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2023 in Review

An Eventful Year in Sanctions and Enforcement

February 7, 2024

2023 in Review: **An Eventful Year in Sanctions and Enforcement**

The sanctions world experienced another action-packed year in 2023. Sanctions against Russia dominated the year in terms of the number of designations and new restrictions, and the attacks perpetrated by Hamas in Israel on 7 October revitalized the focus on prohibitions related to counter-terrorism. Issues such as fentanyl trade, corruption, human rights, and regional influences also contributed to a dynamic 2023 sanctions landscape. In addition to being eventful, 2023 also proved to be unusual, with authorities around the world placing elevated focus and attention on uncovering, prosecuting, and designating persons involved with sanctions evasion.

This publication covers major developments related to sanctions and strategic trade controls and restrictions that occurred throughout 2023, focusing primarily on actions taken by authorities in the United States (“U.S.”), European Union (“EU”), and United Kingdom (“UK”).

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Key Takeaways

▶ **RUSSIA.**

The landscape surrounding sanctions against Russia continues to evolve, and it is increasingly difficult for entities subject to the Group of Seven (“G7”) (Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States), the EU, and Australia jurisdictions to engage with Russia. As Moscow seeks to fill gaps in its manufacturing, engineering, and technology sectors due to sanctions and other restrictions, it is increasingly relying on vast networks of obscure third country suppliers of goods and services that originate in the G7 countries and are often prohibited for export. In response, enforcement agencies around the world are signaling their increased expectations that industry participants will be able to detect and, if required, report suspicious activity, as well as ensure that their internal controls are adequate to mitigate the risks of Russia diversion. Moscow, in turn, implemented several anti-sanctions measures, including expropriating businesses owned by persons from “unfriendly” jurisdictions and disrupting normal market relationships with regard to Russia-issued securities.

▶ **IRAN.**

Sanctions risks associated with Iran remain a persistent challenge. Several hundred individuals and entities were designated pursuant to various authorities under the Iran sanctions programs of the United States, EU, and UK. Increased tensions in the Middle East linked to the ongoing crisis in Israel and Gaza, disruptions to the free flow of commerce in the Red Sea, and the development of Iran’s Unmanned Aerial Vehicle (“UAV”) program have elevated the risks linked with Iran, particularly as all three sanctioning jurisdictions reinforced their focus on targeting the ways through which the government of Iran supports its proxies and allies in the region and beyond.

▶ **COMBATING SANCTIONS EVASION.**

Government agencies across the world continue to build strong domestic and international coalitions and task forces to investigate sanctions evasion efforts and to preclude rogue regimes from continuing to benefit from Western technologies and services. Authorities brought multiple enforcement actions and rounds of designations against those who circumvented or attempted to circumvent sanctions, especially the sanctions against Russia (e.g., Russia oil price cap restrictions). In particular, the United States ended 2023 with a bang, introducing the first meaningful secondary sanctions restrictions on certain Russia-related activity.

▶ **EXPORT CONTROLS AGAINST CHINA.**

The export controls against the People’s Republic of China (“PRC” or “China”) have grown in complexity, particularly in connection with semiconductors and advanced computing. The United States issued several new and amended regulations targeting the ever-growing range of goods and technology that require a license to be exported to China. It also implemented several measures to target evasion of export controls, such as expanding certain restrictions on exports to entities in third countries, if such entities are ultimately headquartered in China.

▶ **VENEZUELA.**

Consistent with its messaging that sanctions do not need to be permanent, the United States in November eased some of the Venezuela-related sanctions in response to Maduro regime commitments to conduct open and democratic elections. The U.S. government, however, has been clear that it will reinstate all restrictions should the Maduro regime fail to deliver on its commitments, and, as of early 2024, did in fact repeal several general licenses.

1. Russia

Continuous Expansion of Sanctions



Perhaps the most important change in the Russia sanctions landscape was the issuance on 22 December 2023 of Executive Order 14114.

The United States, EU, and UK continued to expand their respective sanctions programs against Russia. Notably, during 2023, the United States issued a new Executive Order and six determinations related to Russia and implemented new reporting obligations; the European Union adopted three additional sanctions packages; and the United Kingdom made five additional sets of regulations related to Russia sanctions.

The sanctions imposed against Russia over the course of 2023 fall into four main categories: 1) blocking sanctions; 2) expansion of prohibited activities and services; 3) expanded import and export-related restrictions; and 4) measures targeting circumvention or parties helping Russia. Each of these four categories is discussed in detail below.

Additional Blocking Sanctions

United States

The U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") and the U.S. Department of State imposed blocking sanctions against hundreds of individuals and entities under the U.S. sanctions program against Russia. Most of the designations were made under the authority provided in Executive Order 14024, which was issued on 15 April 2022. The designated persons were engaged in a wide range of sanctionable activities and, in addition to Russia, were located in many third countries, including the Central African Republic, China, Cyprus, Finland, India, Israel, Kazakhstan, Maldives, Singapore, South Korea, Switzerland, Tajikistan, Türkiye, the United Arab Emirates, the UK, and Uzbekistan. Many such persons in third countries were designated for providing, or attempting to provide, financial, material, technological or other support for, or goods or services in support of a Russian sanctioned person or for facilitating sanctions evasion.

European Union

In line with G7 countries, the European Council ("EU Council") imposed blocking sanctions on 172 individuals and 76 entities under its sanctions regime against Russia. The sanctioned persons had links to several countries, including Georgia, Iran, Russia, the United Arab Emirates, and Ukraine.

United Kingdom

The UK's Office of Financial Sanctions Implementation ("OFSI") imposed blocking sanctions against 225 individuals and 108 entities under its Russia sanctions regime. The sanctioned persons had links to several countries, including China, Cyprus, Iran, Russia, Serbia, Türkiye, the United Arab Emirates, and Uzbekistan.

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Expansion of Prohibited Activities and Services

United States

In 2023, OFAC issued several determinations under Executive Order 14071, issued on 6 April 2022, targeting services in additional sectors of the Russian economy:

1. 5 February 2023 Determinations: OFAC prohibited U.S. persons from providing trading/commodities brokering, financing, shipping, insurance, flagging, and customs brokering services to any person located in the Russian Federation if such services relate to the maritime transport of petroleum products of Russian origin provided the price of the underlying petroleum products exceed the cap that is separately determined by the Secretary of the Treasury;¹
 - a. The same day, OFAC issued another determination setting the price cap for Russian origin Discount to Crude petroleum products at USD 45 per barrel, and Premium to Crude petroleum products at USD 100 per barrel;² and
2. 19 May 2023 Determination: OFAC prohibited U.S. persons from providing architecture and engineering services to any person located in the Russian Federation.³

Separately, on 19 May 2023, OFAC amended Directive 4 under Executive Order 14024. The amended Directive 4, as before, continues to prohibit all U.S. person transactions with the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation. In the amended Directive 4, however, OFAC also introduced a new annual reporting obligation for U.S. persons who are in possession or control of property in which any Directive 4 entity has an interest of any nature.⁴ The first such report to OFAC was due by 18 June 2023. Subsequent reports should be filed annually by 30 June (i.e., be prepared outside annual reports of blocked property due by 30 September).

European Union

As part of its 10th package of sanctions against Russia, the EU prohibited provision of gas storage services in the EU to Russian nationals or entities established in Russia. As part of the 12th package, the EU banned the provision of certain software for the management of enterprises or software for industrial design and manufacture to the government of Russia, or legal persons, entities, or bodies established in Russia.⁵

United Kingdom

As part of *The Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023*, the UK's government expanded its geographical restrictions to the non-government-controlled areas of the Kherson and Zaporizhzhia oblasts in Ukraine. This means that effective 20 June 2023, these regions are subject to the same near comprehensive restrictions as Crimea and the non-government-controlled areas of Donetsk and Luhansk.⁶

Furthermore, *The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023*, issued on 27 June 2023, prohibited UK persons from providing Russia-related legal advisory services.⁷ In particular, UK persons cannot provide legal services to any person in any country if they relate to trade or financial activity already prohibited for UK persons to undertake under existing UK Russia sanctions (e.g., a UK attorney cannot advise an Indian company on import into India of Russian iron or steel). The amendment had unintended consequences as it did not contain any compliance-related exceptions, meaning that it was unclear if UK attorneys could continue to advise non-UK parties on compliance with UK sanctions laws. In comparison, the long-standing practice in the United States has been to exclude such legal advice from sanctions prohibitions. On 11 August 2023, OFSI issued a general license to permit such legal services, meaning that UK attorneys may continue to advise on compliance with UK sanctions.⁸

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Expanded Import and Export-Related Restrictions

United States

The United States, in line with its allies and partners, further restricted the export of items subject to U.S. export controls into Russia and the import of Russian items into the United States. Among the most important developments in 2023, the following four actions had considerable impact:

1. On 24 February 2023, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") strengthened the existing export restrictions against Russia and Belarus, including expanding the scope of the Russian and Belarusian industry sector restrictions (oil and gas production; commercial and industrial items; chemical and biological precursors) and the scope of the 'luxury goods' restrictions to better align them with the controls that have been implemented by U.S. allies and partners.⁹
2. On 19 May 2023, BIS continued to target Russia and Belarus, including by adding several first six digits of the Harmonized Tariff Schedule ("HTS-6") codes to the list of items controlled for export to these countries, imposing restrictions on the exportation of certain chemicals to Russia; expanding the list of foreign-produced items that require a license when destined to Russia, Belarus, or Iran to further limit Iran's ability to support Russia's military aggression against Ukraine by providing UAVs; and expanding the destination scope of the Russia/Belarus Foreign-Direct Product ("FDP") Rule.¹⁰
3. In multiple rounds of designations, BIS added 155 entries in several countries to its Entity List for companies BIS determined were aiding Russia and its military to gain access to restricted items.
4. On 22 December 2023, OFAC expanded the previously imposed prohibition on import into the United States of certain Russian-origin fish, seafood, and their preparation to now include such items if they were derived in waters under Russian jurisdiction or by Russia-flagged vessels, and even if they were substantially transformed or incorporated into another product outside of Russia.

European Union

All three packages of EU sanctions against Russia issued in 2023 contained new import and export prohibitions. Each package is summarized below.

1. The 10th sanctions package, adopted on 25 February 2023:
 - a. Expanded the existing restrictions to prohibit the export of a large list of dual-use and advanced technologies that contribute to Russia's military capability;
 - b. Prohibited the transit of dual-use goods and firearms via the territory of Russia to third countries; and
 - c. Expanded the list of entities associated with Russia's military-industrial complex.¹¹
2. The 11th sanctions package, adopted on 23 June 2023:
 - a. Introduced a prohibition on the transit of certain sensitive goods (e.g., advanced technology, aviation-related materials) exported from the EU to third countries, via Russia;
 - b. Tightened the restrictions on the importation into the EU of iron and steel, which have inputs from Russia;
 - c. Prohibited certain cases of sale, licensing, transferring, or referring intellectual property rights and trade secrets used in connection with restricted goods to third countries; and
 - d. Imposed a ban on exportation of additional types of machineries to Russia.¹²
3. The 12th package, adopted on 18 December 2023, prohibited:
 - a. Direct or indirect import, purchase, or transfer of non-industrial diamonds and diamond jewelry from Russia, including such items even if processed or incorporated in third countries (to be progressively phased in starting from 1 January 2024); and
 - b. Import of additional goods the EU determined to generate significant revenues for Russia, such as liquified propane, copper wires, aluminum wires, and other products.¹³

United Kingdom

The UK's government introduced six regulations in 2023 that substantially restricted what UK persons can export to or import from Russia. Of note:

1. As part of *The Russia (Sanctions) (EU Exit) (Amendment) Regulations 2023*, made on 18 April 2023, the UK government:
 - a. Introduced an expanded list of Russia revenue-generating goods (in a new Schedule 3DA to include chemicals, wood and wood product, precious metals, and many others) and prohibited UK persons from importing or acquiring such goods from Russia, supplying such goods from a place in Russia to a third country, or providing any ancillary services for such activities;
 - b. Expanded Schedules 2A (critical industry goods), 3C (defense and security goods), 3E (G7 dependency goods), and 3I (Russia's vulnerable goods) to now include in its prohibition for export or supply a broad range of goods that Russia has been found using on the battlefield; and
 - c. Introduced a prohibition on import from third countries of certain iron and steel products, listed in Schedule 3B, if such products incorporate Russian-origin iron or steel.¹⁴
2. As part of *The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023*, made on 12 December 2023, the UK government:
 - a. Further expanded Schedules 2A, 3C, 3E, 3I, as well as 3A (luxury goods) to include new categories of goods subject to UK export prohibition; and
 - b. Prohibited the importation of additional iron and steel products and metals originating in Russia.¹⁵
3. As part of *The Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2023*, also made on 12 December 2023, the UK government prohibited the import, acquisition, supply, or delivery into the UK or a third country of diamonds and diamond jewelry originating from Russia.¹⁶



Measures Targeting Circumvention or Parties Helping Russia

Establishment of Export Enforcement Five

In June 2023, the governments of Australia, Canada, New Zealand, the United Kingdom, and the United States established the “Export Enforcement Five” or “E5” partnership to jointly coordinate their export control enforcement efforts. The idea behind the partnership is to significantly enhance the effectiveness of each country’s export control regimes, close existing gaps in enforcement, and work closely on coordinated investigations. The partnership was established in large part to prevent diversion of export-controlled items to Russia.¹⁷

United States

Perhaps the most important change in the Russia sanctions landscape was the issuance on 22 December 2023 of Executive Order 14114, “Taking Additional Steps With Respect to the Russian Federation’s Harmful Activities”.¹⁸ The Executive Order introduced grounds for imposing sanctions against Foreign Financial Institutions (“FFI”) that engage in certain Russia-related activities, namely (i) conducting significant transactions involving Russia’s Specially Designated Nationals (“SDNs”) operating in the technology, defense and related materiel, construction, aerospace, or manufacturing sectors of the Russian economy, or (ii) providing payment or other financial services involving Russia’s military-industrial base. The new authority allows OFAC to impose blocking sanctions or restrictions on maintaining correspondent accounts in the United States against FFIs the United States determined to have engaged in these sanctionable activities (for more information about this, read our [alert](#) dedicated to this development). While

the impact of the new secondary sanctions remains to be seen, China reportedly has begun assessing the exposure of its banks to these sectors and activities.¹⁹

Throughout 2023, OFAC designated hundreds of individuals and entities pursuant to Section 1(a)(vi) of Executive Order 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of a sanctioned activity or sanctioned person under Executive Order 14024.²⁰

In addition to all changes to the sanctions measures and new designations, U.S. officials have been traveling extensively across the world to raise awareness about the evasive practices of Russia and its enablers. The EU and UK also joined the United States in its outreach efforts.²¹

European Union

The EU has focused heavily on how to stop circumvention of its sanctions against Russia. Some of the major steps taken by the EU include:

1. As part of its 11th sanctions package:
 - a. Introducing the Common High Priority Items List in line with its allies. During the summer of 2023, the UK, EU, U.S., and Japan worked together to identify a list of 38 items Russia needs for continuing its war with Ukraine or that are critical to the development or production of military systems found on the battlefield in Ukraine. The list includes such items as integrated circuits, radio navigation, cameras, lasers, and other items. At different points between May and July, authorities in each jurisdiction then officially published the list, together with accompanying guidance alerting the public to the high risk of diversion of such items. In September, the partner countries agreed to expand the list to 45 items. All three major sanctions-imposing authorities expect a higher level of diligence for trade related to items identified on this list.²²
 - b. Prohibiting access to the ports and locks in the EU territory for vessels the EU authorities have reasons to believe engage in deceptive practices to circumvent the oil and petroleum products price cap imposed on Russian exports.²³
 - c. Introducing the future possibility of prohibiting export of to-be-defined sensitive dual-use goods and technology or goods and technology with

military, technological, or industrial capabilities to certain third countries. The prohibition would apply to third countries that the EU Council have determined systematically fail to prevent re-export of such items originating in the EU to Russia, i.e., countries assisting in circumvention of the EU export restrictions.²⁴ This was one of the most debated articles within the 11th sanctions package and as of the date of this publication, the EU Council has not yet named any such third countries or identified the list of sensitive goods. Doing so will require agreement across all 27 EU Member States.

1. As part of its 12th sanctions package:
 - a. Introducing the requirement for exporters to contractually prohibit re-exportation to Russia or for use in Russia sensitive goods and technology, common high priority items, or firearms and ammunition.²⁵

United Kingdom

Along with other G7 countries, the United Kingdom published the Common High Priority Items List and required due diligence conceding transactions involving the items appearing on this list.²⁶

On 11 December 2023, the UK government announced the establishment of a new entity to oversee the UK's trade sanctions. This entity, the Office of Trade Sanctions Implementation ("OTSI"), will be operational in 2024.²⁷ In the press release accompanying the announcement, the UK government labeled OTSI as a "new unit to clamp down on companies evading sanctions."²⁸ OTSI will help bring civil enforcement actions against companies violating sanctions, with the focus on companies that circumvent UK trade controls by sending products through third countries.

Russia's Response to Western Sanctions

In response to the wide range of sanctions against Russia imposed by Western countries and in addition to the countermeasures already in place, Moscow has adopted several additional measures designed to soften the impact of sanctions against its interests. In April 2023, Russian President Vladimir Putin issued Decree No. 302, "On Temporary Management Over Certain Assets," authorizing the Russian Federal Property Management Agency to effectively "temporarily" expropriate assets, securities,

and other property rights of persons from “unfriendly states”²⁹ that are within the Russian territory. Persons from “unfriendly states” are defined broadly as citizens or residents of countries that have imposed sanctions on Russia, or companies incorporated in such countries or deriving most of its profits there.³⁰

The initial list of expropriated companies issued the same day included the Russian energy producer Unipro, which until then was 84% owned by a German company, Uniper SE; and another Russian energy company, Fortum Russia, 98.23% owned by the Finnish state-owned company, Fortum Oyj. While the Russian Federal Property Management Agency became a de-facto owner of these assets, the management of the two companies was transferred to executives of Rosneft.³¹ In July,

Putin issued another decree, thereby assuming 100% ownership of the Russian subsidiary of Danone, a French company, as well as Russian Baltika, a wholly owned subsidiary of Danish Company Calsberg.

In August, the Russian President signed federal law No. 470-FZ, allowing the Russian government to take over additional category of companies.³² Specifically, the law permits the Russian government to declare certain companies with operations in Russia – but majority owned by foreign persons – to be economically significant companies and take over ownership and control of such companies. While the law provides for a legal process and establishes certain criteria for when the takeover can be executed, all decision-making rests with the Moscow Arbitrary Court.

A Few Words on Belarus

The scope of the financial sanctions against Belarus remained largely unchanged. Apart from 47 blocking designations by the United States, 44 by the EU Council, and 24 by the UK, the rest of the sanctions program remained stable.³³

On the export and import front, the relevant sanctions-imposing authorities continued to tighten their existing controls and introduced new enhancements to ensure Belarus will not receive and/or transship items Russia needs to continue its war with Ukraine.

United States

The United States imposed restrictions against trade with Belarus akin to those imposed against Russia.

European Union

The EU prohibited the sale, supply, transfer, or export of firearms, their parts and essential components, and ammunition to Belarus. Furthermore, the EU introduced further export restrictions on goods that could contribute to Belarus’s military and technological enhancement or to the development of its defense and security sector. The EU also imposed an export ban on goods and technology suited for use in aviation and the space industry, including aircraft engines and their parts, for both manned and unmanned aircraft.³⁴



United Kingdom

The UK revised the designations criteria under its Belarus sanctions regime to more effectively target those persons involved in supporting Russia’s invasion of Ukraine. The UK further prohibited the importation of cement, rubber, wood, and gold from Belarus and exportation of machinery, banknotes, and precursor materials for chemical and biological weapons and technology to Belarus.³⁵

2. Iran

Continual Designations Under Various Iran-related Authorities



As Iran has increased its production and supply of UAVs to Russia for use in its war against Ukraine, the U.S. government responded by trying to dismantle the supply network for Iran's UAV program.

Designations by the United States

The United States continues to maintain a robust sanctions program against Iran. While the program did not change in 2023, numerous entities and individuals were sanctioned by the United States under its Iran sanctions program. The reasons underlying the new sanctions were multiple and varied, including Iran's UAV production, regional destabilization, human rights abuses, protest suppression, sanctions evasion, and trading Iranian petroleum and petrochemical products.

As Iran has increased its production and supply of UAVs to Russia for use in its war against Ukraine, the U.S. government responded by trying to dismantle the supply network for Iran's UAV program. OFAC, BIS, and the Department of Justice ("DOJ") took several actions in 2023, including:

1. On 24 February 2023, BIS amended the Export Administrations Regulations ("EAR") to impose new export control measures on Iran to address the use of Iranian UAVs by Russia. The new rule imposed license requirements for a subset of EAR99 items (i.e., typically the least controlled goods) that are destined to Iran, regardless of whether or not a U.S. person is involved in the transaction. The rule also identified certain foreign-produced items as subject to the EAR by adding a new foreign direct product rule specific to Iran that applies to both items in certain categories of the Commerce Control List ("CCL") and the EAR99 items identified in a new supplement.³⁶
2. On 9 June 2023, OFAC, BIS, and DOJ, along with the Department of State, issued guidance to industry on Iran's UAV-related activities.³⁷
3. On 27 September 2023, OFAC imposed blocking sanctions on five entities and two individuals based in Iran, China, Hong Kong, Türkiye, and the United Arab Emirates involved in the procurement of sensitive parts for Iran's one-way attack UAV program.³⁸
4. On 19 December 2023, DOJ unsealed an indictment charging an Iranian national and a Chinese co-defendant with crimes related to the procurement of U.S.-manufactured dual-use microelectronics for the Islamic Revolutionary Guard Corps' one-way attack UAV program.³⁹ Concurrent with the unsealing of the indictment, OFAC designated 14 persons based in Iran, Malaysia, Hong Kong, and Indonesia that formed a supply network for the UAV program.

The Transition Day Under JCPOA

Under the Joint Comprehensive Plan of Action ("JCPOA"), 18 October 2023 was "Transition Day" – the date when the United Nations Security Council and the EU and UK were supposed to lift all remaining nuclear-related sanctions against Iran. The United Nations removed the remaining entries related to Iran from its consolidated sanctions list. Both the EU and UK, however, kept those sanctions in place, citing Iran's non-compliance with the terms of the JCPOA.

The EU Council preserved the designations for individuals and entities involved in nuclear or ballistic missile activities or affiliated with the Islamic Revolutionary Guard Corps. The EU Council also maintained sectoral and individual measures, existing under the EU's sanctions regime, notably those related to Iran nuclear proliferation, as well as arms and missile embargoes.⁴⁰

The UK also kept its nuclear sanctions against Iran under one of its two autonomous sanctions regime against Iran.⁴¹

Expansion of the UK sanctions

The UK, however, did not stop at preserving its existing Iran sanctions program. On 14 December 2023, the Iran (Sanctions) Regulations 2023 came into force, creating a new sanctions regime that absorbed Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 and expanded it further. Most importantly, the new regulations provided additional designation grounds for those that have been involved in hostile activity by the government of Iran or hostile activity by an armed group backed by the government of Iran.⁴²

Counter-Terrorism Sanctions

The events of 7 October in Israel led to an increased focus on terrorism-related sanctions designations. Following the attacks by Hamas, the United States introduced five tranches of designations against Hamas and two tranches against the Houthis, who vowed to attack any ships passing the Red Sea and the Gulf of Aden that stop or had stopped at Israeli ports or are connected to Israel, adding dozens of individuals and entities to the list of those subject to blocking sanctions in the United States. Both the EU and UK followed suit by adding individuals and entities to their respective lists of sanctions.

A Year Filled with Guidance

United States

Throughout 2022 and 2023, cooperation increased between and among sanctioned governments as they attempted to assist one another in securing stable streams of revenue (e.g., via oil, petroleum, and other natural resources trade), expanding their military capabilities, and circumventing sanctions and other prohibitions. In response, multiple government agencies and authorities around the world ramped up their efforts to increase awareness of these malign efforts, including by issuing guidance. In 2023 alone, different authorities in the U.S. government issued more than a dozen guidance documents. A brief summary of these documents is included below.

1. Supplemental Guidance for The Provision of Humanitarian Assistance

On 27 February 2023, OFAC issued a “Supplemental Guidance for the Provision of Humanitarian Assistance.” The guidance, applicable across multiple U.S. sanctions programs, provides additional clarity on the reach of economic sanctions for persons involved in the conduct of humanitarian-related activities, including the U.S. government, international organizations and entities, non-governmental organizations, persons involved in the provision of food, other agricultural commodities, medicine, and medical devices, and financial institutions and other service providers who support such activities. The

guidance represents yet another attempt by OFAC to provide assurance to the public that it favors the provision of humanitarian relief if such activities are within the legally permissible scope. If activities are not covered by existing general licenses, OFAC has long been signaling willingness to issue specific licenses on an expedited basis.⁴³

2. Publication of Tri-Seal Compliance Note: Cracking Down on Third-Party Intermediaries Used to Evade Russia-Related Sanctions and Export Controls

On 2 March 2023, BIS, DOJ, and OFAC issued guidance to alert the international community and the private sector of continuous attempts by malign actors to evade sanctions and export controls imposed on Russia in the effort to curb its military capabilities. The Compliance Note details how Russia uses third-party intermediaries and transshipment points to circumvent restrictions and obscure the true identities of Russian end users. The Compliance Note provides common red flags that can indicate a third-party intermediary may be engaged in efforts to evade sanctions or export controls.⁴⁴

3. Supplemental Alert: FinCEN and the U.S. Department of Commerce’s Bureau of Industry and Security Urge Continued Vigilance for Potential Russian Export Control Evasion Attempts

On 19 May 2023, the U.S. Department of the Treasury’s Financial Crime Enforcement Network (“Fin-

Multiple government agencies and authorities around the world ramped up their efforts to increase awareness of these malign efforts, including by issuing guidance.

CEN”) and BIS issued another alert urging U.S. banks to continue to exercise vigilance for potential attempts by Russia to evade U.S. export controls. The alert, which follows a similar alert issued by FinCEN and BIS in June 2022, provides financial institutions additional information regarding new BIS export control restrictions related to Russia, as well as reinforces ongoing U.S. government initiatives designed to further constrain and prevent Russia from accessing the technology and goods needed for its military and defense industrial base. The alert also details typologies used to evade sanctions against Russia.⁴⁵

4. Guidance to Industry on Iran’s UAV-Related Activities

On 9 June 2023, OFAC, BIS, DOJ, and the Department of State issued a joint advisory to alert persons and businesses globally to the threat of Iran’s UAV-related activities and the need to take appropriate steps to prevent any activities that would support the further development of Iran’s program. The advisory highlights effective due diligence policies, compliance structures, and internal controls relevant specifically to Iran’s UAV production sector to ensure compliance with applicable legal requirements across the entire supply chain. The advisory also emphasizes the importance of private industry organizations knowing their legal obligations related to these issues, given the potential extraterritorial applicability of U.S. export controls and sanctions.⁴⁶

5. Russia, Belarus, and Occupied/Covered Regions of Ukraine Best Practices for License Applications for Medical-related Items

Published by BIS on 19 July 2023, this document provides direction to exporters submitting export license applications involving medical-related items destined to Russia, Belarus, and the Occupied/Covered Regions of Ukraine. The guidance emphasizes that the Russian and Belarusian people are not the target of export controls imposed on Russia and Belarus. It also notes, however, that the U.S. government reviews all export license applications to determine if approving the application would benefit the Russian or Belarusian government or defense sector, particularly in case of items that can be used for the treatment of battlefield casualties or for the production of chemical and biological weapons and biotechnological products. With that purpose in mind, the document suggests several practical steps and statements exporters can make in their license applications to

ensure timely consideration and resolution.⁴⁷

6. Publication of Tri-Seal Compliance Note: Voluntary Self-Disclosure of Potential Violations

On 26 July 2023, DOJ, BIS, and OFAC issued this compliance note to summarize procedures for voluntarily self-disclosing violations of U.S. sanctions and export control laws to these agencies. The Compliance Note re-emphasizes that voluntary self-disclosure of potential violations not only can provide significant mitigation of civil or criminal liability, but it also is important in alerting key agencies to activities that may pose a threat to the national security and foreign policy objectives of the United States.⁴⁸

7. Guidance for the Provision of Humanitarian Assistance to Syria

On 8 August 2023, OFAC issued an “OFAC Compliance Communiqué: Guidance for the Provision of Humanitarian Assistance to Syria” in response to questions from non-governmental organizations (“NGO”) and the general public on how to provide such humanitarian assistance while complying with OFAC sanctions. The guidance addresses specific questions OFAC has received in connection with humanitarian efforts in Syria and explains which activities constitute legitimate humanitarian assistance to the Syrian people in compliance with U.S. sanctions.⁴⁹

8. Exporting Commercial Goods: Guidance for Industry and Academia

On 25 September 2023, the United States, acting together with Australia, Canada, New Zealand, and the United Kingdom (collectively referred to as “the Export Enforcement Five”), as well as the EU and Japan, published this joint guidance that identifies Common High Priority Items critical to Russian weapons systems and urges specific actions to prevent diversion of these items to Russia through third countries. The Harmonized System (“HS”) codes on the list include numerous electronic components such as integrated circuits and radio frequency transceiver modules. The guidance also outlines best practices the public can follow to prevent export control violations and provides a list of red flags for use by exporters.⁵⁰

9. Best Practice: Certification to Prevent Diversion to Russia of Highest Priority Items

As noted above, in September 2023, the United States, the UK, the EU, and Japan agreed to release

an updated list of Common High Priority Items, i.e., items they determined are critical for Russia to continue its assault on Ukraine. Following the agreement, on 19 September, BIS published the updated list, which now includes 45 HS codes, together with additional guidance. BIS also notes that the partnering countries prioritize nine such codes as the most significant to Russian weaponry requirements. BIS further recommends exporters implement due diligence and end-user certification controls, along the lines suggested in the guidance, to prevent re-export of these Common High Priority Items via third countries to Russia. Finally, the document also provides a sample written certification form for this purpose that could be used by the industry.⁵¹

10. Exporting Commercial Goods: Guidance for Industry and Academia

On 25 September 2023, the United States, acting together with Australia, Canada, New Zealand, and the United Kingdom (i.e., the Export Enforcement Five), published this joint guidance. While the guidance effectively contains the same items found on the Common High Priority Items critical to Russian weapons systems, it provides additional details, encourages the audience to establish a comprehensive risk-based export control compliance program, and provides a list of red flags for use by exporters.⁵²

11. Advisory for the Maritime Oil Industry and Related Sectors (Best Practices in Response to Recent Developments in the Maritime Oil Trade)

On 12 October 2023, the Price Cap Coalition issued an advisory for the maritime oil industry and related sectors that provides recommendations concerning specific best practices in the industry to prevent and disrupt sanctioned trade and enhance compliance with the price caps on crude oil and petroleum products of Russian Federation origin that had been put in place by the G7, the European Union, and Australia. The advisory, which is directed at both government and private sector actors involved in the maritime trade of crude oil and refined petroleum products, outlines best practices industry stakeholders can adopt to reduce risks while promoting the safe flow of oil in the market.⁵³

12. Guidance for the Provision of Humanitarian Assistance to the Palestinian People

On 14 November 2023, OFAC issued an “OFAC



Compliance Communiqué: Guidance for the Provision of Humanitarian Assistance to the Palestinian People” in response to questions from the NGO community and the general public on how to provide humanitarian assistance while also complying with OFAC sanctions. The guidance clarifies that U.S. sanctions do not stand in the way of legitimate humanitarian assistance to the Palestinian people. Donors seeking to support the Palestinian people are encouraged to donate to trusted organizations.⁵⁴

13. Quint-Seal Compliance Note: Know Your Cargo: Reinforcing Best Practices to Ensure the Safe and Compliant Transport of Goods in Maritime and Other Forms of Transportation

On 11 December 2023, OFAC, BIS, DOJ, the Department of Homeland Security’s Homeland Security Investigations, and the Department of State’s Directorate of Defense Trade Controls (“DDTC”) published this joint compliance note. It provides guidance for all companies involved in the global transport of goods—vessel owners, charterers, exporters, managers, brokers, shipping companies, freight forwarders, commodities traders, and financial institutions—by highlighting common tactics employed by malign actors to circumvent sanctions and export controls. It also describes steps that the maritime and other transportation industries can take to ensure compliance with such U.S. trade regulations and generally describes the role each agency plays in enforcing U.S. laws.⁵⁵

European Union

The EU Commission was also active in providing guidance in 2023. Most importantly, the Commission published the following documents to help industry comply with its increasingly complex restrictive measures.

1. **Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention**

On 7 September 2023, the EU Commission published this detailed guidance highlighting common risks EU operators face in their transactions that may directly or indirectly involve persons, sectors, or services subject to EU sanctions against Russia. The guidance further emphasizes that based on the assessed risks that are unique to each business, including the risk of sanctions circumvention, the EU operators should implement adequate mitigation measures (e.g., conducting enhanced verification of their business partners and their representatives). The document also outlines the essential components for a company's compliance program to prevent circumvention of the EU sanctions against Russia.⁵⁶

2. **Commission FAQs on the Implementation of Council Regulations No 833/2014 and Council Regulation 269/2014**

The EU Commission continued publishing and updating FAQs on Council Regulations 833/2014 and Council Regulation 269/2014 to provide clarification for Member States and EU persons. In 2023 alone, the Commission published and updated 162 FAQs.

United Kingdom

The OFSI and other UK agencies published several sanctions and trade guidance documents, most notably the following:

1. **Guidance on financial sanctions implementation for high value dealers, luxury goods markets, and art market participants**

Published on 18 April 2023, the guidance document includes reminders of how 'high value dealer' and 'art market participants' are defined and outlines some circumvention typologies and best practices for those operating in the art market.⁵⁷

2. **Sanctions systems and controls: firms' response to increased sanctions due to Russia's invasion of Ukraine**

On 6 September 2023, the UK's Financial Conduct Authority ("FCA") published key findings from its 2023 assessments of sanctions systems and controls in financial services firms. The publication provided invaluable insight into FCA's methodology when assessing the strengths and weaknesses of compliance systems across a wide segment of

UK firms. FCA provided examples both of good practices and areas of improvement observed throughout the assessment. There are five key themes in the report: (1) governance and oversight; (2) skills and resources; (3) screening capabilities; (4) Customer Due Diligence and Know Your Customer procedures; and (5) reporting breaches to FCA.⁵⁸

3. **Gold-based Financial and Trade Sanctions Circumvention**

On 8 November 2023, UK's National Crime Agency, along with OFSI and others, issued a red alert to financial institutions and other members of the regulated sector warning that Russia is using gold to undermine the impact of the UK sanctions regime.

4. **Ownership and Control: Public Officials and Control guidance**

OFSI also issued updated guidance on its interpretation of ownership and control. The UK sanctions regime is unique in that, unlike the United States, it applies sanctions restrictions to persons not only owned by designated persons but also those controlled by designated persons. At the same time, the UK sanctions regime is based on strict liability, which increases the burden on the industry to affirmatively establish to what extent a designated person may control another person. In the wake of the UK Court of Appeal's decision in *Mints v. PJSC National Bank Trust and PJSC Bank Otkritie* case, OFSI published the updated guidance on 17 November. Most importantly, the guidance mentioned that "there is no presumption on the part of the UK government that a private entity is subject to the control of a designated public official simply because that entity is based or incorporated in a jurisdiction in which that official has a leading role in economic policy or decision-making."⁵⁹

5. **Red Alert: Exporting High Risk Goods**

In December 2023, the National Crime Agency, along with OFSI, and others, issued the red alert to provide information to UK businesses regarding common techniques used to evade sanctions on the export of high-risk goods, which Russia is using on the battlefield in Ukraine. Similar to guidance issued by authorities in the United States, this alert contains a detailed list of red flags that may suggest circumvention.⁶⁰

Enforcement Actions

United States

OFAC

OFAC brought 17 enforcement actions with a total value of USD 1,541,380,594.08 in 2023.

Compared to 2022, OFAC's enforcement activity in 2023 increased by 6.25% in the number of public actions and by more than 3,500% in the value of total fines. An insurance company, three companies active in crypto currencies, three banks, and two payment companies, among others, were those subject to public enforcement actions.

Perhaps the most prominent sanctions enforcement action of the year was against Binance. Binance Holdings, Ltd. agreed to pay USD 968,618,825 to settle its potential civil liability for 1,667,153 apparent violations of multiple U.S. sanctions programs.⁶¹ Between August 2017 and October 2022, Binance matched and executed virtual currency trades on its online exchange platform between U.S. person users and users in sanctioned jurisdictions or blocked persons. Binance management knew of and permitted the presence of both U.S. and sanctioned jurisdiction users on its platform and did so despite understanding that Binance's trade matching algorithm could cause violations of OFAC-administered sanctions programs due to the presence of U.S. users on the platform. This was a coordinated enforcement action between OFAC, DOJ, and FinCEN that resulted in a total fine of more than USD 4 billion. In an unusual development, as part of the settlement, Binance's CEO, Changpeng Zhao, agreed to plead guilty to failing to maintain an effective anti-money laundering (AML) program and resigned as CEO of Binance.⁶²

Department of Justice

By looking at the number of actions taken in 2023, it is obvious that DOJ has increased its focus on prosecuting violations of U.S. sanctions and export control restrictions.

On 16 February 2023, DOJ and the Commerce Department's BIS announced the creation of the Disruptive Technology Strike Force to target illicit actors, strengthen supply chains, and protect critical technological assets from being acquired or used by nation-state adversaries.

Compared to 2022, OFAC's enforcement activity in 2023 increased by 6.25% in the number of public actions and by more than 3,500% in the value of total fines.

The Disruptive Technology Strike Force—along with the Task Force KleptoCapture, which was created in 2022 to enforce the sweeping sanctions, export restrictions, and economic countermeasures that the United States has imposed in response to Russia's military invasion of Ukraine—brought several actions in 2023. Notable among these actions are criminal charges announced in three cases on 16 May 2023. Two of those cases involved the disruption of alleged procurement networks created to help the Russian military and intelligence services obtain sensitive technology in violation of U.S. laws. The third case involved a Chinese procurement network established to provide Iran with materials used in weapons of mass destruction and ballistic missiles.⁶³

While the focus of the Justice Department primarily has been on Russia, it also brought actions related to other U.S. sanctions program as well, namely Iran.⁶⁴

BIS

On 19 April 2023, BIS announced its largest administrative action ever in the amount of USD 300 million against a California-based company related to their continued shipment of millions of hard disk drives to Huawei in apparent breach of the foreign direct product rule.⁶⁵ Readers will recall that Huawei Technologies Co., Ltd. and 68 of its non-U.S. affiliates (collectively, "Huawei") were added to the Entity List effective 16 May 2019 because they posed a significant risk of involvement in activities contrary to the national security or foreign policy interests of the United States.⁶⁶ Subsequently, in August 2020, BIS expanded the prohibitions by prohibiting exports of foreign-produced items to Huawei, if such items were direct product of

U.S. technology.⁶⁷ While two major competitors of the California company promptly announced termination of their business with Huawei, the company decided to expand it, seemingly believing that its exports continue to be permissible.

BIS also published an informative document that reviews all enforcement actions it took in 2023.⁶⁸

European Union

In 2023, the EU continued to improve its sanctions enforcement mechanism. As a reminder, the enforcement of EU sanctions rests with the Member States. In 2022, the EU Commission worked toward creating more homogenized sanctions enforcement practices among the Member States by submitting a proposal to harmonize criminal offenses and penalties for the violation of EU restrictive measures. The European Parliament and the Council reached a provisional political agreement on 12 December 2023, that brought the EU one step closer to aligning their domestic enforcement efforts.⁶⁹ Once the European Parliament and Council reach the formal final agreement and publish the corresponding Directive, it will be easier to investigate and prosecute sanctions law violations in all Member States in the same way. The Directive will also establish the same level of penalties in all Member States and close many legal loopholes.

In parallel to the EU institutions' work, some Member States brought actions against those who allegedly violated the EU sanctions. For example, in November, a court in the Netherlands sentenced a Russian citizen to 18 months in prison and fined his company EUR 200,000 for breaching the EU sanctions against Russia.⁷⁰

United Kingdom

OFSI enforcement actions remained infrequent in 2023, with OFSI announcing only one enforcement action against a financial technology company for making funds available to a designated person without a license.⁷¹ OFSI did not impose any monetary fine in the case, however, as it used its recently granted authority to disclose a sanctions breach to the public without imposing a penalty. The breach was related to a cash withdrawal of GBP 250 made from a business account the technology company maintained for an entity owned or controlled by a person designated under the Russia Regulations. Despite maintaining sanctions

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screening, the technology company failed to block the cards associated with the account immediately after the designation and thus the designated person could continue to withdraw funds after designation.

Apart from OFSI, the courts in the United Kingdom reviewed sanctions-related cases, including:

1. In March 2023, the High Court of Justice in London ruled against LLC Synesis, a Belarusian technology company, which had challenged its designation as a sanctioned entity under *The Russia (Sanctions) EU Exit Regulations 2019*.⁷²
2. In August 2023, the High Court of Justice in London ruled against Eugene Shvidler, an associate of Roman Abramovich and a director of Evraz plc, who had challenged his designation as a sanctioned individual under *The Russia (Sanctions) EU Exit Regulations 2019*.⁷³
3. In October 2023, the UK Court of Appeal handed down a judgment in the case of *Mints v National Bank Trust and Bank Okritie*, which discussed the UK's "ownership and control" test in UK's sanctions.⁷⁴ This was perhaps the most notable case, which led to the issuance of "Ownership and Control: Public Officials and Control" guidance from OFSI clarifying the notion of control under the UK sanctions.⁷⁵

3. China

Increasing Export Controls and New Economic Restrictions

China and China-related actions, on the other hand, continued to be a key focus of BIS

Stable Front on Financial Sanctions while Export Controls Tightened

There were no new China-related sanctions programs or surprise designations in 2023. OFAC continued to target persons located in China, primarily under the Russia program (including sanctions evasion), North Korea, and Iran. OFAC also designated a substantial number of China-based persons for their involvement in illicit drug trafficking, such as supplying fentanyl precursors and fake pill manufacturing equipment.

China and China-related actions, on the other hand, continued to be a key focus of BIS. Specifically, the Bureau:

- ▶ Further strengthened and expanded export controls on advanced computing semiconductors and semiconductor manufacturing equipment for China (including Hong Kong) and the Special Region of Macau (as well as other countries subject to a U.S. arms embargo such as Russia and Belarus).⁷⁶
- ▶ Implemented new measures to address export controls circumvention risks presented by China and Macau, including by issuing additional red flags guidance and expanding licensing requirements on exports to more than 40 other countries that present high risk of diversion to China.⁷⁷
- ▶ Expanded nuclear export controls on China and Macau, now requiring a license for export, re-export, or in country transfer for all items on the CCL controlled under nuclear nonproliferation category NP2 (as appears in the Commerce's Country Chart).⁷⁸
- ▶ In multiple rounds of designations, added more than 150 Chinese companies and individuals to its Entity List.⁷⁹
- ▶ Imposed its largest ever administrative penalty of USD 300 million against a California-based company for its alleged exports to Huawei Technologies Co. Ltd. in violation of the foreign direct product rule. The conduct in question lasted for approximately 13 months and resulted in prohibited exports to Huawei of more than USD 1.1 billion worth of products.⁸⁰
- ▶ Imposed a USD 2.77 million penalty on a 3D printing company for exports of controlled aerospace technology to China, among other violations.⁸¹

The DOJ also continued to take actions against individuals and entities who exported or attempted to export critical items to China. For example, on 5 December, a

federal indictment was unsealed in the District of Oregon charging a Belgian national in connection with the export of sensitive, military-grade technology from the United States to end users in China.⁸²

Executive Order on Outbound Investments

On 9 August 2023, the Biden Administration issued a new Executive Order "On Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern" ("EO 14105").⁸³ The Executive Order did not introduce any immediate changes or requirements; rather, the EO empowered the Treasury Department to create a program with oversight of U.S. person investments in certain key national security technologies and products ("Covered Products"), if such investments involve covered foreign persons from the "countries of concern." At present, EO 14105 defined China, including Hong Kong and Macau, as the only country of concern.

Although dubbed a "reverse CFIUS," EO 14105 differs in important aspects from the Committee on Foreign Investment in the United States ("CFIUS") and its review of inbound transactions. First, the Executive Order does not contemplate establishing a Committee within the Treasury similar to CFIUS. Instead, the Executive Order empowers the Treasury Department, via its rulemaking authority, either to prohibit U.S. persons from engaging in certain outbound investments outright, or to require such investors to notify Treasury of certain types of investments defined in the future. Second, the Executive Order is limited in scope in that, at present, it only focuses on three key sectors defined to be of national security importance. Specifically, these are sensitive technologies and products in the (i) semiconductors and microelectronics sector; (ii) quantum information tech-



nologies sector; and (iii) artificial intelligence sector. Third, there will be no transaction-by-transaction review of proposed investments under EO 14105. Instead, the market participants will have to determine themselves which investments could fall within the prohibition or notification requirements. On the other hand, however, the Treasury Department will have the authority to void or otherwise compel the divestment of any prohibited transaction, which is similar to the CFIUS program.

Other notable elements of the new Executive Order include:

- ▶ The Executive Order tasks the Treasury Department, in consultation with other U.S. government agencies, to develop regulations establishing the framework of oversight over outbound investments, including definition of the types of transactions involving Covered Products that will be prohibited or that would require notification of the Treasury. The same day the Treasury Department issued Advance Notice of Proposed Rulemaking (“ANPRM”),⁸⁴ noting that it is not a draft regulatory text, but instead is an effort to collect public feedback on some of the initial considerations and views the Treasury has with regard to the framework.
 - The comment period for the ANPRM closed on 28 September 2023; the public, however, will have additional opportunity to shape the final regulations when the Treasury opens them for public comment.
- ▶ The proposed definition of “U.S. person” to be subject to the Executive Order requirements tracks the definition used for the purpose of U.S. sanctions. It includes U.S. citizens and green card holders, wherever located; all persons organized under the laws

of the United States, including their foreign branches; and any person physically in the United States. In addition, the Treasury Department may also place certain obligations on U.S. persons with respect to foreign entities they control and in certain situations where U.S. persons knowingly direct transactions by non-U.S. persons.

- ▶ Both the Executive Order and ANPRM carefully consider which categories of “investment transactions” will be in scope of the new program. For example, the Treasury Department noted that it considers excluding from the program’s coverage U.S. investments into publicly traded securities and their derivatives or intracompany transfers of funds from a U.S. parent to its subsidiary. Instead, the program will focus on types of investments that can convey additional intangible benefits to an investment target, such as acquisition of equity interests (e.g., via mergers and acquisitions, private equity, venture capital, and other arrangements); greenfield investments; joint ventures; and certain debt financing transactions that are convertible to equity.
- ▶ The prohibitions and notification requirement will apply broadly to the above outlined types of transactions involving “covered foreign persons.” In other words, the investment does not have to be limited to the territory of China. Covered foreign persons include: (i) citizens or permanent residents of a country of concern; (ii) any entities organized under the laws of such country or with a principal place of business there; (iii) the government of the country of concern, including any of its political subdivision, political party, agency, or instrumentality or any person acting on behalf of the same; or (iv) any entities owned by any of the above.

Notably, the Executive Order does not prescribe a timeframe for the Treasury Department to develop and finalize its program regulations. It remains to be seen if Treasury will publish the draft and then the final regulations within 2024, which will depend on the volume and quality of the public comments the agency receives in response to the ANPRM and the draft regulations, as well as the need to balance the prohibitions ordered by the Executive Order with the stability and openness of the U.S. investments market.

United States Partially Eases Venezuela Sanctions

On 18 October 2023, OFAC issued or renewed a total of six general licenses authorizing categories of transactions that were previously prohibited under the U.S. sanctions program against Venezuela. The partial sanctions relief was the U.S. government's response to an agreement between Venezuela's Unitary Platform and representatives of President Nicolás Maduro that created a roadmap for democratic elections in the country.⁸⁵

The Department of State signaled that this relaxation of sanctions can be revoked at any time if the representatives of Maduro fail to follow through on their commitments. In particular, the U.S. government expects the Maduro's government to reinstate all candidates who want to run for president in Venezuela and to begin the release of all political prisoners.⁸⁶

The general licenses issued by OFAC authorize broad categories of the following activities, subject to the conditions stated in the licenses:

- ▶ All secondary market transactions in a long list of specified bonds issued by the government of Venezuela or state-owned entities ("GL 3I Bonds"), including purchases of GL 3I Bonds by U.S. persons.
- ▶ All secondary market transactions in bonds and equities issued by *Petróleos de Venezuela, S.A.* ("PDVSA") or its majority owned subsidiaries, prior to 25 August 2017, including, again, authorization for U.S. persons to purchase such securities.
- ▶ All secondary market transactions in bonds issued prior to 25 August 2017, by PDV Holdings, CITGO Holdings, or their majority owned subsidiaries (this authorization existed in prior versions of GL 9 and did not prohibit U.S. persons from purchasing such securities).
- ▶ Through 18 April 2024, all transactions that are related to oil or gas sector operations in Venezuela, including, for example, production, lifting, sale, and exportation of oil or gas from Venezuela and provision of related goods and services; payment of invoices for goods or services related to oil or gas

sector operations in Venezuela; and new investment in these sectors in Venezuela.

- ▶ All transactions involving CVG *Compania General de Minería de Venezuela CA* ("Minerven"), the Venezuelan state-run metals mining company active in the country's gold sector, or any of its majority owned subsidiaries.
- ▶ All transactions with *Consortio Venezolano de Industrias Aeronáuticas y Servicios Aéreos, S.A.* ("Conviasa") or its majority owned subsidiaries, but only to the extent that they are incident to the repatriation of Venezuelan nationals from countries in the Western Hemisphere⁸⁷ other than the United States.

OFAC also issued a series of FAQs related to this action.⁸⁸ Notably, the FAQs clarify that all sanctions related to the primary bond market of Venezuela remain in place. On the other hand, the lifting of the secondary market restrictions, allowing U.S. persons to trade in Venezuela securities, and opening an opportunity to restructure some of the Venezuela debt, provides long awaited relief for the market participants, as the Venezuela securities market remains somewhat liquid.⁸⁹

In connection with allowing transactions with Minerven, OFAC noted that it does not intend to apply secondary sanctions to target persons solely for operating in the gold sector of the Venezuelan economy. OFAC also stated that the oil and gas sector-related general license will be renewed only if the Maduro representatives meet their commitments. Finally, since Venezuela has been known to work closely with Russia, the oil and gas general license excludes from its authorizations any Russia-owned entities

Since Venezuela is largely a U.S.-driven sanctions program, there were no updates to Venezuela sanctions from either EU or UK authorities apart from the EU extending the program until mid-2024.

in Venezuela, any joint ventures formed with Russia, or any new investment in Venezuela by Russian persons.

European Union and United Kingdom

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It remains to be seen if the sanctions relaxation will remain in place in 2024. On 1 December 2023, the State Department issued a statement that while the Maduro regime has met some of its commitments, the U.S. government continues to be concerned with the lack of progress releasing political prisoners.⁹⁰ This may lead to a snapback of U.S. sanctions. Even more alarming is a series of inflammatory statements by Maduro and recent

military exercises in late 2023, threatening the territorial integrity of Guyana due to the country's large oil and gas reserves. Maduro then held a referendum in Venezuela during which the voters "approved" Venezuela's claim of sovereignty over Essequibo, a region that represents two thirds of Guyana.⁹¹ Since Guyana is a former British territory, it is possible that the UK may revisit its sanctions regime in the future should the situation deteriorate.

Note: as of the date of this publication, on 30 January 2024, the U.S. Government announced that the Maduro regime failed to meet its commitments. Therefore, OFAC does not intend to renew General License 44 (the oil & gas sector relief) after its expiration on 18 April 2024. OFAC also revoked General License 43, allowing trade with Minerven, effective 30 January 2024 (subject to a winddown period until 13 February 2024).⁹²

OFAC Continues Targeting Crypto Wallet Addresses

OFAC continued to target digital currency wallet addresses in its 2023 designations, in particular in connection with its Counter Narcotics/Illicit Drugs and Counter Terrorism designations. Other programs under which OFAC targeted digital wallets include Iran, North Korea, Russia, and Cyber-related programs.

In 2023, OFAC designated a total of 65 digital wallet addresses. The most notable designations include:

- ▶ On 23 August 2023, OFAC designated Roman Semenov, a co-founder of the previously sanctioned virtual currency mixer, Tornado Cash, and wallets tied to him. The press release noted that all three Tornado Cash co-founders have been indicted and/or arrested in the United States and the Netherlands. OFAC described in detail Semenov's close involvement in laundering virtual currency on behalf of the Lazarus Group, a North Korea state-sponsored hacking group.

- ▶ On 18 October 2023, OFAC targeted a digital wallet of an entity linked to fundraising campaigns for Hamas and other terrorist organizations.
- ▶ On 3 November 2023, OFAC designated three digital addresses of Ekaterina Zhdanova, who was also designated that day. OFAC stated in its press release that Zhdanova has been notoriously known to help Russian sanctioned persons and elites launder and/or move their funds abroad using virtual currency. In one instance, for example, a Russian oligarch sought Zhdanova's services to move more than USD 100 million in wealth to the UAE. Once outside of Russia, but still under their control, the oligarchs could continue moving the funds around the world, without triggering suspicion from foreign correspondent banks.



In 2023, OFAC designated a total of 65 digital wallet addresses.

OFAC's Increased Focus on Persons Engaged in Illicit Drug Activity

Year 2023 saw a total of 19 OFAC actions designating persons for engaging in illicit drug trade. Most of the designations focused on identifying vast networks of individuals and entities engaged in fentanyl production, supply, and trafficking in Mexico and China. OFAC also designated a large number of entities assisting in either laundering illicit drugs proceeds or helping drug cartels generate additional sources of revenue. The United States continues to battle the fentanyl epidemic, which caused approximately 74,000 deaths in the United States in 2022 and since 2016 remains the number one cause for drug-related deaths in the United States.⁹³

Key designations include:

- ▶ 28 individuals and entities in China and Canada that were part of a China-based network responsible for the manufacturing and distribution of ton quantities of fentanyl, methamphetamine, and ecstasy precursors.
- ▶ 17 individuals and entities based in China and Mexico involved in the sale of counterfeit pill-generating equipment, such as pill presses, die molds, and other equipment used to produce illicit pills, often laced with fentanyl.
- ▶ A network of three individuals and 13 companies linked to a timeshare fraud led by the Cartel de Jalisco Nueva Generacion, a violent Mexican cartel and a leading narcotics trafficker into the United States.
- ▶ 15 individuals and two companies, all members of the Beltran Leyva Organization, another cartel based in Mexico.
- ▶ Multiple designations of Sinaloa Cartel members and associated entities, including its Los Chapitos faction.

Most of the designations focused on identifying vast networks of individuals and entities engaged in fentanyl production, supply, and trafficking in Mexico and China



Horizon Scanning

It has become increasingly difficult to predict future developments in sanctions programs and export controls, considering the emergence and rapid expansion of measures targeting Russia, as well as ever-shifting dynamics across the broader geopolitical landscape. We assess, however, that it is reasonable to expect the following to happen:

- ▶ Continuous designation of individuals and entities under the Russia sanctions programs of the United States, EU, and UK. As most of the individuals and entities close to the circle of power in Moscow and Russian military are already sanctioned, additional designations are expected to be focused on persons who continue to bring significant revenue for the Russian state, as well as persons circumventing sanctions and export controls.
- ▶ In addition to designations, government authorities will continue to focus on detecting and prosecuting the vast mushrooming network of third country and offshore entities assisting Russia in its efforts to evade sanctions.
- ▶ Given the expanded secondary sanctions authority under the U.S. Russia sanctions program, it is also likely the U.S. government will start targeting foreign financial institutions that either proactively maintain accounts for certain Russian persons or willfully turn a blind eye to their clients' circumvention of U.S. sanctions and export controls.
- ▶ As financial aid from the G7 countries to Ukraine has slowed, the key area to watch is the domestic and international willingness to begin the process of transferring frozen Russian state assets to fund reconstruction efforts in Ukraine. While there are key legal predicaments to this, the idea has been gaining traction in the EU and United States.
- ▶ If the conflict in the Middle East continues to expand, more sanctions, especially blocking sanctions, could be levied upon those supporting Iran, Hamas, Houthis, and other Iran proxies. Cutting off financial support to such nefarious actors will remain the top priority.
- ▶ China will remain a key jurisdiction to watch, as Taiwan has elected the new president and tensions in the Taiwan Strait remain high. The willingness to expand or impose new types of restrictions on China, as well as the G7 cooperation on China-related issues, will also largely depend on the results of the U.S. presidential election in November 2024.
- ▶ Export controls will remain the main focus of the G7 countries.
 - The already-complex web of rules will continue to expand;
 - Likely more Items will be added to the list of High Priority Items; and
 - Expect to see more cooperation across the G7 countries on limiting the types of technology available for export to China.
- ▶ We may see an increased number of enforcement actions out of OFAC, OFSI, and sanctions authorities of the EU Member States related to violation of sanctions against Russia. The program has been in place for two years, so it is possible that some investigations currently underway may begin to settle. Separately, BIS has implemented a number of key changes to fast-track resolution of minor or technical violations so that it may focus its resources on more significant violations of the EAR, some of which may settle in 2024.



ENDNOTES

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