

TOPIC THREE – DERUSSIFICATION OF RUSSIA RELATED BUSINESSES

The Ukraine-Russia conflict and international sanctions on businesses and trade involving Russia have driven international businesses to take action to divest all ties to Russia. While we do not advise clients on how to do business in Russia, we are routinely approached by US clients who do not do business in Russia but who, historically, have board members or stockholders with Russian roots and/or passports. There are a lot of wholesome companies in that category who are trying to understand how to proceed, how to manage investor perception and how to raise capital going forward.

While it is not permissible to assist a client in evading Russia-related sanctions or export controls, there are various approaches to remove Russia-based influence and manage investor perception. Here are some of the strategies businesses have adopted:

- Removing clear Russian connections: Encouraging non-essential Russian-connected executives and directors to resign. Completely divesting any Russia-based operations.
- Relocating directors outside of Russia: Although this may be acceptable in terms of navigating US sanctions, it does not solve perception issues, particularly with respect to raising capital.
- Working closely with investors to manage investor comfort level with remaining Russian connections: Although investors with Russian roots who have relocated tend to have a strong understanding of navigating the sanction and export control landscape, investors without close knowledge require more aggressive changes and/or creative solutions.
- Divesting/buying out stockholders: This may involve creative arrangements where an investor will buy out another investor using an agreement promising a share in future exit proceeds.
- Restructuring ownership to consolidate Russian-connected stockholders and remove influence on the business. For example, wrapping Russian-connected investors into a US special purpose vehicle (SPV) set up as a passive trust, with no rights to vote or manage the SPV's shareholdings. Under the current sanctions, US and EU persons may not provide management services to Russia-linked investors, so the SPV manager will likely need to be a non-US or EU person. Note that this is not intended to obfuscate ownership or the source of funding, but to remove Russia-connected influence.

We recommend that all service providers working with clients with historical Russian roots, and clients with board members or stockholders with Russian roots and/or passports, screen such parties through the Consolidated Screening List maintained by the US Department of Commerce's International Trade Administration (<https://www.trade.gov/consolidated-screening-list>) and the Sanctions List maintained by the US Department of the Treasury's Office of Foreign Assets Control's (<https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1636>).

Our recommended read: <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>.