

Further Developments in US Sanctions Relating to Ukraine

Overview

- On March 20, the United States designated an additional 20 Russian individuals for sanctions, and one entity, Bank Rossiya of St. Petersburg. Unlike the designations of March 17, 2014, the individuals designated today are not restricted to Russian government officials and include a number of prominent Russian business leaders. Bank Rossiya is the first entity to be sanctioned.
- These sanctions do not affect the Russian Government more broadly, although they do affect direct dealings with the sanctioned officials.
- Any entity in which a sanctioned person or entity owns a 50% or greater interest is also sanctioned by operation of law. According to press reports, three additional Russian banks fall in this category and, if the reports are correct, are also sanctioned: SMP Bank, Sobinbank, and Investcapitalbank. Entities in which a sanctioned person owns a significant stake under 50% may face difficulties in US-linked dealings but are not unambiguously blocked.
- An Executive Order also issued on March 20 authorizes, but does not impose, broader sanctions targeting entities in as-yet unspecified sectors of the Russian economy. Any such sanctions would not necessarily affect the entire sector; rather, a sector would be designated as a potential sanctions target but only individually named companies within that sector would in fact be sanctioned.
- The US approach to sanctions appears unchanged, with relatively limited sanctions against individuals and entities imposed as a first step with the threat of broader sanctions held in reserve against further developments.

Sanctions designations

As detailed in Cleary Gottlieb's [alert memorandum of March 17, 2014](#), President Obama issued Executive Orders on March 6 and March 17 providing for the designation of individuals or entities for US sanctions in connection with events in Ukraine, and on March 17 the first designations were made. On March 20, the United States designated an additional 20 individuals, including Russian government officials, prominent Russian business leaders, and one entity, Bank Rossiya, all under the March 17 Executive Order aimed at officials of the Russian Federation and their supporters. The list of sanctions designations is attached as an appendix.

Designation of an individual or entity blocks all property interests of the designated person within the jurisdiction of the United States and prohibits all transactions with the designated person within US jurisdiction. Sanctions extend by operation of law to any entity owned 50% or more by a sanctioned person, whether or not the owned entity is separately designated. According to press reports, SMP Bank, Sobinbank, and Investcapitalbank are all majority-owned by persons or entities designated for sanctions, and these banks have already been cut off by some US service providers. If the press reports are correct, these institutions are also blocked. The US authorities may or may not confirm the status of the banks, but their position that no such confirmation is necessary for the sanctions to be effective is clear.

OFAC advises parties within US jurisdiction “to act with caution when considering a transaction with a non-blocked entity in which a blocked person has a significant ownership interest that is less than 50% or which a blocked person may control by means other than a majority ownership interest.” Such entities are not subject to the same automatic prohibition, but they may raise issues of indirect dealings with a sanctioned person and may themselves be designated at a later date.

The EU has also announced that it has sanctioned an additional twelve individuals, but as of publication the names have not yet been released.

New Executive Order

President Obama also issued a third Executive Order on March 20. The new order authorizes sanctions against persons or entities determined to be a part of sectors of the Russian Federation economy that are identified for sanctions. Neither any sector, nor any person or entity, was so designated. However, the authority to select sectors for sanctions is effectively unlimited. As is standard in OFAC sanctions programs, the order includes authority to sanction persons owned or controlled by, or providing material support to, sanctioned persons.

The Executive Order sets out a two-step process. First, a sector must be identified for potential sanctions. No sector is actually identified, but examples of possible sectors for designation are given: “financial services, energy, metals and mining, engineering, and defense and related materiel.” These examples are only examples, and any sectoral designation could include some, none, or all of them. If a sector is designated, that does not necessarily mean that all entities in that sector would automatically become designated. Rather, the US then may designate entities within that sector for sanctions. So, for example, if the Russian widget sector is identified as a target for sanctions but no company is designated, no entity is sanctioned. If, following the sectoral identification, Russian Widget Company X is designated for sanctions, Russian Widget Company Y would be unaffected.

Conclusion

As before, the actual imposition of US sanctions is limited, though the list of sanctioned persons is somewhat broader than in the previous designation and now reaches persons in the Russian business sector. The new Executive Order is quite broad in the authority it provides, but at this point the imposition of broad sanctions is a threat rather than a reality. In a very real sense, the position with respect to persons and entities not on the new list of designations is the same as it

was before the new Executive Order: additional sanctions could be imposed at any time and without warning, but they have not as yet been imposed.

US officials characterized the most recent designations as intended to “impose costs for what has already happened in Crimea.” The new Executive Order, on the other hand, was characterized as “preparing for potential future consequences” in response to the “threat to Ukraine, to include the threats to southern and eastern Ukraine” and a “signal that if Russia further escalates this situation they will be met with severe consequences.” As noted, the US authorities have very broad discretion to impose additional sanctions of any nature and without warning, and there is no guarantee that they will not do so. However, the most recent messaging appeared to indicate a continued focus on individual persons and entities, with a threat of a broader escalation of sanctions if the situation on the ground in Ukraine escalates.

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Please feel free to raise any concerns you may have with any of your regular contacts at the Firm, or with [Paul Marquardt](#) in our Washington office regarding US sanctions or with [Till Müller-Ibold](#) in our Brussels office or [Sunil Gadhia](#) in our London office regarding European sanctions.

Appendix**US Executive Orders**

March 6, 2014

http://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo.pdf

March 16, 2014

http://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo2.pdf

March 20, 2014

http://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_eo3.pdf

US-Sanctioned Individuals and Entities Designated March 20, 2014

BUSHMIN, Evgeni Viktorovich (a.k.a. BUSHMIN, Evgeny; a.k.a. BUSHMIN, Yevgeny); DOB 10 Oct 1958; POB Lopatino, Sergachiisky Region, Russia; Deputy Speaker of the Federation Council of the Russian Federation; Chairman of the Council of the Federation Budget and Financial Markets Committee (individual) [UKRAINE2].

DZHABAROV, Vladimir Michailovich; DOB 29 Sep 1952; First Deputy Chairman of the International Affairs Committee of the Federation Council of the Russian Federation (individual) [UKRAINE2].

FURSENKO, Andrei Alexandrovich (a.k.a. FURSENKO, Andrei; a.k.a. FURSENKO, Andrey); DOB 17 Jul 1949; POB St. Petersburg, Russia; Aide to the President of the Russian Federation (individual) [UKRAINE2].

GROMOV, Alexei; DOB 1960; POB Zagorsk (Sergiev, Posad), Moscow Region, Russia; First Deputy Chief of Staff of the Presidential Executive Office; First Deputy Head of Presidential Administration; First Deputy Presidential Chief of Staff (individual) [UKRAINE2].

IVANOV, Sergei (a.k.a. IVANOV, Sergey); DOB 31 Jan 1953; POB St. Petersburg, Russia; Chief of Staff of the Presidential Executive Office (individual) [UKRAINE2].

IVANOV, Victor Petrovich (a.k.a. IVANOV, Viktor); DOB 12 May 1950; alt. DOB 1952; POB Novgorod, Russia (individual) [UKRAINE2].

KOZHIN, Vladimir Igorevich; DOB 28 Feb 1959; POB Troitsk, Chelyabinsk Oblast, Russia (individual) [UKRAINE2].

KOVALCHUK, Yuri Valentinovich (a.k.a. KOVALCHUK, Yury Valentinovich); DOB 25 Jul 1951; POB Saint Petersburg, Russia (individual) [UKRAINE2].

MIRONOV, Sergei Mikhailovich (a.k.a. MIRONOV, Sergei); DOB 14 Feb 1953; POB Pushkin, Saint Petersburg, Russia; Member of the Council of the State Duma; Leader of A Just Russia

Party; Member of the State Duma Committee on Housing Policy and Housing and Communal Services (individual) [UKRAINE2].

NARYSHKIN, Sergey Yevgenyevich (a.k.a. NARYSHKIN, Sergei); DOB 27 Oct 1954; POB Saint Petersburg, Russia (individual) [UKRAINE2].

OZEROV, Viktor Alekseevich (a.k.a. OZEROV, Viktor Alexeyevich); DOB 05 Jan 1958; POB Abakan, Khakassia, Russia; Chairman of the Security and Defense Federation Council of the Russian Federation (individual) [UKRAINE2].

PANTELEEV, Oleg Evgenevich (a.k.a. PANTELEEV, Oleg); DOB 21 Jul 1952; POB Zhitnikovskoe, Kurgan Region, Russia; First Deputy Chairman of the Committee on Parliamentary Issues (individual) [UKRAINE2].

ROTENBERG, Arkady; DOB 15 Dec 1951; POB St. Petersburg, Russia (individual) [UKRAINE2].

ROTENBERG, Boris; DOB 03 Jan 1957; POB St. Petersburg, Russia (individual) [UKRAINE2].

RYZHKOVA, Nikolai Ivanovich (a.k.a. RYZHKOV, Nikolai); DOB 28 Sep 1929; POB Duleevka, Donetsk Region, Ukraine; Senator in the Russian Upper House of Parliament; Member of the Committee for Federal Issues, Regional Politics and the North of the Federation Council of the Russian Federation (individual) [UKRAINE2].

SERGUN, Igor Dmitrievich; DOB 28 Mar 1957; Lieutenant General; Chief of the Main Directorate of the General Staff (GRU); Deputy Chief of the General Staff (individual) [UKRAINE2].

TIMCHENKO, Gennady (a.k.a. TIMCHENKO, Gennadiy Nikolayevich; a.k.a. TIMCHENKO, Gennady Nikolayevich; a.k.a. TIMTCHENKO, Guennadi), Geneva, Switzerland; DOB 09 Nov 1952; POB Leninakan, Armenia; alt. POB Gyumri, Armenia; nationality Finland; alt. nationality Russia; alt. nationality Armenia (individual) [UKRAINE2].

TOTOONOV, Aleksandr Borisovich (a.k.a. TOTOONOV, Alexander; a.k.a. TOTOONOV, Alexander B.); DOB 03 Mar 1957; POB Ordzhonikidze, North Ossetia, Russia; alt. POB Vladikavkaz, North Ossetia, Russia; Member of the Committee on Culture, Science, and Information, Federation Council of the Russian Federation (individual) [UKRAINE2].

YAKUNIN, Vladimir; DOB 30 Jun 1948; POB Vladimir Oblast, Russia (individual) [UKRAINE2].

ZHELEZNYAK, Sergei Vladimirovich (a.k.a. ZHELEZNYAK, Sergei; a.k.a. ZHELEZNYAK, Sergey); DOB 30 Jul 1970; POB Saint Petersburg, Russia; Deputy Speaker of the State Duma of the Russian Federation (individual) [UKRAINE2].

BANK ROSSIYA (f.k.a. AKTSIONERNY BANK RUSSIAN FEDERATION), 2 Liter A Pl. Rastrelli, Saint Petersburg 191124, Russia; SWIFT/BIC ROSY RU 2P; Website www.abr.ru; Email Address bank@abr.ru [UKRAINE2].

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