

EREN

Economic Sanctions Lawyers, Sanctions Expertise



Washington

NEW US ECONOMIC SANCTIONS AGAINST RUSSIA

COMPLIANCE GUIDANCE FOR FOREIGN FINANCIAL INSTITUTIONS

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Among other things, new and intensified US economic sanctions¹ prohibit (or provide for the imposition of US sanctions on) non-US or foreign financial institutions that conduct or facilitate a significant transaction or transactions relating to or that provide any service to or involving persons designated by OFAC for operating or having operated in the technology, defense and related materiel, construction, aerospace, or manufacturing sectors of the Russian Federation economy (the “Specific Sectors”).

The foregoing also includes transactions and activities by foreign financial institutions related to the exportation or reexportation to Russia of the specific items listed by OFAC on the attached document (the “Specific Items”) or the importation from Russia of the Specific Items.

In the case of (“Foreign Financial Institutions”), which include foreign insurance companies, the commitment to provide insurance or reinsurance coverage or the processing and payments of claims under certain Russia-related policies could constitute activity that violates US sanctions against Russia. Such coverage or performance under policies impacted by the above-described prohibitions or sanctionable activity must be avoided.

Protocol

For each existing or prospective policy involving Russia, identify risks by procuring information required for compliance:

Existing policies

name of insured or reinsured entity in or related to Russia

address of insured or reinsured entity

what industry sector in or related to Russia is insured or reinsured entity in? Has the entity been designated by OFAC? If yes or is in or likely to be in or related to the Specific Sectors, do not cover or cease coverage STOP. Do not pay claims. Seek legal advice

¹ Executive Order 14204, as amended

If reinsurance, what is the name and address of insurer and the entity that is insured? What industry is insured in?

Is insured or reinsured entity on the OFAC SDN list? If so, it presents a risk of violating US sanctions. STOP all transactions, STOP and seek legal advice

What does the entity to be insured or reinsured produce, supply or import? Are such items on the list of the Specific Items? If so, do not insure or reinsure. If not, may insure or reinsure, pay claims

Is what is to be insured or reinsured for or related to the Specific Items? If so, do not insure or reinsure. If not, may insure or reinsure, pay claims

New policies

name of prospective insured or reinsured entity in or related to Russia

address of prospective insured or reinsured entity

what industry sector in or related to Russia is prospective insured or reinsured entity in? If in or likely to be in or related to the Specific Sectors, do not cover, STOP seek legal advice

If reinsurance, what is the name and address of insurer and the entity that is insured?

Is entity to be insured or reinsured on the OFAC SDN list? If so, it presents a risk of violating US sanctions. STOP all transactions, do not insure or reinsure, seek legal advice

What does the insured or reinsured entity produce, supply or import? Are such items on the list of the Specific Items? If so, do not insure or reinsure, or pay claims. If not, may insure or reinsure, pay claims

Is what is insured or reinsured for or related to the Specific Items? If so, do not insure or reinsure, or pay claims. Seek legal advice. If not, may insure or reinsure, pay claims

Purpose of above protocol:

Determine exposure to the following:

- Any customers/clients involved in the specified sectors of the Russian economy or who conduct business with designated persons in the specified sectors.
- Any customers/clients that may be involved in the sale, supply, or transfer of the Specified Items to Russia or to jurisdictions previously identified as posing a high risk of Russian sanctions evasion.

Suggested compliance measures to be implemented for medium to high-risk Russian or Russia related clients:

Provide clients with **compliance expectations**, including informing clients that they may not use their accounts or policies to do business with designated persons operating in the Specified Sectors or conduct any activity involving Russia's military-industrial base. This may also include sharing the list of the specified items with customers, especially customers engaged in import-export activity, manufacturing, or any other relevant business lines.

Sending **questionnaires to clients** known to deal in or export Specified Items to better understand their counterparties. Procure the information listed above under new and existing policies.

Taking **appropriate mitigation measures** for any customers or counterparties engaged in high-risk activity or who fail to respond to requests for information regarding activity of concern. These measures include restricting accounts, limiting the type of permissible activity, exiting relationships, and placing customers or counterparties on internal "do not onboard" or "do not process" watchlists.

On a risk-basis, obtaining **attestations** from clients that they do not operate in the Specified Sectors, engage in any sales or transfers of the Specified Items to Russia, or otherwise conduct any transactions involving Russia's military-industrial base.

Incorporating risks related to Russia's military-industrial base into sanctions risk assessments and customer risk rating criteria. This includes updating jurisdictional risk assessments as appropriate.

Implementing **enhanced trade finance controls** related to the specified items, including monitoring information collected as part of documentary trade.

Using open-source information and past transactional activity to inform due diligence and to conduct proactive investigations

Utilize sanctions exclusion clauses in all policies

Update client information periodically, screen against SDN list and Specified Items list when the same are updated by OFAC

Best practices include:

- ▷ Training staff on sanctions risks and common red flags.

Any request for assistance in evading sanctions should be treated as a serious red flag and result in appropriate mitigation measures.

- ▷ Ensuring any identified risks or issues are escalated quickly to the proper level (e.g., senior risk committee) and promoting a "culture of compliance."

Red Flag issues:

Screen clients conducting business with newly formed Russian companies or newly formed companies in third-party countries known to be potential transshipment points for exports to Russia.

Companies or counterparties supposedly involved in production or import-export of sophisticated items with no business history or little-to-no web presence.

Customers or counterparties using unusual or atypical payment terms and methods, such as large cash payments, frequent or last-minute changes to end-users or payees, or routing payments through third countries not otherwise involved in the transaction.

Attachment

The Eren Law Firm

We are a responsive, innovative, efficient, and performance/results-oriented, boutique law firm in Washington, DC. We advise and represent banks, financial services companies, insurance companies, corporations, governments, shipowners, individuals, and other clients on a variety of issues and matters, especially those involving economic and financial sanctions. We assist entities and individuals successfully navigate complex legal challenges, answer all their questions, and provide to them the guidance they need.

The kind, blend, depth, and strength of our expertise and capabilities are unparalleled and ensure that our clients receive advice, representation, and insight that protect and advance their interests. Our lawyers are former senior U.S. Treasury – Office of Foreign Assets Control (OFAC) officials. The combined sanctions experience of our lawyers in private practice and their service at OFAC is over 75 years.

The Eren Law Firm advises and represents clients with respect to all aspects of US sanctions and the laws governing US sanctions. We, among other things, advise SDNs and represent clients in petitions to OFAC for their removal from the SDN list and the lifting of sanctions against them. We also represent clients in the unblocking of frozen assets.

For further information about our firm. Please visit www.erenlaw.com and <https://erenlaw.com/lawyers/hal-eren-2/>

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