

PUBLICATION

U.S. Sanctions on Russia and Belarus Increase

Authors: Prentiss Lee Smith

March 04, 2022

In our previous alert, we discussed the U.S. implementation of significant sanctions and export controls on Russia which will severely impact business transactions with Russian entities. The U.S. and its allies continue to exert pressure on Russian entities and individuals with additional sanctions on Russia and Belarus, including blocking the access of certain Russian banks from the Society for Worldwide Interbank Financial Telecommunication (SWIFT), further complicating transactions with Russia. Moreover, the U.S. is beginning to target Russia's oil and gas industry with stricter controls on technology and goods used in the oil and gas exploration, extraction, and refining industries.

In addition, the U.S. Department of Justice (Justice) is launching an interagency enforcement task force – KleptoCapture – to ensure the recent sanctions and export controls are enforced using civil and criminal penalties. Congress likely will assist these actions with additional appropriations to the U.S. Department of the Treasury (Treasury), the U.S. Department of Commerce (Commerce), and Justice. Other Congressional actions are possible. U.S. companies transacting with Russian or Belarusian companies should increase their due diligence to ensure compliance or risk becoming the subject of a civil or criminal investigation.

Additional Treasury Actions Against Russia and Belarus

Treasury has placed blocking sanctions on additional Russian individuals, entities and disinformation targets.

- Blocking **sanctions** have been placed on Russian President Vladimir Putin; Russian Foreign Affairs Minister Sergei Lavrov; members of Russia's Security Council; the Russian Direct Investment Fund and its Chief Executive Officer Kirill Dmitriev; the Joint Stock Company Management Company of the Russian Direct Investment Fund; and the Limited Liability Company RVC Management Company. It is rare for Treasury to place a head of state on the specially designated national list.
- An expansive new list of Russian, oligarchs, **elites** and their family members are subject to blocking sanctions.
- Full blocking **sanctions** have been placed on Russian disinformation targets. The following organizations and 26 Russia- and Ukraine-based individuals who play central roles in them have been blocked: SDN Strategic Culture Foundation and associated outlets Odná Rodyna, Rhythm of Eurasia, and Journal Kamerton; SouthFront; SDN InfoRos; New Eastern Outlook; Oriental Review; United World International; and Geopolitical.
- Treasury **designated** two significant Belarusian state-owned banks - Belarussian Bank of Development and Reconstruction Belinvestbank Joint Stock Company (Belinvestbank) and Bank Dabrabyt Joint-Stock Company (Bank Dabrabyt).
- Treasury also designated numerous entities and individuals that are part of the Belarusian defense and security industry.

As a result of these sanctions, all property and interests in property of the designated individuals that are in the U.S. or in the possession or control of U.S. persons are blocked and must be reported to the Office of Foreign Assets Control (OFAC). Moreover, any entities that are owned, directly or indirectly, 50 percent or more by one or more blocked persons are also blocked.

Treasury also **sanctioned** the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation. This action prohibits U.S. persons from engaging in transactions with and effectively immobilizes any assets of these entities.

U.S. allies have taken similar actions, which increases the geographical reach of these sanctions.

SWIFT Access Denied to Certain Russian Banks

The U.S. and its allies on February 26 moved to block certain Russian banks' access to the **SWIFT** international messaging system. This action disconnects these Russian financial institutions from the international financial system and restricts their ability to operate globally.

Additional Actions by Commerce on Belarus and Russia

Commerce **issued** new license requirements and policy governing the export of controlled items to Belarus in order to prevent diversion of items, technologies, and software through Belarus to Russia. These new license requirements and policy are similar to those recently imposed on Russia. The Bureau of Industry and Security (BIS) now requires a license on all controlled commodities exported to Belarus, including on controlled items that previously did not require a license. Moreover, BIS has implemented a licensing policy of denial for all exports of controlled goods to Belarus.

BIS also extended its two new foreign "direct product" rules to Belarus – one for the entire country and another for the military. The Belarus FDP rule places controls and a license requirement on foreign-produced items that are either the direct product of certain U.S.-origin software or technology subject to the Export Administration Regulations (EAR). These licenses will be subject to a policy of denial. The Belarus military end user FDP rule is more extensive than the Belarus 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. No license exceptions are available to overcome this license requirement. Finally, BIS is expanding restrictions on Belarusian 'military end users' and 'military end uses' to cover all items subject to the EAR with exceptions only for food and medicine.

BIS will impose stricter export controls on **oil and gas extraction**, exploration, and refining equipment and technology that support Russia's oil refining capacity, imposing a policy of denial on such items.

Finally, BIS also will target entities supporting the Russian and Belarusian military. When BIS finds that an entity has supported the Russian and Belarusian security services, military and defense sectors, and/or military and defense research and development efforts, BIS will add those companies to its Entity List, which will prohibit those entities from receiving controlled technology. Implementing this rule, BIS added 91 parties to the Entity List based on their contributions to or other support of the Russian security services, military and defense sectors. These parties were located in 10 countries – Russia, United Kingdom, Estonia, Spain, Malta, Kazakhstan, Latvia, Belize, Singapore, and Slovakia.

Justice to Launch Interagency Enforcement Task Force

Justice is **launching** an interagency task force focused on enforcing U.S. sanctions, export restrictions and economic countermeasures imposed on Russia. The KleptoCapture task force will be staffed with prosecutors, agents, analysts, and professional staff across Justice and other agencies who are experts in sanctions and export control enforcement, anticorruption, asset forfeiture, anti-money laundering, tax enforcement, national

security investigations, and foreign evidence collection. In addition to investigating and prosecuting violations and attempts to circumvent the new sanctions and export controls, the KleptoCapture task force will target the use of cryptocurrency for evading U.S. sanctions and laundering the proceeds of foreign corruption. Justice also will use civil and criminal asset forfeiture tools to seize property belonging to sanctioned individuals.

State Department Sanctions

The U.S. Department of State (State) has implemented [blocking sanctions](#) on Russia's defense sector, including 22 Russian defense-related entities. These entities include firms that make combat aircraft, infantry fighting vehicles, electronic warfare systems, missiles, and unmanned aerial vehicles for Russia's military. As a result, property and interests in property that are in the U.S. or come within the U.S. in the future are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in. State also is imposing visa restrictions on 19 Russian oligarchs, their 47 family members and close associates.

Possible Congressional Action

While the situation is still unfolding, it is possible that Congress will seek to place additional pressure on Russia beyond what the Biden Administration has implemented. The following proposals are noteworthy:

- **Appropriations:** Congress will likely pass appropriations legislation enhancing funding for sanctions and export restriction enforcement authorities. The Biden Administration has called for additional funding for Justice, Treasury, and Commerce.
- **Energy:** Many members of Congress, including Speaker Nancy Pelosi (D-CA), have called for a boycott on Russian oil. Senators Joe Manchin (D-WV) and Lisa Murkowski (R-AK) have introduced [legislation](#), with 18 bipartisan cosponsors, to ban all Russian energy imports. Biden Administration officials have pushed back on this effort, noting that bans could increase global energy prices, which could end up benefiting Russian oligarchs in the short term.
- **Tariffs:** Both Senate Finance Committee Chair [Ron Wyden](#) (D-OR) and Senator Rob Portman (R-OH) have introduced legislation that would revoke Russia's Permanent Normal Trade Relations status, which would lead to increased tariffs on all Russian goods. Canada has [already placed](#) a 35 percent tariff on all Russian and Belarusian imports.
- **Banks:** 32 Republican Senators have introduced [legislation](#) that would sanction all major Russian banks and place secondary sanctions on banks doing business with sanctioned Russian banks. Democrats have not agreed to similar proposals although a bipartisan compromise is possible.

For more information contact [P. Lee Smith](#) or your Baker Donelson [Global Business](#) attorney.