

An Update on Economic Sanctions Related to Events in Ukraine

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Jeffrey D. Gerrish
Washington, D.C.
202.371.7381
jeffrey.gerrish@skadden.com

Nathaniel B. Bolin
Washington, D.C.
202.371.7893
nathaniel.bolin@skadden.com

Jamie L. Boucher
Washington, D.C.
202.371.7369
jamie.boucher@skadden.com

William J. Sweet, Jr.
Washington, D.C.
202.371.7030
william.sweet@skadden.com

Brian D. Christiansen
Washington, D.C.
202.371.7852
brian.christiansen@skadden.com

Sean M. Thornton
Washington, D.C.
202.371.7149
sean.thornton@skadden.com

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1440 New York Avenue, NW,
Washington, D.C. 20005
Telephone: 202.371.7000

Four Times Square, New York, NY 10036
Telephone: 212.735.3000

[WWW.SKADDEN.COM](http://www.skadden.com)

On April 25, 2014, following a meeting of the G7 in which member countries broadly agreed to take further action against Russia in response to political violence and unrest in Ukraine, U.S. officials imposed sanctions against several new Russian entities and individuals, including the heads of two major state-owned enterprises. As more prominent Russian individuals and entities are subjected to U.S. economic sanctions, businesses around the world should assess the potential impact on their activities. Please see our prior alerts¹ 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 April 28, 2014, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) imposed economic sanctions against seven influential Russian individuals, including Russia's presidential envoy to Crimea, a deputy prime minister and the director of the Federal Protective Service. The new additions to the list — notably Igor Sechin, president of the state-owned oil company Rosneft — reflect the U.S. strategy of trying to influence Russian policy by applying pressure to the "inner circle" of Russian President Putin. In addition to sanctioning seven new individuals, the United States imposed economic sanctions against 17 Russian businesses in the financial services, aviation, and energy and mining sectors. Sobinbank, Investcapitalbank, Avia Group and Transoil were among the entities designated.

All property or interests in property of these newly designated individuals or entities that are in the United States or in the possession or control of a U.S. individual or entity must be "blocked." According to OFAC guidance, these types of sanctions apply to all property in which the designated individual or entity owns, directly or indirectly, a 50 percent or greater interest. For example, if any of the designated individuals or entities owns 50 percent or more of another company, whether directly or indirectly, 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, any of the designated individuals or entities 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 individual or entity. The April 25 announcement reflects this principle in the designation of SMP Bank, which was controlled by two previously designated Russian individuals, each of whom owned less than a 50 percent stake. SMP Bank was not caught by OFAC's so-called "50 percent rule," but OFAC resolved any ambiguity about the status of the bank by taking the step of adding it to the list.²

1 See "Economic Sanctions Related to Events in Ukraine" (March 8, 2014), "An Update on Economic Sanctions Related to Events in Ukraine" (March 18, 2014) and "An Update on Economic Sanctions Related to Events in Ukraine" (March 26, 2014). Additional alerts are available at <http://www.skadden.com/insights>.

2 In addition to the sanctions imposed by the Department of the Treasury, the U.S. Department of Commerce imposed export control sanctions against 13 of the 17 entities designated by the Department of the Treasury. The Department of Commerce imposed a license requirement with a presumption of denial for the export, re-export, or other foreign transfer of U.S.-origin items to the sanctioned entities. For more information regarding the Department of Commerce's new policies, please see "US Government Announces Ban on High-Technology Exports to Russia and Crimea" (May 2, 2014).

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

European Union Expands Sanctions

In addition to the U.S. sanctions, the EU designated another 15 Russian and Ukrainian individuals for sanctions, including General Valery Gerasimov, Chief of the Russian General Staff, and Lieutenant General Igor Sergun, Director of GRU, the Russian military intelligence directorate. The EU sanctions include travel restrictions and asset freezes, and with the addition of the new individuals designated this week, the EU has designated 48 individuals under its sanctions program dealing with the situation in Ukraine. To date, the EU sanctions have not focused on Russian businesses.

Russia's Response

After the U.S. imposed a new round of sanctions this week, Russia's Deputy Minister of Foreign Relations, Sergey Ryabkov, reportedly promised, "A response of Moscow will follow, and it will be painfully felt in Washington, D.C." To date, Russia's response to Western sanctions has been relatively restrained. Following previous rounds of U.S. sanctions, the Russian government imposed sanctions on a small number of U.S. and Canadian officials, which bar these individuals from entering Russia, but it has not yet imposed retaliatory economic measures.

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Skadden's international team, which has significant experience with economic sanctions investigations and compliance, 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.