

U.S. President Biden Issues Seventh Tranche of Economic Sanctions

a. Introduction

On May 8, 2022, the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") issued a Determination prohibiting the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of accounting, trust and corporate formation, and management consulting services to any person located in the Russian Federation. In tandem with that, OFAC issued a Determination imposing economic sanctions on any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, or by the Secretary of State, to operate or to have operated in the accounting, trust and corporate formation, or management consulting sectors of the Russian economy.

OFAC also released new general licenses related to telecommunications. OFAC and the State Department have made new designations.

b. E.O. 14071 Determination

In a Determination pursuant to E.O. 14071, OFAC has specifically prohibited the "exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of accounting, trust and corporate formation, or management consulting services to any person located in the Russian Federation."¹ The prohibition will take effect at 12:01 a.m. Eastern Daylight Time (EDT) on June 7, 2022.

FAQ 1034 and 1035 define the prohibited services as follows:

- "Accounting services" – includes services related to the measurement, processing, and evaluation of financial data about economic entities. Please note that OFAC has issued General License 35 to authorize certain transactions ordinarily incident and necessary to the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of credit rating or auditing services to any person located in the Russian Federation through 12:01 a.m. EDT, August 20, 2022.²

¹ "Determination Pursuant to Section 1(a)(ii) of Executive Order 14071" (hereafter, "E.O. 14071 Determination"), OFAC, May 8, 2022, https://home.treasury.gov/system/files/126/determination_05082022_eo14071.pdf.

² FAQ 1034, OFAC, May 8, 2022, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1034>.

- The term “credit rating services” means services related to assessments of a borrower’s ability to meet financial commitments, including analysis of general creditworthiness or with respect to a specific debt or financial obligation.³
- The term “auditing services” means examination or inspection of business records by an auditor, including checking and verifying accounts, statements, or other representation of the financial position or regulatory compliance of the auditee.⁴
- “Trust and corporate formation services” – includes services related to assisting persons in forming or structuring legal persons, such as trusts and corporations; acting or arranging for other persons to act as directors, secretaries, administrative trustees, trust fiduciaries, registered agents, or nominee shareholders of legal persons; providing a registered office, business address, correspondence address, or administrative address for legal persons; and providing administrative services for trusts. Please note that all of these activities are common activities of trust and corporate service providers (TCSPs), although they may be provided by other persons.⁵
- “Management consulting services” – includes services related to strategic business advice; organizational and systems planning, evaluation, and selection; development or evaluation of marketing programs or implementation; mergers, acquisitions, and organizational structure; staff augmentation and human resources policies and practices; and brand management.⁶

The prohibitions will not apply to the following entities:

- Any service to an entity located in the Russian Federation that is owned or controlled, directly or indirectly, by a United States person; and
- Any service in connection with the wind down or divestiture of an entity located in the Russian Federation that is not owned or controlled, directly or indirectly, by a Russian person.

This is OFAC’s first E.O. 14071 Determination. Curtis will monitor any future developments.

³ FAQ 1035, OFAC, May 8, 2022, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1035>.

⁴ *Id.*

⁵ FAQ 1034, OFAC, May 8, 2022, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1034>.

⁶ FAQ 1034, OFAC, May 8, 2022, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1034>.

c. E.O. 14071 Determination-related General Licenses

In conjunction with the E.O. 14071 Determination, OFAC issued two general licenses authorizing certain wind down transactions related to these services.

- **General License 34:** “All transactions ordinarily incident and necessary to the wind down of the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of accounting, trust and corporate formation, or management consulting services to any person located in the Russian Federation that are prohibited by section 1(a)(ii) of Executive Order 14071 are authorized through 12:01 a.m. eastern daylight time, July 7, 2022.”⁷
- **General License 35:** “All transactions ordinarily incident and necessary to the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of credit rating or auditing services to any person located in the Russian Federation that are prohibited by section 1(a)(ii) of Executive Order 14071 are authorized through 12:01 a.m. eastern daylight time, August 20, 2022.”⁸

d. E.O. 14024 Determination

In a Determination pursuant to E.O. 14024, issued in parallel with the E.O. 14071 Determination, OFAC has determined that section 1(a)(i) of E.O. 14024 applies to “the accounting, trust and corporate formation services, and management consulting sectors of the Russian Federation economy.”⁹

FAQ 1037 clarifies that a “sector determination pursuant to E.O. 14024 exposes persons that operate or have operated in an identified sector to sanctions risk; however, a sector determination does not automatically impose sanctions on all persons who operate or have operated in the sector. Only persons determined, pursuant to E.O. 14024, by the Secretary of the Treasury in consultation with the Secretary of State, or by the Secretary of State, in consultation with the Secretary of the Treasury, or their delegates, to operate or have operated in the above-identified sectors are subject to sanctions.”¹⁰

⁷ “Authorizing the Wind Down of Accounting, Trust and Corporate Formation, and Management Consulting Services,” OFAC, May 8, 2022, https://home.treasury.gov/system/files/126/russia_gl34.pdf.

⁸ “Authorizing Transactions Involving Credit Rating and Auditing Services,” OFAC, May 8, 2022, https://home.treasury.gov/system/files/126/russia_gl35.pdf.

⁹ “Determination Pursuant to Section 1(a)(i) of Executive Order 14024,” OFAC, May 8, 2022, https://home.treasury.gov/system/files/126/determination_05082022_eo14024.pdf.

¹⁰ FAQ 1037, OFAC, May 8, 2022, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/1037>.

Therefore, while the E.O. 14024 Determination will take effect immediately on May 8, 2022, it does not apply to any person in these sectors until there has been a designation. There has been no such designation to date specifically related to the abovementioned service sectors.

e. Telecommunications-Related General Licenses

OFAC also updated and reissued General License 25A and issued General License 33:

- General License 25A:¹¹
 - Effective May 8, 2022, General License No. 25, dated April 7, 2022, is replaced and superseded in its entirety by General License No. 25A. (*See also* Curtis Client Alert.¹²)
 - OFAC updated paragraph (c) to state that this general license does not apply to “(4) Any transactions involving Joint Stock Company Channel One Russia, Joint Stock Company NTV Broadcasting Company, or Television Station Russia-1, unless separately authorized.”
- General License 33:¹³
 - Authorizes the wind down of transactions involving:
 - Joint Stock Company Channel One Russia;
 - Joint Stock Company NTV Broadcasting Company;
 - Television Station Russia-1; or
 - Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest.
 - Wind down period ends 12:01 a.m. EDT June 7, 2022.

¹¹ “Authorizing Transactions Related to Telecommunications and Certain Internet-Based Communications,” OFAC, May 8, 2022, https://home.treasury.gov/system/files/126/russia_gl25a.pdf.

¹² “U.S. President Biden Imposes Sixth Tranche of Economic Sanctions Against Russia,” Curtis, Mallet-Prevost, Colt & Mosle LLP, April 14, 2022, <https://www.curtis.com/our-firm/news/u-s-president-biden-imposes-sixth-tranche-of-economic-sanctions-against-russia>.

¹³ “Authorizing the Wind Down of Operations or Existing Contracts Involving Certain Blocked Entities,” OFAC, May 8, 2022, https://home.treasury.gov/system/files/126/russia_gl33.pdf.

f. Additions to the SDN List

Pursuant to E.O. 14024, OFAC has designated the following persons and entities that are “critical to Russia’s ability to wage war against Ukraine”:¹⁴

- Eight current and former Sberbank executives
- 27 Gazprombank executives
- Joint Stock Company Moscow Industrial Bank (MIB) and 10 of its subsidiaries
- Limited Liability Company Promtekhlogiya
- Three Russian state-controlled television stations: (1) Joint Stock Company Channel One Russia, (2) Television Station Russia-1, and (3) Joint Stock Company NTV Broadcasting Company.

The State Department has also designated the following entities pursuant to E.O. 14024 Section 1(a)(i) in the maritime sector:¹⁵

- Oboronlogistika OOO
- SC South LLC
- Joint Stock Company Northern Shipping Company
- Transmorflot LLC
- M Leasing LLC
- Marine Trans Shipping LLC
- Nord Project LLC Transport Company
- Obshchestvo S Ogranichennoi Otvetstvennostyu Fertoing (OOO Fertoing)

Curtis will continue to monitor developments in this rapidly changing area.

¹⁴ “U.S. Treasury Takes Sweeping Action Against Russia’s War Efforts,” Treasury Department, May 8, 2022, <https://home.treasury.gov/news/press-releases/jy0771>.

¹⁵ “Fact Sheet: State Department Actions to Promote Accountability and Impose Costs on the Russian Government for Putin’s Aggression against Ukraine,” State Department, May 8, 2022, <https://www.state.gov/state-department-actions-to-promote-accountability-and-impose-costs-on-the-russian-government-for-putins-aggression-against-ukraine/>.

About Curtis

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