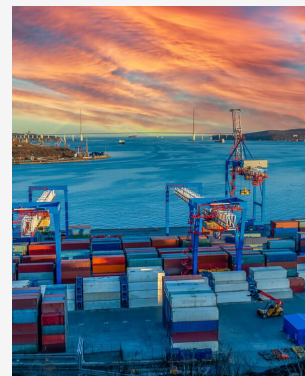


Canada amends Russia sanctions to combat sanctions evasion

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On February 21, 2024, Canada expanded the scope of its sanctions imposed in response to Russia's war in Ukraine. The amendments to the *Special Economic Measures (Russia) Regulations* (the Russia Regulations) are aimed in large part at preventing circumvention of Russia-related sanctions. They were announced in coordination with the United Kingdom and the United States.

This Osler Update provides a high-level overview of the amendments and key takeaways for businesses.

Background context: evasion

Canada has come under considerable scrutiny from allies and non-governmental organizations for gaps in its existing Russia-related sanctions. For example, a U.S. Treasury report [PDF] published in September 2023 named Canada as one of the top ten countries for Russia-related export control evasion. There have been several reports of electronics and military goods, including detonators, being shipped from Canada to Kazakhstan or Kyrgyzstan and then ultimately to Russia, in an attempt to evade Russian sanctions and export controls.

These amendments are intended to close such loopholes and limit opportunities for evasion.

Expansion in scope of sanctionable persons

Prior to the amendments, various restrictions in the Russia Regulations applied only to "designated persons": persons in Russia or Russian nationals listed in a schedule to the Russia Regulations. Persons who were neither in Russia nor Russian nationals could not be listed.

The amendments to the Russia Regulations build on amendments made last year to their controlling statute, the *Special Economic Measures Act* (SEMA), by replacing the definition of "designated person" with the term "person", as defined in section 2 of SEMA ("an individual or entity"). This gives Canada the ability to list persons who are neither in Russia nor Russian nationals, and appears to be intended to capture persons outside of Russia who support the

Russian war effort, including those who help Russia to evade sanctions.

It would not be surprising if, in time, other regulations under SEMA are similarly amended.

Items used to produce weapons

The amendments also expand the list of goods that could be used for military purposes and that are therefore prohibited to be exported, sold, supplied or shipped to Russia or any person in Russia. The newly listed goods include the aforementioned explosives and detonators and other goods that have been identified in reports as the subject of export control circumvention, including

- certain processing units
- ball bearings and certain forms of roller bearings
- machines and apparatus for the manufacture of semiconductors or electronic integrated circuits
- aerials and aerial reflectors
- telescopic sights for fitting to arms, periscopes and other optical devices
- navigational instruments (including for aeronautical or space navigation)
- oscilloscopes, oscillographs and other instruments using optical radiations
- instruments for measuring or checking voltage, current or power with a recording device
- other instruments for measuring or checking semiconductor wafers or devices

Additional sanctioned individuals and entities

The amendments also add 10 individuals and 153 entities to the list of persons under the Russia Regulations who are subject to a broad dealings ban. This ban prevents Canadians and persons in Canada from engaging in commercial activities and other transactions involving or benefitting sanctioned persons. According to Global Affairs Canada, which administers the sanctions, these newly listed individuals and entities support the Russian military through finance, logistics and sanctions evasion.

These amendments bring the total number of individuals listed under the Russia Regulations to 1,605, and the total number of listed entities to 492. As the numbers of listed individuals and entities expands, it continues to be important that businesses conduct due diligence with respect to both new and existing counterparties, to ensure that those counterparties are not themselves sanctioned nor owned or controlled by sanctioned persons.

Key takeaways

The expansion of the scope of persons who may be listed under Canadian sanctions regulations, and specifically now under the Russia Regulations — from individuals who are residents in or nationals of the target country, to “persons” located anywhere — is a marked shift in how Canada applies its autonomous sanctions. Businesses should be mindful that the sanctions landscape continues to evolve. Ensuring compliance with these obligations remains of paramount importance.

Osler's International Trade and Investment Group closely monitors this rapidly developing area of law. If you require assistance or have questions regarding compliance with Canada's trade and sanctions regulatory regimes, please contact a member of our team.

