

Locke Lord QuickStudy: OFAC Russia Related Sanctions Update: ?October 18, 2022?

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U.S. Sanctions

In response to Russia's attempt to annex parts of sovereign Ukrainian territory, G7 Leaders issued a [statement](#) on September 23, 2022 condemning Russia's sham referenda and noting their collective readiness to impose further economic costs on Russia, and on individual entities both inside and outside of Russia that provide political or economic support for Russia's illegal attempt to change the status of Ukrainian territory.

In support of this commitment, ?the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") on September 30, 2022 issued [FAQ 1091](#) and [added](#) 14 persons in Russia's military-industrial complex, including 2 international suppliers, 3 key leaders of Russia's financial infrastructure, immediate family members of some senior Russian officials, and 278 members of Russia's legislature on the Specially Designated Nationals and Blocked Persons List ("SDN List") for enabling Russia's sham referenda and attempt to annex sovereign Ukrainian territory.

[FAQ 1091](#) emphasizes that OFAC is prepared to more aggressively use its existing sanctions authorities, including [Executive Order \("EO"\) 13660](#) ("Blocking Property of Certain Persons Contributing to the Situation in Ukraine"), [EO 14024](#) ("Blocking Property With Respect To Specified Harmful Foreign Activities Of The Government Of The Russian Federation") and [EO 14065](#) ("Blocking Property Of Certain Persons And Prohibiting Certain Transactions With Respect To Continued Russian Efforts To Undermine The Sovereignty And Territorial Integrity Of Ukraine") to target non-U.S. persons – inside or outside of Russia – whose activities may constitute material assistance, sponsorship, financial, material, or technological support for, or goods or services to, or in support of (together "material support"), sanctioned persons or sanctionable activity. Examples of activities that could be targeted include those related to:

- Providing material support for the organization of Russia's sham referenda or annexation, as well as economic or other activity that seeks to legitimize Russia's sham referenda or annexation;
- Providing material support to Russia's military and defense industrial base, including significant transactions by entities in third countries that provide material support to Russia's military, defense industrial base, and designated entities and persons operating in Russia's defense industrial base;
- Attempting to circumvent or evade U.S. sanctions on Russia and Belarus; and
- Providing material support to Russian entities or individuals subject to certain blocking sanctions.

Also noted in the FAQ, OFAC will generally not impose sanctions on non-U.S. persons that engage in transactions

that would be authorized for U.S. persons, such as certain energy-related transactions.

On October 8, 2022, there was an explosion that severed two sections of the only bridge that links the occupied Crimean Peninsula to Russia. The Russians have blamed Ukraine for the blasts and have stepped up attacks on Ukraine using un-manned drones and other weapons believed to be acquired from Iran and China to target both border and inland Ukrainian civilian populations.

In response, on October 14, 2022 OFAC issued [FAQ 1092](#), which emphasizes non-U.S. companies risk exposure to sanctions for providing goods, services, or other support for Russia's military-industrial complex. For example, OFAC may block any person determined to operate or have operated in the defense and related materiel sector of the Russian Federation economy pursuant to EO 14024. In addition, pursuant to EO 14024, OFAC may block persons determined to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of certain sanctionable activities enumerated in EO 14024 or any person whose property and interests in property are blocked pursuant to EO 14024. OFAC states it is "prepared to use its broad targeting authorities against non-U.S. persons that provide ammunition or other support to the Russian Federation's military-industrial complex, as well as private military companies ("PMCs") or paramilitary groups participating in or otherwise supporting the Russian Federation's unlawful and unjustified attack on Ukraine." For more information on the impact of sanctions and export controls on Russia's military-industrial complex, please see "[OFAC-BIS Alert: Impact of Sanctions and Export Controls on Russia's Military-Industrial Complex](#)."

On October 17, 2022, OFAC issued [GL 28A](#), which extended the wind down period of certain transactions involving Public Joint Stock Company Transkapitalbank and Afghanistan to January 18, 2023.

U.S. Export Controls

OFAC's response to Russia's purported annexation of Ukrainian sovereign territory is complemented by the U.S. Department of Commerce's (the "Commerce Department") [listing](#) of 57 additional Russian entities on the Entity List for acquiring and attempting to acquire U.S.-origin items in support of Russian military and issuance of [guidance](#) ("BIS Guidance") on the heightened risks of third party actors outside of Russia becoming subject to U.S. export controls for supporting Russia's military. This listing is intended to send a clear warning that the United States' export controls on Russia can be applied to entities in third countries that seek to provide material support for Russia's and Belarus's military and industrial sectors, including to replenish technologies and other items prohibited by the United States and its allies.

The Commerce Department's September 30, 2022 BIS Guidance builds on a September 15, 2022 Bureau of Industry and Security ("BIS") issued [rule](#), which among other things, added new license requirements for the export, re-export, and transfer (in-country) to or within Russia of items subject to the Export Administration Regulation that are listed in new [Supplement No. 6 to Part 746](#), added additional items to [Supplement No. 4 to Part 746](#) that will require a license, and updated and expanded the list of consumer communications devices ("CCD") eligible for [License Exception CCD](#). The BIS Guidance allows BIS to designate entities in third countries that support "military end uses" in Russia or Belarus as Russian and Belarusian "military end users" on the Entity List, and apply the Russian/Belarusian Military End User Foreign Direct Product rule to them. Export license applications involving entities added to the Entity List are subject to enhanced scrutiny and a "presumption of

denial.”

U.S. Sanctions Compliance Guidance

On September 30, 2022, OFAC published “[Sanctions Compliance Guidance for Instant Payment Systems](#)” (the “Compliance Guidance”), which emphasizes the importance of taking a risk-based approach to managing sanctions risks in the context of new payment technologies such as instant payment systems and to highlight considerations relevant to managing those risks (e.g., domestic vs. cross-border payment systems, nature and value of payment, and availability of emerging sanctions compliance technologies and solutions). To mitigate the risk of violating OFAC regulations, OFAC recommends that U.S. persons, including U.S. banks and financial institutions, employ a risk-based approach to sanctions compliance by developing, implementing and routinely updating a sanctions compliance program that is predicated on and incorporated at least five [essential components of compliance](#): (1) management commitment; (2) risk assessment; (3) internal controls; (4) testing and auditing; and (5) training.

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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