



OFAC ALERT

The U.S. Government Expands Its Russia-Related Sanctions

On February 21, 2022, President Biden signed Executive Order (E.O.) 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.” In it, President Biden imposed (1) a sanctions embargo on the Donetsk People’s Republic and the Luhansk People’s Republic, (2) new prohibitions on dealings with Russian sovereign debt, and (3) blocking sanctions on certain Russian individuals and entities, such as the State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank (VEB), Promsvyazbank (PSB), and Nordstream 2.

On February 22, 2022, the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) designated VEB, PSB, along with 42 of their foreign subsidiaries in the List of Specially Designated Nationals and Blocked Persons (SDN) List. OFAC also designated five Russian individuals believed to be related to President Vladimir Putin. Further, OFAC issued “Directive 1A under E.O. 14024” prohibiting U.S. financial institutions from participating in the secondary market for ruble or non-ruble denominated bonds issued as of March 1, 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. OFAC also added Nord Stream 2 AG to the SDN List.

On February 24, 2022, OFAC imposed additional sanctions on Russia’s two largest financial institutions: Public Joint Stock Company Sberbank of Russia (Sberbank) and VTB Bank Public Joint Stock Company (VTB Bank). Sberbank was added to the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account (CAPTA) Sanctions List, while the VTB Bank was added to the SDN List. OFAC also prohibited 13 Russian financial institutions, including Sberbank, from operating in the U.S. debt and equity markets by adding them to the Non-SDN Menu-Based (NS-MBS) Sanctions List. Finally, OFAC designated in the SDN List other 10 Russian individuals believed to be related to President Putin.

To further implement the Sanctions against Sberbank and entities directly or indirectly owned 50% or more in the aggregate by Sberbank (collectively, the “Sberbank Entities”), OFAC issued “Directive 2 under E.O. 14024” prohibiting U.S. financial institutions from (i) opening or maintaining a correspondent account or payable-through account for or on behalf of the Sberbank Entities; and (ii) processing transactions involving any of these entities. Accordingly, U.S. financial institutions are now required to reject such transactions unless authorized by OFAC.

Also, to implement the debt and equity prohibitions against the 13 major Russian financial institutions, OFAC issued “Directive 3 under E.O. 14024” prohibiting transactions and dealings by U.S. persons or within U.S. on certain new debt and equity of Russian state-owned enterprises and other entities that operate in the financial services sector of the Russian economy.

More recently, on February 25, 2022, OFAC added Russian Federation President Vladimir Putin and Foreign Minister Sergei Lavrov to the SDN List.

DRT Commentary

Consequences of These Additional Sanctions

The new Ukraine/Russia-related Sanctions require U.S. persons or foreigners that conduct business in or with the U.S., U.S. persons, or using U.S.-origin goods or services, to block assets or restrict financial or trade-related activities with specific individuals and entities. Specifically, OFAC's new regulations include four types of list-based sanctions:

- *SDN List.* All of the property of individuals and entities in this list within, or transiting U.S. jurisdiction is blocked. In addition, if they are not authorized by a general or specific license issued by OFAC, U.S. persons are prohibited from engaging in transactions with individuals and companies listed in the SDN List or with entities in which they have, directly or indirectly, 50% or greater ownership interest.
- *CAPTA List.* This list includes foreign financial institutions for which the opening or maintaining of a correspondent account or a payable-through account is prohibited or is subject to one or more strict conditions pursuant to OFAC regulations.
- *NS-MBS List.* This list identifies persons subject to less than full blocking sanctions, which may include, among other restrictions, non-blocking prohibitions on the provision of certain goods or services and blocking prohibitions subject to a statutory exception for the importation of goods.
- *SSI List.* The new Sanctions also include Directives imposing prohibitions on U.S. persons with respect to certain transactions with entities operating in the Russian economy. These entities are identified by OFAC on the Sectoral Sanctions Identifications (SSI) List.

Individuals and entities found to be in violation of OFAC sanctions, whether U.S. or foreign, will be exposed to significant civil and criminal penalties, and may themselves be added to OFAC's SDN list through the enforcement of secondary sanctions.

Preventing Violations of Russia-Related Sanctions

Conduct an OFAC review of any transaction involving Russia to confirm whether you need OFAC's authorization to proceed. If necessary, request OFAC's specific license or interpretative guidance. In addition, organizations can prevent, detect, and react appropriately to violations of OFAC Sanctions by designing and implementing Sanctions Compliance Programs (SCP). Having an effective SCP in place is also a significant mitigating factor that OFAC will consider when deciding whether to impose sanctions based on an apparent violation of its regulations, or for calculating the appropriate penalty.

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