

In Coordinated Action, US Authorities Increase Russia-Related Restrictions and Warn About Evasion Risks

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Through a series of coordinated actions in May 2023, the United States launched a whole-of-government effort to expand and strengthen enforcement of its sanctions campaign against Russia as the conflict in Ukraine continues in its 15th month.

- On May 19, 2023, the Department of the Treasury's Office of Foreign Assets Control (OFAC), the Department of State and the Department of Commerce's Bureau of Industry and Security (BIS) imposed sweeping new Russia-related sanctions and export controls.
- The same day, BIS issued a supplemental joint alert with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) urging financial institutions to remain vigilant against Russian efforts to evade U.S. export controls.
- These coordinated actions were taken only three days after the Disruptive Technology Strike Force announced its first five enforcement actions for violations of Russia-related sanctions and export controls on May 16, 2023.

These steps demonstrate the U.S.' sustained effort to prevent sanctions and export controls evasion, and portend greater cooperation and alignment among the Justice, Treasury, Commerce and State Departments.

Taken during the G7 summit, this robust display of U.S. government action also appears calibrated as a diplomatic effort to encourage continued multilateral support for the counter-Russian sanctions program.¹

New OFAC and State Department Designations

OFAC designated 22 additional individuals and 140 additional entities pursuant to Executive Order (E.O.) 14024, including:

- Russia's foreign intelligence service.
- A Russia-based defense technology supplier.
- Russia-based technology and electronics importers.
- Russian energy-related educational institutions and research institutes.
- Russian drilling and mining companies.
- Persons that have sought to evade or undermine economic restrictions on Russia.

OFAC designated not only Russian persons but also third-country persons, including persons who have facilitated transfers of technology to Russia. OFAC also issued a general license authorizing the wind down of transactions involving certain universities and institutes, which expires at 12:01 a.m. Eastern Daylight Time on July 18, 2023.

In addition, the State Department designated or identified as blocked property almost 200 individuals, entities, vessels and aircraft pursuant to E.O. 14024. The State Department designations target:

- Russia's future energy production and export capacity.
- Russia's military-related procurement and sanctions evasion activities.

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One Manhattan West
New York, NY 10001
212.735.3000

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

¹ This client alert is for informational purposes only and does not constitute legal advice. Complex assessments often have to be made as to which sanctions regime applies in any given instance, given the multinational touch points of many entities and individuals. In that regard, given the complex and dynamic nature of these sanctions regimes, there may be developments not captured in this summary. Moreover, while the summary was accurate when written, it may become inaccurate over time given developments. For all of these reasons, you should consult with a qualified attorney before making any judgments relating to sanctions, as there are potentially severe consequences of failing to adhere fully to sanctions restrictions.

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- A Rosatom-related entity.
- Military-related transfers between Russia and Iran.
- The Russian metals and mining sector.
- Russia's military establishment.
- The Wagner Group.
- Russia's advanced technology industries.
- Deportations of Ukrainian children.
- Russian government officials, elites and associates.
- Kremlin-installed authorities in Russia-occupied territories in Ukraine.
- Grain theft from Ukraine.

Simultaneous to its designation by the State Department, OFAC issued a pair of general licenses with respect to PJSC Polyus, which is the largest gold producer in Russia and a top 10 gold miner by ounces produced in the world. One of the general licenses authorizes the wind down of transactions involving PJSC Polyus, and the other authorizes certain transactions related to debt or equity of, or derivative contracts involving, the company. Both general licenses expire at 12:01 a.m. Eastern Daylight Time on August 17, 2023.

The individuals, entities, vessels and aircraft designated or identified by OFAC or the State Department have been added to OFAC's List of Specially Designated Nationals and Blocked Persons.

Ban on Export of Architecture or Engineering Services to Russia

OFAC also issued a determination pursuant to Section 1(a)(ii) of E.O. 14071, which prohibits the exportation, reexportation, sale or supply, directly or indirectly, from the U.S. or by a U.S. person, wherever located, of architecture services or engineering services to any person located in Russia, unless exempt or authorized by OFAC.

The determination takes effect at 12:01 a.m. Eastern Daylight Time on June 18, 2023. The determination excludes any service to an entity in Russia that is owned or controlled, directly or indirectly, by a U.S. person and any service in connection with the wind down or divestiture of an entity located in Russia that is not owned or controlled, directly or indirectly, by a Russian person.

OFAC also issued a new FAQ, [FAQ No. 1128](#), which provides guidance on the types of services that OFAC considered to constitute "architecture services" and "engineering services."

Additional Authority To Make Certain Designations

OFAC further issued a determination pursuant to Section (1)(a)(i) of E.O. 14024 with respect to the architecture, engineering, construction, manufacturing and transportation sectors of the Russian economy, such that any person determined by OFAC, in consultation with the State Department, to operate or have operated in such sectors will be subject to sanctions. While OFAC did not cite this new authority as the basis for any of its designations on May 19, 2023, the determination indicates that the U.S. may broaden its sanctions into these additional sectors of the Russian economy in the future.

New BIS Export Restrictions

BIS added 71 entities — 69 in Russia and one each in Armenia and Kyrgyzstan — to the Entity List. The Entity List designations subject these parties to export, reexport and transfer (in country) licensing requirements, and limit the availability of most license exceptions under the Export Administration Regulations (EAR).

This latest round of additions to the Entity List aims to cut off Russia's access to critical components used for aircraft and tanks, semiconductors, and other advanced military applications as well as low-technology consumer goods needed by Russia to sustain its war in Ukraine.

In addition, BIS announced four changes to strengthen the existing BIS Russian and Belarusian Industry Sector Sanctions program.

- BIS added additional items, including a variety of electronics, instruments and advanced fibers for the reinforcement of composite materials, to the industrial and commercial controls listed in the EAR.
- BIS added additional discrete chemicals, biologics, fentanyl and its precursors, and related equipment to the control list.
- BIS targeted third-party countries that have supplied Russia during its war effort. By requiring a license for some foreign-produced items destined to Russia, Belarus and Iran, BIS aims to prevent circumvention of existing restrictions.
- BIS expanded the Russia/Belarus Foreign Direct Product (FDP) Rule to the Crimea region of Ukraine in an effort to make it more difficult for Russia to procure items for use in the occupied territory.

FinCEN and BIS Supplemental Alert

On May 19, 2023, [FinCEN and BIS issued a supplemental joint alert](#), urging the private sector to remain vigilant against Russian efforts to evade U.S. export controls.

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- The alert updates the FinCEN and BIS June 2022 joint alert by announcing new BIS export control restrictions related to Russia and new U.S. government initiatives to prevent Russia from accessing the technology and goods necessary to sustain its war in Ukraine.
- It helps financial institutions improve export control compliance and due diligence by sharing common evasion typologies, an updated list of controlled items, and transactional and behavioral red flags indicative of suspicious transactions.

In the alert, FinCEN and BIS highlight the use of third-party intermediaries and transshipment points to evade controls as one of the most common evasion methods. For these schemes, a Russian entity establishes a front company in third countries, through which covert procurement agents make purchases of goods and facilitate payments from the front company's non-Russian bank account to transmit funds through a U.S. correspondent bank account.

The front company then sends the goods to Russia, frequently through permissive jurisdictions known as transshipment points. FinCEN and BIS warn that these procurement networks may involve complex layering to conceal the true buyer and end user behind the front company.

The alert further warns financial institutions to watch for transactions involving nine additional Harmonized System code items that represent critical U.S. components on which Russia relies for its weapons systems and which now require a license for export to Russia, Belarus, Crimea or Iran. This new list includes several advanced technology components, such as:

- Electronic integrated circuits.
- Machines for the conversion or regeneration of voice and images.
- Radio navigational aid devices.

Treasury and BIS have determined that Russia is seeking to obtain these critical components, which have been found in Russian weapons systems used against Ukraine.

The alert cautions financial institutions against providing financing and processing payments for transactions involving suspicious fact patterns. It instructs financial institutions, when opening new accounts, to evaluate the customer's date of incorporation and physical location as well as the end user. For existing customers, the alert advises financial institutions to watch for anomalous increases in the volume or value of orders.

The alert provides nine red flag indicators of export control evasion, such as where a customer is significantly overpaying for a commodity based on known market prices or where a customer lacks or refuses to provide details to banks, shippers or third

parties, including about end users or company ownership. The alert encourages financial institutions to integrate these red flag indicators into their risk-based analysis and reminds them of their suspicious activity report filing obligations.

Disruptive Technology Strike Force

FinCEN and BIS issued the supplemental joint alert the same week that the Disruptive Technology Strike Force announced its first five enforcement actions, signaling coordinated and sustained action by the Justice, Commerce and Treasury Departments in ensuring compliance with the Russia-related sanctions and export controls.

Established in February 2023 and led by the Justice Department's National Security Division and BIS, the Task Force brings together experts throughout the government — including from the FBI, U.S. Immigration and Customs Enforcement's Homeland Security Investigations and 14 U.S. Attorneys' Offices — to target illicit actors, strengthen supply chains and protect critical technology from being acquired or used by adversaries.

Two of the Strike Force's first enforcement actions announced on May 16, 2023, involved disruption of alleged procured networks to help Russian military and intelligence obtain sensitive technology.

- Authorities in the U.S. Attorney's Office in the Eastern District of New York arrested a Greek national on May 9, 2023, for allegedly acquiring more than 10 different types of sensitive technologies on behalf of the Russian government and serving as a procurement agent for two Russian Specially Designated Nationals (SDNs) working for Russia's intelligence services. The complaint alleges that since 2017, the defendant claimed that the end users of U.S.-origin military and dual-use technologies — including advanced electronics and sophisticated testing equipment used in military applications — were a collection of defense companies in the Netherlands and Greece, when in fact the items were shipped to Russia in violation of U.S. law.
- In Arizona, law enforcement arrested two Russian nationals for their involvement in a procurement scheme to supply multiple Russian commercial airline companies, subject to bans on certain types of commercial transactions, with export-controlled parts and components. The defendants allegedly used intermediary companies and foreign bank accounts in third countries to conceal the identity of their Russian airline customers and source of payments.

Takeaways

As Russia's war in Ukraine continues into its second year, the United States, along with its allies and partners, is imposing new restrictions and sanctions to weaken the Russian economy and military, and multiple U.S. government agencies appear to be increasingly shifting toward an enforcement posture.

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The FinCEN and BIS joint alert is particularly notable, as it signals that U.S. authorities believe the private sector has a central role not only in sanctions compliance, but also in detecting and disrupting transactions that would violate U.S. export controls.

We expect U.S. government agencies will continue strengthening internal coordination as the U.S. intensifies the implementation and enforcement of its counter-Russia sanctions and export controls programs.

Contacts

Brian J. Egan

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

Alessio Evangelista

Partner / Washington, D.C.
202.371.7170
alessio.evangelista@skadden.com

Eytan J. Fisch

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

Jessie K. Liu

Partner / Washington, D.C.
202.371.7340
jessie.liu@skadden.com

Khalil N. Maalouf

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

Richmond Blake

Law Clerk / Washington, D.C.
202.371.7591
richmond.blake@skadden.com

Jillian V. Norton

Associate / Washington, D.C.
202.371.7374
jillian.norton@skadden.com

Joe Sandman

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