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U.S. FURTHER RESTRICTS EXPORTS TO RUSSIA OF OIL AND GAS EXPLORATION AND PRODUCTION ITEMS

On March 3, 2022, the U.S. Department of Commerce, Bureau of Industry and Security ("BIS") issued a **rule** expanding restrictions in **Part 746.5 of the Export Administration Regulations ("EAR")** to impose export license requirements for transfers to and within Russia on a long list of additional items related to oil and gas exploration and production. The list of affected commodities, identified by description, HTS Code, and Schedule B number, is provided in new **Supplement 4 to Part 746**, which complements (does not replace) existing **Supplement 2**. The new list includes a variety of field wire line and downhole equipment and other items including alkylation and isomerization units, hydrocracking reactors, hydrogen generation technology, naphtha isomerisation units, gas separation equipment, refinery fuel gas treatment and sulphur recovery technology, and delayed cokers. Requests for licenses for these items and for the items in Supplement 2 are now subject to a policy of denial, and no license exceptions are available except GOV (15 CFR 740.11(b)),

functionally creating a prohibition on exports, reexports, and in-country transfers (i.e., changes of end user or end use) of the listed items for Russia.

Like the existing rule, the new regulation imposes a license requirement on items that are not listed on the Commerce Control List and are therefore designated as EAR99. This means parties that are not used to thinking of their products as controlled need to pay careful attention. However, the new rule is broader than the existing rule in several ways, including: (1) it increases the number of affected items and (2) it requires a license for all exports and reexports to, and changes of end user and end use within, Russia, of items listed in Supplement 4 in all circumstances. By contrast, under the existing rule, items in Supplement 2, Part 746.5(a)(i) require a license only if the transferor has reason to know that the items will be used for exploration or production from deepwater, Arctic offshore, or shale oil or gas projects in Russia.

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This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

Although the new rule imposes a policy of denial for items in both Supplement 2 and Supplement 4, license applications for items that may be necessary for health and safety reasons will be reviewed on a case-by case basis.

U.S. and non-U.S. parties in the oil and gas exploration, production, and support equipment sectors should review existing Supplement 2 and new Supplement 4 and, if engaging in exports, reexports, or transfers of such items (including new sales and transfers that may occur in connection with maintenance and operation services), should implement procedures to identify and prevent exports and reexports to, and transfers within, Russia, including indirect transfers via front companies seeking to acquire prohibited items on behalf of parties in Russia.

The oil and gas equipment restrictions are part of a panoply of recent export control and financial sanctions measures imposed by the U.S. against Russia, including: an oil product import ban ([here](#));

an embargo on the self-declared republics of Donetsk and Luhansk in Eastern Ukraine ([here](#)); additional sanctions targeting Russian banks, sovereign debt and Russian oligarchs ([here](#), [here](#), and [here](#)); restrictions on correspondent and payable-through accounts and debt and equity restrictions for certain Russian banks ([here](#) and [here](#)); restrictions on transactions involving and bonds issued by the Central Bank of the Russian Federation, the National Wealth Fund, and the Ministry of Finance ([here](#) and [here](#)); sweeping export restrictions, for both Russia and Belarus ([here](#) and [here](#)); the addition of Russian, Belarusian, and other entities to the BIS Entity List ([here](#)); and the expansion of existing export restrictions targeting the oil refinery sector in Russia ([here](#)).

*Wiggin and Dana's **International Trade Compliance Practice Group** will continue to provide briefings as more information becomes available. Prior advisories on this topic are available [here](#), [here](#), [here](#), [here](#), and [here](#).*