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An Update on Economic Sanctions Related to Events in Ukraine

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Last week the United States and European Union continued to ramp up economic sanctions related to events in Ukraine and Russia. Because the most recent round of sanctions is likely to have a much broader reach, entities must carefully assess the potential impact on their international activities. Please see our alerts dated March 8 and March 18, 2014,¹ for background on the U.S. and EU sanction regimes and prior actions taken by President Obama and European leaders.

United States Signals Broader Sanctions

On March 21, 2014, the U.S. government imposed economic sanctions against 20 additional individuals. This new list included not only high-ranking officials of Russia's executive and legislative branches, but also four Russian businessmen. The U.S. government also designated Bank Rossiya, which is a St. Petersburg-based financial institution. The new list suggests that the U.S. government is trying to influence President Putin by sanctioning certain persons it perceives to be part of his inner circle.

Although the U.S. government only officially listed these 20 individuals and one entity, this round of sanctions likely will have a much larger impact on the Russian economy. Any property or interest in property of these persons that are in the United States or come within the possession or control of a U.S. person must be "blocked." According to guidance from the Office of Foreign Assets Control (OFAC),² the sanctions apply to all property in which the sanctioned person owns, directly or indirectly, a 50 percent or greater interest. For example, if Bank Rossiya or any of the designated individuals owns 50 percent or more of another company, then the property and interests in property of that other company also are blocked — regardless of whether the other company itself is listed by OFAC. If, however, Bank Rossiya or any of the designated individuals owns less than a 50 percent stake, then the company is not automatically subject to sanctions — though it could be designated by OFAC in its own right for being controlled by another sanctioned person. A group of U.S. financial institutions sought guidance on this point regarding the new sanctions announced March 21, and OFAC confirmed that when no single designated person holds a 50 percent or greater ownership stake, and the entity itself has not been designated for sanctions, then the sanctions do not extend to that company.

Separately, President Obama signed another executive order authorizing sanctions against broad sectors of the Russian economy. This executive order significantly expands the scope of possible sanctions beyond the situation in Ukraine. Now simply doing business in Russia appears to be a basis for the Secretary of the Treasury to designate a party for economic sanctions. The executive order authorizes the Secretary of the Treasury or his delegate to designate any person:

¹ See, "Economic Sanctions Related to Events in Ukraine" and "An Update on Economic Sanctions Related to Events in Ukraine."

² OFAC is the component of the Department of the Treasury that administers and enforces economic sanctions.

- determined to operate in such sectors of the Russian economy as may be determined by the Secretary of the Treasury, such as financial services, energy, metals and mining, engineering, and defense and related material;
- materially, assisting, sponsoring or providing financial, material or technological support for, or goods or services to or in support of any person designated under the executive order; or
- owned or controlled by, or having acted or purported to act for or on behalf of any person designated under the executive order.

The U.S. Congress also has taken steps to impose additional sanctions to put further pressure on President Putin. Legislation may be passed in the coming weeks.

European Union Expands Sanctions and Will Sign Agreements

On March 21, the Council of the European Union adopted further sanctions in response to actions undermining Ukraine's territorial integrity. The Council expanded the list of individuals subject to travel restrictions and asset freezes within the European Union. The decision adds 12 more names to the original list of 21 sanctioned individuals, issued on March 17, and includes a number of Russian and Crimean public officials and military. The list now includes the Deputy Prime Minister of the Russian Federation, Dmitry Rogozin, as well as an adviser and an aide to President Putin, Sergei Glazyev and Vladislav Surkov, respectively, and not necessarily individuals linked to the crisis in Ukraine or the Crimean peninsula.

Additionally, Council President Herman Van Rompuy said that the European Union was cancelling an EU-Russia summit in June and that member states would cancel regular bilateral summits. The Council also published its "Conclusions on Ukraine" on March 21, which states that the European Union and its member states will sign the political provisions of the EU-Ukraine Association Agreement and that they are committed to sign the remainder of the Association and the Free-Trade Agreements. The conclusions also state that the Council, "reconfirm[ed] its objective to further strengthen the political association and economic integration with Georgia and the Republic of Moldova," and further association agreements with both countries are intended to be finalized by June.

Russia Sanctions U.S. and Canadian Officials

Following the announcement of additional U.S. sanctions, the Russian government imposed sanctions on nine U.S. officials, including House Speaker John Boehner, Senate Majority Leader Harry Reid and Senator John McCain. These sanctions bar these individuals from entering Russia. Russia also imposed similar sanctions on 13 Canadian officials in response to Canadian sanctions on a number of Russian officials.

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Skadden's international team, which has significant experience with sanctions regimes, is following the situation closely. We encourage you to contact any of the attorneys listed here or your regular Skadden contact with any questions specific to your situation or business.