

United States Expands Sanctions against Lukashenka Regime, Intensifies Focus on Human Rights Abuses and Corruption

December 9, 2021

The U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") announced new sanctions last week against 20 individuals and 12 entities related to Belarus, including new sectoral sanctions targeting debt financing for the Belarusian government and new blocking sanctions against Belarusian state-owned enterprises ("SOEs").

In doing so, OFAC noted that, as it continues to impose further economic sanctions aimed at Belarus (this is OFAC's fifth tranche of Belarus-related sanctions since the August 2020 presidential elections—see our earlier discussions on Belarus-related sanctions [here](#) and [here](#)), its actions are taken in coordination with international allies and partners "to demonstrate a broad unity of purpose."

Beyond demonstrating the Biden administration's commitment to multilateralism, the sanctions also reflect President Biden's focus on corruption and human rights abuses, as seen in the first-ever U.S. Strategy on Countering Corruption and his administration's promotion of the global Summit for Democracy.

WHAT ARE THE IMPLICATIONS OF THE NEW SANCTIONS?

Citing the Lukashenka regime's continued corruption, human rights abuses, inhumane exploitation of vulnerable persons, orchestration of irregular migration and attacks against democratic freedoms, OFAC took action on December 2, 2021 to expand sanctions on Belarus pursuant to Executive Orders 14038 and 13405.

New Financial Sanctions Targeting Belarusian Government Debt

- Following earlier actions by the European Union, United Kingdom, Canada and Switzerland, OFAC issued *Directive 1* under E.O. 14038 prohibiting U.S. persons from transactions and other dealings in "new debt with a maturity of greater than 90 days issued on or after December 2, 2021 by the **Ministry of Finance** of the Republic of Belarus or the **Development Bank of the Republic of Belarus**."

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- OFAC also issued related guidance (new FAQs 940-948), clarifying, among other topics, that both primary and secondary market transactions involving targeted debt are restricted for U.S. persons (FAQ 941), that OFAC's 50% Rule does *not* apply under these new sanctions (FAQ 943) and that other dealings with these entities remain lawful for U.S. persons (FAQs 945 and 946).
 - OFAC also carried over certain related guidance from the Russian sectoral sanctions program (FAQ 947 discusses existing revolving credit facilities and long-term debt agreements and FAQ 948 notes that related derivative contracts also are prohibited).

Expanded Blocking Sanctions Targeting Belarus's Potash Industry

- Following the August 2021 designation of Belarusian SOE Belaruskali OJSC, OFAC has expanded its sanctions targeting Belarusian potash exports by adding to the list of Specially Designated Nationals ("SDN") several new entities:
 - Open Joint Stock Company Belarusian Potash Company ("BPC"),
 - Agrorozkvit LLC ("Agrorozkvit"), and
 - Foreign Limited Liability Company Slavkali ("Slavkali").
- Accompanying these designations, Belarus General License 5 "provide[s] U.S. persons approximately 120 days in which to wind down transactions involving BPC or Agrorozkvit, or any entity in which BPC or Agrorozkvit owns, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest, including the wind down of such transactions in which Belaruskali OAO has a property interest."

Additional Human Rights Sanctions Related to Migrant Smuggling

- Citing the Lukashenka regime's forced exposure of migrants, including families with small children, "to harsh winter conditions that have already claimed the lives of at least a dozen vulnerable individuals" at the EU-Belarusian border, OFAC announced new blocking sanctions against Belarus's state-owned tourism company, Republican Unitary Enterprise Tsentrkurort ("Tsentrkurort"), and several government officials.

New Sanctions Targeting Belarus's Security and Defense Sectors

- Citing shipments of "thousands of tons of ammunition and weapons to foreign conflict zones, such as in Libya," OFAC announced new blocking sanctions against a government-controlled cargo carrier, JSC Transaviaexport Airlines ("Transaviaexport").

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- Also designated were several defense production firms, AGAT Electromechanical Plant OJSC (“AGAT”), Joint Stock Company 140 Repair Plant (“140 Repair Plant”), Kidma Tech OJSC (“Kidma Tech”) and JSC Peleng (“Peleng”); an export company, CJSC Beltechexport (“Beltechexport”); and a paramilitary security force, LLC Gardservis (“Gardservis”).

Sanctions on Additional Family Members, Officials and Government Offices

- New sanctions include blocking actions against President Lukashenka’s middle son, **Dzmitry Lukashenka**, and the Republican State-Public Association Presidential Sports Club (“Presidential Sports Club”), which he allegedly utilizes to promote corrupt schemes in Belarus.
- Other designated officials include multiple senior members of Belarus’s Main Directorate for Combating Organized Crime and Corruption of the Ministry of Internal Affairs of the Republic of Belarus (GUBOPiK), the Deputy Minister of Internal Affairs and a member of the executive committee of the National Olympic Committee of the Republic of Belarus (Belarusian NOC), which organization OFAC had earlier designated on August 9, 2021.

WHO MUST COMPLY WITH THE NEW RESTRICTIONS?

Compliance obligations with these new sanctions fall on “U.S. persons” only, including all persons within the United States and overseas branches and offices of U.S. companies.

Although not obligated to comply with the restrictions imposed by these sanctions, non-U.S. persons that engage in dealings with the individuals, entities and offices noted above risk being viewed by U.S. authorities as providing material support or assistance to these designated persons under the authority of Executive Orders 14038 and 13405 and, consequently, themselves becoming the target of U.S. sanctions.

COORDINATION WITH EU AND UK SANCTIONS

As noted above, when announcing these sanctions, OFAC highlighted that it had coordinated them with international allies and partners. As part of this coordination, the EU and the United Kingdom simultaneously adopted their own “fifth tranche” of sanctions targeting Belarus.

The EU’s expanded package added 17 individuals and 11 entities to the EU asset freeze list, while the United Kingdom added eight individuals and one entity to its equivalent

UK asset freeze list. The EU and UK designations target the same categories of individuals and entities as the new U.S. sanctions, with some variation in emphasis: the EU has added more tourism and travel related entities (which are allegedly involved in the “instrumentalisation of migration for political purposes”), while the United Kingdom has focused on individuals it considers to be involved in propaganda efforts on behalf of the Lukashenka regime. These EU and UK asset freeze lists generally operate like US blocking sanctions, and also apply to any entities owned or controlled by the designated individuals.

While Belarus, U.S., EU and UK sanctions are not yet in full alignment in terms of scope and content, the recent coordinated US, EU and UK sanctions announcements suggest a return to more harmonized sanctions policy among the major Western sanctions regimes.

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Please do not hesitate to contact us with any questions.



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