OFAC Further Expands Sanctions Against Belarus and Russia’s Financial Sectors

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On February 24, 2022, the Department of Treasury’s Office of Foreign Assets Control (OFAC) again expanded sanctions against Russia in response to its invasion of Ukraine by designating numerous Russian and Belarusian financial institutions to the Specially Designated Nationals and Blocked Persons (SDN) List, and Russian financial institutions to the Non-SDN Menu-Based Sanctions (MBS) List and the Correspondent Account or Payable-Through Account (CAPTA) Sanctions List, pursuant to Executive Orders (EO) 13662, 14024, and 14038.

OFAC has issued Russia-related Directive 2 and Directive 3 pursuant to EO 14024 in connection with CAPTA and MBS List designations, which become effective on March 26, 2022. OFAC also issued Russia-related General Licenses (GL) 5, 6, 7, 8, 9, 10, 11, and 12 authorizing activities prohibited by EO 14024 and Belarus-related GLs 5 and 6 authorizing activities prohibited by EO 14038.

Designations of Major Russian and Belarussian Financial Institutions to the SDN List

OFAC designated several banks to the SDN List which prohibits nearly all transactions with the
SDNs and requires U.S. persons to block or freeze all of their assets and property interests and report them to OFAC.

One of Russia's largest financial institutions, VTB Bank Public Joint Stock Company (VTB Bank), was designated to the SDN List pursuant to EO 14024. Three other significant Russian banks were also designated to the SDN List pursuant to EO 14024: Public Joint Stock Company Bank Financial Corporation Otkritie (Otkritie), Open Joint Stock Company Sovcombank (Sovcombank) and Joint Stock Commercial Bank Novikombank (Novikombank).

Similarly, OFAC designated two large state-owned banks in Belarus, Belarussian Bank of Development and Reconstruction Belinvestbank Joint Stock Company and Bank Dabrabyt Joint-Stock Company pursuant to EO 14038.

Additional individuals and companies in Russia and Belarus were also added to the SDN List.

Effective immediately, all property and interests in property of these SDNs, including all entities owned 50% or greater, directly or indirectly, individually or in the aggregate by them, are blocked and cannot be dealt in by any U.S. persons. As discussed below, OFAC issued Russia-related GLs 8-12 authorizing certain transaction and activities with the Russian banks. No GLs have been issued related to the Belarussian banks.

**Directive 2 Designation of Sberbank to the Russia CAPTA List**

Public Joint Stock Company Sberbank of Russia (Sberbank) and 25 of its subsidiaries were designated to Annex 1 of EO 14024’s Directive 2, “Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions.” Sberbank subsidiaries on Annex 1 include banks, trusts, insurance companies, and other financial companies located in Russia and six other countries.

EO 14024 Directive 2, which becomes effective on March 26, 2022, will prohibit U.S. financial institutions from:

- opening or maintaining a correspondent account or payable-through account for or on behalf of any entity determined to be subject to Directive 2, or their property or interests in property; and
- processing transactions involving any entities subject to Directive 2, or their property or
interests in property.

Consequently, U.S. financial institutions must reject such transactions unless exempt or authorized by OFAC. OFAC has also issued Frequently Asked Questions (FAQs) 967, 968, 969, 970, 971, 972, and 973 related to Directive 2. FAQ 969 provides that OFAC's 50% rule applies to Directive 2 entities, meaning that entities not listed in Annex 1 that are owned 50% or greater, directly or indirectly, individually or in the aggregate, by one or more by any of the designated entities are subject to the Directive's prohibitions.

Directives 3 Designation of Entities to the Russia MBS List

Thirteen Russian entities including Gazprombank Joint Stock Company and Public Joint Stock Company Gazprom Neft, were designated to Annex 1 of EO 14024's Directive 3, “Prohibitions Related to New Debt and Equity of Certain Russia-related Entities.” Most of the entities were found to be owned or controlled by the Russian government.

EO 14024 Directive 3 prohibits U.S. persons from engaging in “all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity” that is:

- issued after March 26, 2022, for new debt or new equity of entities listed in Annex 1 of Directive 3 or their property or interests in property; and
- issued 30 days after an entity is determined to be subject to the Directive 3 or their property or interests, for new debt or new equity of such designated entities or their property or interests in property.

Directive 3’s prohibitions related to the entities on Annex 1 also become effective on March 26, 2022. OFAC has issued FAQs 984, 985, 986, 987, 988, and 989 related to Directive 3. Similar to Directive 2, FAQ 985 provides that OFAC’s 50% rule applies to Directive 3 entities.

General Licenses

Given these sanctions, OFAC has issued six Russian-related GLs and two Belarussian GLs authorizing certain transactions otherwise prohibited by the EOs, including transactions related to official government or NGO activities as well as wind-down and energy-related activities with otherwise blocked banks.
Russia-related:

- **GL 5 (NGO activity)** authorizes all transactions prohibited by EO 14024 conducted for official business of certain international organizations, including the United Nations, the ICSID, the MIGA, certain international development banks, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, and the Organization for Security and Co-operation in Europe by their employees, grantees, or contractors.

- **GL 6 (export of agricultural products, medicine, and medical devices)** authorizes all transactions ordinarily incident and necessary to: (i) the exportation or reexportation of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to Russia, or to persons in third countries purchasing specifically for resale to Russia; or (ii) the prevention, diagnosis, or treatment of COVID-19 (including research or clinical studies relating to COVID-19) in Russia.

- **GL 7 (overflight payments, emergency landings, air ambulance services)** authorizes all transactions ordinarily incident and necessary to: payment of charges for, services rendered in connection with overflights of Russia or emergency landings in Russia by U.S. registered aircrafts, or owned or controlled by, or chartered to, U.S. persons.

- **GL 8 (related to energy)** authorizes all transactions related to energy (as defined therein) involving one or more of the following entities: State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank (Vnesheconombank); Otkritie; Sovcombank; Sberbank; VTB Bank; or any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50% or greater interest.

- **GL 9 (certain debt or equity)** all transactions ordinarily incident and necessary to dealings in debt or equity of one or more of the following entities issued prior to February 24, 2022 (4 p.m. EST): Vnesheconombank; Otkritie; Sovcombank; Sberbank; VTB Bank; or any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50% or greater interest.

- **GL 10 (wind down of derivative contracts)** authorizes all transactions ordinarily incident and necessary to the wind down of derivative contracts entered into prior to February 24, 2022 (4 p.m. EST) that (i) include one of the following entities (together, the “Covered Entities”) as a counterparty or (ii) are linked to debt or equity of a Covered Entity, provided
that any payments to a blocked person are made into a blocked account: Vnesheconombank; Otkritie; Sovcombank; Sberbank; VTB Bank; or any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50% or greater interest.

- **GL 11 (wind down of all transactions)** authorizes all transactions ordinarily incident and necessary to the wind down of transactions involving Vnesheconombank; Otkritie; Sovcombank; Sberbank; VTB Bank; or any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50% or greater interest.

- **GL 12 (rejecting transactions)** authorizes U.S. persons to reject all transactions prohibited by EO 14024 involving Otkritie; Sovcombank; VTB Bank; or any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50% or greater interest.

**Belarus-related:**

- **GL 6 (official business of the U.S. government)** authorizes transactions prohibited by 31 CFR Part 548, that are for the conduct of the official business of the U.S. government.

- **GL 7 (government and NGO activity)** authorizes all transactions prohibited by 31 CFR Part 548 and EO 14038 conducted for official business of certain international organizations, including the United Nations, the ICSID, the MIGA, certain international development banks, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, and the Organization for Security and Co-operation in Europe by their employees, grantees, or contractors.