

JUNE 14, 2022

# U.S. SANCTIONS AGAINST RUSSIA



# U.S. EXPORT CONTROL AGENCIES

Three main U.S. export control agencies that administer the Russia sanctions:



OFAC



|                   | Military Controls                                                                                                                                                                   | Dual-Use Controls                                                                                                                                                                  | Sanctions                                                                                                                                                                                                                                        |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Overseeing Agency | U.S. Department of State, Directorate of Defense Trade Controls                                                                                                                     | U.S. Department of Commerce, Bureau of Industry and Security                                                                                                                       | U.S. Department of the Treasury, Office of Foreign Assets Control                                                                                                                                                                                |
| Legal Basis       | Arms Export Control Act (1976)                                                                                                                                                      | Export Administration Act (1979)<br><b>Export Control Reform Act</b> (2018)                                                                                                        | International Emergency Economic Powers Act ( <b>IEEPA</b> )<br>Countering America's Adversaries Through Sanctions Act ( <b>CAATSA</b> )<br>Trading with the Enemy Act ( <b>TWEA</b> )<br>Other legislation<br><b>But also:</b> Executive orders |
| Regulations       | International Traffic in Arms Regulations (ITAR)                                                                                                                                    | <b>Export Administration Regulations (EAR)</b>                                                                                                                                     | OFAC sanctions regulations                                                                                                                                                                                                                       |
| Scope             | Permanent and temporary exports, and temporary imports, of: <ul style="list-style-type: none"><li>➤ Defense articles, including technical data</li><li>➤ Defense services</li></ul> | Permanent and temporary exports, reexports, and retransfers (in-country) of: <ul style="list-style-type: none"><li>➤ Commodities</li><li>➤ Software</li><li>➤ Technology</li></ul> | Transactions involving: <ul style="list-style-type: none"><li>➤ Sanctioned parties</li><li>➤ Sanctioned countries/regions</li><li>➤ Sanctionable activities</li></ul>                                                                            |
| Control List      | United States Munitions List (USML)                                                                                                                                                 | Commerce Control List (CCL)                                                                                                                                                        | No export control list, but OFAC Sanctions Lists                                                                                                                                                                                                 |
| Restrictiveness   | Most restrictive, but relatively straightforward in application                                                                                                                     | More permissive, but more complex in application                                                                                                                                   | Typically restrictive and complex in application; depends on the individual sanctions program                                                                                                                                                    |

# PRE-UKRAINE WAR SANCTIONS CONTINUE

Since March 2014:

- **Targeted sanctions** against businesses and individuals in Russia
  - SDN designations, e.g., Bank Rossiya, Investcapitalbank, SMP Bank, Volga Group, Transoil
- **Sectoral sanctions:** Financial Services, Capital Markets, Energy, Defense
  - Prohibit specific transactions related to specific debt, equity, or energy transactions involving entities on the Sectoral Sanctions Identifications (SSI) List. Example: [Sberbank](#) (EO 13662, Directive 1)
- **Countering America's Adversaries Through Sanctions Act**
  - Includes secondary ("extraterritorial) sanctions provisions against non-US entities and individuals

→ These sanctions/export controls still exist

# FUNDAMENTAL ISSUE

The broad reach of U.S. export controls



Is the product U.S.-origin or otherwise “infected” by the U.S. export control laws? De Minimis rule, Foreign Direct Product Rule

# OVERVIEW OF NEW U.S. EXPORT CONTROLS ON RUSSIA/ BELARUS

1. Licensing requirement for **every “listed” item** on the Commerce Control List, EAR § 746.8

## Examples:

- Simple electronic components, ECCN 3A991
  - Mass-market hardware and software, ECCN 5A992, 5D992
- “Item” = commodities (physical products), software, and technology (know-how)

2. Licensing requirement for **every “non-listed” (EAR99) item described in:**
  - Supplement 2 (oil /gas/ refinery),
  - Supplement 4 (industrial/commercial products), or
  - Supplement 5 to Part 746 of the EAR (“luxury” goods)

3. Expanded **Military End Use(r)** controls

EAR § 744.21 military end user/end use restrictions now also for EAR99 items

4. Two new **Foreign Direct Product Rules**, but carve-out for all EU countries and any other country listed in Supplement 3 to Part 746 of the EAR

# LICENSING REQUIREMENT FOR EVERY “LISTED” ITEM ON THE COMMERCE CONTROL LIST, EAR § 746.8

| Change                                                                                                                                                                                                                                                                      | EAR Section | Licensing policy                                                                                                                                                                                           | Exceptions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Licensing requirement for <b>any item on the Commerce Control List</b></b></p> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>- Simple electronic components (ECCN 3A991)</li> <li>- Mass-market hardware and software (ECCN 5A992, 5D992)</li> </ul> | 746.8(a)(1) | <p><b>Generally, policy of denial, 746.8(b)</b></p> <p><b>Case by case review</b> for applications described in (b), e.g., flight safety, humanitarian needs, or wholly-owned U.S. subsidiaries abroad</p> | <p><b>Deemed Exports/Reexports</b></p> <p><b>Exclusions for 5A992/5D992</b> hardware/software for civil end users that are wholly-owned subsidiaries of U.S. or A:5/A:6 headquartered companies, and certain JVs</p> <p><b>License Exceptions, 746.8(c):</b></p> <ul style="list-style-type: none"> <li>(1) <b>TMP</b> for items for use by the news media</li> <li>(2) <b>GOV</b></li> <li>(3) <b>TSU</b> for <b>software updates</b> for civil end-users that are wholly-owned subsidiaries of U.S. or A:5/A:6 headquartered companies, and certain JVs</li> <li>(4) <b>BAG</b>, some exclusions apply</li> <li>(5) <b>AVS</b>, some exclusions apply</li> <li>(6) <b>ENC, now only</b> for civil end-users that are wholly-owned subsidiaries of U.S. or A:5/A:6 headquartered companies, and certain JVs</li> <li>(7) <b>CCD</b> (740.19 of the EAR)</li> </ul> |

# EXPORT CONTROLS: NEW EAR 746.8 PROHIBITION

## Scenario 1:

US-subsubsidiary of an German company wants to exports a life science instrument (ECCN 3A999) from Massachusetts to Russia. Implications?

## Scenario 2:

German company exports a non-US medical device to Russia. It incorporates a U.S.-origin workstation (ECCN 5A992). Implications?

## Scenario 3:

Same as above. The U.S.-origin workstation (ECCN 5A992) that is used with the medical device needs to be replaced. Implications?

# EAR99 ITEMS: LICENSING REQUIREMENT IF DESCRIBED IN SUPPLEMENT 2 OR 4

EAR Section 746.5

## Since 2014 (Crimea invasion):

Licensing requirement for any export, re-export, or transfer any item subject to the EAR to, or within, Russia if:

1. The item is **listed/described** in EAR 746.5 or in **Supplement No. 2** to Part 746 (see below); and
2. Knowledge that the item will be used directly or indirectly in exploration for, or production of, **oil OR gas** in Russian **deepwater, Arctic offshore locations**, or **shale** formations in Russia OR is *unable to determine* whether the items will be used in such projects in Russia

## Additionally, since March 8, 2022:

A license is required to export, reexport or transfer (in-country) any item subject to the EAR **listed in Supplement No. 4** to Part 746 to or within Russia

- Based on the HTS code
- Not tied to a specific end use
- Anywhere in Russia
- Does not apply to Belarus
- Supplement 4 continues to be expanded (last update: June 6, 2022: 27(!) pages long)

# EXCERPT OF NEW SUPPLEMENT NO. 4 TO PART 746

Russian Industry Sector Sanctions List for § 746.5(a)(1)(ii)

Supplement No. 4 to Part 746 – page 10

|            |                                                                                                                                                        |        |                                                        |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------------------------------------------------------|
| 8448515000 | Sinkers, Needles And Other Articles Used In Forming Stitches, Nesoi                                                                                    | 844851 | Sinkers Needles & Oth Arts Used In Formng Stitches     |
| 8451100000 | Dry-cleaning Machines                                                                                                                                  | 845110 | Dry-cleaning Machines For Yarn, Fabric Or Articles     |
| 8451290010 | Drying Machines, For Drying Made Up Articles, Nesoi                                                                                                    | 845129 | Drying Machines With Dry Linen Capacity Over 10 Kg     |
| 8451290090 | Drying Machines, Nesoi                                                                                                                                 | 845129 | Drying Machines With Dry Linen Capacity Over 10 Kg     |
| 8451300000 | Ironing Machines And Presses (Including Fusing Presses)                                                                                                | 845130 | Ironing Mach And Presses (includ Fusing Presses)       |
| 8451900010 | Parts Of Machines For Washing, Dry-cleaning, Ironing, Pressing Or Drying Made Up Textiles Articles Or Of Other Household Or Laundry Type Machines      | 845190 | Pts For Wash/clean, Pasting Floor Covers Etc           |
| 8451900020 | Parts Of Machines For Bleaching, Dyeing, Washing Or Cleaning Textile Yarns, Fabrics Or Made Up Textile Articles                                        | 845190 | Pts For Wash/clean, Pasting Floor Covers Etc           |
| 8451900090 | Parts Of Machinery Of Heading 8451, Nesoi                                                                                                              | 845190 | Pts For Wash/clean, Pasting Floor Covers Etc           |
| 8452300000 | Sewing Machine Needles                                                                                                                                 | 845230 | Sewing Machine Needles                                 |
| 8453100000 | Machines For Preparing, Tanning Or Working Hides, Skins Or Leather                                                                                     | 845310 | Mach For Prepar, tann Or Work Hids, skins Or Leather   |
| 8453800000 | Machinery For Making Or Repairing Articles Of Hides, Skins, Or Leather, Except Sewing Machines, Nesoi                                                  | 845380 | Mach For Make, repair Art Of Hide, skin, lether, nesoi |
| 8453900000 | Parts Of Machinery Preparing, Tanning Or Working Hides, Skins Or Leather Or For Making Footwear Or Other Articles Of Hides, Skins, Etc, Except Sew Mch | 845390 | Parts Of Mach F Prep Or Make Art Of Hides, leather     |
| 8454100000 | Converters Used In Metallurgy Or Foundries                                                                                                             | 845410 | Converters Used In Metallurgy Or Foundries             |

# EXCERPT OF NEW SUPPLEMENT NO. 4 TO PART 746

Russian Industry Sector Sanctions List for § 746.5(a)(1)(ii)

Supplement No. 4 to Part 746 – page 16

|            |                                                                                                                                |        |                                                     |
|------------|--------------------------------------------------------------------------------------------------------------------------------|--------|-----------------------------------------------------|
|            | Cements And Plastering Materials                                                                                               |        |                                                     |
| 8474800020 | Machines For Forming Foundry Molds Of Sand                                                                                     | 847480 | Mach For Agglmrtnng Solid Mnrl Fuel & Form Foun Mld |
| 8474800090 | Machines, Nesoi , For Agglomerating, Shaping, Or Molding Solid Mineral Fuels Or Other Mineral Products In Powder Or Paste Form | 847480 | Mach For Agglmrtnng Solid Mnrl Fuel & Form Foun Mld |
| 8475210000 | Machines For Making Optical Fibers And Preforms Thereof                                                                        | 847521 | Mach For Making Optical Fibers & Preforms Thereof   |
| 8475290000 | Machines For Manufacturing Or Hot Working Glass Or Glassware, Nesoi                                                            | 847529 | Machines For Manuf Or Hot Working Glass, Nesoi      |
| 8475901000 | Parts Of Machines For Assembling Electric Or Electronic Lamps, Tubes Or Flashbulbs, In Glass Envelopes                         | 847590 | Parts Of Mach For Assmbl Elec Lamp Etc Mfg Glsswre  |
| 8475909000 | Parts Of Machines For Manufacturing Or Hot Working Glass Or Glassware                                                          | 847590 | Parts Of Mach For Assmbl Elec Lamp Etc Mfg Glsswre  |
| 8477400100 | Vacuum-molding Machines And Other Thermoforming Machines; Nesoi                                                                | 847740 | Vacuum-molding & Oth Therm Mach For Wk Rub Or Plas  |
| 8477510010 | Machinery For Molding Or Retreading Pneumatic Tires                                                                            | 847751 | Mach For Mold/retrd Pnmtic Tires/form Inner Tubes   |
| 8477510090 | Machinery For Molding Or Otherwise Forming Inner Tubes                                                                         | 847751 | Mach For Mold/retrd Pnmtic Tires/form Inner Tubes   |
| 8477590100 | Machinery For Molding Or Otherwise Forming Rubber Or Plastics, Nesoi                                                           | 847759 | Mach, Nesoi, F Moldg Or Formg Rubber Or Plastics    |
| 8477900010 | Parts Of Injection-molding Machines For Rubber Or Plastics                                                                     | 847790 | Pts Mach For Work Rubber/plast/mfg Rbbr/plstc Prod  |
| 8477900020 | Parts Of Extruders For Rubber Or Plastics                                                                                      | 847790 | Pts Mach For Work Rubber/plast/mfg Rbbr/plstc Prod  |
| 8477900030 | Parts Of Blow-molding Machines                                                                                                 | 847790 | Pts Mach For Work Rubber/plast/mfg Rbbr/plstc Prod  |

# EAR99 ITEMS: LICENSING REQUIREMENT FOR “LUXURY GOODS” IF DESCRIBED IN SUPPLEMENT 5

## First restriction, EAR § 746.10(a)(1)

In addition to the license requirements specified on the Commerce Control List (CCL) in Supplement No. 1 to Part 774 of the EAR and in other provisions of the EAR, including Part 744 and §§ 746.5 and 746.8:

A license is required to export, reexport, or transfer (in-country):

- to or within **Russia** or **Belarus**
- any ‘**luxury good**’ identified in Supplement No. 5 to Part 746
- that is **subject to the EAR**

→ includes various [EAR99](#) items

# EXPORT CONTROLS: “LUXURY”-GOODS

## Second restriction, EAR § 746.10(a)(2)

**Worldwide license requirement** for ‘luxury goods’ for Russian and Belarusian oligarch and malign actors. In addition to the license requirements specified on the Commerce Control List (CCL) in Supplement No. 1 to Part 774 of the EAR and in other provisions of the EAR, including Part 744 and §§ 746.5 and 746.8:

A license is required to export, reexport, or transfer (in-country):

- **worldwide**
- any ‘**luxury good**’ subject to the EAR, as identified in Supplement No. 5 to Part 746
- to any **Russian or Belarusian oligarch or malign actor**, **regardless of location**, who is designated on OFAC’s SDN List with any of the following designations: [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], [UKRAINE-EO13685], [BELARUS] , and [BELARUS-EO14038] or in situations in which any such Russian or Belarusian oligarch or malign actor is a party to the transaction as described in EAR §748.5(c) through (f)

→ Note: An ‘*oligarch or malign actor*’ is any natural person that is designated on the SDN List with any of the designations referenced above

# EXCERPT OF NEW SUPPLEMENT NO. 5 TO PART 746

|            |                                                                                     |                                              |
|------------|-------------------------------------------------------------------------------------|----------------------------------------------|
| 6301900000 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | OTHER BLANKETS AND TRAVELING RUGS            |
| 6306221000 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | <b>BACKPACKING TENTS</b> OF SYNTHETIC FIBERS |
| 6306229000 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | TENTS OF SYNTHETIC FIBERS, NESOI             |
| 6306291100 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | TENTS, OF COTTON                             |
| 6306292100 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | TENTS OF TEXTILE MATERIALS NESOI             |
| 6306300010 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | SAILS OF SYNTHETIC FIBERS                    |
| 6306300020 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | SAILS OF TEXTILE MATERIALS NESOI             |
| 6306901000 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | <b>CAMPING GOODS</b> , NESOI, OF COTTON      |
| 6306905000 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | CAMPING GOODS OF TEXTILE MATERIALS NESOI     |
| 6307200000 | Other made up textile articles; sets; worn clothing and worn textile articles; rags | <b>LIFEJACKETS</b> AND LIFE BELTS            |

# EXPORT CONTROLS: END USER / END USE CONTROLS

→ Applies to exports, reexports, or in-country transfers in, or within, Russia and Belarus

| Change                                                                               | EAR Section | No Exceptions                                           | Practical Issues                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------|-------------|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Military end user/end use restrictions <u>now</u> also for <b>EAR99</b> items</b> | 744.21      | No longer exceptions for <b>food</b> or <b>medicine</b> | <p>Broad definition of term <b>Military End User</b></p> <p><b>Includes:</b> <i>anyone whose actions or functions are intended to <u>support</u> “<u>military end uses</u>”</i></p> <p><b>Entity List designations</b><br/><u>New:</u> no more MEU designations for Russia</p> <p><b>BIS:</b></p> <ul style="list-style-type: none"><li>➤ Entity List is “not exhaustive”</li><li>➤ For non-listed entities, exporters should:<ol style="list-style-type: none"><li>1. conduct due diligence, and if there is no red flag:</li><li>2. obtain written 744.21-specific certifications</li></ol></li></ul> <p><b>Licensing policy:</b> Denial</p> <p><u>New:</u> License applications must include all known information</p> |

# EXPORT CONTROLS: DE MINIMIS CHANGES

→ Applies to exports, reexports, or in-country transfers in, or within, Russia and Belarus

| Change                                                                                                                                                                                                                                                                                                                             | EAR Section                            | Exception                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>U.S.-origin <i>controlled</i> content: now includes all Cat. 1-9 content</b></p> <p><b>Example:</b><br/>Foreign-made spectrometer that includes U.S.-origin:</p> <ul style="list-style-type: none"><li>➤ Simple electronic components (ECCN 3A991)</li><li>➤ Mass-market hardware and software (ECCN 5A992, 5D992)</li></ul> | 746.8(a)(1),<br>Supp. 2 to<br>Part 734 | <p>746.8(a)(5):</p> <ol style="list-style-type: none"><li>1. (Re-)export from a Supplement 3 country;<br/><u>and</u></li><li>2. The US-origin content is described in an Anti-Terrorism (AT)-only ECCN, or ECCN 9A991, and is not otherwise excluded from the applicable scope column in Supplement 3</li></ol> <p>Supplement 3 countries:<br/><b>Yes:</b> EU countries, UK, Switzerland, Japan, South Korea, etc.<br/><b>No:</b> Turkey, Israel, China, India, Malaysia, etc.</p> <p>(See Supplement 3 to Part 746 of the EAR)</p> |

# EXPORT CONTROLS: DE MINIMIS CHANGES

→ Excerpt of new Supplement No. 3 to Part 746

## Countries Excluded List

Supplement No. 3 to Part 746 – page 2

|         |      |                          |
|---------|------|--------------------------|
| Germany | Full | 87 FR 12250,<br>3/3/22.  |
| Greece  | Full | 87 FR 12250,<br>3/3/22.  |
| Hungary | Full | 87 FR 12250,<br>3/3/22.  |
| Iceland | Full | 87 FR 21555,<br>4/12/22. |
| Ireland | Full | 87 FR 12250,<br>3/3/22.  |
| Italy   | Full | 87 FR 12250,<br>3/3/22.  |
| Japan   | Full | 87 FR 12250,<br>3/3/22.  |

# RUSSIA/BELARUS FOREIGN DIRECT PRODUCT RULES

## Changes since February 24, 2022

- The Russia/Belarus Sanctions added two new FDPRs:
  - The Russia/Belarus FDPR § 734.9(f)
  - The Russia/Belarus-Military End User FDPR § 734.9(g)
- License Requirements and License Exceptions are found in § 746.8(a).
- § 746.8(a)(4) - **Exclusion** from License Requirements for item being exported, reexported from or transferred within Countries listed in Supp. No. 3 to part 746.
- Licensing Review – Policy of Denial.
- BUT, Case-by-Case for specific purposes (e.g., humanitarian needs) and specific destinations (e.g., for foreign subsidiaries of U.S. companies, companies headquartered in Country Groups A:5 and A:6).
- License Exceptions: TMP, GOV, TSU (Software Updates to specific end-users), BAG, AVS, ENC, and CCD.

# OFAC-ADMINISTERED SANCTIONS

# KEY RUSSIA-SPECIFIC OFAC SANCTIONS PROGRAMS

Since 2014: Ukraine-/Russia-related Sanctions Program

Since 2017: Countering America's Adversaries Through Sanctions Act (CAATSA) Program

Since 2017: Magnitsky Sanctions Program

Since 2021: **Russian Harmful Foreign Activities Sanctions Program**

## Legal framework:

### ➤ Statutes, e.g.,

- International Emergency Economic Powers Act (IEEPA), 50 USC §§ 1701-1706
- Protecting Europe's Energy Security Act of 2019 (PEESA)
- National Emergencies Act (NEA), 50 USC §§ 1601-1651

### ➤ Executive Orders, e.g.,

- 14071 - Prohibiting New Investment In And Certain Services To The Russian Federation In Response To Continued Russian Federation Aggression (April 6, 2022)
- 14068 - Prohibiting Certain Imports, Exports, and New Investment with Respect to Continued Russian Federation Aggression (March 11, 2022)
- 14066 - Prohibiting Certain Imports And New Investments With Respect To Continued Russian Federation Efforts To Undermine the Sovereignty And Territorial Integrity Of Ukraine (March 8, 2022)
- 14039 - Blocking Property with Respect to Certain Russian Energy Export Pipelines (August 20, 2021)
- **14024 - Blocking Property With Respect To Specified Harmful Foreign Activities Of The Government Of The Russian Federation (April 15, 2021)**

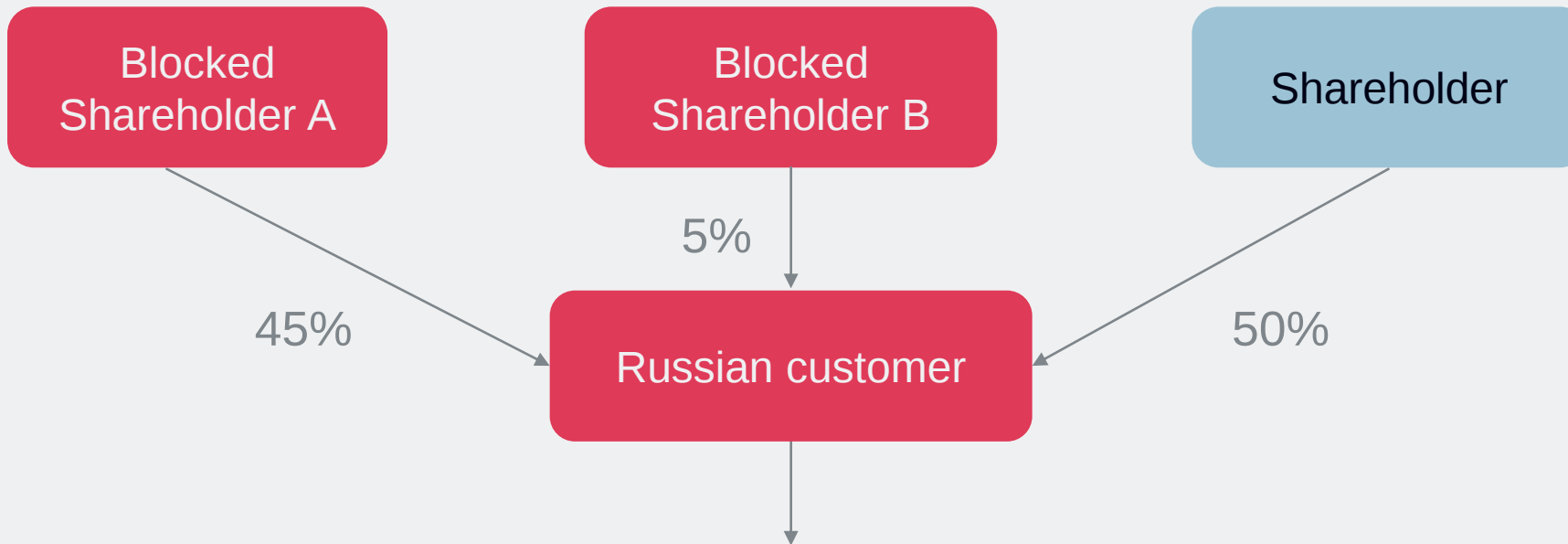
### ➤ Directives, Regulations, Determinations

# BLOCKING SANCTIONS

SDN Designations: Significant Russian banks, companies, and high net are subject to blocking sanctions

| Action                  | Who has been blocked?                                                                                                                                         | Legal Authority            | Implications for U.S. Persons                                               | Implications for Non-US Persons                                                                                                        | Exceptions                                                                                  |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <b>SDN Designations</b> | Significant Russian banks (e.g., Sberbank, VEB, VTB, Promsvyazbank, Sovcombank, Bank Rossiya, and Novikombank), and companies, organizations, and individuals | Executive Order (EO) 14024 | Blocking sanctions; all transactions are prohibited; reporting requirements | Secondary sanctions implications under EO 14024<br><br>CAATSA 228 does not apply to SDN-designations under EO 14024 (see OFAC FAQ 546) | Some General Licenses apply depending on which sanctioned entity is involved, case specific |

# OFAC'S AGGREGATE 50% RULE



# BLOCKING SANCTIONS

**Issue:** Russian party (e.g., customer or bank) is on the SDN list. The SDN designation was based on EO 14024.

|              |               |          |                                                          |
|--------------|---------------|----------|----------------------------------------------------------|
| Type:        | Entity        | List:    | SDN                                                      |
| Entity Name: | JSC RAWENSTVO | Program: | <a href="#">RUSSIA-EO14024</a>                           |
|              |               | Remarks: | (Linked To: JOINT STOCK COMPANY CONCERN GRANIT-ELECTRON) |

## Secondary sanctions implications under EO 14024? Yes.

**Section 1.** All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) **any person determined** by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General:

(vi) to have materially assisted, sponsored, **or** provided **financial, material, or technological support** for, or goods or services to or in support of:

(A) any activity described in subsection (a)(ii) of this section; or

(B) **any person whose property and interests in property are blocked pursuant to this order;** or

# REPORTING REQUIREMENT FOR U.S. PERSONS

Requirement for U.S. persons to report to OFAC:

- rejected transactions with an SDN-sanctioned person, and
- blocked property or interests in property of an SDN-sanctioned person within 10 business days

# EXECUTIVE ORDER 14066 - MARCH 8, 2022

| Executive Order                                                                                                                                                               | Effective     | Prohibitions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Clarifications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Prohibiting Certain Imports and New Investments With Respect to Continued Russian Federation Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine</i> | March 8, 2022 | <p><b>Importation</b> into the U.S. of:</p> <ul style="list-style-type: none"><li>- crude oil,</li><li>- petroleum,</li><li>- petroleum fuels</li><li>- oils, and products of their distillation</li><li>- liquefied natural gas</li><li>- coal, and</li><li>- coal products of “Russian Federation origin”</li></ul> <p><b>New investment</b> in the energy sector in the Russian Federation by a U.S. person, wherever located; and</p> <p>Any <b>approval, financing, facilitation</b>, or <b>guarantee</b> by a <b>United States person</b>, wherever located, <b>of a transaction by a foreign person</b> where the transaction by that foreign person would be prohibited by the E.O. of March 8, 2022, if performed by a U.S. person or within the U.S.</p> | <p><b>Russian Federation origin:</b><br/>Does <u>not</u> include goods that originate in the Russian Federation but have been incorporated or substantially transformed into a foreign-made product</p> <p><b>New investment</b> = commitment or contribution of funds or other assets for, or a loan or other extension of credit to, new energy sector activities (<u>not</u> including <b>maintenance</b> or <b>repair</b>) located or occurring in Russia beginning on or after March 8, 2022</p> <p><b>GL 8A</b>, which authorizes certain transactions “related to energy” does not authorize transactions prohibited by E.O. of March 8, 2022</p> |

# EXECUTIVE ORDER 14068 - MARCH 11, 2022

| Executive Order                                                                                                         | Effective      | Prohibitions include:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Prohibiting Certain Imports, Exports, and New Investment With Respect to Continued Russian Federation Aggression</i> | March 11, 2022 | <p><b>Importation</b> into the U.S. of:</p> <ul style="list-style-type: none"><li>- fish, seafood, and preparations thereof;</li><li>- alcoholic beverages;</li><li>- non-industrial diamonds; and</li><li>- <b>any other products</b> of Russian Federation origin <b>as may be determined</b> by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce</li></ul> <p><b>New investment</b> by a United States person, wherever located, in any sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State</p> <p>Any <b>approval, financing, facilitation</b>, or <b>guarantee</b> by a <b>United States person</b>, wherever located, <b>of a transaction by a foreign person</b> where the transaction by that foreign person would be prohibited if performed by a U.S. person or within the U.S.</p> |

# EXECUTIVE ORDER 14071 - APRIL 6, 2022

| Executive Order                                                                                                                            | Effective     | Prohibitions include:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Prohibiting New Investment In And Certain Services To The Russian Federation In Response To Continued Russian Federation Aggression</i> | April 6, 2022 | <p><b>New investment</b> in the Russian Federation by a U.S. person, <i>wherever located</i></p> <p>Exportation, reexportation, sale, or supply, directly or indirectly, <u>from the U.S.</u>, or <u>by a U.S. person</u>, wherever located, of <b>any category of services as may be determined</b> by the Secretary of the Treasury, in consultation with the Secretary of State, to any person located in the Russian Federation</p> <p>Any <b>approval, financing, facilitation</b>, or <b>guarantee</b> by a <b>United States person</b>, wherever located, <b>of a transaction by a foreign person</b> where the transaction by that foreign person would be prohibited if performed by a U.S. person or within the U.S.</p> |

# TYPES OF SERVICES THUS FAR PROHIBITED

Effective June 7, OFAC **prohibited**:

the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of **accounting, trust and corporate formation, or management consulting services** to any person located in the Russian Federation.

This determination excludes the following:

- (1) any *service to an entity* located in the Russian Federation that is owned or controlled, directly or indirectly, by a United States person;
- (2) any service 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.

See: Determination Pursuant to Section 1(a)(ii) of Executive Order 14071

# HIGH-LEVEL SUMMARY FOR DUAL USE/ COMMERCIAL ITEMS

## Step 1

Does the item fall under the EAR? Yes, if:

- Export from the U.S., or
- U.S.-origin item wherever located, or
- Foreign item with > 25% U.S.-origin controlled content or subject to FDPR

No

Go to Step 5

## Step 2

Yes

Is the item listed on the Commerce Control List (ECCN)?

Yes

EAR license required, 746.8(a)(1)

No

## Step 3

Is the EAR99 item described in Supplement 2, 4, or 5 to Part 746 of the EAR?

Yes

EAR license required, 746.5; 746.10

No

## Step 4

Does a general prohibition apply (736.2(b)(4-10)), e.g., EAR 744.21 (military end use(r))?

Yes

EAR license required, 736.2(b)(4-10)

No

## Step 5

Is there another **U.S. nexus**?  
(U.S.-ownership, other *US-Person involvement*  
U.S.-dollar/ U.S.-IT systems)?

Yes

Do the **primary sanctions** apply?  
Does the activity require a license?  
Does a general license apply?

No

## Step 6

Do any **U.S.-extraterritorial sanctions** apply?  
(e.g., SDN sanctioned under Executive Order 14024; or a  
secondary sanction under CAATSA)

Yes

Evaluate the **secondary sanctions**  
risk

# QUESTIONS?



## Alexandra Lopez-Casero

Partner

U.S. Export Controls and Economic  
Sanctions

001 (202) 213-0171

[alopezcasero@nixonpeabody.com](mailto:alopezcasero@nixonpeabody.com)

# THANK YOU



This presentation contains images used under license. Retransmission, republication, redistribution, and downloading of this presentation, including any of the images as stand-alone files, is prohibited. This presentation may be considered advertising under certain rules of professional conduct. The content should not be construed as legal advice, and readers should not act upon information in this publication without professional counsel. ©2022. Nixon Peabody LLP. All rights reserved.