

# U.S. Department of Commerce Implements Sanctions Against Russia

In response to Russia's further invasion of Ukraine, the U.S. Department of Commerce's Bureau of Industry and Security implemented sanctions against Russia, effective February 24, 2022, under the Export Administration Regulations (EAR). These sanctions include new license requirements, a new license review policy, restricting license exceptions, new foreign direct product (FDP) rules and additions to the Entity List, among many others. These measures aim to restrict access to technology and software designed and produced in and outside the United States if they contain or are based on U.S. technology subject to the EAR to be used in Russia's defense, aerospace and maritime sectors. Businesses need to get up to speed on these rules to ensure they are not inadvertently transporting goods in violation of these new rules.

First, new Commerce Control List (CCL) license requirements are imposed for Russia on items subject to the EAR and classified under any Export Control Classification Number (ECCN) in Categories 3 to 9 of the CCL (Supplement No. 1 to part 774 of the EAR). A license is required to export, reexport or transfer (in-country) these items to or within Russia. This is an extension of the already existing license requirement aimed at additional items, such as parts used in civil aircraft.

Second, the Russia Foreign Domestic Product (FDP) Rule is created. A foreign-produced item is subject to the EAR under this rule if it meets the product scope and destination scope. The product scope covers certain foreign-produced items that are the direct product of U.S.-origin technology or software specified in groups D or E in Categories 3-9 of the CCL, along with certain foreign-produced items that are produced by any plant or major component of a plant that is a direct product of U.S.-origin technology or software and specified in groups D or E in Categories 3-9 of the CCL. The destination scope is met if there is "knowledge" the item is destined to Russia or will be used in production of any part produced in or destined to Russia. This rule is intended to cover an expansive list of technology and software. The rule imposes a similar new license requirement and applies to all of Russia.

Third, the Russia Military-End User (MEU) FDP Rule (Russia MEU FDP Rule) is created. This rule targets Russian military end users that were previously on the

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MEU list and are being removed and added to the Entity List in Supplement No. 4 to part 744 of the EAR (Entity List). A foreign-produced item is subject to the EAR if it meets both the product scope and destination scope, which are similar to the scopes discussed under the Russia FDP Rule but cover a more expansive list of items in the CCL. The product scope covers the direct product of technology or software subject to the EAR and specified in groups D or E in any category of the CCL, along with a foreign-produced item that is produced by a plant or a major component of a plant that is a direct product of U.S.-origin technology or software subject to the EAR and specified in groups D or E in any category of the CCL. The destination scope is met if there is knowledge (activities involving Footnote 3 designated entities) that a foreign-produced item will be incorporated into or used in the production or development of any part produced, purchased or ordered by any entity with a Footnote 3 designation in the Entity List. The rule imposes a similar new license requirement.

Where a license application is required, the applications are subject to a policy of denial, with a limited exception for a case-by-case review for certain circumstances (e.g., humanitarian needs). The purpose of the case-by-case review is to determine if the license would benefit Russian government or defense. The Russia MEU FDP Rule, however, has a policy of denial in all cases. In addition, certain exceptions to licenses may apply, but not for licenses under the Russia MEU FDP Rule.

Several Russian entities are moved from the MEU List to the Entity List, and two new entities are added to the Entity List, thus subjecting them to the license requirements described above. Footnote 3 is added to the Entity List for Russian MEUs that are being removed from the MEU List and added to the Entity List.

Certain countries that are committed to implementing substantially similar export controls on Russia are excluded from the licensing requirements discussed above.

Businesses should be aware and take caution that products they manufacture and ship abroad may now be subject to the new license requirements created by these rules. If you have questions surrounding these new sanctions and how they may affect your business, please contact [Erica Kolo](#) or a member of Reinhart's [Corporate Law Practice](#).

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