

Russia-Ukraine War U.S. Sanctions Risk

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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

List-Based, e.g.,

Sectoral

Cuba

Iran

SDN

SSL

Russia: extremely complex mix of party, product, and service restrictions

Syria

DPRK

CMIC

CAATSA

Venezuela: blocking sanctions on government, broadly defined.

Crimea, LPR, DPR

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 \leq \$300k per violation; criminal if willful

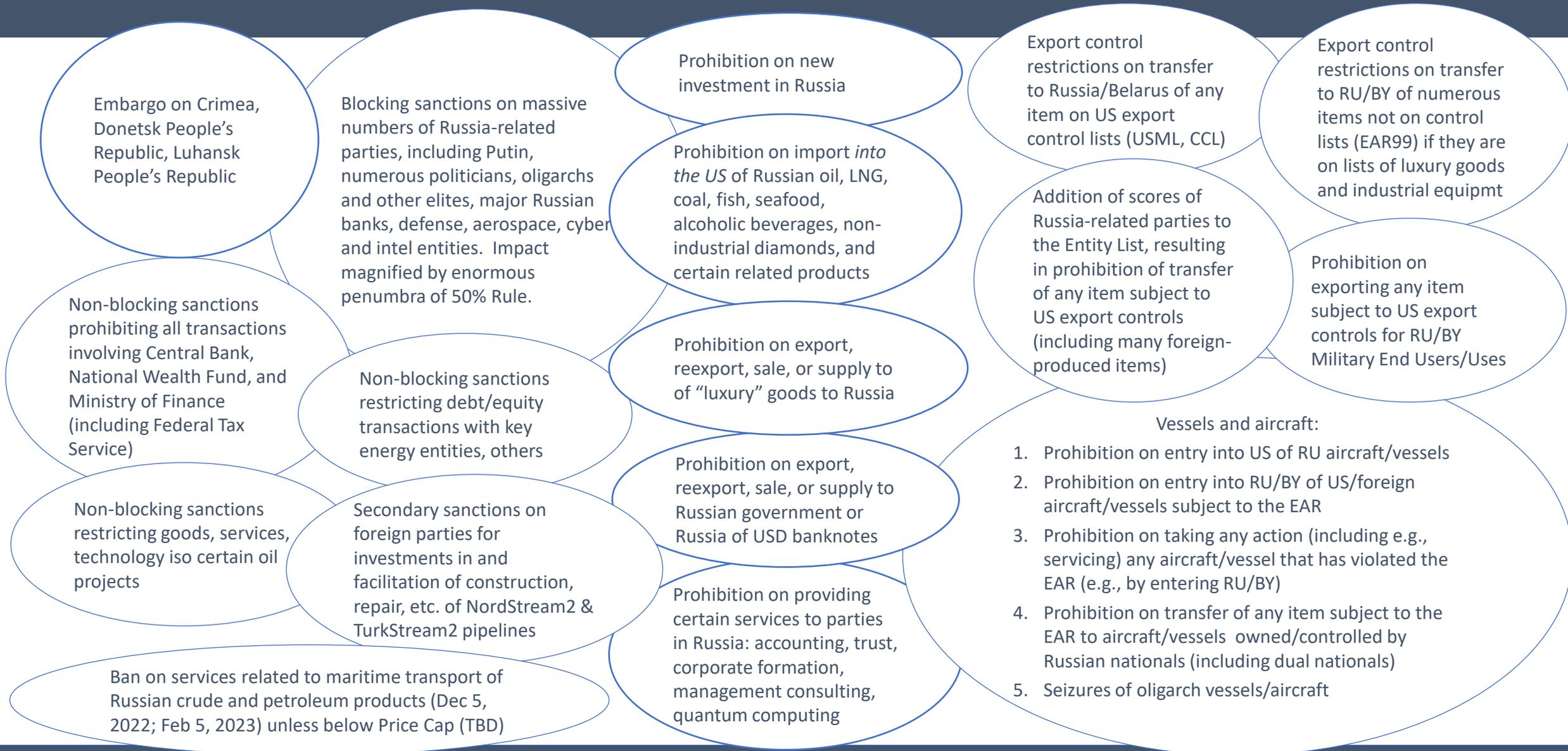
No US nexus: material support; “secondary” sanctions.

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



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.

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

OFAC-recommended seaborne oil risk mitigation measures for Tier 3:	<ul style="list-style-type: none"> • Red flag review and analysis • Training of all relevant personnel • Update terms and conditions of policies • Include attestation/certification in renewal documents
<ul style="list-style-type: none"> • KYC and risk identification • AIS and vessel history research and monitoring 	

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)

➤ **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.

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

➤ **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?

➤ **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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