Russia-Ukraine War
U.S. Sanctions Risk

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American Institute of Marine Underwriters
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Refresher: US Financial Sanctions from 30,000 Feet

Dept. Treasury, Office of Foreign Assets Control (OFAC)
3 Types of Sanctions Regimes

Region-Based
- Cuba
- Iran
- Syria
- DPRK
- Crimea, LPR, DPR

List-Based, e.g.,
- SDN
- SSL
- CMIC
- CAATSA

Sectoral
- Russia: extremely complex mix of party, product, and service restrictions
- Venezuela: blocking sanctions on government, broadly defined.

50% Rule (often)

All Program Have Broad Scope & Broad Extra-Territorial Reach

Prohibitions often encompass virtually all dealings, direct/indirect, to/with/for benefit of targets. However, some list-based programs impose lesser restrictions (such as prohibitions on dealing in debt and/or equity of the targets)

US Nexus (US persons, US goods, USD$, US servers ...)
- Civil penalties <= $300k per violation; criminal if willful

No US nexus: material support; “secondary” sanctions.
- Penalty = sanctions (make SDN, deny visas, etc.)
US Sanctions Approach to the Russia-Ukraine Conflict

- Significant multilateral coordination, but US regime differs in scope

- Current US restrictions include:
  - Embargo on Crimea, Donetsk People’s Republic, Luhansk People’s Republic
  - List-based blocking sanctions targeting key sectors of the Russian economy (banks, defense, some energy) and specific bad actors (politicians, oligarchs, military suppliers, sanctions evaders)
  - Prohibition on exports of luxury goods, imports of certain Russian products, and sweeping export controls on control-list commodities
  - Restrictions on new investment and certain services
  - Forthcoming prohibition on services related to maritime transport of Russian oil/petroleum purchased above a Price Cap TBD

- Options still on the table
  - Blocking sanctions on energy companies
  - Prohibitions on additional categories of services
  - Comprehensive embargo
Complex and Expanding Web of US Restrictions on Russia

- Embargo on Crimea, Donetsk People’s Republic, Luhansk People’s Republic

- Blocking sanctions on massive numbers of Russia-related parties, including Putin, numerous politicians, oligarchs and other elites, major Russian banks, defense, aerospace, cyber and intel entities. Impact magnified by enormous penumbra of 50% Rule.

- Non-blocking sanctions prohibiting all transactions involving Central Bank, National Wealth Fund, and Ministry of Finance (including Federal Tax Service)

- Non-blocking sanctions restricting goods, services, technology iso certain oil projects

- Secondary sanctions for investments in and facilitation of construction, repair, etc. of NordStream2 & TurkStream2 pipelines

- Ban on services related to maritime transport of Russian crude and petroleum products (Dec 5, 2022; Feb 5, 2023) unless below Price Cap (TBD)

- Prohibition on new investment in Russia

- Prohibition on import into the US of Russian oil, LNG, coal, fish, seafood, alcoholic beverages, non-industrial diamonds, and certain related products

- Prohibition on export, reexport, sale, or supply to of “luxury” goods to Russia

- Prohibition on export, reexport, sale, or supply to Russian government or Russia of USD banknotes

- Prohibition on providing certain services to parties in Russia: accounting, trust, corporate formation, management consulting, quantum computing

- Export control restrictions on transfer to Russia/Belarus of any item on US export control lists (USML, CCL)

- Addition of scores of Russia-related parties to the Entity List, resulting in prohibition of transfer of any item subject to US export controls (including many foreign-produced items)

- Prohibition on exporting any item subject to US export controls for RU/BY Military End Users/Uses

- Vessels and aircraft:
  1. Prohibition on entry into US of RU aircraft/vessels
  2. Prohibition on entry into RU/BY of US/foreign aircraft/vessels subject to the EAR
  3. Prohibition on taking any action (including e.g., servicing) any aircraft/vessel that has violated the EAR (e.g., by entering RU/BY)
  4. Prohibition on transfer of any item subject to the EAR to aircraft/vessels owned/controlled by Russian nationals (including dual nationals)
  5. Seizures of oligarch vessels/aircraft

- Export control restrictions on transfer to RU/BY of numerous items not on control lists (EAR99) if they are on lists of luxury goods and industrial equipment

- Prohibition on exporting any item subject to US export controls for RU/BY Military End Users/Uses
### Details on the Seaborne Russian Oil Services Ban

1. Effective December 5, 2022, the U.S. (and other G7 countries) will prohibit a broad range of services related the maritime transportation of Russian-origin crude oil;

2. Effective February 5, 2023, the ban will extend to services related the maritime transportation of Russian-origin petroleum products;

3. The ban will apply to all parties in the supply chain for seaborne Russian oil and petroleum products, including: refiners, importers, commodities brokers, traders, financial institutions providing trade finance, shippers, customs brokers, insurance brokers, hull and machinery insurers, reinsurers, and P&I clubs.

4. Services will be **exempt** if the service provider obtains (and retains!) records demonstrating that the Russian oil or petroleum products were purchased at or below a specified price (Price Cap), not yet determined.

<table>
<thead>
<tr>
<th>Level of access to price information in normal course</th>
<th>Type of service provider (examples, not exhaustive)</th>
<th>Acceptable evidence of price</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tier 1: Direct access</strong></td>
<td>Refiners, importers, commodities brokers, traders, customs brokers</td>
<td>Invoices, contracts, receipts, proof of accounts payable.</td>
</tr>
<tr>
<td><strong>Tier 2: Possible access</strong></td>
<td>Financial institutions providing trade finance, shippers,</td>
<td>If it is practical to request them, invoices, contracts, receipts, proof of accounts payable.</td>
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<tr>
<td></td>
<td></td>
<td>If not, transaction-specific attestation/certification from Tier 1.</td>
</tr>
<tr>
<td><strong>Tier 3: No access</strong></td>
<td>Insurance brokers, hull and machinery insurers, reinsurers, and P&amp;I clubs</td>
<td>Annual attestation/certification from Tier 1 or Tier 2 (in connection with renewal of policy).</td>
</tr>
</tbody>
</table>

**OFAC-recommended seaborne oil risk mitigation measures for Tier 3:**
- KYC and risk identification
- AIS and vessel history research and monitoring
- Red flag review and analysis
- Training of all relevant personnel
- Update terms and conditions of policies
- Include attestation/certification in renewal documents
Russia-Ukraine US Sanctions Risks for Maritime Insurance Actors

- Accepting premiums, providing ongoing coverage for sanctioned vessels or parties
  - Beneficial ownership & 50% Rule
  - Constant evolution of lists: need continuous rescreening (insureds, beneficiaries, vessels)

- Processing claims that involve sanctioned vessels, parties, regions, or cargo
  - Multi-jurisdictional challenges, e.g., when different sanctions rules apply to reinsurer. Ensure that policy excludes losses not covered by reinsurance.
  - Dark activity and fraudulent documentation, need for KYC, vessel history & AIS monitoring etc.
  - Challenges of identifying restricted cargo (which goods are “luxury” goods, which goods are on control lists?)
  - Understanding that Russian-owned/controlled vessels anywhere in the world are subject to US export restrictions on any service (e.g., repairs) that requires transfer of goods (e.g., spare parts) subject to US export controls (15 CFR 744.7)
  - Is exclusion clause broadly worded enough to cover limitations imposed by export controls, not just sanctions laws?

- Payments to/from non-sanctioned parties via sanctioned banks

- Covering shipments of Russian oil/petroleum not purchased below the Price Cap
  - Need annual attestation/certification from Tier 1 or Tier 2 (in connection with renewal of policy); ensure that policy terms require it
  - Also need independent risk review and diligence: KYC, vessel history & AIS, etc.

- Reporting obligations
  - US parties must block and report w/in 10 days (and again annually) any property in which a blocked party has an interest (includes contracts, even if no claim is pending)
  - US parties must also report w/in 10 days (and again annually) any transaction rejected for sanctions reasons that did not involve a blocked property interest (e.g., claim for loss involving cargo destined for non-sanctioned party in Crimea)

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