

# PUBLICATION

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## U.S. Implementation of Significant Sanctions and Export Controls on Russia Will Severely Impact Business Transactions With Russian Entities

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*Baker Donelson issued an updated alert on Friday, March 4 about increasing sanctions by the U.S. and its allies on Russia and Belarus. You can read the alert here.*

In response to Russia's invasion of Ukraine, the Biden Administration has implemented [significant sanctions](#) on Russia's financial institutions, state-owned companies, and individuals close to Putin which will restrict U.S. financial institutions and individuals from interacting with the named entities and, in some cases, freeze the assets of these entities. Additionally, it has implemented export controls which will prohibit Russia from receiving U.S. controlled technology and products produced outside of the U.S. that use certain U.S. technology. These recent actions are in addition to sanctions previously imposed on Russia as a result of Russia's 2014 invasion of Crimea and other sanctions on Russia. These sanctions also are being implemented by U.S. allies to extend their reach. The result of these actions will make transactions with Russia and Russian entities difficult, if not impossible. Clients conducting business with any Russian company or actor should reach out to Baker Donelson attorneys to discuss conducting internal due diligence and to assist with a review of the U.S. Department of the Treasury (Treasury) and Department of Commerce (Commerce) lists of sanctioned entities and individuals in order to ensure compliance with these new rules.

### Treasury Implements Financial Sanctions

The Treasury's Office of Foreign Assets Control (OFAC) imposed [expansive economic sanctions](#) against the core infrastructure of the Russian financial system, which includes all of its largest financial institutions and the ability of state-owned and private entities to raise capital. OFAC has issued certain general licenses in connection with these actions to minimize unintended consequences on third parties.

### Overview of Sanctions:

- OFAC imposed sanctions on numerous Russian financial institutions and their subsidiaries, including Russia's largest financial institution, Public Joint Stock Company Sberbank of Russia (Sberbank), and VTB Bank Public Joint Stock Company (VTB Bank). Sberbank is the largest financial institution in Russia. Within 30 days, OFAC will require all U.S. financial institutions to close any Sberbank correspondent or payable-through accounts and to reject any future transactions involving Sberbank or its foreign financial institution subsidiaries. Payments that Sberbank attempts to process in U.S. dollars for its clients will be disrupted and rejected once the payment hits a U.S. financial institution.
- OFAC has imposed full blocking sanctions on VTB Bank and other Russian financial institutions, including Public Joint Stock Company Bank Financial Corporation Otkritie (Otkritie), Open Joint Stock Company Sovcombank (Sovcombank), Joint Stock Commercial Bank Novikombank (Novikombank), and their subsidiaries. Blocking sanctions place these companies on OFAC's Specially Designated Nationals and Blocked Persons (SDN) list. As a result, assets held in U.S. financial institutions will be instantly frozen and inaccessible to the Kremlin or any other account holder. Moreover, all entities owned 50 percent or more, directly or indirectly, by VTB Bank are subject to blocking, even if not identified by OFAC.

- OFAC expanded Russia-related debt and equity restrictions to major state-owned and private entities, prohibiting transactions by U.S. persons in new debt and equity. As a result, 13 major companies and six of Russia's largest financial institutions cannot raise money through the U.S. market.
- OFAC is taking action against certain individuals close to Putin and financial sector elites. OFAC is placing on the SDN list certain influential Russians in Putin's inner circle and in elite positions of power within the Russian state along with their family members. As a result, assets held in the U.S. and in U.S. financial institutions will be frozen and inaccessible.
- The U.S. also issued sanctions on certain [Belarusian entities and individuals](#). OFAC placed two state-owned banks, certain defense companies, and individuals on the SDN list. All property and interests in property of the individuals and entities above that are in the U.S. or in the possession or control of U.S. persons are blocked and must be reported to OFAC.

U.S. allies including the European Union, Australia, Japan, Canada, New Zealand and the United Kingdom are taking parallel actions.

These new sanctions are in addition to the sanctions issued on February 21 related to the so-called Donetsk People's Republic and Luhansk People's Republic regions of Ukraine, which prohibit investment, exports, and financing in those regions as well as any imports into the U.S. of any good, service, or technology from those regions.

### **Commerce Prohibits the Export of Controlled Technology and Goods to Russia**

The U.S. Department of Commerce's Bureau of Industry and Security (BIS) has issued [new license requirements](#) and policies governing export of certain commodities to Russia. In short, all controlled commodities to Russia subject to a license with a licensing policy of denial. Commerce also expanded its controls on exports to Russia to cover foreign direct products (FDP) produced outside of the U.S. using certain U.S. technology and placed a number of companies on the Entity List.

- First, BIS now requires a license on all controlled commodities exported to Russia. A license was not previously required for items subject to the Export Administration Regulations (EAR) and classified under any Export Control Classification Number (ECCN) in Categories 3 through 9 of the Commerce Control List. These categories cover microelectronics, telecommunications items, sensors, navigation equipment, avionics, marine equipment, and aircraft components. In addition to these new licensing requirements, all items that require a license for the export, reexport, or transfer (in-country) to Russia will be subject to a licensing policy of denial. While there are limited exceptions for safety, humanitarian needs, government space cooperation, civil telecommunications infrastructure, government-to-government activities, and to support limited operations of partner country companies in Russia, no license will be issued if the transaction would benefit the Russian government or defense sector.
- Next, BIS created two new foreign "direct product" rules (FDP rules) – one for the entire country of Russia and another for the Russian military. The Russia FDP rule establishes a control over foreign-produced items that are either the direct product of certain U.S.-origin software or technology subject to the EAR, or produced by certain plants or major components thereof which are themselves the direct product of certain U.S.-origin software or technology subject to the EAR. Foreign-produced items subject to the EAR under the Russia FDP rule will now require a license, which will be subject to the policy of denial.

- The Russia military end user FDP rule is more extensive than the Russia FDP rule and applies to foreign-produced items that are the direct product of any software or technology subject to the EAR on the Commerce Control List, or produced by certain plants or major components thereof which are themselves the direct product of any U.S.-origin software or technology on the CCL. No license exceptions are available to overcome this license requirement.
- BIS is expanding restrictions on Russian 'military end users' and 'military end uses' to cover all items subject to the EAR with exceptions for food and medicine designated as EAR99, and certain other items so long as they are not for Russian "government end users" or Russian state-owned enterprises.
- Finally, BIS is adding 49 companies to the entity list, which expands the licensing requirement for the export, reexport, and transfer (in-country) of all items subject to the EAR.

The EU, Japan, Australia, United Kingdom, Canada, and New Zealand have committed to implementing substantially similar export controls on Russia under their domestic laws.

Finally, BIS imposed [comprehensive export restrictions](#) for the so-called Donetsk People's Republic, Luhansk People's Republic, and Crimea regions of Ukraine. A license will be required to export any controlled item to those regions, with a licensing policy of denial.

Additional sanctions may be implemented, and updates will be provided.

In the meantime, should you have any questions on how these sanctions affect your business, please contact [P. Lee Smith](#) or your Baker Donelson [Global Business](#) attorney.