

# RAPAPORT

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Deputy Director  
Office of Foreign Assets Control  
US Department of Treasury  
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From: Martin Rapaport  
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Rapaport Group  
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March 18, 2024

RE: President Biden Executive Order 14068 – OFAC Determinations - Diamond Sanctions

Dear Deputy Director Palluconi:

My name is Martin Rapaport, and I am the chairman of the Rapaport Group, an international network of companies active in the diamond industry since 1978.

## **Background of Rapaport US Companies:**

Rapaport USA Inc. owns and operates the RapNet Diamond Trading Network, with daily listings of over 1.7 million diamonds valued at more than \$9 billion. It also provides news, analysis and research services and is the primary source of diamond price information for the jewelry trade. It serves over 21,000 members in 127 countries.

Rapaport Diamond Corporation is one of the largest recyclers of US pre-owned diamonds. Its auction-services division exports over \$100 million of diamonds for viewing and then re-exports those diamonds into the US for final sale or return to clients.

Additional information about Rapaport activities is available at [Rapaport.com](http://Rapaport.com).

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## Introduction:

The Rapaport Group supports efforts by the US government to reduce Russia's revenue from the sale of diamonds. On May 7, 2022, we updated our RapNet trading rules and client agreements, prohibiting the listing of "Russian Source" diamonds even if manufactured outside of Russia. We also ceased providing price and information services to Russia.

We have reviewed President Biden's Executive Orders 14068 and 14114, OFAC's determinations of February 8, 2024, related OFAC FAQs, the US Customs and Border Protection bulletin of 02/29/24, and related material including the G7 Leaders Statement of December 6, 2023.

We are experts in the diamond industry and understand the intended and unintended consequences of diamond and jewelry sanctions. We seek an opportunity to communicate our views to the relevant policy decision makers and regulatory officials to ensure optimal sanction effectiveness and efficiency while reducing harm and unfavorable unintended consequences for the US diamond and jewelry trade. I can be personally reached via email at [martin@rapaport.com](mailto:martin@rapaport.com) or through my New York office at +1-212-354-9800.

We fully share the administration's objectives from a legal and moral perspective and want to optimize the implementation of diamond sanctions by providing objective information and expertise.

To further this goal, on October 31, 2023, we published and distributed the "Rapaport US Diamond Protocol" providing direction for how sanctions could be optimally implemented. To date, 1,587 people have signed on in support of this protocol, as has the American Gem Trade Association, which has over 1,000 members (see Appendix 1). Additional information providing a confidential list of supporters is available upon request.

We respectfully request that OFAC review the protocols and consider using them as a basis for Russian sanction regulations.

Following the issuance of the US Customs and Border Protection bulletin of 02/29/24, we have identified several highly problematic issues for which we respectfully request that OFAC issue exemptions and additional guidance.

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**Definition of the Terms Used in This Document:**

“Russian Origin” refers to diamonds mined or manufactured in Russia but not substantially transformed outside of Russia.

“Russian Source” refers to diamonds that originate in Russia, whether or not they have been substantially transformed outside of Russia.

“Diamonds” refers to polished diamonds, and diamond jewelry with polished diamonds.

**Important Note:**

Given the significance of US imports of polished diamonds and insignificance of US rough diamond imports, we urge OFAC to place primary initial focus on regulations relating to half-carat and larger polished diamonds. We can present appropriate regulations related to rough diamonds in a future document.

2023 (in \$ Million)	US Imports	US Exports	Net US Imports
Polished Diamonds	\$16,696	\$13,000	\$3,696
Rough Diamonds +0.50 ct.	\$149	\$161	(\$12)

Source: United States International Trade Commission

**Request for Exemptions:**

**1. Timeline:**

- a. Our objective is to eliminate the flow of funds to Russia generated by the sale of “Diamonds.” It follows that “Diamond” imports or transactions that do not result in the transfer of funds to Russia should not be sanctioned.
- b. Obviously, transactions involving diamonds that were sold by Russia prior to the Ukraine war would not result in any movement of funds to Russia. There should not be any sanctions restricting the trade or import of these “pre-war” diamonds unless they involve current sanctioned entities.
- c. “Russian Origin” diamonds sold after March 11, 2022 (EO 14068), and before March 1, 2024 (EO 14114), were legally imported into the US due to an OFAC exemption but can no longer be exported and then re-imported. Furthermore, there may even be a question of whether they can be traded in the US.

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**d. Suggested Exemption:**

- i. All “Diamonds” purchased or in existence before March 1, 2024, should be exempt from sanction regulations.**
- ii. Note: As Russia does not sell diamonds on credit, the funds generated by sale or US import before March 1, 2024, have already been transferred to Russia, and there is no threat of additional funds going to Russia from their trade or import into the US.

**2. “Diamonds” in the US:**

- a. There is no danger that the trade or re-import of “Diamonds” in the US before March 1, 2024, will result in any movement of funds to Russia.
- b. “Diamonds” imported into the US after March 1, 2024, are subject to customs controls that ensure they are not “Russian Source.” It follows, then, that all diamonds in the US should not be subject to any sanction regulations. This would allow all diamonds in the US to be freely traded within the US, as well as exported and then re-imported.
- c. It is important to note that the US has an important and vibrant resale market for “Diamonds.” US exports and re-imports of “Diamonds” for jewelry shows, auctions, and customer review are an important element in US international trade efforts. Allowing US “Diamonds” to be exported and re-imported is fundamental to the US diamond trade’s ability to engage in international trade.

**d. Suggested Exemption:**

- i. All “Diamonds” in the US should be exempt from sanction regulations including export and subsequent re-import of the same “Diamonds.”**
  - 1. Note: There are many ways Customs can identify imports that were previously exported. Rapaport scans all exports of half-carat and larger diamonds. In many instances, diamonds have grading reports that uniquely identify them.

**Request for Clarifications:**

**3. US Customs Certification That “Diamonds” Are Not “Russian Source”:**

- a. Please clarify the requirements necessary for the US importer and foreign exporter to certify that the diamonds being imported into the US are not “Russian Source.”
- b. What documents must be kept justifying the non-Russian certification required by US Customs? Is a blanket statement by a supplier sufficient?

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- Must there be a statement detailing each polished diamond? How far back must the statement go? To the mine?
- c. Must all statements be audited? Is that the meaning of the word “certify”?
  - d. How can an importer certify that a diamond is not from Russia if they do not know where it is from? Are all diamonds guilty until proven innocent?
  - e. Are diamonds from unknown sources to be excluded from the US markets? A large percentage of diamonds in the world market today are from unknown sources.
    - i. Such a requirement will create a monopoly market for De Beers and a few other suppliers who can audit their supply chain. Will thousands of small to medium-size jewelers and diamond dealers be “crowded out” of the market and be put out of business due to a severe shortage of “Kosher” diamonds that can be imported into the US? Will such regulations significantly restrain the trade?
  - f. Relying on a “check the box” system of supply chain guarantees is unacceptable, as it will result in the whitewashing of “Russian Source Diamonds” and their unlimited importation into the US, making a mockery of US sanction regulations. Many suppliers beyond US jurisdiction will have no problem signing statements required by their buyers regardless of where the diamonds actually come from.
    - i. The fact that most “Diamonds” pass through many different hands on their way from rough mine to US polished import makes compliance with the current regulations near impossible.
    - ii. If a diamond goes through 12 hands from rough mine to the US import of a polished diamond tennis bracelet, and the tennis bracelet has 15 diamonds, will the importer have to keep (12\*15) 180 audit certificates for each tennis bracelet?
  - g. **Solutions:** We must recognize that while identifying the rough source of “Diamonds” is highly problematic in the current environment, credible efforts are being made to trace “Diamonds” from their rough sources using the Gemological Institute of America (GIA) Diamond Origin Report (DOR), De Beers’ Tracr program, Sarine scanning, and other technologies using blockchains.
  - h. Furthermore, while most current inventories of existing “Diamonds” from around the world are from unknown sources and do not have source certification, the trend toward source certification is increasing, and many companies – especially brands – are beginning to implement source-certification procedures. Many newly manufactured diamonds from legitimate sources will be source-certified in the years ahead due to market forces driven by US consumer preferences for socially responsible diamonds. Source certification is in the interest of the trade, as it adds value to legitimate diamonds.

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## i. Recommendations:

**OFAC should consider a two-stage approach to polished diamond source certification.**

### Stage 1:

#### **As per the Rapaport US Diamond Protocol – Section 1**

**All Diamonds imported into the United States will require the following declarative statement by the importer and exporter:**

**“To the best of my knowledge, the diamonds being imported have not been sourced from any US-sanctioned entity, including diamonds that have been substantially transformed by non-sanctioned entities.”**

- i. Supportive Notes: In a letter from OFAC to Rapaport (Case No. ZI-362) sent on or about August 12, 2010, Andrea Gacki, Assistant Director for Licensing, stated in reference to diamonds from Zimbabwe:
  1. “... See ZSR § 541.406. Therefore, a US person generally cannot purchase diamonds from a foreign company if the person knows, or has reason to know, that a blocked person has or has had an interest in the diamonds since the effective date of blocking.”

We consider the phrase “knows or has reason to know” supportive of the declaration “To the best of my knowledge.”
  2. Furthermore, we believe “To the best of my knowledge” is a stronger declarative statement than a certifying statement which may be based on other people beyond the jurisdiction of the US state in a chain-of-warranty scenario. The knowledgeable importer and exporter are making personal commitments based on their knowledge, not unknown third parties. If caught, they cannot claim their statement was based solely on third-party information.
- ii. Furthermore, the “To the best of my knowledge” statement allows for an “innocent until proven guilty scenario” that will allow imports of the majority of non-Russian diamonds which are currently from unknown sources. This will avoid severe disruption in the US “Diamond” supply chain and restraint of trade issues in the US market.

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## Stage 2:

**In the event the US government seeks a traceable sourcing solution for US imports of polished diamonds, one or more government-approved blockchains should be used to identify the flow of diamonds from mine to import of “Diamonds.” This will take time. The procedures are outlined in Section 2 of the Rapaport US Diamond Protocol, included in this document as Appendix 1.**

#### **4. Clarification of Diamond Jewelry of Russian Federation Origin or Exported from Russia – as per OFAC FAQ 1164**

- a. Please clarify status of diamond jewelry manufactured outside of Russia that includes “Russian Source” diamonds of 1 carat or more.
- b. If this is allowed, one can easily evade sanctions by putting “Russian Source” diamonds into simple settings and importing them into the US as jewelry.
- c. If this is not allowed, we should exempt jewelry without diamonds of 1 carat or larger until September 1, 2024, and thereafter without diamonds of 0.50 carats or larger.
- d. Recommendation: Diamond jewelry not manufactured in Russia or exported from Russia should be exempt from sanctions unless it contains “Russian Source” diamonds of 1 carat or larger from effective date March 1, 2024, and half-carat or larger from effective date September 1, 2024.**

#### **5. Clarification of Executive Order 14068 of March 11, 2022 Regarding Approval, Etc.**

- a. Executive Order 14068, Section (V) states: “any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this section if performed by a United States person or within the United States.”
- b. Please clarify. Can a US entity approve, finance, facilitate or guarantee any transaction related to “Russian Source Diamonds” if the transaction is between two non-US entities?
- c. Example 1: Can the GIA or other US laboratory grade diamonds and issue diamond grading reports for “Russian Source” diamonds whereby the buyer of their services is a non-US entity? Do laboratory grading and certification constitute facilitation?

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- d. Example 2: Can the RapNet Diamond Trading Network (a US entity) list “Russian Source” diamonds for sale from non-US entities to non-US entities such as Indian sellers to Chinese buyers? Does running a trading network constitute facilitation?
- e. Example 3: Can US entities trade “Russian Source” diamonds between two non-US entities? Say, a US-owned company in Dubai trading diamonds between India and Hong Kong?
- f. Example 4: Can a US entity now trade “Russian Source Diamonds” in the US if they were legally imported into the US after March 11, 2022, and before March 1, 2024, with an OFAC exemption for “Russian Source” diamonds at that time? (Assuming there is no US exemption as requested in Item 2 of this document.)

**g. Recommendation:**

**US entities cannot approve, finance, facilitate, or guarantee any transaction involving “Russian Source” diamonds anywhere in the world, including grading, network listing, or trading between non-US entities.**

The matter is urgent as there is significant confusion in the diamond and jewelry trade regarding implementation of the Russian sanctions and US Customs’ requirements. Action by OFAC regarding exclusions and clarifications would be highly appreciated. I am available for consultation at your earliest convenience, please contact me via email [martin@rapaport.com](mailto:martin@rapaport.com).

Thank you for your time and kind consideration,

Martin Rapaport  
Chairman  
Rapaport Group

CC: Office of Trade: [K.Pmailbox@CBP.DHS.GOV](mailto:K.Pmailbox@CBP.DHS.GOV)

Congresspeople: Gerald Connolly, Austin Scott, Brian Fitzpatrick, Michael Turner, David Trone, Dina Tutus, Young Kim, James McGovern, Neal Dunn, Ken Buck, Jerrold Nadler

Senators: Chuck Schumer, Kirsten Gillibrand, Catherine Cotez-Masto, Jacky Rosen



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## APPENDIX 1: THE RAPAPORT US DIAMOND PROTOCOL

October 31, 2023

### Section 1.

All diamonds imported into the United States will require the following declarative statement by the importer and exporter:

“To the best of my knowledge the diamonds being imported have not been sourced from any US sanctioned entity.”

Note: “sourced” diamonds include diamonds purchased from a sanctioned entity that have been substantially transformed by non-sanctioned entities. This includes diamonds purchased from Alrosa and manufactured outside of Russia.

US Customs or another designated government authority may maintain a list of companies allowed to export or import diamonds into the US.

### Section 2.

In the event the US government wishes to implement a tracing capability for the import of diamonds into the US, the following protocols should be implemented:

All diamonds imported into the US shall have a unique US Blockchain Identification Number (USBIN) that links to the following information related to the import: name of blockchain; name of mining company; name of diamond manufacturer; import carat weight; import US\$ value; invoice trail of diamonds from mine to importer, listing the names of all companies that have transacted the diamonds.

The USBIN must be prominently displayed in a clear tamper–proof sealed bag containing the diamonds. For the purpose of import, the blockchain information will be restricted to government auditing entities.

All diamonds already in the US may be entered into a government–approved blockchain and assigned a USBIN by the company exporting the diamonds from the US. Such diamonds may be reimported into the US using the USBIN.

It is the responsibility of US government designated entities such as US Customs and/or Office of Foreign Asset Control to audit and approve acceptable diamond blockchains, as well as to designate entities that are allowed or not allowed to be included in the USBIN supply chain.

**Once polished diamonds are in the US, there are no restrictions on their trade or statements required on any invoices.**

Other countries, such as members of the G7, may or may not accept the US Diamond Protocol and US-USBIN for the importation of diamonds into their country.