

# U.S. Commercial Services

## Discover Global Markets

### *Country Outlook - Russia*

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# Agenda

- Current legal regulatory environment when doing business in Russia
- Compliance with E.U. and U.S. Export Regulations which may impact current and future business
- Red-Flag indicators to be aware of when doing business in Russia
- Case Studies: When the FBI comes knocking on your door due to Russian business transactions

# Current legal regulatory environment when doing business in Russia

- Expanded business sanctions and export controls targeting Russia
- Expanded scope of products and services are subject to prohibitions and/or requiring export licenses to sell to Russia
- Expanded list of “Do not do business with” encompassing a larger group of individuals and entities
- New regulatory enactments impact whether you do business directly or indirectly

# Current legal regulatory environment when doing business in Russia – cont'd

- On September 17th, the U.S. government issued its latest round of sanctions on Russia for its role in the current unrest in eastern Ukraine. The final rule issued by the Department of Commerce's Bureau of Industry and Security (BIS) targets Russia's defense sector by further restricting certain types of defense-related exports. Effective immediately, exporters to Russia should confirm that their current shipments comply with the extensive regulations.
- In August of 2014, the U.S. government had already imposed restrictions targeting Russia's energy, oil and financial industries. This includes certain exports, reexports or transfers within or outside Russia and its subsidiaries.

# Sanctions Summary

- The new regulation makes two significant changes: First, it adds Russia as a destination that requires a license for certain goods known to be used for a “military end-use”. Second, it broadens the mandate’s scope over Russia in particular by also applying the license requirement to any “military end **user**” destination. This additional restriction *covers many dual-purpose exports* used by the Russian military for commercial purposes. Consequently, if a U.S. company knows that its product will be used in **any** capacity by the Russian military, it may only be exported if it is granted a license by BIS, regardless of whether it is used for a military-related purpose.

## Sanctions Summary – cont'd

- Supplement 2 to the new rule lists the restricted items. Several of these are used in the medical field:
  - Export Control Classification Number (ECCN) 3A292 – some types of oscilloscopes.
  - ECCN 3a999.c – flash x-ray machines.
  - Many types of computers listed in Category 4 of the Commerce Control List.

# Compliance with U.S. and E.U. Sanctions

- These new rules, which the E.U. has adapted very similar regulations, requires ***immediate*** attention by American exporters to Russia to ensure compliance.
- The list of restricted items is published in Supplement No. 2 to Section 744. It contains thirty-two Export Control Classification Numbers (ECCNs) from *nine of the ten categories* on the Commerce Control List (CCL). Its range is extensive, including certain electronics, telecommunications equipment, lasers, etc.
- Similar to the U.S. CCL, the E.U. has imposed similar restrictions on its “Dual-Use List”, which follow closely the U.S. CCL. More information can be found in “Annex I of Council Regulation No. 428/2009” and “Annex II to Council Regulation No. 833/2014”.

# Compliance with the Sanctions – continued:

- It is important for exporters to note what constitutes a “military end user” because of its broad reach. In addition to members of the Russian military, police, and intelligence organizations, it also covers “*any person or entity whose actions... support ‘military end uses.’*”
- In other words, this restriction applies to both military and commercial uses by official and unofficial military persons. This requirement is likely meant to address Russia’s current involvement in eastern Ukraine. License applications are reviewed on a case-by-case basis under the standard of whether the export would “make a material contribution” to Russia’s “military activities contrary to the national security interests of the United States.”

# Red-Flag Indicators & Due Diligence Issues

- ↩ New customers or distributors who want to do business with you, yet very little information is available on either their company or their officers.
- ↩ Customer suddenly requesting that you drop ship to their freight forwarder, when in the past you shipped directly to the customer.
- ↩ Do you know if potential customers or vendors are owned or controlled by 50% or more by a Denied Parties Listed entity or individual on the Sanctions Lists?
- ↩ Have you reviewed all your Russian-related business relationships to ensure compliance with the regulations?
- ↩ Are you regularly screening against both U.S. and E.U. sanctions lists?
- ↩ Have you reviewed the listing of new ECCNs and existing ECCNs against your products to ensure compliance, regardless if you operate in the oil, energy, and gas industries?
- ↩ Have you reviewed your end-users/end-use to ensure none of your products are not intended for the restricted industries?

# Red Flags & Due Diligence – continued

- Customer, vendor or distributor refuses to sign an End-User Certificate
- Suspicious Inquiries
- Request business registration documentation
- Performing End-Use monitoring
- The company refuses to meet with your compliance officer
- Newly formed company but address matches a company on the Denied Parties, Entity Lists

# Due Diligence Checklist

- Focus your export review and due diligence based on the industry the company is involved in (i.e. technology, electronics are subject to more stringent regulatory regimes) and compare that to both the U.S. and E.U. commodity control lists.
- Information collected should allow your company to accurately focus on assessing the nature of the company, its compliance programs (if they even exist), and the Russian government agencies that may have jurisdiction over its business and products
- Look at the structure of the company's business, who their shareholders and officers are; cross check all parties
- Focus on recordkeeping, both electronic and hardcopies, of all parties involved with any Russian transactions to ensure you have an audit trail

# Useful Online Resources

- ↔ Country Commercial Guide – Russia:  
<http://export.gov/Russia/marketresearchrussia/index.asp>
- ↔ American Chamber of Commerce – Moscow:  
[www.amcham.ru](http://www.amcham.ru) (also very helpful to confirm end-users)
- ↔ U.S. – Russian Business Council: [www.usrbc.org](http://www.usrbc.org)
- ↔ The Russian Organization for Small and Medium Entrepreneurship (OPORA): <http://en.opora.ru>
- ↔ Russian Union of Industrialists and Entrepreneurs (RSPP):  
<http://eng.rspp.ru>

# Case Study #1



Home • Houston • Press Releases • 2012 • Russian Agent and 10 Other Members of Procurement Network for Russian Military an

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## **Russian Agent and 10 Other Members of Procurement Network for Russian Military and Intelligence Operating in the U.S. and Russia Indicted in New York**

*Defendants Also Include Texas- and Russia-Based Corporations; 165 Persons and Companies 'Designated' by Commerce Department*

U.S. Attorney's Office  
October 03, 2012

Eastern District of New York  
(718) 254-7000

BROOKLYN, NY—An indictment was unsealed today in U.S. District Court for the Eastern District of New York charging 11 members of a Russian military procurement network operating in the United States and Russia, as well as a Texas-based export company and a Russia-based procurement firm, with illegally exporting high-tech microelectronics from the United States to Russian military and intelligence agencies.

# Arc Electronics

- Procurement network for Russian military and intelligence agencies
- Complex Supply-Chain: intermediaries, multiple freight forwarders
- Elusive
- End-User Certifications falsified

# Case Study #2

- Foreign Government Agencies: It's not just U.S. authorities that have an interest in your activity
  - Employee foreign travel patterns
  - Employee's position
  - Intelligence Information
  - Embargoed Country
- Lessons Learned: Same or similar controls can be applied to Russian transactions

# The Firm

- ↪ **Braumiller Law Group (BLG)** is a leading export controls and customs law firm with attorneys and trade advisers who devote their time exclusively to trade matters.
- ↪ Since its inception, BLG has carved out a unique niche in the most complex areas of the laws regulating international trade. Along with our consulting group, we are one of the largest trade groups in the country. BLG's attorneys are members of key Washington D.C.-based advisory committees that provide consultation to the U.S. Government agencies administering the export laws and regulations.
- ↪ We are able to take advantage of the resources provided by our experienced trade advisers, who include ex-government officials, customs brokers, and export compliance officers with work experience in large corporations.

# Questions?

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