

National Security

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US Blocks More Russian Elites, Imposes Import Restrictions on Energy & More, Adds Export Controls on Luxury Goods

Watch Out, More Things Are Luxury Than You Think!

(Hint: Think Alcohol, Tobacco, Cars, Clothing, Fancy Footwear, Stuff for Boats, Stuff to Go Camping and Skiing, Carpets, Rugs, Jewelry, Stamps & Coins, Artworks and Antiques More than 100 Years Old and Statuettes, Why? Because!)

On March 11, 2022, the President issued [Executive Order 14068](#) (EO 14068) Prohibiting Certain Imports, Exports, and New Investment with Respect to Continued Russian Federation Aggression, triggering a series of new regulations (and some guidance) from several US Government Agencies addressing the import and export of everything from alcoholic beverages to camping gear, cars, and a splattering of sports equipment, new investment restrictions, and blocking of additional Russian elites and their families. The President also [announced](#) several other trade actions related to Russia, including a plan to work with Congress to deny most-favored-nation (MFN) status to Russia. In line with the President's announcement, the Senate proposed a bill ([S.3786](#)) revoking Russia and Belarus's MFN status, which would increase import duties on goods from Russia and Belarus.

We analyze each of these developments in detail:

1. [Executive Order 14068 of March 11, 2022](#)
2. [Blocking of Russian and Belarusian Elites, EO-related GLs, and FAQs](#)
 - a) Blocking Actions
 - b) New General Licenses
 - c) New FAQs
3. [Export Controls on "Luxury Items"](#)
4. [Executive Order 14066 – Russian Energy Import Ban](#)
5. [Prohibitions on the Importation of Certain Russian-Origin Goods](#)
6. [Most Favored Nation Status](#)

1. Executive Order 14068

EO 14068 lays out several new prohibitions on activities related to

Russia, primarily related to export and import activities as well as financial transactions with and investment in Russia. Specifically the EO prohibits:

- Imports into the United States of certain Russian Federation origin items, including fish, seafood, and preparations thereof; alcoholic beverages; non-industrial diamonds; and other items as may be identified by the US Department of the Treasury (Treasury)
- Exports, reexports, sale, or supply, directly or indirectly, from the United States and by US persons of certain luxury goods and other items as may be identified by the US Department of Commerce (Commerce)
- New investment by US persons in sectors of the Russian economy as may be identified by Treasury
- Exports, reexports, sale, or supply, directly or indirectly, from the United States and by US persons of US dollar-denominated banknotes to the Russian Government or any person located in Russia
- US person facilitation of a foreign person engaging in any of the above activities.

The EO delegates to Treasury and Commerce authority to promulgate regulations and take other steps to support the EO, which both departments promptly did on the same day the EO was issued. As a result of the EO, US Customs and Border Protection will begin enforcing the ban on the imports noted above.

2. New Blocking of Russian and Belarusian Elites, EO-related General Licenses, and FAQs

On March 11, 2022, OFAC also took designation actions against additional Russian elites and published several general licenses and FAQs related to the March 11 Executive Order.

a. New blocking of elites.

[OFAC](#) added 35 individuals and three related entities to the SDN List, added new blocking authority to six individuals and two entities already blocked under other sanctions authorities, and identified one aircraft and one yacht as blocked property. The Fifty Percent Rule – which automatically blocks all entities owned directly or indirectly 50% or more, individually or in the aggregate, by one or more blocked persons – applies to all of these designations and thereby automatically blocks all of the 50% owned entities, whether or not they are listed on the SDN List. And even though it may seem confusing that OFAC took the time to identify one aircraft and one yacht as blocked property, all aircraft, vessels, houses, bank accounts, securities, and any other property in which any of the blocked persons has an interest are blocked and therefore may not be dealt in by US persons and must be frozen if they come within possession or control

of US persons.

Among the newly blocked individuals are the Kremlin spokesperson and his immediate family (be careful when you choose your parents), the Management Board of already blocked VTB Bank, and 12 members of the Russia State Duma. The newly blocked entities include a food, beverage, and tobacco wholesaler, a motor vehicle seller, a seafood processor, and a food truck that sits on the corner of Troitskaya Ulitsa and Dvortsovaya Ulitsa (just joking about this last one, because somehow we need to maintain our sense of humor in all this).

b. New general licenses (GLs).

Three of the four new GLs focus on the prohibitions of EO 14068:

- [GL 17](#) – authorizes through the end of March 24 the otherwise prohibited importation into the United States of Russian origin fish, seafood, preparations of fish or seafood, alcoholic beverages, and non-industrial diamonds provided the importation is pursuant to a written agreement entered into prior to March 11, 2022.
- [GL 18](#) – authorizes the otherwise prohibited export, reexport, sale, or supply of US dollar-denominated bank notes if they are for non-commercial personal remittances to an individual in Russia or from a US individual in Russia.
- [GL 19](#) – authorizes US individuals in Russia to engage in transactions ordinarily incident and necessary to their personal maintenance in Russia, such as paying taxes, paying housing expenses, and paying for food and utilities. We are not sure what part of EO 14068 might prohibit any of these transactions, but perhaps OFAC is thinking about the prohibition on supplying US dollar-denominated bank notes to a person in Russia? It would be interesting indeed if US currency could buy you dinner in Moscow these days.

The fourth GL relates to [EO 14065](#), which was issued what feels like a year ago but was only February 21, 2022, and which prohibits imports from, exports to, and investment in the Donetsk and Luhansk regions of eastern Ukraine:

- [GL 23](#) – authorizes transactions incident to NGO humanitarian, democracy building, education, non-commercial development, and environmental protection in the Donetsk and Luhansk regions.

c. New FAQs.

OFAC published [eight new FAQs](#). Some of them offer helpful (and occasionally not-so-helpful) interpretations, and some are redundant filler:

- [FAQ 1021](#) – clarifies that all of the prohibitions in the recent Russia sanctions include a prohibition on using virtual currency to engage in those transaction. This seemed quite obvious to us already, but clearly OFAC thought it an important point to make.
- [FAQ 1022](#) – merely repeats the prohibitions in EO 14068 (no, OFAC does not get paid by the number of FAQs it drafts, but sometimes we wonder).
- [FAQ 1023](#) – (1) repeats that GL 17 provides a brief wind-down for certain imports, (2) states that it is okay (and not prohibited) to unwind contracts in order to comply with the import ban, including redirecting shipments to non-US destinations, and (3) refers the reader to the Commerce Department’s EAR for regulations relating to EO 14068’s export prohibitions.
- [FAQ 1024](#) – in addition to repeating information already in FAQ 1023 and GL 17, this FAQ states that OFAC will consider issuing specific (case-by-case) licenses for transactions that occur after GL 17 expires. OFAC only makes these “statements of specific licensing policy” when it clearly foresees that it may need, and would be willing, to authorize additional wind-down activities. Given how busy OFAC is right now, it may take a while to get a specific license, but with this FAQ OFAC is clearly noting that it is likely willing to grant some.
- [FAQ 1025](#) – clarifies that the EO 14068 overrules GL 6, which authorizes the exportation of certain agricultural and medical items to Russia, to the extent there is any overlap. We assume OFAC has in mind that in certain circumstances the exportation of agricultural products might authorize the reimportation of fish and seafood products, and if that is the case, such reimportation is no longer authorized.
- [FAQ 1026](#) – clarifies that non-US persons who are engaged in importing fish or seafood products, alcoholic beverages, or non-industrial diamonds into foreign countries are not at risk of violating or being targeted for sanctions, unless their transactions involve sanctioned persons or an otherwise prohibited transaction.
- [FAQ 1027](#) – defines several key terms used in the new EO:
 - “Russian Federation origin” does not include items that are incorporated or substantially transformed into another product in a third country.
 - “Fish, seafood, and preparations thereof,” “alcoholic beverages,” and “non-industrial diamonds” are defined by reference to various HTSUS classifications.
 - “Luxury goods” as well as other items identified by the Commerce Department are, quite reasonably, referred to the regulations implemented by Commerce Department (see Section 3 below).

- [FAQ 1028](#) – clarifies that GL 18’s authorization of non-commercial personal remittances authorizes transactions related to the hand carrying of US dollar-denominated banknotes (you know, Benjamins) across the border into Russia, but does not authorize US financial institutions to process transactions for the provision of US dollar-denominated banknotes to foreign financial institutions. We note it is important to keep in mind that the new EO only prohibits the exportation of US dollar-denominated bank notes to Russia; it does not prohibit US dollar-denominated electronic funds transfers, assuming there is no blocked Russian bank involved, you can find a Russian bank with which your US bank is permitted to have a correspondent account, and you can find a US bank that is still willing to engage in any business with Russia. Good luck!

3. Export Controls on Luxury Goods to Russia, Belarus, and Oligarchs Worldwide

Effective March 11, 2022, BIS [imposed](#) export controls on certain “luxury goods” that are subject to the [Export Administration Regulations](#) (EAR) to Russia, Belarus, and designated oligarchs worldwide. The luxury goods controls add a new section to the EAR, 15 CFR 746.10, and have two parts:

1. [To Russia & Belarus](#): New section 746.10(a) imposes a license requirement on the export, reexport or transfer in-country to or within Russia or Belarus of any ‘luxury good’ subject to the EAR, as identified in a new Supplement No. 5 to Part 746;
2. [Worldwide License Requirement for Russian and Belarusian Oligarchs](#): New section of 746.10(b) imposes a license requirement on the export, reexport or transfer in-country to any Russian or Belarusian oligarch or malign actor, regardless of location, designated on the [Specially Designated Nationals and Blocked Persons \(SDN\) List](#) with any of the following designations: [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE EO13661], [UKRAINE-EO13662], [UKRAINE-EO13685], [BELARUS], and [BELARUS EO14038]. For the sanctions guru, this list means that BIS is reaching back to SDNs designated under the four Crimea conflict era Executive Orders (13360, 13361, 13662 and 13685) that were published in 2014, which feels like a lifetime and a pandemic ago, as well as SDNs designated under the more recent Executive Orders.

This worldwide oligarch license requirement also applies if the Russian or Belarusian oligarch is one of the following “parties to the transaction:” purchaser, intermediate consignee, ultimate consignee or end user. It will be interesting to see what steps the exporting industry will take to reduce the risk that US alcohol and tobacco are ultimately consumed by oligarchs as “end users.”

License Policy and Applicable Exceptions. As in the past, the licensing policy is one of denial, and license exceptions are limited to [Baggage](#) (BAG), excluding firearms, and [Aircraft, Vessels, and Spacecraft](#) (AVS), excluding saloon stores and suppliers for aircraft registered in, owned, or controlled by, or under charter or lease by Russia or Belarus or a national of Russia or Belarus. Put another way, the non-Russian/non-Belarusian airlines flying to Russia and Belarus will be able to serve US whiskey and California wine on those flights using license exception AVS, but Russian and Belarusian airlines

and private planes registered in Russia and Belarus or chartered, leased, owned or controlled by Russians or Belarusians will not.

The Luxury Goods List. The interesting part of the new luxury goods controls is the actual list, which appears in new Supplement No. 5 to Part 746 of the [EAR](#). This annex, which lists luxury goods by [Schedule B number](#)– accompanied by a dollar value for things like shoes and ski boots – warrants careful review by a range of industries, as not all of them likely consider themselves “luxury goods” providers. We note the items on the list do track some of Russia’s top imports from the United States. Here is our quick and dirty summary, but please check the original list!

1. Beer, wine, and a range of hard liquors
2. Tobacco products
3. Perfumes and make-up
4. An interesting mixture of sports items, racquet strings, sports gloves and plastic statuettes
5. Plastic parts for yachts
6. A whole bunch of luggage, handbags and other leather bags
7. Mink and other furs
8. Wood statuettes
9. A strange category composed of unused postage, banknotes, check forms (why?)
10. Silk
11. Carpets and floor coverings, items which we had not previously considered luxurious
12. Woven and other fabrics, tapestries, textile wall coverings
13. Clothing including sweaters, vests, jackets, trousers, athletic clothing, ski suits, swimwear, blouse, shirts, handkerchiefs (really!), shawls, scarves, mufflers, ties, bow ties and cravats (clearly it’s time for Customs to update its Customs lingo)
14. Blankets and traveling rugs
15. Camping equipment, tents, camping foods of textile materials
16. Sails, lifejackets and lifebelts, which we personally do not consider luxury items but instead safety essentials
17. A wide range for footgear but only those valued at \$1000 per unit wholesale price
18. Headgear but only those valued at \$1000 per unit wholesale price
19. Various ceramic products including statuettes (they really have it in for statuettes)
20. Lead crystal glassware
21. Pearls, diamonds, precious & semi-precious stones, gold, silver and lots of jewelry
22. Gold and non-gold coin
23. Iron & steel plated with precious metals
24. More statuettes this time made of metal
25. A range of marine engines and parts for marine propulsion
26. Snowmobiles
27. A wide range of passenger vehicles which categories appear to include parts and accessories, chassis and bodies for passenger automobiles

28. Motorcycles
29. Underwater breathing devices
30. Wrist watches
31. Grand pianos
32. Worked ivory and bone, molded or carved articles of watch
33. Artist brushes
34. Fountain and other pens
35. Powder puffs to apply the make-up in 3 above
36. Paintings, drawings, pastels, collages, mosaics and other artworks but only those more than 100 years old
37. Stamp collections
38. Specimens of humans, animals, plants and more
39. Coins more than 100 years old and
40. Antiques more than 100 years old.

The rule includes a savings clause: items affected by this rule that were *en route* aboard a carrier to a port of export, reexport, or transfer (in-country) on March 11, 2022, to or within a foreign destination, were allowed to proceed to that destination under previous eligibility criteria (i.e., a license exception or without a license).

4. Prohibition on Actions Related to the Energy Imports and the Energy Sector of Russia

On March 8, 2022, President Biden signed [EO 14066](#), prohibiting three different actions related to energy imports and the energy sector of Russia. This is also not the first energy-related Russia EO issued by the US Government. Certain targeted prohibitions also apply to certain energy-related dealings with Russian persons under EOs [13622](#) and [14024](#) that should be evaluated by stakeholders in the energy sector.

Effective March 8, 2022, the following activity is prohibited:

- Importation into the United States of Russian: crude oil; petroleum; petroleum fuels, oils, and products of their distillation; liquefied natural gas; coal; and coal products;
- New investment in the energy sector in Russia by a US person, wherever located; and
- Any approval, financing, facilitation, or guarantee by a US person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this new Executive Order if performed by a US person or within the United States.

Immediately after EO 14066 was issued, OFAC issued [General License 16](#) (GL 16) allowing transactions until 12:01 a.m. eastern daylight time, April 22, 2022, that are ordinarily incident and necessary to import into the United States the Russian oil products prohibited by the EO, provided the imports are pursuant to written contracts or written agreements entered into prior to March 8, 2022.

OFAC also issued several new FAQs and updated old FAQs to assist the public with EO 14066. We have summarized the FAQs below, but stakeholders should read the FAQs in full.

- [Updated FAQ 976](#): clarifies that GL 8A, which authorizes certain energy-related transactions until June 24, 2022, involving certain listed entities, does not apply to transactions prohibited by EO 14066. Accordingly, US financial institutions that rely on the authorization provided in GL 8A to process energy related transactions must still comply with the EO 14066.
- [Updated FAQ 1010](#): continues to confirm that the Russian energy sector itself is not subject to comprehensive sanctions. It further states that EO 14066 does not prohibit transactions to unwind activities by US persons to comply with the new import ban, such as redirecting shipments that are currently destined for the United States.
- [FAQ 1013](#): merely restates the three activities prohibited by EO 14066.
- [FAQ 1014](#): clarifies that EO 14066 does not ban all energy imports into the United States from Russia. It only prohibits the import of the specific Russian products listed in the EO.
- [FAQ 1015](#): explains that GL 16 does not authorize entry into new contracts. FAQ 1015 also repeats that EO 14066 does not prohibit unwinding of contracts or other business-related activities (such as redirecting shipments) by US persons to comply with the import ban under the EO.
- [FAQ 1016](#): repeats that transactions by US persons to sell or re-direct shipments of products listed in EO 14066 are allowed and that GL 16 allows import of products through April 22, 2022. FAQ 1016 also states that OFAC may issue specific licenses for shipments occurring after April 22, 2022, or other activity outside the scope of GL 16. Such a statement of specific licensing policy strongly suggests that OFAC will be willing to issue such specific (case-by-case) licenses, but given how busy OFAC is right now, we would not expect OFAC to be able to respond quickly to all such license requests, even if they are urgent. If you think you may need such a specific license, you should consider writing in to OFAC as soon as possible.
- [FAQ 1017](#): repeats that GL 8A, which allows certain transactions related to energy until 12:01 eastern daylight time, June 24, 2022, does not authorize transactions prohibited by EO 14066.
- [FAQ 1018](#): states that non-US persons are not exposed to sanctions under EO 14066 if they import to non-US jurisdictions the relevant Russian-origin products, as long as the transaction does not involve a sanctioned person or an otherwise prohibited transaction. This means that non-US persons will not be targeted for sanctions under the EO, which is already somewhat obvious because the EO contains no targeting criteria. Even though this FAQ speaks only to import related transactions by non-US persons, it appears equally evident that non-US persons cannot be targeted for sanctions under the EO for transactions related to investments in the Russian energy sector, but again no US persons can be involved. However, certain targeted

prohibitions or restrictions may apply to certain energy-related dealings with Russian persons under Executive Orders [13622](#) or [14024](#).

- [FAQ 1019](#): provides a definition of “Russian Federation origin” and “new investment in the energy sector in the Russian Federation.” This is likely the most consequential FAQ. It clarifies that:
 - goods of Russian origin do not include goods that have been substantially transformed or otherwise incorporated not another product outside of Russia and the United States;
 - new investment can be something as small as the extension of a loan or credit to a new energy sector activity; and
 - the new investment ban is not limited to investments related to the limited energy products covered by the import ban, but instead extends to any Russian energy resource, and the energy sector is defined very broadly to include everything from exploration to refinement to transport and everything in between.
- [FAQ 1020](#): clarifies that dealing in crude oil of the Caspian Pipeline Consortium (CPC) is not prohibited because the CPC can segregate crude oil that is not Russian origin to be marketed and loaded separately; accordingly, non-Russian origin crude oil is not restricted even if it was transported through the CPC.

5. Prohibitions on the Importation of Certain Russian-Origin Goods

As a result of the EO, [US Customs and Border Protection](#) will begin enforcing a ban on the import of Russian-origin fish, seafood, and preparations thereof; alcoholic beverages; non-industrial diamonds; and other products that are determined by the Secretary of Treasury, in consultation with the Secretary of State and Secretary of Commerce.

In a new [FAQ](#), OFAC identified the specific [Harmonized Tariff Schedule](#) of the United States (HTSUS) subheadings that are prohibited from importation, which are as follows:

- **Fish, seafood, and preparations thereof.** HTSUS subheadings 0301.11.00 to 0301.99.03; 0302.11.00 to 0302.99.00; 0303.11.00 to 0303.99.00; 0304.31.00 to 0304.99.91; 0305.20.20 to 0305.79.00; 0306.11.00 to 0306.99.01; 0307.11.00 to 0307.99.03; 0308.11.00 to 0308.90.01; 0309.10.05 to 0309.90.90; 1603.00.10; 1603.00.90; 1604.11.20 to 1604.32.40; 1605.10.05 to 1605.69.00; 0508.00.0000; 2301.20.0010; 2310.20.0090; 1504.10.20 to 1504.20.60; and 2106.90.9998.
- **Alcoholic beverages.** HTSUS subheadings 2203.00.00; 2204.10.00 to 2204.30.00; 2205.10.30 to 2205.90.60; 2206.00.15 to 2206.00.90; 2207.10.30 to 2207.20.00; and 2208.20.10 to 2208.90.80.
- **Non-industrial diamonds.** HTSUS subheadings 7102.31.00 and 7102.39.00.

OFAC may add additional HTSUS subheadings identifying additional prohibited imports.

As discussed in Section 4 above, new [GL 17](#) authorizes the importation into the United States of the prohibited Russian-origin goods through March 24, 2022, provided the importation is pursuant to a written agreement entered into prior to March 11, 2022, the date of the new EO. OFAC has indicated that it is not prohibited to unwind contracts in order to comply with the import ban, including redirecting shipments to non-US destinations.

Additionally, as further discussed in Section 4, OFAC provided guidance regarding the definition of “Russian-origin” in [FAQ 1019](#), for purposes of EO 14066. Specifically, Russian Federation origin means goods produced, manufactured, extracted, or processed in the Russian Federation, and does not include any Russian Federation origin good that has been incorporated or substantially transformed into a foreign-made product.

6. US, EU, and Others Plan to Revoke Russia and Belarus’ Most Favored Nation (MFN) Status

Additionally, on March 11, President Biden [announced](#) that the Administration will work with Congress to revoke Russia’s MFN status, a move that will be taken in coordination with the EU and Group of Seven (G7) countries. The Senate proposed a bill ([S.3786](#)) to revoke Russia and Belarus’s MFN status. Although the bill is expected to pass quickly, it has not been voted on by either the House or the Senate, so the final text of the bill may differ from the current text. “Most favored nation,” known in the United States as permanent normal trade relations (PNTR), is a baseline for global trade that ensures countries within the [World Trade Organization](#) are given the best possible terms of trade, such as low tariffs, few barriers to trade, and the highest possible imports allowed. The preferred status also means that nations cannot discriminate in the treatment of their trading partners. Stripping Russia and Belarus of this status means that the United States may impose significantly higher tariffs on importations of Russia and Belarus-origin products, in accordance with the duty rates listed in column 2 of the HTSUS. The President is also authorized to increase duty rates for products from Russia and Belarus above the duty rates set forth in column 2 of the HTSUS. Currently, only Cuba and North Korea do not have MFN status with the US.

Russia is the United States’ 26th largest goods trading partner, and the 20th largest supplier of imported goods. The [US Trade Representative reported](#) that in 2019 the primary imports from Russia to the United States were minerals, fuels, precious metals and stone, iron and steel, fertilizers, and inorganic chemicals.