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SANCTIONS UPDATE MARCH 22, 2022

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EU SECTOR SANCTIONS

COUNCIL REGULATION (EU) 2022/328 OF 25 FEBRUARY 2022 AMENDING REGULATION (EU) NO 833/2014 CONCERNING RESTRICTIVE MEASURES IN VIEW OF RUSSIA'S ACTIONS DESTABILISING THE SITUATION IN UKRAINE

Article 3c

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology suited for use in aviation or the space industry, as listed in Annex XI, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.
2. It shall be prohibited to provide insurance and reinsurance, directly or indirectly, in relation to goods and technology listed in Annex XI to any person, entity or body in Russia or for use in Russia.
3. It shall be prohibited to provide any one or any combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection, in relation to the goods and technology listed in Annex XI, directly or indirectly, to any natural or legal person, entity or body in Russia or for use in Russia.
4. It shall be prohibited to:
   (a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia
   (b) provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia.
5. With regard to the goods listed in Annex XI, the prohibitions in paragraphs 1 and 4 shall not apply to the execution until 28 March 2022 of contracts concluded before 02/26/2022, or ancillary contracts necessary for the execution of such contracts.

EU SECTOR SANCTIONS - UPDATE

DIRECTOR GENERAL LETTER OF 5 MARCH 2022 TO AIRCRAFT LEASING IRELAND AND AVIATION WORKING GROUP

Article 3c(5) of Council Regulation (EU) No 833/2014, read in conjunction with Articles 3c(4)(b) and 1(o) of the same Regulation, allows, until 03/28/2022, the provision of insurance or reinsurance to leasing companies for aircraft and engines subject to operating or finance lease arrangements signed before 26 February 2022, including when such aircraft or engine is used in Russia or leased to a Russian person.

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UK SECTOR SANCTIONS

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 3) REGULATIONS 2022, (SI 2022 NO. 195), AMENDING THE RUSSIA (SANCTIONS) (EU EXIT) REGULATIONS 2019 (SI 2019 NO. 855)

Summary of Selected UK Prohibitions (Regulations 22, 24, 25, and 27)

1. The Export Prohibition (Regulation 22)
The export of restricted goods to, or for use in, Russia is prohibited.

2. The Supply Prohibition (Regulation 24)
A person must not—

(a) directly or indirectly supply or deliver such goods from a third country to a place in Russia;

(b) directly or indirectly supply or deliver such goods from a place in Russia to a third country

(A third country is a country other than the UK, the Isle of Man and Russia)

3. The Making Available and Acquisition Prohibition (Regulation 25)
A person must not—

(a) directly or indirectly make such goods or restricted technology available to a person connected with Russia;

(b) directly or indirectly make such goods or technology available for use in Russia;

(c) directly or indirectly acquire such goods or technology from a person connected with Russia;

(d) directly or indirectly acquire such goods or technology which originate in Russia;

(e) directly or indirectly acquire such goods or technology located in Russia

4. The Technical Assistance Prohibition (Regulation 27)
A person must not directly or indirectly provide technical assistance relating to such goods or technology—

(a) to a person connected with Russia, or

(b) for use in Russia.

UK SECTOR SANCTIONS

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 3) REGULATIONS 2022, (SI 2022 NO. 195), AMENDING THE RUSSIA (SANCTIONS) (EU EXIT) REGULATIONS 2019 (SI 2019 NO. 855)

Summary of *The Financial Services and Funds Prohibition* (Regulation 28)

1. A person must not directly or indirectly provide, to a person connected with Russia, financial services in pursuance of or in connection with an arrangement whose object or effect is—
    - (a) the export of restricted goods,
    - (b) the direct or indirect supply or delivery of such goods,
    - (c) directly or indirectly making such goods or restricted technology available to a person,
    - (d) the transfer of such technology, or
    - (e) the direct or indirect provision of technical assistance relating to such goods or such technology.

2. A person must not directly or indirectly make funds available to a person connected with Russia in pursuance of or in connection with an arrangement mentioned in paragraph (1).

3. A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—
    - (a) the export of restricted goods to, or for use in, Russia;
    - (b) the direct or indirect supply or delivery of such goods to a place in Russia;
    - (c) directly or indirectly making such goods or restricted technology available—
        - (i) to a person connected with Russia, or
        - (ii) for use in Russia;
    - (d) the transfer of such technology—
        - (i) to a person connected with Russia, or
        - (ii) to a place in Russia; or
    - (e) the direct or indirect provision of technical assistance relating to such goods or such technology—
        - (i) to a person connected with Russia, or
        - (ii) for use in Russia.

4. A person must not directly or indirectly procure financial services from a person connected with Russia in pursuance of or in connection with an arrangement mentioned in paragraph (1).

5. A person must not directly or indirectly procure financial services in pursuance of or in connection with an arrangement mentioned in paragraph (3).

UK SECTOR SANCTIONS - UPDATE

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 6) REGULATIONS 2022, (SI 2022 NO. 241), AMENDING THE RUSSIA (SANCTIONS) (EU EXIT) REGULATIONS 2019 (SI 2019 NO. 855)

Summary of *Insurance and Reinsurance Services Relating to Aviation and Space Goods and Aviation and Space Technology* (Regulation 29A)

1. A person must not directly or indirectly provide insurance or reinsurance services relating to aviation and space goods or aviation and space technology—
    (a) to a person connected with Russia, or
    (b) for use in Russia.

On 8 March 2022, the UK Department for International Trade published ***General Trade License (Russia Sanctions – Aviation Insurances)*** permitting the provision of certain insurance and reinsurance services relating to aviation and space goods and aviation and space technology otherwise prohibited by Regulation 29A until 28 March 2022 under contracts concluded before 8 March 2022.

US EXPORT CONTROLS

U.S. DEPARTMENT OF COMMERCE'S BUREAU OF INDUSTRY AND SECURITY (BIS) ISSUED A FINAL RULE, *IMPLEMENTATION OF SANCTIONS AGAINST RUSSIA UNDER THE EXPORT ADMINISTRATION REGULATIONS (EAR)*

- On 24/02/2022, the US Commerce Department's Bureau of Industry and Security ("BIS") imposed additional restrictions under the Export Administration Regulations ("EAR") (15 CFR 730-774), which greatly expand existing export controls on Russia.
- Further, on 03/02/2022, BIS extended to Belarus many of the same restrictions applicable to Russia and further expanded restrictions on Belarus and Russia, respectively. The new US export controls relevant to Russia are effective as of February 24. The new US export controls relevant to Belarus and the additional restrictions on Russia are effective as of March 2.
- Under the US export controls for commercial/dual use items, the US added new license requirements on a broader group of items – including for aircraft parts and avionics, navigation, and GPS, among other things. As a result, many items subject to US export control jurisdiction which previously did not require a license for Russia or Belarus now require a license.The US simultaneously implemented a licensing policy of denial for Russia with limited exceptions – meaning license applications to send items to Russia generally will be denied.
- In certain cases, there are license exceptions available which could authorize a transaction that would otherwise require a license, depending on the specific circumstance. As of February 24 and March 2 the US, however, has greatly restricted the availability of these exceptions for transactions to Russia and Belarus.
- As specifically relevant to aircraft – the new US export controls significantly narrow the aircraft vessels and spacecraft "AVS" license exception – only a few specific provisions are now available for Russia and Belarus. Generally, AVS can be used for civil aircraft legally exported from the US on temporary sojourn to Russia or Belarus, subject to restrictions. In addition, AVS could apply for equipment and spare parts for use on aircraft subject to specified criteria. As of March 2, no part of AVS can be used to authorize transactions for any aircraft registered in, owned or controlled by, or under charter or lease by Russia or a national of Russia.
- In addition, the US has also separately significantly restricted availability of license exception AVS for aircraft destined to Crimea, Donetsk People's Republic, and Luhansk People's Republic regions of Ukraine ("Covered Regions of Ukraine"), and different from how AVS can be used for Russia. Here, like with Russia, AVS can be used for civil aircraft legally exported from the US on temporary sojourn, subject to restrictions. However, AVS is not available for equipment and spare parts for use on aircraft to the Covered Regions of Ukraine.

US EXPORT CONTROLS (CONT'D)

U.S. DEPARTMENT OF COMMERCE'S BUREAU OF INDUSTRY AND SECURITY (BIS) ISSUED A FINAL RULE, *IMPLEMENTATION OF SANCTIONS AGAINST RUSSIA UNDER THE EXPORT ADMINISTRATION REGULATIONS (EAR)*

- Effective March 2, airlines and aircraft which are owned, certified, operated, registered, chartered, leased, or controlled by, for, or for the benefit of a national of Russia are prohibited from flying in domestic US airspace.
- Depending on the specific circumstances, specified countries are excluded from certain of the new Russia and Belarus-specific export controls for items produced outside the United States that include certain US origin content. The relevant countries are identified in Supplement No. 3 to Part 746 of the EAR.
- For civil aircraft that are not themselves US-origin and are not otherwise subject to US export control jurisdiction (e.g., by incorporating certain levels of US origin content), the US export controls would not apply.

US EXPORT CONTROLS (CONT'D)

BIS PUBLISHES LIST OF COMMERCIAL AND PRIVATE AIRCRAFT EXPORTED TO RUSSIA IN VIOLATION OF *EXPORT ADMINISTRATION REGULATIONS (EAR)*

On 18 of March 2022 BIS publicly identified over 100 commercial and private planes that flew into Russia "in apparent violation" of the EAR (i.e., were exported or re-exported to Russia without a required license).

In its press release on the matter, BIS noted that this list puts the public on notice "that providing any form of service to these aircraft requires authorization. Absent such authorization, any person anywhere – including within Russia – risks violating the EAR and would be subject to BIS enforcement actions." BIS specifically noted that it was notifying "all persons and companies in the United States and abroad," highlighting that non-US persons and entities can be equally liable for violations of the EAR. Such violations, including violations of General Prohibition ("GP") 10, can result in significant civil fines and criminal penalties, including imprisonment (for individuals). In addition, there can be considerable internal costs and reputational harm to a company. The list of planes is available in the press release, though BIS stated the list is not exhaustive and also that the list will be updated as warranted.

BIS specifically noted that by publishing this list the general public is on notice that any actions taken with regard to the listed aircraft, including, among other things, repair, maintenance, refuelling and the provision of spare parts, are subject to GP 10 under the EAR. GP 10 prohibits proceeding with a transaction if you know or have reason to know that an export violation has or is about to occur. If there is such knowledge:

"You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR."

BERMUDA RESPONSE

BERMUDA CIVIL AVIATION AUTHORITY INTERNATIONAL SANCTIONS PRESS STATEMENT 12 MARCH 2022

“International sanctions on the aviation sector have had a significant impact on the ability to sustain safety oversight on Russian operated aircraft on the Bermuda Aircraft Registry. The airworthiness system has been restricted to the point that the Bermuda Civil Aviation Authority (BCAA) is unable to confidently approve these aircraft as being airworthy. Therefore, as of 23:59 UTC on March 12th 2022, the BCAA has provisionally suspended all Certificates of Airworthiness of those aircraft operating under the Article 83bis Agreement between Bermuda and the Russian Federation.

For any aircraft airborne at 23:59 UTC on March 12th 2022, the provisional suspension is effective immediately upon landing.”

RUSSIAN COUNTERMEASURES

RUSSIAN FEDERATION ISSUED FEDERAL LAW, *AMENDMENTS TO THE AIR CODE OF THE RUSSIAN FEDERATION AND CERTAIN LEGISLATIVE ACTS OF THE RUSSIAN FEDERATION*, MARCH 11, 2022

Article 3 - Chapter VI of Federal Law No. 164-FZ of 29 October 1998 "On Financial Lease (Leasing)" (Collected Legislation of the Russian Federation, 1998, No. 44, Art. 5394; 2002, No. 5, Art. 376) should be supplemented by Article 381 as follows:

"The provisions of this Federal Law regarding the termination and amendment of the terms of financial lease (leasing) agreements with foreign legal entities in the situation of application of special economic measures in connection with unfriendly actions of foreign states and international organizations related to the introduction of restrictive measures against citizens of the Russian Federation and Russian legal entities, in order to protect the national interests of the Russian Federation, ensuring its financial stability shall be applied taking into account the procedure for terminating and changing the terms of financial lease (leasing) agreements with foreign legal entities, including changing the procedure for calculating and returning the property of foreign legal entities under such contracts and determining the group of goods for which the application of such a procedure is mandatory."

Article 11 - The Air Code of the Russian Federation (Collected Legislation of the Russian Federation, 1997, Art 36) is amended as follows:

1. "To establish that the Government of the Russian Federation in 2022 has the right to make decisions providing:
   1) features of execution of financial lease (leasing) agreements, lease agreements for foreign aircraft used for flights by persons specified in paragraph 3 of Article 61 of the Air Code of the Russian Federation, aircraft engines and financial lease (leasing) agreements for vehicles of road transport and urban land electric transport;
   2) features of state registration of civil aircraft intended for flights in the State Register of Civil Aircraft of the Russian Federation and features of state registration of rights to aircraft and transactions with them.

2. Certain powers of the Government of the Russian Federation specified in part 1 of this article may be assigned by the Government of the Russian Federation to federal executive bodies engaged in the development of state policy and regulatory and legal regulation in the relevant areas."

RUSSIAN COUNTERMEASURES (CONT'D)

RUSSIAN FEDERATION ISSUED FEDERAL LAW, *AMENDMENTS TO THE AIR CODE OF THE RUSSIAN FEDERATION AND CERTAIN LEGISLATIVE ACTS OF THE RUSSIAN FEDERATION*, MARCH 11, 2022

Airworthiness and Registration Issues

· Airworthiness certificates, radio licenses, noise certificates issued by foreign aviation authorities (authorities having 83-bis agreement with the Russian Federation) ("**Aviation Authorities**") in relation to foreign manufactured aircraft ("**Foreign Aircraft**") to be recognised as valid for the period up to 1 September 2022 (including those certificates which expired after 1 March 2022);

· The validity of airworthiness certificates issued in relation to the Foreign Aircraft included into the State Register of Civil Aircraft of the Russian Federation ("**Register**"), which expired after 1 March 2022, to be extended for the period of six months;

· The maximum term of the state service for the issuance of airworthiness certificates of civil aircraft included into the Register to be reduced to five business days starting from 1 March 2022 to 1 September 2022;

· The maximum term of the state service for registration of title to the aircraft, registration of the aircraft in the Register, issuance of radio license and noise certificates to be reduced to five business days;

· Until 1 September 2022 organisations accredited by the authorised bodies in the field of civil aviation should not be involved in the work on the registration of airworthiness certificates (airworthiness evaluation) of Foreign Aircraft, which was:
  - o included into the Register within the period from 1 March 2022 to first of September 2022; and
  - o having an airworthiness certificate issued by the Aviation Authorities with the expiration date not earlier than 1 March 2022.

· When assessing the airworthiness of civil aircraft included into the Register from first of March 2022 to 1 September 2022, in case the aircraft has a valid airworthiness certificate issued by the Aviation Authorities, this certificate shall be recognised via a statement on conformity of the aircraft item to the airworthiness requirements.

· All llegal entities, individual entrepreneurs engaged in commercial air transportation activities are authorised to maintain the airworthiness of the aircraft in accordance with documents approved by the Aviation Authorities in respect of Foreign Aircraft for the period up to 1 September 2022.

RUSSIAN COUNTERMEASURES (CONT'D)

FEDERAL LAW NO. 55-FZ HAS BEEN ISSUED IN THE RUSSIAN FEDERATION ON MARCH 14, 2022

- This law, among other things, prohibits Russian insurers to enter into agreements with insurers, reinsurers and insurance brokers which are located in, or are under control by an entity from, an "unfriendly jurisdiction".

- This limitation is also applies to transfer of funds to such insurers, reinsurers and insurance brokers under agreements entered into prior to the date of this new law. A licence may be obtained in order to enter into agreements or make payments referred to above issued by the Central Bank of Russia.

RUSSIAN COUNTERMEASURES (CONT'D)

FOREIGN MINISTRY OFFICE NOTICE NO. 503-R, MARCH 15, 2022

As a result of Bermuda suspending airworthiness certificates for Russian civil aircraft registered in Bermuda, the Russian Federation has suspended the International Civil Aviation Organisation (ICAO) Article 83bis Agreement between the Russian Federation and Bermuda on the Transfer of Supervisory Functions and Responsibilities (28 day of September – 10/12/1999).

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