
Ukraine/Russia Sanctions Escalate

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Sanctions escalated at a rapid pace last week as western powers responded to the crisis in Ukraine and Russian's annexation of Crimea. The United States, European Union (EU), Canada and Australia have implemented sanctions. The approaches and specific sanctions lists of these four jurisdictions overlap but have certain key differences. Following are the current contours of these sanctions (through March 23, 2014).

Sanctions Implemented to Date

United States – Has named 32 specially designated nationals (“SDNs”) under three new Executive Orders, including 31 individuals and one bank. Transactions with these SDNs are prohibited and their property is blocked, with no exception made for agreements or joint ventures established prior to the sanctions. The United States also has instituted travel and visa bans for certain Russian and Ukrainian officials. Executive Orders 13660 (March 6, 2014), 13661 (March 16, 2014), and 13662 (March 20, 2014) have set up a framework to sanction persons disrupting democracy in the Ukraine, Russian government officials, entities operating in the arms and related materiel sector in Russia, and persons operating in particular economic sectors within Russia to be identified based on Executive Order 13662 (which may include the financial services, energy, metals and mining, engineering and defense industries).

EU – Has frozen the assets of and banned travel for several Russian and Ukrainian officials under Council Regulations 208/2014 (March 5, 2014) and 269/2014 (March 17, 2014) and Implementing Regulation 284/2014 (March 21, 2014). Unlike the United States, the EU makes exceptions under certain conditions for payments due under contracts/obligations and certain arbitral decisions arising prior to the designation of the individual, for certain judicial/legal awards, and for funds determined to be for basic needs, legal fees or service charges for frozen accounts.

Canada – Has frozen the assets and banned travel to certain Russian and Ukrainian officials under two sets of regulations for Ukraine -- Freezing Assets of Corrupt Foreign Officials (Ukraine) Regulations (SOR/2014-44) (March 5, 2014) and Special Economic Measures (Ukraine) Regulations (SOR/2014-60) (March 17, 2014) and its amending regulations, as well as one set of regulations for Russia -- Special Economic Measures (Russia) Regulations (SOR/2014-58) (March 17, 2014). Canada allows some transfers with designated individuals, such as: those due under contracts entered into prior to the individual being designated, pension payments; transactions related to a diplomatic mission or an organization with diplomatic status; transactions necessary for a Canadian to obtain accounts, funds or

investments held by a designated person; those for legal services; and for loan repayments where the loan was entered into prior to the individual being designated.

Australia – Has announced that sanctions and travel bans will be imposed on a list of individuals in response to Russian actions in Crimea. The specific parties are still under consideration and no updates have been made to the Australia sanctions webpage to date.

All four jurisdictions are expected to consider additional sanctions, including designations of Russian companies and/or financial institutions, targeting the assets of Russian oligarchs and restricting sensitive export sectors.

Adapting to Further Escalation of Sanctions

It still is permissible to do business with and in Ukraine and Russia. The sanctions issued to date focus on specific individuals and one entity (Bank Rossiya) that has been sanctioned by both the United States and Canada. Entities that are majority-owned by these individuals and entities are covered by the sanctions as well. However, broader embargoes including prohibitions on financial transactions and investment bans are being actively considered and could be imposed without advance notice.

The extreme uncertainty of the current environment should prompt companies in the U.S., EU, Canada and Australia not only to screen and block transactions with the individuals and entities that have been named to date, but also to assess their exposure to transactions or investments involving Russia and Ukraine and to take steps to minimize such exposure wherever possible. U.S. and EU regulators are assessing their financial institutions' exposure to former Ukrainian officials, Russia oligarchs and their investment holdings, and other Russian entities. It is likely that additional sanctions will be imposed. Transactions involving Russian counterparties should be monitored carefully to evaluate whether the individual or entity is in the sphere that is most likely to be targeted (particularly those closely associated with President Putin) and transactions should be limited to the shortest term possible.

Russia has responded to the U.S. and western sanctions in kind, banning travel into Russia for nine high profile U.S. government officials. While these sanctions have little economic impact, statements by the Russian government indicate that additional counter-sanctions targeting U.S. and EU business interests are possible, and perhaps even likely.

If you have any questions about the content of this alert, please contact the Pillsbury attorney with whom you regularly work, or the authors below.

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