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On March 6, 2014, President Obama issued a new Executive Order allowing the United States to sanction any individual or entity that is responsible for, or complicit in, actions or policies that undermine democratic processes or institutions in Ukraine or that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine.

The Order is a direct response to threats to the peace, security, or stability of Ukraine, as well as illegal efforts to assert governmental authority in the Crimean region without the authorization of the Government of Ukraine. The Order comes less than a week after Russian forces entered Crimea, a region in eastern Ukraine with strong ethnic and cultural ties to Russia, and where Moscow has military installations.

This Order allows the United States to sanction persons who are involved in the misappropriation of state assets of Ukraine or who asserted governmental authority over any part or region of Ukraine without the authorization of the Government of Ukraine. Sanctions could include freezing assets or preventing Americans from doing business with certain individuals. Under the Order, U.S. companies are prevented from doing business with any individual or entity responsible or complicit in (1) actions or policies that undermine democratic processes or institutions in Ukraine, (2) actions or policies that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine or (3) the misappropriation of state assets of Ukraine or of an economically significant entity in Ukraine. The sanctions also extend to those who (1) materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support in destabilizing Ukraine, or (2) own, control, or act on behalf of any person whose property are blocked pursuant to the Executive Order. The Executive Order also imposes a ban on visas for officials and other people who have taken steps to undermine the territorial

integrity of Ukraine as described above.

The United States' European partners, who are considering their own sanctions, were informed about the Executive Order in advance. Without European backing, it is unclear how effective the Executive Order's sanctions will be as Europe has much closer economic ties to Russia. European leaders indicated that Russia will face sanctions over its military incursion in Ukraine unless troops are withdrawn or Russia engages in credible talks to defuse the situation. Among initial European sanctions Russia could face are the suspension of talks on visa liberalization and an economic agreement. More drastic steps like asset freezes and travel bans on Russian officials are unlikely to be adopted due in part to Europe's aforementioned close economic ties with Russia.

Such targeted and abrupt sanction regimes are not new. President George H.W. Bush used an executive order to implement sanctions related to the crisis with Serbia and Montenegro in 1993. Likewise, President Clinton used executive orders to impose economic sanctions relating to the Kosovo War in 1998. Whatever steps lay ahead, the Executive Order is a flexible tool that will allow the U.S. to sanction those who are most directly involved in destabilizing Ukraine, including the military intervention in Crimea and does not preclude further steps should the situation deteriorate.

The Executive Order may target individuals and entities that have not previously been subject to sanctions. This creates a 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 review business relationships, contracts, purchase orders, and upcoming business travel to ensure that a company does not run afoul of the Executive Order and to avoid 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.

If you have any questions concerning the material discussed in this Alert, please contact the following members of our International Trade Compliance practice group: Trip Mackintosh, Lizbeth C. Rodriguez-Johnson and Jesse T. Horn

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