

**BUREAU OF INDUSTRY AND SECURITY  
FREQUENTLY ASKED QUESTIONS  
APPLICABLE LICENSE REQUIREMENTS  
CURRENT AS OF MAY 2, 2022**

***Q1: What are the additional items that require a license for export, reexport, and transfer (in-country) to Russia and Belarus under the EAR?***

A1:

- I. Section 746.8 is the primary EAR section that imposes additional sanctions on Russia and Belarus. Pursuant to Section 746.8, items that are subject to the EAR and have an Export Control Classification Number (ECCN) in all Categories on the CCL are subject to a license requirement. This license requirement excludes deemed exports and reexports of technology and/or source code or software that are destined for Russian or Belarusian persons in the United States or in a third country. (see §§ 746.8, 734.13(a)(2), and 734.14(a)(2) of the EAR)
- II. Any item “subject to the EAR” if you have “knowledge” that the item is intended, entirely or in part, for a ‘military end use’ or ‘military end user’ in Russia or Belarus. Note that Russian and Belarusian ‘military end users’ that were previously listed in supplement 7 to part 744 have been added to the Entity List in supplement no. 4 to part 744 pursuant to recent Russia-related rules and are subject to more stringent requirements regarding certain foreign-produced items as set forth in § 746.8(a)(3) of the EAR. This is discussed further below. (see §§ 744.11 and 744.21 of the EAR)
- III. Certain foreign-produced items that
  - a) Have greater than a *de minimis* level of U.S.-origin controlled content (see §§ 734.4 and 746.8(a)(5) of the EAR); or
  - b) Are the “direct product” of U.S.-origin “technology” or “software” subject to the EAR, or that are produced using items that are the “direct product” of U.S.-origin “technology” or “software” subject to the EAR. (see § 734.9(f) and (g) of the EAR)
- IV. All items destined to the so-called Donetsk People’s Republic (DNR) and Luhansk People’s Republic (LNR) regions of Ukraine that are subject to the EAR, except food or medicine designated EAR99 and software necessary to enable personal communications over the Internet. This requirement is consistent with the license requirements for the Crimea region of Ukraine that were imposed in 2015 in response to Russia’s 2014 occupation of the Crimea region. (see § 746.6 of the EAR - Crimea Region of Ukraine and Covered Regions of Ukraine)
- V. Items identified in § 746.5(a)(1) and in supplement no. 4 to part 746 the EAR, for use in the oil industry sector. (see § 746.5(a)(1)(i) and (ii) of the EAR)

VI. ‘Luxury goods’ subject to the EAR and identified in supplement no. 5 to part 746 of the EAR that are exported, reexported or transferred (in-country) to Russia or Belarus, and to certain Russian and Belarusian oligarchs and malign actors identified in § 746.10 of the EAR, wherever they are located.

***Q2: Do EAR99 items need a license for export, reexport or transfer (in-country) to Russia and Belarus?***

A2: Items that are subject to the EAR and designated EAR99 do not require a license for export, reexport or transfer (in-country) to Russia or Belarus at this time UNLESS they are:

- ‘Luxury goods’ subject to the EAR and identified in supplement no. 5 to part 746 of the EAR;
- Items subject to the EAR that is for use in the Russian oil industry sector and identified in supplement nos. 2 and 4 to part 746 of the EAR;
- Items destined to prohibited end uses and end users listed in part 744 of the EAR;\* or,
- Items destined to the Crimea region of Ukraine, or to the Donetsk and Luhansk regions of Ukraine (the so-called Donetsk People’s Republic (DNR) or the Luhansk People’s Republic (LNR)), except for EAR99 food, medicine, or software necessary to enable personal communications over the Internet.

\*Prohibited entities listed in part 744 include entities listed on the Entity List in supplement no. 4 to part 744. The License Requirement column of the Entity List specifies which items require a license for export, reexport, or transfer (in-country) to each listed entity, and the License Review Policy indicates whether a license is likely to be granted for that entity. Also note that for entities listed on the Entity List that have a footnote 3 designation, “items subject to the EAR” includes foreign-produced items that are subject to the EAR under § 734.9(g) of the EAR.

***Q3: Does the download of software that is subject to the EAR and controlled on the Commerce Control List (i.e., software that is not designated EAR99) in Russia and Belarus require a license?***

A3: Generally, yes, although in some cases a license exception, such as License Exception Consumer Communications Devices (CCD), may be available (see License Exceptions below). A download from the Internet of software subject to the EAR is an export from the U.S. (or a reexport from a third country) to the country in which the download occurs. (See §§ 734.13(a)(1) and 734.14(a)(1) of the EAR.) Such downloads would require export or reexport licenses to Belarus or Russia under Section 746.8 of the EAR if the software is listed on the CCL. These license requirements also apply to the export or reexport of software subject to the EAR for storage on a cloud server when that server is physically located in Russia or Belarus, as well as to the download of software updates for software subject to the EAR located in either country, unless the transaction qualifies for a license exception as described below.

***Q4: Do we need a license to export, reexport or transfer (in-country) items that are controlled for anti-terrorism (AT) reasons only to a Russian commercial company customer, which is not a military end user, and not on any prohibited parties lists or in any way associated with the Russian government? Do we need a license to export, reexport or transfer (in-country) such items if we are selling them on an electronic marketplace (e.g., eBay)?***

A4: Yes, items that are subject to the EAR and listed on the CCL, including items classified under AT-only ECCNs (*i.e.*, ECCNs that have only AT specified in the “reason for control” paragraph), require a license for export, reexport, or transfer (in-country) to Russia and Belarus, except for deemed exports or reexports of technology, software, and/or source code to Russian and Belarusian persons in the United States or in a third country. Note that these license requirements are also applicable to transactions that originate on eBay or other online sales sites.