

New US Restrictions Impact Russia-Related Imports and Exports, US Dollar-Denominated Banknotes

Skadden

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One Manhattan West
New York, NY 10001
212.735.3000

1440 New York Ave., N.W.
Washington, D.C. 20005
202.371.7000

On March 11, 2022, President Joe Biden signed Executive Order 14068 (E.O. 14068) imposing new restrictions on imports and exports with respect to Russia as well as on the supply of U.S. dollar-denominated banknotes to the Russian government and to persons located in Russia. E.O. 14068 expands the Biden administration's approach of using focused sanctions by creating new authorities for the Departments of Commerce and the Treasury to impose additional import and export restrictions with respect to Russia and restrict new investments in Russia by U.S. persons. These new measures are the latest in the multiple rounds of sanctions that the U.S. has imposed in response to Russia's invasion of Ukraine, including those covered in our [February 26, 2022](#), [March 9, 2022](#), and [March 11, 2022](#), client alerts.

At the same time that E.O. 14068 was issued, the Office of Foreign Assets Control (OFAC) issued three general licenses authorizing certain transactions otherwise prohibited by E.O. 14068, as well as seven additional frequently asked questions (FAQ) specifically addressing E.O. 14068. The U.S. Department of Commerce, Bureau of Industry and Security (BIS) also issued a final rule effective March 11, 2022, implementing restrictions on the export, re-export or transfer (in-country) of certain luxury goods to or within Russia or Belarus and to certain Russian or Belarusian oligarchs and other "malign actors" who are subject to U.S. sanctions.

Import/Export Restrictions

Import Restrictions on Fish, Seafood and Preparations Thereof, Alcoholic Beverages and Nonindustrial Diamonds

E.O. 14068 bans the importation into the U.S. of Russia-origin fish, seafood, and preparations thereof, alcoholic beverages, and nonindustrial diamonds (the Import Ban). In FAQ 1027, OFAC states that it intends to issue regulations defining the terms "fish, seafood, and preparations thereof," "alcoholic beverages" and "nonindustrial diamonds" in accordance with entries on the Harmonized Tariff Schedule of the United States.

OFAC also issued General License 17, which authorizes through 12:01 a.m. Eastern Daylight Time on March 25, 2022, transactions prohibited by E.O. 14068 that are ordinarily incident and necessary to the importation into the U.S. of items in the Import Ban pursuant to written contracts or written agreements entered into prior to March 11, 2022. In addition, in FAQ 1024, OFAC emphasizes that E.O. 14068 prohibits importing into the United States the specified products but clarifies that E.O. 14068 does not prohibit U.S. persons from engaging in transactions to sell or redirect shipments outside the U.S. that were previously destined for the U.S.

Export Restrictions on Luxury Goods

E.O. 14068 also bans the exportation, re-exportation, sale or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of luxury goods. However, OFAC has not defined the term "luxury goods" or issued any general licenses for the wind-down of arrangements entered into prior to the issuance of E.O. 14068.

Through its final rule, BIS is imposing two new license requirements for "luxury goods" subject to the U.S. Export Administration Regulations (EAR): (1) one that is applicable to goods destined for Russia and Belarus regardless of end user, and (2) one that is applicable to goods destined for certain Russian and Belarusian oligarchs and other persons designated by OFAC under or pursuant to certain executive orders relating to Russia and Belarus, and identified on the List of Specially Designated Nationals

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(SDN List). While there is a limited number of license exceptions available for the first category of transactions (exports destined for Russia and Belarus), there are no license exceptions available to overcome the restrictions on exports to individually identified Russians and Belarusians. Furthermore, license applications will be subject to a review policy of denial.

BIS added a new section to part 746 of the EAR to implement the ban on exports of luxury goods. A new supplement no. 5 to part 746 identifies the items that qualify as “luxury goods” for purposes of these restrictions. These include wine and other alcoholic beverages, tobacco, perfume, handbags, yacht parts, sports equipment, statues and other high-end items. The final rule has a savings clause allowing certain shipments of such items that were en route on March 11, 2022, to proceed to their destinations under their previous eligibility for a license exception or for shipment without a license. Exporters with in-progress shipments of luxury goods should closely evaluate whether such shipments can proceed under the savings clause.

Authority for Future Import and Export Restrictions

E.O. 14068 also provides authority for future Russia-related import and export restrictions. Specifically, it permits the secretary of the treasury, in consultation with the secretary of state and the secretary of commerce, to ban the importation of any other Russia-origin products. Similarly, E.O. 14068 permits the secretary of commerce, in consultation with the secretary of state and the secretary of the treasury, to ban the exportation, re-exportation, sale or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any other items to any person located in Russia. These authorities will enable Treasury and Commerce to impose additional import and export restrictions in response to events in Ukraine without further presidential authorization.

Restrictions on Banknotes

E.O. 14068 prohibits the exportation, re-exportation, sale or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of U.S. dollar-denominated banknotes to the Russian government or any person located in Russia. At the same time that E.O. 14068 was issued, OFAC issued General License 18, which authorizes the transfer of U.S. dollar-denominated banknotes for noncommercial, personal remittances that would otherwise be prohibited. Specifically,

General License 18 permits transactions ordinarily incident and necessary to the transfer of U.S. dollar-denominated banknotes for noncommercial, personal remittances from (1) the United States or a U.S. person, wherever located, to individuals located in Russia, and (2) a U.S. person located in Russia. Transferring institutions may rely on the originator of a funds transfer to be in compliance with these terms, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance.

General License 18 by its terms does not authorize charitable donations to or for the benefit of an entity or funds, or transfers for use in supporting or operating a business, including a family-owned business.

General License for Personal Maintenance of US Individuals Located in Russia

OFAC also issued General License 19, which authorizes individuals who are U.S. persons located in Russia to engage in transactions otherwise prohibited by E.O. 14068 that are ordinarily incident and necessary to their personal maintenance within Russia. These may include payment of housing expenses, acquisition of goods or services for personal use, payment of taxes or fees, and purchase or receipt of permits, licenses or public utility services.

Restrictions on Investments in Russia

E.O. 14068 also prohibits new investment in any sector of the Russian economy as may be determined by the secretary of the treasury, in consultation with the secretary of state, by a U.S. person, wherever located. No such sectors of the Russian economy have yet been identified, but E.O. 14068 provides the secretary of the treasury, in consultation with the secretary of state, with powerful new authority to restrict new investments in Russia by U.S. persons. The executive order may serve as a preview of the types of new sanctions that the U.S. may impose in the coming weeks and months. The U.S. previously targeted new investments in Russia’s energy sector with E.O. 14066, which we discussed in our [March 11, 2022](#), client alert.

Additional U.S. sanctions are likely, particularly as the humanitarian situation continues to deteriorate. We will continue to monitor developments in the days and weeks ahead.

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Contacts

Jamie L. Boucher

Partner / Washington, D.C.
202.371.7369
jamie.boucher@skadden.com

Brian J. Egan

Partner / Washington, D.C.
202.371.7270
brian.egan@skadden.com

Eytan J. Fisch

Partner / Washington, D.C.
202.371.7314
eytan.fisch@skadden.com

Michael E. Leiter

Partner / Washington, D.C.
202.371.7540
michael.leiter@skadden.com

Khalil N. Maalouf

Counsel / Washington, D.C.
202.371.7711
khalil.maalouf@skadden.com

Ariel V. Lieberman

Associate / Washington, D.C.
202.371.7094
ariel.lieberman@skadden.com

Joseph M. Sandman

Associate / Washington, D.C.
202.371.7355
joseph.sandman@skadden.com