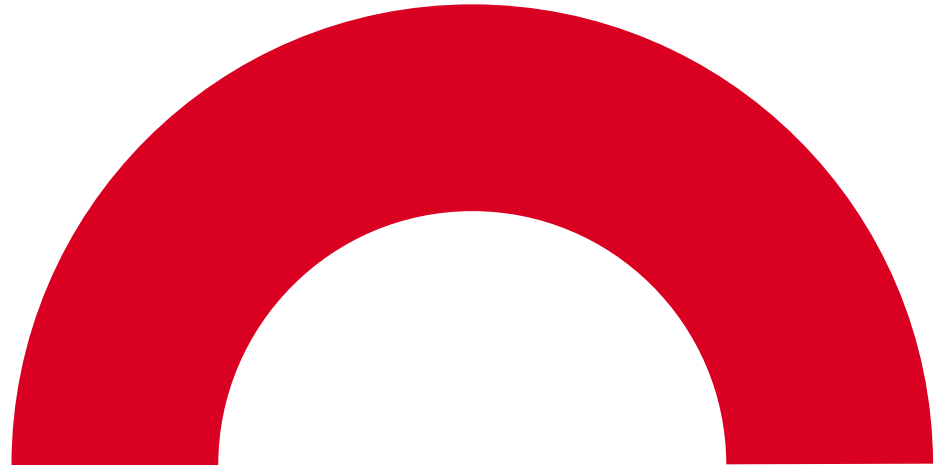


KANSAS EXPORTS AND THE CONFLICT IN UKRAINE

Lesa Brownell

April 20, 2022





The developments in the Russian-Ukraine crisis and Belarus have an impact on many companies around the world. In our webinar today you will hear about:

- Overview of sanctions,
- Understand how sanctions could affect your company's day to day operations,
- Key compliance considerations and challenges for implementation of policies to mitigate your company's risk,
- Discuss global sanction considerations, and
- Tips for reviewing compliance policies to mitigate your company's risk of violating sanctions.

OFAC Mission



- To accomplish foreign policy and national security goals.
 - Sanction regulations are a tool to achieve those objectives.
- As the latest Russian sanctions make clear, while we are not at “war” in the traditional sense, the U.S. is using its economic weapons against Vladimir Putin’s regime.





Financial Sanctions

- Donetsk People's Republic (DNR) comprehensively sanctioned by EO



- Luhansk People's Republic (LNR) comprehensively sanctioned by EO



- Superseding Directive 1A issued pursuant to EO 14024 prohibiting investment in Russian sovereign debt on secondary market (Effective 3/1/2022)

- VEB Bank & 25 subsidiaries added to the SDN List and subject to the 50% rule



- PSB Bank & 17 subsidiaries added to the SDN List and subject to 50% rule



Promsvyazbank

- Nord Stream 2 AG and its CEO added to the SDN List



Financial Sanctions



- Sberbank & 25 subsidiaries now subject to D2- CAPTA pursuant to EO 14024 (Effective 3/26/2022)



- VTB Bank & 20 subsidiaries added to the SDN List and subject to 50% rule



- Otkritie Bank & 12 subsidiaries added to the SDN List and subject to 50% rule



- Gazprom & 12 Others added to D3 pursuant to EO 14024 restricting New Debt 14+ days and New Equity (Effective 3/26/2022)



- Sovcombank Bank & 22 subsidiaries added to the SDN List and subject to 50% rule



- Novikombank added to the SDN List (Rostec bank) and subject to the 50% rule



Financial Sanctions



- Numerous oligarchs and their relatives added to the SDN List and their holdings subject to the 50% rule

- 24 Belarusian banks, companies, & individuals added to the SDN List and subject to the 50% rule



- Putin, Lavrov & Russian Security Council all added to the SDN List



- US, EU, France, Germany, Italy, UK & Canada agree to sanction Russia's Central Bank

- US, Europe & Japan agree to remove certain Russian banks from SWIFT

- Dozens of General Licenses and FAQs added by OFAC



Bank of Russia



Financial Sanction - Investment



Mar 2, 2022

[DOJ](#)
[KleptoCapture](#)
[Task Force](#)

identifies blocked
property of the
sanctioned
Russian oligarchs.



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JUSTICE NEWS

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE Wednesday, March 2, 2022

Attorney General Merrick B. Garland Announces Launch of Task Force KleptoCapture

Task Force Will Surge Federal Law Enforcement Resources to Hold Accountable Corrupt Russian Oligarchs

Today, Attorney General Merrick B. Garland announced the launch of Task Force KleptoCapture, an interagency law enforcement task force dedicated to enforcing the sweeping sanctions, export restrictions, and economic countermeasures that the United States has imposed, along with allies and partners, in response to Russia's unprovoked military invasion of Ukraine. Task Force KleptoCapture will ensure the full effect of these actions, which have been designed to isolate Russia from global markets and impose serious costs for this unjustified act of war, by targeting the crimes of Russian officials, government-aligned elites, and those who aid or conceal their unlawful conduct.

"The Justice Department will use all of its authorities to seize the assets of individuals and entities who violate these sanctions," said Attorney General Merrick B. Garland. "We will leave no stone unturned in our efforts to investigate, arrest, and prosecute those whose criminal acts enable the Russian government to continue this unjust war. Let me be clear: if you violate our laws, we will hold you accountable."

"To those bolstering the Russian regime through corruption and sanctions evasion: we will deprive you of safe haven and hold you accountable," said Deputy Attorney General Lisa O. Monaco. "Oligarchs be warned: we will use every tool to freeze and seize your criminal proceeds."

Task Force KleptoCapture will be run out of the Office of the Deputy Attorney General and staffed with prosecutors, agents, analysts, and professional staff across the Department who are experts in sanctions and export control enforcement, anticorruption, asset forfeiture, anti-money laundering, tax enforcement, national security investigations, and foreign evidence collection. It will leverage all the Department's tools and authorities against efforts to evade or undermine the economic actions taken by the U.S. government in response to Russian military aggression. The mission of the Task Force will include:



March 8, 2022 Executive Order (E.O.)
“Prohibits Certain Imports and New Investments With Respect to Continued Russian Federation Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine,”



[Executive Order 14066](#) prohibits “new investment in the energy sector in the Russian Federation.”

“a transaction that constitutes a commitment or contribution of funds or other assets for, or a loan or other extension of credit to, new energy sector activities (not including maintenance or repair) located or occurring in the Russian Federation beginning on or after March 8, 2022.”

Business's Are Taking it Farther



“People should be thinking more and more about the moral issue, it’s not just a box-ticking exercise.”

- David Smith, partner at insurance broker McGill and Partners in London

New Controls for Cybersecurity Items



The U.S. Department of Commerce imposed [new export controls](#) on certain cybersecurity items and creates a new license exception for those exports.

This rule will establish more restrictions on certain items that can be used for “malicious cyber activities” by imposing a license requirement for shipments to certain countries, including China and Russia

ECCN 4A005, 4D004, 4E001, 4A980, 4A994, 5A001



Be cautious of your deemed export rules.

Many companies who have offices in Russia are relocating their employees to another company location.

The export laws still apply to a Russian citizen.



Russia shuts airspace for 36 countries in retaliation to sanctions

The Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden and the UK are part of the banned countries list.

Russia has reportedly [prohibited](#) airlines from 36 countries, including 27 EU nations, as a response to sanctions imposed on the country for the Ukraine invasion.

The move comes soon after [Europe](#), [Canada](#) and the UK shut their airspace for Russian airlines. (March 1, 2022)





Airfreight

All flights to/from Ukraine remain suspended as well as most flights to/from Russia. The European Union has banned all Russian-owned and Russian-controlled aircrafts from entering EU airspace.

Many airlines will also avoid Russian airspace by taking a more southern route, as a result, flight times will increase.

Ocean Freight

All floating cargo initially bonded to Ukraine will now be redirected to neighboring ports such as Constanza (Romania), Tripoli (Lebanon) or Piraeus (Greece), among others

Although some Russian vessels are still operational, it is very plausible a sanction similar to the one imposed on air operations will be imposed to vessels as well.

Road Transportation

All borders to/from Ukraine remain closed, with certain exceptions exclusive for aid/relief and government/defense movements.

While Russian borders continue to remain open, the crossing is difficult, and many transporters have chosen to cease operations to/from Russia.

Airlines fly over the world's biggest country to get from Europe to Asia



Countries Planning to Ban Russian Flights from Airspace



Source: Annabelle Timsit, The Washington Post

Key Compliance Considerations & Challenges



You may be allowed to export to Russia, but should consider:

1. If your company does not sell to the military or items for military end use and they are not on a control list – how are you being paid? Are you screening your banks?
2. Who manages your IT data center?
3. How are your goods going to get delivered to Russia?
4. Does your company have offices in Russia? Access to your network?
5. Do you have other offices who may re-export your goods to Russia?
6. Relocation of employee's in Russia?
7. Do you have inventory of RU origin goods?



GLOBAL SANCTIONS CONSIDERATIONS

What Are Other Jurisdictions Doing?



Asia

- US Support from Japan, Singapore, Korea and Taiwan agreed to implement export controls on tech industry to Russia
- Japan agrees to help remove Russian banks from SWIFT
- China top banks stop issuing letters of credit to Russia and indicate they will comply with US sanctions

EU

- Germany halts certification of Nord Stream 2 gas pipeline
- EU announced sanctions on Duma legislators and Russian officials
- Limiting access to EU markets
- Europe's air space is largely closed to Russia's flights (however Georgia's airspace remains open to Russia as of 2/27)
- SWIFT removal for certain banks
- Largely mirroring US efforts

UK

- Listing banks and individuals
- Plans to cut off Russian access to US dollars and British pounds
- Joins effort on SWIFT removal

Australia

- Sanctions against Russian individuals and banks

Canada

- Closed its airspace to all Russian aircraft
- Cancels export permits to Russia
- Sanctions Putin, Lavrov & others
- Joins effort on SWIFT removal

Goods imported into Canada with country of origin Russia are subject to 35% tariff

Do you have offices in these locations who may receive shipments from RU or ship to RU?

EU Sanctions



Annex I of the EU Dual-Use Regulation prohibits these items ***intended for civilian users or uses***. Previously was restricted to the military sector.

Prohibits the advanced technology items to limit the enhancement of RU military and technological capacity

Ban for goods and technology suited for use in aviation or the space industry as well as in the energy sector.

The export restrictions apply to the sale, supply, transfer and export of covered items, as well as the provision of brokering services and of technical and financial assistance





- Europe depends on energy from Russia.
- Natural gas prices have already increased 20% and are six times higher than they were beginning of 2021.
- High gas prices are feeding inflation, and Europeans are paying more for heating.
- Industries that use natural gas have to cut production.
- Finding supplies to meet demand will be challenging in an already existing supply chain disruption resulting from COVID-19 pandemic.



Global Impact



- Russia and Ukraine together account for a quarter of world **wheat** exports and a fifth of **corn** sales.
- The collapse of the **labor market** in Russia will have a strong effect on Central Asia
- **Titanium** used in airplanes - Russia and Ukraine together supply 13% of the world's supply
- **Palladium** used in cars, cellphones, and dental fittings – 30%



Ian Bremmer of the Times reported Mar 25, 2022:

India's trade relations with Russia are limited, but Russia and Belarus are the world's leading exporters of fertilizer. Russia is India's leading supplier of arms.

The major economy most at risk is **Egypt**, home to more than 100 million people and the region's biggest wheat buyer.

Global Impact



Putin is showing no signs that he is willing to compromise with Ukraine's government and to end the war. The longer this conflict continues, the greater its global impact.



Conduct a Risk Assessment



- If your business decides to exit the market, have you really existed the market?
 - What other offices could be exporting to Russia?
- If requesting specific End User declarations, how do you know your company or your customer is not being coerced by the Russian military to gain access to your products?
 - Russia has hindered the U.S.'s ability to conduct end-use checks for years.
- If you have offices in Russia, what access to technology do they have?
 - You may need to update or create a Deemed Export policy for Russia citizens who relocate to another company location where they can access tech.
- Do any of your global offices have inventory of goods with country of origin Russia?



Reviewing Your Compliance Policies



New Rules are coming out daily! Due diligence is your responsibility!

- Is someone reviewing your products against the CCL every time changes occur?
- Are your distributors selling into Russia or Belarus?
 - Updating your customer agreements with restricted language
- The new foreign direct product rules – do you have knowledge that the item will be used by certain Russian or Belarusian entities?
- The companies you conduct business with, does your screening include ownership?
 - OFAC 50% rule prohibits transaction with entities owned 50% or more by sanctioned parties. You have a responsibility for due diligence.
- Consider other locations where your company may have offices located and their countries sanctions





Thank
You



Export Controls Summary



<p>New CCL-Based License Requirements</p>	<ul style="list-style-type: none"> ■ Adds new license requirements for all ECCNs in Cats. 3-9 of CCL ■ 58 ECCNs with unilateral controls were not previously controlled to Russia – includes microelectronics, telecommunications items, sensors, navigation equipment, avionics, marine equipment, & aircraft components
<p>Applies review policy of denial to license applications</p>	<ul style="list-style-type: none"> ■ Applications for the export, reexport, or in-country transfer of items that require a license for Russia will be reviewed, with certain limited exceptions, under a policy of denial ■ Categories reviewed on a case-by-case basis are applications related to 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
<p>Expands Russia Military End-Use(r) Control Scope</p>	<ul style="list-style-type: none"> ■ Restrictions on Russian ‘military end users’ and ‘military end uses’ cover all items subject to the EAR with exceptions for: (i) food and medicine designated as EAR99; and (ii) items classified as ECCN 5A992.c or 5D992.c, so long as they are not for Russian “government end users” or Russian state-owned enterprises
<p>2 New FDP Rules</p>	<ul style="list-style-type: none"> ■ (1) New FDP Rule for All of Russia (“Russia FDP rule”) (effective date 3/22) ■ (2) New FDP Rule for Russian Military End Users (“Russia-MEU FDP rule”) (effective date 3/22) ■ Partner Country Exclusion from Russia and Russia-MEU FDP rules
<p>Significantly Restricts use of EAR LEs for Russia</p>	<ul style="list-style-type: none"> ■ TMP (Temporary Imports, Exports, Reexports, and Transfers in Country), for items for use by the news media ■ GOV, for certain government activities ■ TSU (Technology and Software Unrestricted), for software updates to civil end users that are subsidiaries of, or joint ventures with, companies headquartered in the United States or partner countries ■ BAG (Baggage), for baggage, excluding firearms and ammunition ■ AVS (Aircraft, Vessels, and Spacecraft), for aircraft flying into and out of Russia ■ ENC (Encryption Commodities, Software, and Technology), for encryption items, but not if they are destined for Russian ‘government end users’ and Russian state-owned enterprises ■ CCD (Consumer Communication Devices), for consumer communication devices, but not if they are destined for government end users or certain individuals associated with the government
<p>Applies Entity List Footnote (FN) 3 Designation & Adds 49 Entities</p>	<ul style="list-style-type: none"> ■ Entity List FN 3 indicates that the Russia-MEU FDP rule applies to that entity <ul style="list-style-type: none"> ■ A license is required to export, reexport, or transfer (in-country) all items subject to the EAR (including foreign-produced items under the Russia-MEU FDP rule) to these entities, with limited exceptions ■ FN 3 also applies to the Russian Ministry of Defence, including the Armed Forces of Russia, wherever located ■ Transferring 47 entities from the MEU List to the Entity List and are being designated with FN 3 ■ BIS is adding 2 new Russian MEUs to the Entity List with FN 3 designation; <i>additional entities may be added in the future</i>

OFAC Sanctions Summary



Agency	Legal Authority	Date
OFAC	Executive Order 14065; Blocking Property of Certain Persons & Prohibiting Certain Transactions	Feb. 21, 2022
OFAC	Additions to the SDN and Blocker Persons List	Feb. 22 – March 24, 2022
OFAC	Directive 1A: Prohibitions Related to Certain Sovereign Debt of the RU Federation	Feb. 22, 2022
OFAC	Directive 2: Prohibitions Related to Correspondent or Payable Through Accounts & Processing of Transactions involving certain foreign financial institutions	Feb. 24, 2022
OFAC	Directive 3: Prohibitions Related to New Debt & Equity of certain RU related entities	Feb. 24, 2022
OFAC	Directive 4: Prohibits related to transaction involving the central bank of the RU Federation, the National Wealth Fund of RU Federation & Ministry of Finance	Feb. 28, 2022
OFAC	Executive Order 14066: Prohibiting certain imports & new investments	March 8, 2022
OFAC	Executive Order 14068: Prohibiting certain imports, exports and new investment	March 11, 2022

BIS Summary



Agency	Legal Authority	Date
BIS	Implementation of sanctions against RU under the EAR	Feb. 24, 2022
BIS	Imposition of Sanctions against Belarus under the EAR	March 2, 2022
BIS	Expansion of sanctions against the RU industry sector under the EAR	March 3, 2022
BIS	Further imposition of sanctions against RU with the addition of certain entities to the Entity List	March 3, 2022
BIS	Addition to the List of Countries excluded from certain license requirements under the EAR	March 4, 2022
BIS	Imposition of sanctions on luxury goods destined for RU and Belarus and for RU and Belarusian Oligarchs and Malign Actors under the EAR	March 11, 2022

Russia's "Landing Law"



- What is the "landing law"?
 - Requires foreign websites and social media platforms that have over 500,000 daily users must register as legal entities in the country, with a locally based leader
 - It also requires the companies to register an account with Roskomnadzor and to create an electronic form for Russian citizens or government authorities to contact the companies with complaints
 - Establishing more of a local presence makes the companies vulnerable to intimidation by the government
 - E.g., last year Russian authorities threatened to arrest employees of Google and Apple to force them to remove an app created by supporters of Aleksei A. Navalny, the imprisoned Russian opposition leader
 - Roskomnadzor official said companies that did not comply by the end of the month (Feb. 2022) would face penalties
- In November 2021, the government listed 13 companies that must comply with the new landing law: Meta, Twitter, TikTok, Likeme, Pinterest, Viber, Telegram, Discord, Zoom, Apple, Google, Spotify and Twitch
- Using the prospect of fines, arrests and the blocking or slowing down of internet services, the authorities are pushing the companies to censor unfavorable material online while keeping pro-Kremlin media unfiltered
- Company Responses:
 - Apple, TikTok and Spotify have complied with the landing law
 - Google has taken steps to do so
 - Twitch and Telegram have not
 - Meta (Facebook parent) and Twitter have complied with some parts of the law but not others
- Roskomnadzor also demanded that Google lift restrictions on some Russian media outlets after the company had limited their ability to make money from advertising on YouTube