

# **Recent Russia / Ukraine Sanctions: An Overview**

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# Of Note

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We note that in this presentation we are only providing general information; the information contained in this presentation does not constitute legal advice. No attorney-client relationship has been created. If legal advice or other assistance is required, please contact us directly.

# Sanctions Overview

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- In 2022, sanctions/restrictive measures have been issued in response to the Russian invasion of Ukraine by the U.S., EU, UK, Switzerland, Canada, Japan, South Korea, Taiwan, Singapore, Australia, and New Zealand.
- A number of countries have declined to impose measures on Russia, including Brazil, China, India, South Africa, and Mexico.
- Trade between China and Russia is surging.
  - China's president recently expressed his expectation that trade between these countries will set records in the coming year.
  - Putin recently stated that trade between the Russian Federation and the other BRICS (Brazil, India, China, and South Africa) countries increased by 38% to reach \$45 billion in Q1-2022.
  - U.S. companies should subject their dealings in China, and with Chinese companies, to even greater internal scrutiny to avoid facilitating sanctions violations.

# Ukraine (aside from Covered Regions)

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- U.S. has not issued sanctions, export controls or embargoes for exports to Ukraine, aside from the Covered Regions.
- Nonetheless, dealings which have connections to Ukraine (or any country bordering Russia) have heightened risk and should be evaluated carefully.
- When the counterparty has such a connection, companies should consider due diligence that includes obtaining and verifying information about:
  - address and ownership (for screening purposes),
  - geographic scope of the counterparty's operations, and
  - intended use and ultimate destination of the product(s) or technology (e.g., Will it be sent to or used in the Covered Regions or Russia?).

# Covered Regions - DNR/LNR/Crimea

- Executive Order 14065 (2/21/22) targets the Donetsk People’s Republic (DNR) and Luhansk People’s Republic (LNR) regions of Ukraine (“Covered Regions”).
- It prohibits:
  - (i) **new investment in the Covered Regions** by a U.S. person, wherever located;
  - (ii) the **importation** into the U.S., directly or indirectly, of any goods, services, or technology **from the Covered Regions**;
  - (iii) the **exportation, re-exportation, sale, or supply**, directly or indirectly, from the U.S. or by a U.S. person, wherever located, of any goods, services, or technology **to the Covered Regions**; and
  - (iv) any **approval, financing, facilitation, or guarantee** by a U.S. person, wherever located, **of a transaction** by a foreign person where the transaction by that foreign person would be prohibited if performed by a U.S. person, or within the U.S.
- EO 14065 provided a brief wind-down period for transactions involving the Covered Regions.
- Crimea has been the subject of U.S. sanctions since 2014.

# Russia & Belarus – New Export Controls

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- “Defense articles” and “defense services,” including most military weapons systems, satellites, rocket and missile systems, and sensitive “technical data” related to such items.
- Most items on Commerce Control List now require a license to export to Russia (e.g., dual-use items: goods, software and other technology with military or other sensitive applications). The list of such items includes advanced electronics, advanced semiconductors, optics, machine tools, applicable to a wide variety of industries.
- Stricter Licensing Review
  - Policy of denial for most exports to Russia
  - Limited exceptions will be reviewed on case-by-case basis

# Russia & Belarus – New Import Controls

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- Prohibits import of Russian-origin energy products (crude oil, petroleum, coal, liquified natural gas)
- Prohibits U.S. investment in Russian energy sector
- Prohibits import of Russian seafood, alcoholic beverages, luxury goods

# Financial Sanctions

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- The U.S., EU, UK and other countries have sanctioned more than 1,000 Russian and Belarussian individuals and businesses.
- The individual sanctions target people responsible for supporting, financing or implementing actions which undermine the territorial integrity, sovereignty and independence of Ukraine or who benefit from these actions.
- Prohibits U.S. persons from dealings with these individuals, and allows seizure of those individuals' assets (yachts, jets, accounts, real property)
- Prohibition on transacting in new equity or debt of certain Russian companies
- Prohibition on providing dollar-denominated banknotes to Russia

# USDOJ Enforcement

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- In the coming months, while materially new U.S. sanctions are unlikely, the U.S. government's efforts will instead be on enforcement of violations and asset seizures.
- **Task Force KleptoCapture**
  - U.S. interagency law enforcement task force, led by USDOJ.
  - Focused on enforcing the new sanctions, export restrictions and economic countermeasures.
- **Task Force REPO (Russian Elites, Proxies, and Oligarchs)**
  - Multinational task force
  - Blocked/frozen +\$30 billion worth of sanctioned Russians' assets in financial accounts and economic resources.
  - Immobilized about \$300 billion worth of Russian Central Bank assets.

# Enforcement Considerations

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- U.S. sanctions apply to American companies and citizens, regardless of where activities may occur or through whom they may occur (i.e., as a general rule, you cannot engage in conduct through an intermediary if you cannot engage in that directly).
- U.S. companies would be wise to take steps now ensure compliance programs are at least consistent with OFAC's 2019 Compliance Framework (i.e., the "five essential components of compliance": (1) management commitment; (2) risk assessment; (3) internal controls; (4) testing and auditing; and (5) training.)
- Enforcement prioritization drives the need for enhanced compliance:
  - Know your products
  - Know your customers
  - Know your end users/uses
  - Train your personnel
  - Maintain adequate documentation
  - Investigate suspected violations