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**PROGRAM MATERIALS**  
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## **US Sanctions Update: Russia other Hot Topics**

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# US Sanctions: Russia and Other Hot Topics

April 2022 Webinar  
*Celesq*

# Agenda

- \* Introduction
- \* Relevant Laws
- \* Key Restrictions
- \* Compliance Best Practices
- \* Questions



# Purpose of Trade Controls

- \* Protect national security
- \* Advance foreign policy
- \* Promote democracy



# Importance of Compliance

- \* Penalties
  - \* Significant monetary fines
  - \* **Prison** for individuals
  - \* Designation as prohibited party
- \* Reputational damage
- \* Business risk



# Sanctions Overview

- \* **Who is regulator?**

- \* US Treasury Department, Office of Foreign Assets Control (OFAC)

- \* **What is regulated?**

- \* **Transactions** (e.g., financial, providing business services) involving **US persons** and *some non-US persons*



# Jurisdiction

- \* Sanctions apply based on:
  - \* Location of the relevant activity;
  - \* Citizenship of persons or entities involved, **regardless of where they are physically located**; and
  - \* Nature, value, or *currency* of the business dealings.

# Types

- \* **Comprehensive Sanctions**

- \* *Virtually all transactions prohibited* with sanctioned country or region, e.g., sanctions on Crimea

- \* **Targeted / Sectoral Sanctions**

- \* Prohibitions and restrictions on **specific transactions** with designated parties, e.g., Sectoral Sanctions on designated Russian financial institutions



# Types (cont'd)

- \* List-based Sanctions

- \* Virtually *all transactions prohibited* with listed parties, e.g., designated Chinese cybercriminal

- \* **Secondary Sanctions**

- \* Restrictions on **non-US persons not otherwise subject to US primary sanctions jurisdiction**
- \* Targeted mainly at non-US parties supporting prohibited parties and activity in Iran, North Korea, Russia, or Syria

# Secondary Sanctions (cont'd)

- \* Can be imposed for multiple reasons, including:
  - \* A “*significant*” transaction with a Russian SDN, SSI, or in a designated Russian sector
  - \* Providing “**material support**” to targeted individuals, entities, or industries in Iran, Russia, North Korea
  - \* Certain investment in and with Iran

# Export Controls

- \* **Who is Regulator?**

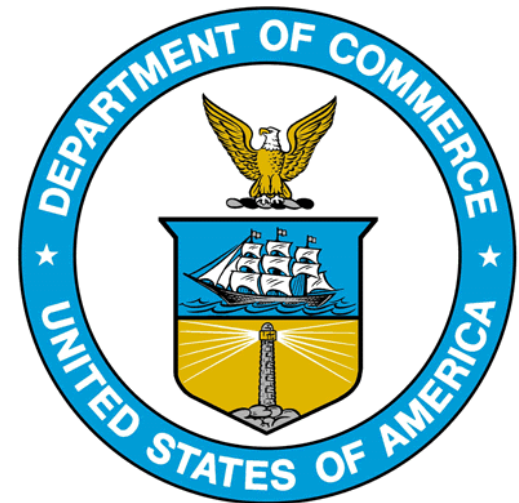
- \* US Department of Commerce, Bureau of Industry and Security (BIS)

- \* **What is regulated?**

- \* Exports of commercial items, software, and related technology

- \* **Where are the regulations?**

- \* Export Administration Regulations (EAR)



# Exports (cont'd)

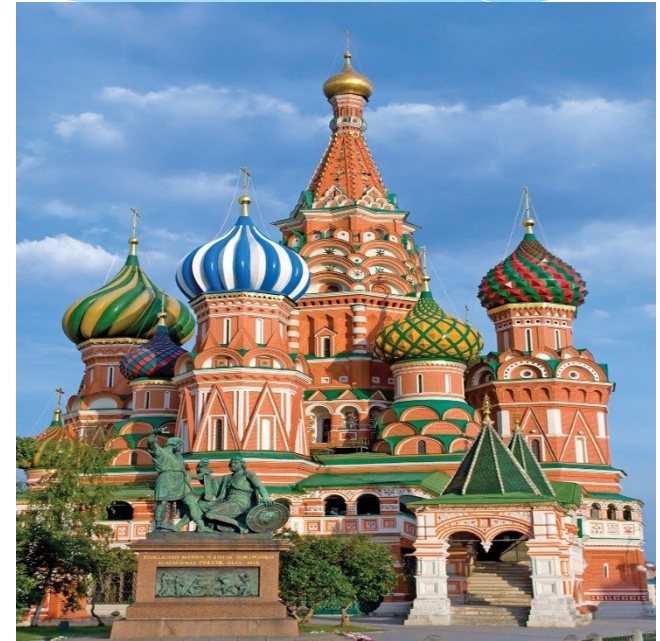
- \* US export controls apply to **all persons**, regardless of location
  - \* Re-exports covered
  - \* *De minimis* rules
  - \* Direct product rule
    - \* Commerce Department rule issued in March 2022 extends FDP rule to two new classes of exports

# Specific Restrictions



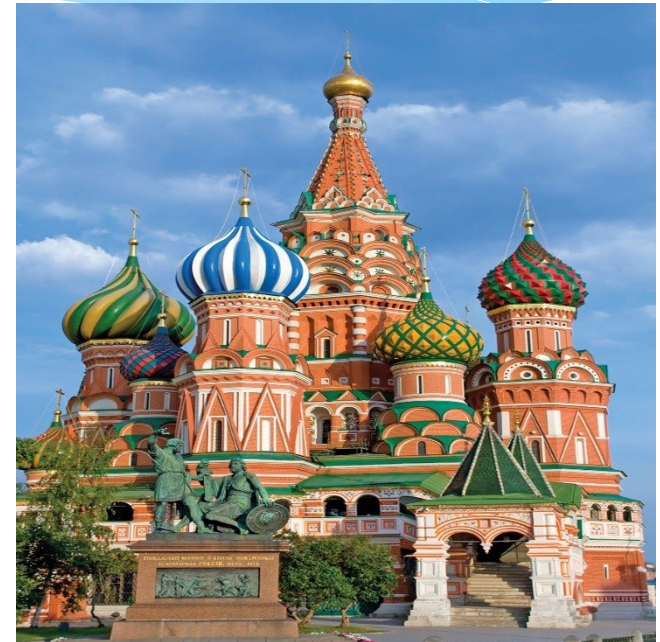
# Russia Background

- \* OFAC first announced sanctions on Russia in 2014
- \* Subsequently issued and amended **4 Directives**
- \* Apply to sectoral sanctions identification (“SSI”) list parties and ***all entities owned 50% or more*** by one or (in aggregate) more than one SSI



# Background (cont'd)

- \* **Certain business activities prohibited, including:**
  - \* **providing financing for / other dealing in new debt/equity greater than 14/30 days**
  - \* **Support for certain oil development and exploration projects**





# Crimea-Specific Restrictions

- \* **Imports** of Crimean goods, services, or technology
- \* Export / re-export, sale, or supply from the United States to Crimea of goods, services, or technology
- \* Approval, financing, other *facilitation* of prohibited transaction
- \* General Licenses, e.g., telecom services, individual financial transactions



# Actions Since February 2022

- \* Executive Order 14065 (Feb 21, 2022)
  - \* **Comprehensive sanctions on**
    - \* Designated individuals and entities
    - \* Donetsk and Luhansk regions of Ukraine
  - \* Directive 1A, 4 – significant restrictions on Central Bank, National Wealth Fund, Ministry of Finance
  - \* Directive 2, 3 – significant restrictions on designated Russian financial institutions

# EO 14065 (cont'd)

- \* Prohibitions imposed on:

- \* Members of Duma
- \* Putin – and individuals deemed close to Putin
- \* Military industry companies
- \* Energy companies
- \* Banks – including removal from SWIFT system



# EO 14065 (cont'd)

## \* **General Licenses**

- \* 13Q, 15K – certain transactions with GAZ Group until April 27
- \* 17A – imports of alcohol and non-industrial diamonds (authorization now expired) and seafood until June 23
- \* 18, 19 – certain personal living, maintenance transactions permitted for US persons in Russia
- \* 23 – certain transactions by humanitarian organizations, NGOs

# Exec. Order 14066 (March 8, 2022)

- \* Broad prohibition on imports of Russian-origin energy products
  - \* Petroleum, petroleum fuel and oils, coal
  - \* **General License 16**
    - \* Authorizes certain transactions until April 22

# Russia Export Restrictions

- \* Enhanced **Licensing Requirements**
  - \* Commerce Control List Categories 3 – 9
- \* Prohibitions on *luxury goods*
  - \* Cars, handbags, tobacco products, booze
- \* Limited exceptions



# Export Restrictions (cont'd)

- \* General Prohibition 10 restrictions on aircraft
  - \* **March 18 press release**
  - \* **March 30 press release**
- \* US-origin aircraft flown to Russia in violation of US export controls are identified, off limits without specific authorization from Commerce



# Military End-User Restrictions

- \* **MEU Controls**

- \* Maintained primarily by Commerce Dept
- \* OFAC guidance / regulations also relevant



# Entity List Restrictions



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# Other Hot Issue: China

- \* **Hong Kong Sanctions**
- \* **Xinjiang Supply Chain**
- \* **Cyber Sanctions**
- \* **Magnitsky**



# Common Compliance Challenges

- \* Failure to identify, screen all transaction partners
- \* Supply chain diligence
- \* Third party representatives
- \* Technology transfers



# Compliance Challenges (cont'd)

- \* **Conflict of law issues**

- \* EU, UK, Canadian, other laws similar but not identical to US laws

- \* **Russian blocking laws**



# Compliance Challenges (cont'd)

- \* **Evasion**
- \* **Practical challenges abound**
  - \* Financial restrictions
  - \* Transportation / logistics
  - \* Insurance
  - \* Evolving / expanding prohibitions



# Best Practices - Structure

- \* Committed compliance team
- \* Compliance policy and manual
- \* Implementation of appropriately-tailored policies and processes
- \* Personnel training
- \* Periodic compliance reviews

# Diligence – Vigilance

- \* Carefully **review and screen** parties and transactions for actual or potential compliance issues
- \* Any such issue – **RED FLAGS** – must be escalated



# Diligence – Vigilance (cont'd)

- \* Specific processes to **review transactions**, including sales and purchases, with respect to:
  - \* Classification, end-use, end-user, origin of items and technology involved
  - \* Identity of all parties (freight forwarders, banks, intermediate consignees, etc.) involved
- \* Obtain **certifications as needed** from suppliers and other transaction partners
- \* **Continuing vigilance** during life of transaction, relationship to identify potential issues

# Questions?





# THANK YOU

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