

Locke Lord QuickStudy: OFAC Russia Related Sanctions Update: ?June 6, 2023?

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On May 19, 2023, the U.S. Department of Commerce Bureau of Industry and Security (“BIS”) issued additional [export control restrictions](#) aimed at further degrading the Russian Federation’s capacity to wage its aggression against Ukraine. The new export control restrictions align U.S. policy with its international partners and allies. The BIS release also reports the addition of 71 entities to the BIS Entity List; the Entity List contains a list of certain foreign persons, including businesses, research institutions, government and private organizations, individuals, and other types of legal persons, that are subject to specific license requirements for the export, reexport and/or transfer (in-country) of specified items.

Also on May 19, 2023, the BIS and the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) issued a [supplementary joint alert](#) asking financial institutions to redouble their vigilance regarding Russian attempts to evade U.S. export controls. In the supplement, the BIS and FinCEN provide financial institutions additional information regarding new BIS export control restrictions related to Russia, as well as reinforce ongoing U.S. government engagements and initiatives designed to further constrain and prevent the Russia Federation from accessing technology and goods to supply and replenish its military and defense industrial base.

On May 31, 2023, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) issued [General License \(“GL”\) 69](#) (“Authorizing Certain Debt Securities Servicing Transactions Involving International Investment Bank”) related to the [Russian Harmful Foreign Activities Sanctions ?Regulations](#), 31 CFR part 587 (the “RuHSR”).

BIS Export Control Restrictions

The BIS has issued a new export control [rule](#) and [added](#) 71 entities to the Entity List as part of its continued efforts to constrain and prevent the Russian Federation from accessing needed technology and goods to supply and replenish its military and defense industrial base for its war with Ukraine.

New Export Control Rule

The BIS issued a new export control [rule](#) that amends the Export Administration Regulation (“EAR”) by adding the following:

- Supplement no. 4 to part 746 (“Russian and Belarusian Industry Sector Sanctions”) was revised to add the

entirety of Chapters 84, 85, and 90 (now more than 2,000 total entries) that now require a license for export or reexport to or transfer within Russia or Belarus. The BIS will generally approve license applications for certain items that are predominately agricultural or medical in nature, consistent with the pre-existing exceptions to its policy of denial.

- Chapter 84 includes machinery and mechanical appliances, electrical equipment, parts thereof, sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.
 - Chapter 85 includes electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.
 - Chapter 90 includes optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof.
- Supplement no. 6 to part 746 was revised to add certain chemicals, biologics, fentanyl and its precursors, and related equipment designated EAR99 that may be useful for Russia’s industrial capability or may be diverted from Belarus to Russia for these activities of concern.
 - Supplement no. 7 to part 746 was revised to add HTS-6 code 8548.00 (“Electrical Parts of Machinery or Apparatus, NESOI”), which is intended to prevent the use by the Russian Federation of Iranian unmanned aerial vehicles in Ukraine.
 - The Russia/Belarus Foreign Direct Product? (“FDP”) Rule, which was renamed the “Russia/Belarus/temporarily occupied Crimea region of Ukraine FDP rule,” was revised to add the temporarily occupied Crimea region of Ukraine. Consequently, due to this modification, U.S.-origin products will now require a license for their export, reexport, or transfer (within country) to the occupied Crimea region of Ukraine.
 - The BIS clarified that exports, reexports, or in-country transfers of ECCN 5A991 communication items to certain affiliates of U.S. and [EAR Country Groups A:5 or A:6](#) companies in Russia and Belarus do not require a license.

Entity List Designations

The BIS [added](#) 69 Russian entities, one Armenian entity and one Kyrgyzstan entity to the Entity List. As a result, a license is required to export, reexport, or transfer (in-country) all items subject to the EAR to these 71 entities.

?License applications for the designated Russian entities will be reviewed under a ??“policy of denial” and license applications for the Armenian and Kyrgyzstani designated entities will be reviewed under a “policy of presumption of denial.” ?

FinCEN and BIS Supplemental Joint Alert

Building upon a [previous joint alert](#) issued in 2022, FinCEN and the BIS released a [supplementary joint alert](#) that addresses new BIS export controls restrictions related to Russia, provides U.S. financial institutions with additional guidance on evasion typologies, highlights nine high priority Harmonized System codes to inform their customer due diligence, and identifies additional transactional and behavior red flags to assist financial institutions in identifying suspicious transactions relating to possible export control evasion. FinCEN and BIS provided a list of nine transactional and behavioral red flag scenarios that indicate possible export control evasion. FinCEN also reminds financial institutions of their Bank Secrecy Act reporting obligations and requests that they continue to use the existing Suspicious Activity Report (“SAR”) code “*FIN 2022-RUSSIABIS*” when submitting SARs specific to Russian export control evasion.

OFAC GL 69

[GL 69](#) permits through June 30, 2023, the processing of interest and principal payments on debt securities issued by the International Investment Bank (“IIB”) prior to April 12, 2023. These payments cannot be made to persons located in the Russian Federation, and any payments intended for the Russian Federation or a blocked person must be deposited into a blocked account. Furthermore, U.S. financial institutions are authorized to unblock IIB interest or principal payments that were previously blocked on or after April 12, 2023, but before May 31, 2023, on debt securities issued by IIB prior to April 12, 2023, provided the funds are unblocked solely to effect transactions authorized under GL 69. Financial institutions unblocking such property are required to file an [unblocking report](#) with OFAC.

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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