

Understanding President Obama's March 17, 2014 Executive Order Issuing Sanctions Against Certain Parties in Ukraine, European Union Sanctions, and their Potential Impact to Your Business

Understanding President Obama's March 17, 2014 Executive Order Issuing Sanctions Against Certain Parties in Ukraine, European Union Sanctions, and their Potential Impact to Your Business

Insight — March 17, 2014

On March 17, 2014, President Obama issued a new Executive Order, significantly expanding E.O. 13660 of March 6, 2014, implementing sanctions on 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 new order gives the Obama Administration the authority to sanction individuals and entities who fit within the broad categories of Russian government officials and those connected to the Russian arms industry.

The Order's Provisions

Pursuant to the new Executive Order, the U.S. Treasury Department, in conjunction with the U.S. State Department, can impose asset freezes and travel restrictions on any individual or entity found to fit within two broad categories, specifically (i) any "official of the Government of the Russian Federation" or (ii) "any individual or entity that operates in the Russian arms industry." This authority also extends to any individual or entity that is owned or controlled by, or acts on behalf of, or that provides material or other support to, any senior Russian government official" or person otherwise blocked under the order. It further allows the United States to sanction persons who are involved in the misappropriation of state assets of Ukraine or have asserted governmental authority over any part or region of Ukraine without the authorization of the Government of Ukraine. The list of individuals sanctioned previously appears as an Appendix to the end of this Alert.

EU Actions

On March 17, 2014, the European Union also imposed an asset freeze and travel ban on 13 Russians and eight Crimean leaders. The list of these 21 individuals will be released on Tuesday, March 18, 2014, but, according to reports, is expected to overlap with the 11 individuals facing U.S. sanctions. Additionally, the EU suspended talks with Russia on a wide-ranging economic pact and a visa agreement. EU leaders are expected to meet on Thursday March 20th and Friday March 21st regarding additional economic sanctions that could be implemented against Russia by the weekend.

Responding to these Actions

The preliminary sanctioning of seven Russian and four Ukrainian officials demonstrates that for the moment, the U.S. will proceed with sanctions only against private finances of the people targeted, and not their business interests. The breadth of the designation criteria of (i) any "official of the Government of the Russian Federation" or (ii) "any individual or entity that operates in the Russian arms industry" does not mean that all Russian officials and the Russian arms industry are now sanctioned. Critically however, the March 17 U.S. Executive Order's language leaves room for such additional sanctioning at a later date if corrective action is not taken by Russia with respect to its actions in Crimea.

The March 17 U.S. Executive Order targets individuals and entities that have not previously been subject to sanctions. This Order expands the potential designation categories into significantly broader areas than the previous March 6 Order in a manner that could impact many economic sectors. With the Russian arms industry valued in the tens of billions of dollars, and in light of the extent to which Russian government officials often operate simultaneously in the private sector, companies must review all business in or with Russian entities carefully, as U.S. authorities could take an aggressive enforcement approach as a means of further demonstrating their commitment to a strong response to Russia's actions.

Combined with the EU's imposition of an asset freeze and travel ban, these sanctions create an increased compliance risk to U.S. companies that transact in Europe generally and that may conduct business in Russia or Ukraine specifically. It is important to note that, although the headlines are focused on the specific targeting of those close to President Vladimir Putin, the Executive Order extends the potential for sanctions to the whole of the Russian government, including "any political subdivision, agency, or instrumentality thereof, including the Central Bank of the Government of the Russian Federation." This could potentially extend to national agencies and to local governments within the Russian Federation, meaning that, should these sanctions be extended to this wider set of actors, numerous types of business transactions within Russia could be impacted.

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 March 6 or March 17 Executive Orders as well as likely EU sanctions. This could require more extensive due diligence into the possible connection of

Russian government officials to any business interests or relationships held by a U.S. company. Such a review 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.

Appendix

The U.S. Treasury Department already targeted the following seven Russian government officials:

1. **Mr. Vladislav Surkov** - sanctioned for his status as a Presidential Aide to Russian President Vladimir Putin;
2. **Mr. Sergey Glazyev** - sanctioned for his status as a Presidential Adviser to Russian President Vladimir Putin;
3. **Mr. Leonid Slutsky** - sanctioned for his status as a State Duma deputy, where he is Chairman of the Duma Committee on CIS Affairs, Eurasian Integration, and Relations with Compatriots;
4. **Mr. Andrei Klishas** - sanctioned for his status as a Member of the Council of Federation of the Federal Assembly of the Russian Federation and as Chairman of the Federation Council Committee of Constitutional Law, Judicial, and Legal Affairs, and the Development of Civil Society;
5. **Ms. Valentina Matviyenko** - sanctioned for her status as Head of the Federation Council;
6. **Mr. Dmitry Rogozin** - sanctioned for his status as the Deputy Prime Minister of the Russian Federation;
7. **Ms. Yelena Mizulina** - sanctioned for her status as a State Duma Deputy.

Additionally, using E.O. 13660, Treasury sanctioned the following four Ukrainians for threatening the peace, security, stability, sovereignty, or territorial integrity of Ukraine, and for undermining Ukraine's democratic institutions and processes:

1. **President Viktor Yanukovych** – designated after abandoning Kyiv, fleeing to Russia, and calling upon Russian President Vladimir Putin to send Russian troops into Ukraine.
2. **Mr. Viktor Medvedchuk** - designated because he has materially assisted, sponsored, or provided financial, material, or technological support to Yanukovych and because he is a leader of an entity that has, or whose members have, engaged in actions or policies that undermine democratic processes or institutions in Ukraine and actions or policies that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine.
3. **Mr. Sergey Aksyonov** - claims to be the Prime Minister of Crimea and has rejected the authority of the legitimate government in Kyiv.
4. **Mr. Vladimir Konstantinov** – serves as the speaker of the Crimean parliament, which on March 11, 2014, declared

independence from Ukraine.

Subscribe to get our Insights delivered to your inbox.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.