financial contribution upon biannual call by the European Commission amounting to 99.7% of the aforementioned net profits which shall be used to support Ukraine through certain EU spending instruments (there are possibilities for the central securities depositories to provisionally retain a share of the financial contribution);
- to submit to the European Commission and to their national competent authorities the interim financial reports and the audited annual financial statements;
- by 30 June of each year, to submit certain reports on the amounts provisionally retained.

### **Guidance**

In its [FAQ](#), the European Commission, *inter alia*, states that paying lawfully due taxes in Russia does not amount to enabling the Russian Central Bank to manage its reserves or assets, so that the afore-mentioned prohibition "*does therefore not apply to the payment of taxes.*" In addition, the European Commission states that making payments of the so-called "exit tax" in Russia (payments required under a Russian decree as a precondition for allowing EU companies to divest from Russia) does not amount to enabling the Russian Central Bank to manage its reserves or assets, so that the afore-mentioned prohibition does not apply.

### **Russian Direct Investment Fund**

Council Regulation (EU) No. 833/2014 includes a prohibition on investing, participating or otherwise contributing to projects co-financed by the Russian Direct Investment Fund.

### **Licences**

EU Member State authorities may authorise a relevant investment, participation or contribution if such is due under contracts concluded before 2 March 2022 (or ancillary contracts necessary for the execution of such contracts).

## Deposits and crypto assets

Council Regulation (EU) No. 833/2014 includes a prohibition on accepting any deposits from

- Russian nationals or natural persons residing in Russia,
- entities established in Russia, or
- entities established outside the EU which are directly or indirectly majority owned by Russian nationals or natural persons residing in Russia

if the total value of the deposit of these persons or entities exceeds EUR 100,000 per credit institution.

For the purposes of the prohibition, a "*deposit*" means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where

- its existence can only be proven by a financial instrument, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in an EU Member State on 2 July 2014,
- its principal is not repayable at par, or
- its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party.

We consider that any account balance is therefore a deposit. The currency is not relevant.

The restriction does not prohibit transfers from existing accounts (of otherwise non-sanctioned persons), nor does it require that existing deposits over the threshold are reduced. However, for accounts already over that threshold, effectively no additional funds can be received into those accounts.

Further, Council Regulation (EU) No. 833/2014 imposes a prohibition on providing any crypto-asset wallet, account or custody services, irrespective of any value thresholds, to

- Russian nationals or natural persons residing in Russia, or
- legal persons, entities or bodies established in Russia.

In addition, Council Regulation (EU) No. 833/2014 imposes a prohibition on allowing Russian nationals or natural persons residing in Russia to directly or indirectly own or control, or to hold any posts in the governing bodies of, a legal person, entity or body which is incorporated or constituted under the law of an EU Member State and is providing the crypto-asset wallet, account or custody services.

### Exemption and licences

The aforementioned prohibitions do not apply to nationals of, or to natural persons having a temporary or permanent residence permit in, an EU Member State, a country member of the European Economic Area or Switzerland.

Further, under certain limited circumstances, EU Member State authorities may grant relevant licences, *inter alia*, if deposits are necessary for non-

prohibited cross-border trade in goods and services between the EU and Russia.

### Reporting obligations

There are certain reporting requirements for credit institutions, requiring them to provide their competent national authorities, by no later than 27 May 2022 for the first time and then every 12 months, with lists of relevant deposits exceeding EUR 100,000 (with respect to deposits from non-Russian entities established outside the EU which are directly or indirectly majority owned by Russian nationals or Russian residents the information is to be provided for the first time by no later than 27 May 2023).

The European Banking Authority (EBA) published a [template for such reporting](#) and the European Commission encourages credit institutions to apply it.

### Guidance

In its [FAQ](#), the European Commission states, *inter alia*, the following:

- The restriction on accepting deposits applies "*per banking licence*."
- The prohibition generally also comprises subsidiaries of EU operators incorporated in Russia.
- The provision should be read in conjunction with the prohibition to participate knowingly and intentionally in activities the object or effect of which is to circumvent prohibitions in the Regulation, so that where deposits are made to accounts of an entity owned by a Russian national or a natural person residing in Russia, "*EU operators should (...) exert enhanced due diligence*" (as meanwhile also non-EU entities majority owned by Russians are directly covered by the deposit restriction, this apparently refers to accounts of an EU entity).

### Services with respect to trusts and similar legal arrangements

Council Regulation (EU) No. 833/2014 imposes a prohibition on (1) registering, providing a registered office, business or administrative address as well as management services to, or (2) acting as, or arranging for another person to act as, a trustee, nominee shareholder, director, secretary or a similar position for, a trust or any similar legal arrangement having as a trustor or a beneficiary

- Russian nationals or natural persons residing in Russia,
- entities established in Russia,
- entities whose proprietary rights are directly or indirectly owned for more than 50% by Russian nationals, natural persons residing in Russia or entities established in Russia,
- entities controlled by the aforementioned natural persons or entities, or
- entities acting on behalf or at the direction of the aforementioned natural persons or entities.

### **Exemption and licences**

An exemption applies when the trustor or beneficiary is a national of, or holds a temporary or permanent residence permit in, an EU Member State, a country member of the European Economic Area or Switzerland.

Further, under certain limited circumstances, EU Member State authorities may grant relevant licences.

### **Guidance**

In its [FAQ](#), the European Commission states, *inter alia*, the following:

- There is "no single definition of what qualifies as a 'similar legal arrangement', so that it is "relevant to assess such an arrangement's structure or function as compared to that of a trust, such as the establishment of a fiduciary bond between parties and a separation or disconnection of legal and beneficial ownership of assets."
- Foundations fall within the scope of the prohibition, so that "persons holding equivalent positions in foundations as settlors and beneficiaries should be construed as being subject to the (...) restrictions."

### **Investments in relation to the Russian energy and mining and quarrying sectors**

Council Regulation (EU) No. 833/2014 includes comprehensive investment prohibitions with respect to the Russian energy and quarrying and mining sectors. It is prohibited to:

- acquire any new or extend any existing participation in any entity incorporated or constituted under the law of Russia or any other third country and operating in the energy sector in Russia, including projects under construction for the production of liquified natural gas, or in the mining and quarrying sector in Russia;
- grant or be part of any arrangement to grant any new loan or credit or otherwise provide financing, including equity capital, to any such entity, or for the documented purpose of financing such entity;
- create any new joint venture with any such entity; or
- provide investment services directly related to the aforementioned activities.

For these purposes, "energy sector" means a sector covering the following activities with the exception of civil nuclear related activities:

- the exploration, production, distribution within Russia or mining of crude oil, natural gas or solid fossil fuels, the refining of fuels, the liquefaction of natural gas or regasification;
- the manufacture or distribution within Russia of solid fossil fuel products, refined petroleum products or gas; or
- the construction of facilities or installation of equipment for, or the provision of services, equipment or technology for, activities related to power generation or electricity production.

"Mining and quarrying sector" means a sector covering the location, extraction, management and processing activities relating to non-energy producing materials.

## Exemptions and licences

With respect to prohibitions concerning the mining and quarrying sector an exemption applies to mining and quarrying activities that yield their highest value from, or have as their primary objective, the production of certain listed materials (see Annex XXX to Council Regulation (EU) No 833/2014 for a full list of the relevant materials).

With respect to the prohibitions concerning the energy sector, under certain limited circumstances, EU Member State authorities may grant an authorisation for relevant activities, *inter alia*,

- if it is necessary for ensuring critical energy supply within the EU,
- if it exclusively concerns an entity owned by an entity incorporated or constituted under the law of an EU Member State, or
- with respect to the prohibition on granting new loans or credit or otherwise providing financing, if this is necessary to ensure the operation of a deep-water offshore gas project in the Mediterranean Sea in which a Russian state-owned or state-controlled entity listed in Annex XIX to Council Regulation (EU) No. 833/2014 was a minority shareholder before 31 October 2017 and remains so, provided that the project is solely or jointly controlled or operated by a legal person incorporated or constituted under the law of an EU Member State.

## Guidance

In its [FAQ](#), the European Commission, *inter alia*, states that the prohibition "*does not prohibit drawdowns or disbursements made under pre-existing loans or credits in line with the agreed terms and conditions of the contract,*" but that the prohibition "*must not be circumvented through changes to the existing terms and conditions.*" However, according to the European Commission, any amendments to existing loans resulting in a "*financial benefit for the entity*" would re-qualify an existing loan as new loan or credit (such as, *e.g.*, extending the dates for loan repayment or lowering the interest rates applicable in case of delays).

## Investments in relation to Crimea/Sevastopol and non-government controlled areas in Ukraine

Council Regulations (EU) No. 692/2014 and 2022/263 impose wide-ranging investment prohibitions on Crimea/Sevastopol and all non-government controlled areas of Ukraine in the oblasts Donetsk, Luhansk, Kherson and Zaporizhzhia (together: the "**Relevant Territories**"). It is prohibited to:

- acquire any new or extend any existing participation in ownership of real estate located in the Relevant Territories;
- acquire any new or extend any existing participation in ownership or control of an entity in the Relevant Territories, including the acquisition in full of such entity or the acquisition of shares, and other securities of a participating nature of such entity;
- grant or be part of any arrangement to grant any loan or credit or otherwise provide financing, including equity capital, to an entity in the Relevant Territories, or for the documented purpose of financing such entity;
- create any joint venture in, or with an entity in, the Relevant Territories; or

- provide investment services directly related to the activities referred to in the above points.

Entity in the Relevant Territories for these purposes means any entity having its registered office, central administration or principal place of business in the Relevant Territories, its subsidiaries or affiliates under its control in the Relevant Territories, as well as branches and other entities operating in the Relevant Territories.

### **Exemptions and licences**

There are limited exemptions and licensing powers for EU Member State authorities in relation to the prohibition.

### **Guidance**

In its [FAQ](#), the European Commission, *inter alia*, clarifies that the prohibition concerning the non-government controlled areas of Ukraine covers all areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine that are not under the control of the authorities of Ukraine, which means that, "*considering the fluid situation, "a dynamic assessment of this control could be necessary."*

## **EXPORT RESTRICTIONS ETC.**

Council Regulation (EU) No. 833/2014 includes restrictions on the sale, supply, transfer or export of a large number of listed items to any natural or legal person, entity or body in Russia or for use in Russia. The relevant items to which these controls apply are:

- dual-use items as listed in Annex I to [Regulation \(EU\) No. 2021/821 of the European Parliament and of the Council](#) (EU Dual Use Regulation) (in relation to such items, also the transit of items exported from the EU *via* Russia is generally prohibited);
- energy-related items as listed in Annex II to Council Regulation (EU) No. 833/2014;
- items "*which might contribute to Russia's military and technological enhancement, or the development of the defence and security sector*" as listed in Annex VII to Council Regulation (EU) No. 833/2014 and includes, *inter alia*, advanced technology items, rare-earth metals and compounds, chemical/biological equipment and electric components, semiconductor materials, manufacturing and testing equipment for electronic integrated circuits and printed circuit boards, optical components, navigational instruments, thermostats, DC motors, machine tools and machinery parts (in relation to such items, also the transit of items exported from the EU *via* Russia is generally prohibited);
- items suited for use in oil refining and liquefaction of natural gas as listed in Annex X to Council Regulation (EU) No. 833/2014;
- items suited for use in aviation or the space industry as listed in Annex XI to Council Regulation (EU) No. 833/2014 (this restriction includes, *inter alia*, supplying aircraft to Russian persons or entities or for use in Russia by way of leasing; further, this restriction includes a prohibition on providing insurance and reinsurance and maintenance activities in relation to the listed items to any natural or legal person, entity or body in Russia or for use in Russia) (in relation to such items, also the transit of items exported from the EU *via* Russia is prohibited);



- maritime navigation and radio-communication items as listed in Annex XVI to Council Regulation (EU) No. 833/2014 (this restriction also applies with respect to the placing on board of a Russian-flagged vessel);
- luxury goods as listed in Annex XVIII to Council Regulation (EU) No. 833/2014 (unless otherwise specified in this Annex, the prohibition applies to the listed luxury goods insofar as their value exceeds EUR 300 per item);
- jet fuel and fuel additives as listed in Annex XX to Council Regulation (EU) No. 833/2014 (in relation to such items, also the transit of items exported from the EU *via* Russia is prohibited);
- a very large list of items "*which could contribute in particular to the enhancement of Russian industrial capacities*" as listed in Annex XXIII to Council Regulation (EU) No. 833/2014 (in relation to certain items which are separately listed in Annex XXXVII to Council Regulation (EU) 833/2014, also the transit of items exported from the EU *via* Russia is prohibited);
- banknotes denominated in any official currency of an EU Member State; and
- firearms, their parts and essential components and ammunition as listed in Annex I to [Regulation \(EU\) No. 258/2012 of the European Parliament and of the Council](#) (EU Firearms Regulation) and firearms and other arms as listed in Annex XXXV to Council Regulation (EU) No. 833/2014 (in relation to such items, also the transit of items exported from the EU *via* Russia is prohibited).

In addition, Council Regulation (EU) No. 833/2014 contains a prohibition on the sale, supply, transfer or export of Ukrainian cultural property goods and other goods of archaeological, historical, cultural, rare scientific or religious importance, where there are reasonable grounds to suspect that the goods have been removed from Ukraine without the consent of their legitimate owner or have been removed in breach of Ukrainian law or international law.

With respect to most of the restrictions there are also express prohibitions on (i) the provision of technical assistance, brokering services and other services, (ii) the provision of financing or financial assistance and (iii) selling, licensing or transferring in any other way intellectual property rights or trade secrets as well as granting rights to access or re-use any material or information protected by means of intellectual property rights or constituting trade secrets, related to the listed items to any natural or legal person, entity or body in Russia or for use in Russia.

In addition, there is a prohibition to provide technical assistance, brokering services and financing or financial assistance related to the goods and technology listed in the [EU Common Military List](#) to any natural or legal person, entity or body in Russia or for use in Russia.

Separately, Council Regulations (EU) No. [692/2014](#) and [2022/263](#) contain restrictions on the sale, supply, transfer or export of items suited for use in the following key sectors as listed in Annexes II to each of these Regulations to any natural or legal person, entity or body in the Relevant Territories (*i.e.* Crimea/Sevastopol, and all non-government controlled areas of Ukraine in the oblasts Donetsk, Luhansk, Kherson and Zaporizhzhia) or for use in the Relevant Territories:

- transport,
- telecommunications,
- energy, and
- the prospection, exploration and production of oil, gas and mineral resources.

There are also express prohibitions on the provision of (1) technical assistance, brokering services or financing or financial assistance related to the listed items to any natural or legal person, entity or body in the Relevant Territories or for use in the Relevant Territories, (2) technical assistance, brokering, construction or engineering services directly relating to infrastructure in the Relevant Territories in the above-mentioned sectors and (3) services directly related to tourism activities in the Relevant Territories.

Furthermore, Council Regulation (EU) No. 2024/1485 of 27 May 2024 includes restrictions on the sale, supply, transfer or export of the following items to any natural or legal person, entity or body in Russia or for use in Russia:

- equipment which might be used for internal repression as listed in Annex I to Council Regulation (EU) No. 2024/1485;
- information security and telecommunications equipment, technology or software that could be misused for internal repression as listed in Annex II to Council Regulation (EU) No. 2024/1485 (unless the competent authority of the relevant Member State has given prior authorisation);
- other equipment, technology or software which is intended for use in connection with internal repression (where EU operators become aware of such intention, they are required to immediately notify the competent authorities of the Member States).

There are also express prohibitions on the provision of (i) related technical assistance and brokering services or financing or financial assistance, insurance and reinsurance to any natural or legal person, entity or body in Russia or for use in Russia and (ii) any telecommunication or internet monitoring or interception services to, or for the direct or indirect benefit of, Russia's government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction.

However, the restrictions imposed by Council Regulation (EU) No. 2024/1485 regarding items listed in Annexes I and II thereto shall be without prejudice to those applying under Regulation (EU) No. 833/2014 and where an item falls within the categories of Annexes I or II of Council Regulation (EU) No. 2024/1485 and within the scope of Regulation (EU) No. 833/2014, the restrictions set out in Regulation (EU) No 833/2014 shall apply.

### **Exemptions and licences**

Council Regulations (EU) No. 833/2014, 692/2014 and 2022/263 provide for certain limited exemptions from, and licensing powers of EU Member State authorities in relation to, the above prohibitions.

*Inter alia*, Council Regulation (EU) No. 833/2014 provides for the ability of EU Member State authorities to authorise, until 31 December 2024, the sale, supply or transfer of most of the above-mentioned listed items, as well as the sale, licensing or transfer in any other way of intellectual property rights or trade secrets as well as granting rights to access or re-use any material or

information protected by means of intellectual property rights or constituting trade secrets, related to such items, if this is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia provided that:

- the goods and technologies are owned by an EU national or by an entity incorporated or constituted under the law of an EU Member State or by entities established in Russia which are owned by, or solely or jointly controlled by, an EU entity;
- there are no reasonable grounds to believe that the goods might be for a military end-user or have a military end-use in Russia; and
- the concerned goods and technologies were physically located in Russia before the relevant prohibitions entered into force in respect of those goods and technologies.

### **Guidance**

In its [FAQ](#), the European Commission, *inter alia*, states that the sale of shares in a Russian subsidiary that holds goods and technologies listed in Annexes II, VII, X, XI, XVI, XVIII, XX and XXIII to Council Regulation (EU) No. 833/2014 as well as in Annex I to Regulation (EU) 2021/821 to a Russian buyer is to be considered an indirect sale, supply or transfer of prohibited goods and technologies given that the buyer of the shares acquires at the same time the goods and technologies. Therefore, according to the European Commission, also such sale of shares is generally prohibited, unless a licence is obtained. According to the European Commission, it is not relevant in this context that the full 100% of the shares are sold, but once the buyer has control over the subsidiary, it also has control over the assets.

## **REQUIREMENT OF "NO RUSSIA" CLAUSE IN CASE OF EXPORTS AND IP RIGHT TRANSFERS TO THIRD COUNTRIES**

Council Regulation (EU) No. 833/2014 provides for the following requirements for exporters when selling, supplying, transferring or exporting to a third country goods or technology as listed in Annexes XI, XX and XXXV or common high priority items as listed in Annex XL to Council Regulation (EU) No. 833/2014 or firearms and ammunition as listed in Annex I to Regulation (EU) No. 258/2012:

- to contractually prohibit re-exportation to Russia and re-exportation for use in Russia; and
- to ensure that the agreement with the third-country counterpart contains adequate remedies in the event of a breach of such a contractual obligation.

According to the recitals of Council Regulation (EU) No. 2024/1745 of 24 June 2024, in the case of contracts that were concluded before 19 December 2023, the obligation should be considered as met "if the contract contains a general clause that prohibits exportation and re-exportation of the goods and technology in question to jurisdictions targeted by Union restrictive measures, and sets out adequate remedies in the event of a breach of that clause".

Similarly, there are, with effect from 26 December 2024, the following requirements for natural persons and entities when selling, licensing or transferring in any other way intellectual property rights or trade secrets as

well as granting rights to access or re-use any material or information protected by intellectual property rights or protected as trade secret related to common high priority items as listed in Annex XL to Council Regulation (EU) No. 833/2014:

- to contractually prohibit their third-country counterparts, and require them to prohibit possible sublicensees of such intellectual property rights or trade secrets, from using such intellectual property rights, trade secrets or other information in connection with listed common high priority items that are intended for sale, supply, transfer or export, directly or indirectly, to Russia or for use in Russia; and
- to ensure that the agreement with the third-country counterpart contains adequate remedies in the event of a breach of such a contractual obligation.

### **Exemptions**

The requirements do not apply to sales, supplies, transfers and exports to Switzerland, the US, Japan, the UK, South Korea, Australia, Canada, New Zealand, Norway, Liechtenstein and Iceland (so-called "**partner countries**").

In addition, with respect to the requirement in connection with exports, exemptions apply to

- the execution of contracts relating to goods falling under CN codes 8457 10 (machining centres for working metal), 8458 11 (horizontal lathes, including turning centres, for removing metal, numerically controlled), 8458 91 (lathes (including turning centres) for removing metal, numerically controlled (excluding horizontal lathes)), 8459 61 (milling machines for metals, numerically controlled (excluding lathes and turning centres of heading 8458, way-type unit head machines, drilling machines, boring-milling machines, boring machines, and knee-type milling machines)), and 8466 93 (parts and accessories suitable for use solely or principally with the machines of headings 8456 to 8461, n.e.s.);
- the execution of contracts concluded before 19 December 2023 until 1 January 2025 or until their expiry date, whichever is earlier; and
- public contracts concluded with a public authority in a third country or with an international organisation.

With respect to the requirement in connection with IP right transfers, an exemption applies to the execution of contracts concluded before 25 June 2024 until 26 June 2025 or until their expiry date, whichever is earlier.

### **Reporting obligation**

There is a requirement for exporters to inform the competent authority of the EU Member State where they are resident or established of any public contract they concluded that benefited from the afore-mentioned exemption within two weeks of its conclusion.

In addition, there is a requirement for exporters or persons/entities transferring IP rights to inform the competent authority of the EU Member State where they are resident or established as soon as they become aware that the third-country counterpart breaches any of the afore-mentioned contractual obligations.

## Guidance

In its [FAQ](#), with respect to the requirement for exporters, the European Commission, *inter alia*, states that operators are "*free to choose the appropriate wording for the 'no re-export to Russia' clause, as long as the outcome fulfils the requirements*" of the afore-mentioned provision. However, the European Commission states that, "*in any event*" the clause should be identified as an essential element of the contract and that, to ensure its effectiveness, the required remedies to be activated in case of a breach of the "no re-export to Russia" clause "*should be reasonably strong and aim to deter non-EU operators from any breaches,*" which may include, "*for instance, termination of the contract and the payment of a penalty.*" In addition, the [FAQ](#) of the European Commission include a template wording of such "no re-export to Russia" clause.

## DUE DILIGENCE REQUIREMENTS FOR COMMON HIGH PRIORITY GOODS

Council Regulation (EU) No. 833/2014 contains, with effect from 26 December 2024, the requirement for natural persons and entities that sell, supply, transfer or export common high priority items as listed in Annex XL to Council Regulation (EU) No. 833/2014 to

- take appropriate steps to identify and assess the risks of exportation to or for use in Russia for such items, and ensure that those risk assessments are documented and kept up-to-date; and
- implement appropriate policies, controls and procedures to mitigate and manage effectively such risks.

In addition, natural persons and entities are required, as of 26 December 2024, to ensure that any entity established outside the EU that they own or control and that sells, supplies, transfers or exports such common high priority items implements the afore-mentioned requirements.

## Exemptions

An exemption applies to natural persons and entities that sell, supply or transfer common high priority items only within the EU or to Switzerland, the US, Japan, the UK, South Korea, Australia, Canada, New Zealand, Norway, Liechtenstein and Iceland (so-called "**partner countries**").

## IMPORT RESTRICTIONS ETC.

Council Regulation (EU) No. 833/2014 includes restrictions on the purchase, import or transfer/transport of a large number of listed items if they originate in Russia or are exported from Russia. The relevant items to which these controls apply are:

- iron and steel products as listed in Annex XVII to Council Regulation (EU) No. 833/2014 (this restriction also applies to listed items located in Russia and, as from 30 September 2023, to the import or purchase of listed iron and steel products when processed in a third country incorporating listed items originating in Russia (with respect to certain of the listed items later cut-off dates apply));
- items which "*generate significant revenues for Russia*" as listed in Annex XXI to Council Regulation (EU) No. 833/2014;

- crude oil and petroleum products as listed in Annex XXV to Council Regulation (EU) No. 833/2014;
- gold and gold jewellery and articles of gold as listed in Annexes XXVI and XXVII to Council Regulation (EU) No. 833/2014 (this restriction also applies to certain of the listed products when processed in a third country incorporating listed items which originate in Russia and have been exported from Russia);
- diamonds and products incorporating diamonds as listed in Parts A, B and C of Annex XXXVIII A to Council Regulation (EU) No. 833/2014 (the same prohibition applies to the listed diamonds and products if they transited *via* Russia; a prohibition (which will be extended as of 1 September 2024, and may be further extended by separate decision of the Council of the European Union) also applies to the purchase, import and transfer of the listed items if processed in a third country and consisting of diamonds originating in or exported from Russia with a certain weight per diamond); and
- liquefied natural gas falling under CN code 2711 11 00 if purchased, imported or transferred through liquefied natural gas terminals in the EU that are not connected to the interconnected natural gas system (this is intended to be a targeted prohibition only affecting specific facilities in certain EU Member States and it shall not affect the supply of liquefied natural gas of Russian origin from the mainland of an EU Member State to its outermost regions).

In addition, Council Regulation (EU) No. 833/2014 contains a prohibition on the purchase, import or transfer of Ukrainian cultural property goods and other goods of archaeological, historical, cultural, rare scientific or religious importance, where there are reasonable grounds to suspect that the goods have been removed from Ukraine without the consent of their legitimate owner or have been removed in breach of Ukrainian law or international law.

There are also express prohibitions on the provision of technical assistance, brokering services and – with respect to most of the above restrictions – other services, as well as of financing or financial assistance related to the restrictions concerning the listed items.

Separately, Council Regulations (EU) No. [692/2014](#) and [2022/263](#) contain restrictions on importing into the EU goods originating in the Relevant Territories (*i.e.* Crimea/Sevastopol, and all non-government controlled areas of Ukraine in the oblasts Donetsk, Luhansk, Kherson and Zaporizhzhia) and to provide financing or financial assistance as well as insurance and reinsurance related to the import of such goods.

### **Exemptions and licences**

Council Regulations (EU) No. 833/2014, 692/2014 and 2022/263 provide for certain limited exemptions from, and licensing powers of EU Member State authorities in relation to, the above prohibitions.

*Inter alia*, Council Regulation (EU) No. 833/2014 currently provides for an exemption from the prohibition to purchase, import or transfer crude oil falling under CN Code 2709 00 delivered by pipeline from Russia into EU Member States (this exemption stopped to apply to Germany and Poland on 23 June 2023). However, crude oil delivered into EU Member States under this exemption needs to be specially marked and the transfer or transport of such

crude oil delivered into EU Member States to other EU Member States or to third countries, or its sale to purchasers in other EU Member States or in third countries, are prohibited. In addition, where crude oil has been delivered into an EU Member State under this exemption, there is a prohibition on transferring or transporting petroleum products falling under CN Code 2710 which are obtained from such crude oil to other EU Member States or to third countries, or to sell such petroleum products to purchasers in other EU Member States or in third countries (with certain temporary derogations applying with respect to imports and transfers to Czechia and with certain licensing possibilities for the authorities of Hungary and Slovakia).

In addition, there are, e.g., certain specific possibilities for the Croatian and Bulgarian authorities to authorise until 31 December 2024 certain transactions related to certain Russian vacuum gas oil or Russian seaborne crude oil and petroleum products.

With respect to the diamond import ban, provided that certain evidence is presented by the importer at the moment of importation into the EU, certain exemptions apply to products that were physically located in the EU and thereafter exported to a third country other than Russia, or physically located, polished or manufactured in a third country other than Russia, before the date of applicability of the respective prohibition. In addition, certain exemptions apply in relation to products manufactured before 1 September 2024 if those products were temporarily imported into the EU from any third country or territory other than Russia, or imported after a temporary exportation to any third country or territory other than Russia, provided that those products were placed under the temporary admission, inward processing, outward processing or temporary export customs procedures when entering or exiting the EU.

Moreover, EU Member State may authorise, until 31 December 2024, the import or transfer of the above-mentioned iron and steel products and goods "which generate significant revenues for Russia" (items listed in Annexes XVII and XXI to Council Regulation (EU) No. 833/2014) if this is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia provided that:

- the goods are owned by an EU national or by an entity incorporated or constituted under the law of an EU Member State or by entities established in Russia which are owned by, or solely or jointly controlled by, an EU entity; and
- the concerned goods and technologies were physically located in Russia before the relevant prohibitions entered into force in respect of those goods.

Furthermore, there is the possibility for customs authorities in the EU Member States to release, under certain circumstances, *inter alia*, goods physically in the EU provided that they have been presented to customs in accordance with Article 134 of the [Union Customs Code](#) before the entry into force or applicability date of the respective import prohibitions, whichever is latest (unless the customs authorities have reasonable grounds to suspect circumvention or a re-export of goods to Russia is concerned).

### **Reporting obligation**

There is an obligation for operators to inform within two (2) weeks the competent authority of the EU Member State where they are resident, located,



established or incorporated, of all transactions for the purchase, import or transfer into the EU of natural gas condensates originating in or exported from Russia and falling under CN code 2709 00 10 from liquefied natural gas production plants.

Furthermore, in view of the afore-mentioned prohibition relating to iron and steel products when processed in a third country incorporating listed items originating in Russia applicable as from 30 September 2023, there is an obligation for importers of iron and steel products as listed in Annex XVII to Council Regulation (EU) No. 833/2014 when processed in a third country to provide evidence, at the moment of importation, of the country of origin of the iron and steel inputs used for the processing of the product in a third country, unless the product is imported from Switzerland, Norway, the UK or Liechtenstein (so called "**partner countries for importation of iron and steel**").

In view of the afore-mentioned prohibition relating to diamonds and products incorporating diamonds when processed in a third country consisting of diamonds originating in or exported from Russia,

- there is an obligation for importers to provide evidence, at the moment of importation, of the country of origin of the diamonds or products incorporating diamonds used as inputs for the processing of the product in a third country (as of 1 March 2025, for certain of the listed products the traceability-based evidence needs to include a corresponding certificate certifying that the diamonds are not mined, processed or produced in Russia); and
- goods falling under CN codes 7102 31 00 (non-industrial diamonds, unworked or simply sawn, cleaved or bruted) and 7102 10 00 (unsorted diamonds) that are imported into the EU need to be submitted for verification without delay, together with documentation certifying their origin, to the Federal Public Service Economy at the Diamond Office in Antwerpen, Belgium (the importer is responsible for the proper movement of the goods and the costs of such movement). A submission to that authority is not necessary provided that the goods had previously undergone the afore-mentioned verification procedure and provided that that is proven by traceability-based evidence, including a corresponding certificate certifying that the diamonds are not mined, processed or produced in Russia.

### Guidance

The EU issued a [Notice to operators](#) of 3 August 2022 addressing in particular due diligence requirements in case of imports of crude oil and/or petroleum products.

In its [FAQ](#), the European Commission, *inter alia*, states the following in relation to the prohibition to purchase, import or transfer crude oil and petroleum products:

- Russian oil transported together with oil of other origin in mixed fashion is also subject to the prohibition.
- The prohibition shall only apply to the purchase, import or transfer of Russian oil or petroleum products into EU Member States, and not to third countries. (However, as mentioned below, there is a separate prohibition on trading, brokering or transporting, including through ship-to-ship

transfers, oil and petroleum products to third countries as well as on providing related technical assistance, brokering services or financing or any financial assistance.)

By contrast, the European Commission states in its [FAQ](#), *inter alia*, that the prohibitions to purchase or transfer iron and steel products and items which "*generate significant revenues for Russia*" as listed in Annexes XVII and XXI to Council Regulation (EU) No. 833/2014 apply irrespective of the final destination of the goods and that "*it is not relevant whether the goods are destined for the EU or not.*" In addition, the prohibition on purchasing, importing or transferring Russian origin diamonds and products incorporating diamonds explicitly applies to both purchases, imports and transfers into the EU and to any third country.

However, referring to the EU's aim to avoid an impact on the food and energy security of third countries around the globe, the European Commission states that the transfer to third countries, as well as related financing or financial assistance (but apparently not the purchase), of the following goods by EU operators should be allowed:

- energy goods falling under CN codes 4401 (fuel wood) and 4402 (charcoal) and coal and related products as listed in Annex XXI to Council Regulation (EU) No. 833/2014 provided that such transfer occurs "from point to point (e.g., from Russia to a third country) without transiting via the EU territory"; and
- fertilisers falling under CN Codes 310420, 310520, 310560, ex31059020 and ex31059080 and animal feed falling under CN Code 2303 as listed in Annex XXI to Council Regulation (EU) No. 833/2014, even if such transfer occurs via EU territory (including in transit).

## OIL PRICE CAP

Council Regulation (EU) No. 833/2014 includes a prohibition on:

- trading, brokering or transporting, including through ship-to-ship transfers, to third countries, crude oil or petroleum products as listed in Annex XXV to Council Regulation (EU) No. 833/2014 originating in or exported from Russia; and
- providing technical assistance, brokering services or financing or financial assistance, related to such trading, brokering or transporting to third countries.

In its [FAQ](#), the European Commission clarifies that this prohibition only applies to maritime transport and does not extend to pipeline transport.

There is an exemption from this prohibition relating to maritime transport known as the "Oil Price Cap", which means it does not apply where the price per barrel of the oil or petroleum products is at or below a specified price agreed by the Price Cap Coalition. For crude oil the price cap was set by Council Decision of 3 December 2022 and is currently set at USD 60 per barrel as laid down in Annex XXVIII to Council Regulation (EU) No. 833/2014. By Council Decision of 4 February 2023, the EU established two additional price caps for petroleum products as also laid down in Annex XXVIII to Council Regulation (EU) No. 833/2014:

- one for petroleum products traded at a discount to crude oil ("**discount to crude oil**"), which is currently set at USD 45 per barrel; and

- one for petroleum products traded at a premium to crude oil ("**premium to crude oil**"), which is currently set at USD 100 per barrel.

As the price caps may be periodically reviewed to adapt to the market situation, the Council Decisions of 3 December 2022 and 4 February 2023 set a transition period of 90 days after every change in the price cap, to ensure coherent implementation of the price cap by all operators.

In addition to the aforementioned prohibitions, there is a prohibition on providing technical assistance, brokering services or financing or financial assistance related to the transport of the listed crude oil and petroleum products to third countries by vessels which, after the implementation of a price cap, transported listed crude oil or petroleum products whose purchase price per barrel exceeded the price cap on the date of conclusion of the contract for such purchase. This prohibition applies for 90 days following the date of unloading of the cargo purchased above the price cap.

With respect to Russian crude oil or petroleum products listed in Annex XXV to Council Regulation (EU) No. 833/2014 loaded as of 20 February 2024, Council Regulation (EU) No. 833/2014 provides for an obligation for service providers with no access to the purchase price per barrel laid down in Annex XXVIII to Council Regulation (EU) No. 833/2014 of such products to collect itemised price information for ancillary costs as provided by operators further up the supply chain. In addition, there is a requirement to provide such itemised price information to counterparties and competent authorities, upon their request, for the purpose of verifying compliance with the oil price cap restrictions.

### **Exemptions**

In addition to the price cap exemption, certain limited further exemptions from the prohibition apply, such as, *inter alia*, to:

- the transport, or to technical assistance, brokering services, financing or financial assistance related to such transport to certain third countries (currently to Japan) in connection with certain energy projects for a certain duration as specified in Annex XXIX to Council Regulation (EU) No. 833/2014; and
- the payment of insurance claims after 5 December 2022, for crude oil falling under CN code 2709 00, or after 5 February 2023, for petroleum products falling under CN code 2710, on the basis of insurance contracts concluded before 4 June 2022 and provided that the insurance coverage has ceased by the relevant date.

### **Reporting obligation**

There is an obligation for operators to inform within two (2) weeks the competent authority of the EU Member State where they are resident, located, established or incorporated, of all transactions for the purchase, import or transfer into third countries of natural gas condensates originating in or exported from Russia and falling under CN code 2709 00 10 from liquefied natural gas production plants.

### **Guidance**

The EU Commission has set out comprehensive [guidance](#) in its FAQ, including, *inter alia*, on required attestation and recordkeeping.

In addition, on 12 October 2023, the Price Cap Coalition issued an [Advisory for the Maritime Oil Industry and Related Sectors](#) to provide recommendations concerning specific best practices in the maritime oil industry, which the Price Cap Coalition encourages industry stakeholders to adopt to reduce risks associated with recent developments in the maritime oil trade, in particular risks associated with "shadow" trade.

Furthermore, on 1 February 2024, the Price Cap Coalition issued a [compliance and enforcement alert](#) to further tackle oil price cap evasion attempts. This alert includes an overview of (i) key oil price cap evasion methods and recommendations for identifying such methods and mitigating their risks and negative impacts and (ii) information on how to report suspected breaches across the Price Cap Coalition.

Moreover, on 17 May 2024, the European Commission issued a [Russian Oil Price Cap Compliance Alert](#) concerning fluctuating Urals and Eastern Siberia Pacific Ocean crudes rates.

## LNG RELOADING SERVICES AND PURCHASE OF LNG

Council Regulation (EU) No. 833/2014 contains a prohibition on providing reloading services in the territory of the EU for the purposes of transshipment operations (including ship-to-ship transfer and ship-to-shore transfer and reloading) of liquified natural gas falling under CN code 2711 11 00 originating in Russia or exported from Russia. There is also a prohibition on providing related technical assistance, brokering services, financing or financial assistance.

### Exemptions and licences

There are certain exemptions from the reloading prohibition. Such exemptions apply for instance to the execution until 26 March 2025 of contracts concluded before 25 June 2024, or to reloading services necessary for the bunkering of liquified natural gas fuelled vessels. In addition, the EU Member State authorities may authorise reloading services if such reloading is necessary for the transport of liquified natural gas to an EU Member State and such EU Member State has confirmed that the transshipment is used to ensure the energy supply in that EU Member State.

### Reporting obligation

Entities performing unloading operations of liquified natural gas falling under CN code 2711 11 00 originating in Russia or exported from Russia, are required to inform by 26 July 2024 and every month thereafter the competent authority of the EU Member State where they are located of all unloading operations and imports into the EU of such liquified natural gas, including of related volumes.

## SUPPORT OF LNG PROJECTS

Council Regulation (EU) No. 833/2014 contains a prohibition on selling, supplying, transferring, or exporting goods and technology and on providing services to any natural person or entity in Russia when such goods, technology and services are for the completion of liquefied natural gas projects, such as terminals and plants. There is also a prohibition on providing related technical assistance, brokering services, financing or financial assistance.

### **Exemption**

An exemption applies to the execution until 26 September 2024 of contracts concluded before 25 June 2024, or ancillary contracts necessary for the execution of such contracts.

### **GAS STORAGE CAPACITY**

Council Regulation (EU) No. 833/2014 contains a prohibition on providing storage capacity (as defined in Article 2(1), point 28 of [Regulation \(EC\) No. 715/2009](#)) in a gas storage facility (as defined in Article 2, point 9 of [Directive 2009/73/EC](#)), except for the part of liquefied natural gas facilities used for storage, to:

- a Russian national, a natural person residing in Russia, or an entity established in Russia;
- an entity whose proprietary rights are directly or indirectly owned for more than 50% by an entity referred to in the above point; or
- a natural person or entity acting on behalf or at the direction of an entity referred to in the above points.

### **Licences**

The EU Member State authorities may authorise the provision of storage capacity if this is necessary for ensuring critical energy supply within the EU.

### **RESTRICTIONS ON THE SALE OF TANKERS**

Council Regulation (EU) No. 833/2014 contains a prohibition for any national of, or natural person residing in, an EU Member State, and any legal person, entity or body which is established in the EU to sell, or otherwise transfer ownership, directly or indirectly, of tankers for the transport of crude oil or petroleum products listed in Annex XXV to Council Regulation (EU) No. 833/2014 (tankers falling under HS code ex 8901 20) to any natural or legal person, entity or body in Russia or for use in Russia.

### **Licences**

There are certain licensing powers for EU Member State authorities in relation to the above prohibition.

### **Reporting obligation**

There is an obligation to immediately notify any sale or other arrangement entailing a transfer of ownership by a national of, or natural person residing in, an EU Member State or a legal person, entity or body established in the EU to any third country of tankers for the transport of crude oil or petroleum products listed in Annex XXV to Council Regulation (EU) No. 833/2014 (tankers falling under HS code ex 8901 20) to the competent authorities of the EU Member State where the owner of the tanker is a citizen, a resident or is established (with the exception of a prohibited sale or other transfer of ownership of tankers to or for use in Russia). The notification shall contain at least, the following information: (1) the identities of the seller and the purchaser, and where applicable the incorporation documents of the seller and the purchaser including the shareholding and management, (2) the IMO ship identification number of the tanker and (3) the Call Sign of the tanker.

In addition, there is a (retroactive) requirement to notify any sale or other transfer of ownership of tankers for the transport of crude oil or petroleum

products listed in Annex XXV to Council Regulation (EU) No. 833/2014 (tankers falling under HS code ex 8901 20) by a national of, or natural person residing in, an EU Member State, and any legal person, entity or body which is established in the EU to or for use in Russia or any third country which occurred after 5 December 2022 and prior to 19 December 2023 to the competent authorities in the EU Member States before 20 February 2024.

The European Commission published a [template](#) for the notification of tanker sales.

### Guidance

In its [FAQ](#), the European Commission, *inter alia*, states that the aforementioned provision also applies to EU individuals who own, for instance through a third country company, a tanker registered under a third country flag.

Furthermore, the European Commission states that EU individuals or entities selling or transferring ownership, as well as operators participating in the sale or transfer of ownership such as a shipbroker or escrow agent, should carry out the necessary due diligence to ensure compliance with EU sanctions (which should include seeking information on whether the tanker will be used in Russia from their counterpart with an explicit documented inquiry), pointing out that knowingly and intentionally failing to conduct such due diligence may be considered as participation in a circumvention scheme.

## PUBLIC SECTOR-RELATED RESTRICTIONS

Council Regulation (EU) No. 833/2014 includes the following public sector-related restrictions:

- a prohibition on providing public financing or financial assistance for trade with, or investment in, Russia;
- a prohibition on providing direct or indirect support, including financing and financial assistance or any other benefit under an EU, Euratom or EU Member State national programme and contracts within the meaning of [Regulation \(EU, Euratom\) 2018/1046](#), to (i) any legal person, entity or body established in Russia and (ii) any legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50% by an entity established in Russia; and
- a prohibition on awarding or continuing the execution of any public or concession contract falling within the scope of, *inter alia*, the EU public procurement Directives as well as a large part of the public procurement or concession contracts excluded from their scope to or with (1) a Russian national or resident or an entity established in Russia (2) an entity whose proprietary rights are directly or indirectly owned for more than 50% by an entity established in Russia, or (3) a natural person or entity acting on behalf or at the direction of the aforementioned entities (including, where they account for more than 10% of the contract value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the EU public procurement Directives).

### Exemptions and licences

There are certain limited exemptions from, and licensing powers for EU Member State authorities in relation to, the abovementioned prohibitions.

## **FURTHER RESTRICTIONS**

### **Professional and business services and supply of certain software**

Council Regulation (EU) No. 833/2014 includes a prohibition on providing, directly or indirectly, the following services to (1) the Russian government or (2) legal persons, entities or bodies established in Russia:

- accounting services;
- auditing services;
- bookkeeping services;
- tax consulting services;
- business and management consulting services;
- public relations services;
- architectural and engineering services;
- legal advisory services;
- IT consultancy services;
- market research and public opinion polling services;
- technical testing and analysis services; and
- advertising services.

For these purposes, by referring to the definitions in Annex II to [Regulation \(EC\) No 184/2005 of the European Parliament and of the Council](#) and the United Nations' Central Products Classification "CPC" of 1991 (Statistical Office of the United Nations, Statistical Papers, Series M, No 77, CPC prov., 1991):

- *"accounting, auditing, bookkeeping and tax consultancy services" shall cover "the recording of commercial transactions for businesses and others; examination services of accounting records and financial statements; business tax planning and consulting; and the preparation of tax documents;"*
- *"business and management consulting and public relations services" shall cover "advisory, guidance and operational assistance services provided to businesses for business policy and strategy and the overall planning, structuring and control of an organisation. Management fees, management auditing; market management, human resources, production management and project management consulting; and advisory, guidance and operational services related to improving the image of the clients and their relations with the general public and other institutions" shall all be included;*
- *"architectural and engineering services" shall cover "integrated engineering services, urban planning and landscape architectural services and engineering-related scientific and technical consulting services;"*
- *"legal advisory services" shall cover "the provision of legal advice to customers in non-contentious matters, including commercial transactions, involving the application or interpretation of law; participation with or on behalf of clients in commercial transactions, negotiations and other*



*dealings with third parties; and preparation, execution and verification of legal documents;"*

- *"IT consultancy services" shall cover "consultancy services related to the installation of computer hardware, including assistance services to the clients in the installation of computer hardware (i.e. physical equipment) and computer networks, and software implementation services, including all services involving consultancy services on, development of and implementation of software." The United Nations CPC of 1991 defines "software implementation services" as including, in particular (1) systems and software consulting services, (2) systems analysis services, (3) systems design services, (4) programming services, and (5) systems maintenance services (the United Nations CPC of 1991 further specifies those categories);*
- *"market research services" shall cover, according to the United Nations CPC of 1991, "investigation services designed to secure information on the prospects and performance of an organization's products in the market" (including "market analysis (size and other characteristics of a market) and analysis of consumer attitudes and preferences, which may utilize personal interviews, telephone and mail surveys, historical data, etc., including economic and social intelligence services not in connection with merchandised products, such as industry analysis, econometric modelling, demographic analysis, etc.);"*
- *"public opinion polling services" shall cover, according to the United Nations CPC of 1991, "investigation services designed to secure information on public opinions regarding social, economic, political and other issues (...) typically done by telephone interviews but [which] may also utilize personal interviews and mail surveys";*
- *"technical testing and analysis services" shall cover "composition and purity testing and analysis services, testing and analysis services of physical properties, testing and analysis services of integrated mechanical and electrical systems, technical inspection services, as well as other technical testing and analysis services"; and*
- *"advertising services" shall cover "the sale or leasing services of advertising space or time and the planning, creating and placement services of advertising, as well as other advertising services."*

Furthermore, Council Regulation (EU) No. 833/2014 contains a prohibition on selling, supplying, transferring, exporting, or providing, directly or indirectly, certain software for the management of enterprises and software for industrial design and manufacture as listed in Annex XXXIX to Council Regulation (EU) No. 833/2014 to (1) the Russian government or (2) legal persons, entities or bodies established in Russia.

There are also express prohibitions on the provision of technical assistance, brokering services and other services, as well as of financing or financial assistance to the Russian government or legal persons, entities or bodies established in Russia related to the afore-mentioned restricted services and goods.

## Exemptions and licences

There are certain exemptions from the afore-mentioned prohibitions, *inter alia*:

- Until 30 September 2024, the afore-mentioned prohibitions shall not apply to the sale, supply, transfer, export or provision of services intended for the exclusive use of entities established in Russia that are owned by, or solely or jointly controlled by, an entity incorporated or constituted under the law (1) of an EU Member State, (2) of a country member of the European Economic Area, or (3) of Switzerland, the US, Japan, the UK, South Korea, Australia, Canada, New Zealand, Norway, Liechtenstein and Iceland (so-called "**partner countries**") (after 30 September 2024, there will only be a licensing power for EU Member State authorities in such situations).
- The services prohibitions shall not apply to the provision of restricted services by nationals of an EU Member State who are residents of Russia and were so before 24 February 2022, to entities established in Russia that are owned by, or solely or jointly controlled by, an entity that is incorporated or constituted under the law (1) of an EU Member State, (2) of a country member of the European Economic Area, or (3) a partner country, and that are their employers, if such services are intended for the exclusive use of those Russian entities.

In addition, there are certain limited licensing powers for the EU Member State authorities. *Inter alia*, the EU Member State authorities may authorise the

- provision of services if this is strictly necessary for the setting-up, certification or evaluation of a firewall which (1) removes the control by a designated person or entity over the assets of a non-designated EU entity, and (2) ensures that no further funds or economic resources accrue to the benefit of the designated person or entity;
- continuation of the provision of services until 31 December 2024 if this is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia, provided that the following conditions are fulfilled: (1) such services are provided to and for the exclusive benefit of the entities resulting from the divestment; and (2) there are no reasonable grounds to believe that the services might be provided, directly or indirectly, to the Russian government or a military end-user or have a military end-use in Russia.

## Guidance

In its [FAQ](#), the European Commission, *inter alia*, states the following:

- EU subsidiaries of Russian entities are prohibited from providing the relevant services to their Russian parent entities and employees of Russian entities who are EU nationals or persons located in the EU are also prohibited from providing the relevant services to their Russian employers in their capacity as employees.
- Generally, it is not prohibited to provide relevant services to entities not established in Russia, even if they are subsidiaries of entities established in Russia, but this shall be prohibited "*if those services would actually be for the benefit of the parent company established in Russia*".

## Registration of IP rights

Council Regulation (EU) No. 833/2014 contains a prohibition for intellectual property offices and other competent institutions constituted under the law of

an EU Member State or the EU to accept (i) new applications for registration of trademarks, patents, industrial designs, utility models, protected designations of origin, and geographical indications filed by Russian nationals or natural persons residing in Russia, or by entities established in Russia (including if jointly filed with non-Russian persons or entities) and (ii) any requests or submissions filed by Russian nationals or natural persons residing in Russia, or by entities established in Russia during registration procedures related to any of such intellectual property rights.

### **Exemption**

An exemption applies to nationals or residents of an EU Member State, of a country member of the European Economic Area or of Switzerland.

### **Financing from the Russian state and its proxies by political parties, NGOs and media service providers**

Council Regulation (EU) No. 833/2014 contains a prohibition on accepting donations, economic benefits or support, including financing and financial assistance from (i) the Government of Russia, (ii) an entity established in Russia that is publicly controlled or with over 50% public ownership, (iii) an entity established outside the EU whose proprietary rights are directly or indirectly owned for more than 50% by any of the aforementioned entities, or (iv) a natural person or entity acting on behalf or at the direction of any of the aforementioned entities, with this prohibition applying to:

- European political parties and European political foundations, as defined in [Regulation \(EU\) No. 1141/2014](#) of the European Parliament and of the Council;
- political parties and political alliances, as defined in [Regulation \(EU\) No. 1141/2014](#);
- non-governmental organisations established or registered in accordance with the law of an EU Member State; and
- media service providers, as defined in [Regulation \(EU\) No. 2024/1083](#) of the European Parliament and of the Council established in an EU Member State.

### **Licences**

There is the possibility for EU Member State authorities to issue licences under certain conditions.

### **Credit Rating Services**

Council Regulation (EU) No. 833/2014 includes prohibitions on the provision of:

- credit rating services to or on any Russian national or natural person residing in Russia or any entity established in Russia; and
- access to any subscription services in relation to credit rating activities, to any Russian national or natural person residing in Russia or any entity established in Russia.

For these purposes:

- "*credit rating services*" means "*an opinion regarding the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or*

*other financial instrument, or of an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories"; and*

- "*credit rating activities*" means "*data and information analysis and the evaluation, approval, issuing and review of credit ratings.*"

### **Exemption**

An exemption applies with respect to nationals of an EU Member State or natural persons having a temporary or permanent residence permit in an EU Member State. There is no licensing option for EU Member State authorities.

### **Closure of EU airspace**

Council Regulation (EU) No. 833/2014 contains the prohibition to land in, take off from or overfly the territory of the EU for any

- aircraft operated by Russian air carriers (including as a marketing carrier in code-sharing or blocked-space arrangements),
- Russian registered aircraft,
- non-Russian-registered aircraft which is owned, chartered, or otherwise controlled by any Russian natural or entity, and
- other aircraft used for a non-scheduled flight and with regard to which a Russian natural or entity is in a position to effectively determine the place or time of its take-off or landing.

For these purposes, "*Russian air carrier*" is defined as an air transport undertaking holding a valid operating licence or equivalent issued by the competent authorities of the Russian Federation.

### **Exemption and licences**

Certain limited exemptions apply, *inter alia*, for certain small aircraft used for private, non-corporate, flights cases or training for private pilot licences, or in the case of emergency landings or emergency overflights. Furthermore, under very limited circumstances, the EU Member State authorities may grant licences.

### **Reporting obligation**

There is an obligation for aircraft operators of non-scheduled flights between Russia and the EU (operated directly or *via* a third country) to notify, prior to their operation and at least 48 hours in advance, all relevant information concerning the flight to the competent authorities of the EU Member State of departure or destination. In addition, upon request of the competent EU Member State authorities of departure, destination or overflight, for non-scheduled flights, aircraft operators are required to provide certain further information, such as information on the ultimate beneficial owner of the aircraft, or, under certain circumstances, documentation showing personal information of the passengers and crew members.

## Closure of ports and locks in the EU

Council Regulation (EU) No. 833/2014 contains prohibitions on providing access to EU ports and locks in the territory of the EU,

- with the exception of access to locks for the purpose of leaving the territory of the EU, to (1) any vessel registered under the flag of Russia, (2) vessels that have changed their Russian flag or their registration to the flag or register of any other state after 24 February 2022, and (3) any vessel certified by the Russian Maritime Register of Shipping (a prohibition also exists for such vessels to access ports and locks);
- by any vessel performing ship-to-ship transfers, at any point of the voyage to an EU Member State's ports or locks, if the competent authority has reasonable cause to suspect that the vessel is in breach of the oil import and oil price cap-related prohibitions under Council Regulation (EU) No. 833/2014; in that context, competent authorities in the EU shall not grant access to EU ports and locks in the territory of the EU if a vessel does not notify the competent authorities at least 48 hours in advance about a ship-to-ship transfer occurring within the Exclusive Economic Zone of an EU Member State or within 12 nautical miles from the baseline of that EU Member State's coast;
- by any vessel which the competent authority has reasonable cause to suspect of illegally interfering with, switching off or otherwise disabling its shipborne automatic identification system at any point of the voyage to an EU Member State's ports or locks, in breach of SOLAS Regulation V/19, point 2.4, when transporting crude oil or petroleum products subject to the oil import and oil price cap-related prohibitions under Council Regulation (EU) No. 833/2014.

According to the recitals of [Council Regulation \(EU\) No. 2023/1214](#) of 23 June 2023, prohibitions relating to port access apply to any vessel, whether it is moored at a port or at anchorage within the jurisdiction of a port of an EU Member State and, in the case of the Gulf of Finland, the prohibitions relate to any vessel, whether it is moored at a port or at anchorage that is located in the territorial waters or internal waters of an EU Member State.

### Exemption and licences

An exemption only applies with respect to vessels in need of assistance seeking a place of refuge or in cases of emergency port calls for reasons of maritime safety, or for saving life at sea. In addition, there are certain limited licensing powers for EU Member State authorities, *inter alia*, under certain circumstances where access to ports or locks is necessary for transport of nuclear fuel and other goods strictly necessary for the functioning of civil nuclear capabilities, or for the purchase, import or transport into the EU of certain specified goods (including, *inter alia*, natural gas, oil, refined petroleum products and certain metals, pharmaceutical, medical, agricultural and food products, including wheat and fertilisers).

### Prohibitions concerning listed vessels

Council Regulation (EU) No. 833/2014 stipulates a ban on certain vessels listed in Annex XLII to Council Regulation (EU) No. 833/2014. Those listed vessels *inter alia* include vessels that (1) are owned, chartered or operated by designated persons or entities, (2) transport goods and technology used in the defence and security sector, from or to Russia, or (3) are operated in such a

way as to facilitate or engage in the violation or circumvention of EU sanctions against Russia. Specifically, in relation to such vessels it is prohibited to

- provide access to ports, anchorage zones and locks in the EU, and for such vessels to access them;
- import into the EU, purchase or transfer such vessels;
- sell, supply, including charter, or export such vessels;
- operate or crew such vessels;
- provide flag registration for the benefit of such vessels;
- provide financing and financial assistance, including insurance, as well as brokering services, including ship brokering;
- provide technical assistance and other services including bunkering, ship supply services, crew changes services, cargo loading and discharge services, fendering and tug services to the benefit of such vessels; and
- engage in ship-to-ship transfers or any other transfer of cargo with, or procure any services from, such vessels.

#### **Exemption and licences**

Exemptions only apply to vessels in need of assistance seeking a place of refuge, of an emergency port call for reasons of maritime safety, for saving life at sea, for humanitarian purposes, for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, as a response to natural disasters, or for the recognition or enforcement of a judgment or an arbitration award rendered in an EU Member State. In addition, the EU Member State authorities may grant licences under very limited circumstances.

#### **Posts in governing bodies of Russian state-owned entities**

Council Regulation (EU) No. 833/2014 contains a prohibition on holding any posts in the governing bodies of:

- any entity listed in Annex XIX to Council Regulation (EU) No. 833/2014;
- any entity established outside the EU directly or indirectly more than 50% owned by one of the entities listed in Annex XIX to Council Regulation (EU) No. 833/2014;
- any entity acting on behalf or at the direction of any of the afore-mentioned entities;
- any other entity established in Russia, which is publicly controlled or with over 50% public ownership, or in which Russia, its Government or the Russian Central Bank has the right to participate in profits or with which Russia, its Government or the Russian Central Bank has other substantial economic relationship;
- any entity established in Russia directly or indirectly more than 50% owned by one of the afore-mentioned entities; or
- any entity established in Russia acting on behalf or at the direction of any of the afore-mentioned entities.

## Licences

There are certain limited licensing powers for EU Member State authorities, e.g., under certain circumstances, if the relevant entity is a Russian entity which was established before 17 December 2022 and which is owned by, or solely or jointly controlled by, an EU entity.

## Posts in governing bodies of critical infrastructures

Council Regulation (EU) No. 833/2014 contains a prohibition on allowing Russian nationals or natural persons residing in Russia to hold any posts in the governing bodies of

- the owners or operators of critical infrastructures,
- European critical infrastructures, and
- critical entities.

For these purposes:

- "*critical entities*" means entities as defined in Article 2(1) of [Directive \(EU\) 2022/2557](#);
- "*critical infrastructure*" means infrastructure as defined in Article 2(a) of [Directive 2008/114/EC](#) and Article 2(4) of [Directive \(EU\) 2022/2557](#);
- "*European critical infrastructure*" means infrastructure as defined in Article 2(b) of [Directive 2008/114/EC](#);
- "*owners or operators of critical infrastructures*" means those entities responsible for investments in, and/or day-to-day operation of, a particular asset, system or part thereof designated as critical infrastructure or European critical infrastructure.

## Exemption

An exemption applies to nationals of an EU Member State, a country member of the European Economic Area or Switzerland.

## Road Transport

Council Regulation (EU) No. 833/2014 contains a prohibition to transport goods by road within the territory of the EU, including in transit for (i) any road transport undertaking established in Russia, (ii) any road transport undertaking when the goods are transported by means of trailers or semi-trailers registered in Russia, including if those trailers or semi-trailers are hauled by trucks registered in other countries and (iii) any road transport undertaking established in the EU after 8 April 2022, which is owned for 25% or more by a Russian natural person or entity. In addition, it is prohibited for any entity established in the EU which is owned for 25% or more by a Russian natural person or entity to be admitted becoming a road transport undertaking which transports goods by road within the territory of the EU.

For these purposes, "*road transport undertaking*" means any natural or legal person, entity or body engaged with a commercial purpose in the transport of freight by means of motor vehicles or combinations of vehicles.

## Exemptions and Licences

Certain exemptions apply to road transport undertakings transporting (1) mail as a universal service or (2) goods in transit through the EU between the



Kaliningrad Oblast and Russia (provided that the transport of such goods is not otherwise prohibited under the EU sanctions against Russia). Furthermore, certain exemptions apply to road transport undertakings established in the EU which are owned for 25% or more by Russian nationals who are also nationals or residents of an EU Member State.

In addition, there are certain limited licensing powers for EU Member State authorities, *inter alia*, under certain circumstances where this is necessary for the purchase, import or transport into the EU of certain specified goods (including, *inter alia*, natural gas, oil, refined petroleum products and certain metals, pharmaceutical, medical, agricultural and food products, including wheat and fertilisers).

### **Reporting obligation**

Upon request of the national competent authority of the EU Member State where they are established, road transport undertakings established in the EU are required to supply information on their ownership structure.

### **Russian Media**

Council Regulation (EU) No. 833/2014 contains a prohibition on

- broadcasting or enabling, facilitating or otherwise contributing to broadcast, any content by certain entities / Russian or Russian-related media (see Annex XV to Council Regulation (EU) No. 833/2014 for a full list),
- advertising products or services in any content produced or broadcast by the listed entities / media,

including through transmission or distribution by any means such as cable, satellite, IP-TV, internet service providers, internet video-sharing platforms or applications.

In addition, the suspension of any broadcasting licence or authorisation, transmission and distribution arrangement with those entities is required.

### **Reporting requirement concerning transfer of funds out of the EU**

Council Regulation (EU) No. 833/2014 provides for a requirement as of 1 May 2024 for legal persons, entities and bodies established in the EU whose proprietary rights are directly or indirectly owned for more than 40% by (1) a legal person, entity or body established in Russia, (2) a Russian national or (3) a natural person residing in Russia to report to the competent authority of the EU Member State where they are established, within two weeks of the end of each quarter, any transfer of funds exceeding EUR 100,000 out of the EU that they made during that quarter, directly or indirectly, in one or several operations.

Furthermore, there is a requirement for credit and financial institutions as of 1 July 2024 to report to the competent authority of the EU Member State where they are located, within two weeks of the end of each semester, information on all transfers of funds out of the EU of a cumulative amount, over that semester, exceeding EUR 100,000 that they initiated, directly or indirectly, for legal persons, entities and bodies established in the EU whose proprietary rights are directly or indirectly owned for more than 40% by (1) a legal person, entity or body established in Russia, (2) a Russian national or (3)

a natural person residing in Russia (notwithstanding the applicable rules concerning reporting, confidentiality and professional secrecy).

## Guidance

In its [FAQ](#), the European Commission, *inter alia*, states the following:

- The reporting requirement covers all types of transfers leaving the EU, made by the relevant Russian-owned companies, including for the purpose of profit repatriation.
- The reporting requirement also covers transfers of funds held in a branch of an EU credit or financial institution or an EU operator located outside the EU.
- The reporting requirement also covers indirect transfers where, for instance, funds go from an entity established in the EU through one or several intermediaries within the EU, and then to a recipient outside the EU.
- Operators should take aggregate ownership by (a) a legal person, entity or body established in Russia, (b) a Russian national, and (c) a natural person residing in Russia into account when determining whether entities are owned to more than 40% by Russian persons.
- If credit and financial institutions' client data stored in accordance with general legal KYC requirements do not include all of the information required for the determination of relevant ownership, such information needs to be collected on the basis of the institutions' regular client review.

The European Commission has published a [reporting template](#) which can be used by entities and institutions concerned.

## Circumvention prohibition, designations due to facilitating circumvention and export restrictions concerning third countries

Council Regulations (EU) No. 833/2014, 269/2014, 692/2014, 2022/263 and 2024/1485 contain broad circumvention prohibitions which prohibit participating, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures set out in the relevant Regulation. Council Regulations (EU) No. 269/2014 and 833/2014 clarify that the requirements of knowledge and intent for these purposes are met not only where a person deliberately seeks the object or effect of circumventing restrictive measures but also where a person participating in an activity having the object or effect of circumventing restrictive measures is aware that such participation may have that object or that effect, and accepts that possibility.

In addition, the EU can also designate persons and entities that facilitate infringements of the prohibition against circumvention of the Russia-related EU sanctions regulations or otherwise significantly frustrate Russia-related EU sanctions regulations. According to the recitals of [Council Regulation \(EU\) No. 2023/1215](#), indications of cases of frustrating the Russia-related EU sanctions regulations "*could include, inter alia, the fact that the main activity of a third country operator consists of purchasing restricted goods in the Union that reach Russia, the involvement of Russian persons or entities at any stage, the recent creation of a company for purposes related to restricted*

*goods reaching Russia, or a drastic increase in the turnover of a third country operator involved in such activities".*

Furthermore, the EU introduced the possibility to impose a prohibition to sell, supply, transfer or export, directly or indirectly, certain sensitive dual-use items or items which might contribute to Russia's military and technological enhancement, or the development of the defence and security sector, to any natural person or entity in a particular third country that has been identified by the EU as having systematically and persistently failed to prevent the sale, supply, transfer or export of such items from the EU to Russia, by listing such relevant items and third countries in Annex XXXIII to Council Regulation (EU) No. 833/2014. So far, the EU has not made use of this possibility. According to the recitals of Council Regulation (EU) No. 2023/1214, imposing such prohibition shall be an exceptional, last-resort measure.

### **Guidance**

In its [FAQ](#), the European Commission, *inter alia*, addresses certain aspects with respect to the circumvention prohibition.

In addition, in response to a parliamentary question, on 18 October 2022 the High Representative of the Union for Foreign Affairs and Security Policy confirmed on behalf of the European Commission that if a certain scheme was created in order to assist a person to evade the effects of its possible future designation, then participation in that scheme after the designation is in force can amount to circumvention.

Furthermore, in a press statement of 28 September 2022, the European Commission stated that, *"for example,"* if individuals *"buy goods in the European Union, bring them to third countries and then to Russia, this would be a circumvention of our sanctions, and those individuals could be listed."*

In addition, the European Commission has published a [List of Common High Priority Items](#) and a [List of Economically Critical Goods](#) to support due diligence and effective compliance by exporters and targeted anti-circumvention actions by customs and enforcement agencies of partner countries determined to prevent that their territories are being abused for circumvention of EU sanctions purposes.

The European Commission has published [guidance](#) on due diligence expectations to prevent the circumvention of EU sanctions against Russia. The guidance, which mainly focuses on export-related sanctions, addresses, in particular,

- steps EU operators should take to conduct a strategic risk assessment, including regular updating and training of staff;
- "general good practices" for due diligence with respect to stakeholder level, transaction level, and the concerned goods;
- "best practices" to address certain typologies of sanctions circumventions, such as on the prevention of possible diversion to Russia and/or Belarus from third countries (referring, *inter alia*, to including contractual clauses with third-country business partners), and on enhanced vigilance in the banking and finance sector with regard to the use of correspondent accounts; and
- an indicative list of circumvention red flags.

In this guidance, the European Commission states that if a sanctioned item exported from the EU to a third country is re-exported to Russia, the national competent authorities may consider the EU exporter's failure to conduct adequate due diligence as a violation of EU sanctions. In addition, the European Commission states that any suspicious activity in the field of trade should be reported, in line with legal requirements, to relevant national authorities, including financial intelligence units, customs, border authorities or relevant supervisory authorities.

### **Best efforts obligation concerning foreign subsidiaries**

Council Regulation (EU) No. 833/2014 stipulates a requirement for natural persons and entities to *"undertake their best efforts to ensure that any legal person, entity or body established outside the Union that they own or control does not participate in activities that undermine the restrictive measures"* provided for in Council Regulation (EU) No. 833/2014.

The recitals of Council Regulation (EU) No. 2024/1745 state that *"if Union operators are able to and effectively assert a decisive influence over the conduct of a legal person, entity or body established outside the Union, they may incur responsibility for actions of that legal person, entity or body that undermine the restrictive measures and should use their influence to prevent those actions from occurring"*. In addition, according to the recitals of Council Regulation (EU) No. 2024/1745, activities that undermine the restrictive measures shall be *"those resulting in an effect that those restrictive measures seek to prevent, for example, that a recipient in Russia obtains goods, technology, financing or services of a type that is subject to prohibitions"* under Council Regulation (EU) No. 833/2014. The recitals state that *"best efforts"* should be *"understood as comprising all actions that are suitable and necessary to achieve the result of preventing the undermining of the restrictive measures"* and that they *"can include, for example, the implementation of appropriate policies, controls and procedures to mitigate and manage risk effectively"*, but *"comprising only actions that are feasible for the Union operator in view of its nature, its size and the relevant factual circumstances, in particular the degree of effective control over the legal person, entity or body established outside the Union"*.

### **General reporting obligation**

Council Regulation (EU) No. 833/2014 includes a general reporting obligation for EU operators, requiring them to (1) supply, within two weeks of acquiring this information, any information which would facilitate the implementation of Council Regulation (EU) No. 833/2014 to the competent authority of the EU Member State where they are resident or located, and (2) cooperate with the competent authority in any verification of such information.

### **Legal basis for compensation claims in EU Member States courts**

Council Regulations (EU) No. 269/2014 and 833/2014 stipulate a legal basis for EU operators to claim compensation in the EU for damages caused by Russian companies linked to sanctions implementation and expropriation. This shall enable EU companies to recover such damages from the Russian counterpart's possible assets in the EU.

Under the relevant provisions, provided that they do not have effective access to the remedies under the relevant jurisdiction, nationals of an EU Member

State and entities incorporated in the EU shall be entitled to recover, in judicial proceedings before the competent courts of the EU Member State, any damages, including legal costs,

- incurred by them as a consequence of claims lodged with courts in third countries by (i) entities listed in the Annexes to Council Regulation (EU) No. 833/2014 or entities established outside the EU whose proprietary rights are directly or indirectly owned for more than 50% by such listed entities, (ii) any other Russian person or entity or (iii) any person or entity acting through or on behalf of the afore-mentioned persons or entities, in connection with any contract or transaction the performance of which has been affected by Council Regulation (EU) No. 833/2014;
- incurred by them as a consequence of claims lodged with courts in third countries by (i) natural persons or entities designated under Council Regulation (EU) 269/2014 or (ii) any natural person or entity acting through or on behalf of such designated persons or entities, in connection with any contract or transaction the performance of which has been affected by Council Regulation (EU) No. 269/2014; or
- caused to them by (i) entities listed in the Annexes to Council Regulation (EU) No. 833/2014 or entities established outside the EU whose proprietary rights are directly or indirectly owned for more than 50% by such listed entities, (ii) any other Russian person or entity or (iii) any person or entity acting through or on behalf of the afore-mentioned persons or entities, that benefited from a decision pursuant to the Decree of the President of the Russian Federation No. 302 of 25 April 2023 as subsequently amended (under which temporary external management of assets can be imposed – see below), or Russian legislation related or equivalent to it, provided that such decision is illegal under international customary law or under a bilateral investment treaty entered between an EU Member State and Russia.

According to the recitals of Council Regulations (EU) No. 2024/1745 and 2024/1739 of 24 June 2024, the possibility to recover damages shall also include damages caused to the companies owned or controlled by EU nationals and entities incorporated in the EU.

## POLISH SANCTIONS

In addition to EU sanctions, on 13 April 2022, Poland adopted a supplementary sanctions regime by way of the Act on Special Solutions to Counteract the Aggression Against Ukraine and to Protect National Security of 13 April 2022 (the "**Polish Act**"), which came into force on 16 April 2022.

### Asset Freeze and Other Measures

The Polish Act enabled the creation of a national list of individuals and entities, separate from and in addition to, *inter alia*, the list contained in Council Regulation (EU) No. 269/2014, on which an asset freeze will be imposed. The Polish list, available [here](#), covers individuals and entities not included on the EU lists:

- who directly or indirectly support Russia's aggression against Ukraine, or serious violations of human rights, or repression of civil society and democratic opposition, or whose activities pose other serious threats to democracy or the rule of law in Russia (or Belarus); or
- who are associated directly with the above-mentioned individuals or entities, in particular by personal, organisational, economic or financial links or the likelihood of use of their funds, resources or economic resources for this purpose.

The Polish sanctions list specifies the restrictive measures applied to each entity listed (in various configurations – as standalone restrictions or in combination with others), which may include the following:

- measures corresponding to those provided for, *inter alia*, in Council Regulation (EU) No. 269/2014, *i.e.*
  - an asset freeze,
  - a prohibition on making funds and economic resources available to or for the benefit of (either directly or indirectly) those individuals or entities, and
  - a prohibition on participating, knowingly and intentionally, in activities the object or effect of which is to circumvent the above restrictions,
  - applicable within the meaning of and under the rules laid down, *inter alia*, in Council Regulation (EU) No. 269/2014 (the Minister of Internal Affairs and Administration also adjusted the scope of the asset freeze by, for example, limiting it to rights attached to shares and other securities and a freeze of dividends);
- exclusion from public procurement proceedings and competitions;
- entry on the list of foreigners whose presence in Poland is undesired;

Independently, the Polish Act excludes the individuals and entities on the lists contained, *inter alia*, in Council Regulation (EU) No. 269/2014, and any entities whose beneficial owners or parent entities are on the Polish or EU lists, from public procurement proceedings and competitions.

A violation of the above-mentioned restrictions is subject to a penalty of up to PLN 20,000,000, while a breach of the EU sanctions concerning the export of dual-use goods and technology is subject to imprisonment of not less than 3 years.

On 18 August 2022, the following amendments to the Polish Act came into force:

- the possibility of introducing temporary receivership over entities on the Polish list (with respect to which an asset freeze and a prohibition of making funds and economic resources available were imposed), if this is necessary to ensure the functioning of a sanctioned entity operating in Poland;

To this end, the Polish minister in charge of economic affairs may appoint an administrator whose tasks would include, in particular, ensuring the continuity of the operations of the sanctioned entity, exercising rights over shares belonging to the sanctioned entity, using the funds and economic resources of the sanctioned entity.

- the possibility of introducing temporary receivership over entities and individuals on the Polish list (with respect to which an asset freeze and a prohibition of making funds and economic resources available were imposed) with the aim of the State Treasury's taking over the funds and economic resources of the sanctioned entity if this is necessary for the protection of an important public interest, protection of the economic interest of the State or for ensuring State security. The takeover of ownership of the sanctioned entity must be based on a decision of the Polish minister in charge of economic affairs and against compensation corresponding to the market value of the assets to be taken over.
- the possibility for a sanctioned entity or its employees to apply for benefits from the Guaranteed Employee Benefits Fund (FGSP) to satisfy employee claims.

On 7 October 2022, the Polish Minister of Development and Technology issued a decision based on the Polish Act establishing receivership for a period of six months over Novatek Green Energy sp. z o.o. The temporary receivership covers tangible and intangible fixed assets, movables and immovables, and financial assets and benefits of any kind. On 14 November 2022, the Polish Minister of Development and Technology established temporary receivership over PAO Gazprom. The temporary receivership covers 100% of the shares held by PAO Gazprom in Transit Gas Pipeline System EuRoPol Gaz S.A. with its registered office in Warsaw.

## **Coal**

The Polish Act introduces a prohibition on importing coal originating from Russia (or Belarus) and transferring it through Poland (CN codes 2701 or 2704).

A violation of the prohibition is subject to a penalty of up to PLN 20,000,000 and imprisonment of not less than 3 years.

Entities affected by the above prohibition will be entitled to compensation for actual damage, to be specified in a separate act of law.



## **JAPANESE SANCTIONS**

### **General Overview**

Current Japanese sanctions in response to the situation in Ukraine are set out in the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949, as amended) (the "**FEFTA**") ("**Japanese Sanctions**").

The main regulatory agencies responsible for implementing Japanese Sanctions under the FEFTA are the Ministry of Finance ("**MOF**"), the Ministry of Economy, Trade and Industry ("**METI**") and the Ministry of Foreign Affairs ("**MOFA**").

In response to the situation in Ukraine, Japan has imposed various sanctions and export and import controls as summarised below.

### **Asset Freezes**

Japan has imposed asset freezes, which prohibit:

- i. payments (including, not only cash, but also moveable assets, real estate, and securities (including shares and bonds)) being made by Japanese residents or from Japan to; and
- ii. Capital Transactions (as defined in the FEFTA as "*shihon torihiki*", including deposit agreements, trust agreements and loan agreements) being carried out by Japanese residents with:
  - individuals and entities designated by Japan as an asset freeze target (a "Japanese Asset Freeze Target"); and
  - any entity in which a Japanese Asset Freeze Target holds 50% or more of the shares.

The lists of Japanese Asset Freeze Targets are as follows:

- Russian "groups" (which includes entities) and individuals subject to an asset freeze ([Link](#));
- Belarusian "groups" (which includes entities) and individuals subject to an asset freeze ([Link](#));
- "Groups" (which include entities) of countries other than Russia and Belarus subject to an asset freeze ([Link](#)); and
- Those who are considered to be directly involved in the "merger" of the Crimean region or the instability of eastern Ukraine and those who are related to eastern and southern Ukraine who are considered to be directly involved in the Russian "annexation" ([Link](#)).

### **Economic Sanctions in relation to Crypto**

Japan issued guidance:

- stating that it is prohibited to transfer crypto-assets to a Japanese Asset Freeze Target; and
- requesting Crypto-Asset Exchange Service Operators that are registered under the Payment Services Act of Japan:
  - to cease processing transfers of crypto-assets to those who are, or suspected of being, a Japanese Asset Freeze Target (until it is confirmed otherwise);

- to file with the Financial Services Agency of Japan, Ministry of Finance of Japan: (a) reports of identified crypto-asset trades to a Japanese Asset Freeze Target; and (b) notifications of suspected crypto-asset trades to, or related to, a Japanese Asset Freeze Target; and
- to enhance their monitoring systems.

### **Economic Sanctions (other than Asset Freeze or Crypto-related)**

Japan has imposed other economic sanctions (other than asset freeze and crypto-related) including:

- a prohibition on the issuance, offering and distribution of new sovereign bonds and other securities issued by the Government of the Russian Federation; the Government Agencies of the Russian Federation; and the Central Bank of the Russian Federation, as well as the provision of services related to these activities (unless expressly endorsed by the Japanese government);
- a prohibition on the issuance and offering of securities (except for securities redeemed within 30 days) issued by: Sberbank; VTB Bank; Vnesheconombank; Gazprombank; and Russian Agricultural Bank (unless expressly endorsed by the Japanese government);
- a prohibition on payments (including payments by crypto-assets), loans, guarantees or receipt of payments, relating to the export of goods to certain Russian and Belarusian entities subject to export controls (unless expressly endorsed by the Japanese government) (please see the relevant lists in section "Export Controls");
- a prohibition on new foreign outward direct investment into: (i) business conducted in Russia; or (ii) Russian entities or entities outside of Russia which are effectively controlled by Russian entities (unless expressly endorsed by the Japanese government);
- a prohibition on the provision of certain trust services, accounting and auditing services and business consulting services to Russia commenced on or after 5 September 2022 (unless specifically endorsed by the Japanese government);
- a prohibition on trading/commodities brokering, shipping, customs brokering, financing and insurance services relating to (unless expressly endorsed by the Japanese government): (i) crude oil transported by sea at a price greater than USD 60 per barrel, with the exception of crude oil originating from Sakhalin-2; or (ii) oil products transported by sea at a price greater than (a) USD 100 per barrel for certain volatile oil (other than naphtha), kerosene and diesel fuel (together, "**High-value Products**") and (b) USD 45 per barrel for products other than High-value Products; and
- a prohibition on the provision of certain construction services and engineering services to Russia commencing on or after 30 September 2023 (unless specifically endorsed by the Japanese government), except for: (i) services provided to (a) Russian entities in which a Japanese resident holds 10% or more of the shares or (b) Russian entities which have certain special relationships with a Japanese resident such as long-standing supplier-customer relationship; and (ii) services which fall within exploration, collection, liquefaction, storage, transport or transshipment of

crude oil and combustible natural gas, or works incidental to these, that are for Sakhalin-1, Sakhalin-2 or Arctic LNG2.

The relevant economic sanctions lists are as follows:

- Specified Russian banks, etc. subject to prohibition of issuance or offering of securities ([Link](#)); and
- The Russian government or other governmental organisations, etc. subject to prohibition of issuance or offering of securities ([Link](#)).

## **Export Controls**

Japan has imposed export controls, including:

- a prohibition on the export of certain goods and services, including on semiconductors, machine tools, carbon fibres, high-spec semiconductors to Russia or Belarus (unless specifically endorsed by the Japanese government);
- a prohibition on the export of goods contributing to the strengthening of Russian/Belarusian military capabilities, including on general-purpose semiconductors, PCs and communication devices, to Russia and Belarus (unless specifically endorsed by the Japanese government);
- a prohibition on the export to Russia of certain goods (unless specifically endorsed by the Japanese government) including:
  - facilities for petroleum processing;
  - catalysts for petroleum processing;
  - certain luxury goods, such as alcohol and precious metal (gold);
  - certain advanced technologies such as quantum computers, electron microscopes, 3D printers and related technologies;
  - certain goods that may contribute to the enhancement of Russian industrial capacities, including wood products, wood pulp, papers, designs, wool and certain animal hairs and their textiles, cotton and cotton textiles, artificial fibers and their textiles, used clothes, certain stones and lime, transportation equipment such as motor trucks, trains, yachts and ships, automobiles with an engine capacity of 1900cc or greater, hybrid vehicles and electric vehicles, glass products, steel products including steel storage tanks, various minerals (copper, nickel, aluminium, lead, zinc and tin) and their products, tungsten, molybdenum, cobalt, zirconium and their products, electricity generators, transformers, measurement equipment, hydraulic excavators, aircraft engines, aircraft radio transmitters, electrical circuits and certain designated products, electric products such as certain batteries and equipment that receives, converts, transmits, or regenerates data such as voice and images, optical products, furniture, chemical products such as sodium chlorate and pigments, materials for photographs and movies, certain plastic products, rubber products, boilers and machineries including their parts, mineral fuels, mineral oils and products of their distillation, bituminous substances and mineral waxes, inorganic chemicals, precious metals and the organic or inorganic compounds of precious metals;

- 89 products relating to chemical weapons, namely (i) chemical products and chemical raw materials including acetylene, ethylene, ethylene glycol, methanol, ethanol and diethyl ether, (ii) equipment for manufacturing chemical products and their parts and accessories and (iii) equipment for manufacturing biological products and their parts;
- a prohibition on the export of certain goods and services to certain designated organisations of, or related to, the Russian government and Belarusian government (unless specifically endorsed by the Japanese government);
- a prohibition on the export of certain goods and services designated by METI to the DNR and LNR (unless specifically endorsed by the Japanese government);
- excluding Russia from the destinations for open general export licence regarding certain chemical products;
- a prohibition on exports of certain chemical products to certain designated persons in areas of eastern Ukraine and Belarus even if the exporter has an open general export licence regarding such chemical products; and
- a prohibition on the export to Russia of certain goods contributing to the strengthening of Russian military capabilities, including water cannons, batons, restraint equipment, oil and natural gas exploration equipment, certain vaccines, certain medical products which includes raw materials of military-use bacterial agents, diagnostic and testing kits, explosives and detonator detection equipment, portable generators, laser welding machines, large boring machines, and military-use chemicals (unless specifically endorsed by the Japanese government);

The Japanese government issued guidance stating that these exports in general will not be endorsed.

On 20 October 2023, the Japanese government issued further guidance identifying "Common High Priority Items" critical to Russian weapons systems and urging specific actions to prevent diversion of these items to Russia through third countries. The guidance includes a list of 45 prioritized Harmonized System (HS) codes, divided into 4 tiers based on their priorities, and identifies examples of anomalous patterns or transactional and behavioural red flags associated with importers that may raise diversion concerns.

The lists of entities subject to export controls are as follows:

- Specified entities of Russia which are subject to prohibition of exports, etc. ([Link](#), [Link](#));
- Specified entities of Belarus which are subject to prohibition of exports, etc. ([Link](#)); and
- Specified entities of countries other than Russia and Belarus which are subject to prohibition of exports, etc. ([Link](#), [Link](#)).

## Import Controls

Japan imposed import controls, including:

- a prohibition on the import into Japan of all goods and services which originate from the DNR and LNR (unless specifically endorsed by the Japanese government), excluding goods shipped by 26 February 2022;
- a prohibition on the import into Japan of certain goods from Russia, including alcohol, timber and machinery (unless specifically endorsed by the Japanese government), excluding imports pursuant to contracts entered into by 18 April 2022;
- revoking Russia's "most-favoured-nation" status in respect of the import into Japan of various goods (including *inter alia* animals, foods processed by animals or plants, mineral products, chemical products, plastic products, rubber products, leather products, metals, spinning fibre and products thereof) until 31 March 2023, which was extended until 31 March 2024;
- a prohibition on the import into Japan from Russia of certain precious metal (gold) which originates from Russia (unless specifically endorsed by the Japanese government), with the exception of certain necessary personal belongings;
- a prohibition on the import into Japan from Russia of (unless specifically endorsed by the Japanese government): (i) crude oil which originates from Russia and is traded at a price greater than USD 60 per barrel, with the exception of crude oil originating from Sakhalin-2; or (ii) oil products which originate from Russia and are traded at a price greater than (a) USD 100 per barrel for High-value Products and (b) USD 45 per barrel for products other than High-value Products;
- as of 1 January 2024, a prohibition on the import into Japan from Russia of non-industrial diamonds (however, this prohibition shall apply from 1 April 2024 if the agreement relating to such non-industrial diamonds is entered into before 1 January 2024); and
- as of 10 May 2024, a prohibition on the import into Japan of non-industrial diamonds which originate from Russia (however, this prohibition shall apply from 10 August 2024 if the agreement relating to such non-industrial diamonds is entered into before 10 May 2024).
- The Japanese government has set out comprehensive guidance in its Price Cap Regulation FAQ (most recently revised on 2 February 2024), including, among others, attestation and recordkeeping requirements in respect of the import of crude oil or oil products as described above and certain services in relation to the transportation of such crude oil or oil products as described in section "Economic Sanctions (other than Asset Freeze or Crypto-related)". The Price Cap Regulation FAQ is available online [here](#).

## Upcoming Sanctions

Japan has also announced other sanctions that will be imposed, including:

- visa suspensions;
- the exclusion of certain Russian banks from the SWIFT messaging system;

- a restriction on the import into Japan from Russia of certain energy resources such as coal and oil; and
- a prohibition on the export of certain advanced technologies to Russia.

## SINGAPOREAN SANCTIONS

On 5 March 2022, the Ministry of Foreign Affairs' announced that sanctions on Russia (including export controls on items that can be used as weapons in relation to the Ukrainians) will be imposed in Singapore. Following this announcement, regulation and notices concerning export controls and financial measures were issued, and are operative as of March 2022.

### Export controls

Following the Ministry of Foreign Affairs' announcement, the Regulation of Imports and Exports (Amendment) Regulations 2022 were issued and are operative as of 16 March 2022.

The amendment adds a new Eighth Schedule to the Regulation of Imports and Exports Regulations, specifying categories of goods for which there must be no exportation from, transshipment in, or transit through, Singapore, if the destination is or intended to be Russia, whether or not the goods originated in Singapore.

These categories of prohibited exports to (including transhipped goods and goods in transit bound for) Russia in the new Eighth Schedule are:

- military goods, being goods specified in any Category Code in Division 2 of Part 1 of the Schedule to the Strategic Goods (Control) Order 2021\*; and
- dual-use goods specified in Category 3 (Electronics), Category 4 (Computers) or Category 5 (Telecommunications and "Information Security") in Division 2 of Part 2 of the Schedule to the Strategic Goods (Control) Order 2021\*.

\*The Singapore Strategic Goods Control System regulates the transfer (export, transit, and transshipment) of strategic goods, which are generally military weapons or their parts, as well as high technology goods which could be used for both commercial and military purposes. Items subject to strategic goods control are listed in the Strategic Goods (Control) Order (SGCO) 2021.

In order to constrain Russia's capacity to conduct its war in Ukraine and cyber aggression, all permit applications to Russia involving any goods falling within the class or description specified in the new Eighth Schedule of the Regulation of Imports and Exports Regulations (as above) will be rejected.

### Financial measures

Additionally, further to the Ministry of Foreign Affairs' announcement, the Monetary Authority of Singapore ("**MAS**") issued the following notices which are effective from 14 March 2022:

- Notice SNR-N01 Financial Measures in Relation to Russia; and
- Notice SNR-N02 Financial Measures in Relation to Russia – Non-prohibited Payments and Transactions.

The MAS Notices contain financial measures targeted at designated Russian banks and entities, certain activities in Russia and fundraising activities benefiting the Russian government. These measures apply to all financial institutions in Singapore, including banks, finance companies, insurers, capital markets intermediaries, securities exchanges, and payment service providers. Digital payment token service providers are therefore specifically prohibited



from facilitating transactions that could aid the circumvention of the financial measures.

Financial institutions are:

- prohibited from dealing with any Designated Bank or Designated Entity (including establishing business relations with, undertaking any transaction for or entering into any financial transaction with them).
- required immediately, where there are existing business relationships, to freeze all funds and assets owned or controlled by a Designated Bank or Designated Entity.
- prohibited from entering into financial transactions or providing financial assistance in relation to the export from, transshipment in or transit through, Singapore or any other jurisdiction to Russia of any goods falling within the class or description specified in the new Eighth Schedule of the Regulation of Imports and Exports Regulations (as above). Financial institutions are prohibited from providing financial services in relation to designated Russian non-bank entities which are involved in the aforementioned.
- prohibited from entering into financial transactions or providing financial assistance or services, *etc.*, in relation to securities or certificates of deposit and the making of new loans and credit for the Russian Government, the Central Bank of the Russian Federation, and any person, entity or legal arrangement that is owned or controlled by them or acting on their direction or behalf.

The prohibition applies to buying and selling new securities, providing financial services that facilitate new fundraising by, and making or participate in the making of any new loan to the above entities.

The Singapore Government and Monetary Authority of Singapore will also cease investing in newly-issued securities of the above entities.

The prohibition does not apply to loans or credit that have a specific and documented objective of making funds available for trade which does not involve the export from, transshipment in or transit through, Singapore or any other jurisdiction to Russia of the items above.

- prohibited from entering into financial transactions or providing financial assistance or services, *etc.*, in relation to the regions of Donetsk and Luhansk in the following sectors: (1) transport; (2) telecommunications; (3) energy; and (4) prospecting, exploration and production of oil, gas and mineral resources.
- prohibited from entering into or facilitating any digital payment token or cryptocurrency transaction where the proceeds or benefits from such transaction may be used to facilitate any of the transactions or activities prohibited above, or to circumvent any of the above prohibitions.

The prohibited cryptocurrency transactions cover all transactions that involve cryptocurrencies and extend to the payment and settlement of transactions that relate to digital assets (such as non-fungible tokens).

- required immediately to inform the MAS of any fact or information about any transaction, proposed transaction, act or thing prohibited by the above.

The Designated Banks are (1) VTB Bank Public Joint Stock Company, (2) The Corporation Bank for Development and Foreign Economic Affairs

Vnesheconombank; (3) Promsvyazbank Public Joint Stock Company; and (4) Bank Rossiya, and all entities owned or controlled by them.

Currently the list of Designated Entities has not been published by the MAS.

Financial institutions may continue to process the following payments for Designated Banks and/or Designated Entities:

- basic expenses and reasonable fees for certain services such as insurance premiums, employee allowances and contributions, tax and utility charges.
- exclusively for the payment of fees or service charges imposed for the routine holding or maintenance of frozen funds or assets or reasonable professional fees and associated expenses for the provision of audit, tax, legal or payroll services.
- in relation to Designated Banks, certain "specified transactions" such as:
  - transactions to facilitate a person's withdrawal of funds or assets pursuant to the termination of existing business relations between the person and the Designated Bank, for the benefit of the person (where such person is not a Designated Bank); and
  - any transaction in relation to any funds or assets which are necessary for the performance of the functions of the Embassy of the Russian Federation in Singapore.

## AUSTRALIAN SANCTIONS

In relation to Ukraine, Australia's sanctions regime broadly consists of restrictions on:

- providing assets to, and dealing with the assets of, *designated persons or entities*, and travel bans on *declared persons*;
- the *export or supply* of certain goods;
- the *import, purchase or transport* of certain goods;
- certain *commercial activities* in connection with specified entities; and
- the provision of certain *services* in connection with the above activities.

### Designated and declared persons and entities

The Minister for Foreign Affairs may *declare* or *designate* the following persons or entities for targeted financial sanctions:<sup>1</sup>

- a person or entity that the Minister is satisfied is, or has been, engaging in an activity or performing a function that is of economic or strategic significance to Russia, or an immediate family member of such a person;
- a current or former Minister or senior official of the Russian Government, or an immediate family member of such a person;
- a person or entity that the Minister is satisfied is responsible for, or complicit in, the threat to the sovereignty and territorial integrity of Ukraine.

The effect of *designation* is that, unless a permit from the Minister is obtained, it is prohibited to:

- directly or indirectly make an asset available to, or for the benefit of, a designated person or entity;<sup>2</sup> or
- use or deal with an asset, or allow or facilitate another person to use or deal with an asset, that is owned or controlled by a designated person or entity.<sup>3</sup>

The effect of *declaration* is that declared persons are unable to travel to, enter or remain in Australia.<sup>4</sup>

As of 14 December 2023, the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) List 2014* ("**Sanctions List**") lists more than 1,000 designated and declared persons and more than 100 designated entities. Those listed include Ukrainian, Russian, Belarussian and Iranian individuals and entities, including:

- key Russian political figures such as President Putin, Foreign Minister Lavrov and Defence Minister Shoigu, Prime Minister Mikhail Mishustin, Internal Affairs Minister Vladimir Kolokoltsev,<sup>5</sup> Russian First Deputy Prime

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<sup>1</sup> s 6, *Autonomous Sanctions Regulations 2011*.

<sup>2</sup> s 14, *Autonomous Sanctions Regulations 2011*.

<sup>3</sup> s 15, *Autonomous Sanctions Regulations 2011*.

<sup>4</sup> s 6(b), *Autonomous Sanctions Regulations 2011*.

<sup>5</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 2) Instrument 2022*.

Minister Belousov, Deputy Prime Minister Chernyshenko<sup>6</sup> and Deputy Minister of Justice of the Russian Federation Sviridenko;<sup>7</sup>

- members of Russia's Security Council, including Dmitry Anatolyevich Medvedev, Yury Yakovlevich Chaika and Aleksander Vladimirovich Gutsan;<sup>8</sup>
- Russian ministers with responsibilities spanning energy, natural resources, industry, education, labour, migration and health;<sup>9</sup>
- various other senior Russian politicians and officials,<sup>10</sup> and members of Russia's parliament;<sup>11</sup>
- members of the Investigative Committee of the Russian Federation;<sup>12</sup>
- senior prosecutor in the Prosecutor General's Office of the Russian Federation Loktionov;<sup>13</sup>
- various Moscow City Court judges and a Basmanny District Court Judge;<sup>14</sup>
- members of the Russian Government in Crimea and Sevastopol, including the Governor of Sevastopol, the Prime Minister of the Republic of Crimea and individuals associated with the Sevastopol Electoral Commission;<sup>15</sup>
- the Armed Forces of the Russian Federation, senior Russian naval and other armed forces personnel,<sup>16</sup> and the Wagner Group;<sup>17</sup>
- members of the Military Intelligence Agency of the 'People's Republic of Donetsk';<sup>18</sup>
- major institutions in the Russian economy, including the Central Bank of the Russian Federation, the Russian National Wealth Fund, the Ministry of

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<sup>6</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2023.*

<sup>7</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2023.*

<sup>8</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 1) Instrument 2022.*

<sup>9</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 22) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 1) Instrument 2023; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 2) Instrument 2023.*

<sup>10</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 16) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 17) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 2) Instrument 2023; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2023.*

<sup>11</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) Amendment (No. 4) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) Amendment (No. 5) Instrument 2022.*

<sup>12</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2023.*

<sup>13</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2023.*

<sup>14</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2023.*

<sup>15</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 4) Instrument 2023.*

<sup>16</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 5) Instrument 2023.*

<sup>17</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 16) Instrument 2022.*

<sup>18</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 5) Instrument 2023.*

Finance of the Russian Federation and the Federal Service for Financial Monitoring of the Russian Federation;<sup>19</sup>

- Russian oligarchs, executives and associated entities such as major energy companies, financial institutions, state-owned defence entities,<sup>20</sup> investment companies and entities in the energy and resources, insurance, real estate,<sup>21</sup> agriculture, transportation and manufacturing industries; including Transneft and Gazprom;<sup>22</sup>
- major Russian banks such as Sberbank, VTB Bank, Gazprombank, Bank St. Petersburg, PJSC Bank Zenit and PJSC Rosneft;<sup>23</sup>
- Russian defence industry entities including Kalashnikov Concern, Admiralty Shipyards, Tupolev, JSC MAC Vympel and Sozvezdie;<sup>24</sup>
- Russian companies supplying advanced technology, electronics and equipment to the Russian Armed Forces;<sup>25</sup>
- entities and research institutions associated with Russia's nuclear energy and weapons industries, including, Trest Rosspetsenergomontazh, Energospetsmontazh JSC, Joint Stock Company Operating Organization of Zaporizhzhya Nuclear Power Plant and Federal State Unitary Enterprise Dukhov Automatics Research Institute;<sup>26</sup>
- Russian entities involved in Arctic resource extraction;<sup>27</sup>
- mining industry entities including Severstal and Polyus;<sup>28</sup>
- Russian propagandists and disinformation operatives such as senior editors from organisations including Russia Today, the Strategic Culture Foundation, InfoRos and NewsFront;<sup>29</sup>
- Ukrainian separatists in leadership roles who have asserted governmental authority over areas of Ukraine,<sup>30</sup> or were appointed by Russia;<sup>31</sup>

<sup>19</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2023.*

<sup>20</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2022.*

<sup>21</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 18) Instrument 2022.*

<sup>22</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2022.*

<sup>23</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2023.*

<sup>24</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 22) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 1) Instrument 2023; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2023; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2023.*

<sup>25</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2023.*

<sup>26</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2023; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2023.*

<sup>27</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2023.*

<sup>28</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2023.*

<sup>29</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 9) Instrument 2022.*

<sup>30</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 14) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 15) Instrument 2022.*

<sup>31</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 21) Instrument 2022*

- individuals associated with the downing of Flight MH17 in July 2014;<sup>32</sup>
- key Belarusian individuals and entities, including President Alexander Lukashenko and members of his family, as well as senior Belarusian armed forces personnel and bureaucrats;<sup>33</sup> and
- Iranian individuals and entities involved in the manufacture and supply of drones to Russia for use in Ukraine.<sup>34</sup>

In September 2023, Russian billionaire Alexander Abramov (former chairman of multinational steel and coal-producing conglomerate Evraz Group) lost his Federal Court case challenging his status as a "designated person" under Australia's sanctions regime.<sup>35</sup> This was the first case of its kind in Australia. A number of other similar challenges are pending in the Federal Court.

## Sanctioned imports (import, purchase or transport of goods)

### Russia

The import, purchase or transport ("**sanctioned import**") of the following goods is prohibited if they were exported from or originate in Russia:

- arms or related material, including weapons, ammunition, military vehicles and equipment, and spare parts and accessories for any of those things;<sup>36</sup>
- oil, refined petroleum products, natural gas, coal and other energy products;<sup>37</sup>
- gold exported from Russia (including gold plated with platinum) in unwrought or in semi-manufactured forms, or in powder form.<sup>38</sup>

### Specified Ukraine regions

The import, purchase or transport of all goods which originate in or have been exported from a specified Ukraine region, i.e. Crimea, Donetsk, Luhansk or Sevastopol,<sup>39</sup> is a prohibited sanctioned import.<sup>40</sup>

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<sup>32</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 5) Instrument 2023.*

<sup>33</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 1) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2023.*

<sup>34</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 22) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 1) Instrument 2023; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 3) Instrument 2023.*

<sup>35</sup> *Alexander Abramov v Minister for Foreign Affairs (No 2) [2023] FCA 1099.*

<sup>36</sup> *s 4A, Autonomous Sanctions Regulations 2011.*

<sup>37</sup> *Autonomous Sanctions (Import Sanctioned Goods—Russia) Designation 2022.*

<sup>38</sup> *Autonomous Sanctions (Import Sanctioned Goods—Russia) Amendment (No. 1) Designation 2022.*

<sup>39</sup> *s 3B, Autonomous Sanctions Regulations 2011.*

<sup>40</sup> *s 4A, Autonomous Sanctions Regulations 2011.*

## Sanctioned supply (export or supply of goods)

### Russia

The sale, supply or transfer ("**sanctioned supply**") of the following goods, whether directly or indirectly to, for use in, or for the benefit of Russia, is prohibited:

- arms or related materiel, including weapons, ammunition, military vehicles and equipment, and spare parts and accessories for any of those things;<sup>41</sup>
- aluminium ores (including bauxite), alumina and related products;<sup>42</sup>
- certain luxury goods including wine, tobacco and certain delicacy foods, high-value cosmetics, fabrics, garments, jewellery, homewares and luxury vehicles (and their parts), as well as various leisure items such as sporting goods and pure-bred horses;<sup>43</sup>
- certain mining-related items such as drilling tools, piping and tubing, production platforms and sea-going vessels which are suited for use in the following categories of oil exploration or oil production projects in Russia;<sup>44</sup>
  - oil exploration and production in waters deeper than 150 metres;
  - oil exploration and production in the offshore area north of the Arctic Circle;
  - projects that have the potential to produce oil from resources located in shale formations by way of hydraulic fracturing (other than exploration and production through shale formations to locate or extract oil from non-shale reservoirs);
- interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screw driving), including dies for drawing or extruding metal and rock drilling or earth boring tools;<sup>45</sup>
- nuclear reactors, boilers, machinery and mechanical appliances, and parts thereof;<sup>46</sup> and
- electrical machinery and equipment and parts thereof, sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.<sup>47</sup>

### Specified Ukraine regions

The sale, supply or transfer of certain pipes, machinery and other infrastructure-related goods, whether directly or indirectly to, for use in, or for the benefit of a specified Ukraine region, i.e. Crimea, Donetsk, Luhansk or

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<sup>41</sup> s 4, *Autonomous Sanctions Regulations 2011*.

<sup>42</sup> *Autonomous Sanctions (Export Sanctioned Goods—Russia) Designation 2022*.

<sup>43</sup> *Autonomous Sanctions (Export Sanctioned Goods – Russia) Designation 2022*.

<sup>44</sup> s 4, *Autonomous Sanctions Regulations 2011*; *Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015*.

<sup>45</sup> *Autonomous Sanctions (Export Sanctioned Goods—Russia) Amendment (No. 1) Designation 2023*.

<sup>46</sup> *Autonomous Sanctions (Export Sanctioned Goods—Russia) Amendment (No. 1) Designation 2023*.

<sup>47</sup> *Autonomous Sanctions (Export Sanctioned Goods—Russia) Amendment (No. 1) Designation 2023*.



Sevastopol,<sup>48</sup> is a prohibited sanctioned supply where it relates to the creation, acquisition or development of infrastructure in the following sectors:<sup>49</sup>

- transport;
- telecommunications;
- energy;
- the exploitation of oil, gas and mineral reserves in the specified Ukraine region.

The following are specifically designated as export sanctioned goods for each specified Ukraine region:

- interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screw driving), including dies for drawing or extruding metal and rock drilling or earth boring tools;<sup>50</sup>
- nuclear reactors, boilers, machinery and mechanical appliances, and parts thereof;<sup>51</sup> and
- electrical machinery and equipment and parts thereof, sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.<sup>52</sup>

## Sanctioned commercial activity (financial instruments, loans and credit)

### Russia

As a less onerous alternative to designation, the Minister for Foreign Affairs may *specify* an entity, restricting the commercial activities that can be undertaken with respect to the specified entity. The types of entities that the Minister may specify include:

- major financial or other institutions that are:
  - more than 50% publicly owned or controlled; and
  - incorporated or established in Russia, with an explicit mandate to promote competitiveness in the Russian economy, its diversification and the encouragement of investment;
- entities incorporated or established in Russia that are predominantly engaged in major activities relating to the development, production, sale or export of military equipment or services;
- entities incorporated or established in Russia that are more than 50% publicly owned or controlled and involved in the sale or transportation of crude oil or petroleum products;

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<sup>48</sup> s 3B, *Autonomous Sanctions Regulations 2011*.

<sup>49</sup> s 4, *Autonomous Sanctions Regulations 2011*.

<sup>50</sup> *Autonomous Sanctions (Export Sanctioned Goods—Specified Ukraine Regions) Designation 2023*.

<sup>51</sup> *Autonomous Sanctions (Export Sanctioned Goods—Specified Ukraine Regions) Designation 2023*.

<sup>52</sup> *Autonomous Sanctions (Export Sanctioned Goods—Specified Ukraine Regions) Designation 2023*.

- entities acting on behalf of, or at the direction, one of the above entities or institutions.<sup>53</sup>

The following Russian entities are currently specified:<sup>54</sup>

- Sberbank;
- VTB Bank;
- Gazprombank;
- Vnesheconombank (VEB);
- Rosselkhozbank;
- OPK Oboronprom;
- United Aircraft Corporation;
- Uralvagonzavod;
- Rosneft;
- Transneft; and
- Gazprom Neft.

The following commercial activities (each a "**sanctioned commercial activity**") are prohibited in relation to the above specified entities, if they have a maturity period exceeding 30 days:<sup>55</sup>

- the direct or indirect purchase or sale of, or any other dealing with, bonds, equity, transferable securities, money market instruments or other similar financial instruments issued by a specified entity;<sup>56</sup>
- directly or indirectly making, or being part of any arrangement to make, loans or credit if the loan or credit is to a specified entity.<sup>57</sup>

However, other forms of commercial activity may also be prohibited as most specified entities are also subject to broader restrictions as *designated* entities (see '*Designated and declared persons and entities*' above).

### **Specified Ukraine regions**

Additionally, in relation to specified Ukraine regions (i.e. Crimea, Donetsk, Luhansk and Sevastopol), the granting of any financial loan or credit or establishment of a joint venture is a prohibited sanctioned commercial activity if it relates to:

- the creation, acquisition or development of infrastructure in the transport, telecommunications or energy sectors in a specified region;<sup>58</sup> or

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<sup>53</sup> s 5B, *Autonomous Sanctions Regulations 2011*.

<sup>54</sup> *Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015*.

<sup>55</sup> s 5(1), *Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015*.

<sup>56</sup> s 5B(1), *Autonomous Sanctions Regulations 2011*.

<sup>57</sup> s 5B(3), *Autonomous Sanctions Regulations 2011*.

<sup>58</sup> s 5C(1)(c), *Autonomous Sanctions Regulations 2011*.

- the exploitation of oil, gas, or certain mineral resources (including salt, sand and sulphur)<sup>59</sup> in a specified region.<sup>60</sup>

## Sanctioned services

The provision of the following services is prohibited:<sup>61</sup>

- any service (including technical advice, assistance or training, or financial assistance or service) if it assists with, or is provided in relation to, a sanctioned supply;
- financial assistance or service if it assists with, or is provided in relation to, a sanctioned import;
- an investment service if it assists with, or is provided in relation to, a sanctioned commercial activity;
- any service (including technical advice, assistance or training, or financial assistance or service) to or for use in a specified Ukraine region, if it assists with, or is provided in relation to:
  - the manufacture, maintenance or use of an export sanctioned good for the specified Ukraine region; or
  - engagement in a sanctioned commercial activity for the specified Ukraine region;
- any service (including technical advice, assistance or training, or financial assistance or service) to or for use in Russia, if it assists with, or is provided in relation to:
  - a military activity; or
  - the manufacture, maintenance or use of arms or related materiel.

## Services relating to the G7 Plan (oil price caps)

On 2 December 2022, and as part of the G7 Plan, Australia agreed with the G7 countries to support a price cap of USD 60 per barrel for seaborne Russian-origin crude oil. In connection with the price cap, the Minister for Foreign Affairs has issued general permits authorising:

- as of 4 December 2022, the provision of financial assistance and financial services (otherwise prohibited) if they assist with, or are provided in relation to, the import, purchase or transport of Russian oil purchased at or below the price cap; and
- as of 24 February 2023, the shipping of Russian oil purchased at or below the price cap.

For the purposes of the crude oil price cap and general permits:

- Russian oil means "petroleum oils and oils obtained from bituminous minerals, crude" exported from or originating in Russia or a part of Russia; and

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<sup>59</sup> *Schedule 2, Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015.*

<sup>60</sup> *s 5C(1)(d), Autonomous Sanctions Regulations 2011.*

<sup>61</sup> *s 5, Autonomous Sanctions Regulations 2011.*

- financial services include investment services, financial advice, brokering, insurance and reinsurance and financial derivatives.

The permits pertain only to the provision of financial assistance and financial services in relation to Russian oil and the transportation by ship of Russian oil to countries other than Australia, where that oil was purchased at or below the price cap – it does not authorise the import, purchase or transport (other than by ship) of Russian oil, which continue to be prohibited.

Separately, further to the G7 Plan, on 24 February 2023, the Australian Government announced that it had implemented price caps of USD 100 per barrel for High Value Russian refined petroleum products and USD 45 per barrel for Low Value Russian refined petroleum products (each as defined below).

Russian refined petroleum products means:

- "petroleum oils and oils obtained from bituminous minerals, other than crude";
- "preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations"; and
- "waste oils (Tariff Code 2710)", designated as import sanctioned goods for Russia that are exported from, or originate in, Russia or part of Russia.

High Value Russian refined petroleum products include gasoline, crudes, topped or enriched (including vacuum gas oil), diesel, kerosene for use as fuel in aircraft, heating oil, kerosene and biodiesel. Low Value Russian refined petroleum products are any Russian refined petroleum products that are not High Value Russian refined petroleum products.

In support of these two new price caps, on 15 February 2023 the Minister for Foreign Affairs issued two general permits to respectively authorise:

- the provision of financial assistance and financial services if they assist with, or are provided in relation to, the import, purchase or transport of Russian refined petroleum products, if those products were purchased at or below the relevant price caps; and
- the shipping of Russian refined petroleum products to countries other than Australia, if those products were purchased at or below the relevant price caps.

These permits pertain only to the provision of financial assistance and financial services relating to Russian refined petroleum products and the transportation by ship of Russian refined petroleum products to countries other than Australia, where those products were purchased at or under the relevant price caps. The permits do not authorise the importation, purchase or transport (other than by ship) of Russian refined petroleum products, which continue to be prohibited.

### **Other restrictions (tariffs, etc.)**

On 25 April 2022, Australia revoked Russia and Belarus' entitlement to the Most-Favoured Nation (MFN) tariff status, subjecting all imports from Russia and Belarus to a punitive tariff of 35% (in addition to the general duty rates currently in force). This was extended on 25 September 2023 for a further two years, until October 2025.

In line with the European Union, the United Kingdom, the United States and other jurisdictions, Australia has also implemented various other restrictive economic measures against key Russian banks, institutions and individuals, including:

- the removal of selected Russian banks from the SWIFT global payments messaging system;
- restrictive measures to prevent the Russian Central Bank from using its international reserves in a way that undermines sanctions;
- limiting so-called golden passports for wealthy Russians connected to the Russian government; and
- a trans-Atlantic task force to identify and freeze the assets of sanctioned individuals and companies existing within their jurisdictions.

## **SANCTIONS BY UKRAINE**

*Contributed by Olexiy Soshenko, Managing Partner, and Olesia Mykhailenko, Counsel, Redcliffe Partners. Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.*

### **General Sanctions**

Ukraine has applied various types of sanctions to more than 5500 legal entities and more than 9200 individuals which have been involved in Russian aggression against Ukraine. For the time being, the details of the sanctioned persons are available in the non-official registry managed by the National Anti-Corruption Agency of Ukraine:

Individuals sanctioned by Ukraine

Entities sanctioned by Ukraine.

The draft law providing for the official Ukrainian sanctions registry has been adopted in July 2023 and the relevant registry is expected to become available by the end of 2023.

### **Financial Sanctions**

Starting from 24 February 2022, the National Bank of Ukraine:

- prohibited Ukrainian banks to process any transactions in Russian rubles and Belarusian rubles;
- prohibited Ukrainian banks to process any transactions (1) which involve a person which is registered in or resides in the Russian Federation or the Republic of Belarus; (2) which result in the performance of obligations due to such person; or (3) which involve payments at the instruction of Ukrainian companies whose ultimate beneficial owners are residents of the Russian Federation or the Republic of Belarus, except for, in all cases, payment in Ukraine of taxes, salaries, and certain other exceptions;
- cancelled the banking licence and ordered for liquidation of JSC "International Reserve Bank" (controlled by Sberbank of Russia) and JSC "Prominvestbank" (controlled by Russian State Development Corporation "WEB.RF");
- prohibited money transfers from the Russian Federation and the Republic of Belarus to Ukraine and usage of any debit and credit cards issued by Russian or Belarusian banks on the territory of Ukraine; and
- authorised nationalisation of Sens Bank (formerly Alfa-Bank), formerly ultimately owned by several Russian oligarchs, although formally the ground for nationalisation was insufficient liquidity.

Furthermore, early in 2023 the Parliament imposed sectoral sanctions against all banks, insurance companies, payment systems, investment funds and all other financial institutions of the Russian Federation.

## **Assets Confiscation**

Ukrainian government declared the intention to confiscate the Ukrainian assets of certain persons who are involved in Russian aggression against Ukraine. Currently, there are several routes of confiscation:

### **Law No. 2116-IX provides for confiscation of:**

- any immovable and movable assets, money, funds on bank accounts, securities, shares and other corporate rights as well as any other assets located or registered on the territory of Ukraine,

which are owned by

- any legal entity which is directly or indirectly owned or controlled by the Russian Federation, or if Russian Federation is directly or indirectly a founder, shareholder, participant or otherwise owns corporate rights with respect to such entity.

The confiscation under Law No. 2116-IX is done on the basis of the decision of Security Counsel of Ukraine which should be approved by the President's decree and by the resolution of the Parliament of Ukraine. The Law has been already used in practice for confiscation of all shares and financial assets of JSC "International Reserve Bank" (controlled by Sberbank of Russia) and JSC "Prominvestbank" (controlled by Russian State Development Corporation "WEB.RF").

### **Confiscation on the basis of Law No. 7194 is another route. It allows for the confiscation of:**

- any immovable and movable assets, money, funds on bank accounts, securities, shares and other corporate rights as well as any other assets located or registered on the territory of Ukraine or subject to Ukraine's jurisdiction,

which are owned by

- any persons and companies (notwithstanding their citizenship or jurisdiction of incorporation) which (i) significantly endanger national security, sovereignty and territorial integrity of Ukraine; or (ii) which facilitate, or finance actions referred to in (i).

The confiscation under Law No. 7194 is done in two stages. Firstly, the relevant assets should be blocked by the Security Counsel of Ukraine, which decision should be approved by the President's decree. After this, the Ministry of Justice of Ukraine should apply to the Higher Anticorruption Court of Ukraine with a confiscation request, which the Court considers within 10 days and renders a decision as to whether there are sufficient grounds to confiscate the assets. The appeal on the Court's decision is possible, but after the Appeal Chamber considers it, the decision becomes final. The Law has already been used in practice several times. The Government of Ukraine publicly reports on their plans to confiscate a large number of assets owned by the Russian Federation or Russian businessmen close to Russian government.

The above-mentioned law amending Law 1644-VII also details the grounds, conditions and procedure for the recovery of assets of individuals or legal entities for the benefit of the state. The sanction is exceptional and is intended to be applied only during the period of martial law in relation to individuals and legal entities that:



- caused significant damage to the national security, sovereignty or territorial integrity of Ukraine; or
- significantly contributed to the following actions or decisions.

If there are grounds and conditions specified above, the Ministry of Justice of Ukraine (as an executive body) shall file a claim with the High Anti-Corruption Court for imposition of sanctions on the relevant individual or legal entity in accordance with the procedure established by the Code of Administrative Procedure of Ukraine.

### **Currency Controls**

Foreign companies dealing with Ukrainian counterparties should be aware that as of 24 February 2022, the National Bank of Ukraine (NBU) has applied various limitations to cross-border payments by Ukrainian persons in order to limit the outflow of funds from Ukraine. The limitations list is being updated by the NBU often in order to adjust to the current economy needs. Please contact us to get details as to whether a specific transaction with a Ukrainian counterparty may be subject to currency control limitations.

## RUSSIAN COUNTERMEASURES<sup>62</sup>

### ***Foreign direct investment review of transactions between Russian residents and undertakings from "unfriendly" countries***

This regime was initially created in March 2022 (Presidential Decree No. 81 of 1 March 2022 ("**Decree 81**") and Russian Government Regulation No. 295 of 6 March 2022 ("**Regulation 295**")) as an expansion of the Russian foreign direct investment ("**FDI**") regime.

In the following months of 2022 and 2023 a number of decrees amending and expanding this regime were enacted to encompass an increasing range of transactions.<sup>63</sup>

#### **Relevant transactions**

The following transactions are subject to prior approval:

- any transactions that have a Russian JSC or LLC in their scope, whether directly or indirectly, and to which an "unfriendly" entity is party (including foreign-to-foreign transactions);
- transactions between Russian residents, on one side, and foreign legal entities or individuals from "unfriendly" countries, on the other side, involving the acquisition of any securities or real estate assets, or the provision of loans or credit facilities to such foreign legal entities or individuals (with very limited exceptions). There are also anti-abuse provisions designed to prevent parties from "unfriendly" jurisdictions from circumventing the prior approval requirement by transferring their securities or real estate assets to counterparties that are not located in "unfriendly" jurisdictions;
- currency operations in connection with loans in foreign currency provided by Russian residents to non-residents; and
- transfers of funds by Russian residents to their accounts in foreign banks as well as through foreign payment systems (subject to several exemptions).

#### **Exemptions**

Several exemptions from the FDI approval requirement were introduced in May-October 2022, including with respect to:

- foreign entities controlled since before 1 March 2022 by entities or individuals from "friendly" jurisdictions;
- acquisitions of additional shares in a Russian entity which result in a stake of up to 25% being held by foreign entities or individuals associated with "unfriendly" jurisdictions;
- certain real estate transactions for entities and nationals of "unfriendly" countries (including real estate acquisitions, and, in limited cases, disposals); and

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<sup>62</sup> The description of the Russian countermeasures is provided [as of 28 August 2024](#).

<sup>63</sup> These include Presidential Decree No. 618 of 8 September 2022 ("**Decree 618**") and Presidential Decrees No. 737 and 738 of 15 October 2022 ("**Decrees 737 and 738**").

- transactions with five international development banks headquartered in Russia or "friendly" jurisdictions.<sup>64</sup>

### **Procedure and timeline**

As opposed to an ordinary Russian FDI submission, which is filed with the Russian competition authority (the Federal Antimonopoly Service, or "**FAS**"), submissions under Regulation 295 are filed with the Russian Ministry of Finance ("**MinFin**"). Under Regulation 295, the competent authority that reviews each transaction is a special sub-commission of the Russian Government commission on Monitoring Foreign Investment (the "**Sub-commission**"). This Sub-commission is comprised of an official from MinFin (who chairs the Sub-commission) and officials from the Russian Presidential Administration, the Ministry of Economic Development, and the Central Bank of Russia ("**CBR**").

The scope of the filing is rather limited compared to an ordinary FDI submission. Decisions of the Sub-commission are taken unanimously. Approval can be made contingent upon the satisfaction of certain conditions. Similar to an ordinary FDI submission, submissions under Regulation 295 are also subject to a confidentiality regime. The Sub-commission can also issue approvals authorising all legal entities or individuals to perform a particular type of transaction.

Regulation 295 does not stipulate any time limit for the review of transactions and for approval to be issued or denied. In practice, the length of the review process varies substantially, but generally amounts to about four months from the time the application is filed.

### **Clearance requirements**

Regulation 295 does not set out any statutory grounds on which clearance may be denied, and thus provides broad discretion to the Sub-commission in terms of issuing refusals and conditional clearances.

In late December 2022, March 2023 and July 2023 MinFin published standard conditions that the Sub-commission applies in deciding whether to grant clearance of local business sale deals. The conditions pertain to the commercial terms of such sales and essentially create a disincentive for international companies that are considering exiting the market by selling their local business in Russia.

Some of the key requirements include:

- an independent valuation report on the target company's assets must be prepared and then reconfirmed by a self-regulated industry organisation of valuation professionals;
- the contractually agreed sale price cannot exceed 50% of the value of the assets; and
- the purchase price payment mechanics must involve payment of at least 15% of the market value of the assets to the state budget as revenue.

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<sup>64</sup> These include: (i) Asian Infrastructure Investment Bank (AIIB), a leading Chinese development bank; (ii) International Bank for Economic Co-operation (IBEC), which was founded by the USSR and other former and present socialist countries in Europe and Asia, and in which Russia has a majority stake; (iii) International Investment Bank (IIB), an international development organisation very similar to IBEC, described above; (iv) New Development Bank (NDB), an international development bank, the members of which are the BRICS countries; and (v) Russian-Kyrgyz Development Fund, a development fund aimed at fostering economic cooperation between Russia and Kyrgyzstan.

- In addition, the July 2023 clarifications added several new requirements that the Sub-commission is to apply when making future clearance decisions. These relate to payment of the purchase price, the use of buy-back arrangements, and post-closing conditions addressed to the buyer:
- if the purchase price is to be transferred to a foreign account, such transfer can only be made in several instalments (and not as a single payment). The July 2023 guidelines are silent as to how many payments can be made and over how short a period of time. While this new requirement appears to be restrictive, it is broadly in line with the previously announced presidential instruction to the Government to limit the monthly purchase of foreign currency for settlement of foreign investment transactions at a level of USD 1 billion per month, and is, in theory, aimed at limiting foreign exchange fluctuations;
- as an alternative to transferring instalment payments to foreign accounts, the July 2023 clarifications envisage that payment may be made to a Russian bank account in Russian roubles (whether to a normal account or a special "Type C" account<sup>65</sup>), which means the amounts received are not transferred outside Russia;
- buy-back arrangements have also been restricted. The July 2023 guidelines provide that any buy-back option (1) must be exercised within two years of the closing of the relevant Russian exit transaction, and (2) must be for the full market value of the Russian company at the time of exercise of the option and also must be "commercially beneficial" for the local investor; and
- post-sale conditions addressed to buyers may include (1) KPIs for the buyer and/or the target, which the federal ministry responsible for the relevant market will monitor so as to ensure that the target continues its core business, retains its technological potential, does not reduce the number of workplaces, and continues fulfilling its material contracts with third parties; and/or (2) a public listing of up to 20% of the shares in the target within certain period after completion of the sale transaction.

With respect to the clearance process related to Russian exit transactions, the July 2023 clarifications provide that the Sub-commission will only review the deal after all other Russian regulatory approvals have been obtained. This likely means that the competent ministry, to which the application for the Sub-commission's approval is filed, will not forward it to the commission without evidence that all other requisite approvals have been granted.

In January 2024, Resolution 295 was amended to introduce an exemption for intragroup and foreign-to-foreign transactions. For such transactions, the requirement to include in the application for clearance (i) a valuation report, and (ii) proposed KPIs for the purchaser post-sale, has been abolished.

### **Clearance requirements in the banking sector**

Presidential Decree No. 520 of 5 August 2022 ("**Decree 520**") envisages a temporary<sup>66</sup> ban on transactions involving stakes in certain Russian banks and

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<sup>65</sup> Type C accounts are subject to a special regime established by Presidential Decree No. 95 of 5 March 2022. This regime is explained in a separate section below.

<sup>66</sup> On 18 December 2023, the ban was extended until 31 December 2025.

non-banking financial institutions owned by shareholders from "unfriendly" jurisdictions.

This ban applies to 45 banks and financial institutions, as listed in Presidential Order No. 357-rp of 26 October 2022. Such transactions can only proceed based on a special clearance decision issued by the Russian President.

In relation to other Russian financial institutions (including banks, pension funds, insurance companies, investment funds, etc.), clearance from the Sub-commission is required for any transaction that directly or indirectly involves rights to more than 1% of the shares and/or voting rights in the respective Russian financial organisation.

On 26 February 2024, the new Decree No. 143 came into force, amending Decree 520 to authorise the Russian Government Commission on Monitoring Foreign Investment to assess the advisability of transactions and provide reasoned recommendations as to whether or not they should be permitted. The relevant procedural regulations were added to the Regulation 295 in April 2024. Where a contemplated transaction involves a financial institution, prior consent from the CBR will be required.

### ***Transactions that have not been cleared are at risk of being invalidated***

In October 2022, Russian procedural legislation was amended to authorise prosecutors to bring legal action in order to invalidate transactions made in violation of the countermeasures introduced in response to Western sanctions or to protect the Russian economy.

For example, this enables prosecutors to seek invalidation of transactions implemented without the necessary clearance under Decree 618 (see above).

Prosecutors can also join any civil proceedings if they have reason to believe that the underlying dispute involves circumvention of the countermeasures or other relevant statutory regimes.

### ***Decree regulating the performance of Russian obligors' obligations to certain categories of creditors, and "Type C" accounts***

#### **Decree 95**

On 5 March 2022, the Russian President issued Decree No. 95 ("**Decree 95**"), introducing a special regime for certain types of payment transactions made by Russian resident obligors to "unfriendly" parties and involving special "Type C" accounts.

#### **Type C accounts**

In essence, Decree 95 allows Russian obligors to open a special Type C account with a Russian bank in the name of the creditor from an "unfriendly" jurisdiction and transfer the payment to that account. The currency of the Type C account must be Russian roubles. Any payments transferred to Type C accounts will effectively be frozen unless special permission is granted (see below).

### **In-scope obligations**

Following a series of amendments in 2022, this regime currently applies to:

- performance under credit facilities, loans and financial instruments or under independent guarantees and sureties securing obligations under credit facilities, loans and financial instruments;
- payment of dividends by limited liability companies, etc.; and
- any payments made to "unfriendly" entities in the framework of decreasing the charter capital or the bankruptcy or liquidation of Russian entities.

Notably, the regime envisaged by Decree 95 applies to payments by a Russian obligor exceeding the equivalent of RUB 10 million per month.

### **Unfriendly jurisdictions**

The Type C account regime described above applies to residents and undertakings from so-called "unfriendly" jurisdictions on a special list.

Introduced in March 2022 to include countries that at the time had announced economic sanctions against Russia, the list of "unfriendly" jurisdictions has since been amended twice (in July and October 2022), with the Bahamas, all Crown Dependencies and all British Overseas Territories added to the list.

### **Exemption permits**

The CBR (for Russian obligors that are financial institutions) and MinFin (for other obligors) are authorised to set out an alternative framework for the performance of obligations.

Until the relevant special regimes are introduced, the CBR and MinFin have the power to grant permission to Russian obligors on a case-by-case basis to perform their obligations in deviation from the regime prescribed by Decree 95.

In December 2022, MinFin and CBR clarified the clearance conditions for dividend payments by Russian entities to their foreign shareholders. These criteria were reconfirmed in July 2023. Some of the key criteria are:

- the total dividends to be paid must not exceed 50% of the previous year's net profit;
- foreign shareholders may be required to confirm their plans to continue the business in Russia; and
- payments in quarterly instalments may be required, conditional upon the company meeting certain KPIs, as specified in the clearance decision.

On 23 August 2023, MinFin and CBR issued clarifications simplifying dividend payments to foreign companies that have continued investments in their Russian business in 2023. This new exemption is primarily aimed at companies investing in expansion of local production or new technologies.

Obtaining clearance will remain mandatory, however, most of the evaluation criteria will not apply, and the dividends should be permitted up to the amount of investments made since 1 April 2023.

### **Enforcement against funds in Type C accounts restricted**

As of 3 January 2024, Decree 95 was amended and the regime of Type C accounts was tightened following the issuance of Presidential Decree No. 8,

which introduced a ban on introducing interim measures or enforcement against funds in Type C accounts.

### ***New clearance requirements for sale of trademarks and other IP***

As of 20 May 2024, a new presidential decree, No. 430, came into effect ("**Decree 430**"). Decree 430 requires government approval for the sale of exclusive IP rights owned by an "unfriendly" foreign party or its local subsidiary to a local party.

Decree 430 covers transactions with trademarks, patents, know-how, selection inventions in agriculture, etc. It does not encompass deals that involve exclusive rights to works of science, literature and art, phonograms, or broadcasts by wireless or cable broadcasting organisations.

Decree 430 applies to transfer contracts and related security arrangements, such as guarantees or sureties, starting from RUB 15 m (approx. EUR 150k).

Payment obligations which resulted from earlier transactions but had not been fulfilled as of 20 May 2024 also fall within the scope of Decree 430.

Clearance can be conditional. Decree 430 provides for an open list of potential conditions, the key one being that payments go into a special Type O account with a Russian bank; other conditions may also be set on a case-by-case basis. Withdrawal of funds from a Type O account will require separate approval.

### ***Assets Exchange***

On 8 November 2023, the Russian President issued Decree No. 844 ("**Decree 844**"), introducing a mechanism for foreign entities to use their funds in Type C accounts to buy out foreign securities held by Russian investors through Russia's National Settlement Depository (NSD).

Notably, eligibility for Russian investors is restricted. The new scheme is only available up to a maximum of RUB 100,000 per investor.

Decree 844 envisages that the transactions can only be made through auctions. The terms of such auctions, as well as the procedure for calculating the starting price of the blocked securities, should be defined by the Russian Government Commission on Monitoring Foreign Investment. As of February 2024, these decisions have not yet been made public.

Finally, Decree 844 also requires that securities are credited to special "transitional" accounts, to be opened by purchasers with Russian depositories. The relevant regulations were adopted by the Russian Central Bank in January 2024.

On 11 March 2024, MinFin and the CBR announced the details of the buyout process, which is expected to run in spring and summer of this year and finish by 1 September 2024.

### ***Temporary external management over Russian assets of foreign companies***

On 25 April 2023, external management was established over majority stakes in PJSC Unipro and PJSC Fortum, which are the Russian subsidiaries of Uniper group and Fortum group, respectively. The external management

regime was imposed pursuant to Presidential Decree No. 302 of 25 April 2023 ("**Decree 302**").

Decree 302 contains, among other things, some general guidance on circumstances in which temporary external management can be imposed. Compared to the regulatory proposals on external management from 2022 (which were ultimately put on ice), Decree 302 has a potentially much wider reach, as under it the temporary external management regime is not linked to any specific industries and/or cases where a company's management suspends or terminates the company's operational activities in Russia.

On 16 July 2023, Decree 302 was amended to establish external management over two more foreign-owned companies, namely the Russian subsidiary of Danone (Danone Russia JSC) and the Russian subsidiary of Carlsberg Group (Baltika Breweries LLC). On 18 September 2023, Decree 302 was amended again to establish external management over the printing houses owned by Norwegian media company Amedia.

On 13 March 2024, Decree 302 was amended yet again, and external management of the Russian subsidiary of Danone was lifted.

In April – July 2024, external management was established over the assets of AgroTerra agricultural company and the Russian subsidiaries of Ariston, Bosch and **and Silgan Metal Packaging**.

### ***Transfer of two foreign companies' stakes in Russian subsoil joint ventures***

On 19 December 2023, Presidential Decrees No. 965 and 966 were introduced, under which stakes in two subsoil projects held by OMV and Wintershall Dea were transferred to newly created Russian companies.

Decrees No. 965 and 966 provide for the sale of shares in the newly created companies to local purchasers and for the transfer of the monetary proceeds to Type C accounts opened in the names of the respective former shareholders. Finally, the decrees also envisage termination of any pre-existing shareholders agreements as of the date of enactment of the decrees.

### ***"Blocked parties" regulations***

On 1 February 2024, amendments to Russian law entered into force modifying an earlier framework regulation allowing the blocking of financial operations and/or asset freezes in relation to so-called "blocked parties".

The possibility of targeted measures had been enshrined in Russian law before these amendments. The new law, however, has clarified the scope of the restrictions and permitted exemptions. The latter include, for example, payment of taxes and other mandatory payments in Russia, while other withdrawals are essentially prohibited (except in very limited cases, subject to thresholds equivalent to EUR 100 – 200 per month).

Finally, the new law imposes compliance requirements for Russian banks, professional securities market participants and other financial sector companies, which are required to adhere to the restrictions in their operations.

\* \* \*

These new sanctions and export controls are complex, multilateral, and in some cases extraterritorial and incrementally changing in real time in response to the situation on the ground in Ukraine. We will endeavour to keep



our briefings up to date. It is essential that companies and individuals react quickly to assessing their risk of exposure to these new sanctions and export controls, to understand the application and duration of the licences, and to be mindful that while apparently coordinated, there is not complete overlap or prohibitions across the various sanctions programs, applicability and jurisdiction.

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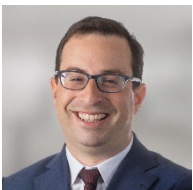
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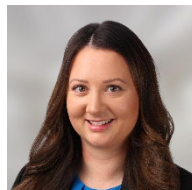
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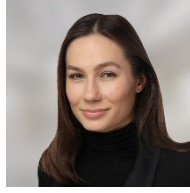
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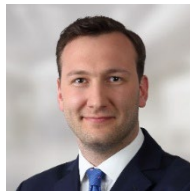
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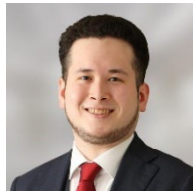
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