

Locke Lord QuickStudy: BIS Tightens Export Controls on Russia and Belarus

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On August 23, 2024, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") announced a series of new measures to further restrict the supply of U.S.-origin and "U.S.-branded" items to Russia and Belarus aimed at crippling the Russian Federation's ability to sustain its military operations in Ukraine. These measures are part of the ongoing response to Russia's illegal invasion of Ukraine. The latest actions are designed to target Russia's and Belarus' illicit procurement networks that have been circumventing U.S. export controls. These new rules are intended to block Russia's access to critical technologies and materials necessary for its military.

Key Actions Announced by BIS:

- 1. Expansion of Military End User ("MEU") and Procurement Foreign Direct Product ("FDP") Rule:** BIS has imposed additional license requirements for operation software related to computer numerically controlled ("CNC") machine tools. The aim is to prevent Russia and Belarus from obtaining software updates for controlled tools, thus hampering their ability to maintain and enhance military capabilities. This specific measure will come into effect on September 16, 2024.
- 2. Cutting Off Exports to Foreign Facilitators:** The BIS has expanded the application of the Russia/Belarus MEU and Procurement FDP rule to include dozens of entities outside of Russia. This move is intended to disrupt Russia's supply chains that provide U.S.-origin and U.S.-branded items to Russia through foreign intermediaries. Additionally, BIS has added 123 entities in countries including China, Iran, Turkey, and the United Arab Emirates, among others, to the Entity List, thereby cutting those entities off from U.S. goods and technology absent a license.
- 3. Restricting Trade to Additional Foreign Addresses:** BIS is tightening restrictions on trade with certain foreign addresses and issuing guidance to exporters on how to identify suspicious transactions. This includes a focus on foreign corporate service providers and listed foreign addresses, enhancing recent restrictions on shell company addresses that have been used to mask the final destination of goods destined for Russia and Belarus.
- 4. Guidance on Export Regulations:** BIS is providing detailed guidance and recommendations on contractual language referencing export regulations under the Export Administration Regulations ("EAR"). This guidance specifically targets unlawful reexports to Russia and Belarus, to bolster U.S. companies' awareness these tightened restrictions.

Undersecretary of Commerce for Industry and Security Alan Estevez emphasized the importance of these actions, stating, "BIS has taken aggressive actions, in concert with our allies and partners, to impose strict export controls in response to Russia's illegal, unprovoked, and full-scale invasion of Ukraine. Today's action is an extension of this critical and ongoing work. We will continue our multilateral approach to attack this problem from all sides and use every tool in our arsenal to prevent Russia from gaining access to the advanced U.S. technology needed for

its weapons.” The expansion of export controls to entities outside of Russia and Belarus reflects a broader strategy of disrupting the global supply networks that support Russia’s war effort.

Conclusion

This paper is intended as a guide only and is not a substitute for specific legal or tax advice. Please reach out to the authors for any specific questions. We expect to continue to monitor the topics addressed in this paper and provide future client updates when useful.

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