

## Russia and Belarus Sanctions Update – March 7, 2022: U.S. Sanctions, Export Restrictions Escalate as Conflict in Ukraine Continues

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### Key Takeaways:

- U.S. imposes additional sanctions on Russian elites, along with their family members, companies, and personal vehicles
- Actions targeting the defense sector and Russian government-affiliated media outlets signal the expansion of U.S. sanctions to new industries
- SWIFT access to be denied to seven Russian banks on March 12, 2022
- New export controls target Belarus and further restrict export of items that use encryption to Russia and Belarus

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### I. Sanctions Target Russian Elites, Disinformation Outlets, and Defense Industry

As the conflict in Ukraine continues, the U.S. launched an [additional wave of sanctions](#), with more expected to follow in the coming days. On March 3, 2022, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") [added the following](#) individuals, entities, and vehicles to the Specially Designated Nationals and Blocked Persons List ("SDN List"):

- Three Russian "elites" close to Russian President Vladimir Putin, two of their spouses, three of their adult children, and six of their companies. These individuals include Alisher Burhanovich Usmanov, one of Russia's wealthiest billionaires with vast holdings across the metals and mining, telecommunications, and information technology sectors, and Nikolay Petrovich Tokarev, who served with Putin as a KGB agent in the 1980s and is president of Transneft, a state-owned pipeline company subject to sectoral sanctions that is responsible for transporting 90% of oil extracted in Russia.
- A private jet that is one of the largest privately-owned planes in Russia, and one of the world's largest superyachts valued at over \$600 million, both owned by Mr. Usmanov. As a result of the designation, any transactions related to the yacht or aircraft, including things such as maintenance, the hiring of operating personnel, or payment of docking or landing fees, conducted with U.S. persons or in U.S. dollars, are prohibited.
- Twenty-six individuals based in Russia or Ukraine and seven Russian entities in connection with the Russian government's efforts to promulgate disinformation and influence perceptions via media outlets. These media organizations and news agencies are affiliated with the Russian government and are allegedly used to spread propaganda and false information.

On the same day, the U.S. Department of State also took action against inner-circle elites by designating the following individuals for being leaders, officials, senior executive officers, or members of the board of directors of the government of Russia, pursuant to [Executive Order \("E.O."\) 14024](#), along with many of their family members and companies. As a result of these designations, these persons and entities were added by OFAC to the SDN List. The designated persons include:

- Dmitry Peskov, the so-called "chief propagandist" of the Russian Federation and President Vladimir Putin's spokesperson;
- Boris Rotenberg, an oligarch and an owner of SMP Bank, which also was added to the SDN List on the same day;
- Arkady Rotenberg, an owner of the company PSJC Mosotrest, which has contributed to the construction and maintenance of the

Kerch Bridge between Russia and Crimea;

- Sergei Chemezov, the CEO of the sanctioned defense company Rostec; and
- Igor Shuvalov, chairman of the sanctioned financial institution Vnesheconombank (“VEB”), which will also be barred from SWIFT access starting on March 12, 2022, as described below.

In addition to the above actions taken against oligarchs, the State Department also [designated 22 Russian defense-related entities](#), which OFAC added to the SDN List. These sanctions are intended to “strike at the core of Putin’s war machine” by targeting a broad range of entities in the defense and aerospace sector that develop and produce fighter aircraft, infantry fighting vehicles, electronic warfare systems, missiles, and unmanned aerial vehicles for Russia’s military. This batch of designations expands the focus of earlier U.S. sanctions, which primarily targeted banks and other financial institutions. As the conflict in Ukraine continues to escalate, additional sanctions targeting the defense sector are anticipated.

U.S. persons are generally prohibited from engaging in most transactions with SDNs, absent a specific or general license, and all U.S. assets of SDNs are “blocked” and must be reported to OFAC. Designated natural persons are also subject to a travel ban, and all entities 50% or more owned by an SDN are generally treated as if they were also on the SDN List (known as the “50% Rule”).

In addition, any person, including a non-U.S. person, may be designated for materially assisting, sponsoring, or providing financial, material, or technological support for, or goods or services to or in support of, these SDNs.

## II. New General Licenses and FAQs

On March 2, 2022, OFAC issued four new Russia-related general licenses to authorize transactions that would otherwise be prohibited:

- [General License 9A](#), which updates the prior [General License 9](#), and authorizes certain transactions related to dealings in certain debt and equity issued prior to February 24, 2022 with (1) State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank (“Vnesheconombank”); (2) Public Joint Stock Company Bank Financial Corporation Otkritie (“Otkritie”); (3) Sovcombank Open Joint Stock Company (“Sovcombank”); (4) Public Joint Stock Company Sberbank of Russia (“Sberbank”); and (5) VTB Bank Public Joint Stock Company (“VTB”), along with entities owned 50% or more by them, until May 25, 2022. Note that any divestment or transfer of covered debt or equity must be to a non-U.S. person.
- [General License 10A](#), which updates the prior [General License 10](#) and authorizes certain transactions related to derivative contracts entered into prior to 4pm on February 24, 2022, with (1) Vnesheconombank; (2) Otkritie; (3) Sovcombank; (4) Sberbank; and (5) VTB, along with entities owned 50% or more by them until May 25, 2022. As with General License 9A, any divestment or transfer must be to a non-U.S. person.
- [General License 13](#), which authorizes certain administrative transactions by U.S. persons (such as paying taxes and fees or purchasing certificates and permits) with the Russian Federation’s Central Bank, the National Wealth Fund, or the Ministry of Finance (“Directive 4 Entities”) to the extent such transactions are prohibited by Directive 4 under E.O. 14024, until June 24, 2022. These transactions must be ordinarily incident and necessary to day-to-day operations in the Russian Federation.
- [General License 14](#), which authorizes certain clearing and settlement transactions with Directive 4 Entities that are prohibited by Directive 4 under E.O. 14024, in situations where the Directive 4 Entity’s sole function in the transaction is to act as an operator of a clearing and settlement system, provided that: (i) there is no transfer of assets to or from any Directive 4 Entity, unless separately authorized; and (ii) no Directive 4 Entity is either a counterparty or a beneficiary to the transaction, unless separately authorized. This General License also does not authorize any debit to an account on the books of a U.S. financial institution of any Directive 4 entity.

On March 3, 2022, OFAC issued a new [General License 15](#), which authorizes transactions involving any entity owned 50% or more, directly or indirectly, by Russian billionaire and Putin affiliate Alisher Usmanov, that is not listed on the SDN List. The General License is notable because it functionally exempts entities that are owned by Mr. Usmanov - and not otherwise separately sanctioned (such as the yacht and plane described above) - from OFAC’s 50% rule (as explained above).

OFAC also published [new Frequently Asked Questions](#) (“FAQs”), which include clarifications related to [Directive 4](#), which was issued on February 28, 2022 and as reported in our earlier [Client Alert](#), prohibits “all transactions” between U.S. persons and Directive 4 Entities. The FAQs clarify that U.S. persons must reject transactions involving Directive 4 Entities (unless exempt or authorized by OFAC), but that Directive 4 does not impose blocking sanctions as an SDN List designation would. The “50% Rule” also does not apply to Directive 4 Entities.

### III. SWIFT Access Denied to Seven Russian Banks and Subsidiaries

On March 2, 2022, the Society for Worldwide Interbank Financial Telecommunication (“SWIFT”) [announced](#) that it would comply with a new EU regulation and disconnect seven Russian banks, along with their subsidiaries, from access to its messaging platform on March 12, 2022. SWIFT is a secure messaging system used by banks and other financial institutions to exchange information, such as details regarding money transfers. Without access to SWIFT, these Russian banks are effectively cut off from participating in the global economy. To date, Iran is the only country that has been completely barred from SWIFT.

Following a [joint statement](#) issued by the U.S., the European Commission, France, Germany, Italy, the UK, and Canada, on March 1, 2022, the EU issued [Council Regulation \(EU\) 2022/345](#), which requires SWIFT to disconnect identified Russian banks from its services. The initial list of banks which will be barred from the SWIFT messaging platform are:

1. Otkritie;
2. Novikombank;
3. Promsvyazbank;
4. Bank Rossiya;
5. Sovcombank;
6. VEB; and
7. VTB, along with their subsidiaries.

These banks are all already subject to sanctions by the EU and U.S., and many have been sanctioned by the UK, Canada, and Japan as well.

### IV. Export Controls Update

On March 2, 2022, the Bureau of Industry and Security (“BIS”) of the U.S. Department of Commerce amended the Export Administration Regulations (“EAR”) to extend to Belarus the restrictions on exports to Russia announced on February 24, 2022. The main features of the new controls are:

1. New license requirement for exports to Belarus for items classified under any Export Control Classification Number (“ECCN”) in Categories 3 through 9 of the Commerce Control List (“CCL”), with a policy of denial except for certain “case-by-case” reviews of exports related to flight safety, maritime safety, humanitarian needs, government space cooperation, civil telecommunications infrastructure, government-to-government activities, and exports where the end-user is a specified Western subsidiary or joint venture. This captures many items which previously did not require a license for export to Belarus and are considered crucial for Belarus’ military and defense sectors, including aircraft parts, vessel components, and electronic items.
2. Russia/Belarus Foreign Direct Product Rule (“FDP Rule”). This new rule restricts the export of a wide range of foreign-produced items that are not designated EAR99 and are the “direct product” of U.S.-origin technology or software subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. The rule also applies if the foreign-produced item is not designated EAR99 and is produced by any plant or ‘major component’ of a plant that is located outside the United States, when the plant or ‘major component’ of a plant, whether made in the United States or a foreign country, itself is a “direct product” of U.S.-origin “technology” or “software” subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. These products will require a license for export if it is known that the foreign-produced item is destined for Belarus or Russia or will be incorporated into or used in the production or development of parts, components, or equipment produced in or destined for Belarus or Russia. This applies to all exports and re-exports when the exporter has “knowledge” that the product will ultimately be intended for end-users in Belarus or Russia, raising the stakes for exporters’ end-user certification and diligence processes.
3. Russia/Belarus Military End-Users Foreign Direct Product Rule (“MEU FDP Rule”). Similar to the FDP Rule, the MEU FDP Rule establishes a new license requirement to re-export, export from abroad, or transfer (in-country) to or within any destination any foreign-produced item subject to the EAR other than food or medicine when the foreign-produced item will be incorporated into or used in the production or development of parts, components, or equipment produced, purchased, or ordered by any entity in Belarus or Russia with a new “Footnote 3” designation in the license requirement column of the BIS Entity List.
4. Expanded Scope of MEU Restrictions. Controls on “military end use” and “military end users” in Belarus now apply to all items “subject to the EAR” except food and medicine designated EAR99.
5. Country Group Changes. BIS removed Belarus from Country Group A:4 Nuclear Suppliers Group and added Belarus to Country

Group D:2 Nuclear and D:4 Missile Technology of Supplement No. 1 to Part 740 of the EAR. BIS could still move Belarus to Country Group E, which includes Iran, Cuba, North Korea, and Syria, if the conflict in Ukraine continues to escalate.

Changes to the Entity List. Two Belarusian entities have been added to the Entity List, which prohibits the export of all items subject to the EAR (with very limited exceptions) to these entities:

- a. JSC Integral (a.k.a., OAO Integral or Joint-Stock Company Integral–Holding Managing Company); and
- b. The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus and all operating units wherever located. This includes the national armed services (army and air force), as well as the national guard and national police, government intelligence or reconnaissance organizations of the Republic of Belarus.

BIS also significantly limited the export of items that contain encryption technology. Items classified under ECCNs 5A992.c or 5D992.c as well as items eligible for License Exception ENC, now require a license to all end-users in Belarus and Russia except:

- a. Civil end-users that are wholly-owned U.S. subsidiaries;
- b. Foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies;
- c. Joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 (the list is available here - any country with an “X” in column A:5 and A:6, which are close U.S. allies);
- d. The wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6; or
- e. Joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

In addition, BIS announced new export controls targeting the oil refinery sector in Russia that are effective March 8, 2022. A license is now required to export, re-export or transfer (in-country) any item subject to the EAR listed in supplement no. 2 to Part 746 of the EAR as well as items specified in ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992, and 8D999 when you “know” that the item will be used directly or indirectly in exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) or Arctic offshore locations or shale formations in Russia, or are unable to determine whether the item will be used in such projects. Such items include, but are not limited to, drilling rigs, parts for horizontal drilling, drilling and completion equipment, subsea processing equipment, Arctic-capable marine equipment, wireline and down hole motors and equipment, drill pipe and casing, software for hydraulic fracturing, high-pressure pumps, seismic acquisition equipment, remotely operated vehicles, compressors, expanders, valves, and risers. BIS further expanded the scope of the Russian industry sector sanctions by adding a new general prohibition that will apply to additional Harmonized Tariff Schedule (HTS)-6 codes and Schedule B numbers for all exports, re-exports, and transfers (in-country) to or within Russia.

These new export controls are effective March 8, 2022.

Foley Hoag will continue to provide updates as the situation develops. Companies with questions about these actions or how to ensure compliance with U.S. sanctions and export control regulations should contact a member of Foley Hoag’s [Trade Sanctions & Export Controls practice](#). For information on earlier Russia-related actions, see our prior Client Alerts issued on [March 1](#), [February 28](#), and [February 17](#).

#### RELATED PRACTICES

- [Trade Sanctions & Export Controls](#)

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