

## UKRAINE: THE LATEST GLOBAL SANCTIONS AND EXPORT CONTROLS

The following briefing provides an overview of the sanctions and export controls imposed by the US, EU, UK, Japan, Singapore and Australia, as well as measures adopted in response by Russia, **as of 9pm GMT, 3 March 2022.**

These new sanctions are complex, multilateral and continue to be incrementally changing in real time in response to the developments on the ground in Ukraine. Our team of sanctions experts is monitoring the situation closely and we will endeavor to keep our briefings up to date.

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**Material changes since our last summary on 2 March 2022 are included in red text for ease of identification.**

## US SANCTIONS

On 26 February 2022, the Biden administration issued a joint [statement](#), together with the governments of the UK, France, Germany, Italy, Canada and the European Commission in which it was stated that steps would be taken to:

- Ensure that selected Russian banks are removed from the SWIFT messaging system. We expect this will take the form of a restriction imposed in a Regulation in the EU on the provision of financial messaging services for specified Russian banks (as was the case when the same applied under EU sanctions on Iran).
- Impose sanctions that will prevent the Russian Central Bank from deploying its international reserves in ways that undermine the impact of the sanctions (see below)
- Impose additional sanctions including measures to limit the sale of citizenship—so called golden passports—that let wealthy Russians connected to the Russian government become and gain access to our financial systems.
- launch a transatlantic task force that will ensure the effective implementation of financial sanctions by identifying and freezing the assets of sanctioned individuals and companies. This may involve imposing sanctions and other financial and enforcement measures on additional persons.

US sanctions measures to address the above, and other matters may be expected in the coming days.

### ***SDN Listings***

Since 22 February 2022, the US has imposed blocking sanctions on the following individuals and entities by listing them as Specially Designated Nationals ("SDNs") under the authority of [Executive Order \("EO"\) 14024](#) or [EO 14039](#) :

- Six major Russian financial institutions, Vnesheconombank (VEB), Promsvyazbank (PSB), VTB Bank (VTB), Bank Financial Corporation Otkritie (Otkritie), Sovcombank (Sovcombank) and Novikombank (Novikombank), as well as 96 of their subsidiaries;
- Vladimir Putin, the President of the Russian Federation, and Sergei Lavrov, Sergei Shoigu and Valery Gerasimov, Russia's Minister of Foreign Affairs, Minister of Defense and Chief of the General Staff of the Russian Armed Forces;
- Nord Stream 2 AG, the Nord Stream 2 pipeline operating company, and Matthias Warnig, the Chief Executive Officer (CEO) of Nord Stream 2 AG;
- The Russian Direct Investment Fund (RDIF), Limited Liability Company RVC Management Company, Joint Stock Company

Management Company of the Russian Direct Investment Fund and Kirill Aleksandrovich Dmitriev, the CEO of RDIF;

- Denis Aleksandrovich Bortnikov, Vladimir Sergeevich Kiriyaenko, Sergei Sergeevich Ivanov, Andrey Patrushev and Ivan Igorevich Sechin, the sons of five previously designated individuals that are in Vladimir Putin's inner circle;
- Petr Mikhailovich Fradkov, the Chairman and CEO of PSB, Alexander Aleksandrovich Vedyakhin, the First Deputy Chairman of the Executive Board of Sberbank of Russia (Sberbank), Andrey Sergeevich Puchkov and Yuriy Alekseyevich Soloviev, both of whom are high-ranking VTB executives, as well as Mr. Soloviev's wife and two real estate companies owned by Mr. Puchkov; and
- Five vessels, the Baltic Leader, Linda, Pegas, Fesco Magadan and Fesco Moneron, owned by a subsidiary of PSB

To coincide with these designations, the US Department of the Treasury's Office of Foreign Assets Control ("OFAC") simultaneously issued general licenses authorizing:

- transactions with VEB and its 50% or more directly or indirectly owned subsidiaries that are ordinarily incident and necessary to the servicing of bonds issued before 1 March 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;
- transactions that are ordinarily incident to the wind down of transactions involving VEB or its subsidiaries until 24 March 2022;
- transactions that are ordinarily incident and necessary to the wind down of transactions involving Nord Stream 2 AG and its 50% or more directly or indirectly owned subsidiaries until 2 March 2022; and
- transactions that are ordinarily incident to the wind down of transactions involving VTB, Otkritie and Sovcombank and their 50% or more owned subsidiaries until 26 March 2022.

On 24 February 2022, the US also imposed blocking sanctions, under the authority of [EO 14038](#), on a number of Belarusian state-owned banks, including Belinvestbank and Bank Dabrabyt, and entities and individuals operating in the Belarusian defense and security industries for the support provided by Belarus for Russia's actions in Ukraine.

The blocking sanctions under the above reference EOs require US Persons to block the property and property interests of SDNs and entities owned 50% or more by them directly or indirectly ("**Blocked Persons**") in their possession or control. OFAC defines "**US Persons**" to include US citizens or green-card holders globally, anyone physically located in the US, and any US domiciled entity, including their non-US branches. OFAC also requires non-US persons

to comply with the sanctions whenever their transactions involve US Persons or the US financial system ("US Elements").

### ***Correspondent and Payable-Through Account Sanctions (CAPTA Sanctions) - Sberbank***

On 24 February 2022, OFAC issued [Directive 2](#) under EO 14024 that prohibits, absent an applicable OFAC license or exemption, US financial institutions, as of 26 March 2022, from opening or maintaining correspondent or payable-through accounts for: (1) Sberbank; (2) the 25 Sberbank subsidiaries listed in Annex 1 to Directive 2; and (3) any other foreign financial institution, as defined in Directive 2, that is 50% or more owned by Sberbank. Directive 2 also prohibits US financial institutions from processing any transactions involving these entities or their property, or in which these entities have an interest.

### ***Prohibitions Related to New Debt and Equity***

Also on 24 February 2022, OFAC issued [Directive 3](#) under EO 14024, which prohibits the involvement, absent an applicable OFAC license or exemption, of US Elements in transactions or dealings involving new debt of longer than 14 days maturity or new equity, issued on or after 26 March 2022, of the following companies (and any entities owned 50% or more, directly or indirectly, by them):

- Credit Bank of Moscow
- Gazprombank
- Alfa-Bank
- Russian Agricultural Bank
- Sovcomflot
- Russian Railways
- Alrosa
- Gazprom
- Gazprom Neft
- Rostelecom
- Rushydro
- Sberbank
- Transneft

## ***Prohibitions on Transactions Involving the Central Bank of the Russian Federation***

On 28 February 2022, OFAC issued [Directive 4](#) under EO 14024 prohibiting, absent an applicable license or exemption, the involvement of US Elements in any transaction involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, including any transfer of assets to such entities or any foreign exchange transaction for or on behalf of such entities.

## ***Russian Sovereign Debt***

On 22 February 2022, OFAC issued new [Directive 1A](#) under EO 14024 that prohibits US financial institutions from participating, as of 1 March 2022, in the secondary market for ruble or non-ruble denominated bonds issued after 1 March 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. This expands the pre-existing US sanctions that continue to prohibit US financial institutions from lending to or participating in the primary market for ruble or non-ruble denominated bonds issued by the above Russian issuers as of 14 June 2021.

## ***Donetsk and Luhansk Regions***

The Biden Administration has issued new US sanctions on trade and commerce involving parts of the Donetsk and Luhansk regions of Ukraine, equivalent to the US sanctions on Crimea.

Specifically, on 21 February 2022 President Biden signed an [EO 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" (the "**EO 14065**"). EO 14065 prohibits:

- new investment in the so-called Donetsk People's Republic ("**DNR**") and Luhansk People's Republic ("**LNR**") regions of Ukraine by US Persons, wherever located;
- the import into the United States, directly or indirectly, of any goods, services, or technology from the DNR and LNR regions;
- the exportation, re-exportation, sale or supply, directly or indirectly, from the United States, or by a US Person, wherever located, of any goods, services, or technology to the DNR and LNR regions; and
- any approval, financing, facilitation or guarantee by a US Person, wherever located, of any transactions by a non-US person that the sanctions would prohibit a US Person from engaging in directly.

OFAC also has issued six general licenses authorizing certain activity in the DNR and LNR regions otherwise prohibited by EO 14065. In summary the new general licenses are:

- General License 17: authorizes all transactions that are ordinarily incident and necessary to the wind down of transactions involving the DNR and LNR regions of Ukraine until 23 March 2022. Authorized transactions include the divestiture or transfer to a non-US person of a US Person's share of ownership in any pre-21 February 2022 investment located in these regions, and the winding down of operations, contracts, or other agreements in effect prior to 21 February 2022 involving exports, reexports, sale or supply of goods, services or technology to, or importation of any goods, services, or technology, from these regions of Ukraine.
- General License 18: authorizes all transactions that are ordinarily incident and necessary to the export or re-export of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices, to the DNR and LNR regions. Also authorizes transactions related to the prevention, diagnosis and treatment of COVID-19 in those regions.
- General License 19: authorizes all transactions that are ordinarily incident and necessary to the receipt of telecommunications and mail involving the DNR and LNR regions.
- General License 20: authorizes all transactions that are for the official business of certain international organizations (such as the United Nations) by their employees, grantees or contractors in the regions.
- General License 21: authorizes all transactions that are ordinarily incident to the transfer of non-commercial personal remittances to or from the DNR and LNR regions, or for or on behalf of an individual ordinarily resident in those regions. Also authorizes transactions ordinarily incident and necessary to maintaining, operating, or closing an account of an individual ordinarily resident in those regions, other than an SDN, provided that the transactions processed through the account are (i) of a personal nature and not for the benefit of an entity, including supporting or operating a business, and (ii) do not involve transfers directly or indirectly to the DNR or LNR or for the benefit of persons ordinarily resident in the DNR or LNR unless the transfers are non-commercial personal remittances.
- General License 22: Authorizes all transactions that are ordinarily incident and necessary to the exportation or re-exportation, directly or indirectly, from the United States or by US Persons, wherever located, to persons in the DNR and LNR regions, of services incident to the exchange of personal communications over the internet.

OFAC has not yet issued any SDN designations under the EO 14065 but has the authority to do so for persons determined to have engaged in sanctionable activity, such as persons operating in DNR and LNR after issuance of EO

14065 and persons who are leaders or officials of entities operating in those regions after issuance of the EO 14065.

### ***Additional General Licenses***

Since 24 February 2022, OFAC issued the following general licenses under EO 14024:

- General License 5: authorizes transactions for the conduct of the official business of: (1) the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency; (2) the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and (3) the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies
- General License 6: authorizes transactions related to the exportation or re-exportation of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to, from or transiting Russia. Also authorizes transactions for the prevention, diagnosis, or treatment of COVID-19, including research or clinical studies.
- General License 7: authorizes transactions for the receipt of and payment of charges for, services rendered in connection with overflights of Russia, or emergency landings in Russia by US registered aircraft or aircraft owned or controlled by or chartered to US Persons. Also authorizes transactions to provide air ambulance services to individuals in Russia.
- General License 8A: authorizes, through 23 June 2022, transactions involving one or more of the following entities that are related to "energy" (as defined in the general license): (1) VEB, Otkritie, Sovcombank, Sberbank, VTB and any entity owned 50% or more, directly or indirectly, by these financial institutions; and (2) the Central Bank of the Russian Federation.
- General License 9A: authorizes, through 24 May 2022, transactions that are ordinarily incident and necessary to dealings in debt or equity of one or more of the following entities provided that any divestment or transfer of, of facilitation of divestment or transfer of, covered debt or equity is to a non-US person: VEB, Otkritie, Sovcombank, Sberbank, VTB and any entity owned 50% or more, directly or indirectly, by these financial institutions. Also authorizes transactions that are ordinarily incident and necessary to facilitating, clearing, and settling trades in covered debt or equity through 24 May 2022 provided that the trades were placed prior to 4:00 pm US eastern time on 24 February 2022. **All transactions prohibited by Directive 4 under**

EO 14024 that are ordinarily incident and necessary to the receipt of interest, dividend, or maturity payments in connection with debt or equity of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation issued before 1 March 2022, are authorized through 24 May 2022.

- General License 10A: authorizes, through 24 May 2022, transactions that are ordinarily incident and necessary to the wind down of derivative contracts entered into prior to 4:00 pm US eastern time on 24 February 2022 that (i) include one of the following entities as a counterparty or (ii) are linked to debt or equity of a covered entity, provided any payments to a blocked person are made to a blocked account: VEB, Otkritie, Sovcombank, Sberbank, VTB and any entity owned 50% or more, directly or indirectly, by these financial institutions. All transactions prohibited under Directive 4 under EO 14024 that are ordinarily incident and necessary to the wind down of derivative contracts, repurchase agreements, or reverse agreements with the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation as a counterparty entered prior to 1 March 2022 are authorized through 24 May 2022. GL 10A does not authorize the opening or maintaining of a CAPTA for or on behalf of an entity subject to Directive 2 under EO 14024, any debit to an account on the books of a U.S. financial institution of Directive 4 entities, or any transactions otherwise prohibited.
- General License 12: authorizes US Persons, until 26 March 2022, to reject (instead of blocking) transactions involving: Otkritie, Sovcombank, VTB and any entity owned 50% or more, directly or indirectly, by these financial institutions.
- General License 13: authorizes, through 23 June 2022, US persons to pay taxes, fees, or import duties, and purchase or receive permits, licenses, registrations, or certifications, the extent such transactions are prohibited by Directive 4 under EO 14024 provided such transactions are ordinarily incident and necessary to such persons' day-to-day operations in the Russian Federation. GL 13 does not authorize any debit to an account on the books of a US financial institution of the Central Bank or the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation.
- General License 14: authorizes transactions prohibited by Directive 4 under EO 14024 involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation if the entity's sole function in the transaction is to act as an operator of a clearing and settlement system, provided that (i) there is no transfer of assets to or



from any Directive 4 entity, unless separately authorized; and (ii) no Directive 4 entity is either a counterparty or a beneficiary to the transaction, unless separately authorized. GL 14 does not authorize any debit to an account on the books of a US financial institution of any Directive 4 entity.

- General License 15: authorizes transactions prohibited by the Russian Harmful Foreign Activities Sanctions Regulations ("RuHSR") involving any entity owned 50% or more, directly or indirectly, by Alisher Burhanovich Usmanov that is not an SDN, unblocks all property interests of the blocked Usmanov entities, and authorizes debits to accounts on the books of US financial institutions of blocked Usmanov entities. GL 15 does not authorize any transactions otherwise prohibited by the RuHSR, including Alisher Burhanovich Usmanov, or his property interests, other than the blocked Usmanov entities.

OFAC also issued the following general licenses under Belarus-related EO 14038:

- General License 6: authorizes transactions involving the official business of the United States Government by its employees, grantees or contractors.
- General License 7: authorizes transactions involving the official business of certain international organizations, including: (1) the United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations; (2) the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency; (3) the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and (4) the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.

## US EXPORT CONTROLS

On 24 February 2022, the Department of Commerce's Bureau of Industry and Security ("**BIS**") issued a Final Rule, *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)* (the "[Russia Final Rule](#)"), which significantly expands existing export controls on Russia. The new EAR measures primarily target Russia's defense, aerospace, and maritime sectors, and are designed to restrict the export and reexport of highly sensitive US technologies to Russia. **In particular,**

the Russia Final Rule "*imposes comprehensive export, reexport and transfer (in-country) restrictions*" on the Donetsk and Luhansk regions, which align with existing restrictions on the Crimea region of Ukraine and imposes a policy of denial to license applications for all three regions.

Further, on 2 March 2022, the Department of Commerce's Bureau of Industry and Security ("BIS") issued as a final rule the "Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR)" (the "Belarus Final Rule"), effective 2 March, which extended to Belarus many of the same restrictions applicable to Russia since 24 February 2022 and further expanded the restrictions as to Russia. BIS also issued 24 February Russian restrictions as a final regulation, entitled Further to the Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR) (the "Russia Final Rule"). issued by the Department of Commerce's Bureau of Industry and Security ("BIS"), on 2 March 2022, BIS issued additional export controls restrictions, specifically targeting Belarus. The new restrictions, titled the "Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR)" (the "Belarus Final Rule") is effective as of 2 March 2022. Collectively, the Russia Final Rule and the Belarus Final Rule significantly expand existing export controls on Russia and Belarus. The Russia Final Rule primarily targets Russia's defense, aerospace, and maritime sectors, and is designed to restrict the export and reexport of highly sensitive US technologies to Russia. The Belarus Final Rule aims to prevent diversion of items, technologies, and software through Belarus to Russia, as well as impose similar restrictions on Belarusian defense, aerospace, and maritime sectors.

The changes under the Russia Final Rule were effective on 24 February 2022. The changes under the Belarus Final Rule were effective on 2 March 2022. As discussed further below, a very narrow savings clause applies to certain transactions through 26 March 2022.

Combined, the pre-existing restrictions in the Russia Final Rule and the new Belarus Final Rule restrictions:

- expand EAR export controls jurisdiction and impose new license requirements on a broader group of items subject to the EAR;
- expand export controls on Russian "military end users" and "military end uses"; ("**MEUs**"), adds Belarus to the list of countries subject to the controls on MEUs and also includes Belarus in the same expanded MEU controls which the Russia Final Rule imposed on Russia;
- create two new Foreign Direct Product ("FDP") Rules – one broadly applicable to **each of Russia and Belarus** as a country and the other specifically directed at Russian **and Belarusian** "military end users" – which serve to further expand EAR export controls jurisdiction to items manufactured wholly outside of the United States; and

- imposes changes which will make it more difficult to obtain licenses or other authorizations to export, reexport, or transfer (in country) items subject to the EAR to Russia **and Belarus**.

## ***Overview of the EAR***

The EAR has broad jurisdiction and applies extraterritorially to items subject to the EAR everywhere in the world. EAR jurisdiction "follows the goods." This means that the EAR regulates exports, reexports, and transfers of covered items globally, even if the transaction is between non-US persons and takes place outside the United States. Depending on the type of item, the destination, the end user, and the end use, a license may be required from the BIS for the export, reexport, or transfer of the item.

Items subject to the EAR can include:

- Items anywhere in the world produced or manufactured in the United States;
- Items in or exported from the United States, regardless of where they were manufactured;
- Items manufactured outside the United States that include certain percentages (de minimis) of controlled US-origin content; and, in certain cases,
- Items manufactured outside the United States (i.e., foreign-produced items) that are the direct product of certain controlled US technology or software, or by a plant or a major component of a plant that is itself a direct product of such technology or software.

Accordingly, even wholly non-US entities intending to reexport items subject to the EAR to Russia **and Belarus** may be captured by the new restrictions.

While the new measures are specifically directed at the Russian, **and Belarusian**, defense, aerospace, and maritime sectors, **including their supply chain companies**, the measures will likely have a significant impact on other industrial sectors. This is because the new restrictions include most technology, including general electronics and computers as well as telecommunications and information security.

## ***License Requirements for Additional Categories of Items Subject to the EAR***

Export Control Classification Numbers ("**ECCNs**") in Categories 3–9 of the Commerce Control List ("**CCL**"), which include Electronics, Computers, Telecommunications and Information Security, Sensors and Lasers, Navigation and Avionics, Marine, and Aerospace and Propulsion, now have new license requirements for the export, reexport, or transfer (in country) of these items to Russia **and Belarus**. All ECCNs in these categories will require a license for Russia and Belarus unless a license exception applies, or the

transaction is otherwise specifically excluded from the new license requirements.

These additional license requirements are "*intended to further restrict items to the Russian military and defense sector*" and in the case for Belarus "*intended to restrict items to and within Belarus, thereby reducing the risk of diversion to the Russian military and Russian defense sector,*" but, in practice, have much broader implications. For example, the expanded license requirements apply to certain parts and components used in civil aircraft, which previously did not require a license to Russia, or Belarus.

In addition, items under these ECCNs now will be relevant for de minimis calculations. Businesses wholly outside of the United States will now therefore need to account for these new restrictions when conducting export jurisdiction determinations and evaluating potential exports and reexports to Russia, or Belarus.

### ***Military End Use and End User ("MEU") Rule for Russia and Belarus***

The Russia Final Rule also expands the scope of the MEU rule, as it applies to Russia. Under this amended rule, a license is required if a party knows or has reason to know that any items subject to the EAR (other than very narrow exceptions for certain items such as EAR99 food and medicine) are intended for an MEU in Russia even if the item is actually intended for civilian use.

Notably, the Belarus Final Rule adds Belarus (which previously was not subject to the MEU rule), to the list of countries subject to the MEU rule and includes Belarus in the same expanded version of the MEU rule that the Russia Final Rule imposed on Russia.

In addition, the Russia Final Rule transfers 45 Russian entities – including many prominent Russian entities active in the defense, technological, and aerospace and aviation sectors – from the MEU List (a list of entities specifically subject to the MEU Rule) to the BIS Entity List, as well as adds two new Russian entities to the Entity List.

The Belarus Final Rule adds two new Belarusian entities to the Entity List, including the Belarussian armed forces. These Russian and Belarusian entities are denoted with a "footnote 3" designation on the Entity List, which subjects them to additional license requirements under the EAR (discussed below).

Entities on the Entity List are prohibited from receiving specified items subject to the EAR without a license. BIS has stated that additional entities may be added in the future.

## ***New Foreign Direct Product ("FDP") Rules Specific to Russia, and Belarus***

The Final Rule creates two new FDP rules specific to Russia, and the Belarus Final Rule adds Belarus to both of the new FDP Rules, named:

- the "Russia/ Belarus FDP Rule"; and the
- "Russia / Belarus-MEU FDP Rule."

The new FDP rules are very technical, but will primarily impact non-US entities who source US content for further manufacture or incorporation into their products.

The new measures are designed to restrict the flow of wholly-foreign made items (with certain US content) to within Russia, and Belarus:

- The **Russia/ Belarus FDP Rule** asserts BIS export licensing jurisdiction over items manufactured wholly outside of the United States, when the items are either: 1) the direct product of US-origin software or technology listed in ECCN categories 3-9; or 2) manufactured by plants or major components of plants which are themselves the direct product of such software or technology. Such foreign produced items which would be classified as EAR99 are excluded. The Russia/ Belarus FDP Rule applies to transactions in which the parties know or have reason to know a foreign-produced item **meeting the above direct product criteria** ultimately is destined for Russia, or Belarus, or will be incorporated into or used for production/development of parts, components, or equipment that is ultimately destined for Russia, or Belarus. These transactions will require a BIS license, and the applications will be subject to a policy of denial. This is a new use of controls on foreign-produced items, and it significantly expands US export control jurisdiction over items produced outside the United States.
- The newly introduced **Russia-Belarus MEU FDP Rule** expands the export licensing jurisdiction in a manner similar to the Russia/ Belarus FDP Rule, as it renders certain items manufactured wholly outside of the United States subject to the EAR **for transactions involving Russian or Belarusian entities that have been assigned a footnote 3 designation on the Entity List (footnote 3 designated entities)**". As noted above, currently, a total of 47 Russian and 2 Belarusian entities have been assigned as footnote 3 designated entities. Unlike the Russia/Belarus FDP Rule, the Russia/Belarus-MEU FDP Rule renders foreign produced items subject to the EAR when the items are either: 1) the direct product of US-origin software or technology listed in any ECCN; or 2) manufactured by plants or major components of plants which are themselves the direct product of such software or technology. Further, the Russia/Belarus-MEU FDP Rule

does not exclude EAR99 items – which means it could ultimately capture a much broader group of products, including "humanitarian" items such as food and medicine. Further, the Russia/Belarus-MEU FDP Rule applies specifically in instances involving entities carrying the footnote 3 designation. Generally, if there is knowledge that the foreign produced item will be used or further incorporated by a footnote 3 designated entity, or even if a footnote 3 designated entity is otherwise a party to the transaction, the transaction will be subject to the new FDP restrictions – even if conducted wholly outside of the United States, with no US person or entity involvement.

- The Russia-MEU FDP Rule is limited to Russian Military End Users (denoted with a "footnote 3" designation on the Entity List entry according to the BIS [Fact Sheet](#)). Unlike the Russia FDP Rule, the Russia-MEU FDP Rule includes EAR99 items produced by certain technology or software (subject to exceptions) as controlled content. As noted above, a total of 47 Russian entities were added to the Entity List and given a footnote 3 designation.

The Russia / Belarus FDP Rule and Russia-Belarus MEU FDP Rule impose license requirements to reexport, export from abroad, or transfer (in-country) controlled items "to any destination" if known that the ultimate destination is Russia or Belarus or that there is the requisite involvement of a footnote 3–designated entity.

This is designed to address multi-country manufacturing processes, as the license requirements will apply to, for example, exports and reexports from one manufacturing country to another so long as it is known that the item is ultimately destined for Russia / Belarus or to be "incorporated into or used in the production or development of any part component or equipment . . . produced in or ultimately destined" to Russia / Belarus.

A savings clause is included in both the Russia/Belarus FDP Rule and the Russia/Belarus-MEU FDP Rule, which makes narrow exceptions for certain shipments of items already en route aboard a carrier to a port of export, reexport, or transfer (in country) by/on 26 March 2022.

### **Exclusion of Certain Countries from the Expanded Licensing Requirements for Russia and Belarus**

Countries identified by BIS on the so-called "Russia and Belarus Exclusions List" under the EAR are carved out from certain of the expanded Russia and Belarus license requirements.

These are countries that BIS has determined "are committed to implementing substantially similar export controls" on Russia Belarus, and notably include NATO countries and partner nations. Countries included on this list are excluded – in whole or in part – from the requirements under the new Russia/Belarus FDP rules (both the general and MEU FDP rule) and the

expanded *de minimis* application to items controlled only for anti-terrorism (AT) reasons or for 9A991 items, which notably include certain aircraft and related parts and components.

## Other Key Changes

- **Limitations on EAR License Exceptions for Russia and Belarus**

There are very narrow circumstances in which a license exception will overcome requirements imposed under the Russia Final Rule or Belarus Final Rule. Available license exceptions are restricted to only certain sections of the EAR Part 740 exceptions for Temporary Imports, Exports, Reexports, and Transfers in Country (TMP); certain government activities (GOV); Technology and Software Unrestricted (TSU); Baggage (BAG); Aircraft, Vessels, and Spacecraft (AVS); Encryption Commodities, Software, and Technology (ENC); and Consumer Communication Devices (CCD).

Companies that have used license exceptions for shipments to Russia and Belarus in the past must review their licensing procedures and incorporate the new restrictions, as necessary.

- **Policy of Denial for License Applications for Russia and Belarus**

Applications for the export, reexport, or transfer of items subject to the EAR that require a license for Russia or Belarus under the either the Russia or Belarus Final Rule will now be subject to a review policy of denial, except for very limited circumstances.

Applications related to certain categories—"safety of flight, maritime safety, humanitarian needs, government space cooperation, civil telecommunications infrastructure, government-to-government activities, and to support limited operations of partner country companies in Russia / Belarus"—will be reviewed on a case-by-case basis.

- **Country Group Changes**

The Russia Final Rule updates Russia's EAR Country Group designation, adding it to Country Group D:5.

Country Group D:5 are US arms embargoed countries. This change is intended to reflect Russia's identification by the Department of State as a country subject to an arms embargo, and it conforms the arms embargo-related restrictions in the EAR with the provisions § 126.1 of the US export regulations for defense and military items, the International Traffic in Arms Regulations ("ITAR") (22 CFR Parts 120–130).

The Belarus Final Rule makes certain changes to Belarus's EAR Country Group designations. Most notably, Belarus was added to Country Groups D:2 (Nuclear) and D:4 (Missile Technology) to reflect that Belarus has been officially identified as a country of

concern for nuclear proliferation and missile technology proliferation. Practically, these new designations result in increased licensing requirements and the restricted availability of license exceptions for exports and reexports to Belarus.

## **UK SANCTIONS**

On 3 March 2022, the UK Government announced its intention to bring in further legislation to prohibit UK based insurance and reinsurance providers from undertaking financial transactions connected with a Russian entity or for use in Russia. Russian companies in the aviation or space industry will be prevented from making use of UK-based insurance or reinsurance services directly or indirectly (in addition to restrictions contained in the Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2022, summarised below). Further details of the legislation will be provided in our briefing when it comes into force.

Further sanctions, including a restriction on deposits which has previously been announced, are expected to be set out in further regulations in the near term.

UK sanctions apply to conduct in the UK and to all UK persons wherever in the world. UK sanctions measures will also be adopted in the British Overseas Territories (including Jersey/Guernsey/Isle of Man) and Crown Dependencies.

### ***Asset Freeze***

On 24 February 2022, the UK Government [announced](#) the imposition of an asset freeze on the following six entities.

- VTB Bank ("VTB")
- Rostec
- United Aircraft Corporation
- Tactical Missiles Armament Corporation
- UralVagonZavod
- United Shipbuilding Corporation

The UK Government also imposed an asset freeze on the following five individuals:

- Denis Alexandrovich Bortnikov
- Petr Mikhailovich Fradkov
- Kirill Nikolaevich Shamalov



- Yury Borisovich Slyusar
- Elena Alexandrovna Georgieva

In relation to VTB, the Office of Financial Sanctions Implementation ("OFSI") published General Licence [INT/2022/1272278](#) on 25 February 2021 authorising the wind down of transactions involving VTB or VTB Capital in the UK, including the closing out of any positions, and carrying out any activity reasonably necessary to effect this.

The General Licence took effect from 25 February 2022 and expires on 27 March 2022.

On 1 March 2022, OFSI issued two further General Licences authorising certain activity in relation to VTB's UK subsidiary, VTB Capital plc, and any entity owned or controlled by VTB Capital plc incorporated in the UK. General Licence [INT/2022/1280876](#) provides permissions for the basic needs of the UK VTB subsidiaries, routine holding and maintenance of their frozen funds or economic resources, and the payment of legal fees. General Licence [INT/2022/1280976](#) provides permissions to the authorities involved in the regulation of financial services in the UK (including the Financial Conduct Authority, the Prudential Regulation Authority and the Bank of England) to do anything in relation to the prudential supervision or financial stability of the UK VTB subsidiaries. The General Licences took effect from 1 March 2022 and expire on 1 March 2023.

On 25 February 2022, the UK imposed an asset freeze on Vladimir Putin, the President of the Russian Federation, and Sergei Lavrov, Russia's Minister of Foreign Affairs.

On 28 February, the UK also imposed an asset freeze on:

- VEB.RF
- BANK OTKRITIE FINANCIAL CORPORATION PJSC
- PJSC SOVCOMBANK

On 4 March 2022, OFSI published General Licence [INT/2022/1295476](#) authorising the wind down of transactions involving the following entities, including the closing out of any positions, and carrying out any activity reasonably necessary to effect this:

- BANK OTKRITIE
- PROMSVYAZBANK
- BANK ROSSIYA
- SOVCOMBANK
- VNESHECONOMBANK (VEB)
- JSCB NOVIKOMBANK

The General Licence took effect from 4 March 2022 and expires on 3 April 2022.

On 3 March 2022, the UK imposed an asset freeze on:

- Igor Ivanovich SHUVALOV
- Alisher Burkhanovich USMANOV

On 1 March, the UK also imposed an asset freeze on:

- Andrei BURDYKO
- Victor Vladimirovich GULEVICH
- Sergei SIMONENKO
- Andrey ZHUK
- JSC 558 AIRCRAFT REPAIR PLANT
- JSC INTEGRAL
- Kirill Alexandrovich DMITRIEV
- RUSSIAN DIRECT INVESTMENT FUND

### ***Dealing with transferable securities or money-market instruments***

In addition to the existing restrictions on dealing in transferable securities or money-market instruments issued by specified Russian entities or their non-UK subsidiaries with a maturity over 30 days that have been in place since 2014, the UK has expanded these restrictions as follows:

- It is now prohibited to deal in transferable securities or money-market instruments issued after 1 March 2022 by UK subsidiaries of the listed Russian entities. There was previously an exemption in relation to loans or credit issued by UK subsidiaries;
- It is now prohibited to deal in transferable securities or money-market instruments issued after 1 March by:
  - any individual ordinarily resident or located in Russia;
  - any entity incorporated or constituted in Russia (except where that entity is domiciled outside of Russia);
  - any entity which is a branch or subsidiary of an entity incorporated or constituted in Russia (except where the parent entity is domiciled outside of Russia);
  - any entity which is owned by or acting on behalf of any of the above categories of persons; and
- It is now prohibited to deal in transferable securities or money-market instruments issued after 1 March by or on behalf of the Government of Russia.

On 1 March, OFSI published General Licence [INT/2022/1277777](#), which authorises relevant institutions (including authorised UK credit and financial institutions and CSDs) to deal with a transferable security or money-market instrument which fall within the above restrictions until **8 March 2022**.

### ***Loans and Credit Arrangements***

In addition to the existing restrictions on making or granting a new loan or credit to any of the specified Russian entities or their non-UK subsidiaries with a maturity over 30 days that have been in place since 2014, the UK has expanded these restrictions as follows:

- It is now prohibited to make or grant, or enter into an arrangement to make or grant, a new loan or credit with a maturity of more than 30 days available after 1 March 2022 to UK subsidiaries of the previously listed Russian entities. There was previously an exemption in relation to securities issued by UK subsidiaries;
- It is now prohibited to make or grant, or enter into an arrangement to make or grant, a new loan or credit with a maturity of more than 30 days available after 1 March 2022 to
  - any entity incorporated or constituted in Russia (except where that entity is domiciled outside of Russia) or its branches or subsidiaries, wherever located;
  - a branch or subsidiary of an entity incorporated or constituted in Russia (except where the parent entity is domiciled outside of Russia);
  - any entity which is owned by or acting on behalf of any of the above categories of persons; and
- It is now prohibited to make or grant, or enter into an arrangement to make or grant, a new loan or credit (of any maturity) after 1 March 2022 to the Government of Russia.

On 1 March OFSI published General Licence [INT/2022/1277777](#), which authorises relevant institutions (including authorised UK credit and financial institutions and CSDs) to make or grant, or enter into an arrangement to make or grant, a new loan or credit that would fall within the above restrictions until **8 March 2022**.

### ***Correspondent Banking Relationships***

UK credit and financial institutions are now prohibited from establishing or continuing a correspondent banking relationship with designated persons or its subsidiaries. This includes the provision of banking services by a correspondent to a respondent including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, providing customers of the respondent with direct access to accounts with the correspondent (and vice versa) and providing foreign exchange services.

This prohibition applies to correspondent bank accounts held by UK credit or financial institutions in any currency.

UK credit and financial institutions are also now prohibited from processing (i.e., clearing or settling) a sterling payment to, from or via a designated person or its subsidiaries.

This prohibition applies to payment chains or third party payments.

For these purposes, the UK has specifically designated Sberbank.

There is an exception for processing a sterling payment for any fee or charge required to permit an aircraft to overfly, land in or take off from Russia.

HM Treasury also can grant other licences.

On 1 March OFSI published General Licence [INT/2022/1277778](#), which authorises

- a UK credit or financial institution to continue a correspondent banking relationship with Sberbank until 31 March 2022; and
- a UK credit or financial institution to continue to process sterling payments to, from or via Sberbank or its subsidiaries until 31 March 2022.

On 1 March OFSI also published General Licence [INT/2022/1277877](#), which authorises a UK credit or financial institution to continue to process sterling payments to, from or via Sberbank for the purpose of making Relevant Energy Products available for use in the United Kingdom, until 24 June 2022.

Relevant Energy products include certain (a) Crude Oil; (b) Petroleum Products; and (c) Gas.

### ***Financial services for the purpose of foreign exchange reserve and asset management to the Central Bank of Russia***

The Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2022 introduced Regulation 18A into the UK Russia Sanctions Regulations, which states that it is prohibited to provide financial services to any of the following persons where those services are for the purpose of foreign exchange reserve and asset management:

- the Central Bank of the Russian Federation
- the National Wealth Fund of the Russian Federation
- the Ministry of Finance of the Russian Federation
- a person owned or controlled directly or indirectly by any of the persons above; or
- a person acting on behalf of or at the direction of any of the persons above

The term "foreign exchange reserve and asset management" means activities relating to the reserves or assets of the persons mentioned above to include the following:

- money market instruments (including cheques, bills and certificates of deposit);
- foreign exchange;
- derivative products (including futures and options);
- exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
- transferable securities;
- other negotiable instruments and financial assets (including bullion); and
- special drawing rights.

### ***Critical Industry Goods***

The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2022 imposed a new restriction on the export, supply, delivery or making available of critical-industry goods to, or for use in, Russia or to a person connected with Russia.

There is also a prohibition on the provision of technical assistance, financial services or funds or brokering services relating to critical-industry goods to a person connected with Russia or for use in Russia.

Critical-industry goods include (the following is not an exhaustive list):

- Electronic devices and components including general purpose electronic equipment;
- Computers, "electronic assemblies" and related equipment, and specially designed components therefor;
- Telecommunication equipment;
- "Information security" systems, equipment and components;
- Sensors and lasers;
- Navigation direction finding equipment, airborne communication equipment, all aircraft inertial navigation systems, and other avionic equipment, including components;
- Vessels, marine systems or equipment, and specially designed components therefor, and marine boilers and components therefor;
- Diesel engines and tractor units, and specially designed components therefor; and
- "Aircraft" and gas turbine engines and components therefore.

There are some exceptions to these restrictions. For example:

- The prohibitions are not contravened by activity in relation to any critical-industry goods which are— (a) the personal effects of a person travelling to Russia, (b) of a non-commercial nature for the personal use of a person travelling to Russia and contained in that person's luggage, or (c) necessary for the official purposes of a diplomatic mission or consular post in Russia, or of an international organisation enjoying immunities in accordance with international law.
- The prohibitions are also not contravened by a relevant activity in relation to consumer communication devices for civilian use, or software updates for civilian use.
- The removal of an aircraft or vessel from the United Kingdom to Russia is also not prohibited where the aircraft or vessel is removed under its own power and is carrying goods or passengers when removed, and the removal of the aircraft or vessel is not for the purpose of— (i) a transfer of ownership of the aircraft or vessel or any of its component parts, or (ii) a change of the operator of the aircraft or vessel.

There is also a provision for licences to be granted in certain circumstances.

### ***Ports and Shipping***

The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 introduced a new provision, Regulation 57A into the UK Russia Sanctions Regulations which, among other matters prohibits UK port access being granted to any ship owned, controlled, chartered or operated by persons connected with Russia or which is flying the flag of Russia, or which is registered in Russia.

The Regulations provide the government with a power to control the movement of Russian ships or specified ships by requiring them to leave or enter specified ports, proceed to a specified place or remain where they are.

The Regulations also confer powers on the government and harbour authorities to detain Russian ships or specified ships at ports or anchorages.

Registration of ships on the UK Ship Register is prohibited where they are owned, controlled, chartered or operated by a designated person or persons connected with Russia, or where they are a specified ship.

### ***Other Sanctions***

The UK Government has previously announced that further sanctions will be adopted as follows:

- Sanctions that will extend financial and trade measures applying to Crimea to the DNR and LNR regions.
- Sanctions that will limit the amount of deposits Russian citizens (expected to be non residents or nationals of the UK) can make in UK

bank accounts (above £50,000). We expect this will take the same form as the EU sanctions described below.

- The imposition of an asset freezes on 120 new individuals or businesses.
- Sanctions that extend financial and trade measures applying to Crimea to the DNR and LNR regions.

On 25 February 2022, the Air Navigation (Restriction of Flying) (Russian Aircraft) Regulations 2022 were enacted and provide that no aircraft on a scheduled service which is owned, chartered or operated by a person connected with Russia, or which is registered in Russia shall fly in United Kingdom airspace, including in the airspace above the United Kingdom's territorial sea, without a licence.

At the instruction of the UK Government, the UK media regulator Ofcom is also currently investigating RT (Russia Today) for 27 potential breaches of its broadcasting code. The watchdog has the power to revoke a broadcast licence, but we understand that any action is likely to take weeks.

Finally, on 4 March 2022, OFSI published its updated '[Guidance for the financial and investment restrictions in Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#)'. The frequently asked questions part of the guidance has not yet been updated to reflect the 2022 amendment regulations.

## **EU SANCTIONS**

On 2 March 2022, the EU introduced an exclusion of certain listed Russian banks from the SWIFT messaging system.

Regulation (EU) 2022/345 imposes a prohibition as of 12 March 2022 on providing specialised financial messaging services, which are used to exchange financial data, to the following banks or to any legal person, entity or body established in Russia whose proprietary rights are directly or indirectly owned for more than 50% by these banks:

- Bank Otkritie
- Novikombank
- Promsvyazbank
- Bank Rossiya
- Sovcombank
- Vnesheconombank (VEB)
- VTB Bank

There is no exception or possibility for Member State authorities to grant authorisations for relevant services.

Regulation (EU) 2022/345 imposes a prohibition on selling, supplying, transferring or exporting euro denominated banknotes to Russia or to any natural or legal person, entity or body in Russia, including the Russian government and the Russian Central Bank, or for use in Russia.

Exceptions apply under certain limited circumstances, such as where such sale, supply etc. is necessary for the personal use of natural persons travelling to Russia or members of their immediate families travelling with them.

The other recently introduced EU sanctions are summarized below.

### ***Asset Freeze***

Regulations (EU) 2022/260 and 2022/261 of 23 February 2022, Regulation (EU) 2022/332 of 25 February 2022 and Regulation (EU) 2022/336 of 28 February 2022 impose an asset freeze on the following individuals and entities:

- VEB.RF (a.k.a Vnesheconombank)
- Internet Research Agency
- Bank Rossiya
- Promsvyazbank
- Gas Industry Insurance Company SOGAZ



- 336 individuals involved in the Russian government decision to recognize the Donetsk and Luhansk regions (members of the Russian State Duma);
- 48 individuals accused of supporting, implementing or benefiting from actions that undermine the territorial integrity, sovereignty, independence and stability of Ukraine (including, inter alia, members of the management and supervisory bodies of VEB.RF, VTB Bank, Promsvyazbank, Rosneft and Transneft and shareholders of Alfa Bank);
- 99 individuals, including members of the Russian National Security Council accused of having supported Russia's recognition of the Donetsk and Luhansk regions or of having facilitated Russia's military action from Belarus, as well as additional members of the Russian State Duma who ratified the government decisions of the "Treaty of Friendship, Cooperation and Mutual Assistance" between Russia and the Donetsk and Luhansk regions. These recent designations include Russia's President Vladimir Putin and Russia's Minister of Foreign Affairs Sergey Lavrov; **and**
- **22 individuals of the Belarussian military forces.**

With respect to the designation of Bank Rossiya, Promsvyazbank and VEB.RF, the EU adopted Regulation (EU) 2022/259 of 23 February 2022 introducing the ability for Member States to authorize the release of frozen funds or economic resources belonging to those three (3) banks or the making available of funds or economic resources to them, if this is necessary for the termination by 24 August 2022 of operations, contracts, or other agreements, including correspondent banking relations, concluded with those banks before 23 February 2022.

### ***Financial and Capital Markets Restrictions***

Regulation (EU) 2022/262 of 23 February 2022 amended existing sanctions in Regulation (EU) 833/2014 (imposing so-called sectoral sanctions) as follows:

- A prohibition on purchasing, selling or otherwise dealing with transferable securities and money-market instruments issued after 9 March 2022 by (i) Russia and its government, (ii) the Russian Central Bank or (iii) entities / bodies acting on behalf / at the direction of the Russian Central Bank; and
- A prohibition on making / being part of arrangements to make any new loans or credits after 23 February 2022 to (i) Russia and its government, (ii) the Russian Central Bank or (iii) entities / bodies acting on behalf / at the direction of the Russian Central Bank (without any maturity limits for loans / credit applying in this context).

In addition, on 25 February 2022, Regulation (EU) 2022/328 significantly extended the existing sanctions relating to the financial sector. In particular:

- In addition to the existing sectoral sanctions applying to Sberbank, VTB Bank, Gazprombank, Vnesheconombank (VEB) and Rosselkhozbank, OPK Oboronprom, United Aircraft Corporation, Uralvagonzavod, Rosneft, Transneft and Gazprom Neft, it is now prohibited to purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with any transferable securities and money-market instruments issued by those entities (or by non-EU entities more than 50% owned by them or by entities acting on their behalf / at their direction) after 12 April 2022 (without any maturity threshold applying).
- The same prohibition applies to the following entities (and to non-EU entities more than 50% owned by them and to entities acting on their behalf / at their direction):
  - Alfa Bank
  - Bank Otkritie
  - Bank Rossiya
  - Promsvyazbank
  - Almaz-Antey
  - Kamaz
  - Novorossiysk Commercial Sea Port
  - Rostec (Russian Technologies and State Corporation)
  - Russian Railways
  - JSC PO Sevmash
  - Sovcomflot
  - United Shipbuilding Corporation
- There is also a new prohibition on making or being part of any arrangement to make a new loan or credit to any of the aforementioned entities (or to non-EU entities more than 50% owned by them or entities acting on their behalf / at their direction) – again without any maturity threshold applying. This restriction applies as of 26 February 2022.

Certain exceptions apply, such as under certain circumstances, with respect to loans intended for providing emergency funding for EU entities more than 50% owned by Sberbank, VTB Bank, Gazprombank, VEB or Rosselkhozbank.

Further, the new sanctions introduce the following additional new prohibitions related to capital markets activities:

- A prohibition as of 12 April 2022 on listing or providing services on trading venues registered or recognised in the EU for the transferable securities of any entity established in Russia with over 50% public ownership.

- A prohibition on EU central securities depositories providing relevant services (core services, non-banking-type ancillary services and banking-type ancillary services as defined in the Annex of Regulation (EU) No 909/2014) for transferable securities issued after 12 April 2022 to any Russian national or natural person residing in Russia or any entity established in Russia. The prohibition does not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State. We interpret this provision as currently drafted to mean that services listed in the Annex of Regulation 909/2014 cannot be provided to Russian nationals or entities in respect of securities issued after 12 April 2022.
- A prohibition on selling euro denominated transferable securities issued after 12 April 2022 or units in collective investment undertakings providing exposure to such securities, to any Russian national or natural person residing in Russia or any entity established in Russia. The prohibition does not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State.

### ***Russian Central Bank***

On 28 February the EU adopted [Council Regulation \(EU\) 2022/334](#) (which amends Regulation (EU) 833/2014), and which significantly expands the sanctions on the Russian Central Bank, prohibiting any transactions related to the management of reserves as well as of assets of the Russian Central Bank and any transactions with any entity / body acting on behalf / at the direction of the Russian Central Bank. The competent authorities in the Member States of the EU may grant authorizations for such transactions only if it is strictly necessary to ensure the financial stability of the EU as a whole or of the Member State concerned.

### ***Russian Direct Investment Fund***

Regulation (EU) 2022/345, which was published on 2 March 2022, imposes a prohibition on investing, participating or otherwise contributing to projects co-financed by the Russian Direct Investment Fund.

There is a possibility for Member State authorities to authorise a relevant investment, participation or contribution if such is due under contracts concluded before 2 March 2022 or ancillary contracts necessary for the execution of such contract.

### ***Deposits***

The new sanctions in Regulation (EU) 2022/328 include a prohibition on accepting any deposits from Russian nationals or natural persons residing in Russia or entities established in Russia if the total value of the deposit of these persons / entities exceeds EUR 100,000 (per credit institution). The prohibition does not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State. There

is also an exception for deposits necessary for cross border trade. The currency is not relevant.

For these purposes, a "deposit" means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where: (i) its existence can only be proven by a financial instrument, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014; (ii) its principal is not repayable at par; (iii) its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party.

We consider that any account balance is therefore a deposit.

The restriction does not prohibit transfers from existing accounts (of otherwise non-sanctioned persons), nor does it require that existing deposits over the threshold are reduced. But for accounts already over that threshold, effectively no additional funds can be received into those accounts.

Under certain circumstances, the competent authorities in the Member States of the EU may grant relevant authorizations.

Information obligations have also been introduced, requiring credit institutions to provide their competent national authorities by no later than 27 May 2022 with lists of relevant deposits exceeding EUR 100,000.

There is a broad circumvention prohibition, which means deposits from non-Russian entities on behalf of Russian persons or entities will also be prohibited.

### ***Energy Industry***

Regulation (EU) 2022/328 of 25 February 2022 introduces a prohibition on the sale, supply, transfer or export certain listed goods and technology suited for use in oil refining to any natural or legal person, entity or body in Russia or for use in Russia.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

An exception applies to the execution until 27 May 2022 of contracts concluded before 26 February 2022. The competent authorities in the Member States of the EU may, under very limited circumstances, also grant authorizations to relevant sales, exports *etc.*

### ***Aviation Industry***

Regulation (EU) 2022/328 of 25 February 2022, introduces a prohibition on the sale, supply, transfer or export of aircraft, spacecraft or parts thereof to any natural or legal person, entity or body in Russia or for use in Russia.

This includes, *inter alia*, supplying aircraft to Russian persons or entities or for use in Russia by way of leasing.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

An exception applies to the execution until 28 March 2022 of contracts concluded before 26 February 2022.

The provision of insurance and reinsurance and of maintenance activities concerning aircraft or components in relation to such listed goods and technology to any natural or legal person, entity or body in Russia or for use in Russia is also prohibited. The exception noted above does not appear to apply in relation to those activities: the prohibition is therefore of immediate effect.

In addition, on 28 February 2022, Regulation (EU) 2022/334 closed the airspace of the EU for Russian aircraft with immediate effect.

It is now prohibited for any aircraft operated by Russian air carriers (including as a marketing carrier in codesharing or blocked-space arrangements), and for any Russian registered aircraft or for any non-Russian-registered aircraft which is owned, chartered, or otherwise controlled by any Russian natural or legal person, entity or body, to land in, take off from or overfly the territory of the EU. "Russian air carrier" is defined in this context as an air transport undertaking holding a valid operating licence or equivalent issued by the competent authorities of the Russian Federation.

An exception only applies in cases of emergency landings or emergency overflights. Furthermore, under very limited circumstances, the competent authorities in the Member States of the EU may, grant authorizations to such landing, overflight etc., if it is required for humanitarian purposes.

In addition, Eurocontrol as the Network Manager appointed by the European Commission is required to reject all flight plans filed by aircraft operators indicating an intent to carry out activities over the territory of the EU that violate the afore-mentioned prohibition, such that the pilot is not permitted to fly.

### ***Technology sector***

Regulation (EU) 2022/328 of 25 February 2022 includes a prohibition on the sale, supply, transfer or export of certain listed goods and technology which might contribute to Russia's technological enhancement of its defence and security sector.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

Certain exceptions apply in cases of non-military use and non-military end-users, *inter alia* for sales, exports etc. for humanitarian or medical purposes, software updates or for use as consumer communication devices.

Furthermore, the competent authorities in the Member States of the EU may,

under certain circumstances, grant authorizations, *inter alia*, in cases of non-military use and non-military end-users if the sale, export *etc.* is intended for civilian telecommunications networks, for the exclusive use of entities owned by – among other – EU entities or if goods *etc.* are due under contracts concluded before 26 February 2022.

### ***Dual-use goods and technology***

Regulation (EU) 2022/328 of 25 February 2022 extended the existing restrictions with respect to dual-use goods and technology.

The new sanctions include a prohibition on the sale, supply, transfer or export of any dual-use goods and technology to any natural or legal person, entity or body in Russia or for use in Russia, irrespective of whether such goods and technology are intended for military use or for military end-users.

The prohibition also applies to the provision of technical assistance, brokering services and other services as well as of financing or financial assistance related to the listed goods and technology.

Certain exceptions apply in cases of non-military use and non-military end-users, *inter alia* for sales, exports *etc.* for humanitarian or medical purposes, software updates or for use as consumer communication devices.

Furthermore, the competent authorities in the Member States of the EU may, under certain circumstances, grant authorizations, *inter alia*, in cases of non-military use and non-military end-users if the sale, export *etc.* is intended for civilian telecommunications networks, for the exclusive use of entities owned by – among other – EU entities or if goods *etc.* are due under contracts concluded before 26 February 2022.

### ***Prohibition on public financing or financial assistance for trade with or investment in Russia***

Regulation (EU) 2022/328 of 25 February 2022 imposes a prohibition on providing public financing or financial assistance for trade with, or investment in, Russia.

Certain exceptions apply, such as in relation to binding financing or financial assistance commitments established prior to 26 February 2022 or, under certain circumstances, in relation to financing up to EUR 10 million per project.

### ***Russian Media***

Regulation (EU) 2022/350, which was published on 2 March 2022, imposed a prohibition for operators to broadcast or to enable, facilitate or otherwise contribute to broadcast, any content by the following bodies, including through transmission or distribution by any means such as cable, satellite, IP-TV, internet service providers, internet video-sharing platforms or applications:

- RT- Russia Today English
- RT- Russia Today UK
- RT - Russia Today Germany
- RT - Russia Today France

- RT- Russia Today Spanish
- Sputnik

Regulation (EU) 2022/350 requires the suspension of any broadcasting licence or authorisation, transmission and distribution arrangement with those entities.

### ***Donetsk and Luhansk regions***

Regulation (EU) 2022/263 of 23 February 2022, imposes wide-ranging sanctions on DNR and LNR regions, largely mirroring existing EU sanctions on Crimea/Sevastopol.

These sanctions include, in particular, trade and investment restrictions concerning those territories relating to the export and import of goods, technology, real estate, tourism etc.

### ***Restrictions of visa policy***

By Council Decision (EU) 2022/333 of 25 February 2022, the EU partially suspended the application of an agreement between the EU and Russia facilitating the issuance of visas. Russian diplomats, other Russian officials and Russian business people will no longer be able to benefit from visa facilitation provisions which allow privileged access to the EU.

### ***Sanctions against Belarus***

Regulation (EU) 2022/355, which amends Regulation (EC) No. 765/2006, and which was published on 2 March 2022, introduced further restrictions related to trade of

- dual-use goods,
- goods and technology which might contribute to the Belarussian military, technological, defence and security development,
- goods used for the production or manufacturing of tobacco products,
- mineral, potash, wood, cement, iron and steel, and rubber products, and
- certain machinery.

### ***Other Sanctions***

As previously reported, on 22 February 2022, the German government communicated that it would stop the certification of the Nord Stream 2 gas pipeline for the indefinite future, thereby preventing that the pipeline becomes operative.

## **JAPAN SANCTIONS**

Since 2014, the Ministry of Finance Japan and the Ministry of Economy, Trade and Industry have imposed sanctions against Russia and certain Russian financial institutions as well as the Autonomous Republic of Crimea and Sevastopol.

On 26 February 2022, Japan imposed:

- an asset freeze targeting 24 "self-proclaimed" officials of the DNR and LNR;
- a prohibition on imports and exports to and from the DNR and LNR (unless specifically endorsed by the Japanese government), excluding goods shipped by 26 February 2022;
- a prohibition on the issuance, offering and distribution of new sovereign bonds and other securities issued by the Government of the Russian Federation; the Government Agencies of the Russian Federation; and the Central Bank of the Russian Federation, as well as the provision of services related to these activities (unless expressly permitted by the Japanese government); and
- a prohibition on the issuance and offering of securities (except for securities redeemed within 30 days) issued by: Sberbank; VTB Bank; Vnesheconombank; Gazprombank; and Russian Agricultural Bank (unless expressly permitted by the Japanese government).

On 1 March 2022, Japan imposed:

- an asset freeze targeting the Central Bank of the Russian Federation and six Russian officials including: President Putin; Sergey Lavrov (Minister of Foreign Affairs); Sergey Shoigu (Minister of Defence); Valery Gerasimov (Chief of the General Staff of the Armed Forces, First Deputy Defence Minister); Nikolai Patrushev (Secretary of the Security Council); and Dmitry Medvedev (Deputy Chairman of the Security Council).

On 3 March 2022, Japan imposed:

- an asset freeze targeting 18 Russian officials, two organisations related to the Belarus government, seven Belarussian officials, and 30 "self-proclaimed" officials of the DNR and LNR.

On 5 March 2022, Japan will impose:

- stricter export controls on goods and services listed in the Multilateral Export Control Regime, including on semiconductors, to Russia.

On 8 March 2022, Japan will impose:

- a prohibition on receipt of payments relating to the export of goods contributing to the strengthening of Russia's military capabilities to 49 organisations designated as "specific organizations of the Russian Federation". Japan will also impose a prohibition on the export of such goods, but the date of implementation is still pending.

On 10 March 2022, Japan will impose:



- stricter export controls on goods and services listed in the Multilateral Export Control Regime, including on semiconductors, to Belarus.

On 28 March 2022, Japan will impose:

- an asset freeze targeting Bank Rossiya.

On 31 March 2022, Japan will impose:

- an asset freeze targeting Promsvyazbank and VEB.RF.

On 2 April 2022, Japan will impose:

- an asset freeze targeting VTB Bank, Sovcombank, Novikombank and Otkritie.

Prime Minister Kishida also announced other sanctions that will be imposed (details of which are still pending), including:

- visa suspensions; and
- the exclusion of certain Russian banks from the SWIFT messaging system.

## SINGAPORE SANCTIONS

On 28 February, Singapore announced that it will impose sanctions on Russia, including export controls on items that can be used as weapons in relation to the Ukrainians. Singapore will also block certain Russian banks and financial transactions connected to Russia.

The specific measures are being worked out and details will be announced shortly by the government.

## AUSTRALIAN SANCTIONS

On 23 February 2022, the Australian Government announced it would take immediate action to impose travel bans and targeted financial sanctions on eight members of Russia's Security Council.

From 25 February 2022, the following persons were added to the Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) List 2014 (**Sanctions List**):

### Designated and declared persons<sup>1</sup>

- Dmitry Anatolyevich Medvedev
- Yury Yakovlevich Chaika
- Aleksander Vladimirovich Gutsan
- Igor Anatolyevich Komarov

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<sup>1</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 1) Instrument 2022.*

- Anatoly Anatolyevich Seryshev
- Igor Olegovich Shchegolev
- Viktor Vasilyevich Zolotov
- Vladimir Vladimirovich Yakushev

From 25 February 2022, the following entities (including the aforementioned financial institutions) were added to the Sanctions List:

**Designated Entities<sup>2</sup>**

- Tactical Missiles Corporation
- Kronshtadt
- Promsvyazbank
- Industrial Savings Bank (IS Bank)
- Rostec
- Rosoboronexport
- Genbank
- Black Sea Bank for Development and Reconstruction

The additional 25 people added to the Sanctions List from 25 February 2022 include senior politicians and bureaucrats, associates of the Wanger Group, and senior military personnel.

On 25 February 2022, the Department of Foreign Affairs and Trade announced that Minister Payne intends to specify four entities in addition to those already specified under the *Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015*.

An exposure draft of the legislative instrument specifies the following four entities:

- Cetelem Bank
- Russian Agency for Export Credit and Investment (EXIAR)
- Otkritie Bank
- Russian Direct Investment Fund (RDIF)

If an entity is specified by the Minister, Australians and Australian entities must comply with a range of investment restrictions including directly or indirectly purchasing, selling, or otherwise dealing with, bonds, equity transferrable securities, money market instruments or other similar financial instruments issued by the entity. The Department of Foreign Affairs and Trade noted that

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<sup>2</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 2) Instrument 2022; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 3) Instrument 2022.* These sanctions are in addition to sanctions already in force against Rossiya Bank.

the Minister intends to specify the entities in four weeks, allowing a period for those who may hold interests in the entities make the necessary arrangements to comply with the restrictions.

From 25 February 2022, new listing criteria for persons or entities who may be designated or declared under the *Autonomous Sanctions Regulations 2011* (**Autonomous Sanctions Regulations**) in relation to Russia have come into force to include persons of strategic or economic significance to Russia. These include a person or entity who is, or has been, engaging in an activity or performing a function that is of economic or strategic significance to Russia, a current or former Minister or senior official of the Russian Government, and immediate family members of either.<sup>3</sup>

On 25 February 2022, the Prime Minister announced that Australia would be imposing further sanctions on (i) various individuals whose economic weight is considered to be of strategic significance in Russia and (ii) over 300 members of the Russian parliament who voted to authorise the use of Russian troops to invade Ukraine. The Prime Minister also noted that the Australian Government was working with the United States to align with the United States' sanctions on key Belarussian individuals and entities.

From 26 February 2022, the individuals referred to by the Prime Minister were added to the Sanctions List.<sup>4</sup> This included:

- Denis Aleksandrovich Bortnikov
- Vladimir Sergeevich Kiriyenko
- Petr Mikhailovich Fradkov
- Igor Arkadyevich Rotenberg
- Elena Aleksandrovna Georgieva
- Yury Borisovich Slyusar
- Kirill Nikolayevich Shamalov
- Igor Ivanovich Sechin

From 27 February 2022, the Belarussian individuals and entities referred to by the Prime Minister on 25 February 2022 were added to the Sanctions List.<sup>5</sup>

From 28 March 2022, amendments to the *Autonomous Sanctions Regulations* will extend existing sanctions that apply to Crimea and Sevastopol to DPR and LPR.<sup>6</sup> The Department of Foreign Affairs and Trade has noted that this period will allow those with interests in the regions to consider whether their activities

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<sup>3</sup> *Autonomous Sanctions Amendment (Russia) Regulations 2022*

<sup>4</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No. 4) Instrument 2022*

<sup>5</sup> *Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 1) Instrument 2022*

<sup>6</sup> *Autonomous Sanctions Amendment (Ukraine Regions) Regulations 2022*

are captured by the sanctions measures; and to cease their activities or to apply for a sanctions permit as necessary. The Minister of Foreign Affairs may grant a permit if she considers it in the national interest to do so.

From 28 February 2022, the Australian government announced that targeted financial sanctions and travel bans came into effect against President Putin, Foreign Minister Lavrov and Defence Minister Shoigu, Prime Minister Mikhail Mishustin, and Internal Affairs Minister Vladimir Kolokoltsev.

The Prime Minister also announced the Australian Government's support for the announcements by the European Commission, France, Germany, Italy, the United Kingdom, Canada, and the United States on further restrictive economic measures against key Russian banks, institutions and individuals, including:

- the removal of selected Russian banks from the SWIFT global payments messaging system;
- restrictive measures to prevent the Russian Central Bank from using its international reserves in a way that undermines sanctions;
- limiting so-called golden passports for wealthy Russians connected to the Russian government; and
- a trans-Atlantic task force to identify and freeze the assets of sanctioned individuals and companies existing within their jurisdictions.

The Australian Government indicated it would take complementary step as required in relation to the implementation of the SWIFT measures at a global level.

On 2 March 2022, and consistent with other jurisdictions, the four entities referred to in the Department of Foreign Affairs and Trade announcement on 25 February 2022, together with other key Russian entities, such as the Central Bank of Russia, were designated for targeted financial sanctions after being added to the Sanctions List.

The entities that were designated were:

- Cetelem Bank
- Russian Agency for Export Credit and Investment (EXIAR)
- Otkritie Bank
- Russian Direct Investment Fund (RDIF)
- Management Company of the Russian Direct Investment Fund
- RVC Management Company
- Central Bank of the Russian Federation

This marked a change to the approach previously announced by the Australian Government on 25 February 2022 to specify Cetelem Bank, EXIAR, Otkritie Bank and RDIF for investment restrictions. The Australian Sanctions

Office explained the change in approach by saying that targeted financial sanctions impose broader restrictions than investment restrictions and confirmed that the Australian Government will no longer proceed to specify the four entities for investment restrictions.

## **RUSSIA – ECONOMIC MEASURES TO PROTECT RUSSIAN ECONOMY**

On 28 February 2022 the President of Russia ordered a set of "special economic measures" which contemplates:

**First**, an obligation on Russian residents:

- to sell 80% of foreign currency export proceeds which were credited after 1 January 2022 to their Russian bank accounts under foreign trade contracts – not later than 3 business days following 28 February 2022 (i.e., not later than 3 March 2022);
- to sell 80% of foreign currency export proceeds which are/will be credited on 28 February 2022 and onwards to their Russian bank accounts under foreign trade contracts – not later than 3 business days following receipt of such foreign currency;

**Second**, a prohibition for Russian residents:

- to provide foreign currency loans to non-residents – starting from 1 March 2022;
- to transfer foreign currency to their foreign accounts with foreign banks and other foreign financial institutions and to their foreign e-wallets – starting from 1 March 2022; and

**Third**, a simplified procedure for shares buy-back by Russian public joint-stock companies if their shares drop below certain thresholds (save for shares buy-back with the purpose to reduce their number) – starting from 28 February 2022 and until 31 December 2022.

\* \* \*

These new sanctions and export controls are complex, multilateral, and in some cases extraterritorial and incrementally changing in real time in response to the situation on the ground in Ukraine. We will endeavor to keep our briefings up to date. It is essential that companies and individuals react quickly to assessing their risk of exposure to these new sanctions and export controls, to understand the application and duration of the licenses, and to be mindful that while apparently coordinated, there is not complete overlap or prohibitions across the US/UK/EU programs, applicability and jurisdiction.

## CONTACTS

### UNITED STATES



**George Kleinfeld**  
Partner  
Washington

**T** +1 202 912 5126  
**E** george.kleinfeld  
@cliffordchance.com



**David DiBari**  
Partner  
Washington

**T** +1 202 912 5098  
**E** david.dibari  
@cliffordchance.com



**Renée Latour**  
Partner  
Washington

**T** +1 202 912 5509  
**E** Renee.Latour  
@cliffordchance.com



**Jacqueline Landells**  
Counsel  
Washington

**T** +1 202 912 5061  
**E** jacqueline.landells  
@cliffordchance.com



**John-Patrick Powers**  
Counsel  
Washington

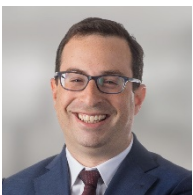
**T** +1 202 912 5048  
**E** john-patrick.powers  
@cliffordchance.com



**Philip Angeloff**  
Counsel  
Washington

**T** +1 202 912 5111  
**E** philip.angeloff  
@cliffordchance.com

### UNITED KINGDOM



**Michael Lyons**  
Partner  
London

**T** +44 207006 4317  
**E** michael.lyons  
@cliffordchance.com



**Oliver Brooks**  
Senior Associate  
London

**T** +44 207006 1411  
**E** Oliver.Brooks  
@cliffordchance.com



**Carla Lewis**  
Senior Associate  
London

**T** +44 207006 4323  
**E** carla.lewis  
@cliffordchance.com

**EUROPE**



**Dr. Heiner Hugger**  
Partner  
Frankfurt

**T** +49 69 7199 1283  
**E** heiner.hugger  
@cliffordchance.com



**Charles-Henri Boeringer**  
Partner  
Paris

**T** +33 1 4405 2464  
**E** charles-henri.boeringer  
@cliffordchance.com



**Dorothee Vermeiren**  
Partner  
Brussels

**T** +32 2 533 5063  
**E** dorothee.vermeiren  
@cliffordchance.com



**Marcin Ciemiński**  
Partner/Advocate  
Warsaw

**T** +48 22429 9515  
**E** marcin.cieminski  
@cliffordchance.com



**Alexander Anichkin**  
Partner  
Moscow

**T** +7 495 258 5089  
**E** alexander.anichkin  
@cliffordchance.com



**Victoria Bortkevicha**  
Partner  
Moscow

**T** +7 495 725 6406  
**E** victoria.bortkevicha  
@cliffordchance.com



**Gerson Raiser**  
Counsel  
Frankfurt

**T** +49 69 7199 1450  
**E** gerson.raiser  
@cliffordchance.com



**Anastasia Mikhaleva**  
Associate  
Moscow

**T** +7 495 258 5097  
**E** anastasia.mikhaleva  
@cliffordchance.com



**ASIA PACIFIC**



**Tim Grave**  
Partner  
Sydney

**T** +61 2 8922 8028  
**E** tim.grave  
@cliffordchance.com



**Lei Shi**  
Partner  
Shanghai

**T** +86 21 2320 7377  
**E** lei.shi  
@cliffordchance.com



**Tess Forge**  
Counsel  
Tokyo

**T** +81 3 6632 6406  
**E** tess.forge  
@cliffordchance.com



**Heidi Gan**  
Associate  
Perth

**T** +61 8 9262 5586  
**E** heidi.gan  
@cliffordchance.com



**Yasuaki Dote**  
Senior Associate  
Tokyo

**T** +81 3 6632 6319  
**E** yasuaki.dote  
@cliffordchance.com



**Janice Goh**  
Partner, Cavenagh Law  
Singapore

**T** +65 6661 2021  
**E** janice.goh  
@cliffordchance.com



**Nish Shetty**  
Partner  
Singapore

**T** +65 6410 2285  
**E** nish.shetty  
@cliffordchance.com



**Kabir Singh**  
Partner  
Singapore

**T** +65 6410 2273  
**E** kabir.singh  
@cliffordchance.com

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Clifford Chance, 10 Upper Bank Street,  
London, E14 5JJ

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London, E14 5JJ

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