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In June, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the U.S. Department of Commerce's Bureau of Industry and Security (BIS) and the U.S. State Department took coordinated measures to increase sanctions against Russia (and Belarus) for its continued War on Ukraine. These included increasing the number of sanctioned parties, and extending a secondary boycott against financial institutions which may be assisting Russia to evade the sanctions—making it even less likely that Israeli and other banks will engage in transactions with Russia.

But an important new aspect of the sanctions, which just went into effect on September 12, is quite relevant for many of Meitar's software clients.

What is banned?

No company may provide, directly or indirectly, from the United States, to any entity located in Russia, nor may a U.S. person (no matter where they reside—it would include U.S. persons residing in Israel) provide, directly or indirectly:

- (i) **"IT consultancy and design services", or**
- (ii) **"IT support or cloud-based services" for "enterprise management software" and "design and manufacturing software."**

How are these services defined?

These services are all defined broadly. It is set out in detail [here](#) in FAQ 1187. Software and IT companies should review carefully whether any of their services or products might be

impacted.

The breadth of the prohibitions is wide-ranging: it extends to not being able to provide any updates, upgrades or bug fixes to existing customers. And no U.S. employee of an Israeli company would be able to provide these services, or any support services either.

The term **enterprise management software** means the following types of software: enterprise resource planning (ERP), customer relationship management (CRM), business intelligence (BI), supply chain management (SCM), enterprise data warehouse (EDW), computerized maintenance management system (CMMS), project management, and product lifecycle management (PLM) software.

The term **design and manufacturing software** means the following types of software: building information modelling (BIM), computer aided design (CAD), computer-aided manufacturing (CAM), and engineer to order (ETO) software.

The term **cloud-based services** includes the delivery of software via the internet or over the cloud, including through Software-as-a-Service (SaaS), or SaaS cloud services in relation to such software.

The term **information technology support services** includes:

- i. providing technical expertise to solve problems for the client in using software, hardware, or an entire computer system, such as: (a) providing customer support in using or troubleshooting the software; (b) **upgrading services and the provision of patches and updates**; (c) providing customer support in using or troubleshooting the computer hardware, including testing and cleaning on a routine basis and repair of information technology (IT) equipment; (d) technical assistance in moving a client's computer system to a new location; (e) providing customer support in using or troubleshooting the computer hardware and software in combination; and
- ii. providing technical expertise to solve specialized problems for the client in using a computer system, such as: (a) auditing or assessing computer operations without providing advice or other follow-up action including auditing, assessing and documenting a server, network or process for components, capabilities, performance, or security; (b) data recovery services, i.e. retrieving a client's data from a damaged or unstable hard drive or other storage medium, or providing standby computer equipment and duplicate software in a separate location to enable a client to relocate regular staff to resume and maintain routine computerized operations in event of a disaster such as a fire or flood; and (c) other IT technical support services not elsewhere classified.

The term **information technology consultancy and design services** includes both IT consulting services and IT design and development services for applications.

- **IT consultancy services** includes providing advice or expert opinion on technical matters related to the use of information technology, such as: (a) advice on matters such as hardware and software requirements and procurement; (b) systems integration; (c) systems security; and (d) provision of expert testimony on IT related issues.

IT design and development services for applications includes services of designing the structure and/or writing the computer code necessary to create and/or implement a software application, such as: (a) designing the structure of a web page and/or writing the computer code necessary to create and implement a web page; (b) designing the structure and content of a database and/or writing the computer code necessary to create and implement a database; (c) designing the structure and writing the computer code necessary to design and develop a custom software application; (d) customization and integration,

adapting (modifying, configuring, etc.) and installing an existing application so that it is functional within the clients' information system environment.

What is still permitted?

There are a few exceptions. These include the following:

1. Provision of services to companies in Russia owned by a U.S. person
2. Provision of services to assist in the winding down or divestiture of a company from Russia (if the company is not owned by a Russian)
3. Provision of services relating to agricultural and medical technology, defined [here](#).
4. Providing internet access or the delivery of internet-based communications services. See [FAQ 1040](#).
5. Provision of services to companies outside of Russia as long as you can feel confident that the services will not eventually benefit a person or company in Russia. For more info, see [FAQ 1188](#).

Conclusion: What is the Action Item?

Bottom line, each software or IT company needs to carefully review whether they have any business activity in Russia which may be prohibited. If they do, they need to take prompt action to address the situation. A failure to follow OFAC sanctions can lead to civil and, in some cases, criminal penalties.

Please feel free to consult your regular Meitar attorney if you have questions about this.

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