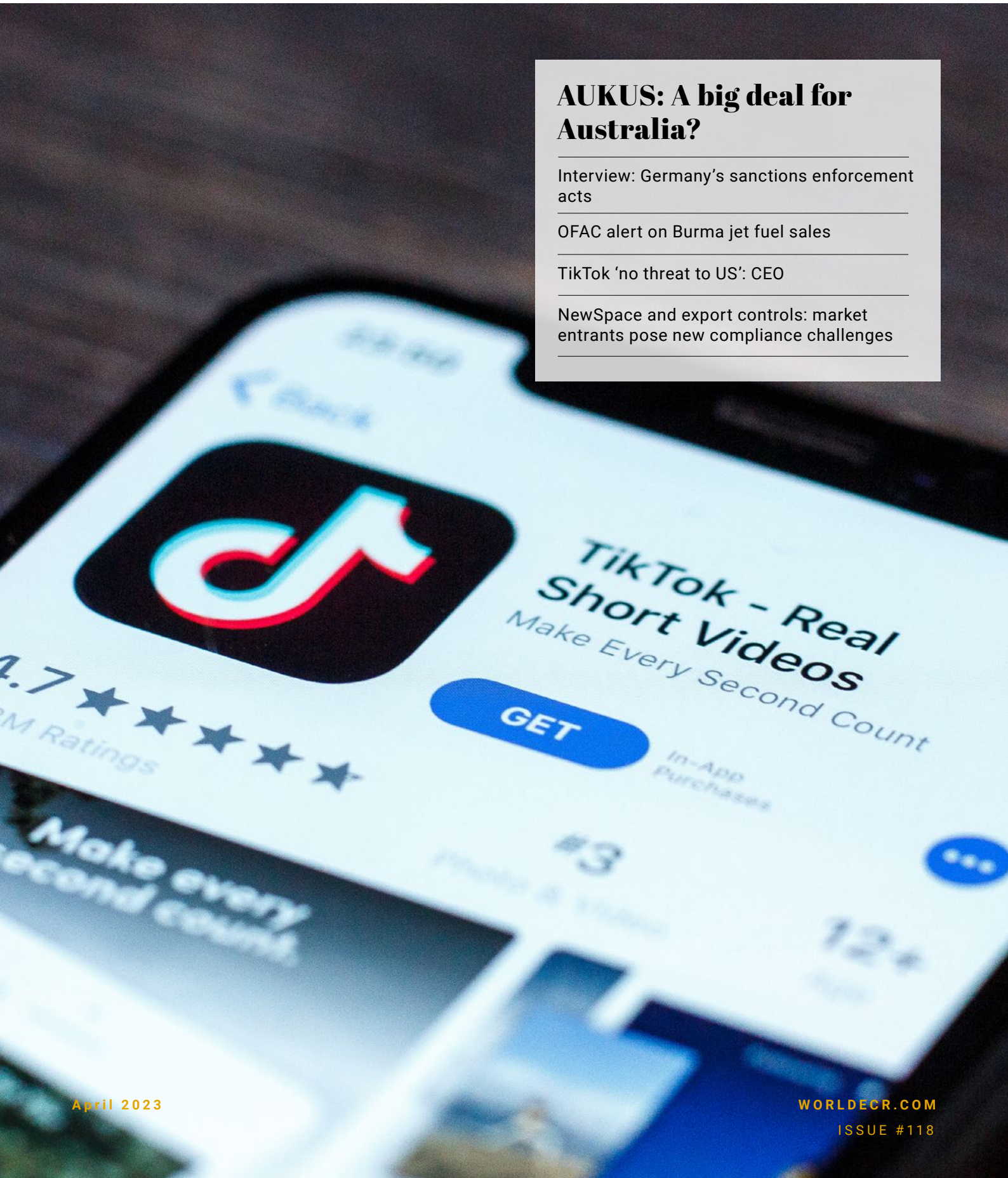
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# US-Russia sanctions and export control update

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On 24 February 2023, one year after Russia began its war against Ukraine, the US Departments of the Treasury and Commerce, in coordination with international allies, announced significant new sanctions and export controls on Russia. In a **press release**,[1] the US Department of the Treasury's Office of Foreign Assets Control ('OFAC') announced that this action, as well as measures being taken by allies and G7 partners, 'further isolates Russia from the international economy and hinders Russia's ability to obtain the capital, materials, technology, and support that sustain its war against Ukraine….' These actions come at a time when the US government is redoubling its efforts to crack down on Russia's attempt to evade sanctions and export controls.

## EXPORT CONTROL MEASURES

The US Commerce Department's Bureau of Industry and Security ('BIS') issued four new rules, each developed in concert with international allies. A **press release**[2] issued by the Commerce Department notes that these actions 'demonstrate the Biden administration's steadfast commitment to supporting the Ukrainian people by continuing efforts to cut off the Russian defense industrial base and military from even low-technology consumer goods Russia seeks to obtain to sustain the war effort.' All four rules have an effective date of 24 February 2023.

### Additional sanctions and refined export controls on Russia and Belarus[3]

This rule expands the scope of existing Russian and Belarussian industry sector restrictions related to oil and gas production, commercial and industrial items, and chemical and biological precursors by adding additional items that will require an export license




to Supplements nos. 4 and 6 to Part 746. It also expands the scope of the 'luxury goods sanctions' by adding additional items to Supplement no. 5 to Part 746. This rule also adds Taiwan to Supplement no. 3 to Part 746, which lists countries excluded from certain license requirements. These changes are intended to better align US export controls with those that have been implemented by US allies.

### Export control measures on Iran to address Iranian unmanned aerial vehicles ('UAVs')[4]

This rule imposes new export controls on Iran in order to curb the use of Iranian UAVs by Russia in its war effort. The rule seeks to address this issue in multiple ways, including by:

- Imposing export license requirements for additional EAR99 items, including semiconductors that are destined for Iran, regardless of whether a US person is involved in the transaction;
- Establishing a new list (Supplement no. 7 to part 746) identifying these EAR99 items by their HTS-6 Code;
- Establishing an Iran Foreign Direct Product ('FDP') Rule for items in certain CCL categories and EAR99 items identified in the new Supplement no. 7; and
- Revising the existing Russia/Belarus FDP rule to reference the new Supplement no. 7, and cover EAR99 items that have been used in UAVs and found on the battlefield in Ukraine.

### Entity List additions

Through two new rules, BIS added 86 entities to the Entity List. Seventy-nine of the entities are in Russia, and the remainder are in China, Canada, France, Luxembourg, and the Netherlands. Several of the entities in Canada, France, Luxembourg, and the Netherlands are subsidiaries of Russian or Chinese entities.[5]

## OFAC SANCTIONS

As part of the US government's actions to mark the one-year anniversary of Russia's war against Ukraine, OFAC issued a new determination under executive order 14024,[6] applying the provisions of the executive order to the metals and mining sector of the Russian economy. This determination authorises OFAC to sanction any individual or entity that operates or has operated in this sector. Pursuant to this authority, OFAC imposed sanctions on 22 individuals and 83 entities.

OFAC also imposed further sanctions on the Russian financial sector by designating a dozen major financial institutions on the Specially Designated Nationals and Blocked Persons List ('SDN List'). These designations include Credit Bank of Moscow PJSC, one of the ten largest banks in Russia and the largest non-state public bank in Russia. Credit Bank of Moscow was previously removed from SWIFT by the European Union and identified on the Sectoral Sanctions Identifications List, but had not previously been subject to full blocking sanctions.

## NEW GENERAL LICENSES

Along with this new round of sanctions, OFAC issued or amended four general licenses:

**GL 8F:** This general license was expanded to authorise US persons to engage in energy-related transactions with two additional Russian financial institutions, Bank Zenit PJSC and Bank Saint-Petersburg PJSC. The duration of the general license has not been extended and it remains valid through 16 May 2023.[7]

**GL 13D:** This license was extended until 6 June 2023, the period during which US persons are authorised to pay taxes, fees, or import duties to, and purchase or receive permits, licenses, registrations, or certifications from the Central Bank of the Russian Federation, the National Wealth Fund, or the Ministry of Finance.[8]

**GL 60:** This new general license authorises, through 25 May 2023, the wind down of transactions involving nine newly-designated financial institutions. Any payment to the newly-designated financial institutions must be made into a blocked account in accordance with the Russian sanctions regulations. This license also authorises US persons, through 25 May 2023, to reject, rather than block, transactions that are prohibited by EO 14024 and are ordinarily incident and necessary to the processing of funds involving the newly-designated financial institutions as an originating,

intermediary, or beneficiary financial institution.[9]

**GL 61:** This new general license authorises, through 25 May 2023, transactions ordinarily incident and necessary to the divestment and transfer of debt or equity of the newly-designated financial institutions to a non-US person. This license also authorises transactions ordinarily incident and necessary to facilitate, clear, and settle trades of covered debt and equity that were placed prior to 4:00 PM ET on 24 February 2023.[10]

## NEW OFAC FAQs

OFAC issued five new FAQs,[11] four of which relate to the determination regarding the metals and mining sector of Russia's economy and one of which relates to General License 13D.

**FAQ #1114:** This FAQ summarises the metals and mining determination made pursuant to EO 14024.

**FAQ #1115:** This FAQ defines the term 'metals and mining sector of the Russian Federation economy' to include 'any act, process, or industry of extracting, at the surface or underground, ores, coal, precious stones, or any other minerals or geological materials in the Russian Federation, or any act of procuring, processing, manufacturing, or refining such geological materials, or transporting them to, from, or within the Russian Federation.' This definition is consistent with the definition used to define the same term in the Ukraine/Russia-related Sanctions Regulations.

**FAQ #1116:** This FAQ clarifies that, consistent with other determinations made pursuant to EO 14024, the metals and mining determination does not automatically impose sanctions on all persons who are operating or have operated in the metals and mining sector of the Russian economy. Rather, persons must first be specifically designated by OFAC after having been determined by the Secretary of the Treasury to operate or have operated in the sector.

**FAQ #1117:** This FAQ clarifies that while non-US persons may be exposed to sanctions for operating in the metals and mining sector, OFAC does not intend to target persons for operating in that sector where the provision of goods or services is solely for the safety and care of personnel, protection of human life, prevention of accidents or injuries, maintenance or repair necessary to avoid environmental or other significant damage, or activities related to environmental mitigation or remediation.

The FAQ also reiterates OFAC's position that non-US persons generally do not risk exposure to US sanctions for engaging in transactions with blocked persons that would not require a specific license if engaged in by a US person (*e.g.*, if such transactions would be authorised by a general license).

**FAQ #1118:** This FAQ clarifies that general license 13D does not permit the payment of an 'exit tax' that may be required by the government of Russia in connection with the divestment of assets located in Russia. OFAC explained that it does not consider this so-called exit tax to be ordinarily incident and necessary to day-to-day operations in the Russian Federation, as required under General License 13D. US persons who are requested or required to pay an exit tax in connection with any divestment of assets from Russia may apply for a specific license from OFAC.

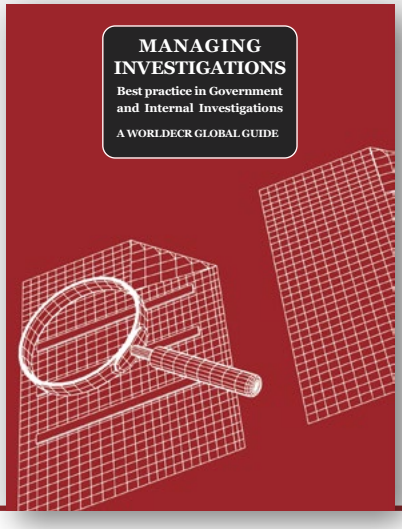
## KEY TAKEAWAYS

These new export controls and sanctions continue the United States' efforts to work with international partners in order to impose costs on Russia for its invasion of and ongoing war with Ukraine. While none of the newly announced actions is individually a marked expansion of the existing export controls and sanctions imposed on Russia or Belarus, collectively they are likely to have a significant effect on Russia, as well as US persons and businesses that continue to have operations in or exports to Russia.

US companies that have any business interactions, directly or indirectly, with Russia or Russian persons or assets should assess their exposure to these new measures and update their compliance policies and procedures.

### LINKS AND NOTES

1 https://home.treasury.gov/news/press-releases/jy1296
2 www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3227-2023-02-24-bis-press-release-additional-russia-invasion-response-actions/file
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