

Russia sanctions update - March 4, 2022

March 4, 2022 | Client Update | 9-minute read

OFAC clarifies the scope of sanctions targeting Russia's banking sector, as the EU excludes seven of Russia's largest banks from SWIFT.

This update highlights several key sanctions developments since our March 1, 2022 [client update](#), as the United States, European Union, and other allies and partners have continued to implement aggressive sanctions targeting Russia in response to the ongoing invasion of Ukraine. The most significant of these actions are:

- The publication of the European Union (EU) regulation implementing the prior political decision to remove certain Russian banks from the Society for Worldwide Interbank Financial Telecommunication (SWIFT) messaging system;
- The publication by the Office of Foreign Assets Control of the U.S. Department of the Treasury (OFAC) of new guidance and general licenses clarifying the scope of previously issued sanctions, most significantly including those targeting the Russian Central Bank;
- Additional blocking sanctions imposed by OFAC and the U.S. State Department on Russian “oligarchs” and family members, companies in Russia’s defense sector, and Russian influence actors; and
- Expansion of previously announced export controls restrictions to cover Belarus as well as Russia, limit exports to support Russian oil refining, and target additional entities linked to the Russian military.

While the pace of sanctions activity has stabilized somewhat, the situation continues to evolve, with both additional sanctions measures and further guidance and licensing activity likely to continue in the coming days and weeks.

EU “de-SWIFTing” regulation

On March 2, 2022, the EU published a regulation implementing its previously announced decision to take steps to force the removal of certain Russian banks from the SWIFT messaging network. The regulation, which takes effect on March 12, prohibits the provision of “specialized financial messaging services, which are used to exchange financial data,” to the following Russian banks and their subsidiaries: Bank Otkritie, Novikombank, Promsvyazbank, Rossiya Bank, Sovcombank, Vnesheconombank (VEB), and VTB Bank.¹ Each of these banks had previously been the subject of blocking sanctions in the United States and United Kingdom, and their removal from the SWIFT network will further limit their ability to access the global financial system. In order to leave open financial channels for energy transactions, this measure does not apply to Sberbank or Gazprombank – the two primary institutions that process payments for Russian oil and gas.

OFAC guidance and general licenses

Also on March 2, OFAC released new guidance on the unprecedented sanctions imposed against the Russian Federation over the past two weeks. The guidance, which consists of [new](#) and [updated](#) FAQs, clarifies the scope of OFAC’s recent tranche of sanctions targeting Russia’s Central Bank and banking sector, and aims to close potential loopholes in order “to cut off avenues for potential sanctions evasion by the Central Bank.”² Concurrent with the updated

FAQs, OFAC issued new and revised general licenses (and related guidance).³

Clarification of Central Bank sanctions

The FAQs seek in part to clarify the scope of the recently-released [Directive 4 under EO 14024](#) (Directive 4), which prohibits persons acting within U.S. jurisdiction from performing any transaction “involving” the Central Bank of Russia, including transfers of assets to the Central Bank or foreign exchange transactions on its behalf. Directive 4 similarly prohibits transactions involving the National Wealth Fund of the Russian Federation and with the Russian Ministry of Finance.

The new FAQs emphasize that Directive 4’s prohibitions apply to both direct and *indirect* transactions involving the Central Bank of the Russia, the National Wealth Fund of the Russian Federation, or the Russian Ministry of Finance, and that U.S. persons should be on the alert for nonroutine foreign exchange transactions that may indirectly involve the Central Bank.⁴ OFAC warned, for example, that the Central Bank “may seek to use import or export companies to engage in foreign exchange transactions on its behalf and obfuscate its involvement.”⁵ The FAQs also clarify that the 50 percent rule does not apply to Directive 4.⁶

When Directive 4 was first released, it was unclear how it would intersect with prior sanctions on dealing in Russian debt and equity. The FAQs clarify that Directive 4 **does not** prohibit trading in the secondary markets for debt or equity of the Russian Central Bank, National Wealth Fund, or Ministry of Finance, as long as those entities are not counterparties to the transaction.⁷ However, U.S. financial institutions are still prohibited under [Directive 1A under EO 14024](#) from participating in the secondary market for ruble or non-ruble denominated bonds issued after March 1, 2022 by those entities.⁸ Additionally, the processing or receipt of interest, dividend, or maturity payments on pre-March 1 Russian sovereign debt is, at this point, permitted only through 12:01 a.m. eastern daylight time on May 25, 2022, pursuant to amended [General License 9A](#). Whether the license will be extended is unknown.

OFAC issued two additional General Licenses authorizing transactions with the Russian sovereign entities sanctioned under Directive 4:

- [General License 13](#) authorizes U.S. persons “to pay taxes, fees, or import duties, and purchase or receive permits, licenses, registrations, or certifications” that are otherwise prohibited under Directive 4 through 12:01 a.m. eastern daylight time, June 24, 2022, provided that such transactions are ordinarily incident and necessary to the U.S. persons’ day-to-day operations in Russia. However, as above, U.S. persons remain prohibited to transfer funds to the U.S. accounts of Russia’s Central Bank, National Wealth Fund, or Ministry of Finance.
- [General License 14](#) authorizes transactions involving Russia’s Central Bank, National Wealth Fund, or Ministry of Finance, when the only role of those entities in the transaction is acting as a clearing settlement system (and provided that no funds are transferred to them and they are not counterparties to the transaction).

These authorizations should help to address issues faced by U.S. and other persons operating in Russia that need to interact with the sanctioned entities in the those specified capacities, though the decision by OFAC to limit the duration of General License 13 is puzzling and seems likely to create substantial uncertainty if the current authorization is not replaced by a more permanent solution in advance of its expiration.

Other guidance

Updated FAQ 976 clarifies the scope of the sanctions against Sberbank under Directive 2, which will take effect on March 26, 2022.⁹ In particular, the FAQ clarifies that OFAC considers the directive’s prohibition on U.S. financial institutions’ processing of transactions involving Sberbank and its property and property interests to extend to processing of secondary market transactions involving previously issued Sberbank securities.

Other new and updated FAQs explain the function and applicability of the Russian-related general licenses. For example, in FAQ 987, OFAC explains the manner in which U.S. financial institutions must structure transactions when making payments involving sanctioned banks pursuant to [General License 6](#), [GL 7](#), or [GL 8A](#) (e.g., a funds transfer related to energy under GL 8A).¹⁰ OFAC clarifies that for a U.S. financial institution to engage in a transaction under those general licenses, “all such funds transfers must be processed indirectly through a non-sanctioned, non-U.S. financial institution.”¹¹

Blocking sanctions against oligarchs and others

On March 3, OFAC announced the imposition of blocking sanctions against a number of individuals and entities, most prominently including a number of Russian “oligarchs” viewed as closed to the Putin regime, as well as immediate family members of and some companies owned or controlled by the sanctioned individuals.¹² The EU and UK have taken similar actions in the past week, though the specific targets of sanctions have varied between jurisdictions. Sanctions actions targeting prominent Russian businesspeople have in the past created significant compliance challenges due to the operation of OFAC’s 50 Percent Rule and EU and UK interpretations concerning the application of asset freeze sanctions to entities controlled by sanctioned persons. In the case of one of the individuals targeted by OFAC, Alisher Usmanov, OFAC took the unusual step of issuing a general license ([General License 15](#)) that effectively renders the 50 percent rule inapplicable to him by unblocking and authorizing transactions with any 50 percent-owned entities not separately designated by OFAC.

The U.S. and its partners also took steps to signal aggressive enforcement of these sanctions, with reported seizures of yachts owned by sanctioned persons in a number of jurisdictions, and the U.S. Department of Justice announcing a special task force focused on the enforcement of sanctions targeting oligarchs.¹³

Export control restrictions

As the conflict in Ukraine has continued to escalate, the Biden administration has continued to impose new measures designed to isolate Russia from the international financial and trade system. On February 24, the U.S. Department of Commerce, Bureau of Industry and Security (BIS) issued a [rule](#) (described in our March 1 update) that imposed strict limitations on the export of critical technology and subcomponents to Russia. On March 2, BIS issued a [new rule](#) extending similar restrictions to exports to Belarus, designed to prevent the diversion of controlled items to Russia.¹⁴ BIS also imposed further restrictions targeting Russian access to oil and gas refinery equipment¹⁵ and added additional entities linked to the Russian military to the Entity List.¹⁶

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.

Kendall Howell

+1 202 962 7068
kendall.howell@davispolk.com

Paul Marquardt

+1 202 962 7156
paul.marquardt@davispolk.com

John B. Reynolds III

+1 202 962 7143
john.reynolds@davispolk.com

Will Schisa

+1 202 962 7129
will.schisa@davispolk.com

Charles Marshall Wilson

+1 202 962 7130
charles.wilson@davispolk.com

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- ¹ The seven banks excluded from SWIFT include Bank Otkritie, Novikombank, Promsvyazbank, Rossiya Bank, Sovcombank, Vnesheconombank (VEB), and VTB Bank. See Council Decision (CFSP) 2022/346 of 1 March 2022, 2022 O.J. (L 63/5).
- ² U.S. Department of the Treasury, Press Release, U.S. Treasury Takes Additional Steps to Strengthen Compliance with Russia-Related Sanctions (March 2, 2022), <https://home.treasury.gov/news/press-releases/jy0624>.
- ³ The general licenses include [General License 9A](#) (Authorizing Transactions Related to Dealings in Certain Debt or Equity), which revises and supersedes prior General License 9; [General License 10A](#) (Authorizing Certain Transactions Related to Derivative Contracts), which revises and supersedes General License 10; as well as newly issued [General License 13](#) (Authorizing Certain Administrative Transactions Prohibited by Directive 4 under Executive Order 14024) and [General License 14](#) (Authorizing Certain Clearing and Settlement Transactions Prohibited by Directive 4 under Executive Order 14024).
- ⁴ OFAC, FAQ 998 (March 2, 2022), <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/998>; OFAC, FAQ 1,002 (March 2, 2022), <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1002>.
- ⁵ *Id.*
- ⁶ OFAC, FAQ 1,001 (March 2, 2022), <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1001>.
- ⁷ See OFAC, FAQ 1005 (March 2, 2022), <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1005>.
- ⁸ Directive 1A is discussed in our [client update](#) from February 23 on the first tranche of sanctions. The requirements with respect to the receipt of interest, dividend, or maturity payments made in connection with debt or equity of Russia's Central Bank, National Wealth Fund, and Ministry of Finance are addressed in OFAC [FAQ 981](#) and in [General License 9A](#).
- ⁹ See [Directive 2 under Executive Order 14024](#).
- ¹⁰ OFAC, FAQ 978 (March 2, 2022), <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/978>.

¹¹ *Id.*

¹² U.S. Department of the Treasury, Press Release, Treasury Sanctions Russians Bankrolling Putin and Russia-Backed Influence Actors (March 3, 2022), <https://home.treasury.gov/news/press-releases/jy0628>. In addition to the oligarchs, OFAC and the State Department announced blocking sanctions against a variety of targets linked to the Russian defense sector and Russian influence operations.

¹³ U.S. Department of Justice, Press Release, Attorney General Merrick B. Garland Announces Launch of Task Force KleptoCapture (March 2, 2022), <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-launch-task-force-kleptocapture>.

¹⁴ U.S. Department of Commerce, Press Release, Commerce Imposes Sweeping Export Restrictions on Belarus for Enabling Russia's Further Invasion of Ukraine (March 22, 2022), <https://www.commerce.gov/news/press-releases/2022/03/commerce-imposes-sweeping-export-restrictions-belarus-enabling-russias>.

¹⁵ The restrictions targeting Russian access to oil and gas equipment will be implemented through a new rule, [Export Administration Regulations: Expansion of Sanctions against the Russian Industry Sector](#), to be published in the Federal Register on March 8, 2022.

¹⁶ The entities will be added to the Entity List through a new rule, [Further Imposition of Sanctions Against Russia with the Addition of Certain Entities to the Entity List](#), to be published in the Federal Register on March 9, 2022.