

KIRKLAND ALERT

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U.S. Sanctions Update: New Sanctions Program Creates Risks for Companies Doing Business with Russia or Ukraine

Following the recent imposition of new U.S. economic sanctions, U.S. companies operating in or otherwise engaging in business or other dealings involving Russia or Ukraine should ensure that such activities do not involve or otherwise relate to parties designated under the new sanctions. Non-U.S. companies with substantial business with or involving targeted parties also are at risk because sanctions may be imposed on persons or entities for providing material support to designated parties. European Union authorities also have announced sanctions. Companies doing business in this region will have to be diligent and stay well-informed of this evolving situation to ensure compliance with applicable laws.

On March 17, 2014, one day after a Crimean referendum in support of joining Russia, which has been denounced by the United States, the European Union and other governments, President Obama authorized sweeping sanctions, whereby the property and interest in property of “officials of the Government of the Russian Federation” and any individuals or entities that “operate in the arms or related materiel sector in the Russian Federation” may be designated and “blocked.”¹ Additionally, parties that provide “material or other support to any senior official of the Government of the Russian Federation” or any person designated under the new sanctions also may be sanctioned and become blocked parties. Under general U.S. economic sanctions regulations, any entity owned more than 50 percent by a blocked person also is considered a blocked party, and U.S. persons are required to report to the U.S. government any blocked property in their possession. The action, in the form of a new Executive Order, was issued after the U.S. government determined that the actions and policies of the Russian government with respect to Ukraine, including the deployment of Russian military forces in the Crimean region, undermine democratic processes and institutions in Ukraine, threaten its peace, security, stability, sovereignty and territorial integrity, and contribute to the misappropriation of its assets. President Obama previously had issued an Executive Order on March 6, 2014,² authorizing sanctions on persons determined to undermine democratic processes in Ukraine, threaten the peace, security and stability of Ukraine, assert governmental authority in the Crimean region without the authorization of the government of Ukraine, or misappropriate Ukrainian state assets.³

Also on March 17, 2014, the U.S. government sanctioned 11 Russian and Ukrainian officials. Four officials (two Crimea-based separatist leaders, the former Ukrainian presidential chief of staff and the former president of Ukraine) were designated under the earlier Executive Order of March 6. Seven Russian government officials were designated under the March 17 Executive Order, including top advisers to President Vladimir Putin, for their roles in support of Crimea’s vote to secede from Ukraine.⁴ The designated persons are identified on the list of Specially Designated Nationals and Blocked Person (SDN List) maintained by the U.S. Department of the Treasury’s Office of For-

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eign Assets Control (OFAC). As a result of these designations, U.S. companies engaging in activities in Russia or Ukraine generally are prohibited from any business activities that involve or otherwise relate to these persons or any entities majority-owned by them.

Companies doing business with Russia and Ukraine will want to perform due diligence on existing or potential business partners to confirm whether they are on OFAC's SDN List or owned or controlled by any designated parties. As additional designations are possible, to evaluate potential risks, companies also will need to evaluate whether their business involves any of the categories of potential sanctioned parties, such as Russian governmental officials or Russia's arms or related industries. The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) also has issued advisories regarding heightened money laundering risks related to the potential misappropriation of state assets by the former government of Ukraine. U.S. and non-U.S. companies should continue to monitor the situation in coordination with expert counsel to ensure compliance with applicable U.S. or other laws. The Obama Administration has made clear that the U.S. government is prepared to take additional steps to impose further political and economic sanctions on Crimean separatists and their Russian backers, and EU and other governmental authorities also continue to evaluate the situation for potential future actions.⁵

The U.S. government is prepared to take additional steps to impose further political and economic sanctions on Crimean separatists and their Russian backers.

¹ See [Executive Order 13661](#), 79 Fed. Reg. 15533 (Mar. 19, 2014).

² See [Executive Order 13660](#), 79 Fed. Reg. 13493 (Mar. 10, 2014).

³ The White House also announced that the U.S. Department of State is putting in place visa restrictions on a number of officials and individuals in support of a policy decision to deny visas to those responsible for or complicit in threatening the sovereignty and territorial integrity of Ukraine. These measures further the prior, related actions taken by the U.S. government, including: (i) suspending bilateral trade and investment discussions with Russia; (ii) postponing U.S.-Russia military-to-military engagement; and (iii) the U.S. government's agreement with G-7 nations to temporarily suspend participation in activities associated with the preparation of the upcoming G-8 Summit in Russia. See <http://www.whitehouse.gov/the-press-office/2014/03/06/statement-press-secretary-ukraine>.

⁴ See <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20140317.aspx>.

⁵ See <http://www.whitehouse.gov/the-press-office/2014/03/17/fact-sheet-ukraine-related-sanctions>.

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