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## U.S. IMPOSES NEW SEVERE ECONOMIC SANCTIONS ON RUSSIA IN RESPONSE TO ATROCITIES IN UKRAINE

On Wednesday, April 6, 2022, the **White House announced** that the U.S. would impose "severe and immediate economic costs on the Putin regime for its atrocities in Ukraine, including in Bucha." Following the announcement, the Office of Foreign Assets Control ("OFAC") and the Bureau of Industry and Security ("BIS") implemented President Biden's directive, imposing a new wave of sanctions on Russia and Belarus, as summarized below.

### April 6 Executive Order Prohibits New Investment in Russia and Services to Be Identified by OFAC

President Biden issued an Executive Order on April 6 **prohibiting new investment in and certain services to the Russian Federation in response to continued Russian Federation aggression in Ukraine** ("EO of April 6"). The EO of April 6 adds to the **Russian Harmful Foreign Activities Sanctions** by prohibiting:

- **new investment** in Russia by a U.S. person, wherever located (defined in other OFAC sanctions regulations **here**, **here**, and **here**, as "a commitment or contribution of funds or other assets; or a loan or other extension of credit" after a particular date);

- **the exportation, reexportation, sale, or supply**, directly or indirectly, from the U.S., or by a U.S. person, wherever located, to Russia, of **any category of services as may be determined by the Secretary of the Treasury**, in consultation with the Secretary of State (the specific prohibited services have not yet been identified by OFAC, so more to come!); and
- any approval, financing, **facilitation**, or guarantee by a U.S. person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited if performed by a United States person or within the U.S.

### OFAC Adds Russian Banks, Diamond Mining Company, and Related Entities to the SDN List

Also on April 6, **OFAC added** PJSC Sberbank of Russia (Russia's largest financial institution) and 42 entities linked to Sberbank, as well as JSC Alfa Bank (Russia's largest private bank) and 6 entities and 5 vessels linked to Alfa Bank, to the Specially Designated Nationals and Blocked Persons List ("SDN List"). Likewise, on April 7, **OFAC added** Alrosa (the world's largest diamond mining company) to the SDN List.

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Sberbank was already subject to **Directive 2** under the **Russian Harmful Foreign Activities Sanctions program** and **Directive 1** under the **Ukraine / Russia Related Sanctions**.<sup>[1]</sup> Alfa Bank and Alrosa were already subject to **Directive 3** under the Russian Harmful Foreign Activities Sanctions program.<sup>[2]</sup> By adding Sberbank, Alfa Bank, Alrosa, and related parties to the SDN List, OFAC expanded the sanctions against these parties, blocking all of their property and interests in property that are in the U.S. or in the possession or control of U.S. persons.

Parties who have business with Sberbank, Alfa Bank, Alrosa, or their 50 Percent Rule subsidiaries should act promptly to wind down that business, as OFAC has issued the following General Licenses authorizing transactions ordinarily incident and necessary to the wind down of transactions involving these entities and their 50 Percent Rule subsidiaries. Follow the links below to see the limitations and exclusions to these General Licenses.

| General License | Authorized Activity  | Expiration                |
|-----------------|--|---------------------------|
| <b>GL-22</b>    | Transactions ordinarily incident and necessary to the wind down of transactions involving <b>Sberbank</b> and its 50 Percent Rule subsidiaries   | April 13, 2022 at 12:01AM |
| <b>GL-23</b>    | Transactions ordinarily incident and necessary to the wind down of transactions involving <b>Alfa Bank</b> and its 50 Percent Rule subsidiaries  | May 6, 2022 at 12:01AM    |
| <b>GL-24</b>    | Transactions ordinarily incident and necessary to the wind down of transactions involving <b>Alrosa</b> and its 50 Percent Rule subsidiaries   | May 7, 2022 at 12:01AM    |
| <b>GL-21a</b>   | Transactions by U.S. persons ordinarily incident and necessary to the wind down of the U.S. entities <b>Sberbank CIB USA, Inc. and Alrosa USA, Inc.</b> , and their 50 Percent Rule subsidiaries | June 7, 2022 at 12:01AM   |
| <b>GL-26</b>    | Transactions ordinarily incident and necessary to the wind down of transactions involving <b>JSC SB Sberbank Kazakhstan and Sberbank Europe AG</b> , and their 50 Percent Rule subsidiaries      | July 12, 2022 at 12:01AM  |

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**[1]** Directive 2 prohibits U.S. financial institutions (broadly defined) from: (i) opening or maintaining a correspondent or payable-through account for or on behalf of Sberbank and 25 Sberbank subsidiary banks, trusts, insurance companies, and other financial companies or their 50% Rule entities; and (ii) processing any transaction involving such parties or their property or interests in property. Directive 1 prohibits transactions and dealings by U.S. persons or within the U.S. in new debt of longer than 14 days maturity and new equity, of listed entities or their property or interests in property.

**[2]** Directive 3 prohibits transactions and dealings by U.S. persons or within the U.S. in new debt of longer than 14 days maturity, and new equity, of listed entities or their property or interests in property.

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In addition, OFAC added Alfa Bank to General License **8B**, which authorizes certain transactions related to energy, and added Alfa Bank and Alrosa to General Licenses **9C**, and **10C**, which authorize certain transactions related to dealings in debt or equity and derivative contracts, respectively.

### OFAC Adds More Parties to the SDN List

In addition to Sberbank, Alfa Bank, and Alrosa, OFAC also imposed full blocking sanctions on **United Shipbuilding Corporation (redesignated) and 28 subsidiaries and 8 board members**, as well as **members of the Russian Security Council, facilitators of President Putin, and family members of President Putin and Foreign Minister Sergei Lavrov**. As above, all transactions by U.S. persons or within the U.S. that involve any property or interests in property of these persons are prohibited unless authorized by OFAC.

### BIS Announces Expansion of Sweeping Export Controls for Russia and Belarus

**BIS is imposing a blanket license requirement** for the export, reexport, or in-country transfer to or within Russia or Belarus of any item subject to the EAR that is not classified as EAR99. BIS previously imposed a license requirement for items classified under Categories 3 through 9 of the **Commerce Control List** under **EAR Section 46.8(a)(1)**. On April 9, BIS announced that, as of April 14, 2022, it would extend that license requirement to all items subject to the EAR in Categories 0-2. To reflect this broader license requirement, BIS also made conforming changes to the product scope of the Russia/Belarus foreign direct product rule ("Russia/Belarus FDP Rule") set forth in **EAR Section 734.9(f)(1)**.

In addition, BIS extended the limitations in **EAR Section 746.8(c)(5)** to prohibit the use of License Exception AVS for aircraft registered in, owned, or controlled by, or under charter or lease by Belarus or a national of Belarus. AVS was already unavailable to aircraft registered in, owned, or controlled by, or under charter or lease by Russia, or by a national of Russia.

### BIS Adds 120 Entities in Russia and Belarus to the Entity List

In addition to the new blanked license requirement for items on the Commerce Control List, **BIS added** 120 Russian and Belarusian entities to the Export Administration Regulations ("EAR") **Entity List** on April 7, 2022.

Of the 120 additions to the Entity List, 95 were sanctioned for acquiring and attempting to acquire items subject to the EAR in support of Russia's or Belarus's military. These entities received a "footnote 3" designation on the Entity List, and are therefore subject to a license requirement for the export, reexport, export from abroad, or in-country transfers of all items subject to the EAR that are destined to these entities, including non-U.S. items subject to the EAR by the Russia/Belarus military end user foreign direct product rule ("Russia/Belarus Military End User FDP Rule"). (See **EAR Section 746.8(a)(3)** and **EAR Section 734.9(g)**.) No license exceptions are available for exports, reexports, exports from abroad, or in-country transfers to these entities, and BIS will review license applications for these entities under a policy of denial.

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The remaining 25 Russian entities added to the Entity List were sanctioned for attempting to acquire items subject to the EAR in support of Russia's military modernization efforts. These entities were added to the Entity List with a license requirement for all items subject to the EAR, but without a footnote 3 designation, meaning the restriction does not include items subject to the EAR via the Russia/Belarus Military End User FDP Rule. No license exceptions are available for exports, reexports, or transfers (in-country) to these entities, and BIS will review license applications under a policy of denial.

### **BIS Adds Iceland, Liechtenstein, Norway, and Switzerland to List of Countries Excluded from Certain License Requirements**

BIS maintains a list of countries in **Supplement No. 3 to Part 746** of the EAR that are excluded from certain license requirements for exports, reexports, and transfers to Russia and Belarus

because these countries have committed to implementing substantially similar export controls under their domestic laws. Effective April 12, **BIS is adding** Iceland, Liechtenstein, Norway, and Switzerland to the list of excluded countries. This list of countries, which today includes South Korea, the European Union, Japan, Canada, Australia, the United Kingdom, and New Zealand, do not have to follow the licensing requirements set forth in **EAR Section 746.8** that pertain to foreign-origin items destined for Russia or Belarus. See EAR Sections **746.8(a)(4) and (a)(5)** for a full description of the exception.

**Wiggin and Dana's International Trade Compliance Practice Group** will continue to provide briefings as more information becomes available. A summary of previous OFAC Sanctions and BIS Export Controls in response to Russia's war on Ukraine is available [here](#).

*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.*