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Trade Alert: U.S. Expands Sanctions Against Russia: Tightening Export Controls, Targeting Sanctions Evasion and Warning of Risks for Doing Business in Russia

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On the second anniversary of Russia's invasion of Ukraine and in light of Alexey Navalny's death at a Russian penal colony, the United States continues to expand sanctions and export controls on the Russian Federation (the "U.S.'s Russian Sanctions and Export Control Regime"). The U.S.'s Russian Sanctions and Export Control Regime is administered primarily by the U.S. Department of Commerce, Bureau of Industry and Security ("BIS") and by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"). It covers both primary sanctions — imposed on U.S. persons wherever located, and goods and activities originating and/or taking place inside the territory of the United States — as well as so-called "secondary" sanctions - imposed on non-U.S. persons and goods and activities subject to the scope of the sanctions program.

The U.S.'s newest — and arguably the largest — single package of Russian Sanctions and Export Control Regime additions expands BIS's "Entity List" of restricted parties by more than 500 individuals and entities. The new additions target Russia's financial sector, metals and mining industry, and military-industrial complex, as well as enforcing existing sanctions and export controls against both Russian and third-country evasion networks.

1. Prohibitions and Blocking Measures Directed at Foreign Financial Institutions: Russia-owned National Payment Card System ("**NPCS**") was added to the list of Specially Designated Nationals ("**SDN**"). NPCS is the operator of Russia's MIR National Payment System, which clears and settles payments between consumers, merchants, and banks for debit and credit card payments, primarily in Russia. MIR payment cards effectively replaced Visa, Master Card and other western competitors that suspended operations in Russia following the war with Ukraine, and disabled payment cards issued by them. OFAC targeted NPCS expressly in connection with sanctions evasion, stating that the "Government of Russia's proliferation of MIR has permitted Russia to build out a financial infrastructure that enables Russian efforts to evade sanctions and reconstitute severed connections to the international financial system." Several Russian banks and investment companies were designated as SDNs, including SPB Bank, owned by Russia's second-largest stock exchange.

2. Prohibitions and Blocking Measures Directed at Russia's Metals and Mining Sector implicated in the Russian War Efforts: The U.S.'s Russian Sanctions and Export Control Regime reached two of Russia's largest companies (by revenue): SUEK and Mechel. SUEK is a coal producer described as "a flagship company of Russian transportation logistics that operates its own railway infrastructure and is involved in trucking and other transportation services" and serves the Russian military. Mechel is a major producer of specialty steels and supplier for the Russian war machine. Russia's major gold, aluminum and metal products producers were also added to the "Entity List." Several non-Russian companies were also added to the list for collaborating "with Russia-based metals companies to disguise the origin of Russian precious metals."

3. Export Controls:

(i) ***Prohibitions Directed at U.S. Sanctions Evaders and Transhippers:*** Close to 100 entities from Russia, China, Turkey, the UAE, Kyrgyzstan, India and South Korea were added to the "Entity List" for aiding in Western sanctions evasion, including supplying Russia with equipment used to support Russia's war effort in Ukraine. Among these entities are nine Chinese firms which shipped microelectronics and other tech goods to Russia, including to the Russian military.

(ii) ***Import Restrictions on Diamonds Clarified:*** OFAC clarified prior importation prohibitions on diamonds and diamond jewelry of Russian origin and/or exported from Russia. OFAC clarified that its restrictions on importation of Russian diamonds include the following:

- non-industrial diamonds of Russian Federation origin (effective since March of 2022);
- non-industrial diamonds of Russian Federation origin, regardless of whether such diamonds have been substantially transformed in third countries (effective March 1, 2024);
- unsorted diamonds of Russian Federation origin or exported from Russia (effective March 1, 2024); and
- diamond jewelry of Russian Federation origin or exported from Russia (it does not matter whether the diamonds are Russian Federation origin or not) (effective March 1, 2024).

4. Prohibitions and Blocking Measures Directed at Russia's Weapon Manufacturers and Nuclear Research Facilities: Over 60 entities and individuals involved in the production and sale of weapons and ammunition received SDN designations. Notably, this list includes Alexandrov Research Institute of Technology, which is directly linked to Rosatom, Russian state nuclear company, which is involved in designing, testing and supporting nuclear power and naval propulsion reactors, including for Russian military submarines.

5. Exceptions and Licenses: OFAC continues to maintain exceptions and licenses providing for broad authorizations for transactions that would otherwise be prohibited by E.O. 14114 related to the production, manufacturing, sale, transport, or provision of agricultural commodities, agricultural equipment, medicine, medical devices, replacement parts and components for medical devices, and software updates for medical devices (expressly excepting from this list Russian origin fish and seafood). Additionally, OFAC issued wind-down general licenses (GL 88, GL 89 and GL 90) for certain activities wind-down and divestment activities subject to the new prohibitions, and FAQs 1164-1166 available on the OFAC website clarifying the new rules.

6. Risks of Doing Business in Russia Advisory: The U.S. Department of State, the U.S. Department of the Treasury, the U.S. Department of Commerce, and the U.S. Department of Labor jointly issued a business advisory (the "Advisory") cautioning that anyone[1] doing business in or involving Russia or the Russian-occupied territories of Ukraine "increasingly risk severe civil and criminal penalties in navigating the raft of economic sanctions, export controls, and import restrictions imposed on Russia." The Advisory warns that activities "not otherwise directly addressed by sanctions, export controls, or other trade restrictions" are also subject to the heightened risks, which may include "significant operational, legal, economic, and reputational risks associated with their Russian business operations and relationships," including three specific categories:

- Exposure to sanctions regimes of the United States and its world partners;
- Risk of businesses and individuals being implicated in the Government of Russia's violations of international law, including war crimes and crimes against humanity, and human rights abuses; and

[1] This advisory is addressed to "[b]usinesses, individuals, financial institutions, and other persons—including investors, consultants, non-governmental organizations, and due diligence service providers that operate in or have value chains linked to the Russian Federation or the areas it occupies in Ukraine.

- Exposure to repressive laws in the Russian Federation such as expropriation in certain instances or arbitrary detentions.

The Advisory recommends conducting heightened due diligence, “incorporating both a robust review of compliance mechanisms (compliance due diligence) and heightened human rights due diligence, as methods for limiting their exposure.”

This alert is a brief summary, and we recommend a comprehensive review of the executive order to fully understand its implications. For detailed advice tailored to your situation, please consult with legal professionals well-versed in international trade and economic sanctions. If you have questions about any of the documents referenced in this alert or need further information or assistance, we invite you to contact a member of the DCG Trade Group for assistance.

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