Articles + Publications | January 11, 2024

Locke Lord QuickStudy: New U.S. Presidential Order Bans ?Import of Russian Seafood

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On December 22, 2023, President Biden ordered new U.S. sanctions against Russia by issuing Executive Order ("EO") 14114 ("Taking Additional Steps with Respect to the Russian Federation's Harmful Activities"). EO 14114 amends prior EO 14068 to expand existing embargos to the importation of certain Russian-origin seafood into the U.S. These new embargos lay the groundwork for potential expanded restrictions on other import-controlled commodities, including diamonds and precious metals (certain gold products are currently subject to license requirements). In tandem with EO 14114, the U.S. Department of the Treasury's Office of ?Foreign Assets Control ("OFAC") issued two determinations to prohibit the importation ?into the U.S. of certain seafood products originating from Russia, regardless of whether the product was substantially ?transformed in a third country; in other words, there is no de minimus tolerance for Russian origin seafood in finished goods. OFAC also issued General License ("GL") 83 providing a winddown for the importation of the embargoed seafood products and published several new FAQs related to EO 14114 (FAQ 1154, FAQ 1155, FAQ 1156 and FAQ 1157) intended to provide instruction on the implementation of EO 14114.

OFAC Determinations

The determination issued pursuant to subsection (1)(a)(i)(B) of EO 14068, as amended by EO 14114, ("Prohibitions Related to Imports of Certain Categories of Fish, Seafood, and Preparation Thereof"), prohibits the importation and entry into the U.S., including importation for admission into a foreign trade zone located in the U.S., of salmon, cod, pollock, or crab that was produced wholly or in part in Russia or harvested in waters under the jurisdiction of Russia or by Russia-flagged vessels, even if such salmon, cod, pollock, or crab has been incorporated or substantially transformed into another product outside of Russia (the "Seafood Determination").

The determination of December 22, 2023, issued pursuant to subsection of 1(a)(i)(A) of amended EO 14068 ("Prohibitions Related to Imports of Gold of Russian Federation Origin (as Amended)") prohibits the importation into the U.S. of gold of Russian Federation origin. The importation into the U.S. of gold of Russian Federation origin that was located outside of Russia prior to June 28, 2022 is not prohibited.

General License

GL 83 authorizes a wind-down period until February 21, 2024, of transactions prohibited by the determination of December 22, 2023 made pursuant to section 1(a)(i)(B) of EO 14068, as amended by EO of December 22, 2023

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("Prohibitions Related to Imports of Certain Categories of Fish, Seafood, and Preparations Thereof") that are ordinarily incident and necessary to the importation of seafood derivative products into the U.S. pursuant to written agreements entered into prior to December 22, 2023.

FAQs

FAQ 1154 – EO 14114 amends EO 14068 to provide for additional prohibitions on the importation and entry into the U.S. of certain seafood products that were produced or manufactured wholly or in part in Russia or harvested in waters under the jurisdiction of the Russia or by Russia-flagged vessels, even if such product has been incorporated or substantially transformed into another product outside of Russia, including salmon, cod, pollock, and crab. OFAC also intends to issue a determination related to the importation of certain Russian diamonds processed in third countries and associated guidance in the near term.

FAQ 1155, FAQ 1156 and FAQ 1157 – The Seafood Determination prohibits the importation and entry into the U.S., including importation for admission into a foreign trade zone located in the United States, of salmon, cod, pollock, or crab that was produced wholly or in part in Russia or harvested in waters under the jurisdiction of Russia or by Russia-flagged vessels, even if such salmon, cod, pollock, or crab has been incorporated or substantially transformed into another product outside of Russia. It does not prohibit U.S. persons from engaging in transactions to sell or re-direct shipments outside the U.S. that were previously destined for the U.S. Individuals and entities may import the listed types of seafood, for a limited time, into the U.S. subject to the conditions of GL 83. For purposes of the Seafood Determination, OFAC anticipates publishing regulations defining salmon, cod, pollock, and crab to include articles defined in the Harmonized Tariff Schedule of the U.S.

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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