

## U.S. targets entities dealing with Russia and Russia's architecture, engineering and other sectors

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In a new round of sanctions, the United States targeted third-country entities doing business with Russia, prohibited the export of architecture and engineering services to Russia, and designated new sectors of the Russian economy.

In coordination with the G7 and other international partners, the United States again expanded its sanctions and trade restrictions on Russia in response to its war against Ukraine. On May 19, 2023, the Office of Foreign Assets Control (OFAC) [announced](#) a range of restrictions designed to undermine Russia's war efforts, including sanctions on 22 individuals and 104 entities, spanning over 20 countries and jurisdictions.<sup>1</sup> The State Department concurrently blocked nearly 200 individuals, vessels, and aircraft. The sanctions demonstrate the Administration's continued focus on procurement networks and facilitators of sanctions evasion, as well as its willingness to target non-Russian entities that supply materials and technology to the Russian government. In addition to targeting individuals and entities, the new measures require U.S. persons to report to OFAC any property in their possession or control in which Russia's Central Bank, National Wealth Fund, or Ministry of Finance has an interest, designate Russia's construction, engineering, architecture, manufacturing, and transportation sectors for sanctions, and will prohibit the export, reexport, sale, or supply of architecture and engineering services to Russia. The sanctions announced on May 19 reflect joint commitments made at the recent G7 Leaders' Summit and align with sanctions packages recently announced by the United Kingdom and European Union.<sup>2</sup>

In conjunction with the new round of sanctions, the Commerce Department's Bureau of Industry and Security (BIS) issued new rules expanding export control restrictions against Russia and released a [joint supplemental alert](#) (the Supplemental Alert) with the Financial Crimes Enforcement Network (FinCEN) urging financial institutions to be vigilant against Russia's evasion of export controls.<sup>3</sup> The Supplemental Alert, which builds on a previous alert on export control evasion that the agencies released last year, provides further evidence that regulators will increasingly scrutinize institutions' sanctions and export control compliance frameworks. As highlighted in our March 2023 client update on the Russia sanctions, which can be found [here](#), the U.S. Department of Justice and financial regulators are adopting a more proactive enforcement posture, which presents a growing compliance challenge for industry stakeholders as the sanctions and trade restrictions against Russia continue to expand.

## Strategic designations and reporting requirements

### OFAC and State Department focus on procurement, facilitators, and financing

In the round of sanctions announced on May 19, OFAC and the State Department collectively designated nearly 300 individuals, entities, vessels, and aircraft, cutting across numerous sectors and jurisdictions.<sup>4</sup> Consistent with the Administration's broader strategy, the new sanctions focus on Russia's sources of supply for advanced technology,

materials, and financing for its war efforts, and they similarly reflect the Administration's increasing focus on facilitators of sanctions evasion. In this regard, the latest measures are notable for their broad international scope, as OFAC and the State Department targeted individuals and entities across 20 different jurisdictions, including Germany, India, Liechtenstein, the Netherlands, Finland, Estonia, the United Arab Emirates, Cyprus, Hong Kong, Malta, Singapore, and the UK, among others. This is in line with the Administration's previous statements indicating its willingness to target third-country actors that supply technology and materials to Russia,<sup>5</sup> and aligns with the UK and the EU, which have similarly targeted third-country facilitators of sanctions evasion (in a notable departure from their usual stance on extraterritorial application of sanctions).<sup>6</sup>

In addition to targeting entities and individuals in a wide range of jurisdictions, OFAC has targeted entities in several different industries relevant to Russia's access to financing, research, and technology. The targets include entities alleged to have facilitated Russia's procurement of sensitive technology and research; individuals and entities involved in the importing, shipping, and/or distribution of foreign-made technology such as semiconductors and other microelectronics to Russia; energy-related research and educational institutes; metal and mining companies; entities that supply equipment for or invest in Russia's energy sector; and financial institutions.<sup>7</sup>

## New reporting requirements under Directive 4

Consistent with a similar measure adopted by the European Union, OFAC amended [Directive 4 under E.O. 14024](#) (Directive 4)<sup>8</sup> to require persons subject to U.S. jurisdiction to report to OFAC any property in their possession or control in which the Russian Central Bank, National Wealth Fund, or Ministry of Finance has an interest. Directive 4 prohibits U.S. persons from participating in any transaction, including any transfer of assets or foreign exchange transaction, involving these entities.<sup>9</sup> The Treasury Department stated that the new requirements are intended to allow OFAC to better identify and quantify immobilized Russian government assets held by U.S. persons and reflect a commitment made by the G7 to "fully map holdings of Russia's sovereign assets that will remain immobilized in G7 jurisdictions until Russia pays for the damage it has caused to Ukraine."<sup>10</sup> OFAC has not yet issued public guidance on the scope and applicability of the new reporting requirements, including whether they extend to Russian sovereign debt.

Reports under Directive 4 must include key information such as the name and address of the person in possession or control of the property, the name of the blocked individuals or entities, a description of the property, and the value of the property, among other details. Reports must be submitted to [OFACreport@treasury.gov](mailto:OFACreport@treasury.gov) on or before June 18, 2023, and annually thereafter by June 30, in each case reflecting property held as of May 31 of the relevant year.

## New sector designations and services prohibitions

[Executive Order 14024](#) authorizes OFAC to designate sectors of the Russian economy for sanctions, and since February 2022 OFAC has used this authority to target sectors that are key to Russia's war efforts in Ukraine.<sup>11</sup> On May 19, OFAC issued a determination adding the Russian architecture,<sup>12</sup> engineering,<sup>13</sup> construction,<sup>14</sup> manufacturing,<sup>15</sup> and transportation<sup>16</sup> sectors to the list of sectors targeted under E.O. 14024.<sup>17</sup> The designation of these sectors does not automatically impose sanctions on all persons who operate or have operated in those sectors, but rather authorizes OFAC to sanction specific persons determined to operate, or have operated, in those sectors.<sup>18</sup> OFAC's order follows the agency's recent designation of the Russian metal and mining sectors in February 2023<sup>19</sup> and aligns with the Administration's broader strategy of limiting Russia's access to key services and materials that may support its war efforts.

The definitions of all five sectors are broad and include not only the provision of services but also the *receipt* of goods, services, or technology to, from, or involving each sector. While the authority is very broad, ultimately the imposition of sanctions is a discretionary policy matter; effectively, these designations give OFAC broad authority to designate entities undermining U.S. policy interests.

On May 19, OFAC also issued a determination under [Executive Order 14071](#)<sup>20</sup> prohibiting the "exportation, reexportation, sale, or supply directly, or indirectly from the U.S., or by a U.S. person, wherever located," of architecture and engineering services to any person located in the Russian Federation.<sup>21</sup> The definition of architectural services generally aligns with the definition of the architecture sector,<sup>22</sup> while engineering services are broadly defined to include, among other things, "assistance, advisory, consultative, design, and recommendation services concerning engineering matters or during any phase of an engineering project," as well as engineering-related scientific and technical consulting services and technical inspection services.<sup>23</sup> The determination will take effect beginning at 12:01 a.m. eastern daylight time on June 18, 2023.

Similar to the existing prohibitions on accounting, trust and corporate formation, management consulting, and quantum computing services,<sup>24</sup> the prohibitions on architecture and engineering services do not apply to (i) services provided to entities in Russia that are owned or controlled, directly or indirectly, by U.S. persons, or (ii) any service in connection with the wind down or divestiture of an entity located in the Russian Federation that is not owned or controlled, directly or indirectly, by a Russian person. These carve outs present some of the same issues for non-U.S. based multinational corporations that arose with respect to the prior services bans, however, as the carve outs do not make allowances for U.S. subsidiaries of such corporations to provide services to their Russian affiliates absent specific authorization from OFAC.

## Export control restrictions

On May 19, 2023, BIS released two rules (in coordination with U.S. allies) that amend existing export control restrictions and add 71 entities to the Entity List. First, BIS issued a [rule](#)<sup>25</sup> that adds 69 Russian entities and two non-Russian entities to the Entity List for providing support to Russia's military and defense sector and undermining export control restrictions. Second, BIS issued a [rule](#)<sup>26</sup> that adds licensing requirements for additional items exported to Russia. The new rule adds the remaining HTS-6 Codes under three entire harmonized tariff system chapters (Chapters [84](#), [85](#), and [90](#)) to the industrial and commercial controls listed in Supplement No. 4 to Part 746 of the EAR, resulting in the imposition of controls on goods falling within any HTS-6 Code under these three chapters.<sup>27</sup> The items include certain electronics, instruments, and advanced fibers for the reinforcement of composite materials, including carbon fibers. License applications for items in these categories generally are subject to a policy of denial, although BIS will continue to grant licenses for certain types of exports (including of items that are predominantly agricultural or medical in nature) on a case-by-case basis. The rule also expands the destination scope of the Russia/Belarus Foreign-Direct Product Rule by applying it to the Crimea region of Ukraine.

## New compliance alert

Concurrently with the latest round of export control restrictions, FinCEN and BIS released the Supplemental Alert, which urges financial institutions to be vigilant in detecting and reporting violations of export controls targeting Russia. The Supplemental Alert builds on FinCEN's and BIS's [first joint alert](#)<sup>28</sup> released in June 2022 and follows other regulatory guidance on this issue, including a joint compliance note released by the Justice Department, BIS, and OFAC in March 2023.<sup>29</sup> The Supplemental Alert, among other things, describes the export control restrictions that have been implemented since the first alert, identifies evasion typologies and transactional and behavioral red flags, and reminds institutions of their compliance and reporting obligations.<sup>30</sup> More broadly, the Supplemental Alert provides further evidence that regulators are increasingly targeting sanctions and export control evasion and will scrutinize the compliance controls maintained by the private sector. The DOJ, BIS, and OFAC made clear in their March 2023 compliance note that they expect financial institutions and other stakeholders to maintain appropriate risk-based controls, and the agencies stated their willingness to take action in response to violations and compliance failures. Financial institutions and industry stakeholders may find compliance increasingly difficult as the sanctions and trade restrictions imposed on Russia expand in both scope and complexity.

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<sup>1</sup> U.S. Department of the Treasury, Press Release, With Over 300 Sanctions, U.S. Targets Russia's Circumvention and Evasion, Military-Industrial Supply Chains, and Future Energy Revenues (May 19, 2023), <https://home.treasury.gov/news/press-releases/jy1494> (Press Release); State Department, United States Imposes Additional Sanctions and Export Controls on Russia in Coordination with International Partners (May 19, 2023), <https://www.state.gov/united-states-imposes-additional-sanctions-and-export-controls-on-russia>.

<sup>2</sup> U.K. Foreign, Commonwealth & Development Office, Press Release, UK Sanctions Target Russia's Theft of Ukrainian Grain, Advanced Military Technology, and Remaining Revenue Sources (May 19, 2023), <https://www.gov.uk/government/news/uk-sanctions-target-russias-theft-of-ukrainian-grain-advanced-military-technology-and-remaining-revenue-sources>; European Commission, Press Statement by President von der Leyen with Ukrainian President Zelenskyy (May 9, 2023), [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_23\\_2661](https://ec.europa.eu/commission/presscorner/detail/en/statement_23_2661).

<sup>3</sup> FinCEN and BIS, FIN-2023-Alert004, Supplemental Alert: FinCEN and the U.S. Department of Commerce's Bureau of Industry and Security Urge Continued Vigilance for Potential Russian Export Control Evasion Attempts (May 19, 2023), [https://www.fincen.gov/sites/default/files/shared/FinCEN%20and%20BIS%20Joint%20Alert%20\\_FINAL\\_508C.pdf](https://www.fincen.gov/sites/default/files/shared/FinCEN%20and%20BIS%20Joint%20Alert%20_FINAL_508C.pdf)

<sup>4</sup> See Press Release.

<sup>5</sup> See U.S. Department of the Treasury, Press Release, Treasury Targets Russian Financial Facilitators and Sanctions Evaders Around the World (Apr. 12, 2023), <https://home.treasury.gov/news/press-releases/jy1402>.

<sup>6</sup> See, e.g., Prime Minister's Office, Press Release, New sanctions demonstrate G7 resolve on Russia (May 18, 2023), <https://www.gov.uk/government/news/new-sanctions-demonstrate-g7-resolve-on-russia>; see also Council of the EU, Press Release, 10<sup>th</sup> package of sanctions on Russia's war of aggression against Ukraine: the EU includes additional 87 individuals and 34 entities to the EU's sanctions list (Feb. 25, 2023), <https://www.consilium.europa.eu/en/press/press-releases/2023/02/25/10th-package-of-sanctions-on-russia-s-war-of-aggression-against-ukraine-the-eu-includes-additional-87-individuals-and-34-entities-to-the-eu-s-sanctions-list/>.

<sup>7</sup> See Press Release.

<sup>8</sup> OFAC, Directive 4 (As Amended) under E.O. 14024, <https://ofac.treasury.gov/media/918806/download?inline>.

<sup>9</sup> *Id.*

<sup>10</sup> See Press Release.

<sup>11</sup> Under Executive Order 14024, OFAC is authorized to target sectors of the Russian economy for sanctions in consultation with the Secretary of State. See Exec. Order No. 14024 (2021).

<sup>12</sup> "Architecture sector," is defined to include "activities such as advising; pre-designing; designing; preparing sketches, reports, studies, assessments, site plans, working drawings, specifications, cost estimates, as-built drawings, or other materials; contract administration; site selection; and inspections concerning architectural and related matters;" activities related to "residential, institutional, leisure, commercial, and industrial buildings and structures; recreational areas; transportation infrastructure; land subdivisions; urban planning; and landscape architecture" projects; and related activities, including the "provision or receipt of goods, services or technology to, from, or involving the architecture sector." OFAC, Frequently Asked Questions No. 1126 (May 19, 2023), <https://ofac.treasury.gov/faqs/1126>.

<sup>13</sup> "Engineering sector" includes "activities such as advising; designing; recommending; consulting; constructing; installing, surveying; preparing studies, specifications, cost estimates, working drawings, process flow diagrams, arrangement drawings, or other materials; map making; planning; testing; analysis; and inspecting for engineering and related matters" at any time during an engineering project of any type, and includes related activities such as "the provision or receipt of goods, services, or technology to, from, or involving the engineering sector." *Id.*

<sup>14</sup> "Construction sector" is defined to include "activities such as the production, procurement, devising, framing, design, testing, financing, distribution, or transport ... of goods, services, or technology to fabricate, shape, alter, maintain, or form any buildings or structures, including the on-site development, assembly, or construction of residential, commercial, or institutional buildings, or of transportation infrastructure;" and includes related activities such as "the provision or receipt of goods, services, or technology to, from, or involving the construction sector." *Id.*

<sup>15</sup> "Manufacturing sector" is defined to include activities "such as the creation, modification, repair, testing, or financing, of goods by manual labor or machinery involving [Russia]" and "any related activities, including the provision or receipt of goods, services, or technology to, from, or involving the manufacturing sector." OFAC noted that persons conducting or facilitating transaction such as those related to "the provision of agricultural commodities, food, medicine, or medical devices, or related to energy" will not be subject to sanctions under Executive Order 14024. *Id.*

<sup>16</sup> "Transportation sector," is defined to include "activities such as the production, manufacturing, testing, financing, distribution or transport to, from, or involving [Russia] of any mode of transport or any goods, services, or technology for the movement or conveyance of persons or property and the loading, unloading, or storage incidental to the movement of such persons or property; and any related activities, including the provision or receipt of goods, services, or technology to, from, or involving the transportation sector." *Id.*

<sup>17</sup> See OFAC, Determination Pursuant to Section 1(A)(I) of Executive Order 14024 (May 19, 2023), <https://ofac.treasury.gov/media/931771/download?inline>. Under Executive Order 14024, OFAC is authorized to target sectors of the Russian economy for sanctions in consultation with the Secretary of State. See Exec. Order No. 14024 (2021).

<sup>18</sup> OFAC, Frequently Asked Questions No. 1127 (May 19, 2023), <https://ofac.treasury.gov/faqs/1127>.

<sup>19</sup> The designation of the Russian metal and mining sector is discussed in our March 14, 2023 [client update](#).

<sup>20</sup> See Exec. Order No. 14071, 87 Fed. Reg. 20,999 (2022). Executive Order 14071 gives OFAC authority to issue determinations that prohibit "the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, or any category of services identified by OFAC. See Exec. Order No. 14071.

<sup>21</sup> See OFAC, Determination Pursuant to Section 1(a)(ii) Of Executive Order 14071 (May 19, 2023), <https://ofac.treasury.gov/media/931776/download?inline>; OFAC, Frequently Asked Questions No. 1128 (May 19, 2023), <https://ofac.treasury.gov/faqs/1128>. The ban on accounting and management consulting services is discussed in our June 2022 [client update](#).

<sup>22</sup> Architecture services are defined to include "advisory services; pre-design services; design services, including schematic design, design development, and final design; contract administration services; combined architectural design and contract administration services; including post construction services; and all other services requiring the expertise of architects. The prohibition applies to such services as they relate to residential, institutional, leisure, commercial, and industrial buildings and structures; recreational areas; transportation infrastructure; land subdivisions; and not necessarily related to a new construction project. The term also includes urban planning services (i.e., land use, site selection, and servicing of land for systemic, coordinated urban development) and landscape architectural services. OFAC intends to interpret this term consistent with UN Central Product Classification (CPC) Codes 86711-86704, 86719, and 86741-86742." OFAC, Frequently Asked Question No. 1128.

<sup>23</sup> See OFAC, Frequently Asked Question No. 1128. The full definition includes "[a]ssistance, advisory, consultative, design, and recommendation services concerning engineering matters or during any phase of an engineering project. Engineering design services may be for: the construction of foundations and building structures (i.e., structural engineering); mechanical and electrical installations for buildings; the construction of civil engineering works; industrial processes and production; or other engineering designs, such as those for acoustics, vibration, traffic control systems, or prototype development for new products. The term additionally includes geotechnical, groundwater, and corrosion engineering services; integrated engineering services, such as those for transportation infrastructure or other projects; engineering-related scientific and technical consulting services, including geological, geophysical, geochemical, surface or subsurface surveying, and map making services; testing and analysis services of chemical, biological, and physical properties of materials or of integrated mechanical and electrical

systems; and technical inspection services."

<sup>24</sup> OFAC, Frequently Asked Question No.1068 (June 9, 2022), <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1068>.

<sup>25</sup> BIS, Addition of Entities to the Entity List, 88 Fed. Reg. 32,640 (May 19, 2023).

<sup>26</sup> BIS, Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls, 88 Fed. Reg. 33,422 (May 19, 2023).

<sup>27</sup> As described in our previous [client update](#), Harmonized Tariff Schedule (HTS) codes are standardized codes, based on the Harmonized Commodity Description and Coding System (HS) administered by the World Customs Organization (WCO), used to determine the duties that apply to items shipped internationally. The WCO assigns a six-digit code under the HS that broadly classifies an item, which countries are able to supplement with additional digits for further classification. In February 2023, BIS significantly broadened the scope of goods subject to licensing requirements under the EAR by switching to HTS-6 codes for certain products.

<sup>28</sup> FinCEN, BIS, FIN-2022-Alert003, FinCEN and the U.S. Department of Commerce's Bureau of Industry and Security Urge Increased Vigilance for Potential Russian and Belarusian Export Control Evasion Attempts (June 28, 2022), <https://www.fincen.gov/sites/default/files/2022-06/FinCEN%20and%20Bis%20Joint%20Alert%20FINAL.pdf>.

<sup>29</sup> Department of Commerce, Department of the Treasury, and Department of Justice, Tri-Seal Compliance Note: Cracking Down on Third-Party Intermediaries Used to Evade Russia-Related Sanctions and Export Controls (March 2, 2023), [https://home.treasury.gov/system/files/126/20230302\\_compliance\\_note.pdf](https://home.treasury.gov/system/files/126/20230302_compliance_note.pdf).

<sup>30</sup> The Supplemental Alert requests that financial institutions continue to use the existing SAR code (FIN-2022-RUSSIABIS) when submitting suspicious activity reports (SARs) specific to Russian export control evasion and reminds them of their Bank Secrecy Act (BSA) reporting obligations.