

August 29, 2024

Lisa Palluconi  
Deputy Director  
Office of Foreign Assets Control  
US Department of the Treasury  
Treasury Annex / Freedman's Bank Building  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Matthew Borman  
Principal Deputy Assistant Secretary (PDAS)  
Bureau of Industry and Security  
US Department of Commerce  
1401 Constitution Avenue, NW  
Room 6098  
Washington, DC 20230

Erin McConaha  
Acting Sanctions Coordinator  
Office of Sanctions Coordination  
US Department of State  
2201 C St NW  
Washington, DC 20520

Dear Ms. Palluconi, Mr. Borman, and Ms. McConaha:

Thank you for meeting with member companies from BSA | The Software Alliance (BSA), the Computer and Communications Industry Association (CCIA), and the Information Technology Industry Council (ITI) on July 31, 2024.

We wish to follow up with the following clarifying questions. If it is possible to receive a written response to these questions – e.g., through updated Frequently Asked Questions or other guidance documents – it would be greatly appreciated.

- **Request for Written Clarification:** Could you please clarify whether the intent of the OFAC regulations is to prohibit the provision of cloud-based enterprise management software and IT consultancy services to multinational customers, headquartered outside of A:5/A:6 countries, and outside of Russia, with a minority of operations in Russia? For example, a UAE-based company contracts from the UAE for a global enterprise management software solution; some percentage of its global employees use the service in Russia. This would not be a case of circumvention to a Russian company, but nonetheless appears to be prohibited by the text of the regulations. This appears to be a departure from the EU regulations, which via European Commission [FAQ No. 4](#), with respect to ARTICLE 5n(2b) OF COUNCIL REGULATION 833/2014, appears to permit provision of cloud-based services by multinational companies in Russia, so long as such use is non-predominant.
- **Request for Written Clarification:** Could you please confirm that cloud access to enterprise management software classified as 5d992 and 5d002 would be permitted to end-users in Russia that work for organizations headquartered in A:5/A:6 countries, as export of 5d992 and 5d002 items is generally authorized for civil-end use to these organizations per license exception ENC under the EAR?

- **Request for Written Clarification:** Did we understand correctly that although remote [i.e., cloud-based] access by persons in Russia to covered software enterprise management software, design software, and other software offered as SaaS would not be subject to BIS controls, it would be subject to OFAC restrictions? And that U.S. suppliers could be liable for allowing such access, even if a service were purchased outside of Russia, and subsequently made available to employees in Russia, through the sharing of credentials? The only obvious way for a supplier to prevent such access would be through geoblocking, but broad-based geoblocking does not appear feasible, given exceptions that allow various entities to access services from within Russia (e.g., subsidiaries of non-Russian companies.). How does OFAC envisage companies reconciling these conflicting goals?

Thank you in advance for your assistance with these questions.

Sincerely yours,

BSA | The Software Alliance  
Computer & Communications Industry Association  
Information and Technology Industry Council