

Russia sanctions update - March 21, 2022

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This update summarizes the past two weeks' key sanctions developments in the United States, European Union, and United Kingdom in response to Russia's invasion of Ukraine.

The United States, European Union (EU), and United Kingdom (U.K.) have continued to put in place new sanctions targeting Russia in response to the ongoing invasion of Ukraine. This update highlights notable sanctions developments since our March 4, 2022 [client update](#). The most significant of these actions are:

- New [EU sanctions](#) broadly prohibiting transactions with several Russian state-owned companies and imposing a number of targeted restrictions on certain types of trade and investment;
- Two new U.S. Executive Orders—[Executive Order 14068](#) (EO 14068) and [Executive Order 14066](#) (EO 14066)—which, taken together, impose targeted prohibitions on the importation of certain Russian origin products and the exportation of certain goods and U.S. dollar banknotes to Russia, prohibit new U.S. investment in Russia's energy sector, and authorize U.S. agencies to impose further restrictions on trade and investment in the future;
- Additional EU, U.K., and U.S. sanctions targeting Russian oligarchs, with the U.S. approach remaining a significant open question as a practical matter; and
- The revocation of Russia's "most-favored nation" status and other measures designed to further isolate the Russian economy.

As noted in our previous client updates, the situation in Ukraine continues to evolve, with both additional sanctions measures and further guidance and licensing activity likely to continue in the coming weeks.

New EU and U.K. sanctions

The EU [announced](#) on March 15 a new tranche of sanctions against Russia, including certain measures that are broader than the sanctions imposed by the United States thus far. In addition to barring transactions involving Russian luxury goods and new investments into the Russian energy sector, the EU measures also: (i) prohibit most transactions with certain state-owned enterprises, (ii) prohibit the provision of credit rating services to any Russian person or entity, (iii) impose trade restrictions for Russian iron and steel, and (iv) impose sanctions against persons and entities connected to Russia's defense and industrial sectors. The EU provides a grace period for the sanctions against the designated state-owned enterprises, allowing transactions with such entities until May 15, 2022 as long as such transactions are pursuant to contracts entered into before March 16, 2022. Moreover, the EU sanctions make additional exceptions for:

- Transactions that are strictly necessary for the purchase, import or transport of fossil fuels, in particular coal, oil and natural gas, as well as titanium, aluminum, copper, nickel, palladium and iron ore from or through Russia into the EU; and
- Transactions related to energy projects outside Russia in which a legal person, entity or body listed in the EU sanctions is a minority shareholder.

The U.K. also [announced](#) a new round of sweeping sanctions against Russia. The new U.K. sanctions include the designation of over 370 individuals, 51 of whom are Russian oligarchs and their family members, resulting in the U.K. designating over 1,000 individuals and entities under the Russian regime since the invasion of Ukraine.¹

In contrast to the sanctions imposed following the annexation of Crimea, the U.K. and EU have for the moment moved more quickly to sanction individual oligarchs. The United States has also exhibited some caution in extending sanctions to oligarch-owned companies. It remains to be seen how U.S. sanctions will be extended to individuals with extensive commercial holdings and the companies they control.

U.S. prohibitions related to certain Russian commercial goods

On March 11, 2022, the White House issued EO 14068, which imposes additional prohibitions on trade with Russia in certain goods, and broadly authorizes the Treasury and Commerce Departments to impose further prohibitions on trade and investment. Specifically, the order prohibits:

- The importation into the United States of Russian fish, seafood, and preparations thereof; alcoholic beverages; and non-industrial diamonds; as well as any other products of Russian origin as may subsequently be determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce;²
- The exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of luxury goods, and any other items as may be subsequently determined by the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Treasury, to any person located in Russia;
- New investment in any sector of the Russian economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, by a United States person, wherever located;³
- The exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of U.S. dollar-denominated banknotes to the Russian government or any person located in Russia; and
- Any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by EO 14068 if performed by a United States person or within the United States.

While EO 14068 was effective immediately upon its issuance, the United States Department of the Treasury's Office of Foreign Assets Control (OFAC) issued [General License \(GL\) 17](#), which gives U.S. persons until March 25, 2022 to wind down transactions that would otherwise be prohibited by EO 14068 as long as such transactions are pursuant to a written contract or agreement entered into before March 11, 2022. OFAC also issued two General Licenses that allow the use of U.S. dollar banknotes for certain personal transactions:

- [GL 18](#), which authorizes U.S. dollar-denominated banknote noncommercial, personal remittances from: (i) the United States or a U.S. person, wherever located, to an individual located in the Russian Federation; or (ii) a U.S. person who is an individual located in Russia;⁴ and
- [GL 19](#), which authorizes U.S. persons located in Russia to conduct transactions related their personal maintenance within Russia, including paying housing expenses, acquiring goods or services for personal use, paying taxes or fees, and purchasing permits, licenses, or public utility services.

According to [FAQ 1,024](#), EO 14068 does not prohibit U.S. persons from engaging in transactions to sell or re-direct shipments outside the United States that were previously destined for the United States. In addition [FAQ 1,026](#) provides that non-U.S. persons are not exposed to sanctions under EO 14068 as long as the their importation of Russian goods described in EO 14068 is to jurisdictions outside of the United States and does not involve a sanctioned person or is an otherwise prohibited transaction. Finally, on March 16, BIS published its implementing regulation, [Imposition of Sanctions on 'Luxury Goods' Destined for Russia and Belarus and for Russian and Belarusian Oligarchs and Malign Actors Under the Export Administration Regulations](#), which provides additional guidance regarding the restriction on the export of certain luxury goods to Russia, pursuant to EO 14068.

U.S. prohibitions related to the Russian energy sector

On March 8, 2022, the White House issued EO 14066, which imposes a broad set of restrictions on the importation of Russian energy products and new investments in the Russian energy sector. Specifically, EO 14066 prohibits the following:

- The importation into the United States of Russian crude oil; petroleum; petroleum fuels, oils, and products of their distillation; liquefied natural gas; coal; and coal products;
- New investment in the Russian energy sector by a United States person, wherever located; and
- Any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by EO 14066.

OFAC issued [GL 16](#), which allows U.S. persons to wind down any affected transactions conducted pursuant to written contracts or agreements entered into prior to March 8, 2022, though all such transactions will only be allowed until 12:01 a.m. eastern daylight time on April 22, 2022.⁵

Blocking sanctions against individuals

On March 11, 2022, OFAC [announced](#) the imposition of a new round of blocking sanctions against Russian elites, in addition to Russia's political and national security leaders who have supported the Russian invasion of Ukraine. OFAC specifically designated: three immediate family members of President Vladimir Putin's spokesperson; a Russian tycoon and Kremlin insider; the Management Board of the sanctioned VTB Bank; and 12 members of the Russian State Duma, including a permanent member of Russia's Security Council.

However, the United States has exhibited some caution in moving against oligarchs. Indeed, the United States has yet to sanction some of the most prominent oligarchs recently targeted by the U.K. and EU. Moreover, as we noted in our previous update, when OFAC sanctioned Alisher Usmanov, the most recent oligarch with extensive international holdings, it took the unusual step of exempting companies he owned from the "50% rule." Although there is no indication that the United States does not intend to sanction additional oligarchs, it may be that U.S. officials are moving more deliberately in light of the unexpected consequences that resulted from the 2018 blocking sanctions that were imposed on certain oligarchs with extensive business ties to leading U.S. and international companies.

Relatedly, the United States and the G7 have created a task force to further target the assets of Russian elites close to President Putin. According to a Treasury [press release](#), the task force will consist of the Finance Ministry and Justice (or Home) Ministry in each member jurisdiction, with each entity committed to using their respective authorities in concert with other appropriate ministries to collect and share information to take concrete actions against Russia, including sanctions, asset freezing, and civil and criminal asset seizure, and criminal prosecution.

Revoking Russia's Most Favored Nation status and other key measures

In a [joint statement](#) by the Group of Seven (G7), the White House announced several measures intended to further isolate the Russian economy:

- **Most Favored Nation status.** The United States and the G7 will revoke Russia's Most Favored Nations trade status relating to certain key products. According to the White House, this action "will revoke important benefits of Russia's membership of the World Trade Organization (WTO) and ensure that the products of Russian companies no longer receive Most-[Favored]-Nation treatment in our economies."⁶
- **Revoking permanent normal trade relations status.** In the [Fact Sheet](#) related to the joint statement, the White House indicated that Congress intends to revoke by statute Russia's permanent normal trade relations status, which would, among other things, provide President Biden the authority to raise tariffs on Russian goods.⁷
- **Ban on borrowing from multilateral financial institutions.** The joint statement also indicated that the United States would work with the G7 nations to bar Russia from obtaining financing from multilateral financial institutions, including the International Monetary Fund, the World Bank and the European Bank for Reconstruction and Development.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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- ¹ Note, all of the individuals and entities on the March 15 list were previously sanctioned by the United States and/or the EU.
- ² [FAQ 1,027](#) provides definitions for "Russian Federation origin," "fish, seafood, and preparations thereof," and "alcohol beverages" by drawing on references to classifications in the Harmonized Tariff Schedule of the United States. In addition, OFAC refers to the Bureau of Industry and Security (BIS) of the United States Department of Commerce for guidance on the prohibition on the export of luxury goods.
- ³ As of March 21, 2022, the Treasury Department has not identified any such sectors.
- ⁴ According to GL 18, noncommercial, personal remittances do not include charitable donations to or for the benefit of an entity or funds transfers for use in supporting or operating a business, including a family-owned business. GL 18 also provides that transferring institutions may rely on the originator of a funds transfer with regard to compliance with GL 18, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance with GL 18.
- ⁵ In [FAQ 1,020](#), OFAC clarifies that EO 14066 does not prohibit transactions involving non-Russian origin energy products that transit through or depart from Russia.
- ⁶ Note, while Russia maintains the right to appeal the broad revocation of its most favored nation status to the WTO, the so-called "national security exception" under [General Agreement on Tariffs and Trade Article XXI](#) allows WTO member nations to impose special trading barriers on other members when "necessary for the protection of its essential security interests," particularly, "in time of war or other emergency in international relations." Notably, in 2019, the WTO allowed Russia to block trade between Ukraine, Kazakhstan and the Kyrgyz Republic under the "national security exception" and thus it is unlikely the WTO would now prohibit the U.S., EU and U.K. from taking similar actions against Russia for its invasion of Ukraine.
- ⁷ On March 17, 2022, the United States House of Representatives passed the "Suspending Normal Trade Relations with Russia and Belarus Act," which is the first step towards revoking Russia's permanent normal trade relations status.