

## United States Escalates Sanctions Against Russian Government

April 19, 2021

Citing the “harmful foreign activities of the Government of the Russian Federation,” on April 15, 2021 President Biden issued a new **Executive order** (“**E.O. 14024**”) that broadly authorizes sanctions against the Russian government and associated persons.<sup>1</sup> Concurrent with the issuance of the order, the U.S. Department of the Treasury **announced** sanctions targeting the Russian Government under E.O. 14024 and other authorities. According to Treasury Secretary Yellen, “Treasury is leveraging this new authority to impose costs on the Russian government for its unacceptable conduct, including by limiting Russia’s ability to finance its activities and by targeting Russia’s malicious and disruptive cyber capabilities.”

The sanctions imposed under E.O. 14024 include a new directive imposing additional restrictions on certain transactions in Russia’s sovereign debt, as well the designation of six companies determined to operate in Russia’s technology sector and to have links to Russia’s security and intelligence services. Acting pursuant to a number of existing authorities, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“**OFAC**”) also **designated** 32 individuals and entities who were deemed responsible for attempting to influence the 2020 U.S. presidential election. In addition, OFAC—in partnership with the European Union, the United Kingdom, Canada and Australia—**designated eight** individuals and entities associated with Russia’s continued occupation of the Crimea region of Ukraine, pursuant to Executive Orders **13660** and **13685**.<sup>2</sup>

The escalation in sanctions against Russia signals the Biden Administration’s willingness to use sanctions assertively as a foreign policy tool in response to Russian actions, in contrast to the prior administration’s more ambivalent approach.<sup>3</sup> While these actions are thus significant from a foreign policy standpoint, their practical impact appears likely to be limited, as few, if any, of the sanctioned persons appear to be significant commercial actors and the new sovereign debt restrictions are a modest expansion of existing prohibitions. Given the broad scope of E.O. 14024, however, it is easy to envision its use against more substantial targets in response to future Russian actions in Ukraine and elsewhere.

We provide below a brief overview of the directive issue pursuant to the order concerning Russian sovereign debt transactions and the relevant sections of E.O. 14024.

### Sovereign Debt Prohibitions

Pursuant to E.O. 14024, OFAC issued a **directive** that generally prohibits all U.S. financial institutions from participating in the primary market for ruble or non-ruble denominated Russian sovereign debt issued after June 14, 2021 by the (i) Central Bank of the Russian Federation, (ii) National Wealth Fund of

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<sup>1</sup> Executive Order 14024, “Blocking Property with Respect to Specified Harmful Foreign Activities of the Government of the Russian Federation” (April 15, 2021).

<sup>2</sup> Identifying information concerning the designated individuals and entities is available [here](#). All property and interests in property of these persons (including entities that are 50 percent or more owned by one or more such persons) are blocked, and transactions by U.S. persons involving the designated persons are generally prohibited.

<sup>3</sup> In that regard, the sanctions discussed in this Client Memo follow **recent sanctions** imposed on Russia for the poisoning and imprisonment of Aleksey Navalny.

the Russian Federation or (iii) Ministry of Finance of the Russian Federation. Secondary market transactions involving Russian sovereign debt remain permissible.<sup>4</sup> The directive also prohibits U.S. financial institutions from lending ruble or non-ruble denominated funds to these three entities as of June 14, 2021. This represents a modest expansion of **existing prohibitions** on certain dealings in Russian sovereign debt that have been operative since August 2019 but applied only to non-ruble denominated transactions.

## Overview of E.O. 14024

Section 1(a) of E.O. 14024 authorizes the imposition of blocking sanctions on persons determined:

- to operate or to have operated in the technology sector or the defense and related materiel sector of the Russian economy, or any other sector of the Russian economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State;
- to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following for or on behalf of, or for the benefit of, directly or indirectly, the Russian Government:
  - malicious cyber-enabled activities;
  - interference in a U.S. or other foreign government election;
  - actions or policies that undermine democratic processes or institutions in the U.S. or abroad;
  - transnational corruption;
  - assassination, murder, or other unlawful killing of, or infliction of other bodily harm against, a U.S. person or a citizen or national of a U.S. ally or partner;
  - activities that undermine the peace, security, political stability, or territorial integrity of the U.S., its allies, or its partners; or
  - deceptive or structured transactions or dealings to circumvent any U.S. sanctions, including through the use of digital currencies or assets or the use of physical assets;
- to be or have been a leader, official, senior executive officer, or member of the board of directors of:
  - the Russian Government;
  - an entity that has, or whose members have, engaged in any activity described above; or
  - an entity sanctioned pursuant to E.O. 14024;
- to be a political subdivision, agency, or instrumentality of the Russian Government;
- to be a spouse or adult child of any individual sanctioned under the above-described provisions;
- to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of the activities described above or any person sanctioned pursuant to E.O. 14024; or

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<sup>4</sup> See [FAQ 889](#).

- to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Russian Government or any person whose property and interests in property are blocked pursuant to E.O. 14024

Section 1(b) of E.O. 14024 authorizes the imposition of blocking sanctions against persons determined to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, a government that is subject to blocking sanctions under other authorities administered by OFAC (currently, the governments of Cuba, Iran, North Korea, Syria, and Venezuela) and to be:

- a citizen or national of Russia;
- an entity organized under the laws of the Russia or any jurisdiction within the Russian Federation (including foreign branches); or
- a person ordinarily resident in Russia.

Section 1(c) of E.O. 14024 authorizes the imposition of blocking sanctions against persons determined by the Secretary of the State, in consultation with the Secretary of Treasury, to be responsible for or complicit in, or to have directly or indirectly engaged in or attempted to engage in, cutting or disrupting gas or energy supplies to Europe, the Caucasus, or Asia, and to be:

- a citizen or national of Russia; or
- an entity organized under the laws of Russia or any jurisdiction within the Russian Federation (including foreign branches).

All property and property interests of persons determined to be subject to the order that are or come within the United States or the possession or control of a U.S. person are blocked, and U.S. persons are prohibited from engaging in transactions involving the designated persons except as authorized by OFAC or exempt. These prohibitions extend as well to any entity that is 50 percent or more owned, individually or in the aggregate, by one or more of the sanctioned persons. Section 3 of E.O. 14024 also imposes U.S. visa restrictions on individuals designated pursuant to § 1.

While many of the provisions of E.O. 14024 overlap at least partially with existing authorities, their consolidation into a single executive order, pursuant to a new national emergency broadly targeting a range of Russia's activities world-wide, signals the Biden administration's concern with Russia's activities and its intent to react to those activities. It is important to note that E.O. 14024 is not self-executing. It authorizes the imposition of sanctions, but the sanctions apply only to those persons subject to determinations pursuant to the order. Thus, for example, transactions with companies operating in Russia's technology sector remain permissible, so long as the company is not sanctioned pursuant to E.O. 14024 or another authority.<sup>5</sup>

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<sup>5</sup> See OFAC Responses to Frequently Asked Questions ("FAQs") [FAQ 887](#).

## Looking Forward

Tensions between Russia and the United States have escalated as Russia has indicated a willingness to engage the U.S., and its allies and partners, with both cyber and kinetic attacks, and the Biden administration appears more likely than its predecessor to respond to such actions in an assertive and consistent manner. Indeed, in his [recent remarks](#) on Russia, President Biden stated, “The United States is not looking to kick off [an] escalation and conflict with Russia. We want a stable, predictable relationship. If Russia continues to interfere with our democracy, I’m prepared to take further actions to respond.” As of April 15, 2021, Russia has deployed approximately 80,000 troops to Ukraine’s borders, representing the largest massing of Russian forces since the initial annexation of Crimea in 2014. Moreover, the U.S. intelligence community identified persistent Russian intrusions into the 2020 U.S. presidential election and other malicious cyber activities such as recent hacks targeting a widely used cybersecurity software product. With no apparent pathway to the de-escalation of tensions between the U.S. and Russia, additional sanctions are likely and the U.S. may become increasingly willing to target broader sectors of the Russian economy. U.S. and non-U.S. companies that continue to do business in Russia should be mindful of both current and future sanctions risks, and take steps to ensure that transactions subject to U.S. jurisdiction are consistent with applicable sanctions.

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

<b>John B. Reynolds</b>	+1 202 962 7143	<a href="mailto:john.reynolds@davispolk.com">john.reynolds@davispolk.com</a>
<b>Will Schisa</b>	+1 202 962 7129	<a href="mailto:will.schisa@davispolk.com">will.schisa@davispolk.com</a>
<b>Kendall Howell</b>	+1 202 962 7068	<a href="mailto:kendall.howell@davispolk.com">kendall.howell@davispolk.com</a>