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ALERT

Additional Sanctions and Export Control Measures on Russia Following G7 Summit

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On May 19, 2023, the Biden Administration, in coordination with leaders of the Group of Seven (G7), announced new sanctions and restrictions on 300 individuals, entities, vessels, and aircraft tied to Russia following the G7 leaders' commitment to re-invigorate international support for Ukraine. These actions by the U.S. Departments of Commerce, Treasury, and State reflect the continued efforts of the U.S. government – in coordination with its allies – to impose costs on Russia for the ongoing war.

New U.S. Sanctions

The Department of the Treasury's Office of Foreign Assets Control (OFAC) announced 126 new additions to its Specially Designated Nationals (SDN) List, effectively blocking these entities and individuals and their 50% or more owned affiliates from the U.S. financial system and cutting them off from the U.S. market. In conjunction with the SDN designations, OFAC published a Frequently Asked Question (FAQ) related to dealings with a newly designated entity, Polimetall AO, and its corporate parents and affiliates.

OFAC also issued an amended Russia-related Directive 4 under Executive Order (E.O.) 14024, and updated its FAQs 998-1002, 1004-1005, and 1118 accordingly. Directive 4 prohibits U.S. persons from engaging 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 (collectively, "Directive 4 entities"), including any transfer of assets to such entities or any foreign exchange transaction for or on behalf of such entities. Now, Directive 4 imposes an additional reporting requirement on U.S. persons who are in possession or control of

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property in which any Directive 4 entity has an interest, with the initial report due on or before June 18, 2023, and subsequent reports due annually thereafter by June 30. Reporting instructions are outlined in Directive 4 and referenced in FAQ 998.

In addition, OFAC published a Determination Pursuant to Section 1(a)(i) of E.O. 14024 and a Determination Pursuant to Section 1(a)(ii) of E.O. 14071. These new determinations authorize the imposition of sanctions on any person determined to operate or have operated in the architecture, engineering, construction, manufacturing, or transportation sectors of the Russian economy; and, effective June 18, 2023, prohibit the provision of architecture or engineering services by U.S. persons to any person located in Russia, respectively. The latter action expands the U.S. ban on certain services to Russia, which currently covers accounting services, trust and corporate formation services, management consulting services, quantum computing services, and certain services related to the maritime transport of Russian-origin crude oil and petroleum products if such products exceed a designated price cap. OFAC published three new FAQs (1126-1128) related to these determinations.

Finally, OFAC published several new or amended general licenses (GLs). These include GL 13E, “Authorizing Certain Administrative Transactions Prohibited by Directive 4 under Executive Order 14024,” which replaces GL 13D and permits certain transactions involving Directive 4 entities that are ordinarily incident and necessary to an entity’s day-to-day operations in Russia, such as taxes and fee payments, import duties, and transactions involving permits, licenses, registrations, and certifications. GL 13E is effective through 12:01 a.m. eastern daylight time (EDT), August 17, 2023. OFAC additionally published GL 66, “Authorizing the Wind Down of Transactions Involving Public Joint Stock Company Polyus,” effective through 12:01 a.m. EDT, August 17, 2023 and GL 67, “Authorizing Certain Transactions Related to Debt or Equity of, or Derivative Contracts Involving, Public Joint Stock Company Polyus,” effective through 12:01 a.m. EDT, August 17, 2023. Finally, OFAC issued GL 68 “Authorizing the Wind Down of Transactions Involving Certain Universities and Institutes,” which permits transactions that are ordinarily incident and necessary to the wind down of transactions involving certain universities and institutes through 12:01 a.m. EDT, July 18, 2023.

Concurrently, the State Department designated or identified as blocked property almost 200 individuals, entities, vessels, and aircraft pursuant to E.O. 14024. The designations include entities and individuals involved in Russia’s energy sector, metals and mining sector, military-related procurement, and sanctions evasion activities, as well as maritime logistics networks related to Iran’s support for Russia.

Another Round of U.S. Export Control Restrictions

Also on the same day, the Department of Commerce’s Bureau of Industry and Security (BIS) issued new export controls related to Russia in a pair of rules that added 71 persons to the Entity List (Supplement No. 4 to Part 744 of the Export Administration Regulations (EAR)) for supporting Russia’s military and expanded the types of products subject to export control restrictions.

The first rule added 69 Russian entities to the Entity List for providing support to Russia's military and defense sector. These entities also have been tabbed with "footnote 3" designations as Russian or Belarusian "military end users," and, as noted by BIS, "will be subjected to the restrictions imposed under the Russia/Belarus-Military End User FDP [Foreign Direct Product] Rule, which represent some of the most severe restrictions available under the EAR." The targeted companies include aircraft repair and parts production plants; gunpowder, tractor, and automobile factories; shipyards; and engineering centers in Russia. One Armenian entity and one Kyrgyz entity were added to the Entity List for preventing successful end-use checks and posing a risk of diversion of items subject to the EAR to Russia.

The second rule consists of additional restrictions that further augment the Russia-related export controls implemented over the past year by the United States and its partners on a variety of inputs needed by Russia to support its defense industrial base. These changes include:

- **A Significant Expansion of the Industry Sector Sanctions:** A broad range of newly-designated EAR99 industrial sector inputs and products identified in Supplement No. 4 to part 746 of the EAR by Harmonized Tariff Schedule (HTS)-6 Codes are now subject to licensing requirements when destined for or within Russia or Belarus: 1,224 new HTS-6 codes to be exact. Through this new rule, the entire harmonized system chapters 84, 85 and 90 – spanning in total over 2,000 HTS-6 Code entries – are subject to BIS's industrial and commercial controls listed in Supplement No. 4 to Part 746 of the EAR. The new items added by this rule include a variety of electronics, instruments, and advanced fibers for the reinforcement of composite materials, including carbon fibers. Supplement No. 4 also includes items such as clothes dryers, snow plows, and milking machines, which could be repurposed to support Moscow's war efforts. The objective of the expanded controls is to further degrade Russia's war efforts by denying it access to critical components needed to support the military industrial base. Given the breadth of this list alone – along with the fact that the export restrictions extend to any "modified or designed" parts, components, accessories, or attachments for the listed equipment (other than fasteners and certain specified minor components) – exporters and reexporters will need to exercise caution and undertake a careful review before shipping any EAR99 items to Russia or Belarus.
- **Additional Restrictions on Certain Chemicals:** BIS added lithium chloride and certain other chemicals to Supplement No. 6 to part 746 of the EAR, "which consists of discrete chemicals, biologics, fentanyl and its precursors, and related equipment designated [as] EAR99 that may be useful for Russia's industrial capability or may be diverted from Belarus to Russia for these activities of concern." As with the Supplement No. 4 industry sector sanctions, these items require a license for export, reexport, or transfer to or within Russia or Belarus.
- **Expansion of the Russia/Belarus FDP Rule to Apply to Crimea:** The EAR includes a broad, country-wide FDP rule on Russia and Belarus aimed at preventing many foreign-produced items that are the direct products of U.S.-origin software or technology from being exported from abroad to Russia or Belarus. BIS expanded this country-wide FDP rule so that it also applies to items destined for the temporarily occupied Crimea region of Ukraine, "thereby making it more difficult for items to be procured for Russia's use in Crimea in support of its ongoing military aggression in Ukraine."

- **Revisions to Restrictions Targeting Iran's Supply of Unmanned Aerial Vehicles (UAVs) to Russia:** BIS added items classified under HTS-6 Code 854800 (electrical parts of machinery or apparatus) to Supplement No. 7 to part 746 of the EAR. Supplement No. 7 is a list of products, including foreign-produced items, requiring a license when destined to Iran, Belarus, Russia, or Crimea that was originally published this past February to counter the use of Iranian UAVs by Russia.

BIS made several other clarifying and conforming changes as well, including clarifying that the *de minimis* exclusion for low-level U.S. items controlled only for anti-terrorism reasons, applicable to our partner countries identified in Supplement No. 3 to part 746, is now extended to the items identified in Supplement Nos. 2, 4, and 6 to part 746 (meaning that these items are not considered "controlled" content for our partner nations under the *de minimis* rule). BIS also replaced Schedule B numbers and descriptions in the luxury goods controls in Supplement No. 5 to part 746 with specific HTS-6 Codes, added licensing requirements on "modified or designed" parts and components of such luxury goods, and provided to telecommunications commodities controlled under Export Control Classification Number (ECCN) 5A991 the same favorable treatment as mass market encryption products when destined for civil end-users that are affiliates of U.S. or partner nations.

Finally, BIS, in tandem with the Treasury Department's Financial Crimes Enforcement Network (FinCEN), issued a joint supplemental alert that builds on a prior 2022 alert urging financial institutions to be vigilant against efforts by individuals and entities to evade U.S. export controls. The purpose of the new alert is to provide financial institutions with additional information concerning Russia-related export controls and to reinforce ongoing U.S. government efforts to further restrict Russia's ability to access technology and goods needed to supply its military and defense industrial base. The alert specifically details evasion tactics, identifies nine high priority critical U.S. components that Russia relies upon for its weapons systems, and identifies specific transactional and behavioral red flags to assist financial institutions in identifying suspicious activities relating to possible export control evasion schemes.

Wiley has unparalleled experience and expertise representing a wide range of U.S. and multinational clients in complex export control, sanctions, and broader national security matters. Should you have any questions about this alert; U.S. export controls and sanctions on Russia, Belarus, or Iran; or any other national security-related issues, please do not hesitate to contact one of the attorneys listed on this alert.

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