
Economic and Political Environment in Ukraine and Russia

March 13, 2014

Update on Economic Sanctions Triggered in Reaction to the Crisis in Ukraine

Economic sanctions are looming.

Morgan Lewis has been following the ongoing crisis in Ukraine as well as the related current and potential future actions by various countries that may affect international banking and international trade. This alert provides a brief summary of recent developments.

United States

On March 6, President Barack Obama signed an Executive Order¹ that provides a framework for the United States to implement sanctions against individuals or entities (a) that are determined to have engaged in certain activities that undermine democratic processes or institutions in Ukraine; threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine;” or involve the misappropriation of state assets of Ukraine or of an economically significant entity in Ukraine or (b) that have provided material support for such activities.

Though the Executive Order did not include a list of specific individuals or entities that will ultimately be subject to sanctions, the process to identify such parties is currently underway. The sanctions that can be applied against individuals or entities pursuant to the Executive Order include the following:

- Implementing a visa ban on the identified individuals
- Blocking the property and property interests of such individuals and entities to the extent that such property and property interests are in the United States or come within the possession or control of U.S. persons
- Prohibiting U.S. persons from providing any goods or services to or for the benefit of such individuals and entities
- Prohibiting U.S. persons from performing any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in the Executive Order

If the sanctions authorized pursuant to the Executive Order are applied against such individuals and entities:

- U.S. banks and U.S. companies must (a) block the accounts and other property of such entities and individuals and cease all dealings with such individuals and entities as well as any entities that such individuals or entities directly or indirectly own or control a 50% or greater interest in and (b) prohibit or reject unlicensed trade and financial transactions with specified countries, entities, and individuals.
- Russian banks and Russian companies must (a) understand that such transactions **cannot** be sent to or through any U.S. person or U.S. company, including any U.S. bank or U.S. financial institution, and (b) not attempt to camouflage the identity of a Specially Designated National and then send such a camouflaged transaction to or through any U.S. Person or U.S. company, including any U.S. bank or U.S. financial institution (and including foreign branches of such institutions).

1. View the Executive Order at <http://www.whitehouse.gov/the-press-office/2014/03/06/executive-order-blocking-property-certain-persons-contributing-situation>.

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It is important to note that, as of the date of this alert, the United States has not yet designated any specific individuals or any specific entities as sanctioned parties pursuant to the Executive Order issued on March 6. However, no advance notice of such designations is required, and sanctions, once levied, are effective immediately.

The immediate effect of sanctions and the uncertainty as to which individuals and which entities may ultimately be sanctioned make it imperative for all interested parties to pay close attention to sanctioned party announcements, which, in accordance with the terms of the Executive Order, will be made by the Secretary of the Treasury through the Treasury Department's Office of Foreign Assets Control (OFAC).

European Union

Also on March 6, the European Union (EU) took action to freeze the assets of certain officials of the former government of Ukraine as well as affiliated persons.

Russia

In response to potential U.S. and EU sanctions, Russian authorities have been discussing legislation that could be used to take action against assets of U.S. or EU persons or entities in Russia, including potential confiscation. The Russian parliament has reportedly drafted a bill to provide a legal basis for such measures.

Summary

The above developments may change quickly, and the situation overall is quite fluid. Indeed, it now appears likely that, if Crimea votes in favor of annexation to Russia on March 16, that the United States and the EU will implement sanctions against an agreed to list of Russian persons who "are officials who can be proven to have been directly implicated in infringements of Ukraine sovereignty." Any such sanctions so issued will extend to entities controlled by such officials. Morgan Lewis is closely following these developments and will issue further alerts as more information becomes available.

Contacts

Morgan Lewis lawyers in the United States, the EU, and Russia have experience with such issues and are following the political and economic developments closely. We are advising a number of U.S. and European clients on protecting assets in Russia as well as a Russian client on issues relating to potential U.S./EU sanctions, and we can provide further details or arrange for discussion of the above matters with our colleagues as needed. If you have any questions or would like more information on the issues discussed in this LawFlash, please contact any of the following Morgan Lewis lawyers:

Moscow

Brian L. Zimblar	+7 495 212 2511	bzimblar@morganlewis.com
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Washington, D.C.

Fred F. Fielding	202.739.5560	ffielding@morganlewis.com
Margaret M. Gatti	202.739.5409	mgatti@morganlewis.com
Charles M. Horn	202.739.5951	chorn@morganlewis.com

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