

Client Update

OFAC Updates Russia and Ukraine Sanctions Lists, Issues Advisory on Evasion of Crimea Embargo

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On July 30, 2015, following the announcement of the European Union's extension of E.U. sanctions on Russia (see our [Client Update](#)), the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") issued several updates to its sanctions related to Ukraine and Russia:

- Added to its list of Specially Designated Nationals and Blocked Persons ("SDN List") several individuals and entities that allegedly assisted Gennady Timchenko, Boris Rotenberg and Kalashnikov Concern in evading the sanctions against them;
- Added six Crimean port operators and one ferry operator to the SDN List;
- Added several officials and associates of the former Yanukovich government of Ukraine, as well as a company controlled by one of the newly designated individuals, to the SDN list;
- Added to the Sectoral Sanctions Identifications List ("SSI List") companies that OFAC determined were 50% or more owned by the Russian bank Vnesheconombank ("VEB") and the Russian oil company OJSC Rosneft Oil Company ("Rosneft"), which were already treated as subject to sectoral sanctions by operation of law; and
- Issued an advisory to alert U.S. companies about attempts to evade the U.S. trade restrictions on Crimea.

According to OFAC, these changes are not meant to be an escalation of sanctions against Russia but are intended to maintain the existing level of sanctions.

NEW SPECIALLY DESIGNATED NATIONALS

In total, OFAC added 11 individuals and 15 companies to the SDN List. This means that, effective immediately, U.S. persons are prohibited from engaging in transactions involving the designated individuals and companies or their property. Additionally, any assets of these individuals and companies within U.S. jurisdiction or the control of U.S. persons must be frozen.

Seven of the individuals and eight of the companies were added to the SDN list under Executive Order 13661 for assisting with “serious and sustained sanctions evasion” by three existing sanctions targets: the Russian businessmen Gennady Timchenko and Boris Rotenberg, and the Russian defense company Kalashnikov Concern.¹ The newly designated companies and individuals include some that are located outside of Russia, in countries such as Finland and Cyprus.

In addition, four individuals and one company were designated under Executive Order 13660, which targets officials and close associates of the former regime in Ukraine who are determined to have misappropriated public assets or undermined democratic processes or institutions in Ukraine.² Some of these individuals had previously been targeted for sanctions by the European Union.

Finally, OFAC designated five Crimean port operators and one sea ferry operator pursuant to Executive Order 13685, which authorizes the Treasury Department to block the property of any entity operating in the Crimea region.³ Three of the port operators were previously designated by the European Union.

¹ Linked to Boris Rotenberg are Rotenberg’s son Roman Rotenberg and the company Oy Langvik Capital Ltd. The individuals and entities linked to Timchenko are Airfix Aviation Oy, IPP Oil Products (Cyprus) Limited, Kai Paananen, Oleg Usachev, Petr Kolbin, Set Petrochemicals Oy, Southport Management Services Limited, and Southeast Trading Oy. The individuals and entities linked to Kalashnikov Concern are Aleksander Omelchenko, Andrey Bulyutin, Olena Yurevna Semenova, Izhevsky Mekhanichesky Zavod JSC (AKA Baikal) and OJSC Kontsern Izhmash. As an additional justification for listing these last two companies, OFAC noted that they operate in the arms or related materiel sector in Russia.

² The newly designated individuals are Andriy Petrovych Klyuyev (a former Ukrainian government official), Sergey Vitalievich Kurchenko (a Ukrainian businessman linked to the former regime), Eduard Anatoliyovych Stavitsky (Ukraine’s former energy minister) and Oleksandr Viktorovych Yanukovych (the son of former President Viktor Yanukovych). The newly designated company is PJSC Mako Holding, which was designated on the ground that it is owned by Oleksandr Yanukovych.

³ They are State Enterprise Kerch Sea Commercial Port, State Enterprise Sevastopol Sea Trading Port, State Enterprise Feodosia Sea Trading Port, State Enterprise Evpatoria Sea Commercial Port, State Enterprise Yalta Sea Trading Port, and State Shipping Company Kerch Sea Ferry.

VEB AND ROSNEFT SUBSIDIARIES ADDED TO SECTORAL SANCTIONS LIST

In a related action, OFAC added 35 financial institutions, energy companies and other entities to the SSI List under Executive Order 13662. OFAC determined that these companies were 50% or more owned by VEB or Rosneft, both of which were previously on the list.⁴

The newly listed companies should already have been subject to sectoral sanctions under OFAC's so-called "50% Rule." Under that rule, an entity that is 50% or more owned by one or more sanctioned individuals or companies is automatically subject to the same sanctions as its owner. OFAC added the newly designated companies to the list to help the public identify them as subsidiaries of VEB and Rosneft.

Unlike companies on the SDN List, companies on the SSI List are not blocked, and most types of business with those companies remain permitted. However, U.S. persons are not allowed to engage in transactions or dealings involving newly issued equity or long-term debt of the companies. "Long-term" debt is defined as debt of more than 30 days' maturity for the VEB subsidiaries, which were listed under Directive 1, or more than 90 days' maturity for the Rosneft subsidiaries, which were listed under Directive 3. "Debt" includes not only debt securities but also loans and other extensions of credit, such as sales of goods or services on extended payment terms. Additionally, the Rosneft subsidiaries are listed under Directive 4, which prohibits U.S. persons from supplying goods or services for use in deepwater, shale or Arctic offshore oil exploration and production projects.

NEW OFAC ADVISORY ON EVASION OF CRIMEA SANCTIONS

Also on July 30, OFAC published an Advisory to highlight for U.S. businesses certain practices that have been used to evade or circumvent the U.S. trade embargo on the Crimea region. The embargo, imposed by Executive Order

⁴ The entities linked to VEB are Bank Belveb OJSC, Development Corporation of North Caucasus OJSC, Exiar, Eximbank of Russia, Far East and Baikal Region Development Fund OJSC, Federal Center for Project Finance, Globexbank, Kraslesinvest CJSC, Prominvestbank, Resad LLC, Rose Group Limited, Russian Direct Investment Fund Management Company, SME Bank, Sviaz-Bank, VEB Asia Limited, VEB Capital, VEB Engineering LLC, VEB Leasing OJSC. The entities linked to Rosneft are CJSC Vankorneft, Neft-Aktiv LLC, OJSC Achinsk Refinery, OJSC Angarsk Petrochemical Company, OJSC Kuybyshev Refinery, OJSC Novokuybyshev Refinery, OJSC Orenburgneft, OJSC RN Holding, OJSC Russian Regional Development Bank (VBRR), OJSC Samotlorneftegaz, OJSC Syzran Refinery, PJSC Verkhnechonskneftegaz, RN-Komsomolsky Refinery, RN-Yuganskneftegaz LLC, Rosneft Finance S.A., Rosneft Trade Limited, and Rosneft Trading S.A.

13685, prohibits virtually all transactions directly or indirectly between the United States or U.S. persons and Crimea.

In particular, OFAC cautioned that certain persons have repeatedly omitted important identifying information, such as the beneficiary's address, from SWIFT messages used to conduct wire transfers. Even when an address is provided on financial or trade documents, OFAC noted, it may not contain the word "Crimea." Relatedly, OFAC noted that some non-U.S. distributors have represented to their U.S. suppliers that they are selling products only into Russia without noting that they consider Crimea part of Russia rather than Ukraine. Each of these practices could result in U.S. businesses illegally exporting goods or services to Crimea.

OFAC recommended that U.S. companies consider taking additional compliance measures appropriate to their own risk profiles, potentially including the following:

- Updating transaction-monitoring systems to search for the names of major locations in Crimea rather than just the word "Crimea";
- Communicating clearly to non-U.S. trading partners the U.S. company's sanctions obligations with respect to Crimea; and
- Conducting additional diligence when dealing with parties known to have previously violated U.S. sanctions on Crimea.

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A compilation of our past Client Updates on Ukraine-related and other sanctions can be found at [The Sanctions Resource](#).

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Please do not hesitate to contact us with any questions.