

United States Imposes Sanctions in Response to Ukraine Crisis

Since March 6, in response to the events in Ukraine, the Obama administration has issued three executive orders targeting individuals and entities deemed to be undermining the security of Ukraine. While all appear to be directed at Russia's annexation of Crimea, each expands the potential number of sanctions targets and could collectively be used to deter further Russian activities in the region.

Executive Orders

The first executive order (EO 13660) blocks the property and bans entry into the United States of individuals determined to be complicit in undermining democratic processes in Ukraine or threatening its territorial integrity. The second executive order (EO 13661) expands upon the first by blocking the property and banning entry into the United States of persons determined to be officials of the government of the Russian Federation and persons operating in the Russian arms sector. The most recent executive order (EO 13662) significantly increases the available sanctions targets by blocking the property and banning entry into the United States of persons determined to be operating in various sectors of the Russian economy, including the financial services, metals and mining, energy, engineering and defense sectors.

To date, 44 individuals and 19 entities have been designated by the U.S. Office of Foreign Assets Control (OFAC) and have been placed on the Specially Designated Nationals (SDN) list. Most of the entities appear to be related to Russia's financial and/or energy sectors, including Bank Rossiya and several of its subsidiaries, and Transoil, the largest private rail carrier of oil and petroleum products in Russia. (The complete SDN list can be found [here](#)). Most of the individuals appear to be members of the Russian government or the former government of Ukraine. Others appear to have close connections to Russia's president, including several close aides and advisors.

In addition to the stated sanctions targets, each of the executive orders also authorizes sanctions against persons determined to be materially assisting those on the SDN list as well as against entities owned or controlled by persons whose property has been blocked. Pursuant to OFAC guidance, a blocked person is considered to have an interest in all property and property interests of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. Thus, the property and interests in property of such an entity are blocked even though the entity itself may not appear on the SDN list.

Legislative Activity

On April 3, President Obama signed into law the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act. Overwhelmingly supported by both houses of the U.S. Congress, the Act codifies the sanctions contained in the executive orders and expands the scope of entities to be potentially targeted for sanctions. In particular, the Act expands sanctions authority to include persons complicit in "significant acts of corruption" in Ukraine or the Russian Federation as well as persons responsible for serious human rights abuses against citizens of Ukraine or the Russian Federation. It also authorizes over one billion dollars in loan guarantees and other aid to Ukraine.

Additional Agency Actions

In addition to the sanctions regime overseen by OFAC, on March 1, the Commerce Department, Bureau of Industry and Security (BIS) announced a suspension until further notice on the issuance of export licenses for items that require a license for export or re-export to Russia under the



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Export Administration Regulations (EAR). This was followed by an announcement that BIS would deny pending applications for licenses to export or re-export to Russia or Crimea any high technology items subject to the EAR that contribute to Russia's military capabilities. In addition, BIS is expected to revoke existing export licenses that meet these conditions.

On March 27, the State Department, Directorate of Defense Trade Controls also announced it was placing a hold on the issuance of licenses for the export to Russia of defense articles and services that fall within the International Trade in Arms Regulations (ITAR). Thus far, the DDTC action appears to be prospective and does not appear to affect licenses existing at the time of the announcement.

Implications for Conducting Business in Ukraine and Russia

The actions described above do not prohibit all transactions in Ukraine or Russia or with their respective governments. Rather, they limit certain U.S. export/re-export activities and prohibit U.S. persons from transacting business with persons and entities designated for sanctions (typically persons and entities designated on the SDN list).

As defined, U.S. persons include any U.S. citizen, permanent resident or entity organized under U.S. law (including foreign branches of U.S. entities) or any person, regardless of nationality, in the United States. Unlike some other U.S. sanctions programs (notably the Iran sanctions), there is no extraterritorial application to the executive orders. However, foreign companies should ensure that their U.S. components and U.S. citizen employees located throughout the world refrain from transactions or assisting with transactions involving sanctioned persons and entities.

Given that the prohibitions include transactions with entities owned or controlled by blocked persons, it is critical that U.S. persons doing business in Ukraine and Russia research their business partners to understand who has ultimate ownership or control. As OFAC has noted, even if the blocked person has a significant ownership interest that is less than 50 percent, caution is warranted as such entities may be the subject of future designation or enforcement action.

While the executive orders and legislation largely affect U.S. persons, foreign entities wishing to re-export U.S. goods to Russia must be mindful of the licensing restrictions. In addition, foreign persons should be aware that the European Union, Canada and Australia have similarly implemented travel restrictions and asset freezes against a number of Russian officials and entities. Japan has also announced modest sanctions.

We will continue to monitor the situation and advise further when there are additional developments.
