

Novel Sanctions Against Business-Related Services Connected to Russia and Additional Export Restrictions

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On Sunday, the Department of Treasury's Office of Foreign Assets Control (OFAC) [announced](#) novel and sweeping sanctions on specific categories of services in order to cripple Russia's wartime capabilities and sanctioned key individuals at Russian banks and state-owned television stations. Concurrently, the Bureau of Industry and Security (BIS) made available for public inspection a [final rule](#) expanding export restrictions by imposing a license requirement for exports, reexports, or transfers (in-country) to and within Russia on additional items subject to the Export Administration Regulations (EAR).

Novel Sanctions Against Business-Related Services to Russia

Background

On April 6, 2022, President Biden signed an [Executive Order](#) (E.O.) prohibiting new investment in Russia by a U.S. person wherever located including the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, *of any category of services* as may be determined by the Secretary of the Treasury to any person located in the Russian Federation (see our blog post [here](#)). This action presents a novel use of the International Emergency Economic Powers Act (IEEPA) based sanctions because sanctions are typically used against individuals or entities rather than a blanket prohibition on designated categories of services. Now, the Treasury Secretary has determined the specific categories of services subject to the E.O. and has released [FAQs](#) providing further guidance.

Key Aspects of the New Sanctions on Categories of Services

- Prohibiting accounting, trust and corporate formation services, and management consulting sectors of the Russian Federation economy

Pursuant to [E.O. 14071](#), OFAC has prohibited the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of accounting^[1], trust and corporate formation^[2], or management consulting^[3] services to any person located in the Russian Federation. The prohibition takes effect June 7, 2022.

In parallel, OFAC issued [General License 34](#) authorizing all transactions ordinarily incident and necessary to the wind down of such services until July 7, 2022.

- Imposition of economic sanctions on individuals and entities that operate or have operated in the accounting, trust and corporate formation services, or management consulting sectors of the Russian Federation economy

Pursuant to [E.O. 14024](#), OFAC has also imposed sanctions on individuals and entities that operate or have operated in the accounting, trust and corporate formation services, or management consulting sectors of the Russian Federation economy.

This does not mean that all persons that operate or have operated in these sectors of the Russian Federation economy are sanctioned by OFAC. Rather, the sectoral determination exposes persons in the identified sectors to sanctions risk. The Secretary of the Treasury must still make a determination as to whether the persons in the identified sectors are subject to sanctions.

- **Takeaways**

Additional Categories of Services to Russia May be Prohibited: OFAC's announcement heralds a brand new way of imposing sanctions because the sanctions are targeting *categories of services* which we have never seen before. While these actions are limited to certain business-related categories of services, we should expect to see additional categories added as the U.S. increases its pressure campaign in response to Russia's invasion of Ukraine.

Increased Scrutiny by U.S. Department of Justice (DOJ): It is critical for businesses conducting operations in Russia to stay up to date with designations and actions taken by OFAC. The U.S. Department of Justice has [indicated](#) that the enforcement of sanctions is a new priority. Companies with international touch points in sanctioned countries should review their internal procedures and controls to ensure they are complying with the new sanctions, authorizations, and prohibitions since DOJ can impose steep civil and criminal penalties for violations. In the past, the DOJ has signaled its commitment to enforce sanctions and regulations particularly in regards to crypto (see our blog post [here](#)) by creating a crypto task force. We can likely expect the same type of focus here as well.

Additional Export Restrictions

Background

On May 8, 2022, BIS made available for public inspection a final rule expanding export controls by imposing a license requirement on exports, reexports, or transfers (in-country) to and within Russia subject to the EAR under certain Harmonized Tariff Schedule (HTS) descriptions. This represents a further step of export control sanctions, which we discussed [here](#).

Key Aspects of the Rule

- **Expansion of License Requirements:** The new BIS rule expands the license requirement that was previously imposed on Russia to now include items subject to the EAR identified by certain HTS descriptions. 205 HTS codes have been added. The items consist of a wide range of goods connected to Russia's industrial sector, including wood products, industrial engines, boilers, motors, fans, and ventilation equipment, bulldozers, and many other items with industrial and commercial applications. Previously, BIS has primarily imposed license requirements to items classified under any Export Control Classification Number (ECCN).

Export Implications

Companies that are exporting to Russia will need to consider licensing requirements even with products that fall under EAR99. Companies should check any products that are being exported, reexported, or transferred in country to and within Russia against the 205 HTS codes in order to make sure they are compliant. Additionally, BIS will be reviewing applications under a policy of denial except for items that may be necessary for health and safety reasons or for items that meet humanitarian needs which will be reviewed under a case-by-case license review policy.

FOOTNOTES

^[1] Accounting services includes services related to the measurement, processing and transfer of financial data about economic entities.

^[2] Trust and corporate formation services includes services related to assisting persons in forming or structuring legal persons, such as trusts and corporations; acting or arranging for other persons to act as directors, secretaries, administrative trustees, trust fiduciaries, registered agents, or nominee shareholders of legal persons; providing a registered office, business address, correspondence address, or administrative address for legal persons; and providing administrative services for trusts.

^[3] Management consulting services includes services related to strategic advice; organizational and systems planning, evaluation, and selection; marketing objectives and policies; mergers, acquisitions, and organizational structure; staff augmentation and human resources policies and practices; and brand management.

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