

## Sanctions Update: EU and US Impose New Sanctions and Export Controls Relating to Russia

***The EU has issued its eighth “package” of sanctions measures on Russia. Meanwhile, US agencies have issued guidance on “secondary” sanctions enforcement, designated additional SDNs, and restricted further exports to Russia — including exports of quantum computing services.***

This Client Alert is published in the context of ongoing developments and should be read in conjunction with Latham’s [previous sanctions updates](#). Given the frequency with which different jurisdictions are imposing new sanctions on Russia, businesses exposed to sanctions-related developments in Russia should obtain up-to-date legal advice before taking any steps that may have legal effects.

This Client Alert summarizes the latest sanctions and export controls that the EU and the US have imposed, and the guidance that the Treasury Department’s Office of Foreign Assets Control (OFAC) and the Commerce Department’s Bureau of Industry and Security (BIS) have issued recently in support of those restrictions.

### EU Sanctions

On October 6, 2022, the EU released its eighth “package” of sanctions measures following Russia’s February 2022 invasion of Ukraine. These further measures are implemented through the EU’s amendments to Council Regulations (EU) No 833/2014 (which was amended by [Council Regulation \(EU\) 2022/1904](#)), No 269/2014, and No 2022/263.

### Professional Services Ban

The eighth package expands the categories of professional services that are subject to sanctions, and cannot be provided to the government of Russia or legal persons, entities, or bodies established in Russia. The EU sanctions previously restricted the export of accounting, auditing, bookkeeping or tax consulting, business and management consulting, and public relations services. The eighth package has now prohibited the provision of the following additional services:

- **Architectural and engineering services:** this includes integrated engineering services, urban planning and landscape architectural services, and engineering-related scientific and technical consulting services.

- **IT consultancy services:** services related to the installation of computer hardware and computer networks, as well as software implementation services.
- **Legal services:** the prohibition covers the provision of legal advice in non-contentious matters, including commercial transactions, the application or interpretation of law, participation in commercial transactions, negotiations, as well as the preparation, execution, and verification of legal documents, but it does not extend to representation, advice, the preparation of documents and verification of documents in the context of legal representation services, meaning in matters or proceedings before administrative agencies, courts, other duly constituted official tribunals, and arbitral and mediation proceedings.

The prohibitions do not apply to the provision of services that are strictly necessary for the termination by January 8, 2023, of contracts concluded before October 7, 2022, or of ancillary contracts necessary for the execution of such contracts.

Further, the prohibitions do not apply:

- to the provision of services that are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy;
- to the provision of services that are strictly necessary to ensure access to judicial, administrative, or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State;
- to the provision of services intended for the exclusive use of legal persons, entities or bodies established in Russia that are owned by, or solely or jointly controlled by, a legal person, entity, or body that is incorporated or constituted under the law of a Member State, a country member of the European Economic Area, Switzerland, or the US, the UK, Japan, and South Korea; or
- where the competent authority of a Member State has authorised the provision of such services for several specified reasons including humanitarian purposes, the functioning of diplomatic and consular representations, and ensuring critical energy supply within the EU.

## Cryptoassets

The new regulations tighten the existing prohibitions on cryptoassets by banning the provision of all cryptoasset wallet, account, or custody services to Russian nationals or natural persons residing in Russia, or legal persons, entities, or bodies established in Russia, irrespective of the value of cryptoassets (previously the prohibition was only applicable if the value of such assets exceeded €10,000).

## Additional Export and Import Restrictions

### Exports

The new regulations have introduced additional prohibitions on the sale, supply, transfer, or export of goods to Russia. In particular, the EU has:

- amended the list of goods and technology deemed to contribute to the “enhancement of Russian industrial capacities” (listed in Annex XXIII), and amended the provisions related to performance of pre-existing contracts for certain goods listed in Annex XXIII;

- amended the list of goods and technology deemed to contribute to “Russia’s military and technological enhancement, or the development of the defence and security sector” (listed in Annex VII);
- prohibited the sale, supply, transfer, or export to Russia of firearms, their parts, essential components, and ammunition as listed in Annex I of Regulation (EU) No. 258/2012, along with the provision of certain associated services; and
- provided that the export prohibitions of certain goods in the aviation sector listed in Part B of Annex XI to Regulation 833/2014 do not apply to the execution until November 6, 2022, pursuant to contracts concluded before October 7, 2022, and provided for derogations for such goods in certain circumstances.

### Imports

The restrictions on the import of iron and steel products have been further tightened to cover not only iron and steel products (as listed in Annex XVII) originating in or exported from Russia, but also the import or purchase, as of September 30, 2023, of iron and steel products when processed in a third country incorporating iron and steel products originating in Russia, when the products exceed certain specified quantities of Russian iron and steel (with certain limited exceptions).

Further, the EU has now also prohibited the import of additional types of machinery, chemical products and cosmetics, plastics, paper, vehicles, textiles, and other items. The list of goods subject to this prohibition now ranges from dishwashing machines and refrigerators to yachts and even toilet paper.

### Crude Oil

Earlier this year, the EU announced a prohibition on the import of Russian-origin crude oil or petroleum products, which was subject to certain exceptions. The EU has now clarified that it is prohibited to transport, including through ship-to-ship transfers, to third countries, crude oil (falling under CN code 2709 00), as of December 5, 2022, or petroleum products (falling under CN code 2710), as of February 5, 2023 (as listed in Annex XXV), where these originate in Russia or which have been exported from Russia. The regulations set out limited circumstances in which the prohibition will not apply, including, for example, where the goods originate in a third country and are only being loaded in, departing from, or transiting through Russia, provided that both the origin and the owner of those goods are non-Russian.

### Oil Price Cap

New provisions have been introduced that set out the framework to apply a price cap on Russian oil. The European Commission states that the G7 coalition will conduct a technical exercise to consider a range of factors to reach international consensus on the level at which the price cap will be set.

### State-Owned Enterprises

The EU has prohibited all transactions with certain listed state-owned entities since April 15, 2022, but it has now clarified that, as of October 22, 2022, this prohibition will extend to the holding of any posts by nationals of Member States in the governing bodies of those entities.

**Asset-Freeze Designations** ([Council Regulation \(EU\) 2022/1905](#) and [2022/1906](#) amending Regulation (EU) No 269/2014)

The EU has designated additional natural persons and entities on the [EU Consolidated Financial Sanctions List](#). Further, the EU has introduced provisions permitting Member State authorities to

authorise certain wind-down activities with respect to two entities targeted by earlier asset-freeze sanctions: namely, PJSC KAMAZ and Russia's National Settlement Depository.

The result of such asset-freeze sanctions is that, subject to very limited exceptions: (a) all funds and economic resources belonging to, owned, held, or controlled by the asset-freeze targets are frozen; and (b) no funds or economic resources shall be made available, directly or indirectly, to or for their benefit.

Further, the EU has introduced a new criterion that will enable it to list a legal person, entity, or body as an asset-freeze target when a person is facilitating the circumvention of sanctions ("*natural or legal persons, entities or bodies facilitating infringements of the prohibition against circumvention of the provisions* [of Regulation 269/2014])." The European Commission has clarified in a [Q&A](#) that this includes circumvention by EU citizens.

**Oblasts of Kherson and Zaporizhzhia** ([Council Regulation \(EU\) 2022/1903](#) amending Regulation (EU) 2022/263)

The EU has now extended the restrictions established in February 2022 with regard to trade with the non-government controlled areas of Ukraine in the oblasts of Donetsk and Luhansk, to the non-government controlled areas of Ukraine in the oblasts of Kherson and Zaporizhzhia. Such prohibitions apply with respect to importing goods originating in those areas (with the exception of goods authorized by the government of Ukraine) as well as engaging in trade of goods and technology for use in certain sectors and services relating to transport, telecommunications, energy, exploration, and production of oil and gas.

## US "Secondary" Sanctions Guidance

On September 30, 2022, OFAC issued FAQ [1091](#), signaling its willingness to use "secondary" sanctions to enforce its Russia sanctions programs. The FAQ discusses the sanctions risks that non-US persons face for supporting Russia following its "sham referenda, purported annexation, and continued occupation of the Kherson, Zaporizhzhia, Donetsk, and Luhansk regions of Ukraine."

OFAC notes that "the United States is prepared to more aggressively use its authorities under existing U.S. sanctions programs to target such persons whose activities may constitute material assistance, sponsorship, financial, material, or technological support for, or goods or services to, or in support of (together 'material support'), sanctioned persons or sanctionable activity." The FAQ indicates that OFAC is particularly focused on "entities and individuals in jurisdictions outside Russia that provide political or economic support for Russia's illegal attempt to annex Ukrainian sovereign territory," including activities related to providing material support to Russia's military and defense industrial base.

In connection with this new guidance, OFAC designated two third-country entities on September 30, 2022: Sinno Electronics Co., Limited (Sinno), a Chinese entity, and Taco LLC (Taco), an Armenian entity. According to OFAC, Sinno and Taco are suppliers of Radioavtomatika, a Russian defense procurement firm [designated](#) as a Specially Designated National (SDN) on March 3, 2022. OFAC designated Sinno and Taco pursuant to [Executive Order 14024](#) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of Radioavtomatika. Sinno was previously added to the Department of Commerce's Entity List on June 28, 2022.

## SDN Designations

On September 15, 2022, OFAC [announced](#) the designation of 45 individuals and 33 entities as SDNs. These include Russian officials and other individuals acting on behalf of Russia in Ukraine and companies in the defense, technology, and electronics sectors. OFAC also designated the leaders of

several Russian financial institutions, including the National Payment Card System (NSPK), an entity owned by the Central Bank of Russia that operates the country's MIR payment card network.

In connection with its designation of NSPK leader Vladimir Valerievich Komlev, OFAC issued FAQ [1082](#), which confirms that non-US financial institutions risk secondary sanctions exposure for contracting or otherwise dealing with the NSPK. While NSPK is not itself a blocked entity, the FAQ states that non-US financial institutions entering into new or expanded agreements with NSPK could face blocking sanctions for supporting Russia's efforts to evade US sanctions.

On September 30, 2022, OFAC [designated](#) an additional 14 persons in Russia's "military-industrial complex," including two international suppliers, three key leaders of Russia's financial infrastructure, immediate family members of senior Russian officials, and 278 members of Russia's legislature. OFAC's September 30 designations also include Sinno and Taco, as described above.

## Ban on Provision of Quantum Computing Services to Russia

On September 15, 2022, OFAC issued a [determination](#) pursuant to [Executive Order 14071](#) that prohibits the "exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of quantum computing services to any person located in the Russian Federation." This prohibition will take effect on October 15, 2022. This is the second determination that OFAC has issued under Executive Order 14071; the previous [determination](#), issued on May 8, 2022, prohibited US persons from providing accounting, trust and corporate formation, or management consulting services to persons located in Russia. See Latham's [May 13](#) Client Alert for additional details on this determination.

Consistent with the May 8 determination, the September 15 determination does not apply to the provision of quantum computing services:

- to an entity located in the Russian Federation that is owned or controlled, directly or indirectly, by a US person (as defined in Executive Order 14071); or
- 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.

Also on September 15, 2022, OFAC issued a related [determination](#) pursuant to [Executive Order 14024](#), which authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to impose blocking sanctions against any person operating in the quantum computing sector of the Russian Federation economy. No designations have been made under this determination to date.

In connection with the two determinations issued on September 15, OFAC issued FAQs [1084](#) and [1086](#), which define "quantum computing services" and "quantum computing sector of the Russian Federation economy," respectively.

## BIS Licensing Requirements and Designations

On September 15, 2022, BIS [issued](#) a new rule that builds on the Russia-related export restrictions imposed since February 2022 under the Export Administration Regulations (EAR), including by adding licensing requirements for the export or re-export to Russia, or transfer within Russia, of additional EAR99 items. The rule makes the following changes to the EAR, among others (including various clarifications and corrections):

- **Supplement No. 6 to Part 746:** The rule creates a new [Supplement No. 6](#) to Part 746, which creates a licensing requirement for exports or re-exports to Russia of certain EAR99 items potentially useful for Russia's chemical and biological weapons production capabilities. The supplement includes chemicals, biologics, fentanyl and its precursors, and related equipment, including facemasks, centrifuges, filtration equipment, assay kits, reaction vessels, PCR instruments, and certain other equipment commonly used in medical laboratories.
- **Industry sector sanctions:** The rule adds 57 new EAR99 items to the industry sector sanctions under EAR Section 746.5(a), including certain fork-lift trucks, sawing or cutting-off machines, and rail locomotives (but excluding certain minor parts and components, such as fasteners, washers, spacers, insulators, grommets, bushings, springs, wires, or solders). The rule also expands the scope of EAR99 items covered by the industry sector sanctions licensing requirement to include any modified or designed "components," "parts," "accessories," and "attachments" for listed items.
- **Military end use / user rule:** The rule expands EAR Section 744.21 to require prior licensing for exports of covered items to a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan "military end user" included on the Entity List or the Military End User List, *wherever located* (i.e., including military end users outside of the country at issue).
- **Luxury goods:** The rule changes the US dollar thresholds for certain luxury goods identified in Section 746.10(a). For example, it reduces the US dollar value threshold for clothing and shoes from \$1,000 to \$300 per unit wholesale price.

On September 30, 2022, BIS [added](#) 57 entities located in Russia and the Crimea region of Ukraine to the Entity List due to their support of Russia's invasion of Ukraine. In making these designations, Under Secretary of Commerce for Industry and Security Alan Estevez emphasized that BIS is continuing to identify and designate entities supporting Russia's military effort that are both "inside and outside of Russia."

BIS also issued an [FAQ](#) highlighting its focus on targeting actors supporting Russia from third countries. The FAQ clarifies the September 15 rule's expansion of the military end user rule to entities outside of Russia and emphasizes that the military end user expansion "is intended to degrade Russia's war efforts in Ukraine, as well as to discourage companies or government entities in third countries from backfilling and providing items needed by the Russian and Belarusian military and industrial sectors." BIS warns that it is prepared "to aggressively apply the export controls imposed in response to Russia's war of aggression against Ukraine against any entities, both inside and outside of Russia."

## What's Next?

Latham & Watkins is tracking developments across all regions closely and expects that the US, the EU, the UK, and other governments around the world may impose additional rounds of sanctions as events unfold. The firm is well positioned to advise clients on the legal and practical impacts of these measures.

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