

National Security, Sanctions, and Export Controls

Expanding Multilateral Sanctions as Russia Invades Ukraine

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In [response](#) to Russia's invasion of Ukraine and recognition of the Donetsk and Luhansk People's Republics (DNR and LNR, respectively) as independent states, countries around the world have announced sweeping sanctions targeting Russian banks, individuals, companies, access to technology, and the Nord Stream 2 pipeline. Per the [White House](#), these measures are expected to have a "profound impact on Russia's economy, financial system, and access to cutting-edge technology."

US Sanctions

- **Geographic Sanctions:** On February 21, 2022, President Biden signed an [executive order](#) expanding comprehensive sanctions beyond Crimea to the DNR and LNR. Prohibitions extend to (1) new investment; (2) imports into the United States; (3) exportation, re-exportation, sale, or supply from the United States; and (4) US person involvement in or facilitation of transactions by foreign persons that would otherwise be prohibited. The EO also authorizes blocking sanctions on persons determined to operate in the DNR or LNR; those who act on their behalf or materially assist them; and the leaders, officials, senior executive officers, or members of the board of directors of entities operating in those areas. The US Department of the Treasury's Office of Foreign Assets Control (OFAC) also issued [six](#) Ukraine-related General Licenses, which include a [wind-down](#) authorization for transactions involving the DNR and LNR through 12:01 am on March 23, 2022. Notably, the EO leaves room for future geographic sanctions "in such other regions of Ukraine as may be determined by the Secretary of the Treasury."
- **Blocking Sanctions:** Since February 21, 2022, President Biden has announced blocking sanctions targeting Russian financial institutions and their associated entities and against high-profile individuals in Putin's inner circle. Under the Russian Harmful Foreign Activities sanctions [program](#), OFAC has imposed blocking sanctions on the following six major Russian financial institutions, as well as their 50% or more owned subsidiaries: Vnesheconombank (VEB), Promsvyazbank Public Joint Stock Company (PSB), VTB Bank Public Joint Stock Company (VTB Bank), Public Joint Stock Company Bank Financial Corporation Otkritie (Otkritie), Open Joint Stock Company Sovcombank (Sovcombank), and Joint Stock Commercial Bank Novikombank (Novikombank). Per a February 24, 2022 [determination](#), entities operating in the financial services sector of the Russian economy now face broad risk of sanctions designation. In addition, OFAC has added 10 Russian elites and family members to the SDN List, including [three](#) on February 22, 2022 and [seven](#) on February 24, 2022 as well as [eight](#) Belarussian elites, in response to Belarus's support of the Russian invasion. Various General Licenses authorize the wind down of transactions with certain blocked persons, as well as certain transactions involving energy, agricultural and medical commodities, and derivative contracts, among other things.
- **Correspondent and Payable-Through Account Sanctions:** On February 24, 2022, OFAC issued Russia-related [Directive 2](#), which imposes tailored sanctions on Public Joint Stock Company Sberbank of Russia (Sberbank), Russia's largest financial institution. Within 30 days, all US financial institutions must close any correspondent or payable-through accounts with Sberbank and reject all future transactions involving Sberbank or its foreign financial institution subsidiaries.

- **Expanded Sovereign Debt Sanctions:** OFAC issued Russia-related [Directive 1A](#), which expands on existing sovereign debt sanctions, to prohibit, as of March 1, 2022, participation in the secondary market for ruble and non-ruble denominated bonds issued by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation.
- **Debt and Equity Prohibitions:** Beginning on March 26, 2022, Russia-related [Directive 3](#) prohibits transactions, dealings in new debts of longer than 14 days in maturity, and dealings in new equity of 13 major Russian firms, including six of Russia's largest financial institutions.
- **Export Controls:** On February 24, 2022, the Department of Commerce's Bureau of Industry and Security [heightened](#) export licensing requirements under the Export Administration Regulations (EAR) and added two new foreign direct product rules (FDP) related to Russia and to Russian military end users. Among other impacts, the new measures create a presumption of denial for new license applications, limit the use of export license exemptions, subject additional items to licensing requirements, expand the extraterritorial reach of US export controls, and impose comprehensive export, reexport, and in-country transfer restrictions on the DNR and LNR.

UK Sanctions

- **Expanded grounds for designation:** On February 10, 2022, the UK government expanded the grounds pursuant to which it can designate individuals and entities under the [Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#) (2019 Regulations). The 2019 Regulations transposed the Russia-Ukraine related sanctions into UK law following the UK's departure from the EU. The 2019 Regulations originally only provided for the designation of persons who are or have been involved in "destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine." The UK can [now](#) designate persons who are or have been "*involved in... obtaining a benefit from or supporting the Government of Russia.*" This includes persons (1) carrying on business as a Government of Russia-affiliated entity; (2) carrying on a business of economic significance to the Government of Russia; (3) carrying on business in a sector of strategic significance^[1] to the Government of Russia; and (4) owning or controlling directly or indirectly, or working as a director, trustee, or equivalent of any of the above.
- **Additional designations:** On February 22, 2022, the UK [announced](#) its first barrage of designations aimed at "*oligarchs and banks close to the Kremlin*" and [designated](#) three individuals (Gennady Nikolayevich Timchenko, Boris Romanovich Rotenberg, and Igor Arkadyevich Rotenberg) and five banks (Bank Rossiya, Black Sea Bank for Development and Reconstructions, IS Bank, and Genbank and PSB) under the 2019 Regulations (with two of the designations made under the new designation grounds recently introduced by the UK). However, given that the three individuals, as well as all of the banks mentioned above except PSB, were already listed in the US, this will have a limited impact on companies which already had to comply with US sanctions. In any case, as set out above, PSB is now also subject to US sanctions. On February 24, 2022, following Russia's expanded invasion of Ukraine, the UK government announced a second package of Russia sanctions. While some of the proposed measures will be laid down in new legislation next week (see "More to Come?" section below), the UK immediately started actioning its plan and [designated](#) a further five individuals and six entities (including VTB Bank) later that day. Further, on February 25, 2022, the UK [designated](#) Vladimir Putin and Sergei Lavrov.

EU Sanctions

- **The EU's initial package of sanctions:** On February 23, 2022, in response to Russia's recognition of the of DNR and LNR in Ukraine and the ensuing decision to send Russian troops into these areas, the EU agreed on a package of measures. The restrictive measures included (1) The designation of the 351 members of the Russian Duma who voted in favor of the recognition of DNR and LNR as independent republics; (2) the [designation](#) of four entities and 22 individuals who

have contributed to the undermining or threatening of the territorial integrity, sovereignty, and independence of Ukraine; (3) the banning of trade between the EU and the two regions of DNR and LNR; and (4) restrictions on the ability of the Russian state and government to access EU capital and financial markets or services.

Nord Stream 2

Following Germany's February 22, 2022, announcement that it will withhold final certification of the Nord Stream 2 pipeline, effectively terminating the project until further notice, on February 23, 2022, President Biden [rescinded](#) a prior waiver of sanctions on Nord Stream 2's parent company Nord Stream 2 AG. In May 2021, the US Secretary of State previously [waived](#) imposition of mandatory sanctions on Nord Stream 2 AG, its CEO Matthias Warnig, and Nord Stream 2 AG's corporate officers under the Protecting Europe's Energy Security Act of 2019 (PEESA).

More to Come?

On February 22, 2022, President Biden [announced](#) that "if Russia goes further with an invasion, we stand prepared to go further as with sanctions." Beginning with the February 24, 2022 sanctions actions, the United States has begun this sanctions escalation, which could soon include sanctions on Putin, as well. Similar sentiments were expressed by both the [EU](#) and the [UK](#). The UK's Prime Minister has [said](#) that the UK's second package of sanctions will involve the designation of 100 entities and individuals, significant new financial and trade restrictions, and stringent export controls. The European Council has [agreed](#) on "further restrictive measures that will have massive and severe consequences" for Russia including further sanctions on the financial sectors, additional listings (including Putin and Lavrov) and a new criteria for listing. Notably missing from this multilateral sanctions activity is the UN Security Council, which will likely be unable to act, given Russia's veto on the Council.

Mitigating Risk

Strong compliance systems are critical to minimizing risks associated with the evolving Russia sanctions landscape.

- ***Screening Tools:*** Companies should ensure that they have appropriate geographic and business screening tools in place to identify business, imports, and exports involving the DNR and LNR, and to identify corporate structures involving sanctioned persons.
- ***Identifying Russia Touchpoints:*** In addition, companies should conduct risk assessments to analyze touch points with Russian entities, especially banks, financial services providers, and companies with ties to Russian elites, such as those identified in the US Treasury Department's January 2018 [Report](#) to Congress Regarding Senior Foreign Political Figures and Oligarchs in the Russian Federation.

If such risks are identified, it will be important to develop a plan to wind down business in the event of a business counterpart's sanctions designation or involvement in sanctioned regions or sectors. Such planning may involve a review of contractual commitments and obligations, as well as an assessment of legal risk and options under governing law.

The Jenner & Block team is available to help companies assess and address Russia-related sanctions risks as the situation continues to evolve.

^[1] This includes the following sectors: (i) chemicals; (ii) construction; (iii) defense; (iv) electronics; (v) energy; (vi) extractives; (vii) financial services; (viii) information, communications, and digital technologies; and (ix) transport.

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