

CANADA STRENGTHENS ITS ECONOMIC SANCTIONS AND EXPORT CONTROLS AGAINST RUSSIA AND SUPPORTS RUSSIA'S REMOVAL FROM SWIFT

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On February 24, 2022, Canada imposed additional sanctions in response to military actions taken by Russia against Ukraine. The *Regulations Amending the Special Economic Measures (Russia)*^[1] (**"SEM Russia Regulations"**), as well as the *Regulations Amending the Special Economic Measures (Ukraine)* ^[2] (**"SEM Ukraine Regulations"**) came into force immediately on their day of publication. These measures are the most severe taken by Canada since economic sanctions were imposed in response to Russia's annexation of Crimea in 2014. These amended sanctions focus on dealings with the Russian financial sector. They also prohibit dealings with, and freeze assets under Canadian jurisdiction, of a large number of persons and entities with significant political and financial positions in Russia. Comprehensive region-wide sanctions have also been imposed against the Donetsk People's Republic (**"DPR"**) and the Luhansk People's Republic (**"LPR"**) under the SEM Ukraine Regulations, following Russia's declaration that they are independent of Ukraine.

On February 25, 2022, Canada further announced that it would be imposing sanctions directly against the President of the Russian Federation, his Chief of Staff, as well as its Foreign Minister. Additionally, Canada confirmed that it would support efforts to remove Russia from the SWIFT banking system.^[3]

These measures will have a significant impact on Canadians and on Canadian companies both within and outside of Canada that have business activities in Russia.

Restrictions on Dealings with the Russian Financial Sector

In coordination with several other jurisdictions including the US and the EU, Canada is establishing sanctions that apply to dealings with much of the Russian financial sector, including Russia's largest banks, VTB and Sberbank, as well as Alfa-bank, the Eximbank of Russia and the Russian Direct Investment Fund. Any dealing "in any property, wherever situated, held by or on behalf of" these institutions will be prohibited. The provision of goods or financial services for the benefit of these newly listed Schedule 1 persons will also be prohibited for all Canadians as well as for Canadian companies.

New prohibitions have also been imposed on transactions by Canadians in respect of Russian sovereign debt. The newly created Schedule 3.1 to the SEM Russia Regulations designates three important government financial entities: the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation.

These changes prohibit the financing or dealing in “new debt, directly or indirectly, including bonds, loans, debentures, extensions of credit, loan guarantees, letters of credit, bank drafts, bankers’ acceptances, discount notes, treasury bills, commercial paper and other similar instruments.”^[4]

These prohibitions extend beyond previous restrictions in Schedule 2 and 3, which prohibit dealings in new debt with a maturity of more than 30 or 90 days. The new Schedule 3.1 does not allow for such short-term financing.

The Canadian Prime Minister subsequently announced that Canada will support Russia’s removal from the SWIFT banking system, which would effectively cut off Russian banks from the international financial system. It is not clear yet when and how these measures will be implemented, but Canadian citizens and companies should begin preparing for this possible scenario.

Comprehensive Sanctions against DPR and LPR

Comprehensive, region-wide sanctions against both the Donetsk and Luhansk regions of Ukraine, also known as the DPR and LPR respectively,^[5] have been imposed in response to Russia’s decision to recognize the independence of these regions.^[6] These regions have been outside Ukrainian government control since 2014 as a result of Russian military intervention. Ukraine considers these regions as “temporarily occupied territories of Ukraine”; however, Russia officially stated that it recognizes these regions as independent states on February 21, 2022.

These sanctions impose broad prohibitions on dealings both with the DPR and the LPR, effectively prohibiting Canadians from engaging in specific transactions and activities in these regions. In particular, the sanctions prohibit the following:

- making an investment that involves a dealing in any property located in these regions;
- providing or acquiring financial or other related services with respect property in these regions;
- importing, purchasing or acquiring goods from these regions, or from any person in these regions;
- exporting goods destined for these regions;
- providing technical assistance, such as instruction, training or consulting services, to these regions or to any person in these regions; and
- supporting tourism in these regions.

Canadians and Canadian companies operating in Russia or transacting with parties in Russia should pay particular attention to the expanded list of sanctioned persons as numerous entities in Russia's export-oriented oil and gas industry (e.g. Gazprom and Transneft) and various other industries have also been designated, including companies in the transportation, aviation, utilities, defence and telecommunications sectors. These measures are intended to affect Russia's major industries that serve as an important source of revenue for the Russian government.

For instance, twenty-seven institutions were added to the list of designated Russian entities, including key financial institutions, transportation corporations like Russian Railways, Sovcomflot (a large Russian shipping company), United Aircraft Corporation, and the Wagner Group.

Additional Designated Persons

The new Canadian measures also designate numerous individuals and entities in Russia under the SEM Russia Regulations. Sanctions have been imposed against all members of the Russian State Duma who voted for the decision to recognize the independence of the DPR and LPR.^[7] The sanctions also list four Ukrainian individuals who are considered pro-Russian agents of disinformation under the SEM Ukraine Regulations,^[8] and thirty-one individuals who have important political and/or financial positions in Russia, as well as their close contacts and family members.^[9]

The announcement that Canada will also designate the President of the Russian Federation, his Chief of Staff, as well as Russia's Foreign Minister under the SEM (Russia) Regulations has not yet been implemented, and leaves open the possibility that additional designations may also continue to be made.

Export Control Measures

Following announcements made by the U.S. administration, Canada has made changes to its export controls with the objective of affecting Russia's ability to procure controlled dual-use and military goods and technology used for the development of its military capabilities and the modernization of its economy.^[10] The Notice to Exporters and Brokers specifies that Canada will stop the issuance of new permits for the export and brokering of controlled goods and technology to Russia. All existing export permits for the export or brokering of items are also cancelled, effective February 24, 2022.^[11] By some estimates, these existing export permits amount authorize underlying export transactions worth up to \$700M worth of goods and technology.^[12]

Additional Measures Can Be Expected

Although these sanctions against Russia are the most severe measures that have been imposed in relation to Russia since 2014, further restrictions may be put in place if the situation in Russia and Ukraine evolves in the future. Canadians and Canadian companies operating in Canada or operating abroad that have business

operations in Russia will want to pay close attention to these new measures as they evolve, and obtain legal guidance, as needed.

McMillan's International Trade Group will continue monitoring the sanctions measures related to Russia and Ukraine and provide updates to keep existing and prospective clients apprised of these important trade-related developments.

- [1] [*Regulations Amending the Special Economic Measures \(Russia\) Regulations*](#) (SOR/2022-0027); [*Regulations Amending the Special Economic Measures \(Russia\) Regulations*](#) (SOR/2022-0029).
- [2] [*Regulations Amending the Special Economic Measures \(Ukraine\) Regulations*](#) (SOR/2022-0028); [*Regulations Amending the Special Economic Measures \(Ukraine\) Regulations*](#) (SOR/2022-0030).
- [3] [*Canada to sanction Putin, Russia's foreign minister for Ukraine invasion*](#), February 25, 2022.
- [4] [*Regulations Amending the Special Economic Measures \(Russia\) Regulations*](#), s. 3.1(1.1).
- [5] [*Regulation Amending the Special Economic Measures \(Ukraine\) Regulations*](#).
- [6] Prime Minister of Canada Justin Trudeau, [*Canada announces support to address the situation in Ukraine*](#), (Ottawa, Ontario), 22 February 2022.
- [7] [*Regulations Amending the Special Economic Measures \(Russia\) Regulations*](#).
- [8] [*Regulations Amending the Special Economic Measures \(Ukraine\) Regulations*](#).
- [9] [*Regulations Amending the Special Economic Measures \(Russia\) Regulations*](#).
- [10] [*Canada targets Russian elites, major banks in new sanctions amid Ukraine invasion*](#), February 24, 2022.
- [11] [*Notice to Exporters and Brokers*](#), 1071 – Export and Brokering of items listed on the Export Control List and the Brokering Control List to Russia.
- [12] [*Canada cancels \\$700M in export permits in response to Russian invasion of Ukraine*](#), February 24, 2022.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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