

Understanding President Obama's March 20, 2014 Executive Order Blocking Property of Additional Persons Contributing to the Situation in Ukraine and its Potential Impact On Your Business

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On March 20, 2014, President Obama issued a new Executive Order, the scope of which, while in line with previous Orders issued on the March 6 and March 17 significantly increases compliance concerns for companies transacting in Europe generally or Russia specifically. The March 20 Executive Order announced the expansion of sanctions against Russia, targeting key sectors of the Russian economy, individuals who support the Russian government, and a bank with ties to those individuals. The March 20 measures could impact any company operating in the Russian economy, with a particular focus on the Russian energy, mining, defense and engineering sectors.

The U.S. Department of the Treasury's new list of sanctioned officials includes 20 names. All assets of the individuals targeted by Thursday's sanctions that are in the possession of U.S. persons are now frozen, and the individuals are barred from doing any business in the United States or with U.S. persons and are unable to make most transactions in U.S. dollars. Also on the list is a financial institution, Bank Rossiya. That privately held bank, with an estimated \$10 billion in assets, is owned by Yuri Kovalchuk and used by many senior Russian government officials. The Order prevents Bank Rossiya from transacting any business in American dollars. Also on March 20, European leaders agreed to expand their list of individuals subject to travel bans and asset freezes. Britain confirmed that names would be added to the asset-freeze and travel-ban list, but did not specify how many. Any decision would not become law until it is published, likely in the coming days.

After President Obama's announcement, Russia issued its own wave of sanctions against U.S. officials, including Deputy National Security Advisor

Benjamin Rhodes, Senators John McCain, R-Ariz., and Harry Reid, D-Nev., and House Speaker John Boehner (R-OH).

The March 20 Executive Order targets individuals and entities that have not previously been subject to sanctions. The inclusion of financial institutions signals a significant compliance risk as such institutions have business relationships with many entities and because companies interact with financial institutions and will thus need to be doing increased due diligence.

Similar to the March 17 Order, which established broad criteria for possible future designations of any Russian government official or anyone connected to the Russian defense industry, the March 20 Order takes this a significant step further. Pursuant to this action, the Department of the Treasury can designate individuals or entities found to "operate" in any sector of the Russian economy that Treasury determines poses a threat. In the Order, the President named the financial services, energy, metals and mining, engineering, and defense and related materiel sectors, but these are just examples. Other Russian sectors could be added.

Companies dealing in Russia or with senior Russian officials in these sectors are now on notice of possible future sanctions that may directly impact their business activities and could, in extreme cases, create risks of possible designation. With no definition provided by the President or the Treasury Department of when a company may be determined to "operate" in a particular sector, it is likely the broadest possible definition will be applied.

Given the fact that any economic sector in Russia can be named as a risk at any time, this means that there is now risk to any involvement in the Russian economy. Combined with the EU's imposition of an asset freeze and travel ban, the March 20 sanctions create a substantially increased compliance risk to U.S. companies that transact in Europe generally and that may conduct business in Russia or Ukraine specifically.

In addition to the general importance of a compliance system that enables confirmation of any newly listed sanctioned entities, it is important to again review business relationships, contracts, purchase orders, and upcoming business travel to ensure that a company does not run afoul of the March 6, March 17, or March 20 Executive Orders as well as existing EU sanctions. This mitigates the risk of having assets seized or frozen.

The team at Holland & Hart is prepared to assist with any of these reviews and will continue to provide you updates regarding how to comply with this new, changing sanctions regime.