



New Russia Sanctions Target Foreign Financial Institutions, Expand Import Bans

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On December 22, 2023, President Biden issued Executive Order (EO) 14114, imposing significant new economic sanctions against Russia to address the ongoing national security threat posed by the country's invasion of Ukraine and evasion of existing sanctions.

Effective upon its publication, EO 14114 strengthens and expands sanctions against Russia with two important amendments to previous EOs under the Russian Harmful Foreign Activities Sanctions (RHFAS) program: (1) new "secondary sanctions" targeting foreign banks and other financial institutions that engage in certain transactions supporting Russia's military-industrial base or sanctioned persons or entities in Russia, and (2) restrictions on imports of new categories of Russian-origin goods. In addition, EO 14114 authorizes the U.S. Treasury Department, Office of Foreign Assets Control (OFAC), in consultation with the Departments of Commerce and State, to expand these sanctions to new categories of activities and imports in the future.

This client alert highlights the most impactful elements of EO 14114 as well as OFAC's various measures to implement the EO,^[1] which have included to date two sanctions Determinations, two General Licenses, numerous new and updated Frequently Asked Questions (FAQs), and a Sanctions Advisory to Foreign Financial Institutions.

Sanctions Against Foreign Financial Institutions Supporting Russia's Military-Industrial Base

EO 14114 extends the extraterritorial reach of U.S. sanctions to Foreign Financial Institutions^[2] that facilitate transactions in targeted sectors of the Russian economy. In doing so, it marks OFAC's first use of so-called "secondary sanctions" under the RHFAS. Secondary sanctions are those that target transactions and parties outside the jurisdiction of the sanctioning country. Although used sparingly by OFAC, including against Iran, they can be especially effective against financial institutions that rely on access to the U.S. financial system for processing U.S. dollar denominated transactions and other U.S.-based financial services. EO 14114 is no exception, exposing foreign banks and others to significant

new risks in their Russia-related transactions and those of their customers.

More specifically, EO 14114 amends EO 14024 of April 15, 2021 by authorizing OFAC to sanction any Foreign Financial Institution found to have engaged in one of two categories of activities:

1. Conducting or facilitating a significant transaction for a party that was designated for blocking sanctions for having operated in Russia's technology, defense and related materiel, construction, aerospace, or manufacturing sectors of the Russian economy (or other sectors to be designated by OFAC); or
2. Conducting or facilitating a significant transaction, or providing any service, involving Russia's military-industrial base, including the sale, supply, or transfer, directly or indirectly, to Russia of designated categories of items needed to support Russia's military.[3]

Foreign Financial Institutions engaging in these activities are subject to potentially severe penalties, including blocking sanctions or restrictions on opening or maintaining correspondent or payable-through accounts with U.S. banks, effectively blocking access to U.S. financial systems. These measures supplement existing authorities under EO 14024 to designate for blocking sanctions any party found to have materially assisted or supported a party blocked under the RHFAS or a sanctioned transaction involving Russia.

Critically, EO 14114 authorizes OFAC to impose these penalties for potentially broad categories of services. OFAC FAQ 1148 explains that they include "maintaining accounts, transferring funds, or providing other financial services to persons, either inside or outside Russia, that operate in the specified sectors of the Russian Federation economy," as well as specific transactions to facilitate transfers of designated goods needed for Russia's war efforts. They also apply to more egregious activities to assist others to evade U.S. sanctions, such as by using non-transparent payment mechanisms or concealing or obfuscating the identities of the parties or the true purposes of transactions. Moreover, the sanctions do not require the Foreign Financial Institution to *knowingly* engage in these activities, and thus they could potentially be sanctioned for facilitating transactions by their customers and account holders in circumstances where they do not know the nature of the transaction.

OFAC's Sanctions Advisory to Foreign Financial Institutions and the FAQs released in conjunction with EO 14114 provide additional explanation and practical guidance for Foreign Financial Institutions to mitigate compliance risk. It is clear from these publications that OFAC expects Foreign Financial Institutions to adopt thorough and careful transaction due diligence and a variety of complementary compliance practices to avoid transactions targeted by the sanctions. U.S. banks too will need to adapt their compliance procedures for dealing with foreign banks and others subject to these sanctions.

[New Ban on U.S. Imports on Russian-Origin Goods](#)

EO 14114 expands existing restrictions on U.S. imports of Russian-origin goods and authorizes OFAC to target additional products for import bans. A series of previous EOs prohibit imports of a variety of Russian-origin products, including:

- Crude oil;
- Petroleum and petroleum fuels, oils, and products of their distillation;
- Liquefied natural gas;
- Coal and coal products;
- Fish, seafood, and preparations thereof;
- Alcoholic beverages;
- Non-industrial diamonds; and
- Gold.

EO 14114 authorizes OFAC, in consultation with the Secretaries of State, Commerce, and Homeland Security, to expand the scope of these categories of restricted Russian-origin imports to include:

1. Designated categories of fish, seafood, and preparations thereof; diamonds; and any other categories of goods, that were mined, extracted, produced, or manufactured in Russia, or harvested in Russian waters or by Russian-flagged vessels, even if such product has been incorporated or substantially transformed into a new product outside of Russia;
2. New categories of products that contain Russian-origin goods; and
3. New categories of products that have transited through or were exported from or by Russia.

Concurrently with the release of EO 14114, OFAC designated for the new import restrictions Russian-origin **salmon, cod, pollock, and crab**, including any products made outside of Russia that incorporate or have been substantially transformed from these designated categories of Russian-origin seafood. OFAC also issued General License 83, which authorizes continuing imports of these products under preexisting written agreements, through February 20, 2024.

While these actions will have limited impact for those not importing Russian-origin seafood, OFAC now has broad authority to identify additional categories of Russian products and their non-Russian derivatives for import sanctions. In fact, OFAC has signaled in FAQs that it intends to impose similar limitations on Russian-origin diamonds processed in third countries. Importers should monitor further expansion of these sanctions, which could impact supply chains for critical inputs and products with Russian-origin content.

This article contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with questions on specific issues should retain the services of competent counsel. For more information, please contact Chris Skinner, at 202.293.8129 or cskinner@williamsmullen.com.

[1] For additional background information on previous economic sanctions and export controls adopted in response to the Russia's invasion of Ukraine, see our previous client alerts [here](#), [here](#), and [here](#).

[2] A "Foreign Financial Institution" is defined in EO 14114 as, with certain limited exclusions, "any foreign entity that is engaged in the business of accepting deposits; making, granting, transferring, holding, or brokering loans or credits; purchasing or selling foreign exchange, securities, futures or options; or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions; banks; savings banks; money services businesses; operators of credit card systems; trust companies; insurance companies; securities brokers and dealers; futures and options brokers and dealers; forward contract and foreign exchange merchants; securities and commodities exchanges; clearing corporations; investment companies; employee benefit plans; dealers in precious metals, stones, or jewels; and holding companies, affiliates, or subsidiaries of any of the foregoing."

[3] OFAC has designated these items to include various type of machine tools and manufacturing equipment, materials for semiconductors and electronics, test equipment, propellants and other sensitive chemical products, lubricants, bearings, advanced optical systems, and navigational instruments.

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