

## UKRAINE: THE LATEST GLOBAL SANCTIONS AND EXPORT CONTROLS

The following briefing provides an overview of the sanctions and export controls imposed by the US, EU, UK, Japan, Singapore, Australia, and Ukraine; as well as measures adopted in response by Russia, **as of 7pm GMT, 10 April 2022.**

These new sanctions are complex, multilateral and continue to change incrementally in real time in response to the situation on the ground in Ukraine. Our team of sanctions experts is monitoring the situation closely and we will endeavour to keep our briefings up to date.

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This briefing was published at 7pm GMT on 10 April 2022.

**Material changes since our last summary on 8 April 2022 are included in red text for ease of identification.**

## US SANCTIONS

### New Executive Order (the "6 April Order"):

On 6 April 2022, President Biden signed an Executive Order "Prohibiting New Investment in and Certain Services to the Russian Federation in Response to Continued Russian Federation Aggression" (the "6 April EO"). Specifically, the 6 April EO prohibits:

- all new investment in Russia by US Persons, wherever located;
- the exportation, reexportation, sale, or supply, directly or indirectly, from the US or by a US Person, of any category of services as may be determined by the Secretary of Treasury to any person located in Russia; and
- any approval, financing, facilitation, or guarantee by a US Person, wherever located, of a transaction by a foreign person that would be prohibited for a US Person by the above.

### Treasury Expands Russia Sanctions Authorities to Additional Russian Economy Sectors

On 31 March 2022, the Secretary of Treasury, in consultation with the Secretary of State, determined that under Executive Order ("EO") 14024 Section 1(a)(i) sanctions may be imposed on persons determined by the US government to operate or have operated in the aerospace, marine, and electronics sectors of Russia's economy. This determination provides the US Department of the Treasury's Office of Foreign Assets Control ("OFAC") with the authority, but no requirement, to impose SDN (defined below) designations on persons operating in these sectors of Russia's economy, in addition to the financial services sector, technology sector and the defense and related materiel sector.

### Most Favored Nation Status

On 11 March 2022, President Biden announced that the US, along with the G7 and EU, would revoke "most favored nation" ("MFN") status, also known as "Permanent Normal Trade Relations" ("PNTR") for Russia. MFN allows the World Trade Organization ("WTO") members to benefit from each other's lowest tariffs, highest import quotas and the fewest trade barriers for goods and services. The move, however, requires an act of Congress – on 7 April 2022 the US Congress passed the legislation to strip Russia of its protected trading status, but the legislation now awaits a Senate vote. The bill will then need to be signed into law by President Biden.

### Executive Order 14068:

On 11 March 2022, President Biden signed [EO 14068](#) "Prohibiting Certain Imports, Exports, and New Investment with Respect to Continued Russian Federation Aggression". Specifically, EO 14068 prohibits:

- the importation of fish, seafood, and preparations thereof; alcoholic beverages; and non-industrial diamonds that are of Russian Federation origin into the US;
- the exportation, re-exportation, sale, or supply, directly or indirectly from the US, or by a US Person, wherever located, of luxury goods to any person located in the Russian Federation;

- new investment in any to-be specified sectors of the Russian Federation economy as determined by the Secretary of Treasury;
- the exportation, re-exportation, sale, or supply, directly or indirectly, of US dollar-denominated banknotes to the Government of the Russian Federation or any person located in the Russian Federation by a US Person or from the US; and
- any approval, financing, facilitation, or guarantee of a transaction by a US Person, wherever located, of a transaction by a foreign person where the transaction by the foreign person would be prohibited if performed by a US Person or within the US.

OFAC also published four General Licenses along with EO 14068:

- General License 17A (EO 14068): authorized all transactions, until 25 March 2022, that were ordinarily incident and necessary to the importation of alcoholic beverages or non-industrial diamonds of Russian Federation origin into the US pursuant to contracts or written agreements entered into prior to 11 March 2022. It also authorizes all transactions, until 23 June 2022, that are ordinarily incident and necessary to the importation of fish, seafood, and preparations thereof of Russian Federation origin into the US pursuant to contracts or written agreements entered into prior to 11 March 2022.
- General License 18 (EO 14068): authorizes all transactions that are ordinarily incident and necessary to the transfer of U.S. dollar-denominated banknote non-commercial, personal remittances from (1) the US or a US Person, wherever located, to an individual located in the Russian Federation, (2) a US Person individual who is located in the Russian Federation. GL 18 states that the transferring institutions may rely on the originator of a funds transfer with regard to compliance, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance.
- General License 19 (EO 14068): authorizes individuals who are US Persons located in the Russian Federation to engage in transactions that are ordinarily incident and necessary to their personal maintenance within the Russian Federation, including payment of housing expenses, taxes or fees, purchases or receipts of permits, licenses, or public utility services, and the acquisition of goods or services for personal use. It does not authorize transactions prohibited by EO 14024.
- General License 20 (EO 14068 section 1(a)(iv)/EO 14024): authorizes US Persons to engage in all transactions ordinarily incident and necessary to the official business of third-country diplomatic or consular missions located in the Russian Federation. GL 20 does not authorize the opening or maintaining of a correspondent account or payable-through account for or on behalf of any entity subject to Directive 2 under EO 14024; any debit to an account on the books of a US financial institution of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation; the exportation, re-exportation, sale or supply of US dollar-denominated banknotes to the Government of Russia (other than the payment of certain taxes, fees, and purchases of permits, licenses or public utility services); or any transaction involving Blocked Persons.

## **Executive Order 14066**

On 8 March 2022, President Biden signed [EO 14066](#) "Prohibiting Certain Imports and New Investments With Respect to Continued Russian Federation Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine". Unlike prior sanctions measures and export restrictions, EO 14066 prohibits imports into the United States, directly or indirectly, of oil and related energy products of Russian Federation origin and prohibits US Persons from engaging in new investment in, or financing or facilitating new investment in, Russia's energy sector.

Specifically, EO 14066 prohibits:

- the import of crude oil; petroleum; petroleum fuels, oils, and products of their distillation; liquified natural gas; coal; and coal products of Russian Federation origin into the United States;
- new investment in the energy sector in the Russian Federation by a US Person, wherever located; and
- any approval, financing, facilitation, or guarantee by a US Person, wherever located, of a transaction by a non-US person that a US Person would be prohibited from engaging in directly.

OFAC also issued a new General License in conjunction with EO 14066:

General License 16: authorizes, through 21 April 2022, all transactions that are ordinarily incident and necessary to the importation into the US of crude oil; petroleum; petroleum fuels, oils, and products of their distillation; liquified natural gas; coal; and coal products of Russian Federation origin pursuant to written contracts or written agreements entered prior to 8 March 2022.

OFAC also has provided guidance at FAQ 1,014 that EO 14066 does not prohibit the import into the US of non-Russian origin products that have transited through Russia or departed from Russian ports.

## ***SDN Listings***

Since 22 February 2022, the US has imposed blocking sanctions on the following individuals and entities by listing them as Specially Designated Nationals ("**SDNs**") under the authority of [EO 14024](#), [EO 14039](#), [EO 14038](#), [EO 13405](#), or [EO 13694](#). To date these are:

- Dmitry Bulgakov, Yunus-Bek Evkurov, Timur Ivanov, Aleksey Krivoruchko, Aleksander Aleksandrovich Mikheev, Nikolay Pankov, Yuriy Sadovenko, Dmitry Shugayev, Ruslan Tsalikov, Gennady Zhidko, and Viktor Zolotov (11 senior Russian defense officials) (note that certain of these individuals were already listed as SDNs under previous EOs);
- the families of Dmitriy Peskov and Yuri Kovalchuk; Viktor Feliksovich Vekselberg and two of his luxury assets, P4-MIS, an aircraft, and Tango, a yacht; VTB Bank's Management Board; Vyacheslav Volodin, and Members of the Russian State Duma (note that certain of these individuals were already listed as SDNs under previous EOs);
- six major Russian financial institutions, Vnesheconombank (VEB), Promsvyazbank (PSB), VTB Bank (VTB), Bank Financial Corporation Otkritie (Otkritie), Sovcombank (Sovcombank) and Novikombank (Novikombank), as well as 96 of their subsidiaries;

- Vladimir Putin, the President of the Russian Federation, and Sergei Lavrov, Sergei Shoigu and Valery Gerasimov, Russia's Minister of Foreign Affairs, Minister of Defense and Chief of the General Staff of the Russian Armed Forces;
- Nord Stream 2 AG, the Nord Stream 2 pipeline operating company, and Matthias Warnig, the Chief Executive Officer (CEO) of Nord Stream 2 AG;
- the Russian Direct Investment Fund (RDIF), Limited Liability Company RVC Management Company, Joint Stock Company Management Company of the Russian Direct Investment Fund and Kirill Aleksandrovich Dmitriev, the CEO of RDIF;
- a number of Belarusian state-owned banks, including Belinvestbank and Bank Dabrabyt, and entities and individuals operating in the Belarusian defense and security industries for the support provided by Belarus for Russia's actions in Ukraine (14038);
- Denis Aleksandrovich Bortnikov, Vladimir Sergeevich Kiriyeenko, Sergei Sergeevich Ivanov, Andrey Patrushev and Ivan Igorevich Sechin, the sons of five previously designated individuals that are in Vladimir Putin's inner circle;
- Petr Mikhailovich Fradkov, the Chairman and CEO of PSB, Alexander Aleksandrovich Vedyakhin, the First Deputy Chairman of the Executive Board of Sberbank of Russia (Sberbank), Andrey Sergeevich Puchkov and Yuriy Alekseyevich Soloviev, both of whom are high-ranking VTB executives, as well as Mr. Soloviev's wife and two real estate companies owned by Mr. Puchkov;
- five vessels, the Baltic Leader, Linda, Pegas, Fesco Magadan and Fesco Moneron, owned by a subsidiary of PSB;
- The State Duma of the Federal Assembly of the Russian Federation and 328 Duma members (note that four members were previously designated by OFAC);
- Hernan Oskarovich Gref, CEO of Sberbank; Gennady Timchenko, his companies and family members; 17 board members of Sovcombank; Boris Viktorovich Obnosov (Obnosov), General Director of KTRV (note that certain of these individuals were previously designated by OFAC);
- Halina Radzivonawna Lukashenka, wife of the President of Belarus (who is already listed as an SDN under EO 13405)
- 48 Russian defense state-owned enterprises, including Joint Stock Company Russian Helicopters (Russian Helicopters), Tactical Missiles Corporation JSC (KTRV), JSC NPO High Precision Systems (High Precision Systems), NPK Tekhmash OAO (Tekhmash), Joint Stock Company Kronshtadt (Kronshtadt), and Joint Stock Company Concern Sea Underwater Weapon Gidropribor;
- 21 entities and 13 individuals linked to alleged sanctions evasion networks, technology companies and malware hackers, including OOO Serniya Engineering (Serniya), OOO Sertal (Sertal), OOO Robin Treid, Majory LLP, Photon Pro LLP, Invention Bridge SL, Alexsong Pte Ltd, Irina Viktorovna Nikolaeva, Yevgeniya Aleksandrovna Podgornova, Sergey Aleksandrovich Yershov, Anton Alekseevich Krugovov, Andrey Georgiyevich Zakharov,

Yevgeniy Aleksandrovich Grinin, Viacheslav Yuryevich Dubrovinskiy, Tamara Aleksandrovna Topchi, OOO Nauchno-Tekhnicheskii Tsentrometrotek, OOO Pamkin Khaus, OOO Foton Pro, Evgeniya Vladimirovna Bernova (Bernova), Malberg Ltd (Malberg), Nikita Aleksandrovich Sobolev, Djeco Group LP, Djeco Group Holding Ltd, Maltarent Ltd, SCI Griber, Sernia-Film Co Ltd, Quantlog OY, AO NII Vektor, Joint Stock Company Mikron (Mikron), Molecular Electronics Research Institute (MERI), Sergei Alekseevich Bobkov (Bobkov), Konstantin Vasilyevich Malevanyy (Malevanyy), Evgeny Viktorovich Gladkikh, and T-Platforms;

- Hydra Market, Russia's Darknet Market, Garantex Europe OU, a virtual currency exchange, and identified 100 virtual currency addresses associated with Hydra's operations allegedly used to conduct illicit transactions;
- Sberbank and 42 Sberbank subsidiaries, Alfa-Bank, six Alfa-Bank subsidiaries, and five vessels owned by Alfa-Lizing OOO, daughters of President Putin, Katerina Vladimirovna Tikhonova and Maria Vladimirovna Vorontsova, Russia's Foreign Minister Sergey Lavrov's wife and daughter, Maria Aleksandrovna Lavrova and Yekaterina Sergeyevna Vinokurova, and the remaining members of Russia's Security Council, including former President and Prime Minister of Russia Dmitry Medvedev; and
- Public Joint Stock Company Alrosa (Alrosa), United Shipbuilding Corporation (USC), and USC's 28 subsidiaries and eight board members (note that USC was previously designated by OFAC).

Related to some of these designations, OFAC also issued general licenses authorizing:

- General License 2 (EO 14024): transactions with VEB and its 50% or more directly or indirectly owned subsidiaries that are ordinarily incident and necessary to the servicing of bonds issued before 1 March 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation;
- General License 3 (EO 14024): transactions that were ordinarily incident to the wind down of transactions involving VEB or its subsidiaries until 24 March 2022;
- General License 4 (EO 14039): transactions that were ordinarily incident and necessary to the wind down of transactions involving Nord Stream 2 AG and its 50% or more directly or indirectly owned subsidiaries until 2 March 2022; and
- General License 11 (EO 14024): transactions that were ordinarily incident to the wind down of transactions involving VTB, Otkritie and Sovcombank and their 50% or more owned subsidiaries until 26 March 2022.

On 15 March 2022, OFAC designated four individuals and one entity pursuant to the Sergei Magnitsky Rule of Law Accountability Act of 2012 ("**Magnitsky Act**"):

- Natalia Evgenievna Mushnikova, Nurid Denilbekovich Salamov, Khusein Merlovich Khutaev, Dzhabrail Alkhazurovich Akhmatov, and the Kurchaloi District of the Chechen Republic Branch of the Ministry of Internal Affairs of the Russian Federation.

The blocking sanctions under the above referenced EOs require US Persons to block the property and property interests of SDNs and entities owned 50% or more by them directly or indirectly ("**Blocked Persons**") in their possession or control. OFAC defines "**US Persons**" to include US citizens or green-card holders globally, anyone physically located in the US, and any US domiciled entity, including their non-US branches. OFAC also requires non-US persons to comply with the sanctions whenever their transactions involve US Persons or the US financial system ("**US Elements**").

### ***Correspondent and Payable-Through Account Sanctions (CAPTA Sanctions) - Sberbank***

On 24 February 2022, OFAC issued [Directive 2](#) under EO 14024 that prohibits, absent an applicable OFAC license or exemption, US financial institutions, as of 26 March 2022, from opening or maintaining correspondent or payable-through accounts for: (1) Sberbank; (2) the 25 Sberbank subsidiaries listed in Annex 1 to Directive 2; and (3) any other foreign financial institution, as defined in Directive 2, that is 50% or more owned by Sberbank. Directive 2 also prohibits US financial institutions from processing any transactions involving these entities or their property, or in which these entities have an interest.

### ***Prohibitions Related to New Debt and Equity***

Also on 24 February 2022, OFAC issued [Directive 3](#) under EO 14024, which prohibits the involvement of US Elements in transactions or dealings involving new debt of longer than 14 days maturity or new equity, issued on or after 26 March 2022, of the following companies (and any entities owned 50% or more, directly or indirectly, by them) (without a licence):

- Credit Bank of Moscow
- Gazprombank
- Alfa-Bank
- Russian Agricultural Bank
- Sovcomflot
- Russian Railways
- Alrosa
- Gazprom
- Gazprom Neft
- Rostelecom
- Rushydro
- Sberbank
- Transneft

### ***Prohibitions on Transactions Involving the Central Bank of the Russian Federation***

On 28 February 2022, OFAC issued [Directive 4](#) under EO 14024 prohibiting, absent an applicable license or exemption, the involvement of US Elements in

any transaction involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, including any transfer of assets to such entities or any foreign exchange transaction for or on behalf of such entities.

On 24 March 2022, the Treasury also issued new guidance (OFAC FAQ 1029) making clear that any transaction involving gold related to the Central Bank of the Russian Federation is covered by existing sanctions.

### ***Russian Sovereign Debt***

On 22 February 2022, OFAC issued new Directive 1A under EO 14024 that prohibits US financial institutions from participating, as of 1 March 2022, in the secondary market for ruble or non-ruble denominated bonds issued after 1 March 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation. This expands the pre-existing US sanctions that continue to prohibit US financial institutions from lending to or participating in the primary market for ruble or non-ruble denominated bonds issued by the above Russian issuers as of 14 June 2021.

On 5 April 2022, the US Treasury halted Russia's dollar debt payments from the country's foreign currency reserves held at US banks. Up until this point, the US Treasury had been allowing the Russian government to utilize its frozen reserves held by the Russian Central Bank at US financial institutions to make coupon payments on dollar-denominated sovereign debt on a case-by-case basis.

### ***Donetsk and Luhansk Regions***

The Biden Administration has issued new US sanctions on trade and commerce involving parts of the Donetsk and Luhansk regions of Ukraine, equivalent to the US sanctions on Crimea.

Specifically, on 21 February 2022 President Biden signed EO 14065 "Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to Continued Russian Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine". EO 14065 prohibits:

- new investment in the so-called Donetsk People's Republic ("**DNR**") and Luhansk People's Republic ("**LNR**") regions of Ukraine by US Persons, wherever located;
- the import into the United States, directly or indirectly, of any goods, services, or technology from the DNR and LNR regions;
- the exportation, re-exportation, sale or supply, directly or indirectly, from the United States, or by a US Person, wherever located, of any goods, services, or technology to the DNR and LNR regions; and
- any approval, financing, facilitation or guarantee by a US Person, wherever located, of any transactions by a non-US person that the sanctions would prohibit a US Person from engaging in directly.

OFAC to date has issued nine general licenses authorizing certain activity in the DNR and LNR regions otherwise prohibited by EO 14065. In summary these general licenses are:

- General License 17 (EO 14065): authorized all transactions that were ordinarily incident and necessary to the wind down of transactions



involving the DNR and LNR regions of Ukraine until 23 March 2022.

Authorized transactions included the divestiture or transfer to a non-US person of a US Person's share of ownership in any pre-21 February 2022 investment located in these regions, and the winding down of operations, contracts, or other agreements in effect prior to 21 February 2022 involving exports, re-exports, sale or supply of goods, services, or technology to, or importation of any goods, services, or technology, from these regions of Ukraine.

- General License 18 (EO 14065): authorizes all transactions that are ordinarily incident and necessary to the export or re-export of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices, to the DNR and LNR regions. Also authorizes transactions related to the prevention, diagnosis and treatment of COVID-19 in those regions.
- General License 19 (EO 14065): authorizes all transactions that are ordinarily incident and necessary to the receipt of telecommunications and mail involving the DNR and LNR regions.
- General License 20 (EO 14065): authorizes all transactions that are for the official business of certain international organizations (such as the United Nations) by their employees, grantees or contractors in the regions.
- General License 21 (EO 14065): authorizes all transactions that are ordinarily incident to the transfer of non-commercial personal remittances to or from the DNR and LNR regions, or for or on behalf of an individual ordinarily resident in those regions. Also authorizes transactions ordinarily incident and necessary to maintaining, operating, or closing an account of an individual ordinarily resident in those regions, other than an SDN, provided that the transactions processed through the account are (i) of a personal nature and not for the benefit of an entity, including supporting or operating a business, and (ii) do not involve transfers directly or indirectly to the DNR or LNR or for the benefit of persons ordinarily resident in the DNR or LNR unless the transfers are non-commercial personal remittances.
- General License 22 (EO 14065): authorizes all transactions that are ordinarily incident and necessary to the exportation or re-exportation, directly or indirectly, from the United States or by US Persons, wherever located, to persons in the DNR and LNR regions, of services incident to the exchange of personal communications over the internet.
- General License 23 (EO 14065): authorizes transactions that are ordinarily incident and necessary to activities by nongovernmental organizations to support humanitarian projects in the DNR or LNR, such as activities to support democracy, education, non-commercial development projects, related to health, food security, and water and sanitation, and environmental and natural resource protection in the DNR and LNR.
- General License 24 (EO 14065): authorizes all transactions that are related to the provision or receipt of civil maritime services performed by individuals ordinarily resident in DNR or LNR regions of Ukraine, or other such regions of Ukraine as determined by the Secretary of Treasury ("**Covered Regions**"), provided that: (1) the services are performed outside of the Covered Regions, and (2) such services are not performed on behalf of any entity located in or organized under the laws of the

Covered Regions. GL 24 does not license any new investment in the Covered Regions prohibited by EO 14065 or any transactions involving blocked individuals pursuant to EO 14065, unless separately authorized.

- General License 25 (EO 14065/EO 13685): authorizes US Persons who are news reporting organizations or individuals regularly employed by a news reporting organization as a journalist or as supporting broadcast or technical personnel to engage in certain transactions ordinarily incident and necessary to their journalistic activities in Crimea and the so-called DNR or LNR regions of Ukraine. "News reporting organization" under GL 25 means an entity whose primary purpose is the gathering and dissemination of news to the general public.

OFAC has not yet issued any SDN designations under EO 14065 but has the authority to do so for persons determined to have engaged in sanctionable activity, such as persons operating in DNR and LNR after issuance of EO 14065 and persons who are leaders or officials of entities operating in those regions after issuance of EO 14065.

### ***Additional General Licenses***

Since 24 February 2022, OFAC issued the following general licenses under EO 14024 and the Russian Harmful Foreign Activities Sanctions Regulations ("**RuHSR**"):

- General License 5: authorizes transactions for the conduct of the official business of: (1) the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency; (2) the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and (3) the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.
- General License 6A: authorizes transactions related to the exportation or re-exportation of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to, from or transiting Russia. Also authorizes transactions for the prevention, diagnosis and treatment of COVID-19, including research or clinical studies, or ongoing clinical trials and other medical research activities that were in effect prior to 24 March 2022. GL 6A does not authorize the opening or maintaining of a correspondent account or payable-through account for or on behalf of any entity subject to Directive 2 under EO 14024, any debit to an account on the books of a US financial institution of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation; or any transaction prohibited by EO 14066 or EO 14068.
- General License 7: authorizes transactions for the receipt of and payment of charges for, services rendered in connection with overflights of Russia, or emergency landings in Russia by US registered aircraft or aircraft owned or controlled by or chartered to US Persons. Also authorizes transactions to provide air ambulance services to individuals in Russia.
- General License 8B (RuHSR): authorizes, through 23 June 2022, transactions involving one or more of the following entities that are related

to "energy" (as defined in the general license): (1) VEB, Otkritie, Sovcombank, Sberbank, VTB, Alfa-Bank, and any entity owned 50% or more, directly or indirectly, by these financial institutions; and (2) the Central Bank of the Russian Federation. GL 8B does not authorize any transactions prohibited by RuHSR Directive 1A or by the RuHSR Directive 2 prohibitions on US financial institutions opening or maintaining correspondent account or payable-through accounts for Directive 2-sanctioned entities. GL 8B does not authorize the opening or maintaining of a CAPTA for or on behalf of an entity subject to Directive 2 under EO 14024, or any transactions prohibited by Directive 1A under EO 14024.

- General License 9C (RuHSR): authorizes, through 24 May 2022, transactions that are ordinarily incident and necessary to dealings in debt or equity of one or more of the following entities provided that any divestment or transfer of, or facilitation of divestment or transfer of, covered debt or equity is to a non-US Person: VEB, Otkritie, Sovcombank, Sberbank, VTB and any entity owned 50% or more, directly or indirectly, by these financial institutions. Also authorizes transactions that are ordinarily incident and necessary to facilitating, clearing, and settling trades in covered debt or equity through 24 May 2022 provided that the trades were placed prior to 4:00 pm US eastern time on 24 February 2022. Also authorizes all transactions prohibited by the RuHSR that are ordinarily incident and necessary to dealings in debt or equity of Alfa-Bank or any entity owned 50% or more, directly or indirectly, by Alfa-Bank issued before 6 April 2022 until 30 June 2022, provided that any divestment or transfer of, or facilitation of divestment or transfer of, Alfa-Bank debt or equity must be to a non-US person. Also authorizes all transactions prohibited by RuHSR that are ordinarily incident and necessary to dealings in debt or equity of Alrosa or any entity 50% or more, directly or indirectly, by Alrosa issued prior to 7 April 2022 until 1 July 2022, provided that any divestment or transfer of, or facilitation of divestment or transfer of, Alrosa debt or equity must be to a non-US person. All transactions prohibited by Directive 4 under EO 14024 that are ordinarily incident and necessary to the receipt of interest, dividend, or maturity payments in connection with debt or equity of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation issued before 1 March 2022, are authorized through 24 May 2022.
- General License 10C (RuHSR): authorizes, through 24 May 2022, transactions that are ordinarily incident and necessary to the wind down of derivative contracts entered into prior to 4:00 pm US eastern time on 24 February 2022 that (i) include one of the following entities as a counterparty or (ii) are linked to debt or equity of a covered entity, provided any payments to a blocked person are made to a blocked account: VEB, Otkritie, Sovcombank, Sberbank, VTB and any entity owned 50% or more, directly or indirectly, by these financial institutions. All transactions prohibited by the RuHSR that are ordinarily incident and necessary to the wind down of derivative contracts entered into prior to 4:00 pm US eastern time on 6 April 2022 that (i) include Alfa-Bank or any entity owned 50% or more, directly or indirectly by Alfa-Bank as a counterparty or (ii) are linked to debt or equity of an Alfa-Bank entity are authorized through 29 June 2022, provided that any payments to a blocked person are made into a blocked account. Also all transaction prohibited by the RuHSR that are

ordinarily incident and necessary to the wind down of derivative contracts entered into prior to 4:00 pm US eastern time on 7 April 2022 that (i) include Alrosa, or any entity owned 50% or more, directly or indirectly, by Alrosa as a counterparty or (ii) are linked to debt or equity of an Alrosa entity are authorized through 30 June 2022, provided that any payments to a blocked person are made into a blocked account. All transactions prohibited under Directive 4 under EO 14024 that are ordinarily incident and necessary to the wind down of derivative contracts, repurchase agreements, or reverse agreements with the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation as a counterparty entered prior to 1 March 2022 are authorized through 24 May 2022. GL 10C does not authorize the opening or maintaining of a CAPTA for or on behalf of an entity subject to Directive 2 under EO 14024, any debit to an account on the books of a U.S. financial institution of Directive 4 entities, or any transactions otherwise prohibited.

- General License 12: authorized US Persons, until 26 March 2022, to reject (instead of blocking) transactions involving: Otkritie, Sovcombank, VTB and any entity owned 50% or more, directly or indirectly, by these financial institutions.
- General License 13: authorizes, through 23 June 2022, US persons to pay taxes, fees, or import duties, and purchase or receive permits, licenses, registrations, or certifications, the extent such transactions are prohibited by Directive 4 under EO 14024 provided such transactions are ordinarily incident and necessary to such persons' day-to-day operations in the Russian Federation. GL 13 does not authorize any debit to an account on the books of a US financial institution of the Central Bank or the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation.
- General License 14: authorizes transactions prohibited by Directive 4 under EO 14024 involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation if the entity's sole function in the transaction is to act as an operator of a clearing and settlement system, provided that (1) there is no transfer of assets to or from any Directive 4 entity, unless separately authorized; and (2) no Directive 4 entity is either a counterparty or a beneficiary to the transaction, unless separately authorized. GL 14 does not authorize any debit to an account on the books of a US financial institution of any Directive 4 entity.
- General License 15: authorizes transactions prohibited by the RuHSR involving any entity owned 50% or more, directly or indirectly, by Alisher Burhanovich Usmanov that is not an SDN, unblocks all property interests of the blocked Usmanov entities, and authorizes debits to accounts on the books of US financial institutions of blocked Usmanov entities. GL 15 does not authorize any transactions otherwise prohibited by the RuHSR, including Alisher Burhanovich Usmanov, or his property interests, other than the blocked Usmanov entities.
- General License 21A (RuHSR): authorizes US Persons to engage in transactions ordinarily incident and necessary to the wind down of Sberbank CIB USA, Inc. or Alrosa USA, Inc. (collectively, the "blocked entities") or any entity owned 50% or more, directly or indirectly, by the

blocked entities, including the processing and payment of salaries, severance, and expenses; payments to vendors and landlords; and closing of accounts, through 6 June 2022.

- General License 22 (RuHSR): authorizes transactions ordinarily incident and necessary to the wind down of transactions involving Sberbank or any entity owned 50% or more, directly or indirectly, by Sberbank that are prohibited by EO 14024 through 12 April 2022. GL 22 does not authorize any transactions prohibited by Directive 2 under EO 14024.
- General License 23 (RuHSR): authorizes transactions ordinarily incident and necessary to the wind down of transactions involving Alfa-Bank or any entity owned 50% or more, directly or indirectly, by Alfa-Bank that are prohibited by EO 14024 through 5 May 2022.
- General License 24 (RuHSR): authorizes all transactions ordinarily incident and necessary to the wind down of transactions involving Alrosa or any entity 50% or more owned, directly or indirectly, by Alrosa that are prohibited by EO 14024 through 6 May 2022.
- General License 25 (RuHSR): authorizes all transactions ordinarily incident and necessary to the receipt or transmission of telecommunications involving the Russian Federation that are prohibited by RuHSR. Also authorizes the exportation or reexportation, sale, or supply, directly or indirectly, from the US or by US Persons, wherever located, to the Russian Federation of services, software, hardware, or technology incident to the exchange of communications over the internet, such as instant messaging, videoconferencing, chat and email, social networking, sharing of photos, movies, and documents, web browsing, blogging, web hosting, and domain registration services, that is prohibited by RuHSR. GL 25 does not authorize the opening or maintaining of a CAPTA for or on behalf of an entity subject to Directive 2 under EO 14024 or any debit to an account on the books of a US financial institution of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, or any transaction prohibited by EO 14066 or EO 14068.

OFAC also issued the following general licenses under Belarus-related EO 14038:

- General License 6: authorizes transactions involving the official business of the United States Government by its employees, grantees or contractors.
- General License 7: authorizes transactions involving the official business of certain international organizations, including: (1) the United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations; (2) the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency; (3) the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and (4) the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.

## **US EXPORT CONTROLS**

### **BIS Denies Export Privileges for Three Russian Airlines**

On 7 April 2022, BIS issued Temporary Denial Orders ("TDOs") denying US export privileges for three Russian Airlines – Aeroflot, Azur Air, and UTair. The TDOs deny these airlines from participating in transactions which involve items subject to the EAR for 180 days (BIS noted that the TDOs could be extended/renewed after that time). Specifically, the TDOs prohibit these airlines from engaging in any transactions or other dealings that involve items subject to the EAR – which greatly restricts their ability to acquire or otherwise deal in US-origin goods or goods that contain more than 25% controlled US-origin content.

In the press release, BIS stated that "Aeroflot, Utair, and Azur Air engaged in and continue to engage in recent conduct prohibited by the EAR by operating controlled aircraft subject to the EAR without the required" license or other BIS authorization. These TDOs mark the first enforcement actions taken by BIS with respect to the new export controls on Russia and indicate that BIS is closely monitoring and investigating aircraft subject to the EAR that are operating to or within Russia.

### **BIS Publishes List of Commercial and Private Aircraft Exported to Russia in Violation of EAR – Puts Aerospace Industry on Notice of EAR Risks Associated with Engaging with these Aircraft**

On 18 March 2022, BIS publicly identified over 100 commercial and private planes that flew into Russia "in apparent violation" of the EAR (*i.e.*, were exported or re-exported to Russia without a required license). In its press release on the matter, BIS noted that this list puts the public on notice "*that providing any form of service to these aircraft requires authorization. Absent such authorization, any person anywhere – including within Russia – risks violating the EAR and would be subject to BIS enforcement actions.*" BIS specifically noted that it was notifying "*all persons and companies in the United States and abroad,*" highlighting that non-US persons and entities can be equally liable for violations of the EAR. Such violations, including violations of General Prohibition ("GP") 10 (described below), can result in significant civil fines and criminal penalties, including imprisonment (for individuals). In addition, there can be considerable internal costs and reputational harm to a company.

The list of planes is available in the [press release](#), though BIS stated the list is not exhaustive and also that the list will be updated as warranted. The publication of this list follows the recently expanded export controls on aircraft and related items destined to Russia and Belarus (detailed further below).

BIS specifically noted that by publishing this list the general public is on notice that any actions taken with regard to the listed aircraft, including, among other things, repair, maintenance, refuelling and the provision of spare parts, are subject to GP 10 under the EAR. GP 10 prohibits proceeding with a transaction if you know or have reason to know that an export violation has or is about to occur. If there is such knowledge:

*"You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise*

*service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR."*

## Export Restrictions on Luxury Goods

On 11 March 2022, BIS imposed export license requirements on a broad list of Luxury Goods to all end users in Russia and Belarus and to certain Russian and Belarusian oligarchs and malign actors, wherever located. Previously, Luxury Goods had only been restricted for export to North Korea. Notably, under the 11 March restrictions, BIS issued an extensive list of covered Luxury Goods separate from the list relevant for North Korea that includes, among other items, tobacco products, clothing, footwear, jewelry, vehicles, boats, antiques, and spirits, wine, and beer. The full list is available at Supplement No. 5 to Part 746 of the EAR.

Under the new restrictions, a license is required for the export, re-export, or transfer (in country) of any item subject to the EAR that is included on the list of Luxury Goods to:

- anyone in Russia or Belarus; and
- any Russian or Belarusian oligarch or malign actor, regardless of geographic location, who has been designated as an SDN under certain of OFAC's Russia or Ukraine-related EOs or for any transaction to which such a person is party.

A very limited number of license exemptions are available and license applications for such transactions will be subject to a policy of denial.

The license requirements are effective as of 11 March and apply to all export transactions of covered Luxury Goods, though there is a savings clause for shipments that were *en route* on 11 March – such items are free to go without a license. Any future shipments to Russia, Belarus, or the designated Russian and Belarusian oligarchs will require a license if not otherwise authorized.

On 24 February 2022, the Department of Commerce's Bureau of Industry and Security ("**BIS**") issued a Final Rule, *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)* (the "**Russia Final Rule**"), which significantly expands existing export controls on Russia. In addition, the Russia Final Rule "*imposes comprehensive export, reexport and transfer (in country) restrictions*" on the Donetsk and Luhansk regions, which align with existing restrictions on the Crimea region of Ukraine and imposes a policy of denial to license applications for all three regions.

On 2 March 2022, *BIS issued as a final rule the Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR)* (the "**Belarus Final Rule**"), effective 2 March, which extended to Belarus many of the same restrictions applicable to Russia since 24 February 2022 and further expanded the restrictions as to Russia. Collectively, the Russia Final Rule and the Belarus Final Rule significantly expand existing export controls on Russia and Belarus. The Russia Final Rule primarily targets Russia's defense, aerospace, and maritime sectors, and is designed to restrict the export and re-

export of highly sensitive US technologies to Russia. The Belarus Final Rule aims to prevent diversion of items, technologies, and software through Belarus to Russia, as well as impose similar restrictions on Belarusian defense, aerospace, and maritime sectors.

The changes under the Russia Final Rule were effective on 24 February 2022. The changes under the Belarus Final Rule were effective on 2 March 2022. As discussed further below, a very narrow savings clause applied to certain transactions through 26 March 2022.

Combined, the pre-existing restrictions in the Russia Final Rule and the new Belarus Final Rule restrictions:

- expand EAR export controls jurisdiction and impose new license requirements on a broader group of items subject to the EAR;
- expand export controls on Russian "military end users" and "military end uses"; ("**MEUs**"), adds Belarus to the list of countries subject to the controls on MEUs and also includes Belarus in the same expanded MEU controls which the Russia Final Rule imposed on Russia;
- create two new Foreign Direct Product ("**FDP**") Rules – one broadly applicable to each of Russia and Belarus as a country and the other specifically directed at Russian and Belarusian "military end users" – which serve to further expand EAR export controls jurisdiction to items manufactured wholly outside of the United States; and
- impose changes which will make it more difficult to obtain licenses or other authorizations to export, re-export, or transfer (in country) items subject to the EAR to Russia and Belarus.

## **Overview of the EAR**

The EAR has broad jurisdiction and applies extraterritorially to items subject to the EAR everywhere in the world. EAR jurisdiction "follows the goods." This means that the EAR regulates exports, re-exports, and transfers of covered items globally, even if the transaction is between non-US persons and takes place outside the United States. Depending on the type of item, the destination, the end user, and the end use, a license may be required from the BIS for the export, re-export, or transfer of the item.

Items subject to the EAR can include:

- items anywhere in the world produced or manufactured in the United States;
- items in or exported from the United States, regardless of where they were manufactured;
- items manufactured outside the United States that include certain percentages (*de minimis*) of controlled US-origin content; and, in certain cases; and
- items manufactured outside the United States (*i.e.*, foreign-produced items) that are the direct product of certain controlled US technology or software, or by a plant or a major component of a plant that is itself a direct product of such technology or software.

The new export controls on Russia and Belarus include special rules for *de minimis* and foreign-produced items. Accordingly, even wholly non-US entities



intending to re-export items subject to the EAR to Russia and Belarus may be captured by the new restrictions.

While the new measures are specifically directed at the Russian, and Belarusian, defense, aerospace, and maritime sectors, including their supply chain companies, the measures will likely have a significant impact on other industrial sectors. This is because the new restrictions include most technology, including general electronics and computers as well as telecommunications and information security.

### ***License Requirements for Additional Categories of Items Subject to the EAR***

Export Control Classification Numbers ("ECCNs") in Categories 3–9 of the Commerce Control List ("CCL"), which include Electronics, Computers, Telecommunications and Information Security, Sensors and Lasers, Navigation and Avionics, Marine, and Aerospace and Propulsion, now have new license requirements for the export, re-export, or transfer (in country) of these items to Russia and Belarus. All ECCNs in these categories will require a license for Russia and Belarus unless a license exception applies, or the transaction is otherwise specifically excluded from the new license requirements.

These additional license requirements are "*intended to further restrict items to the Russian military and defense sector*" and in the case for Belarus "*intended to restrict items to and within Belarus, thereby reducing the risk of diversion to the Russian military and Russian defense sector,*" but, in practice, have much broader implications. For example, the expanded license requirements apply to certain parts and components used in civil aircraft, which previously did not require a license for export to Russia, or Belarus.

In addition, items under these ECCNs now will be relevant for *de minimis* calculations. Businesses wholly outside of the United States will now therefore need to account for these new restrictions when conducting export jurisdiction determinations and evaluating potential exports and re-exports to Russia, or Belarus.

### ***Military End Use and End User ("MEU") Rule for Russia and Belarus***

The Russia Final Rule also expands the scope of the MEU rule, as it applies to Russia. Under this amended rule, a license is required if a party knows or has reason to know that any items subject to the EAR (other than very narrow exceptions for certain items such as EAR99 food and medicine) are intended for an MEU in Russia even if the item is actually intended for civilian use.

Notably, the Belarus Final Rule adds Belarus (which previously was not subject to the MEU rule), to the list of countries subject to the MEU rule and includes Belarus in the same expanded version of the MEU rule that the Russia Final Rule imposed on Russia.

In addition, the Russia Final Rule transfers 45 Russian entities – including many prominent Russian entities active in the defense, technological, and aerospace and aviation sectors – from the MEU List (a list of entities specifically subject to the MEU Rule) to the BIS Entity List, as well as adds two new Russian entities to the Entity List.

The Belarus Final Rule adds two new Belarusian entities to the Entity List, including the Belarusian armed forces. These Russian and Belarusian entities are denoted with a "footnote 3" designation on the Entity List, which subjects them to additional license requirements under the EAR (discussed below).

Entities on the Entity List are prohibited from receiving specified items subject to the EAR without a license. BIS has stated that additional entities may be added in the future.

In addition, on 1 April 2022, BIS announced additional export control measures, adding 120 entities closely linked to Russia's defense and other strategic sectors to the Entity List. Ninety-five of these were added as MEUs under the destinations of Belarus and Russia and also designated these entities under Footnote 3 of the Entity List. Accordingly, these ninety-five entities are subject to the Russia/Belarus MEU FDP Rule (as discussed in the section below). The other twenty-five entities were added under the destination of Russia for acquiring and attempting to acquire items subject to the EAR in support of Russia's military modernization efforts. Pursuant to these measures, a license is now required to export, reexport or transfer of all items subject to the EAR to the designed entities, and such applications will be reviewed with a policy of denial. Further, EAR license exceptions are prohibited for such transactions.

### ***New Foreign Direct Product ("FDP") Rules Specific to Russia, and Belarus***

The Final Rule creates two new FDP rules specific to Russia, and the Belarus Final Rule adds Belarus to both of the new FDP Rules, named:

- the "Russia/Belarus FDP Rule"; and
- the "Russia/Belarus-MEU FDP Rule."

The new FDP rules are very technical, but will primarily impact non-US entities who source US content for further manufacture or incorporation into their products.

The new measures are designed to restrict the flow of wholly-foreign made items (with certain US content) to or within Russia and Belarus:

- The **Russia/Belarus FDP Rule** asserts BIS export licensing jurisdiction over items manufactured wholly outside of the United States, when the items are either: (1) the direct product of US-origin software or technology listed in ECCN categories 3-9; or (2) manufactured by plants or major components of plants which are themselves the direct product of such software or technology. Such foreign produced items which would be classified as EAR99 are excluded. The Russia/Belarus FDP Rule applies to transactions in which the parties know, or have reason to know, a foreign-produced item meeting the above direct product criteria is ultimately destined for Russia or Belarus, or will be incorporated into or used for production/development of parts, components, or equipment that is ultimately destined for Russia or Belarus. These transactions will require a BIS license, and the applications will be subject to a policy of denial. This is a new use of controls on foreign-produced items, and it significantly expands US export control jurisdiction over items produced outside the United States.

- The newly introduced **Russia/Belarus MEU FDP Rule** expands the export licensing jurisdiction in a manner similar to the Russia/Belarus FDP Rule, as it renders certain items manufactured wholly outside of the United States subject to the EAR for transactions involving Russian or Belarusian entities that have been assigned a footnote 3 designation on the Entity List ("**footnote 3 designated entities**"). As noted above, currently, a total of 144 entities to date have been assigned as footnote 3 designated entities. Unlike the Russia/Belarus FDP Rule, the Russia/Belarus-MEU FDP Rule renders foreign produced items subject to the EAR when the items are either: (1) the direct product of US-origin software or technology listed in any ECCN; or (2) manufactured by plants or major components of plants which are themselves the direct product of such software or technology. Further, the Russia/Belarus-MEU FDP Rule does not exclude EAR99 items – which means it could ultimately capture a much broader group of products, including "humanitarian" items such as food and medicine. Further, the Russia/Belarus-MEU FDP Rule applies specifically in instances involving entities carrying the footnote 3 designation. Generally, if there is knowledge that the foreign produced item will be used or further incorporated by a footnote 3 designated entity, or even if a footnote 3 designated entity is otherwise a party to the transaction, the transaction will be subject to the new FDP restrictions – even if conducted wholly outside of the United States, with no US person or entity involvement.

The Russia/Belarus FDP Rule and Russia/Belarus-MEU FDP Rule impose license requirements to re-export, export from abroad, or transfer (in country) controlled items "*to any destination*" if known that the ultimate destination is Russia or Belarus or that there is the requisite involvement of a footnote 3 designated entity.

This is designed to address multi-country manufacturing processes, as the license requirements will apply to, for example, exports and re-exports from one manufacturing country to another so long as it is known that the item is ultimately destined for Russia/Belarus or to be "*incorporated into or used in the production or development of any part component or equipment . . . produced in or ultimately destined*" to Russia/Belarus.

A savings clause is included in both the Russia/Belarus FDP Rule and the Russia/Belarus-MEU FDP Rule, which made narrow exceptions for certain shipments of items already *en route* aboard a carrier to a port of export, re-export, or transfer (in country) by/on 26 March 2022.

### ***Exclusion of Certain Countries from the Expanded Licensing Requirements for Russia and Belarus***

Countries identified by BIS on the so-called "Russia and Belarus Exclusions List" under the EAR are carved out from certain of the expanded Russia and Belarus license requirements.

These are countries that BIS has determined "*are committed to implementing substantially similar export controls*" on Russia and Belarus, and notably include NATO countries and partner nations. Countries included on this list are excluded – in whole or in part – from the requirements under the new Russia/Belarus FDP rules (both the general and MEU FDP rule) and the expanded *de minimis* application to items controlled only for anti-terrorism (AT) reasons or for 9A991 items, which notably include certain aircraft and related parts and components.

## **Other Key Changes**

- ***Limitations on EAR License Exceptions for Russia and Belarus***

There are very narrow circumstances in which a license exception will overcome requirements imposed under the Russia Final Rule or Belarus Final Rule. Available license exceptions are restricted to only certain sections of the EAR Part 740 exceptions for Temporary Imports, Exports, Re-exports, and Transfers in Country (TMP); certain government activities (GOV); Technology and Software Unrestricted (TSU); Baggage (BAG); Aircraft, Vessels, and Spacecraft (AVS); Encryption Commodities, Software, and Technology (ENC); and Consumer Communication Devices (CCD).

Companies that have used license exceptions for shipments to Russia and Belarus in the past must review their licensing procedures and incorporate the new restrictions, as necessary.

- ***Policy of Denial for License Applications for Russia and Belarus***

Applications for the export, re-export, or transfer of items subject to the EAR that require a license for Russia or Belarus under either the Russia or Belarus Final Rule will now be subject to a review policy of denial, except for very limited circumstances.

Applications related to certain categories—safety of flight, maritime safety, humanitarian needs, government space cooperation, civil telecommunications infrastructure, government-to-government activities, and to support limited operations of partner country companies in Russia/Belarus— will be reviewed on a case-by-case basis.

- ***Country Group Changes***

The Russia Final Rule updates Russia's EAR Country Group designation, adding it to Country Group D:5.

Country Group D:5 are US arms embargoed countries. This change is intended to reflect Russia's identification by the Department of State as a country subject to an arms embargo, and it conforms the arms embargo-related restrictions in the EAR with the § 126.1 provisions of the US export regulations for defense and military items, the International Traffic in Arms Regulations ("ITAR") (22 CFR Parts 120– 130).

The Belarus Final Rule makes certain changes to Belarus' EAR Country Group designations. Most notably, Belarus was added to Country Groups D:2 (Nuclear) and D:4 (Missile Technology) to reflect that Belarus has been officially identified as a country of concern for nuclear proliferation and missile technology proliferation. Practically, these new designations result in increased licensing requirements and the restricted availability of license exceptions for exports and re-exports to Belarus.

## **UK SANCTIONS**

UK sanctions apply to conduct in the UK and to all UK Persons wherever in the world. UK sanctions measures will also be adopted in the British Overseas Territories (including Jersey/Guernsey/Isle of Man) and Crown Dependencies.

A consolidated version of the relevant UK Russia Regulations, which includes all amendments to date, is available [here](#).

On 4 March 2022, the Office of Financial Sanctions Implementation ("OFSI") published its updated '[Guidance for the financial and investment restrictions in Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#)'. The frequently asked questions part of the guidance has not yet been updated to reflect the 2022 amendment regulations.

### ***Asset Freeze***

Since 24 February 2022, the UK Government has imposed an asset freeze on a number of individuals and entities, including various Russian banks and state-owned entities.

- Alfa Bank
- Exiar
- VTB Bank (VTB)
- Bank Otkritie
- Bank Rossiya
- GazPromBank
- Promsvyazbank
- Rosselkhozbank (Russian Agricultural Bank)
- Rostec
- SMP Bank
- Sovcombank
- SovComFlot
- Ural Bank for Reconstruction and Development
- Vnesheconombank (Veb)
- Wagner Group

The full list is available online here:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>

On 6 April 2022, the UK Government expanded the list and designated eight further individuals and the following banks:

- Sberbank
- Credit Bank of Moscow

The UK sanctions apply automatically to any non-designated entity where (in summary):

- a designated person holds directly or indirectly more than 50% of the shares in the entity;
- a designated person holds directly or indirectly more than 50% of the voting rights in the entity;
- a designated person holds the right directly or indirectly to appoint or remove a majority of the board of directors of the entity; or
- it is reasonable, having regard to all the circumstances, to expect that the designated person would (if it chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that the affairs of the entity are conducted in accordance with the designated person's wishes.

On 22 March 2022, OFSI updated its general guidance to clarify its position on aggregating ownership of non-designated entities by designated persons. The new paragraph 4.1.4 states that:

*"When making an assessment on ownership and control, OFSI would not simply aggregate different designated persons' holdings in a company, unless, for example, the shares or rights are subject to a joint arrangement between the designated parties or one party controls the rights of another. Consequently, if each of the designated person's holdings falls below the 50% threshold in respect of share ownership **and** there is no evidence of a joint arrangement or that the shares are held jointly, the company would not be directly or indirectly owned by a designated person."*

This contrasts with the position set out in FAQ guidance by the European Commission (see EU Sanctions section below).

OFSI has published a number of General Licences in relation to some of these designations, including in relation to a wind down of existing transactions in relation to some of the designated entities and their subsidiaries (a full list is here <https://www.gov.uk/government/collections/ofsi-general-licences>).

### **Dealing with transferable securities or money-market instruments**

In addition to the existing restrictions on dealing in transferable securities or money-market instruments issued by specified Russian entities or their non-UK subsidiaries with a maturity over 30 days that have been in place since 2014, the UK has expanded these restrictions as follows:

- it is now prohibited to deal with transferable securities or money-market instruments issued after 1 March 2022 by UK subsidiaries of the listed Russian entities, removing the previous exemption for transferable securities or money-market instruments issued by UK subsidiaries;
- it is now prohibited to deal in transferable securities or money-market instruments issued after 1 March by:
  - any individual ordinarily resident or located in Russia;
  - any entity domiciled in Russia;
  - any entity incorporated or constituted in Russia (except where that entity is domiciled outside of Russia);

- any entity which is a branch or subsidiary of an entity incorporated or constituted in Russia (except where the entity or the parent entity is domiciled outside of Russia); or
- any entity which is owned by or acting on behalf of any of the above; and
- it is also prohibited to deal with transferable securities or money-market instruments issued after 1 March by or on behalf of the Government of Russia.

On 1 March, OFSI published General Licence [INT/2022/1277777](#), which authorised relevant institutions (including authorised UK credit and financial institutions and CSDs) to deal with a transferable security or money-market instrument which fell within the above restrictions until 8 March 2022. This licence has since expired.

### ***Loans and Credit Arrangements***

In addition to the existing restrictions on making or granting a new loan or credit to any of the specified Russian entities or their non-UK subsidiaries with a maturity over 30 days that have been in place since 2014, the UK has expanded these restrictions as follows:

- it is prohibited to make or grant, or enter into an arrangement to make or grant, a new loan or credit with a maturity of more than 30 days available after 1 March 2022 to UK subsidiaries of the previously listed Russian entities, removing the previous exemption for new loans made or granted to and credit arrangements entered into with UK subsidiaries;
- it is now prohibited to make or grant, or enter into an arrangement to make or grant, a new loan or credit with a maturity of more than 30 days available after 1 March 2022 to:
  - any entity domiciled in Russia;
  - any entity incorporated or constituted in Russia (except where that entity is domiciled outside of Russia);
  - any entity which is a branch or subsidiary of an entity incorporated or constituted in Russia (except where the entity or the parent entity is domiciled outside of Russia); or
  - any entity which is owned by or acting on behalf of any of the above; and
- it is now also prohibited to make or grant, or enter into an arrangement to make or grant, a new loan or credit (of any maturity) after 1 March 2022 to the Government of Russia.

On 1 March 2022, OFSI published General Licence [INT/2022/1277777](#), which authorised relevant institutions (including authorised UK credit and financial institutions and CSDs) to make or grant, or enter into an arrangement to make or grant, a new loan or credit that fell within the above restrictions until 8 March 2022. The licence has since expired.

### ***Correspondent Banking Relationships***

UK credit and financial institutions are now prohibited from establishing or continuing a correspondent banking relationship with designated persons or their subsidiaries. This includes the provision of banking services by a

correspondent to a respondent including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, providing customers of the respondent with direct access to accounts with the correspondent (and *vice versa*) and providing foreign exchange services.

This prohibition applies to correspondent bank accounts held by UK credit or financial institutions in any currency.

UK credit and financial institutions are also now prohibited from processing (*i.e.*, clearing or settling) a sterling payment to, from or via a designated person or its subsidiaries.

This prohibition applies to payment chains or third-party payments.

For these purposes, the UK specifically designated **Sberbank**. As of 6 April 2022, Sberbank is now subject to a broader asset freeze designation.

There is an exception for processing a sterling payment for any fee or charge required to permit an aircraft to overfly, land in or take off from Russia.

HM Treasury can also grant other licences.

On 1 March 2022, OFSI published General Licence [INT/2022/1277778](#), which authorised a UK credit or financial institution:

- to continue a correspondent banking relationship with Sberbank until 31 March 2022; and
- to continue to process sterling payments to, from or via Sberbank or its subsidiaries until 31 March 2022.

This General Licence was amended on 11 March 2022 to clarify that a UK credit or financial institution could also continue a correspondent banking relationship with a credit or financial institution which is owned or controlled by Sberbank until 31 March 2022. The licence has since expired.

On 1 March 2022, OFSI also published General Licence [INT/2022/1277877](#), which authorises a UK credit or financial institution to continue to process sterling payments to, from or via Sberbank for the purpose of making Relevant Energy Products available for use in the United Kingdom, until 24 June 2022. Relevant Energy products include certain (1) Crude Oil; (2) Petroleum Products; and (3) Gas. Now that Sberbank is subject to an asset freeze, OFSI has amended this General Licence in respect of energy related payments to ensure that it may continue to be used until its expiry on 24 June 2022.

### ***Financial services for the purpose of foreign exchange reserve and asset management to the Central Bank of Russia***

The Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2022 introduced Regulation 18A into the UK Russia Sanctions Regulations, which states that it is prohibited to provide financial services to any of the following persons where those services are for the purpose of foreign exchange reserve and asset management:

- the Central Bank of the Russian Federation;
- the National Wealth Fund of the Russian Federation;
- the Ministry of Finance of the Russian Federation;



- a person owned or controlled directly or indirectly by any of the persons above; or
- a person acting on behalf of or at the direction of any of the persons above.

The term "foreign exchange reserve and asset management" means activities relating to the following reserves or assets:

- money-market instruments (including cheques, bills and certificates of deposit);
- foreign exchange;
- derivative products (including futures and options);
- exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
- transferable securities;
- other negotiable instruments and financial assets (including bullion); and
- special drawing rights.

On 22 March 2022, OFSI issued General Licence [INT/2022/1381276](#) to authorise the provision of financial services for the purposes of winding down any derivatives, repurchase, and reverse repurchase transactions entered into prior to 1 March 2022 with the following:

- the Central Bank of the Russian Federation;
- the National Wealth Fund of the Russian Federation; or
- the Ministry of Finance of the Russian Federation.

The licence took effect from 22 March 2022 and expires on 2 May 2022.

On 1 April 2022, OFSI issued the additional General Licence [INT/2022/1495176](#) to authorise the provision of financial services for the purposes of the receipt and onward transfer of non-rouble denominated interest/coupon or maturity/principal payments from the Russian Federation institutions listed above in connection with debt issued by them before 1 March 2022.

The licence took effect from 1 April 2022 and expires on 30 June 2022.

### ***Critical Industry Goods***

The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2022 imposed a new restriction on the export, supply, delivery or making available of critical-industry goods to, or for use in, Russia or to a person connected with Russia.

There is also a prohibition on the provision of technical assistance, financial services or funds or brokering services relating to critical-industry goods to a person connected with Russia or for use in Russia.

Critical-industry goods include (the following is not an exhaustive list):

- electronic devices and components including general purpose electronic equipment;
- computers, "electronic assemblies" and related equipment, and specially designed components therefor;

- telecommunication equipment;
- “information security” systems, equipment and components;
- sensors and lasers;
- vessels, marine systems or equipment, and specially designed components therefor, and marine boilers and components therefor; and
- diesel engines and tractor units, and specially designed components therefor.

On 17 March 2022, the UK Department for International Trade issued a general trade licence concerning vessels. Subject to certain exclusions, conditions and requirements, the licence authorises otherwise prohibited activities in relation to the export, supply or delivery, making available, transfer, provision of technical assistance, provision of financial services or funds, or provision of brokering services in respect of vessels moving to, from or through the territorial waters of Russia where the vessel is moving under its own power and there is no change of ownership or operator.

From 8 March 2022, aviation and space goods and technology are now separately categorised (see further below).

There are some exceptions to these restrictions. For example:

- the prohibitions are not contravened by activity in relation to any critical-industry goods which are— (1) the personal effects of a person travelling to Russia, (2) of a non-commercial nature for the personal use of a person travelling to Russia and contained in that person’s luggage, or (3) necessary for the official purposes of a diplomatic mission or consular post in Russia, or of an international organisation enjoying immunities in accordance with international law.
- the prohibitions are also not contravened by a relevant activity in relation to consumer communication devices for civilian use, or software updates for civilian use.

There is also a provision for licences to be granted in certain circumstances.

### ***Aviation and Space***

On 8 March 2022, the UK Government published the Russia (Sanctions) (EU Exit) (Amendment) (No. 6) Regulations 2022, which introduce a prohibition on insurance and reinsurance services relating to the aviation and space sectors.

Regulation 29A prohibits directly or indirectly providing insurance or reinsurance services relating to aviation and space goods or technology (including aircraft and parts thereof):

- to a person connected with Russia; or
- for use in Russia.

These Regulations also amend the existing trade measures to add a new category of aviation and space goods and technology, based on items falling within Chapter 88 of the Tariff of the United Kingdom. The existing prohibitions applying to restricted goods and restricted technology are extended to these goods and technology, which include a broad range of aeroplane and other aircraft and parts.

On 8 March 2022, the Export Control Joint Unit ("ECJU") within the UK Department for International Trade published a General Trade Licence permitting the provision of certain insurance and reinsurance services relating to aviation and space goods and technology otherwise prohibited by Regulation 29A and Regulation 28 (regarding financial services and funds relating to restricted goods and technology) until 28 March 2022 under contracts concluded before 8 March 2022. The licence has now expired.

Any person seeking to rely on the licence was required to register online within 30 days of their first use of the licence.

The amended Regulations also include restrictions on access to UK airspace for "Russian aircraft".

The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022, which came into force on 30 March 2022, impose a new prohibition on the provision to, or for the benefit of, a designated person of technical assistance relating to Russian aircraft.

### ***Ports and Shipping***

The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 introduced a new provision, Regulation 57A into the UK Russia Sanctions Regulations which, among other matters, prohibits UK port access being granted to any ship owned, controlled, chartered or operated by persons connected with Russia or which is flying the flag of Russia, or which is registered in Russia.

The Regulations provide the government with a power to control the movement of Russian ships or specified ships by requiring them to leave or enter specified ports, proceed to a specified place or remain where they are.

The Regulations also confer powers on the government and harbour authorities to detain Russian ships or specified ships at ports or anchorages.

Registration of ships on the UK Ship Register is prohibited where they are owned, controlled, chartered or operated by a designated person or persons connected with Russia, or where they are a specified ship.

The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022 also prohibit the provision to, or for the benefit of, a designated person of technical assistance relating to Russian ships or specified ships.

### ***Luxury Goods and Import Tariffs***

On 25 March 2022, the additional duties on a number of goods originating in Russia and Belarus came into force. The products requiring additional duties when imported from Russia and Belarus are listed [here](#). The UK Government has also announced its intention to introduce additional duties on imports of fish from Russia and Belarus. This measure will follow in due course, subject to further work on the specific implications for the sector.

### ***Donetsk and Luhansk regions***

The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022 extended the existing finance, shipping and trade sanctions relating to the Autonomous Republic of Crimea and city of Sevastopol to the non-government controlled areas of the Donetsk oblast and Luhansk oblast of Ukraine.

The extension of territorial scope includes prohibitions relating to:

- the export, making available, supply, or delivery and making available of infrastructure-related goods to a person connected with, or for use in, non-government controlled Ukrainian territory;
- the provision of technical assistance, brokering services, financial services and funds related to infrastructure-related goods to a person connected with, or for use in, non-government controlled Ukrainian territory; and
- providing certain services relating to a relevant infrastructure sector, and tourism, in non-government controlled Ukrainian territory.

### ***Other Sanctions***

On 25 February 2022, the Air Navigation (Restriction of Flying) (Russian Aircraft) Regulations 2022 were enacted. These Regulations provide that no aircraft on a scheduled service which is owned, chartered or operated by a person connected with Russia, or which is registered in Russia shall fly in United Kingdom airspace, including in the airspace above the United Kingdom's territorial sea, without a licence.

The Economic Crime (Transparency and Enforcement) Act 2022, expedited through Parliament, received Royal Assent on 14 March 2022. This new legislation (in summary):

- sets up a requirement for overseas entities who own land to register their beneficial owners in certain circumstances;
- broadens the scope of unexplained wealth orders;
- removes the requirement for OFSI to pay attention to whether a person knew or had reasonable grounds to suspect they were committing a breach of UK sanctions when determining whether to impose a monetary penalty; and
- enables OFSI to publish the names of parties who breach financial sanctions even if no penalty is imposed.

On 17 March 2022, the UK Government announced that it is suspending the exchange and sharing of tax information with Russia and Belarus. The tax information is exchanged as part of global collaboration to address tax compliance risks.

Following the previous instruction of the UK Government, on 18 March 2022 the UK media regulator Ofcom concluded its investigation of RT (Russia Today) for potential breaches of its broadcasting code. The watchdog used its power to revoke RT's broadcast licence "*with immediate effect*".

### ***Further Sanctions***

The UK Government has previously announced that further sanctions will be adopted as follows:

- sanctions that will ban exports of luxury goods to Russia;
- sanctions that will limit the amount of deposits Russian citizens (expected to be non-residents or nationals of the UK) can make in UK bank accounts (above £50,000). We expect this will take the same form as the EU sanctions described below; and

- on 8 March 2022, the UK Government announced that "*[t]he UK will phase out imports of Russian oil ... by the end of the year.*" The UK has not yet enacted any legislation to give effect to this.

## **EU SANCTIONS**

EU sanctions apply to conduct in the EU and to all EU Persons wherever in the world.

The European Commission has issued [Frequently Asked Questions](#) on several aspects of the new sanctions related to Russia and Belarus, the main aspects of which are summarised below.

### ***Asset Freeze***

Council Regulations (EU) Nos 2022/260 and 2022/261 of 23 February 2022, Council Regulation (EU) No. 2022/332 of 25 February 2022, Council Regulation (EU) No. 2022/336 of 28 February 2022, Council Regulation (EU) No. 2022/396 of 9 March 2022, Council Regulation (EU) No. 2022/427 of 15 March 2022 and **Council Regulation (EU) No. 2022/581 of 8 April 2022** impose an asset freeze on the following individuals and entities:

- VEB.RF (a.k.a Vnesheconombank)
- **VTB Bank**
- **Otkritie FC Bank**
- **Novikombank**
- **Sovcombank**
- Bank Rossiya
- Promsvyazbank
- Internet Research Agency
- Gas Industry Insurance Company SOGAZ
- Rosneft Aero
- Rosoboronexport
- NPO High Precision Systems
- Kurganmashzavod
- Russian Helicopters
- United Aircraft Corporation
- United Shipbuilding Corporation
- Research and Production Corporation Uralvagonzavod
- Zelenodolsk Shipyard [A.M. Gorky Zelenodolsk Plant]
- **JSC Arzamas Machine-Building Plant**
- **JSC Ruselectronics**
- **JSC Tactical Missiles Corporation**
- **JSC Kalashnikov Concern**
- **JSC UEC Klimov**
- **LLC Military Industrial Company**
- **PO More Shipyard**

- JSC Omsk Transport Machine
- JSC Russian Machines
- JSC Sozvezdie Concern
- JSC Research and Industrial Concern "Machine Engineering Technologies" – JSC RIC TECMASH
- PJSC United Engine Corporation
- Yantar Shipyard
- JSC GTLK (State Transport Leasing Company)
- 336 individuals involved in the Russian government's decision to recognise the Donetsk and Luhansk regions (members of the Russian State Duma);
- 48 individuals accused of supporting, implementing or benefiting from actions that undermine the territorial integrity, sovereignty, independence and stability of Ukraine (including, *inter alia*, members of the management and supervisory bodies of VEB.RF, VTB Bank, Promsvyazbank, Rosneft and Transneft and shareholders of Alfa Bank);
- 99 individuals, including members of the Russian National Security Council accused of having supported Russia's recognition of the Donetsk and Luhansk regions or of having facilitated Russia's military action from Belarus, as well as additional members of the Russian State Duma who ratified the government's decisions of the "Treaty of Friendship, Cooperation and Mutual Assistance" between Russia and the Donetsk and Luhansk regions. These designations include Russia's President Vladimir Putin and Russia's Minister of Foreign Affairs Sergey Lavrov;
- 22 individuals of the Belarusian military forces;
- 160 individuals, including 14 "oligarchs and prominent businesspeople" as well as their family members and 146 members of the Russian Federal Council who ratified the government decisions of the "Treaty of Friendship, Cooperation and Mutual Assistance" between Russia and DNR and LNR regions;
- 15 additional individuals, including, *inter alia*, individuals accused of being involved in economic sectors providing a substantial source of revenue to the Russian government (including, *inter alia*, the owner of Nafta Moscow, shareholders of Alfa Bank and Evraz and a member of the management of EuroChem Group AG); and
- 216 additional individuals, including, *inter alia*, members of the so-called "People's Councils" of the Donetsk and Luhansk regions, the owner of the Russian Machines industrial conglomerate, the CEO of Sberbank, the Director General of Surgutneftegas, the "majority shareholder" in Gazprom Drilling, the co-owner of SGM group, the Chairman of the Board of Directors of ESN Group, the Chairman of the Alliance Group, the co-owner of Industrial Metallurgical Holding (PMH), the owner of OOO Vector and Trans Stroy, the owner of the Mercury Group, a member of the management board of Sibur Holding PJSC, a "large shareholder" in Acron Group, the President of United Aircraft Corporation and several individuals associated with previously designated individuals (in particular family members).

With respect to the designation of Bank Rossiya, Promsvyazbank and VEB.RF, the EU introduced the ability for EU Member States to authorise the release of frozen funds or economic resources belonging to those 3 banks or the making available of funds or economic resources to them, if this is necessary for the termination by 24 August 2022 of operations, contracts, or other agreements, including correspondent banking relations, concluded with those banks before 23 February 2022.

With respect to the designation of VTB Bank, Otkritie FC Bank, Novikombank and Sovcombank, the EU adopted Council Regulation (EU) No. 2022/580 of 8 April 2022 introducing the ability for EU Member States to authorise the release of frozen funds or economic resources belonging to those 4 banks or the making available of funds or economic resources to them, if this is necessary for the termination by 9 October 2022 of operations, contracts, or other agreements, including correspondent banking relations, concluded with those banks before 8 April 2022.

Furthermore, by Council Regulation (EU) No. 2022/580 of 8 April 2022, the EU introduced the ability for EU Member States to authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources to designated persons or entities if (1) this is necessary for the sale and transfer by 9 October 2022 of proprietary rights in a legal person, entity or body established in the EU where those proprietary rights are directly or indirectly owned by a designated person and (2) the proceeds of such sale and transfer remain frozen.

In its Frequently Asked Questions, the European Commission, *inter alia*, states that in determining whether an entity is more than 50% owned by designated persons, "*one should look at the aggregated ownership*" of the entity, *i.e.* shareholdings of several designated persons need to be aggregated. If the aggregated shareholdings of designated persons exceed 50%, the entity should be considered as "*jointly owned and controlled by designated persons*". This is a new interpretation by the European Commission and contrasts directly with the position in the UK, outlined above.

By contrast, in their German-language Frequently Asked Questions, the German Federal Ministry for Economic Affairs and Climate Action and the German Central Bank (Bundesbank) take the view that, in principle, shareholdings of several designated persons are not to be aggregated when determining ownership or control. However, according to the German authorities, (as translated) "*an aggregation of the ownership interests of EU designated persons in the same entity can be required in individual cases if there are concrete indications that several EU designated persons are acting together in exercising the shareholder rights resulting from the respective ownership positions.*"

The Frequently Asked Questions also confirm previously expressed views in various Commission Opinions, including that EU banks are required to freeze payments received from designated banks. In addition, the European Commission points out that intellectual property rights qualify as economic resources and that, in its view, working for an entity owned or controlled by a designated person or entity can be considered as making economic resources indirectly available to the designated person or entity insofar as this labour enables the designated person or entity to obtain funds, goods, or services.



## ***Transactions with certain Russian state-owned entities***

Council Regulation (EU) No. 2022/428 of 15 March 2022 imposes a prohibition on directly or indirectly engaging in "*any transactions*" with (1) the following 12 listed Russian state-owned entities, (2) any entity or body established outside the EU directly or indirectly more than 50% owned by one of these 12 listed entities, or (3) any entity or body acting on behalf or at the direction of any of these entities or bodies:

- OPK Oboronprom
- United Aircraft Corporation
- Uralvagonzavod
- Rosneft
- Transneft
- Gazprom Neft
- Almaz-Antey
- Kamaz
- Rostec (Russian Technologies State Corporation)
- JSC Po Sevmash
- Sovcomflot
- United Shipbuilding Corporation

Exceptions apply with respect to (1) the execution until 15 May 2022 of contracts concluded before 16 March 2022 (or ancillary contracts necessary for the execution of such contracts), (2) **transactions which are strictly necessary for the direct or indirect purchase, import or transport of natural gas and oil, including refined petroleum products, as well as titanium, aluminium, copper, nickel, palladium and iron ore from or through Russia into the EU, a country member of the European Economic Area, Switzerland, or the Western Balkans**, (3) transactions related to energy projects outside Russia in which the state-owned entities listed above are a minority shareholder **and (4) transactions for the purchase, import or transport into the EU of certain listed coal and other solid fossil fuels until 10 August 2022.**

In its (German-language) [Frequently Asked Questions](#), the German Federal Office for Economic Affairs and Export Control (*Bundesamt für Wirtschaft und Ausfuhrkontrolle*, "**BAFA**") takes the view, *inter alia*, that EU subsidiaries of the listed Russian state-owned or state-controlled entities do not fall within the scope of the prohibition. BAFA argues that, with respect to subsidiaries, the scope of application is limited to non-EU subsidiaries and that the mentioning of entities acting on behalf or at the direction of the listed entities or their non-EU subsidiaries only refers to "*other entities that are not in an affiliated group with the listed entities*".

## ***Specialised financial messaging services (such as SWIFT)***

On 2 March 2022, the EU introduced an exclusion of certain listed Russian banks from the SWIFT messaging system.

Council Regulation (EU) No. 2022/345 imposes a prohibition as of 12 March 2022 on providing specialised financial messaging services, which are used to exchange financial data, to the following banks or to any legal person, entity or body established in Russia whose proprietary rights are directly or indirectly owned for more than 50% by these banks:

- Bank Otkritie
- Novikombank
- Promsvyazbank
- Bank Rossiya
- Sovcombank
- Vnesheconombank (VEB)
- VTB Bank

Council Regulation (EU) No. 2022/398 imposes the same prohibition as of 20 March 2022 with respect to the following Belarusian banks or to any legal person, entity or body established in Belarus whose proprietary rights are directly or indirectly owned for more than 50% by these banks:

- Belagroprombank
- Bank Dabrabyt
- Development Bank of Belarus

There is no exception or possibility for Member State authorities to grant authorisations for relevant services.

### ***Financial and Capital Markets Restrictions***

Council Regulation (EU) No. 2022/262 of 23 February 2022 amended existing sanctions in Council Regulation (EU) No. 833/2014 (imposing so-called sectoral sanctions) as follows:

- a prohibition on purchasing, selling or otherwise dealing with transferable securities and money-market instruments issued after 9 March 2022 by (1) Russia and its government, (2) the Russian Central Bank or (3) entities / bodies acting on behalf / at the direction of the Russian Central Bank; and
- a prohibition on making / being part of arrangements to make any new loans or credits after 23 February 2022 to (1) Russia and its government, (2) the Russian Central Bank or (3) entities / bodies acting on behalf / at the direction of the Russian Central Bank (without any maturity limits for loans / credit applying in this context).

In this context, in its [Frequently Asked Questions](#) issued on 23 March 2022, the European Commission states that EU sanctions principally do "*not impose any impediments to receive income payments, dividend payments or principal repayments of existing securities from Russian issuers*", such as coupon payments by the Russian state on its Eurobonds.

In addition, on 25 February 2022, Council Regulation (EU) No. 2022/328 significantly extended the existing sanctions relating to the financial sector. In particular:

- in addition to the existing sectoral sanctions applying to Sberbank, VTB Bank, Gazprombank, Vnesheconombank (VEB) and Rosselkhozbank,

OPK Oboronprom, United Aircraft Corporation, Uralvagonzavod, Rosneft, Transneft and Gazprom Neft, it is now prohibited to purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with any transferable securities and money-market instruments issued by those entities (or by non-EU entities more than 50% owned by them or by entities acting on their behalf / at their direction) after 12 April 2022 (without any maturity threshold applying).

- the same prohibition applies to the following entities (and to non-EU entities more than 50% owned by them and to entities acting on their behalf / at their direction):
  - Alfa Bank
  - Bank Otkritie
  - Bank Rossiya
  - Promsvyazbank
  - Almaz-Antey
  - Kamaz
  - Novorossiysk Commercial Sea Port
  - Rostec (Russian Technologies and State Corporation)
  - Russian Railways
  - JSC PO Sevmash
  - Sovcomflot
  - United Shipbuilding Corporation
  - Russian Maritime Register of Shipping (added to the list by Regulation (EU) 2022/394 of 9 March 2022)
- there is also a new prohibition on making or being part of any arrangement to make a new loan or credit to any of the aforementioned entities (or to non-EU entities more than 50% owned by them or entities acting on their behalf / at their direction) – again without any maturity threshold applying. This restriction applies as of 26 February 2022.

Certain exceptions apply, such as under certain circumstances, with respect to loans intended for providing emergency funding for EU entities more than 50% owned by Sberbank, VTB Bank, Gazprombank, VEB or Rosselkhozbank.

In its [Frequently Asked Questions](#) issued on 23 March 2022, the European Commission confirms, *inter alia*, that the prohibition on dealing with transferable securities also applies for derivative products where the underlying securities fall within the scope of the prohibition. Furthermore, the European Commission states that none of the affected shares issued after the relevant dates may be traded *via* multi-asset products such as ETFs.

Further, the new sanctions introduce the following additional prohibitions related to capital markets activities:

- a prohibition as of 12 April 2022 on listing or providing services on trading venues registered or recognised in the EU for the transferable securities of any entity established in Russia with over 50% public ownership.

In its Frequently Asked Questions issued on 23 March 2022, the European Commission clarifies that trading venues can no longer list and provide services in relation to transferable securities of any legal person, entity or body established in Russia and with over 50% public ownership as of 12 April 2022, irrespective of their date of issuance. Furthermore, the European Commission states, *inter alia*, that the prohibition "*does not require EU benchmark administrators to withdraw or exclude securities from their indices*", but that, nonetheless, "*product manufacturers making available products tracking such benchmarks will be subject to restrictions on the underlying securities which are themselves subject to sanctions*", so that "*benchmark administrators should adapt their benchmark compositions accordingly*".

- a prohibition on EU central securities depositories providing relevant services (core services, non-banking-type ancillary services and banking-type ancillary services as defined in the Annex of Council Regulation (EU) No. 909/2014) for transferable securities issued after 12 April 2022 to any Russian national or natural person residing in Russia or any entity established in Russia. The prohibition does not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State. We interpret this provision as currently drafted to mean that services listed in the Annex of Council Regulation No. 909/2014 cannot be provided to Russian nationals or entities in respect of securities issued after 12 April 2022.
- a prohibition on selling transferable securities **denominated in any official currency of an EU Member State** issued after 12 April 2022 or units in collective investment undertakings providing exposure to such securities, to any Russian national or natural person residing in Russia or any entity established in Russia. The prohibition does not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State.

In its Frequently Asked Questions, the European Commission states that this prohibition does not apply in principal to an entity established in the EU owned by Russian citizens but registered in a country other than Russia. However, in this context the European Commission explicitly states that the prohibition "*should be read in conjunction with Article 12 which prohibits EU operators from knowingly and intentionally circumventing the measures in the Regulation*".

- In addition, Council Regulation (EU) No. 2022/576 imposes a prohibition on selling, supplying, transferring or exporting banknotes **denominated in any official currency of an EU Member State** to Russia or to any natural or legal person, entity or body in Russia, including the Russian government and the Russian Central Bank, or for use in Russia. Exceptions apply under certain limited circumstances, such as where such sale, supply *etc.* is necessary for the personal use of natural persons travelling to Russia or members of their immediate families travelling with them.

In its Frequently Asked Questions, the European Commission clarifies that the prohibition only applies to physical banknotes, but not to transfers via bank accounts. Furthermore, the European Commission states, *inter alia*, that the exception allowing the supply of EUR banknotes for personal use of natural persons travelling to Russia or members of their immediate families travelling to them, "*should be interpreted in narrow terms*" and that

for the consideration of the term "*personal use*" the determining factor is the "*non-commercial nature*". According to the European Commission, in cases where Russian companies are closing down and returning to Russia with cash belonging to the company and as regards employees of such companies "*there is no reason to allow Russians to repatriate their savings in Russia*".

### **Russian Central Bank**

On 28 February 2022, the EU adopted [Council Regulation \(EU\) No. 2022/334](#) (which amends Council Regulation (EU) No. 833/2014), and which significantly expands the sanctions on the Russian Central Bank, prohibiting any transactions related to the management of reserves as well as of assets of the Russian Central Bank and any transactions with any entity / body acting on behalf / at the direction of the Russian Central Bank, such as the Russian National Wealth Fund. The competent authorities in the Member States of the EU may grant authorisations for such transactions only if it is strictly necessary to ensure the financial stability of the EU as a whole or of the Member State concerned.

### **Russian Direct Investment Fund**

Council Regulation (EU) No. 2022/345, which was published on 2 March 2022, imposes a prohibition on investing, participating or otherwise contributing to projects co-financed by the Russian Direct Investment Fund.

There is a possibility for Member State authorities to authorise a relevant investment, participation or contribution if such is due under contracts concluded before 2 March 2022 or ancillary contracts necessary for the execution of such contracts.

In its (German-language) [Frequently Asked Questions](#), the German Central Bank (*Bundesbank*) takes the view, *inter alia*, that the prohibition with respect to projects co-financed by the RDIF does not apply to "*participations already existing at the time of entry into force*" (as translated) of the prohibition.

### **Deposits**

The new sanctions in Council Regulation (EU) No. 2022/328 of 25 February 2022 and [Council Regulation \(EU\) 2022/576 of 8 April 2022](#) include a prohibition on accepting any deposits from Russian nationals or natural persons residing in Russia or entities established in Russia if the total value of the deposit of these persons / entities exceeds EUR 100,000 (per credit institution) and a prohibition to provide crypto-asset wallet, account or custody services to Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, if the total value of crypto-assets of the natural or legal person, entity or body per wallet, account or custody provider exceeds EUR 10,000. Council Regulation (EU) No. 2022/394 and Council Regulation (EU) 2022/576 stipulate that these prohibitions do not apply to nationals of, or to natural persons having a temporary or permanent residence permit in, an EU Member State, a country member of the European Economic Area or of Switzerland. There is also an exception for deposits necessary for cross border trade in goods and services between the EU and Russia. The currency is not relevant.

In its [Frequently Asked Questions](#), the European Commission clarifies that the restriction applies "*per banking licence*". Furthermore, it states, *inter alia*, that

the prohibition principally also comprises subsidiaries of EU operators incorporated in Russia.

For these purposes, a "deposit" means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where: (1) its existence can only be proven by a financial instrument, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014; (2) its principal is not repayable at par; or (3) its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party.

We consider that any account balance is therefore a deposit.

In its [Frequently Asked Questions](#), the European Commission states, *inter alia*, that transactions or corporate events resulting in a positive cash flow, and thereby becoming a deposit as defined in the Regulation, into a relevant account would principally fall within the prohibition. In addition, the European Commission explains that payments of interest or dividend should not be accepted if the threshold of EUR 100,000 is already exceeded. In the view of the European Commission, where and how the interest or dividend payment should be made to in such cases "*would need to be decided by the parties involved*".

The restriction does not prohibit transfers from existing accounts (of otherwise non-sanctioned persons), nor does it require that existing deposits over the threshold are reduced. But for accounts already over that threshold, effectively no additional funds can be received into those accounts.

Under certain circumstances, the competent authorities in the Member States of the EU may grant relevant authorisations.

Information obligations have also been introduced, requiring credit institutions to provide their competent national authorities, by no later than 27 May 2022, with lists of relevant deposits exceeding EUR 100,000.

There is a broad circumvention prohibition, which means deposits from non-Russian entities on behalf of Russian persons or entities will also be prohibited. In its [Frequently Asked Questions](#), the European Commission clarifies that legal persons established outside of Russia fall within the scope of the prohibition if their ultimate beneficial owner falls within scope.

### **Services with respect to trusts**

Council Regulation (EU) 2022/576 of 8 April 2022 introduces a prohibition on registering, providing a registered office, business or administrative address as well as management services to, a trust or any similar legal arrangement having as a trustor or a beneficiary (1) Russian nationals or natural persons residing in Russia, (2) legal persons, entities or bodies established in Russia, (3) legal persons, entities or bodies whose proprietary rights are directly or indirectly owned for more than 50% by Russian nationals, natural persons residing in Russia or legal persons, entities or bodies established in Russia, (4) legal persons, entities or bodies controlled by the afore-mentioned natural or legal persons, entities or bodies, or (5) a natural or legal person, entity or body acting on behalf or at the direction of the afore-mentioned natural or legal persons, entities or bodies. In addition, Council Regulation (EU) 2022/576 of

8 April 2022 introduces a prohibition as of 10 May 2022 on acting as, or arranging for another person to act as, a trustee, nominee shareholder, director, secretary or a similar position, for such trusts or similar legal arrangements.

Exceptions apply (1) to the operations that are strictly necessary for the termination by 10 May 2022 of contracts which are not compliant with these prohibitions concluded before 9 April 2022 or ancillary contracts necessary for the execution of such contracts and (2) when the trustor or beneficiary is a national of an EU Member State or a natural person having a temporary or permanent residence permit in an EU Member State.

In addition, EU Member States may authorise relevant services if this is necessary for (1) humanitarian purposes or (2) civil society activities that directly promote democracy, human rights or the rule of law in Russia.

### **Credit Rating Services**

Council Regulation (EU) No.2022/428 of 15 March 2022 introduces a prohibition as of 15 April 2022 on the provision of credit rating services, as well as of access to any subscription services in relation to credit rating activities, to any Russian national or natural person residing in Russia or any entity or body established in Russia. An exception applies with respect to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State.

### **Energy Industry**

Council Regulation (EU) No. 2022/328 of 25 February 2022 and Council Regulation (EU) No. 2022/576 of 8 April 2022 introduce a prohibition on the sale, supply, transfer or export of certain listed goods and technology suited for use in oil refining and liquefaction of natural gas to any natural or legal person, entity or body in Russia or for use in Russia.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

An exception applies to the execution until 27 May 2022 of contracts concluded before 26 February 2022. The competent authorities in the Member States of the EU may, under very limited circumstances, also grant authorisations to relevant sales, exports etc.

Council Regulation (EU) No. 2022/428 of 15 March 2022 extends existing export restrictions for certain listed equipment, technology and services for the energy industry in Russia. It is now prohibited, *inter alia*, to sell, supply, transfer or export, directly or indirectly, listed goods or technology suited for the energy industry to any natural or legal person, entity or body in Russia or for use in Russia. In addition, there is a prohibition on providing related technical assistance, brokering services or other services, financing or financial assistance.

Exceptions apply, *inter alia*, to (1) the sale, supply, transport or export or the provision of technical or financial assistance necessary for the transport of natural gas and oil, including refined petroleum products, from or through Russia into the EU, and (2) the execution until 17 September 2022 of an obligation arising from a contract concluded before 16 March 2022 (or ancillary contracts necessary for the execution of such a contract) provided

that the competent Member State authority has been informed at least 5 working days in advance. An exception also applies to the provision of insurance or reinsurance to entities or bodies incorporated or constituted under the law of a Member State with regard to their activities outside the energy sector in Russia. In addition, Member State authorities may authorise the sale, supply, transfer or export and the provision of technical or financial assistance if (1) it is necessary for ensuring critical energy supply within the EU, or (2) it is intended for the exclusive use of entities owned, or solely or jointly controlled, by an entity or body incorporated or constituted under the law of a Member State.

Council Regulation (EU) No.2022/428 of 15 March 2022 further introduces Council Regulation (EU) No. 2022/428 of 15 March 2022 further introduces comprehensive investment prohibitions with respect to the Russian energy sector. It is now prohibited, *inter alia*, to (1) acquire any new or extend any existing participation in any entity or body incorporated or constituted under the law of Russia or any other third country and operating in the energy sector in Russia, (2) grant or be part of any arrangement to grant any new loan or credit or otherwise provide financing, including equity capital, to any such entity or body, (3) create any new joint venture with any such entity or body, or (4) provide investment services directly related to the aforementioned activities.

Member State authorities may grant an authorisation for such activities if (1) it is necessary for ensuring critical energy supply within the EU, as well as the transport of **natural gas and oil, including refined petroleum products**, from or through Russia into the EU, or (2) it exclusively concerns an entity or body operating in the energy sector in Russia owned by an entity or body which is incorporated or constituted under the law of a Member State.

In its (German-language) Frequently Asked Questions, the German Federal Ministry for Economic Affairs and Climate Action states that the prohibition on granting new loans or credits or otherwise providing financing applies to "*new allocations*" and takes the view that "*where certain financial resources were already made available regularly and for a specific purpose before 16 March 2022, a future making available for the same purpose in the previous scope is not subject to the prohibition*" (as translated). However, the relevant question explicitly addressed the provision of "*funds to be used for employee salaries or rental costs*" that were already demonstrably paid on a regular basis before 16 March 2022, and it is not fully clear from the Frequently Asked Questions to what extent the view of the German authorities goes beyond the provision of funds for such or comparable purposes.

## **Coal**

Council Regulation (EU) 2022/576 of 8 April 2022 introduces a prohibition on purchasing, importing, or transferring, directly or indirectly, certain listed coal and other solid fossil fuels into the EU if they originate in Russia or are exported from Russia.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed items.

An exception applies to the execution until 10 August 2022 of contracts concluded before 9 April 2022, or ancillary contracts necessary for the execution of such contracts.



## ***Iron and Steel***

Council Regulation (EU) No. 2022/428 of 15 March 2022 imposes a prohibition on (directly or indirectly) importing, purchasing or transporting certain listed iron and steel products located or originated in Russia or exported from Russia, as well as on providing related technical assistance, brokering services, financing or financial assistance (including financial derivatives) and insurance and re-insurance. [Council Regulation \(EU\) No. 2022/576 of 8 April 2022 amended the list of relevant iron and steel products.](#)

An exception applies to the execution until 17 June 2022 of contracts concluded before 16 March 2022 (or ancillary contracts necessary for the execution of such contracts).

## ***Luxury Goods***

Council Regulation (EU) No. 2022/428 of 15 March 2022 imposes a prohibition on selling, supplying, transferring or exporting, directly or indirectly, several listed luxury goods to any natural or legal person, entity or body in Russia or for use in Russia, including, *inter alia*, beer, champagne, cigars, perfumes, travel goods, handbags, certain clothing and shoes, jewellery, porcelain, electronic items, vehicles, watches, musical instruments, works of art and sports equipment. [Council Regulation \(EU\) No. 2022/576 of 8 April 2022 amended the list of relevant luxury goods.](#)

Unless otherwise specified in the relevant Annex to the EU Council Regulation, the prohibition applies to the listed luxury goods insofar as their value exceeds EUR 300 per item. Higher values apply, *inter alia*, for electronic items for domestic use (value exceeding EUR 750), apparatus for recording and reproducing sound and images (value exceeding EUR 1,000), vehicles (value exceeding EUR 50,000) and motorbikes (value exceeding EUR 5,000).

There is only an exception for goods which are necessary for the official purposes of diplomatic or consular missions of Member States or partner countries (currently the US [and Japan](#)) in Russia or of international organisations enjoying immunities in accordance with international law, or to the personal effects of their staff. [In addition, Council Regulation \(EU\) No. 2022/576 of 8 April 2022 introduces the ability for EU Member States to authorise the transfer or export to Russia of cultural goods which are on loan in the context of formal cultural cooperation with Russia.](#)

In its [Frequently Asked Questions](#), the European Commission states, *inter alia*, that the value threshold for the items is to be assessed "*based on the statistical value of the goods in the export declaration*", which is defined as "*the price actually paid or payable for the exported goods, excluding arbitrary or fictitious values*". The European Commission clarifies that VAT is not to be included in the statistical value, but that the value "*must be adjusted, where necessary, in such a way that the statistical value contains solely and entirely the incidental expenses, such as transport and insurance costs, incurred to deliver the goods from the place of their departure to the border of the Member State of export*".

In addition, the European Commission states that the term "item" is to be understood as the "*supplementary unit*", being "*the quantity of the item in question, expressed in the unit laid down in Union legislation, as published in TARIC*". The European Commission clarifies that this principally means "*usual*".

*packaging for retail sale, e.g. a carton of 6 bottles of wine if they are sold together, or a bottle of wine if it is meant to be sold separately".*

### **Ban on import of "goods which generate significant revenues for Russia"**

Council Regulation (EU) No. 2022/576 of 8 April 2022 introduces a prohibition on purchasing, importing, or transferring, directly or indirectly, certain listed goods "which generate significant revenues for Russia" into the EU if they originate in Russia or are exported from Russia. The list of goods includes, *inter alia*, crustaceans, caviar, certain cement, potassium chloride and other fertilisers, certain polymers, certain pneumatic tyres, wood and articles of wood, uncoated kraft paper and paperboard, certain glass, bottles and certain other products of glass, glass fibres, silver, certain aluminium plates, sheets and strip, lead, turbojets and other gas turbines, certain ships and vessels and furniture.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods.

An exception applies to the execution until 10 July 2022 of contracts concluded before 9 April 2022, or ancillary contracts necessary for the execution of such contracts. Furthermore, as of 10 July 2022 an exception will apply to the import, purchase etc. necessary for the import into the EU of (1) a certain quantity of potassium chloride between 10 July of a given year and 9 July of the following year and (2) a certain combined quantity of certain other listed fertilisers between 10 July of a given year and 9 July of the following year. The relevant import volume quotas will be managed by the European Commission and the EU Member States.

### **Road Transport**

Council Regulation (EU) 2022/576 introduces a prohibition for any road transport undertaking established in Russia to transport goods by road within the territory of the EU, including in transit.

Road transport undertaking means any natural or legal person, entity or body engaged with a commercial purpose in the transport of freight by means of motor vehicles or combinations of vehicles.

Exceptions apply (1) to road transport undertakings transporting mail as a universal service or goods in transit through the EU between the Kaliningrad Oblast and Russia (provided that the transport of such goods is not otherwise prohibited under the EU sanctions against Russia) and (2) until 16 April 2022 to the transport of goods that started before 9 April 2022, provided that the vehicle of the road transport undertaking was already in the territory of the EU on 9 April 2022, or needs to transit through the EU in order to return to Russia.

In addition, Council Regulation (EU) No. 2022/576 introduces the ability for EU Member States to authorise the transport of goods if this is necessary for (1) the purchase, import or transport into the EU of natural gas and oil, including refined petroleum products, as well as titanium, aluminium, copper, nickel, palladium and iron ore, (2) the purchase, import or transport of pharmaceutical, medical, agricultural and food products, including wheat and fertilisers whose import, purchase and transport is allowed under the EU sanctions against Russia, (3) humanitarian purposes, (4) the functioning of diplomatic and consular representations of the EU and of EU Member States

in Russia, or (5) the transfer or export to Russia of cultural goods which are on loan in the context of formal cultural cooperation with Russia.

## ***Aviation Industry***

Council Regulation (EU) No. 2022/328 of 25 February 2022 and Council Regulation (EU) No. 2022/576 of 8 April 2022 introduce a prohibition on the sale, supply, transfer or export of aircraft, spacecraft or parts thereof and certain listed jet fuels and fuel additives to any natural or legal person, entity or body in Russia or for use in Russia.

This includes, *inter alia*, supplying aircraft to Russian persons or entities or for use in Russia by way of leasing.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

An exception applied to the execution until 28 March 2022 of contracts concluded before 26 February 2022.

By Council Regulation (EU) 2022/576 of 8 April 2022, the EU introduced the ability for EU Member States to authorise the execution of an aircraft financial lease concluded before 26 February 2022 if (1) this is strictly necessary to ensure lease re-payments to a legal person, entity or body incorporated or constituted under the law of an EU Member State which does not fall under any of the EU sanctions against Russia and (2) no economic resources will be made available to the Russian counterpart, with the exception of the transfer of ownership of the aircraft after full reimbursement of the financial lease.

The provision of insurance and reinsurance and of maintenance activities concerning aircraft or components in relation to such listed goods and technology to any natural or legal person, entity or body in Russia or for use in Russia is also prohibited. The exception noted above did not apply in relation to those activities, so that the prohibition was of immediate effect.

In its Frequently Asked Questions on Insurance and Reinsurance, the European Commission states that it needs to be differentiated between (1) insurance in relation to a sale, supply, transfer or export of aircraft etc. and (2) specific insurance or reinsurance in relation to an aircraft. Insurance in relation to a sale, supply, transfer or export of aircraft etc. benefitted from the exception for execution until 28 March 2022 if the insurance contract was concluded before 26 February 2022. In line with that, in its Frequently Asked Questions on the Closure of EU Airspace issued on 21 March 2022, the European Commission states, *inter alia*, that the exception allowed, until 28 March 2022, the provision of insurance or reinsurance to leasing companies for aircraft and engines subject to operating or finance lease arrangements signed before 26 February 2022, including when such aircraft or engine is used in Russia or leased to a Russian person.

By contrast, specific insurance or reinsurance in relation to an aircraft or components did not benefit from the exception. However, in its Frequently Asked Questions on Insurance and Reinsurance the European Commission states that the provision of insurance or reinsurance in the context of an international flight in and out of Russia by a non-Russian airline which does not have a Russian insurance or reinsurance is not covered by the prohibition

"as it is not for 'use in Russia' but part of the normal international services provided by an airline".

In addition, on 28 February 2022, Council Regulation (EU) No. 2022/334 closed the airspace of the EU for Russian aircraft with immediate effect.

It is now prohibited for any aircraft operated by Russian air carriers (including as a marketing carrier in code-sharing or blocked-space arrangements), and for any Russian registered aircraft or for any non-Russian-registered aircraft which is owned, chartered, or otherwise controlled by any Russian natural or legal person, entity or body, to land in, take off from or overfly the territory of the EU. "Russian air carrier" is defined in this context as an air transport undertaking holding a valid operating licence or equivalent issued by the competent authorities of the Russian Federation.

An exception only applies in cases of emergency landings or emergency overflights. Furthermore, under very limited circumstances, the competent authorities in the Member States of the EU may, grant authorisations to such landing, overflight *etc.*, if it is required for humanitarian purposes.

In addition, Eurocontrol, as the Network Manager appointed by the European Commission, is required to reject all flight plans filed by aircraft operators indicating an intent to carry out activities over the territory of the EU that violate the aforementioned prohibition, such that the pilot is not permitted to fly.

In its [Frequently Asked Questions](#) issued on 21 March 2022, the European Commission addresses several aspects related to the closure of EU airspace.

### **Maritime sector and ban on access to EU ports**

Council Regulation (EU) No. 2022/394 of 9 March 2022 introduces a prohibition on the sale, supply, transfer or export of certain maritime navigation equipment and radio-communication equipment to any natural or legal person, entity or body in Russia or for use in Russia or for the placing on board of a Russian-flagged vessel.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

An exception applies in cases of non-military use and non-military end-users, *inter alia*, for sales, exports *etc.* for humanitarian purposes or as a response to natural disasters. Furthermore, the competent authorities in the Member States of the EU may grant authorisations in cases of non-military use and non-military end-users if the sale, export *etc.* is intended for maritime safety.

Council Regulation (EU) No. 2022/576 of 8 April 2022 introduces a prohibition on providing access after 16 April 2022 to EU ports to any vessel registered under the flag of Russia as well as to vessels that have changed their Russian flag or their registration to the flag or register of any other State after 24 February 2022.

An exception applies with respect to vessels in need of assistance seeking a place of refuge or in cases of emergency port calls for reasons of maritime safety, or for saving life at sea. In addition, EU Member States may authorise a vessel to access an EU port if such access is necessary for (1) the purchase, import or transport into the EU of natural gas and oil, including refined petroleum products, titanium, aluminium, copper, nickel, palladium and

iron ore, as well as certain listed chemical and iron products, (2) the purchase, import or transport of pharmaceutical, medical, agricultural and food products, including wheat and fertilisers whose import, purchase and transport is allowed under the EU sanctions against Russia, (3) humanitarian purposes, (4) transport of nuclear fuel and other goods strictly necessary for the functioning of civil nuclear capabilities, or (5) the purchase, import or transport into the EU of certain listed coal and other solid fossil fuels until 10 August 2022.

### **Technology sector**

Council Regulation (EU) No. 2022/328 of 25 February 2022 includes a prohibition on the sale, supply, transfer or export of certain listed goods and technology which might contribute to Russia's technological enhancement of its defence and security sector ("**Advanced Technology**"). **Council Regulation (EU) No. 2022/576 of 8 April 2022 amended the list of relevant goods and technology.**

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

Certain exceptions apply in cases of non-military use and non-military end-users, *inter alia*, for sales, exports *etc.* for humanitarian or medical purposes, software updates or for use as consumer communication devices.

Furthermore, the competent authorities in the Member States of the EU may, under certain circumstances, grant authorisations, *inter alia*, in cases of non-military use and non-military end-users if the sale, export *etc.* is intended for **civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50% public ownership**, for the exclusive use of entities owned by – among others – EU entities or, where relevant authorisations are requested before 1 May 2022, if goods *etc.* are due under contracts concluded before 26 February 2022.

On 16 March 2022, the European Commission published Frequently Asked Questions on the export-related restrictions concerning, *inter alia*, Advanced Technology under Council Regulation (EU) No. 2022/328.

In these Frequently Asked Questions, the European Commission states that EU nationals working for such non-EU companies are personally bound by EU sanctions and can be held personally liable for participating in transactions which breach EU sanctions, for instance if such EU nationals facilitate transactions carried out by a non-EU entity.

In addition, the European Commission points out that decisions taken by a non-EU entity which need to be cleared or "green-lighted" by an EU parent company "*would be relevant, in that the latter (the EU parent entity) is bound in respect of its own actions*".

These statements are in our view not limited to the export-related restrictions concerning Advanced Technology and other controlled items.

"*To support economic operators in their compliance efforts*", these Frequently Asked Questions contain, *inter alia*, a "non-binding" correlation table with references correlating the Advanced Technology goods listed in the relevant Annex to Council Regulation (EU) No. 2022/328 with the corresponding commodity codes as defined under the rules of the Common Customs Tariff and Combined Nomenclature (CN). However, it is stated that, despite this

correlation table, an additional technical assessment is necessary for drawing conclusions as to whether a good is subject to the relevant export restrictions.

### **Goods "which could contribute in particular to the enhancement of Russian industrial capacities"**

Council Regulation (EU) 2022/576 of 8 April 2022 introduces a prohibition on selling, supplying, transferring or exporting, directly or indirectly, numerous listed "goods which could contribute in particular to the enhancement of Russian industrial capacities" to any natural or legal person, entity or body in Russia or for use in Russia.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

Exceptions apply to (1) the execution until 10 July 2022 of contracts concluded before 9 April 2022 or ancillary contracts necessary for the execution of such contracts and (2) to goods which are necessary for the official purposes of diplomatic or consular missions of EU Member States or partner countries in Russia or of international organisations enjoying immunities in accordance with international law, or to the personal effects of their staff. In addition, EU Member States may authorise relevant activities if this is necessary for humanitarian purposes.

### **Dual-use goods and technology**

Council Regulation (EU) No. 2022/328 of 25 February 2022 extended the existing restrictions with respect to dual-use goods and technology.

The new sanctions include a prohibition on the sale, supply, transfer or export of any dual-use goods and technology to any natural or legal person, entity or body in Russia or for use in Russia, irrespective of whether such goods and technology are intended for military use or for military end-users.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

Certain exceptions apply in cases of non-military use and non-military end-users, *inter alia*, for sales, exports *etc.* for humanitarian or medical purposes, software updates or for use as consumer communication devices.

Furthermore, the competent authorities in the Member States of the EU may, under certain circumstances, grant authorisations, *inter alia*, in cases of non-military use and non-military end-users if the sale, export *etc.* is intended for **civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50% public ownership**, for the exclusive use of entities owned by – among others – EU entities or, where relevant authorisations are requested before 1 May 2022, if goods *etc.* are due under contracts concluded before 26 February 2022.

The above-mentioned [Frequently Asked Questions](#) published by the European Commission on 16 March 2022 also address the export-related restrictions concerning dual-use goods and technology under Council Regulation (EU) No. 2022/328. These FAQs confirm that in addition to the requirements under Council Regulation (EU) No. 2022/328 the requirements under the EU Dual-Use Regulation (Council Regulation (EU) No. 2021/821) also need to be complied with where the export, sale *etc.* of dual-use goods is concerned.

## ***Prohibition on public financing or financial assistance for trade with or investment in Russia***

Council Regulation (EU) No. 2022/328 of 25 February 2022 imposes a prohibition on providing public financing or financial assistance for trade with, or investment in, Russia.

Certain exceptions apply, such as in relation to binding financing or financial assistance commitments established prior to 26 February 2022 or, under certain circumstances, in relation to financing up to EUR 10 million per project.

### ***Public or concession contracts***

Council Regulation (EU) 2022/576 introduces a prohibition on awarding or continuing the execution of any public or concession contract falling within the scope of the EU public procurement Directives as well as certain provisions of particular EU Directives to or with (1) a Russian national, or a natural or legal person, entity or body established in Russia, (2) a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50% by an entity established in Russia, or (3) a natural or legal person, entity or body acting on behalf or at the direction of the afore-mentioned entities (including, where they account for more than 10% of the contract value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the EU public procurement Directives).

An exception applies to the execution until 10 October 2022 of contracts concluded before 9 April 2022.

In addition, EU Member States may authorise the award and continued execution of contracts under certain limited circumstances, such as, *inter alia*, if it is intended for (1) the provision of strictly necessary goods or services which can only be provided, or which can only be provided in sufficient quantities, by persons or entities falling within the scope of the prohibition, (2) the purchase, import or transport of natural gas and oil, including refined petroleum products, as well as titanium, aluminium, copper, nickel, palladium and iron ore from or through Russia into the EU, or (3) the purchase, import or transport into the EU of certain listed coal and other solid fossil fuels until 10 August 2022.

### ***Prohibition on supporting Russian state-owned or state-controlled entities or bodies***

Council Regulation (EU) 2022/576 introduces a prohibition on providing direct or indirect support, including financing and financial assistance or any other benefit under an EU, Euratom or EU Member State national programme and contracts within the meaning of Regulation (EU, Euratom) 2018/1046, to any legal person, entity or body established in Russia with over 50% public ownership or public control.

Certain limited exceptions apply, such as, *inter alia*, to (1) humanitarian purposes, (2) the operation, maintenance, decommissioning and radioactive waste management, fuel supply and retreatment and safety of civil nuclear capabilities or (3) climate and environmental programmes, with the exception of support in the context of research and innovation.

## ***Russian Media***

Council Regulation (EU) No.2022/350, which was published on 2 March 2022, imposed a prohibition for operators to broadcast or to enable, facilitate or otherwise contribute to broadcast, any content by the following bodies, including through transmission or distribution by any means such as cable, satellite, IP-TV, internet service providers, internet video-sharing platforms or applications:

- RT- Russia Today English
- RT- Russia Today UK
- RT - Russia Today Germany
- RT - Russia Today France
- RT- Russia Today Spanish
- Sputnik

Council Regulation (EU) No. 2022/350 requires the suspension of any broadcasting licence or authorisation, transmission and distribution arrangement with those entities.

In its [Frequently Asked Questions](#) issued on 23 March 2022, the European Commission states, *inter alia*, that the aforementioned prohibition applies to any person, entity or body "*exercising a commercial or professional activity that broadcasts or enables, facilitates or otherwise contributes to broadcast the content at issue*". Furthermore, it states that the field of application of the prohibition goes beyond the mere broadcasting of TV stations and also covers the dissemination of content through other means such as a website, covering also caching services, search engines, social media or hosting service providers whose services can be used to disseminate content from the targeted entities.

## ***Donetsk and Luhansk regions***

Council Regulation (EU) No. 2022/263 of 23 February 2022, imposes wide-ranging sanctions on the DNR and LNR regions, largely mirroring existing EU sanctions on Crimea/Sevastopol.

These sanctions include, in particular, trade and investment restrictions concerning those territories relating to the export and import of goods, technology, real estate, tourism *etc.*

In its [Frequently Asked Questions](#), the European Commission states that, with respect to the restriction on the import of goods from the prohibitions concerning the Donetsk and Luhansk regions, the prohibition covers all areas of the Donetsk and Luhansk regions that are not under the control of the authorities of Ukraine at the time of the import of the goods, so that, "*considering the fluid situation, a dynamic assessment could be necessary*".

## ***Restrictions of visa policy***

By Council Decision (EU) No. 2022/333 of 25 February 2022, the EU partially suspended the application of an agreement between the EU and Russia facilitating the issuance of visas. Russian diplomats, other Russian officials and Russian businesspeople will no longer be able to benefit from visa facilitation provisions which allow privileged access to the EU.



## ***Sanctions against Belarus***

Council Regulation (EU) No. 2022/355, which amends Council Regulation (EC) No.765/2006, and which was published on 2 March 2022, introduced further restrictions related to the trade of:

- dual-use goods;
- goods and technology which might contribute to the Belarusian military, technological, defence and security development;
- goods used for the production or manufacturing of tobacco products;
- mineral, potash, wood, cement, iron and steel, and rubber products; and
- certain machinery.

In addition to the exclusion of the listed Belarusian banks from the SWIFT messaging system, Council Regulation (EU) No. 2022/398 of 9 March 2022 and Council Regulation (EU) 2022/577 extend the existing restrictive measures against Belarus by introducing additional sanctions similar to the sanctions against Russia, including in particular:

- a prohibition on transactions related to the management of reserves as well as of assets of the Central Bank of Belarus, including transactions with any entity / body acting on behalf / at the direction of the Central Bank of Belarus;
- a provision on public financing for trade with and investment in Belarus;
- a prohibition on listing and providing services as of 12 April 2022 on trading venues registered or recognised in the EU for the transferable securities of any entity established in Belarus with over 50% public ownership;
- a prohibition on accepting deposits exceeding EUR 100,000 from Belarusian nationals, Belarusian residents or entities established in Belarus;
- a prohibition on EU central securities depositories providing relevant services (core services, non-banking-type ancillary services and banking-type ancillary services as defined in the Annex of Council Regulation (EU) No. 909/2014) for transferable securities issued after 12 April 2022 to any Belarusian national or natural person residing in Belarus or any entity established in Belarus;
- a prohibition on selling transferable securities **denominated in any official currency of an EU Member State** issued after 12 April 2022 or units in collective investment undertakings providing exposure to such securities, to any Belarusian national or natural person residing in Belarus or any entity established in Belarus;
- a prohibition on selling, supplying, transferring or exporting banknotes **denominated in any official currency of an EU Member State** to Belarus or to any natural or legal person, entity or body in Belarus, including the Belarusian government and the Central Bank of Belarus, or for use in Belarus; and
- **a prohibition for any road transport undertaking established in Belarus to transport goods by road within the territory of the EU, including in transit.**

### ***Other Sanctions***

On 5 April 2022, the European Commission was stated to be already working on further sanctions, including on oil imports.

As previously reported, on 22 February 2022, the German government communicated that it would stop the certification of the Nord Stream 2 gas pipeline for the indefinite future, thereby preventing the pipeline from becoming operative.

## **JAPAN SANCTIONS**

Since 2014, the Ministry of Finance Japan and the Ministry of Economy, Trade and Industry have imposed sanctions against Russia and certain Russian financial institutions as well as the Autonomous Republic of Crimea and Sevastopol.

On 26 February 2022, Japan imposed:

- an asset freeze targeting 24 "self-proclaimed" officials of the DNR and LNR;
- a prohibition on the import of certain goods and services from the DNR and LNR (unless specifically endorsed by the Japanese government), excluding goods shipped by 26 February 2022;
- a prohibition on the issuance, offering and distribution of new sovereign bonds and other securities issued by the Government of the Russian Federation; the Government Agencies of the Russian Federation; and the Central Bank of the Russian Federation, as well as the provision of services related to these activities (unless expressly permitted by the Japanese government); and
- a prohibition on the issuance and offering of securities (except for securities redeemed within 30 days) issued by: Sberbank; VTB Bank; Vnesheconombank; Gazprombank; and Russian Agricultural Bank (unless expressly permitted by the Japanese government).

On 1 March 2022, Japan imposed:

- an asset freeze targeting the Central Bank of the Russian Federation and six Russian officials including: President Putin; Sergey Lavrov (Minister of Foreign Affairs); Sergey Shoygu (Minister of Defence); Valery Gerasimov (Chief of the General Staff of the Armed Forces, First Deputy Defence Minister); Nikolai Patrushev (Secretary of the Security Council); and Dmitry Medvedev (Deputy Chairman of the Security Council).

On 3 March 2022, Japan imposed:

- an asset freeze targeting 18 Russian officials, two organisations related to the Belarus government, seven Belarusian officials, and 30 "self-proclaimed" officials of the DNR and LNR.

On 5 March 2022, Japan imposed:

- stricter export controls on certain goods and services listed in the Multilateral Export Control Regime, including on semiconductors, to Russia.

On 8 March 2022, Japan imposed:

- a prohibition on receipt of payments, payments (including payments by crypto-assets), loans or guarantees, relating to the export of goods contributing to the strengthening of Russia's military capabilities to 49 organisations designated as "specific organizations of the Russian Federation"; and
- an asset freeze targeting 20 individuals and two organisations related to the Russian government as well as 12 individuals and 10 organisations related to the Belarus government.

On 10 March 2022, Japan imposed:

- stricter export controls on certain goods and services listed in the Multilateral Export Control Regime, including on semiconductors, to Belarus.

On 14 March 2022, Japan issued guidance:

- stating that it is prohibited to transfer crypto-assets to persons and organisations that are the target of an asset freeze (a "**Japanese Sanctioned Target**"); and
- requesting Crypto-Assets Exchange Service Operators ("**CAESOs**") that are registered under the Payment Services Act of Japan:
  - to cease processing transfers of crypto-assets to those who are, or suspected of being, a Japanese Sanctioned Target (until it is confirmed otherwise);
  - to file with the Financial Services Agency of Japan, Ministry of Finance of Japan: (a) reports of identified crypto-asset trades to a Japanese Sanctioned Target; and (b) notifications of suspected crypto-asset trades to, or related to, a Japanese Sanctioned Target; and
  - to enhance their monitoring systems.

On 15 March 2022, Japan imposed:

- a prohibition on receipt of payments (including payments by crypto-assets), loans or guarantees, relating to the export of goods to (1) the Ministry of Defence of the Republic of Belarus, and (2) JSC Integral; and
- an asset freeze targeting the following 17 individuals related to the Russian government: Yuriy (Yury) Afonin; Yevgeny (Evgeny) Bessonov; Leonid Kalashnikov; Vladimir Kashin; Nikolay (Nikolai) Kolomeitsev; Aleksey Kurinniy; Ivan Melnikov; Dmitriy Novikov; Nikolay Osadchii (Osadchii); Kazbek Taysaev (Taisaev, Taisayev); Gennady (Gennadiy) Zyuganov; Viktor Vekselberg; Kirill (Kyrylo) Kovalchuk; Boris Kovalchuk; Kira Kovalchuk; Stepan Kovalchuk; and Tatiana (Tatyana) Kovalchuk.

On 18 March 2022, Japan imposed:

- an asset freeze targeting 15 individuals and nine organisations related to the Russian government, including: Maria Zakharova; Aleksey (Alexei) Krivoruchko; Timur Ivanov; Yunus-Bek Evkurov (Yevkurov); Dmitry Bulgakov; Yuriy (Yuri) Sadovenko; Nikolay (Nikolai) Pankov; Ruslan Tsalikov; Gennady Zhidko; Domitry Shugaev (Shugayev); Igor Kostyukov; Aleksander (Alexander) Mikheev; Marina Sechina; Suleyman Kerimov; Andrei Skoch; Rosneft Aero (RN AERO); JSC Rosoboronexport; JSC NPO High Precision Systems; JSC Kurganmashzavod; Russian Helicopters JSC; PJSC United Aircraft Corporation; JSC United Shipbuilding Corporation; JSC Research and Production Corporation Uralvagonzavod; and JSC Zelenodolsk Shipyard.
- a prohibition on the export of certain goods and services listed in the Multilateral Export Control Regime, including on machine tools, carbon fibres, high-spec semiconductors, to Russia and Belarus (unless specifically endorsed by the Japanese government);

- a prohibition on the export of goods contributing to the strengthening of Russian/Belarusian military capabilities, including on general-purpose semiconductors, PCs and communication devices, to Russia and Belarus (unless specifically endorsed by the Japanese government);
- a prohibition on the export to Russia of certain goods including facilities for petroleum processing (unless specifically endorsed by the Japanese government);
- a prohibition on the export of certain goods and services to certain organisations of the Russian government and Belarusian government (unless specifically endorsed by the Japanese government); and
- a prohibition on the export of certain goods and services to the DNR and LNR (unless specifically endorsed by the Japanese government).

The Japanese government issued guidance stating that these exports in general will not be endorsed. There are very few exceptions which need to satisfy certain specified criteria.

On 25 March 2022, Japan imposed:

- an asset freeze targeting 25 individuals related to the Russian government.

On 28 March 2022, Japan imposed:

- an asset freeze targeting Bank Rossiya.

On 31 March 2022, Japan imposed:

- an asset freeze targeting Promsvyazbank and VEB.RF.

On 1 April 2022, Japan imposed:

- a prohibition on the export of certain goods and services to 81 organisations related to the Russian government (unless specifically endorsed by the Japanese government).

On 2 April 2022, Japan imposed:

- an asset freeze targeting VTB Bank, Sovcombank, Novikombank and Otkritie.

On 5 April 2022, Japan imposed:

- a prohibition on the export of certain luxury goods, such as alcohol, to Russia.

On 10 April 2022, Japan will impose:

- an asset freeze targeting Belagroprombank, Bank Dabrabyt and Development Bank of the Republic of Belarus.

Prime Minister Kishida also announced other sanctions that will be imposed, including:

- visa suspensions;
- the exclusion of certain Russian banks from the SWIFT messaging system; and
- revoking Russia's "most-favoured-nation" status.

## **SINGAPORE SANCTIONS**

Further to the Ministry of Foreign Affairs' announcement that sanctions on Russia (including export controls on items that can be used as weapons in relation to the Ukrainians) will be imposed, the Regulation of Imports and Exports (Amendment) Regulations 2022 have been issued and are operative as of 16 March 2022.

There must be no exportation from, transshipment in, or transit through, Singapore of any goods falling within the class or description specified in the new Eighth Schedule of the Regulation of Imports and Exports Regulations, if the destination is or intended to be Russia, whether or not the goods originated in Singapore.

The new Eighth Schedule above states that the following are prohibited exports to (including transhipped goods and goods in transit bound for) Russia:

- military goods, being goods specified in any Category Code in Division 2 of Part 1 of the Schedule to the Strategic Goods (Control) Order 2021; and
- dual-use goods specified in Category 3 (Electronics), Category 4 (Computers) or Category 5 (Telecommunications and "Information Security") in Division 2 of Part 2 of the Schedule to the Strategic Goods (Control) Order 2021.

Further to the Ministry of Foreign Affairs' announcement on 5 March 2022 that sanctions will be imposed in Singapore, the Monetary Authority of Singapore ("**MAS**") has issued the following notices which are effective from 14 March 2022:

- Notice SNR-N01 Financial Measures in Relation to Russia; and
- Notice SNR-N02 Financial Measures in Relation to Russia – Non-prohibited Payments and Transactions.

The MAS Notices contain financial measures targeted at designated Russian banks and entities, certain activities in Russia and fundraising activities benefiting the Russian government. These measures apply to all financial institutions in Singapore, including banks, finance companies, insurers, capital markets intermediaries, securities exchanges, and payment service providers. Digital payment token service providers are therefore specifically prohibited from facilitating transactions that could aid the circumvention of the financial measures.

Financial institutions are:

- prohibited from dealing with any Designated Bank or Designated Entity (including establishing business relations with, undertaking any transaction for or entering into any financial transaction with them).
- required immediately to freeze all funds and assets owned or controlled by a Designated Bank or Designated Entity.
- prohibited from entering into financial transactions or providing financial assistance in relation to the export from, transshipment in or transit through, Singapore or any other jurisdiction to Russia of: (1) any item specified in any Category Code in the List of Military Goods set out in Division 2 of Part 1 of the Schedule to the Strategic Goods (Control) Order 2021; or (2) any item specified in any Category Code under Category 3 (Electronics),

Category 4 (Computers) or Category 5 (Telecommunications and Information Security) in the List of Dual-Use Goods in Division 2 of Part 2 of the Schedule to the Strategic Goods (Control) Order 2021.

- prohibited from entering into financial transactions or providing financial assistance or services, *etc.*, in relation to securities or certificates of deposit and the making of new loans and credit for the Russian Government, the Central Bank of the Russian Federation and any person or legal arrangement that is owned or controlled by them. The prohibition does not apply to loans or credit that have a specific and documented objective of making funds available for trade which does not involve the export from, transshipment in or transit through, Singapore or any other jurisdiction to Russia of the items above.
- prohibited from entering into financial transactions or providing financial assistance or services, *etc.*, in relation to the regions of Donetsk and Luhansk in the following sectors: (1) transport; (2) telecommunications; (3) energy; and (4) prospecting, exploration and production of oil, gas and mineral resources.
- prohibited from entering into or facilitating any digital payment token transaction where the proceeds or benefits from such transaction may be used to facilitate any of the transactions or activities prohibited above.
- required immediately to inform the MAS of any fact or information about any transaction, proposed transaction, act or thing prohibited by the above.

The Designated Banks are (1) VTB Bank Public Joint Stock Company, (2) The Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank; (3) Promsvyazbank Public Joint Stock Company; and (4) Bank Rossiya, and all entities owned or controlled by them.

Currently the list of Designated Entities has not been published by the MAS.

Financial institutions may continue to process the following payments for Designated Banks and/or Designated Entities:

- basic expenses and reasonable fees for certain services such as insurance premiums, employee allowances and contributions, tax and utility charges.
- exclusively for the payment of fees or service charges imposed for the routine holding or maintenance of frozen funds or assets or reasonable professional fees and associated expenses for the provision of audit, tax, legal or payroll services.
- in relation to Designated Banks, certain "specified transactions" such as:
  - transactions to facilitate a person's withdrawal of funds or assets pursuant to the termination of existing business relations between the person and the Designated Bank, for the benefit of the person (where such person is not a Designated Bank); and
  - any transaction in relation to any funds or assets which are necessary for the performance of the functions of the Embassy of the Russian Federation in Singapore.

### ***Export controls***

The Singapore Strategic Goods Control System regulates the transfer (export, transit, and transshipment) of strategic goods which are generally military weapons or their parts as well as high technology goods which could be used for both commercial and military purposes. Items subject to strategic goods control are listed in the Strategic Goods (Control) Order (SGCO) 2021.

In order to constrain Russia's capacity to conduct its war in Ukraine and cyber aggression, all permit applications to Russia involving (1) all items on the List of Military Goods under the SGCO; and (2) all category codes under Category 3 - Electronics, Category 4 - Computers and Category 5 – Telecommunications and "Information Security" on the List of Dual-Use Goods under the SGCO will be rejected.

### ***Financial measures***

Financial institutions in Singapore will be prohibited from the following:

(a) entering into transactions or establishing business relationships with the following Russian banks:

- VTB Bank Public Joint Stock Company;
- The Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank;
- Promsvyazbank Public Joint Stock Company; and
- Bank Rossiya.

Where there are existing business relationships, financial institutions must freeze any assets and funds of these four banks.

(b) providing financing or financial services in relation to the export from Singapore or any other jurisdiction of goods subject to Singapore's export controls on Russia. These goods comprise all items in the Military Goods List and specified categories in the Dual-Use Goods List of the Strategic Goods (Control) Order 2021.

(c) providing financial services in relation to designated Russian non-bank entities which are involved in activities in (b). Where there are existing business relationships, financial institutions must freeze any assets and funds of these designated entities. Details on the designation of non-bank entities will be provided subsequently.

(d) entering into transactions or arrangements, or providing financial services that facilitate fund raising by:

- the Russian government;
- the Central Bank of the Russian Federation; or
- any entity owned or controlled by them or acting on their direction or behalf.

The prohibitions apply to buying and selling new securities, providing financial services that facilitate new fund raising by, and making or participate in the making of any new loan to the above entities.



The Singapore Government and Monetary Authority of Singapore will also cease investing in newly issued securities of the above entities.

(e) entering into transactions or providing financial services in relation to the following sectors, in the breakaway regions of Donetsk and Luhansk:

- transport;
- telecommunications;
- energy; and
- prospecting, exploration and production of oil, gas and mineral resources.

(f) entering into or facilitating any transactions involving cryptocurrencies, to circumvent any of the above prohibitions. The prohibited cryptocurrency transactions cover all transactions that involve cryptocurrencies and extend to the payment and settlement of transactions that relate to digital assets (such as non-fungible tokens).

## **AUSTRALIAN SANCTIONS**

On 23 February 2022, the Australian Government announced it would take immediate action to impose travel bans and targeted financial sanctions on 8 members of Russia's Security Council.

From 25 February 2022, the following persons were added to the Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) List 2014 ("**Sanctions List**"):

### **Designated and declared persons<sup>1</sup>**

- Dmitry Anatolyevich Medvedev
- Yury Yakovlevich Chaika
- Aleksander Vladimirovich Gutsan
- Igor Anatolyevich Komarov
- Anatoly Anatolyevich Seryshev
- Igor Olegovich Shchegolev
- Viktor Vasilyevich Zolotov
- Vladimir Vladimirovich Yakushev

From 25 February 2022, the following entities (including the aforementioned financial institutions) were added to the Sanctions List:

### **Designated Entities<sup>2</sup>**

- Tactical Missiles Corporation
- Kronshtadt
- Promsvyazbank
- Industrial Savings Bank (IS Bank)
- Rostec
- Rosoboronexport
- Genbank
- Black Sea Bank for Development and Reconstruction

The additional 25 people added to the Sanctions List from 25 February 2022 include senior politicians and bureaucrats, associates of the Wanger Group, and senior military personnel.

On 25 February 2022, the Department of Foreign Affairs and Trade announced that Minister Payne intends to specify four entities in addition to those already specified under the *Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015*.

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<sup>1</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 1) Instrument 2022.*

<sup>2</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 2) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 3) Instrument 2022.* These sanctions are in addition to sanctions already in force against Rossiya Bank.

An exposure draft of the legislative instrument specifies the following 4 entities:

- Cetelem Bank
- Russian Agency for Export Credit and Investment (EXIAR)
- Otkritie Bank
- Russian Direct Investment Fund (RDIF)

If an entity is specified by the Minister, Australians and Australian entities must comply with a range of investment restrictions including directly or indirectly purchasing, selling, or otherwise dealing with, bonds, equity transferrable securities, money market instruments or other similar financial instruments issued by the entity. The Department of Foreign Affairs and Trade noted that the Minister intends to specify the entities in four weeks, allowing a period for those who may hold interests in the entities make the necessary arrangements to comply with the restrictions.

From 25 February 2022, new listing criteria for persons or entities who may be designated or declared under the *Autonomous Sanctions Regulations 2011* ("**Autonomous Sanctions Regulations**") in relation to Russia have come into force to include persons of strategic or economic significance to Russia. These include a person or entity who is, or has been, engaging in an activity or performing a function that is of economic or strategic significance to Russia, a current or former Minister or senior official of the Russian Government, and immediate family members of either.<sup>3</sup>

On 25 February 2022, the Prime Minister announced that Australia would be imposing further sanctions on (1) various individuals whose economic weight is considered to be of strategic significance in Russia and (2) over 300 members of the Russian parliament who voted to authorise the use of Russian troops to invade Ukraine. The Prime Minister also noted that the Australian Government was working with the United States to align with the United States' sanctions on key Belarusian individuals and entities.

From 26 February 2022, the individuals referred to by the Prime Minister were added to the Sanctions List.<sup>4</sup> This included:

- Denis Aleksandrovich Bortnikov
- Vladimir Sergeevich Kiriyyenko
- Petr Mikhailovich Fradkov
- Igor Arkadyevich Rotenberg
- Elena Aleksandrovna Georgieva
- Yury Borisovich Slyusar
- Kirill Nikolayevich Shamalov
- Igor Ivanovich Sechin

From 27 February 2022, the Belarusian individuals and entities referred to by the Prime Minister on 25 February 2022 were added to the Sanctions List.<sup>5</sup>

<sup>3</sup> *Autonomous Sanctions Amendment (Russia) Regulations 2022.*

<sup>4</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 4) Instrument 2022.*

<sup>5</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 1) Instrument 2022.*

From 28 March 2022, amendments to the Autonomous Sanctions Regulations extended existing sanctions that apply to Crimea and Sevastopol to DNR and LNR.<sup>6</sup> The Department of Foreign Affairs and Trade has noted that this period allowed those with interests in the regions to consider whether their activities were captured by the sanctions' measures; and to cease their activities or to apply for a sanctions permit as necessary. The Minister of Foreign Affairs may grant a permit if she considers it in the national interest to do so.

From 28 February 2022, the Australian government announced that targeted financial sanctions and travel bans came into effect against President Putin, Foreign Minister Lavrov and Defence Minister Shoigu, Prime Minister Mikhail Mishustin, and Internal Affairs Minister Vladimir Kolokolov.

The Prime Minister also announced the Australian Government's support for the announcements by the European Commission, France, Germany, Italy, the United Kingdom, Canada, and the United States on further restrictive economic measures against key Russian banks, institutions and individuals, including:

- the removal of selected Russian banks from the SWIFT global payments messaging system;
- restrictive measures to prevent the Russian Central Bank from using its international reserves in a way that undermines sanctions;
- limiting so-called golden passports for wealthy Russians connected to the Russian government; and
- a trans-Atlantic task force to identify and freeze the assets of sanctioned individuals and companies existing within their jurisdictions.

The Australian Government indicated it would take complementary steps as required in relation to the implementation of the SWIFT measures at a global level.

On 2 March 2022, and consistent with other jurisdictions, the 4 entities referred to in the Department of Foreign Affairs and Trade announcement on 25 February 2022, together with other key Russian entities, such as the Central Bank of Russia, were designated for targeted financial sanctions after being added to the Sanctions List.

The entities that were designated were:

- Cetelem Bank
- Russian Agency for Export Credit and Investment (EXIAR)
- Otkritie Bank
- Russian Direct Investment Fund (RDIF)
- Management Company of the Russian Direct Investment Fund
- RVC Management Company
- Central Bank of the Russian Federation

This marked a change to the approach previously announced by the Australian Government on 25 February 2022 to specify Cetelem Bank, EXIAR, Otkritie Bank and RDIF for investment restrictions. The Australian Sanctions

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<sup>6</sup> *Autonomous Sanctions Amendment (Ukraine Regions) Regulations 2022.*

Office explained the change in approach by saying that targeted financial sanctions impose broader restrictions than investment restrictions and confirmed that the Australian Government will no longer proceed to specify the four entities for investment restrictions.

Investment restrictions however remain in force against the institutions already identified in the Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015 which include:

- Sberbank
- VTB Bank
- Gazprombank
- Vnesheconombank (VEB)
- Rosselkhozbank
- OPK Oboronprom
- United Aircraft Corporation
- Uralvagonzavod
- Rosneft
- Transneft
- Gazprom Neft

From 7 March 2022, further individuals and entities were added to the Sanctions List and are now subject to targeted financial sanctions and travel bans.<sup>7</sup> The Sanctions List was expanded to include another 16 individuals, including senior naval and other armed forces personnel, senior politicians and certain identified propagandists. The Armed Forces of the Russian Federation is now also included on the Sanctions List.

From 25 April 2022, Australia will prohibit the import of oil, refined petroleum products, natural gas, coal and other energy products from Russia, pursuant to the Autonomous Sanctions (Import Sanctioned Goods —Russia) Designation 2022 registered on 11 March 2022. The 45 days' notice period before the ban comes into effect is intended to facilitate the compliance of Australian businesses who have existing contracts for the import of these goods. As a result of the designation of these goods, it will also be prohibited pursuant to the Autonomous Sanctions Regulations to provide financial assistance or a financial service if it assists with, or is provided in relation to, their import.

On 13 March 2022, the Australian Government made further updates to the Sanctions List to extend targeted financial sanctions and travel bans to an additional 33 persons.<sup>8</sup> The new additions include Russian oligarchs and executives of various entities (some of which had been previously designated by the Government) such as energy companies, financial institutions and state-owned defence entities. Also included were family members of individuals already identified on the Sanctions List, including the immediate relations of

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<sup>7</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) Amendment (No. 4) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) Amendment (No. 5) Instrument 2022.*

<sup>8</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 6) Instrument 2022.*

senior politicians and other individuals of strategic significance to Russia due to their amassed personal wealth and links to President Putin.

On 17 March 2022, the Sanctions List was further updated (effective 18 March 2022) to include 2 additional oligarchs with links to business interests in Australia who are the subject of targeted financial sanctions and travel bans.<sup>9</sup> The oligarchs – Viktor Veksleberg and Oleg Deripaska – were already the subject of sanctions in other jurisdictions. Eleven entities (including financial institutions, the Russian National Wealth Fund and the Ministry of Finance of the Russian Federation) were also designated for targeted financial sanctions as part of the update.<sup>10</sup> Five of the banks included in this latest update were already specified under the *Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015* with the effect that these particular entities will continue to be subject to investment restrictions (provided for by the Specification) over and above the new targeted financial sanctions.

Taking effect from 20 March 2022, the Australian Government has imposed a ban on Australian exports of alumina, aluminium ores (including bauxite) and related products to (or for the benefit of) Russia.<sup>11</sup> The designation of these products as export sanctioned goods is intended to limit Russia's capability to produce aluminium as Russia relies on Australia for almost 20% of its alumina needs. The Department of Foreign Affairs and Trade noted that the designated goods are key components in the manufacture and development of weapons. The Minister for Foreign Affairs announced that the Government will work with exporting entities impacted by the ban.

On 24 March 2022, further updates were made to the Sanctions List, which took effect from 25 March 2022.<sup>12</sup> Targeted financial sanctions and travel bans were imposed on 45 additional individuals including Belarusian President Alexander Lucashenko and members of his family, as well as senior Belarusian armed forces personnel and bureaucrats of Belarus and Russia as a result of Belarus' strategic significance to Russia. This tranche of designations also extends targeted financial sanctions to various individuals identified as Russian propagandists and disinformation operatives such as senior editors from organisations including Russia Today, the Strategic Culture Foundation, InfoRos and NewsFront.

On 5 April 2022, the Australian Government announced further export sanctions to commence on 7 April 2022 with a view to target President Putin's 'wealthy enablers'. From this date, the supply, sale or transfer of certain luxury goods directly or indirectly to, for use in, or for the benefit of Russia will be prohibited.<sup>13</sup> The designated luxury goods include consumables such as wine, tobacco and certain delicacy foods, high-value cosmetics, fabrics, garments, jewellery, homewares and luxury vehicles (and their parts), as well as various leisure items such as sporting goods and pure-bred horses. The ban follows the existing sanctions of the same nature imposed by the European Union and the United States, as well as those anticipated by Japan and the United Kingdom.

<sup>9</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 7) Instrument 2022.*

<sup>10</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 8) Instrument 2022.*

<sup>11</sup> *Autonomous Sanctions (Export Sanctioned Goods—Russia) Designation 2022.*

<sup>12</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 9) Instrument 2022;*  
*Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 10) Instrument 2022.*

<sup>13</sup> *Autonomous Sanctions (Export Sanctioned Goods—Russia) Amendment (No.1) Designation 2022.*

These expanded export sanctions shortly follow the Australian Government's non-sanctions economic measure relating to import tariffs. Effective 25 April 2022, Australia will revoke Russia and Belarus' entitlement to the Most-Favoured Nation (MFN) tariff status with the effect that all imports from Russia and Belarus will be subject to a further tariff of 35% (in addition to the general duty rates currently in force).

On 7 April 2022, a further 67 persons were added to the Sanctions List for targeted financial sanctions and travel bans (taking effect 8 April 2022).<sup>14</sup> Included in this round of designations are Russian military official Colonel-General Mikhail Mizintsev, Deputy Prime Minister Dmitry Grigorenko and other senior Russian government officials reportedly involved in war crimes, and members of the Ukrainian Parliament working to undermine the Ukrainian Government. The additions also include executive and non-executive officers across a range of entities and sectors such as financial institutions, investment companies and entities in the energy and resources, agriculture, transportation and manufacturing industries. Some of the entities themselves have previously been designated under separate instruments, and the new designations also include family members of already-sanctioned individuals.

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<sup>14</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2022.*

## **SANCTIONS BY UKRAINE**

*Contributed by Olexiy Soshenko, Managing Partner, and Olesia Mykhailenko, Counsel, Redcliffe Partners. Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.*

### **Financial Sanctions**

Starting from 24 February 2022, the National Bank of Ukraine:

- prohibited Ukrainian banks to process any transactions in Russian rubles and Belarusian rubles;
- prohibited Ukrainian banks to process any transactions (1) which involve a person which is registered in or resides in the Russian Federation or the Republic of Belarus; or (2) which result in the performance of obligations due to such person;
- cancelled the banking licence and ordered for liquidation of JSC "International Reserve Bank" (controlled by Sberbank of Russia) and JSC "Prominvestbank" (controlled by Russian State Development Corporation "WEB.RF"); and
- prohibited money transfers from the Russian Federation and the Republic of Belarus to Ukraine and usage of any debit and credit cards issued by Russian or Belarusian banks on the territory of Ukraine.

### **Assets Confiscation**

On 3 March 2022, the Parliament of Ukraine adopted a law No. 2116-IX "On Basic Principles of Confiscation of Assets of Russian Federation and Its Residents in Ukraine". The law allows the Security Council of Ukraine and the President of Ukraine to decide on confiscation of:

- any immovable and movable assets, money, funds on bank accounts, securities, shares and other corporate rights as well as any other assets located or registered on the territory of Ukraine,

which are owned by

- any legal entity which is directly or indirectly owned or controlled by the Russian Federation, or if Russian Federation is directly or indirectly a founder, shareholder, participant or otherwise owns corporate rights with respect to such entity.

No confiscation decisions have yet been issued, but they are expected in the coming days.

### **Currency Controls**

As of 24 February 2022, the National Bank of Ukraine has prohibited Ukrainian banks to process any cross-border payments, except for:

- Ukrainian banks' own operations (excluding payments under certain letter of credits issued after 24 February 2022);
- payments for purchase of critical import goods as per the list which is published by the Cabinet of Ministers of Ukraine (the list is extensive and includes oil, gas, coal, medicine, computers, medical supplies, various types of food and beverages, certain clothes, chemicals, etc.);



- payments of international financial institutions which have offices in Ukraine and payments by Ukrainian residents to international financial institutions abroad;
- payments for the purchase of military related goods;
- payments on the basis of the special permitted issued by the National Bank of Ukraine at the request of state authorities;
- payments of foreign medical treatment expenses;
- day-to-day payments using Ukrainian banking cards abroad; and
- payments to Ukrainian diplomatic missions and consulates abroad.

The abovementioned restriction does not apply to the repayment of sovereign debt. Ukraine has made the scheduled coupon payment under Eurobonds on 1 March 2022 and the government is declaring its willingness to make further repayments on time.

The NBU is gradually easing the restrictions. For example, for the past week it has added three new exceptions to the list.

## **RUSSIA COUNTER MEASURES**

### **Central Bank of Russia Determined Regime of "Type C" Account Provided for in Presidential Decree No. 95 Dated 5 March 2022**

On 8 March 2022, the Board of Directors for the Central Bank of Russia (CBR) determined the regime of a special "Type C" account provided for in the Decree of the President of the Russian Federation No. 95 dated 5 March 2022 ("**Decree No. 95**").<sup>15</sup>

The CBR Resolution covers the following types of account:

- "Type C" bank account;
- "Type C" custody account (including foreign nominee holder custody accounts);
- "Type C" special brokerage account;
- "Type C" clearing bank account; and
- "Type C" clearing custody account.

The CBR Resolution establishes an exhaustive list of permitted credits to, and debits from, "Type C" accounts specified above – please see [Appendix 1](#).

### ***FDI review of transactions between Russian residents and undertakings in "non-friendly" countries***

The Russian foreign direct investment (FDI) regime has been expanded. On 6 March 2022, the Russian Government adopted Regulation No. 295 ("**Regulation 295**") which came into force on 7 March 2022.

#### **Relevant transactions**

The following transactions are now subject to prior approval:

- transactions between Russian residents and foreign legal entities and individuals from "non-friendly" countries (*i.e.* countries that have enacted sanctions against Russia), where such transactions consist of the acquisition of any securities or real estate assets, or the provision of loans or credit facilities to such foreign legal entities and individuals.
- currency operations in connection with loans in foreign currency provided by Russian residents to non-residents.
- monetary transfers by Russian residents to their accounts in foreign banks as well as through foreign payment systems.
- transactions as described above between Russian residents and foreign legal entities and individuals from countries other than "non-friendly" countries, where the relevant securities or real estate assets were acquired from legal entities and individuals from "non-friendly" countries after 22 February 2022. This is essentially an anti-abuse provision designed to prevent parties from 'non-friendly' jurisdictions avoiding the approval requirement by transferring their securities or real estate assets to counterparties not located in those 'non-friendly' jurisdictions.

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<sup>15</sup> *The description of Russia counter-measures is complete as of 12 March 2022.*

Importantly, foreign-to-foreign transactions without participation of Russian residents do not fall under the new rules.

### **Procedure and timeline**

Contrary to an ordinary Russian FDI submission, which is submitted to the Russian competition authority (the Federal Antimonopoly Service, or 'FAS'), submissions under Regulation 295 should be filed with the Russian Ministry of Finance. Under Regulation 295, the competent authority that reviews each transaction is a special sub-commission of the Russian Commission on Foreign Investments. This sub-commission is comprised of representatives from the Ministry of Finance (this representative heads the sub-commission), the Presidential Administration, the Ministry of Economic Development and the Russian Central Bank.

Decisions of the sub-commission should be adopted unanimously. Approval may be granted subject to certain conditions. Similar to an ordinary FDI submission, a submission under Regulation 295 is also subject to a confidentiality regime. An approval may be granted to apply to all legal entities or individuals to perform a particular transaction.

Regulation 295 does not provide for a time limit for the review of transactions and for an approval decision to be taken or not. As of today, it is hard to predict how long the review is likely to take.

### **Documentation**

The filing scope is rather limited compared to an ordinary FDI submission. The filing is submitted by either party to the transaction. The filing should include (1) the purpose, subject matter and the material terms of the proposed transaction; (2) the details of a proposed time limit for completion of the transaction; (3) registration and corporate documents of the applicant; (4) information on the UBOs of the foreign entity that is a party to the proposed transaction; and (5) balance sheet information relating to any relevant real estate assets.

## ***Russian President Issues Decree Regulating Discharge of Obligations of Russian Obligor Towards Certain Categories of Creditors***

On 5 March 2022, the Russian President issued Decree No. 95 (“**Decree No. 95**”) introducing a temporary regime for discharge by Russian resident obligors of their obligations under credits, loans and “financial instruments”. The Decree No. 95 is drafted rather vaguely and will require significant further guidance and clarifications from the Central Bank of Russia (“**CBR**”), although technically it came into effect on 5 March 2022.

According to the “temporary regime” envisaged by the Decree No. 95, if a Russian obligor has a liability towards a foreign creditor from a jurisdiction taking unfriendly steps towards Russia (“**creditor from unfriendly jurisdiction**”), then the Russian obligor can open a special “Type C” account with a Russian bank in the name of such “creditor from unfriendly jurisdiction” (or, if the liability arises under securities held with a Russian custodian through a foreign nominee holder, *i.e.* through a foreign custodian, such “Type C” account would be opened in the name of such foreign nominee holder).

The currency of the “Type C” account must be in Russian Roubles, and the regime of the “Type C” account is to be determined by the Board of Directors

of the CBR (although the relevant regulation has not been officially released, it is expected that there will only be a limited and exhaustive list of permitted debits from “Type C” accounts without the possibility of conversion into other currencies). Although the Decree No. 95 does not say this expressly, it appears that the Russian obligor can discharge its liability towards a “creditor from unfriendly jurisdiction” by making a payment in Russian Roubles into a “Type C” account.

At the same time, the Decree No. 95 seems to state that irrespective of the payment currency due under the terms of a loan or of a financial instrument, a Russian obligor shall be deemed to have duly discharged its payment liability:

- towards foreign creditors from “friendly” jurisdictions - by paying Russian Roubles at the CBR exchange rate as at the date of payment (and it is unclear from the Decree No. 95, if the same regime applies to payments towards Russian-resident creditors, or liabilities towards Russian-resident creditors under bilateral arrangements (as opposed to securities) or if they may continue to be paid in contractually agreed currency);
- towards Russian resident holders of the securities issued by the Russian obligor - by paying Russian Roubles at the CBR exchange rate as at the date of payment;
- towards holders of securities of the Russian obligor held through a foreign nominee holder (*i.e.*, foreign custodian) – by paying Russian Roubles into the special “Type C” account opened in Russia for such foreign nominee holder; or
- by discharging the obligations in accordance with the rules yet to be established by (1) the CBR for Russian obligors that are financial institutions, and (2) by the Ministry of Finance of Russia (“**MinFin**”) for obligors that are non-financial institutions (and until the relevant special regimes are introduced by the CBR and MinFin respectively, they will have powers to grant individual permissions for Russian obligors to discharge their obligations in deviation from the regime established by the Decree No. 95 itself).

The Decree No. 95 creates significant uncertainty. In particular, it is unclear whether it captures only debt instruments (both bilateral, including intra-group, and syndicated loans, as well as bond issuances) or whether it also captures derivatives or other types of contracts or securities (*e.g.*, equities). It is also not very clear from the wording of the Decree No. 95, whether the discharge of liabilities in Russian roubles is mandatory for Russian obligors, or whether it is a legitimately available alternative.

Also, Decree No.95's impact on a wide range of financing projects and documentation, both current and future (including syndicated lending, export and project financing transactions) will need to be carefully assessed.

### ***Special economic measures***

On 28 February 2022 the President of Russia ordered a set of “special economic measures” which contemplates:

**First**, an obligation on Russian residents:

- to sell 80% of foreign currency export proceeds which were credited after 1 January 2022 to their Russian bank accounts under foreign trade contracts

– not later than 3 business days following 28 February 2022 (*i.e.*, not later than 3 March 2022);

- to sell 80% of foreign currency export proceeds which are/will be credited on 28 February 2022 and onwards to their Russian bank accounts under foreign trade contracts – not later than 3 business days following receipt of such foreign currency;

**Second**, a prohibition for Russian residents:

- to provide foreign currency loans to non-residents – starting from 1 March 2022;
- to transfer foreign currency to their foreign accounts with foreign banks and other foreign financial institutions and to their foreign e-wallets – starting from 1 March 2022; and

**Third**, a simplified procedure for shares buy-back by Russian public joint-stock companies if their shares drop below certain thresholds (save for shares buy-back with the purpose to reduce their number) – starting from 28 February 2022 and until 31 December 2022.

\* \* \*

These new sanctions and export controls are complex, multilateral, and in some cases extraterritorial and incrementally changing in real time in response to the situation on the ground in Ukraine. We will endeavour to keep our briefings up to date. It is essential that companies and individuals react quickly to assessing their risk of exposure to these new sanctions and export controls, to understand the application and duration of the licences, and to be mindful that while apparently coordinated, there is not complete overlap or prohibitions across the various sanctions programs, applicability and jurisdiction.

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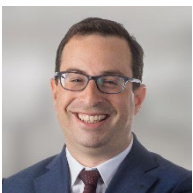
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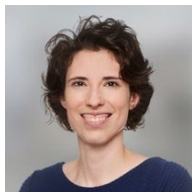
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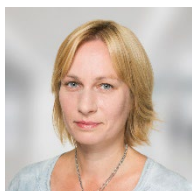
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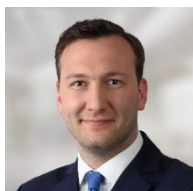
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This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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## Appendix 1

Type of Account	Permitted Credits	Permitted Debits
"Type C" bank account	<p>Funds received from residents under operations (transactions) specified in Decree No. 95;</p> <p>funds transferred from a "Type C" bank account, "Type C" special brokerage account, "Type C" clearing bank account; and</p> <p>funds that were erroneously debited from the "Type C" bank account.</p>	<p>Payments in lieu of taxes, customs, duties or other mandatory charges payable in accordance with Russian budget legislation;</p> <p>payments to purchase Federal Loan Bonds (so-called 'OFZ') issued by the Ministry of Finance of the Russian Federation through auction;</p> <p>payments to RUB accounts of non-residents provided for in a consent of the Governmental Commission for Control over Making Foreign Investments in the Russian Federation ("<b>Consent</b>");</p> <p>payments in the course of making other operations provided for in a Consent;</p> <p>funds to be transferred to another "Type C" bank account;</p> <p>funds to be transferred to a "Type C" special brokerage account;</p> <p>banking charges of the Russian bank for servicing the "Type C" bank account;</p> <p>amounts due to a resident in lieu of penalties (fines) under operations (transactions) specified in Decree No. 95; and</p> <p>funds that were erroneously credited to the "Type C" bank account.</p>
"Type C" custody account	<p>(i) Securities acquired with the use of funds held at a "Type C" bank account, "Type C" special brokerage account or</p> <p>"Type C" clearing bank account; securities transferred from another "Type C" custody account;</p>	<p>(i) Securities to be transferred to a "Type C" custody account, including in the course of making transactions with such securities with the use of funds held at a</p> <p>"Type C" special brokerage account or "Type C" clearing bank account;</p> <p>securities to be debited from the "Type C" custody account as a</p>

Type of Account	Permitted Credits	Permitted Debits
	<p>securities, settlements in respect of which are to be made through a "Type C" bank account in connection with corporate actions made in respect of such securities; and securities that were erroneously debited from the "Type C" custody account.</p>	<p>result of redemption of such securities; securities that may be debited from the "Type C" custody account in accordance with a Consent; and securities that were erroneously credited to the "Type C" custody account.</p>
<p>"Type C" special brokerage account<sup>16</sup></p>	<p>(i) Funds received from residents under operations (transactions) specified in Decree No. 95; funds transferred from a "Type C" bank account, "Type C" special brokerage account, "Type C" clearing bank account; and funds that were erroneously debited from the "Type C" special brokerage account.</p>	<p>(i) Payments in lieu of taxes, customs, duties or other mandatory charges payable in accordance with Russian budget legislation; payments to purchase Federal Loan Bonds issued by the Ministry of Finance of the Russian Federation through auction; payments to RUB accounts of non-residents provided for in a Consent; payments in the course of making other operations provided for in a Consent;  (v) funds to be transferred to a "Type C" bank account; (vi) funds to be transferred to another "Type C" special brokerage account; (vii) banking charges of the Russian bank for servicing the "Type C" special brokerage account; (viii) amounts due to a resident in lieu of penalties (fines) under operations (transactions) specified in Decree No. 95; and</p>

<sup>16</sup> Generally the same as the regime of a "Type C" bank account.

Type of Account	Permitted Credits	Permitted Debits
		(ix) funds that were erroneously credited to the "Type C" special brokerage account.
"Type C" clearing bank account	<p>Funds received as a result of clearing and performance of residents' obligations under operations (transactions) specified in Decree No. 95;</p> <p>funds transferred from a "Type C" bank account, "Type C" special brokerage account, "Type C" clearing bank account; and</p> <p>(iii) funds that were erroneously debited from the "Type C" clearing bank account.</p>	<p>Payments in lieu of taxes, customs, duties or other mandatory charges payable in accordance with Russian budget legislation;</p> <p>payments to RUB accounts of non-residents provided for in a Consent;</p> <p>payments in the course of making other operations provided for in a Consent;</p> <p>funds to be transferred to a "Type C" bank account;</p> <p>funds to be transferred to a "Type C" special brokerage account;</p> <p>(vi) banking charges of the Russian bank for servicing the "Type C" clearing bank account;</p> <p>(vii) funds to be placed as deposit under a bank account (deposit) agreement entered into with the central counterparty in accordance with Federal Law No. 325-FZ "On Organised Trades" dated 21 November 2011 (as amended); and</p> <p>(viii) funds that were erroneously credited to the "Type C" clearing bank account.</p>
"Type C" clearing custody account	(i) Securities transferred from a "Type C" custody account or another "Type C" clearing custody account in the course of clearing and performance of obligations admitted to clearing; and	<p>Securities to be transferred to a "Type C" custody account or "Type C" clearing custody account;</p> <p>securities that may be debited from the "Type C" clearing custody account in accordance with a Consent; and</p> <p>(iii) securities that were erroneously credited to the "Type C" clearing custody account.</p>

Type of Account	Permitted Credits	Permitted Debits
	(ii) securities that were erroneously debited from the "Type C" clearing custody account.	