

Latest Round of Russia Sanctions Targets Foreign Financial Institutions Supporting Russia's Military-Industrial Base

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On December 22, 2023, President Biden issued Executive Order (E.O.) 14114 further addressing the Russian Federation's (Russia) continued use of its military-industrial base to support its aggression against Ukraine and to further counteract Russia's continued evasion of U.S. sanctions. This latest round of sanctions targets foreign financial institutions (FFIs) that engage in certain transactions involving Russia's military-industrial base. It is likely additional sanctions will be adopted as we approach the second anniversary of the war in Ukraine.

Specifically, E.O. 14114 amends E.O. 14024 to authorize sanctions against FFIs that have

1. conducted or facilitated any significant transaction or transactions for or on behalf of any person designated pursuant to E.O. 14024 for operating or having operated in the technology, defense and related materiel, construction, aerospace or manufacturing sectors of the Russian economy or other sectors as may be determined to support Russia's military industrial base; or
2. conducted or facilitated any significant transaction or transactions, or provided any service, involving Russia's military-industrial base, including the sale, supply or transfer, directly or indirectly, to Russia of any item or class of items as determined by the Secretary of the Treasury.

The Office of Foreign Assets Control (OFAC) has advised that the term "Foreign Financial Institutions" is broadly interpreted and includes credit card systems, insurance companies and securities brokers and dealers. Pursuant to E.O. 14114, OFAC is now authorized to sanction FFIs by

1. prohibiting the opening or maintenance of, or imposing strict conditions on the maintenance of, correspondent accounts or payable-through accounts in the United States of such FFIs; or
2. blocking such FFIs.

Prohibiting an FFI's opening and/or maintenance of correspondent and payable-through accounts essentially cuts off the FFI's access to the U.S. financial system. If an FFI is subject to blocking sanctions, all property and interests in property of the FFI that are in the United States or in possession or control of U.S. persons, such as U.S. financial institutions, must be seized and reported to OFAC.

These latest Russia sanctions permit OFAC to target FFIs for maintaining accounts, transferring funds, or providing other financial services to persons either inside or outside Russia, that operate in specified sectors of the Russian economy. In addition, OFAC is authorized to sanction FFIs that facilitate the sale, supply or transfer, directly or indirectly, to Russia of certain items critical to Russia's war effort, such as certain machine tools, semiconductor manufacturing equipment, electronic test equipment, propellants and their precursors, lubricants and lubricant additives, bearings, advanced optical systems and navigation systems.

OFAC urges FFIs in a sanctions advisory to mitigate sanctions risk by, among other things,

1. reviewing an institution's customer base to determine whether any customers conduct business with designated (sanctioned) persons in specified sectors or are involved in the supply of the specified items to Russia;

2. communicating compliance requirements to customers; and

3. obtaining attestations from customers that they do not operate in the specified sectors, engage in transfers of specified items or otherwise conduct transactions involving Russia's military-industrial base.

According to OFAC, these new sanctions focus on reducing Russia's ability to circumvent sanctions to support its war efforts. They do not target third-party engagement with the Russian economy that does not involve its military-industrial base.

E.O. 14114 also enhanced prohibitions against importing certain Russian goods, such as seafood and diamonds, even if these items were processed or transformed into new products in a third country.

To date, no FFIs have been sanctioned. However, that likely will change as the U.S. government is intent on cutting off support for Russia's war effort. Thus, U.S. businesses, including U.S. financial institutions, should screen the FFIs with which they conduct business and the extent to which such FFIs are involved with Russian transactions. U.S. entities should avoid transactions with FFIs that could become sanctioned. For their part, FFIs should assess their operations and involvement, if any, with the Russian economy. They should avoid transactions that involve Russia's military-industrial base or the items listed above that are deemed critical to Russia's war effort. As set forth in OFAC's sanctions advisory, this likely will require enhanced due diligence on their customers and the subject matter of their transactions, as well as the adoption of additional compliance measures.

We will continue to report on sanctions developments. If you have any questions about this article, please contact **Brent Connor** at bconnor@vedderprice.com, **David M. Hernandez** at dhernandez@vedderprice.com, **Jaime L. Rosenberg** at jrosenberg@vedderprice.com or any other Vedder Price attorney with whom you have worked.

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