

CLIENT UPDATE

THE UNITED STATES AND EUROPEAN UNION ADOPT UKRAINE-RELATED SANCTIONS

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This week, the United States and the European Union each announced sanctions directed at officials of the former Ukrainian government and potentially at officials of the Russian government and others involved in the ongoing events in Crimea.

U.S. ACTIONS

In the United States, President Barack Obama signed an Executive Order dated March 6, 2014, that authorizes the U.S. Treasury Secretary to “block” the property of any person he determines:

- Undermines democratic processes or institutions in Ukraine;
- Threatens the peace, security, stability, sovereignty or territorial integrity of Ukraine;
- Misappropriates assets of the Ukrainian state or any “economically significant” entity located in Ukraine;
- Asserts unauthorized governmental authority over any part of Ukraine; or
- Is a leader of, provides material assistance to or is owned or controlled by any individual or entity meeting the above criteria.¹

¹ Executive Order Blocking Property of Certain Persons Contributing to the Situation in Ukraine (March 6, 2014).

To date, the Treasury Secretary has not yet designated any individuals or entities under the Executive Order. The Executive Order is sufficiently broad that the Secretary could potentially designate officials of the Russian government and Russian organizations involved in the recent events in Crimea as well as officials of the ousted Ukrainian government, officials purporting to wield local governmental power in Crimea and others.

“Blocking” of property means that the individual’s or entity’s assets will be frozen if they are in the United States or in the possession of a U.S. person—that is, an entity organized under U.S. law, including its overseas branches, the U.S. branch of a foreign entity, a U.S. citizen or permanent resident wherever located and anyone located in the United States. Blocking effectively amounts to a complete ban on transactions with the United States or with U.S. persons. For example, if an individual or entity is blocked,

- U.S. companies and other U.S. persons will be forbidden from engaging in any transaction with the blocked person or its property, including:
 - Entering into new contracts with the blocked person;
 - Performing existing contracts with the blocked person;
 - Accepting or continuing employment with the blocked person;
 - Making payments to or accepting payments from the blocked person, even for preexisting debts;
 - Providing any goods or services—including professional services such as legal advice or financial advice—to the blocked person; and
 - Obtaining any goods and services from the blocked person.
- The blocked person will lose access to any accounts in the United States or at overseas branches of U.S. institutions. It will also lose access to all other property in the United States or in the custody of U.S. persons. U.S. persons holding blocked property generally are required to file a report with the U.S. Treasury Department within 10 business days after the property becomes blocked.²
- As a practical matter, the blocked person will be unable to conduct U.S. dollar-denominated bank transfers because such transfers are normally routed through correspondent banks in the United States, which are required to freeze the funds.
- Transactions designed to evade or circumvent these restrictions also are forbidden.

² 31 C.F.R. § 501.603(b)(1).

The U.S. Treasury Department has the authority to grant, in its discretion, a license for any transaction that otherwise would be prohibited. Typically, it will do so only if it is satisfied that the proposed transaction will not undermine U.S. sanctions objectives.

Separately, the U.S. State Department announced in a press briefing that it has banned a number of Russian and Ukrainian nationals from receiving visas to enter the United States.³ However, the Department has not publicly identified the individuals who are subject to those bans.

EU ACTIONS

The European Union has meanwhile imposed an asset freeze on the assets of 18 individuals associated with the former Ukrainian government.⁴ The asset freeze took effect on March 6, 2014. The targeted individuals include former Ukrainian president Viktor Yanukovich, former prime minister Mykola Azarov and 16 others suspected of misusing Ukrainian state funds or violating human rights. The asset freeze means that EU persons are prohibited from making funds or economic resources available to the listed individuals. EU officials also have stated that, in the absence of de-escalating steps by Russia, the EU will consider additional measures, potentially including additional asset freezes and visa restrictions targeting Russian nationals and others. EU asset freezes are similar in effect to U.S. blocking orders.

EU Member States also have agreed to suspend export licences on goods that could potentially be used for internal repression in Ukraine. The EU Member States also will be reassessing existing licences for goods on the EU Common Military List, including smooth-bore weapons, ammunition, explosives, chemical agents, military vehicles, naval vessels and military aircraft.

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For updates on Ukraine-related sanctions and other sanctions developments, please subscribe to the Debevoise & Plimpton LLP *Sanctions Alert*. The *Sanctions Alert* is a free, semi-monthly e-mail summary of developments in the area of economic and trade sanctions in the United States, the European Union and around the world. If you would like to subscribe, please e-mail sanctions@debevoise.com with a request to be added to the *Sanctions Alert* mailing list.

³ State Department Daily Press Briefing, March 6, 2014.

⁴ Council Regulation (EU) No. 208/2014 of 5 March 2014, 2014 O.J. L66/1; Council Decision 2014/119/CFSP of 5 March 2014, 2014 O.J. L66/26.

Please do not hesitate to contact us with any questions.

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