

U.S. Steps Up Sanctions and Export Controls Against Russia's Defense Industry

By Christopher R. Wall, Stephan E. Becker, Nancy A. Fischer, Aaron R. Hutman and Stephanie J. Rohrer

The United States recently expanded sanctions and export controls against the Russian defense sector. These designations and export control steps have implications for defense contractors, parts suppliers and brokers.

The Office of Foreign Assets Control (OFAC) recently expanded the list of Specially Designated Nationals (SDNs) to include entities in the Russian defense sector and also expanded its sectoral sanctions, which previously applied to the financial and energy sectors, to include the Russian defense sector. The U.S. Department of Commerce, Bureau of Industry and Security (BIS) also expanded export controls applicable to Russia's defense industry.

Sanctions Designations

On September 12, 2014, OFAC added five new entities as SDNs in the Russian defense sector including:

- Almaz-Antey Air Defense Concern Main System Design Bureau
- JSC, Tikhomirov Scientific Research Institute of Instrument Design
- JSC, Kalinin Machine Plant
- JSC, Mytishchinski Mashinostroitelny Zavod, OAO
- Dolgoprundy Research Production Enterprise, OAO

The Russian defense entities that were previously designated as SDNs in July 2014 include:

- Almaz-Antey Corp.
- Federal State Unitary Enterprise State Research and Production Enterprise Bazalt
- JSC Concern Sozvezdie
- JSC MIC NPO Mashinostroyenia
- Kalashnikov Concern
- KBP Instrument Design Bureau

- Radio-Electronic Technologies
- Uralvagonzavod
- United Shipbuilding Corp.

All transactions involving the property or interests in property of these SDNs held by U.S. persons or in the United States are prohibited. This prohibition includes transactions in U.S. dollars that clear through the United States whether or not U.S. persons are involved. The sanctions apply to any company owned 50 percent or more by one of these companies. If equipment was ordered or purchased but money is still owed, shipment of the items may be blocked. OFAC guidance should be sought before proceeding.

Sectoral Sanctions

OFAC also issued Directive 3 pursuant to Executive Order 13662 restricting transactions with specified defense entities involving new debt with a maturity of more than 30 days. New debt is defined as bonds, loans, extensions of credit, loan guarantees, letters of credit, drafts, bankers' acceptances, discount notes or bills, or commercial paper, issued after the date that the person was listed under the Directive. Financing and providing services in support of the debt are also prohibited. Currently, Rostec is the only entity that has been listed under Directive 3. However, the prohibitions in Directive 3 also apply to any company owned 50 percent or more by Rostec, which is a large conglomerate with numerous subsidiaries and ownership stakes in Russian defense industry companies. OFAC has indicated that providing Rostec and its subsidiaries with deferred purchase agreements extending payment terms of longer than 30 days would constitute a prohibited extension of credit. This prohibition will be of particular importance to suppliers and other parties that provide goods or services to the Rostec family of companies.

Export Controls

BIS expanded the Entity List to impose export control restrictions on the SDNs added by OFAC as described above. The BIS Entity List already covered the nine SDNs previously designated by OFAC in the defense sector. Transactions with these entities involving any item subject to the Export Administration Regulations (EAR) require a license that is subject to a policy of denial. This restriction applies to reexports of items that are subject to the EAR even if a U.S. person is not involved in the transaction.

BIS also prohibited the export of certain items to Russia without a license when the exporter knows that the item is intended for a "military end use" or "military end user" in Russia. This prohibition extends to Russia the "military end use/end user" rule that previously applied only to China. The ECCN list covered by this rule is contained in EAR Part 744, Supplement No. 2. License applications for these items will be reviewed on a case-by-case basis, but will be subject to denial if the items would make a material contribution to Russia's military capabilities. Items *not* listed in Supplement No. 2 are not subject to these restrictions even if destined for use by a military end user, though would be subject to the above SDN and Entities List prohibitions if destined for one of those companies.

If you have any questions about the content of this alert, please contact the Pillsbury attorney with whom you regularly work, or the authors below.

Christopher R. Wall [\(bio\)](#)
Washington, DC
+1.202.663.9250
cwall@pillsburylaw.com

Stephan E. Becker [\(bio\)](#)
Washington, DC
+1.202.663.8277
stephan.becker@pillsburylaw.com

Nancy A. Fischer [\(bio\)](#)
Washington, DC
+1.202.663.8965
nancy.fischer@pillsburylaw.com

Aaron R. Hutman [\(bio\)](#)
Washington, DC
+1.202.663.8341
aaron.hutman@pillsburylaw.com

Stephanie J. Rohrer [\(bio\)](#)
Washington, DC
+1.202.663.8009
stephanie.rohrer@pillsburylaw.com

About Pillsbury Winthrop Shaw Pittman LLP

Pillsbury is a full-service law firm with an industry focus on energy & natural resources, financial services including financial institutions, real estate & construction, and technology. Based in the world's major financial, technology and energy centers, Pillsbury counsels clients on global business, regulatory and litigation matters. We work in multidisciplinary teams that allow us to understand our clients' objectives, anticipate trends, and bring a 360-degree perspective to complex business and legal issues—helping clients to take greater advantage of new opportunities, meet and exceed their objectives, and better mitigate risk. This collaborative work style helps produce the results our clients seek.

This publication is issued periodically to keep Pillsbury Winthrop Shaw Pittman LLP clients and other interested parties informed of current legal developments that may affect or otherwise be of interest to them. The comments contained herein do not constitute legal opinion and should not be regarded as a substitute for legal advice.

© 2014 Pillsbury Winthrop Shaw Pittman LLP. All Rights Reserved.