

New restrictions trigger immediate need to focus on export compliance



Jeff Van Winkle | Thursday, March 10, 2022

With the Biden administration's recent Executive Orders and a final rule issued from the Bureau of Industry and Security (BIS), businesses are unexpectedly assessing whether and how they do business in Russia, or with Russian businesses. Many exports, imports and other commercial activities that were lawful before the myriad of new federal orders and the invasion of Ukraine are now prohibited or will soon be prohibited. Additionally, the Office of Foreign Assets Control (OFAC) added many new names to the list of individuals and entities banned from conducting business with U.S. businesses or from using the U.S. debt and equity markets.

Every business or nonprofit enterprise conducting any activity with Russia or with enterprises or individuals with roots in Russia must immediately assess its ability to lawfully continue that activity in light of the new restrictions. Specifically, any exports to or imports from Russia must be checked to confirm that the activity is not covered by the new restrictions.

Since February, the federal government has issued more than 10 new notices, rules or orders covering a sweeping range of activities. As of March 8, 2022, the new federal actions result in the following:

- Most expansively, the BIS has added Russia restrictions to categories 3 to 9 of the Commerce Control List. This means that many goods are now classified in ECCNs effectively restricting export to Russia.
- The EAR (Export Administration Rule) expands the category of "military end user" in Russia so that most exported goods, except food and medicine categorized as EAR99, will require an export license.

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- The Treasury Department imposed broad restrictions on correspondent bank and account activities for a number of key Russian chartered banks.
- OFAC has blocked more than 10 key Russian-based institutions from using U.S. exchanges or other U.S. market tools to raise debt or equity.
- In cooperation with other allies, selected Russian chartered banks will be banned from using SWIFT for international financial transactions.
- Many additional names have been added to the list of banned individuals by OFAC and Treasury requiring businesses already engaged in business in those regions to recheck the status of counterparties.

U.S. efforts have notably exempted some key goods and services from the broad sweep of restrictions. Many energy resource activities may continue for the immediate future subject to special general licenses that have been issued. Also, humanitarian medical supplies and services may also continue.

Carefully monitor your current and planned exports and services

The complex web of U.S. export controls and the rapid development of new rules and orders requires U.S. businesses to carefully monitor current and planned exports and services. McDonald Hopkins encourages any business that directly or indirectly maintains a business connection to Russia or the Covered Regions immediately increase focus on export compliance. At the same time, each business should continue to assess its customer and supplier base to ensure compliance and prevent harm from unexpected interruptions of supply or customer purchasing.

We continue to advise our clients daily assess immediate changes that may be necessary as a result of these federal actions, as well as assessing prudent proactive steps.



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