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US Expands Russian Sanctions

Legal Update

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The Departments of Treasury and Commerce have recently announced new sanctions targeting certain entities and individuals in Russia and Belarus in response to their governments' invasion of Ukraine. The sanctions are outlined below, but for specific advice please contact Fredrikson & Byron concerning any questions or concerns you may have.

Department of Treasury

On March 31, 2022, the Department of the Treasury's Office of Foreign Assets Control (OFAC) announced new sanctions targeting operators in the Russian technology sector with the stated intent of preventing Russia from evading multilateral sanctions and procuring critical western technology. OFAC designated 21 entities and 13 individuals as Specially Designated Nationals subject to sanctions. The designated entities include Moscow-based OOO Serniya Engineering (Serniya) and OOO Sertal (Sertal), Russia-based OOO Robin Treid, United Kingdom-based Majory LLP, United Kingdom-based Photon Pro LLP, Singapore-based Alexsong Pte Ltd, and Spain-based Invention Bridge SL. Serniya, which exports more than 50 percent of Russian microelectronics and is Russia's largest chipmaker.

On the same day, OFAC designated Russian government malicious cyber actors as being subject to sanctions. The State Research Center of the Russian Federation (FGUP), Central Scientific Research Institute of Chemistry and Mechanics (TsNIIKhM) and certain named key employees were alleged to be responsible for building a customized tool that enabled the August 2017 cyber-attack on a Middle East petrochemical facility.

Treasury also determined that three new sectors of the Russian Federation economy are subject to sanctions. Sanctions will now apply to the aerospace, marine, and electronics sectors of the Russian Federation economy. This determination allows for sanctions to be imposed on any individual or entity determined to operate or have operated in any of those sectors. This action builds on previous determinations with respect to the financial services, technology and defense and related materiel sectors of the Russian Federation economy.

As a result of the March 31 Treasury Department actions, all property and interests in property of the designated persons described above that are in the United States or in the possession or control of U.S. persons are blocked and must be reported to OFAC. In addition, any entities that are owned, directly or indirectly, individually or in the aggregate, 50 percent or more by one or more blocked persons are also blocked. Unless authorized by a general or specific license issued by OFAC, or exempt, OFAC's regulations generally prohibit all transactions by U.S. persons or within (or transiting) the United States that involve any property or interests in property of designated or otherwise blocked persons. In addition, financial institutions and other persons that engage in certain transactions or activities with the sanctioned entities and individuals may expose themselves to sanctions or be subject to an enforcement action. The prohibitions include the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any blocked person, or the receipt of any contribution or provision of funds, goods, or services from any such person.

Department of Commerce

On April 1, 2022, the U.S. Commerce Department, through its Bureau of Industry and Security (BIS), also took additional actions targeting Russian and Belarusian defense, aerospace, maritime, and other strategic sectors. The BIS is issuing a final rule adding 120 entities to the Entity List. Ninety-five (95) entities are being added as military end-users under the destinations of Belarus (24 entities) and Russia (71 entities) for acquiring and attempting to acquire items subject to the Export Administration Regulations (EAR) in support of Belarus's and Russia's militaries. Twenty-five (25) entities also are being added under the destination of Russia for acquiring and attempting to acquire items subject to the EAR in support of Russia's military modernization efforts.

This rule applies a highly restrictive policy of denial for the review of license applications for exports, reexports, and transfers (in-country) to the listed entities of all items subject to the EAR and prohibits the use of all license exceptions for such transactions. Additionally, the 95 "military end users" are being designated under Footnote 3 of the Entity List—a designation added in the Russia export control measures that became effective February 24, 2022. Footnote 3 entities are subject to the Russian/Belarusian Military End User foreign-produced "direct product" rule (Russia/Belarus MEU FDP Rule) that applies to reexports, exports from abroad, and transfers (in-country) of certain foreign produced items based on controlled U.S. technology, software, or tooling. Application of the Russia/Belarus MEU FDP Rule to these entities tremendously expands the universe of commodities, software, and technologies that they will be unable to obtain in the global market.