

## **Alert** | Export Controls & Economic Sanctions



February 2022

### **US Issues ‘First Tranche’ of Sanctions Targeting Covered Regions of Ukraine**

*On Feb. 21, 2022, President Biden and the Department of the Treasury’s Office of Foreign Assets Control (OFAC) issued measures targeting Ukraine’s Russia-backed breakaway regions following Russian President Vladimir Putin’s recognition of the so-called Donetsk People’s Republic and the Luhansk People’s Republic as independent nations. In a speech on Feb. 22, 2022, President Biden confirmed U.S. plans to take additional measures, including targeted sanctions on certain Russian banks and officials, in this “first tranche” of sanctions.*

#### **Executive Order Blocking Property of Certain Persons and Prohibiting Certain Transactions Regarding Russian Efforts Undermining the Sovereignty and Territorial Integrity of Ukraine**

On Feb. 21, 2022, President Joe Biden signed an executive order (EO) expanding the scope of past executive orders 13660, 13661, and 13662, barring new investment, trade, and financing to, from, or in two of Ukraine’s breakaway regions: Donetsk People’s Republic or Luhansk People’s Republic (collectively, the Covered Regions). The Covered Regions in eastern Ukraine correspond to territories under separatist control since 2014. The EO effectively establishes a comprehensive embargo against the Covered Regions similar to the existing U.S. embargo against the occupied Crimea region of Ukraine, and prohibits the following activities:

- The exportation, re-exportation, sale, or supply, directly or indirectly, from the United States, or by U.S. persons, irrespective of their location, of any goods, services, or technology to the Covered Regions;
- new investments by U.S. persons in the Covered Regions; and
- U.S. financing of any such investments or exports.

The abovementioned prohibitions are not the EO's exhaustive list of prohibitions; [click here to view the full list of prohibitions and the complete EO](#).

Additionally, the EO authorizes OFAC to sanction individuals and entities that are determined to (1) operate or have operated in the Covered Regions since the EO's effective date; (2) be or have been a senior executive officer, official, leader, or member of the board of directors of an entity operating in the Covered Regions; (3) be owned or controlled by or have acted on behalf of parties subject to sanctions pursuant to the EO; or (4) have materially assisted, backed, or furnished financial, material, or technological assistance for, or goods or services to or in support of, parties blocked according to the EO. These provisions have the potential to discourage non-U.S. persons not otherwise subject to the new measures from engaging in transactions involving the Covered Regions.

### **Issuance of Ukraine-Related General Licenses**

On Feb. 22, 2022, in conjunction with President Biden's EO, OFAC issued Ukraine General License Numbers 17 through 22:

- **General License No. 17** temporarily authorizes transactions ordinarily incident and essential to the wind-down of transactions involving the Covered Regions through March 23, 2022 (12:01 a.m. EST).
- **General License No. 18** authorizes specific exports or re-exportation of medicine, medical devices, agricultural commodities, and certain COVID-19-related transactions to the Covered Regions.
- **General License No. 19** authorizes transactions pertaining to mail services and telecommunications.
- **General License No. 20** authorizes activities of specifically identified international organizations and entities.
- **General License No. 21** authorizes noncommercial, private remittances and the operation/closure of personal accounts.
- **General License No. 22** authorizes the exportation and re-exportation of specific services and software incident to internet-based communications.

Additionally, the EO authorizes OFAC to expand the description of "Covered Regions" in response to the fluid situation in Ukraine, opening the door to future expansion of the areas subject to these directives.

### **U.S. Announces First Wave of Russian Sanctions Targeting Banks and Individuals**

On Feb. 22, 2022, OFAC additionally published the [Russia-related Directive 1A under Executive Order 14024](#) (Directive 1A), issued Russia-related General Licenses 2 and 3, and added entities and individuals to both the [Specially Designated Nationals list](#) and the [Non-SDN Menu-Based Sanctions list](#). U.S. persons are prohibited from all dealings direct and indirect with anyone named as an SDN or anyone 50% or more owned by SDNs. Directive 1A prohibits U.S. persons from certain types of transactions in ruble-

denominated debt involving the Russian government, specifically the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation are political subdivisions, agencies, or instrumentalities of the Government of the Russian Federation.

### **Key Takeaways**

All companies and organizations engaged in activities involving Ukraine must quickly assess whether they have activities in or with the Covered Regions, whether they have any U.S. persons (wherever located) involved in those activities, and what steps must be undertaken to wind down those activities. Given the fluid situation of the Russia-Ukraine conflict, companies and organizations should continue to closely monitor communications/guidance from OFAC and the White House.

The new U.S. measures are part of a multilateral sanctions response that includes measures already announced or currently considered by the UK and the EU (including, for example, UK targeted sanctions on certain Russian banks and individuals, and Germany's decision to halt the Nord Stream 2 gas pipeline). Further, the Biden administration may be seeking cooperation by certain Asian countries to participate in the promulgation of similar restrictions.

In a speech Feb. 22, 2022, President Biden announced forthcoming sanctions targeting Russian banks and officials, with the goal of cutting off Russia's access to funding. Describing these measures as a "first tranche" of sanctions, the president emphasized that, depending on the course of events in Russia and Ukraine, the possibility looms of additional U.S. trade controls and sanctions measures. Additional measures could take the form of export or reexport controls on items subject to U.S. jurisdiction (U.S. origin or foreign made with de minimis U.S. content), which could restrict Russia's access to global supply chains.

Given the likelihood of overlapping, but potentially distinct, sanctions regimes imposed by different authorities around the world (for example, the United States, UK, EU, and additional countries), companies and organizations that have dealings in Russia and/or Ukraine should assess all of their business operations there to understand and be poised to respond to whatever collection of sanctions and trade controls may be forthcoming.

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