

US Government Announces Ban on High-Technology Exports to Russia and Crimea

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Jeffrey D. Gerrish

Washington, D.C.
202.371.7381
jeffrey.gerrish@skadden.com

Nathaniel B. Bolin

Washington, D.C.
202.371.7893
nathaniel.bolin@skadden.com

Jamie L. Boucher

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

William J. Sweet, Jr.

Washington, D.C.
202.371.7030
william.sweet@skadden.com

Sean M. Thornton

Washington, D.C.
202.371.7149
sean.thornton@skadden.com

* * *

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

1440 New York Avenue, NW,
Washington, D.C. 20005
Telephone: 202.371.7000

Four Times Square, New York, NY 10036
Telephone: 212.735.3000

WWW.SKADDEN.COM

On April 28, 2014, as part of its evolving response to the situation in Ukraine, the White House announced new restrictions on exports of “high-technology” items and services to Russia and Crimea. The announcement also signaled that the U.S. government will begin subjecting certain Russian-owned and controlled entities to increased scrutiny under the U.S. export control regime. These latest moves come on the heels of a series of measures imposing economic sanctions on numerous individuals and firms and suspending the issuance of new licenses for the export and re-export of controlled goods and services to Russia and Crimea.¹ Companies engaged in transactions involving U.S.-origin defense, aerospace, electronics, and other high-technology items and services — as well as those dealing with the newly designated Russian entities — will need to continue to pay careful attention to the changing U.S. controls on exports and re-exports to Russia and Crimea to ensure that they do not incur significant civil and criminal liability.

To implement the latest export restrictions, the Directorate of Defense Trade Controls (DDTC) of the U.S. State Department has announced that it will immediately revoke existing licenses for the export and re-export of “any high-technology defense articles or services regulated under the U.S. Munitions List to Russia or occupied Crimea that contribute to Russia’s military capabilities.” DDTC also will deny any new or pending licenses going forward. The U.S. Department of Commerce, Bureau of Industry and Security (BIS) — which has jurisdiction over U.S.-origin “dual-use” goods, technologies and software — has now confirmed that it also will deny new and pending license applications and revoke existing licenses for exports and re-exports of high-technology dual-use items to Russia and Crimea. Moreover, DDTC and BIS have both stated that they will evaluate all other new and pending license applications and existing licenses on a case-by-case basis to “determine their contribution to Russia’s military capabilities.”

In a related development, BIS has identified 13 Russian-owned and controlled firms that will be subject to dual-use export controls and placed them on its Entity List. As a result, a license will be required for the export, re-export or transfer of designated dual-use goods and services to such firms and their subsidiaries (wherever located), and license applications will be subject to a presumption of denial.

Thus far, no guidance has been issued on the specific goods and services that will be considered high-technology items subject to the new restrictions. DDTC and BIS also have not announced any criteria that can be used to identify specific transactions that are likely to “contribute to Russia’s military capabilities.”

Failure to comply with the U.S. government’s new and changing requirements in this area can result in costly violations of U.S. export control laws. To mitigate the risk of such violations, companies should continue to closely monitor agency announcements

¹ See “US Government Halts Licensing for Key Exports to Russia in Response to Events in Ukraine” (April 4, 2014), *available at* <http://www.skadden.com/insights/us-government-halts-licensing-key-exports-russia-response-events-ukraine>; and “An Update on Economic Sanctions Related to Events in Ukraine” (March 26, 2014), *available at* <http://www.skadden.com/insights/an-update-on-economic-sanctions-related-to-events-ukraine-march-26-2014>.

and cautiously approach any defense- and high-technology-related transactions involving Russia, Crimea and any of the Russia-owned or controlled entities designated by BIS.

Skadden's U.S. export controls and economic sanctions team is following these developments closely. We encourage you to contact any of the attorneys listed here or your regular Skadden contact with any questions specific to your situation or business.