



## Sanctions Against Russia - Part 2: What Your Company Should Consider Now

Gene M. Burd and Michael E. Burke

Amidst the continuing tensions between Russia and Ukraine over the Crimean region, President Obama signed new executive order on March 17 blocking property of additional persons deemed to be contributing to the situation in Ukraine. The new order expands on the authority of the March 6's Executive Order 13660 ("EO 13660") by providing the Office of Foreign Assets Control (OFAC) with the ability to include on such 'blocking' list Russian government officials, persons involved in the arms trading with Russia, and persons who provide support to the Russian government officials.

1. **Asset Freeze.** On March 6, President Obama issued an Executive Order 13660 blocking the property of certain persons determined to be contributing to instability in Ukraine, including Ukrainian and Russian nationals. The March 17 order lists specific names in the Annex (see below) and adds new broad categories of persons that could be subject to the order. These categories include Russian government officials, persons operating in the Russian arms industry, persons who act on behalf of senior Russian government officials, and persons providing material support to senior Russian government officials or persons subject to the March 17 order.

"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. However, blocking is **not** forfeiture. The assets are required to be separated, placed in trust and the institution is required to notify Office of Foreign Assets Control (OFAC).

- *Bottom line:* Financial institutions and businesses with Russian and Ukrainian clients, customers, and counterparts should screen them and their accounts against the names of the persons subject to EO 13660, as modified. Given the fluidity of this situation, it is advisable for businesses to check the list on a regular basis.
- 2. **No Entry into the U.S.** EO 13660, as modified on March 17, 2014 ban the entry into the U.S. of listed Russian and Ukrainian government officials and persons that are described by the general categories in the March 17 order.
  - *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. **Prohibition on Donations.** The March 17 order prohibits donations by or to the persons subject to the order.
  - *Bottom line:* Non-profit organizations should review the list of their donors and their donees to determine whether any of the listed nationals are on either a donor or donee list. Further donations to or from listed persons are prohibited.

4. **U.S. Legislative Action.** The scope of U.S.-initiated economic sanctions could expand based on Senate Bill S. 2124. The Bill was introduced by Sen. Menendez (D-NJ) on March 12. The bill **directs** the President to impose sanctions against (i) Ukrainian government officials involved in violence against protesters after November 21, 2013; (ii) persons involved in undermining Ukrainian sovereignty; (iii) Russian government officials who were involved in the acts of significant corruption in Ukraine; and (iv) any persons who provided material support for such acts. S. 2124 **authorizes** but does not direct imposition of actions against (i) Russian government officials who were involved in the acts of significant corruption in Russia; and (ii) any person who provided materials support for such act.
  - *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.
5. **EU Sanctions.** According to the Wall Street Journal, the EU has targeted 13 Russians and eight leaders from Ukraine's Crimean region for assets freezes and travel bans. While the targets were not immediately identified, senior diplomats in Brussels said the EU backed away from imposing sanctions on any top Kremlin aides, despite their inclusion on the U.S. list. 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.
6. **Possible Russian Economic Retaliation.** The Russian government and commentators on the State-run TV have 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.

**Current Specially Designated Nationals (SDN) List for Ukraine**

AKSYONOV, Sergey Valeryevich (a.k.a. AKSENOV, Sergei; a.k.a. AKSYONOV, Sergei; a.k.a. AKSYONOV, Sergey; a.k.a. AKSYONOV, Sergiy; a.k.a. AKSYONOV, Serhiy Valeryevich); DOB 26 Nov 1972; POB Balti, Moldova (individual) [UKRAINE].

GLAZYEV, Sergey (a.k.a. GLAZYEV, Sergei); DOB 01 Jan 1961; POB Zaporozhye, Ukraine; Presidential Advisor (individual) [UKRAINE2].

KLISHAS, Andrei (a.k.a. KLISHAS, Andrey); DOB 09 Nov 1972; POB Yekaterinburg, Sverdlovsk, Russia; Chairman of the Russian Federation Council Committee on Constitutional Law, Judicial and Legal Affairs and the Development of Civil Society (individual) [UKRAINE2].

KONSTANTINOV, Vladimir Andreyevich, Crimea, Ukraine; DOB 19 Nov 1956 (individual) [UKRAINE].

MATVIYENKO, Valentina Ivanovna; DOB 07 Apr 1949; POB Shepetovka, Khmelnytsky, Ukraine; Federation Council Speaker; Chairman of the Russian Federation Council (individual) [UKRAINE2].

MEDVEDCHUK, Viktor; DOB 07 Aug 1954; POB Pochyot, Krasnoyarsk Krai, Russia (individual) [UKRAINE].

MIZULINA, Yelena (a.k.a. MIZULINA, Elena; a.k.a. MIZULINA, Elena Borisovna; a.k.a. MIZULINA, Yelena Borisovna); DOB 09 Dec 1954; POB Bui, Kostroma, Russia; State Duma Deputy; Chairman of the State Duma Committee on Family, Women and Children (individual) [UKRAINE2].

ROGOZIN, Dmitry Olegovich (a.k.a. ROGOZIN, Dmitriy; a.k.a. ROGOZIN, Dmitry); DOB 21 Dec 1963; POB Moscow, Russia; Deputy Prime Minister of the Russian Federation (individual) [UKRAINE2].

SLUTSKY, Leonid (a.k.a. SLUTSKIY, Leonid; a.k.a. SLUTSKY, Leonid E.; a.k.a. SLUTSKY, Leonid Eduardovich); DOB 04 Jan 1968; State Duma Deputy; Chairman of the Committee on Affairs of the Commonwealth of Independent States (CIS); First Deputy Chairman of the Committee on International Affairs; Chairman of the Russian World Fund Administration (individual) [UKRAINE2].

SURKOV, Vladislav Yurievich; DOB 21 Sep 1964; POB Solntsevo, Lipetsk, Russia; Presidential Aide (individual) [UKRAINE2].

YANUKOVYCH, Viktor Fedorovich; DOB 09 Jul 1950; POB Yenakiyevе, Donetsk Region, Ukraine; alt. POB Makiivka, Donbas, Ukraine; Former President of Ukraine (individual) [UKRAINE].

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