

US Expands Export Control and Sanctions Restrictions on Russia and Belarus

Advisory

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On September 15, 2022, the United States implemented new sanctions measures and trade restrictions on Russia and Belarus in response to Russia’s ongoing aggression against Ukraine. Actions taken in parallel by the US Department of Commerce, the US Department of the Treasury, and the US Department of State all sought to target activities related to Russia’s advanced technology and manufacturing capabilities, including quantum computing and chemical and biological weapons (CBW) production.

Commerce Imposes Additional Export Controls

The US Department of Commerce’s Bureau of Industry and Security (BIS) [implemented](#) a number of additional Russia- and Belarus-related export controls, including (1) expanding the scope of Russian industry sector sanctions to impose additional licensing requirements on items otherwise subject to low levels of export control; (2) imposing additional licensing requirements on items potentially useful for Russia’s CBW and advanced technology and manufacturing capabilities; (3) adding Belarus to the scope of industry sector sanctions that previously only applied to Russia; (4) broadening the jurisdictional scope of the “military end user” (MEU) and “military-intelligence end user” (MIEU) controls; and (5) revising and refining existing controls on Russia and Belarus to more closely align with export control regimes maintained by allied nations.

- Expansion of Russian Industry Sector Sanctions:** BIS added 57 EAR99 items to Supplement No. 4 to Part 746 of the Export Administration Regulations (EAR). Those items include certain fork-lift trucks, sawing and cutting machines, heating radiators, and locomotives, among others. In addition, BIS expanded the scope of the rule to include items modified or designed as components, parts, accessories, or attachments of listed items, even if not specifically listed themselves. However, this expansion does not cover minor parts or components that are fasteners, washers, spacers, insulators, grommets, bushing, springs, wires, or solders. Any item listed in Supplement No. 4 requires a license if destined to or within Russia and Belarus and will be reviewed under a policy of denial, except for items that may be necessary for health and safety or humanitarian reasons which will be reviewed on a case-by-case basis.
- Licensing Requirements for Potential CBW and Quantum Computing Items:** In addition to new items listed in Supplement No. 4, BIS added Supplement No. 6 to Part 746 to target EAR99 items “useful for Russia’s CBW production and development capabilities” as well as quantum computing and advanced manufacturing equipment important to Russia’s advanced manufacturing capabilities. A license is now required to export, reexport, and transfer (in-country) listed items—such as, discrete chemicals, biologics, fentanyl and its precursors, and related equipment—to or within Russia and Belarus. All items listed in Supplement No. 6 are identified by Chemical Abstract Numbers (CAS) to assist in determining whether or not a license is required. BIS also amended the Russia/Belarus Foreign Direct Product Rule (FDPR) to include Supplement No. 6 in its scope.
- Addition of Belarus to Russian Industry Sector Sanctions:** BIS amended the scope of 15 CFR § 746.5 to include Belarus in the industry sector sanctions already imposed on Russia. Therefore, the same licensing requirements on exports, reexports, or transfers (in-country) to Russia listed in § 746.5 now apply to Belarus as well.
- Expanded MEU and MIEU Rules:** BIS also expanded the MEU and MIEU rules under § 744.21 and § 744.22 of the EAR to allow the agency to designate MEUs and MIEUs worldwide. The previous MEU and MIEU rules only applied to entities located in Belarus, Burma, Cambodia, China, Russia, and Venezuela. BIS expanded the scope of these rules “in recognition that neither military end users nor international development and production activities are limited to the home countries.” However, BIS limited the application of the amendment, noting the compliance concerns of identifying which entities located outside of the six countries may be considered MEUs and MIEUs. Therefore, entities located outside of Belarus and Russia must be listed on the Entity List under Supplement No. 4 to Part 744 with a footnote 3 designation to be deemed an MEU or MIEU. Meanwhile,

Burmese, Cambodian, Chinese, and Venezuelan MEUs and MIEUs located outside of their respective countries will be listed on the MEU List under Supplement No. 7 to Part 744.

- *Alignment with Allied Export Control Regimes:* Under Supplement No. 5 to Part 746, a license is required to export, reexport, and transfer (in-country) to or within Russia and Belarus certain luxury goods. After reviewing similar controls imposed by US allies, BIS revised Supplement No. 5 to reduce its dollar value exclusion for clothing and shoes and include a dollar value exclusion for certain luxury items.

In addition to updating and expanding Belarusian and Russian export controls, BIS also clarified other aspects of the EAR, including license exceptions related to consumer communication devices and news media, license exceptions related to transfers of 5A992 and 5D992 items by certain actors, the EAR’s General Prohibitions, Commerce Country Groups, and the FDPR.

Treasury Department Targets Quantum Computing Services

Meanwhile, the Secretary of the Treasury **determined** Executive Order (EO) 14024 Section 1(a)(i) shall apply to Russia’s quantum computing sector, thus allowing the US government to impose sanctions on any individual or companies deemed to operate or have operated in this sector. The US Department of the Treasury’s Office of Foreign Assets Control (OFAC) issued **guidance** that the quantum computing sector of the Russian economy includes:

- activities related to “research, development, manufacturing, assembling, maintenance, repair, sale, or supply of quantum computing, quantum computers, electronic assemblies thereof, or cryogenic refrigeration systems related to quantum computing.”
- services related to quantum computing such as “infrastructure, web hosting, or data processing services; custom computer programming services; computer systems integration design services; computer systems and data processing facilities management services; computing infrastructure, data processing services, web hosting services, and related services; repairing computer, computer peripherals, or communication equipment; other computer-related services; as well as services related to the exportation, reexportation, sale, or supply, directly or indirectly, of quantum computing, quantum computers, electronic assemblies thereof, or cryogenic refrigeration systems related to quantum computing[.]”

In addition, OFAC **issued** a new determination pursuant to EO 14071 prohibiting US persons, wherever located, from exporting, reexporting, selling, or supplying, directly or indirectly, quantum computing services to any person located in Russia. The prohibition becomes effective on October 15, 2022. US-owned or controlled entities in Russia are not covered by the ban nor will the ban prohibit the winddown or divestiture of entities in Russia not owned or controlled, directly or indirectly, by a Russian person.

Such an expansion of sanctions authority follows similar measures taken by OFAC in 2022. Previous determinations provided for sanctions to be imposed against those operating in accounting, trust and corporate formation, management consulting, aerospace, marine, electronics, financial services, technology, and defense and related materiel sectors of the Russian economy.

OFAC also designated 22 individuals and two entities pursuant to EO 13685 and EO 14024 for their continued support of the Russian government. A full list of the new designations can be found **here**.

State Department Targets Entities Involved in Advanced Technology

The US Department of State also followed suit and **took** actions to further “isolate Russia’s advanced technology industries.” Pursuant to EO 14024, the State Department implemented sanctions against 13 entities for having operated in Russia’s technology sector of the economy. Included in these designations were several research institutes focused on developing quantum computing, such as the **International Center for Quantum Optics and Quantum Technologies Limited Liability Company** and **L.D. Landau Institute for Theoretical Physics of Russian Academy of Sciences**.

In addition to targeting advanced technology, the State Department also designated several individuals and entities for their involvement in the electronic sector of the Russian economy, including **Limited Liability Company Group of Companies Akvarius**, several military space entities, and the **Main Intelligence Directorate (GRU)**.

A full list of the designated entities can be found **here**.

OFAC's Preliminary Guidance on Maritime Transport of Seaborne Russian Oil

In addition to the measures outlined above, OFAC recently published [guidance](#) regarding the proposed services ban on the maritime transportation of Russian-origin crude oil and petroleum products announced by the G7 Finance Ministers earlier this month.

OFAC's preliminary guidance, published on September 9, 2022, describes how such a services ban would be implemented.

According to the preliminary guidance, OFAC anticipates issuing a determination pursuant to EO 14071 (i) permitting the export, reexport, sale, or supply, directly or indirectly, from the US, or by a US person, wherever located, services related to the maritime transportation of Russian oil if purchased at or below a set price cap and (ii) prohibiting such services if purchased above the price cap. Therefore, importers and refiners who wish to receive Russian-origin oil and related maritime services must ensure the oil is purchased at or below the price cap and provide necessary documentation attesting to such a purchase price. Details about the specific price cap have not yet been decided.

It is important to note the prohibition banning the import into the US of Russian-origin crude oil, petroleum, and petroleum fuels, oils, and products of their distillation under EO 14066 remains in effect. The EO 14066 oil ban does not, however, restrict the import of such products into other countries. Therefore, US persons could provide maritime transport services of Russia-origin oil and petroleum if purchased at or below the specified price cap and not destined for the US.

Conclusion

These newly implemented and contemplated measures seek to further hamper Russia's continued aggression toward Ukraine as the conflict reaches its seven-month mark. We will continue to monitor the sanctions and export control restrictions as they emerge.

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