

E-ALERT | International Trade Controls

March 21, 2014

UNITED STATES EXPANDS SANCTIONS RELATED TO UKRAINE CRISIS; ADDITIONAL RUSSIAN AND UKRAINIAN PARTIES DESIGNATED

On March 20, 2014, President Obama signed a new [Executive Order](#) authorizing sanctions on persons that operate in certain sectors of the Russian economy. On the same day, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") [imposed sanctions](#) on 16 additional senior Russian government officials, four Russian business leaders, and a key Russian bank pursuant to Executive Order 13661, which was signed by President Obama on March 16, 2014 and summarized in [our e-alert of March 18, 2014](#). The new sanctions come in response to Russia's purported annexation of Crimea and its continued use of force in Ukraine.

In retaliation, Russia imposed sanctions on nine U.S. government officials, and threatened to impose further sanctions in response to any additional U.S. action.

Today, the EU adopted [Regulation 284/2014](#) which imposes further sanctions in the context of the Ukrainian crisis. The EU sanctions impose visa bans and asset freezing measures on 11 Russian politicians and army officers and a Russian journalist, all of whom are deemed by the EU Council to be involved in undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

New Executive Order

The new Executive Order expands the range of Russian parties that are potentially subject to sanctions by the United States. In particular, the Executive Order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to impose sanctions on:

- persons who operate in the financial services, energy, metals and mining, engineering, and defense sectors of the Russian economy;
- persons who have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person who is sanctioned pursuant to the Order; and
- persons who are owned or controlled by, or have acted or purported to act for or on behalf of, directly or indirectly, any person who is sanctioned pursuant to the Order.

The new Executive Order also prohibits sanctioned persons from entering the United States. Like Executive Order 13660, which was the subject of [our March 6, 2014 e-alert](#), this new Order (which has not yet been assigned a number) does not include an annex identifying an initial list of parties sanctioned under the Order. Accordingly, no entity or individual will actually be subject to sanctions pursuant to the Order until the Secretary of the Treasury takes formal action to identify such parties.

As noted in our prior e-alerts, U.S. persons are prohibited from engaging in any dealings with sanctioned parties; property and property interests of sanctioned parties that are or come within the

United States or that are or come into the possession or control of a U.S. person must be blocked; and dealings in such blocked property by U.S. persons are prohibited.

Additional Designations

OFAC also announced that the United States is imposing sanctions on a major Russian financial institution, four Russian business leaders, and 16 government officials pursuant to last week's Executive Order 13661.

The sanctioned financial institution is Bank Rossiya, Russia's 17th largest bank with assets of approximately \$10 billion. According to OFAC, Bank Rossiya serves as the personal bank for senior Russian officials. The bank provides corporate services, including in the oil, gas, and energy sectors, as well as retail services, and maintains correspondent relationships with banks around the world.

The four sanctioned business leaders are Gennady Timchenko, one of the founders of Gunvor, a Swiss commodity trading company operating in the oil and energy market; Arkady and Boris Rotenberg, brothers who own SMP Bank and the construction company SGM Group; and Yuri Kovalchuk, a close advisor to President Putin and Bank Rossiya's largest shareholder.

The sixteen sanctioned Russian officials include members of Russia's two legislative bodies, the Federation Council and the State Duma; a member of Russia's Security Council; the head of Russia's military intelligence service; the chairman of the board of the state-owned Russian railways; an aide to President Putin; and his Chief of Staff, Deputy Chief of Staff, and Head of Administration.

Under long-standing OFAC guidance, companies that are owned 50 percent or more by these sanctioned parties are themselves automatically subject to sanctions (even if not designated). In contrast, companies controlled but not majority-owned by these or other sanctioned parties are not currently sanctioned, though they may be in the future. We note that late on March 20, the trading company Gunvor issued a press release stating that Mr. Timchenko had divested his entire holding of shares in Gunvor on March 19.

Russian Designation of U.S. Officials

Also on March 20, the Russian government announced that, in retaliation for the sanctions imposed by the United States, it had imposed sanctions on nine U.S. government officials which prohibit these individuals from entering Russia. The sanctioned U.S. officials are Senator John McCain; Senator Daniel Coats; Senate Majority Leader Harry Reid; Senator Robert Menendez; Senator Mary Landrieu; House Speaker John Boehner; Deputy National Security Advisor Caroline Atkinson; Deputy National Security Advisor Ben Rhodes; and Presidential Aide Daniel Pfeiffer. In a statement accompanying the sanctions list, the Russian Foreign Ministry made clear that it would continue to retaliate against U.S. sanctions, stating that "for every hostile attack, we will respond appropriately."

EU Developments

The EU sanctions imposed today via Regulation 284/2014 designate eleven Russian politicians and army officers and a Russian journalist, subjecting them to visa bans and asset freezing measures. The newly-designated individuals include the Russian Deputy Prime Minister; speakers of the Russian Federation Council and the Duma; commanders of the Russian Black Sea Fleet; several individuals involved in the organization of the Crimean referendum; and the Head of a Russian news agency that supported the deployment of Russian forces in Ukraine. Importantly, the new EU list does not include any Russian business leaders or private enterprises – meaning that the economic effect of the EU sanctions will likely be limited.

As a result of the asset freezing measures, all funds and “economic resources” belonging to, owned, held, or controlled by the designated individuals must be frozen. (“Economic resources” is a broad term, and includes “assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but which may be used to obtain funds, goods or services.”) Regulation 284/2014 also prohibits the making available of funds or “economic resources,” directly or indirectly, to or for the benefit of the listed individuals. As a practical matter, the foregoing measures will restrict most business activities with the designated individuals, and may also restrict dealings with entities that are owned or controlled by those individuals.

The EU has also today signed an Association Agreement with Ukraine. The deal, which was abandoned in November by former Ukrainian President Viktor Yanukovich, commits Ukraine and the EU to closer political and economic cooperation.

Today’s developments follow the meeting of the EU Council on March 20. At the close of that meeting, the EU Council [announced](#) that it does not recognize the “illegal” referendum in Crimea, and that it strongly condemns and will not recognize the annexation of Crimea and Sevastopol to the Russian Federation. The EU Council also stated explicitly that if Russia took further action to destabilize the situation in Ukraine, there would be “far reaching consequences for relations in a broad range of economic areas” – presumably including heightened sanctions. The Council instructed the Member States and the Commission to prepare possible measures.

We are following the developments in Ukraine closely and will provide further updates as the crisis evolves. In the meantime, we are well-positioned to advise companies and individuals on compliance with the U.S. and EU sanctions, as well as on the broader impact of the crisis on foreign investment in both Ukraine and Russia, and other legal and commercial interests in the region.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our foreign trade controls practice group or our investment counseling and international arbitration practice group:

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