

## **Russian Oil and Gas Sanctions FAQs**

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### **Q.1: What license requirements do the industry sector sanctions implemented in §746.5 of the Export Administration Regulations (EAR) impose?**

A.1: §746.5 of the EAR, imposes licensing requirements on eight export control classification numbers (ECCN)) and fifty-three Schedule B numbers if a person knows (or is informed by BIS) that the item will be used directly or indirectly in exploration for, or production of, oil or gas in:

- a. Russian deepwater (greater than 500 feet);
- b. Arctic offshore locations;
- c. Shale formations in Russia; or
- d. Is unable to determine whether the item will be used in the aforementioned projects.

A licensing policy of presumption of denial applies for exports, reexports, or transfer (in-country) for the aforementioned projects that have the potential to produce oil. A licensing policy of case-by-case review applies for such projects that have the potential to produce gas.

### **Q.2: Do my items, which are not going to be used in an oil or gas project, require a license under §746.5?**

A.2: If the item is not listed in EAR §746.5 by ECCN or in Supplement No. 2 to Part 746 –“Russian Industry Sector Sanctions List” - by Schedule B number, then the sanctions do not impose any additional license requirements or exclusions on the use of EAR license exceptions. However, in making any license determination, the full scope of EAR license requirements needs to be taken into account before making a No License Required (NLR) determination, including license requirements in Part 744 of the EAR.

### **Q.3: How does §746.5 affect other items on the Commerce Control List (CCL), (i.e., ECCNs not specifically mentioned in §746.5 of the EAR) that are used for oil and gas exploration applications in Russia?**

A.3: BIS will apply the licensing policy set forth in §746.5, "Russian Industry Sector Sanctions," to the review of all license applications for controlled items going to Russia. If the commodity, software, or technology on the license application requires a license to

Russia, and if the item will be used in an activity described in §746.5(b), the license will be reviewed consistent with licensing policy in §746.5. The licensing policy in §746.5 will also be applied to license applications for items requiring a license for export, re-export or transfer to Russia that are other than those controlled under the eight ECCNs or listed in the fifty three Schedule B numbers and that are destined for any of the four prohibited end-use categories listed above.

**Q.4: What if the Schedule B number of the item I want to ship to Russia is similar to one included in Supplement No. 2 to part 746 of the EAR?**

A.4: Items with similar Schedule B numbers are not subject to license requirements in §746.5.

**Q.5: What areas are considered Russia for purposes of these sanctions?**

**A.5:** Russia includes the territory of Russia and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Russia claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Russia exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements.

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**Q.6: Would an intra-company transfer of any of the items listed by ECCN in §746.5 or by Schedule B number in Supplement No. 2 to part 746 of the EAR be prohibited if the listed item was being moved within Russia as a transfer (in-country), for..... Would an intra-company transfer of any of the items listed by ECCN in §746.5 or by Schedule B number in Supplement No. 2 to part 746 of the EAR be prohibited if the listed item was being moved within Russia as a transfer (in-country), for one of the restricted uses? Many oilfield services companies have inventory positioned at in-country hubs, and will use the items in inventory for providing services in Russia.**

A.6: The controls set forth in §746.5 cover in-country transfers. If the transaction in Russia also involved a transfer (in-country) as defined in §772.1 of the EAR, then the EAR license requirements and restrictions on the use of license exceptions in §746.5(c)

would also apply. OFAC has also implemented sanctions specific to energy production activities, including those related to providing services for such activities. Any questions regarding OFAC's sanctions should be directed to OFAC.

**Q.7: When §746.5 refers to shale and uses the terms exploration or production in shale, do the restricted end uses apply only to situations, such as fracking, where the hydrocarbon is located in shale formations, or do they also apply..... When §746.5 refers to shale and uses the terms exploration or production in shale, do the restricted end uses apply only to situations, such as fracking, where the hydrocarbon is located in shale formations, or do they also apply to projects involving penetrating a layer of shale to reach a reservoir located below the shale formation? What about projects that involve unconventional methods of extracting oil from shale (e.g., from shale reservoirs or oil shale processing)?**

A.7: The license requirements of §746.5 of the EAR apply to the specified items when you know that the item will be used directly or indirectly in exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) or Arctic offshore locations or shale formations in Russia, or are unable to determine whether the item will be used in such projects. Thus, the license requirement applies to exploration for, or production of, oil or gas from a shale formation. The license requirement does not apply to exploration or production through shale to locate or extract crude oil or gas in reservoirs.

**Q.8: Where on the BIS website is the list of Schedule B numbers categorizing items requiring a license under the Russian sanctions?**

A.8: The Schedule B numbers affected are in the EAR's Supplement No. 2 to Part 746: "Russian Industry Sector Sanction List", which can be found [here](#). The source for the Schedule B numbers and descriptions in BIS's list comes from the Department of Commerce, Bureau of the Census's Schedule B List which can be found [here](#). The Introduction Chapter of the Schedule B provides important information about classifying products and interpretations of the Schedule B (e.g., NESOI means Not Elsewhere Specified or Included). In addition, important information about products within a particular chapter may be found at the beginning of each chapter.

**Q.9: Is the scope of seismic data, equipment and software in ECCN 0A998 limited to deepwater, Arctic and shale exploration projects in Russia?**

A.9: No, that is not correct. The scope of the ECCN is limited by the control parameters included in the ECCN. The scope of the license requirements for ECCN 0A998 is limited to the license requirements in §746.5 of the EAR, which specifies the license requirements and license review policy that apply to the items identified in that section, including new ECCN 0A998. Note however, that if you propose to export, reexport or transfer (in-country) seismic data, equipment or software to Russia but do not know what type of project the items will be used in, a license is required. Also note that in making a license determination under the EAR, the full scope of the EAR license requirements need to be considered, including those in Part 744 that in certain cases impose a license requirement for all items subject to the EAR when the items are for certain prohibited end uses or end users as defined in Part 744.

**Q.10: Is the only software intended to be covered in ECCN 0A998 that which is specified in subparagraph b.1 (“hydraulic fracking design and analysis software and data”)?**

A.10: Yes, software for the design and analysis of hydraulic fracturing is the only software controlled in ECCN 0A998. Note that BIS is making an exception to its general policy of not including software in "A" product group ECCNs and is including this software in ECCN 0A998.

**Q.11: The oil and gas exploration data controlled in new ECCN 0A998.a does not fall within the EAR’s definition of “technology” and is not treated as “software”. If a U.S. geologist was analyzing such data in Europe or Russia, would the one-time reporting requirements.**

A.11: For purposes of §746.5, oil and gas exploration data is treated as a commodity, not software or technology. Therefore, the scenario described would not trigger the one-time reporting requirement, as specified in §734.4. In addition, the de minimis procedures for commodities would apply (see §734.4 and Supplement No. 2 to part 734 for information on the EAR’s de minimis provisions and the procedures for making de minimis calculations). However, regardless of whether the data being processed was subject to the EAR, providing such a service by a U.S. person for such end uses in Russia would in most cases likely be prohibited by OFAC. As noted above, questions specific to the OFAC restrictions, should be directed to OFAC.

**Q.12: Why is deepwater defined as 500 feet, when industry generally considers deepwater to be depths of more than 1500 feet?**

A.12: The U.S. Government is aware that there are different depths for what is considered deep water. The "greater than 500 feet" standard is a bright line standard that is used by the U.S. Department of the Interior, Bureau of Ocean Management for what constitutes deep water, and helped to inform BIS's decision to use "greater than 500 feet" as part of the criteria in §746.5 of the EAR. For reference, the U.S. Department of the Interior's, Bureau of Ocean Management outlines the criteria for what constitutes deep water [here](#).

**Q.13: The term "high pressure pumps" is not defined in ECCN 0A998.b.3. Does that ECCN control only high pressure pumps for fracking operations or all high pressure pumps used in the restricted end uses in Russia?**

A.13: The high pressure pumps controlled under ECCN 0A998.b.3 are not limited to fracking operations, but include all those that will be used directly or indirectly in exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) or Arctic offshore locations or shale formations in Russia or that will be used in an unknown end use. Keep in mind that any pump that is listed under a Schedule B number in Supplement No. 2 to part 746 and any pump classified under an ECCN that requires a license to Russia is also subject to §746.5.

**Q.14: Can I transship the items identified in §746.5 of the EAR through Russia for use in oil and gas activities in third countries?**

A.14: The rule does not apply to or prohibit the transshipment through Russia items identified in §746.5 of the EAR if the items are intended for use in oil and gas activities in third countries. Parties to the transaction should be diligent to be aware of any red flags in the transaction that indicate the items may be intended for any prohibitions under §746.5 or intended for other prohibited purposes under the EAR.

**Q.15: Are any license exceptions available to ship the items identified in §746.5 of the EAR?**

A.15: The only license exception available to ship the items identified in §746.5 of the EAR is §740.11(b), a subparagraph of license exception “Government, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station” (GOV).

**Q.16: Does de minimis still apply for reexports to Russia when the incorporated items proposed for re-export or export from abroad are subject to license requirements under §746.5 of the EAR?**

A.16: The applicability of de minimis is not end-user/use based. It is destination based. Therefore, the items that are subject to license requirements under §746.5 of the EAR should not be included as controlled content in calculating the de minimis percentage of an item proposed for re-export to Russia.