

CLIENT ALERT: OFAC ISSUES ADDITIONAL COMPREHENSIVE SANCTIONS AGAINST RUSSIA

February 25, 2022

On February 24, 2022, OFAC issued additional sanctions against various Russian entities in response to the continuing crisis in Ukraine. These sanctions are comprehensive and consist of the following targeted measures:

- Economic sanctions targeting Public Joint Stock Company Sberbank of Russia (“Sberbank”) and VTB Bank Public Joint Stock Company (“VTB Bank”), Russia’s two largest financial institutions.
- Blocking sanctions pursuant to Executive Order 14024 (“E.O. 14024”) against other major Russian financial institutions.
- Debt and equity prohibitions against major Russian state-owned and private entities pursuant to Directive 3 of E.O. 14024.
- Blocking sanctions pursuant to E.O. 14024 against families close to Putin and Russian financial sector elites.

In conjunction with the aforementioned sanctions, OFAC also issued the following General Licenses:

- General License 5 authorizes official business of certain international agencies and entities.
- General License 6 authorizes transactions related to the exportation or reexportation of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates, or the COVID-19 pandemic.
- General License 7 authorizes overflight payments, emergency landings, and air ambulance services.
- General License 8 authorizes certain transactions related to energy.
- General License 9 authorizes dealings in certain debt or equity.
- General License 10 authorizes certain transactions related to derivative contracts.
- General License 11 authorizes the wind-down of transactions involving certain blocked persons.

- General License 12 authorizes the rejection of transactions involving certain blocked persons.

The OFAC Press Release providing the full details of the February 24, 2022, sanctions can be found [here](#). This Press Release includes the names of all individuals and entities sanctioned by the various measures implemented today. In addition, OFAC also issued a number of additional Frequently Asked Questions concerning the recent designations which can be found [here](#).

Impact on International Shipping Community

We are continuing to evaluate the potential impact of the most recent round of Russian sanctions on the international shipping community. However, we note that OFAC has issued FAQ No. 980, which speaks broadly as to the secondary sanctions risks to non-U.S. persons as follows:

980. Do non-U.S. persons risk being sanctioned for engaging in activity with persons sanctioned pursuant to Executive Order (E.O.) 14024?

OFAC evaluates a range of factors when developing sanctions targets, consistent with foreign policy and national security goals. In the context of blocking sanctions, non-U.S. persons may be exposed to sanctions risk in relation to activities with persons subject to blocking sanctions pursuant to E.O. 14024. Under E.O. 14024, non-U.S. persons may be designated if they have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, certain activities, a person whose property and interests in property are blocked pursuant to E.O. 14024, or (in certain circumstances) a blocked government. Please see sections 1(a)(vi) and 1(b) of E.O. 14024.

Non-U.S. persons generally do not risk exposure to U.S. blocking sanctions under E.O. 14024 for engaging in transactions with persons subject to the prohibitions of the directives under E.O. 14024. Moreover, non-U.S. persons generally do not risk exposure to U.S. blocking sanctions under E.O. 14024 for engaging in transactions with blocked persons, where those transactions would not require a specific license if engaged in by a U.S. person. Note, however, that E.O. 14024 and the directives under E.O. 14024 prohibit any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions of those directives, as well as any conspiracy formed to violate any of the prohibitions of those directives. OFAC will not view as “evading or avoiding” efforts by non-U.S. persons to comply with U.S. sanctions by replacing sanctioned suppliers or service providers (including financial institutions) with non-sanctioned persons.

This FAQ indicates that non-U.S. entities under E.O. 14024 may be subject to sanctions if they are found to have “materially assisted” entities designated under E.O. 14024.

However, FAQ No. 980 also notes that “non-U.S. persons generally do not risk exposure to U.S. blocking sanctions under E.O. 14024 for engaging in transactions with blocked persons, where those transactions would not require a specific license if engaged in by a U.S. person.” In this regard, we also note that OFAC has issued General License 6 concerning transactions involving agricultural commodities and General License 8 concerning certain transactions related to energy. Briefly speaking, General License 6 authorizes activities otherwise prohibited by E.O. 14024 ordinarily incident and necessary to “the exportation or reexportation of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to, from, or transiting

Russia.” Likewise, General License 8 generally authorizes transactions related to energy with the following entities until 12:01 a.m. eastern daylight time on June 24, 2022:

- State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank
- Public Joint Stock Company Bank Financial Corporation Otkritie
- Sovcombank Open Joint Stock Company
- Public Joint Stock Company Sberbank of Russia
- VTB Bank Public Joint Stock Company, or
- Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest

Notably, General License 8 defines the term “related to energy” as including “transport...of petroleum, including crude oil, lease condensates, unfinished oils, natural gas liquids, petroleum products, natural gas, or other products capable of producing energy, such as coal, wood, or agricultural products used to manufacture biofuels, or uranium in any form.” Given the text of FAQ No. 980, the sanctions risks associated with shipments of agricultural or energy commodities by non-U.S. persons may be relatively low at this time.

Prohibitions Related to New Debt and Equity Under Directive 3 Aimed at Shipping Entities

Lastly, we also note that a number of shipping and shipping-related entities have been subjected to Directive 3 of E.O. 14024, which was also issued on February 24, 2022. Such entities include:

- Public Joint Stock Company Gazprom
- Public Joint Stock Company Gazprom Neft
- Public Joint Stock Company Transneft
- Joint Stock Company Sovcomflot

However, we note that Directive 3 applies only to “activities by U.S. persons or within the United States” and generally prohibits “all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after 12:01 a.m. eastern daylight time on March 26, 2022.” Moreover, Directive 3 also goes on to provide that “[a]ll other activities with entities determined to be subject to the prohibitions of this Directive, or involving their property or interests in property, are permitted, provided that such activities are not otherwise prohibited by law, the Order, or any other sanctions program implemented by the Office of Foreign Assets Control.” This is consistent with FAQ No. 980 set forth above, which provides, in pertinent part, that “Non-U.S. persons generally do not risk exposure to U.S. blocking sanctions under E.O. 14024 for engaging in transactions with persons subject to the prohibitions of the directives under E.O. 14024.” As such, our initial view is that the Directive 3 status of the entities set forth above may have a limited impact on the international shipping community at this time.

Additional Sanctions Against Nord Stream 2 and Belarus

In addition to the aforementioned sanctions, on February 23, 2022, OFAC also issued further sanctions targeted at the Nord Stream 2 pipeline project by naming Nord Stream 2 AG and its CEO Matthias Warnig to the SDN List pursuant to Executive Order 14039. A copy of the OFAC Press Release concerning

these designations is available [here](#). OFAC also issued General License 4 authorizing the wind down of operations with Nord Stream 2 AG or any entity 50% or more owned by Nord Stream 2 AG through 12:01 a.m. eastern standard time, March 2, 2022.

Lastly, OFAC also issued on February 24, 2022, comprehensive sanctions targeting Belarus in response to Belarussian assistance in the Russian invasion of Ukraine. These sanctions primarily target the Belarussian financial and defense industries. The OFAC Press Release concerning these sanctions can be found [here](#).

Conclusion

We continue to monitor developments in this area given the evolving nature of the current situation in Ukraine and the potential for additional sanctions. We will provide further updates as the developments warrant.

If you have any questions about the contents of this alert or would like further information regarding U.S. sanctions, please feel free to contact the authors, Bill Pallas at pallas@freehill.com, or Mike Dehart at dehart@freehill.com.

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