

**Alert | Financial Regulatory & Compliance/
Export Controls & Economic Sanctions**



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FinCEN and BIS Warn Financial Institutions About Potential Evasion of Russian and Belarusian Export Controls

On June 28, 2022, the Financial Crimes Enforcement Network (FinCEN) and the U.S. Department of Commerce's Bureau of Industry and Security (BIS) issued a rare **Joint Alert** focused on the intersection of anti-money laundering and export control compliance. Directed at financial institutions covered by the Bank Secrecy Act (BSA), the Joint Alert aims to help these entities identify reportable instances of potential export control evasion in connection with the Russian invasion of Ukraine.

In response to Russia's invasion of Ukraine, BIS has implemented a series of controls targeting Russia's defense, aerospace, and maritime sectors, among others. Notably, the controls place significant restrictions on U.S. exports, reexports, and even in-country transfers to Russia, as well as products destined for Russia and manufactured abroad with certain U.S. technology and/or de minimis U.S. content.

To help financial institutions identify suspicious transactions related to potential evasion of these controls, the Joint Alert outlines commodities of particular concern that may be used to further the military and defense capabilities of Russia and Belarus and that require a BIS license prior to export or reexport to Russia or Belarus. These commodities include aircraft equipment, antennas, GPS systems, and cameras, among others.

The Joint Alert also outlines certain transactional and behavioral red flags for export control evasion, including:

- Transactions involving a change in shipments or payments that were previously scheduled to go to Russia or Belarus, but that are now going to a different country;
- Transactions involving payments from entities in third-party countries who are not otherwise involved with the transactions, where the countries are potential transshipment points for exports to Russia and Belarus;
- The use of business checking or foreign exchange accounts by U.S.-based merchants involved in the import and export of electronic equipment, where the transactions are conducted with third-country-based electronics and aerospace firms with offices in Russia or Belarus; and
- Transactions involving entities whose website or business registration states that the entities work on “special purpose projects.”

The Joint Alert further notes that the procurement of EAR99 items—a category generally referring to low-tech consumer goods that do not require a license for export, re-export, or transfer to most destinations—can be a common tactic for evading BIS scrutiny.

Because many financial institutions are involved in providing financing or processing payments for export-related activity, they may be uniquely equipped to help identify suspicious activity. For example, the Joint Alert notes that firms that provide financing to exporters may have access to customers’ end-use certificates, export documents, or other more extensive documentation associated with letters of credit-based trade financing.

Financial institutions, especially those directly involved in trade finance, may wish to review their protocols for identifying and reporting suspicious activity in light of this Joint Alert.

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