



Sanctions Against Russia: What Your Company Should Consider Now Because of the Events in Ukraine

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The volatile situation in Crimea, the disputed region of Ukraine, presents new risks to global peace and security and to specific business operations of U.S. companies. While the situation remains extremely fluid, U.S. businesses should be aware how government actions may impact their business operations.

1. **Asset Freeze.** On March 6, President Obama issued an Executive Order blocking the property of certain persons determined to be contributing to instability in Ukraine, including Ukrainian and Russian nationals. The Order does not specifically list the targets of the blocking order but directs the Departments of State and Treasury to identify such persons. “Blocking” is an immediate across-the-board prohibition against transfers or dealings of any kind with regard to the property in question—bank accounts and real property are common types of blocked property.
 - *Bottom line:* Financial institutions and other companies should screen existing and future customers, clients, and accounts against the to-be-released list of persons determined to be contributing to instability in Ukraine. Such list will be available through the Office of Foreign Assets Control (OFAC) at the Department of the Treasury. If a U.S. financial institution or other business entity ‘holds’ property owned by a listed person, it must (i) inform OFAC; and (ii) block any transfers or dealing with such property. Given the fluidity of this situation, additional persons and groups could be added to the list of targets for asset blocking.

2. **No Entry into the U.S.** The March 6 Executive Order also bans the entry into the U.S. of certain Russian and Ukrainian government officials and the persons that will be included on the to-be-released list of persons determined to be contributing to instability in Ukraine.
 - *Bottom line:* As with the advice on the first point, U.S. businesses must make themselves aware of whether current or potential clients or customers are ‘listed.’ The ban on entry into the U.S. could impact the ability of U.S. companies to do business with ‘listed’ persons or entities.

3. **Possible expansion of scope.** The scope of U.S.-initiated economic sanctions could expand. Several bills have been introduced in the U.S. Congress calling for expanded economic sanctions against Russia. It is unclear whether any such bills will pass and what kind of sanctions program such bills would create. More robust sanctions, if implemented, could restrict future business relationships, and may not require quick termination or divestment of business operations in Russia.
 - *Bottom line:* Companies should review their business operations with, and in, Russia, and should determine how best to manage their operations in light of potentially tighter sanctions. For example, public companies may consider including a Russia sanction-specific risk factor in their filings. Companies may also consider whether to move more fluid assets out of Russia. Companies should also review their contracts with Russian exposure to determine whether they can be terminated in the event of sanctions or the consequences could be alleviated.

4. Will the EU Follow? It is unclear whether the EU will implement any economic sanctions against Russian or other actors contributing to instability in Ukraine. Some member states, such as the U.K., are thought to favor sanctions and others, such as Germany, are thought to favor negotiations. Any misalignment of potential U.S. and EU sanctions would create a compliance challenge for U.S. companies.
 - *Bottom line:* Multinationals should be aware of the potential misalignment between the focus of a U.S. sanctions program and a similar program administered in the European Union. Actions taken in the EU that would not be permitted under a U.S. sanctions program could be construed by U.S. regulators as evasion of the U.S. program—and such evasion is punished through significant fines. Companies should ensure that adequate compliance controls are in place to reduce such risk.
5. Possible Russian Economic Retaliation. The Russian government has indicated that it could implement its own economic embargo/sanctions against the U.S. or EU member states in retaliation for sanctions imposed against Russia. These retaliatory sanctions could include the seizure of assets owned by U.S. or EU-based companies.
 - *Bottom line:* Companies should determine whether they have political risk insurance that covers expropriation. If not, they should determine the quantity and quality of assets possibly at risk, and take appropriate protective steps.

We will update this guidance as events warrant. Contact the authors if you have any questions.

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