

Regulatory brief

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Sanctions: US and EU action on Ukraine

On March 6, 2014, President Obama signed an Executive Order ("EO") responding to the on-going political situation in Ukraine. The EO authorizes the US to freeze (or "block") properties of those deemed responsible (directly or indirectly) for threatening Ukraine's "peace, security, [and] sovereignty" or for misappropriating Ukrainian state assets. The EO also prohibits US individuals and entities from dealing with these designees ("designated persons").

Although none have yet been designated under the EO, we believe designations are imminent. The European Union ("EU") designated 18 former Ukrainian government officials as part of similar measures adopted on March 5th. We expect the US's designees to be similar.

To comply with these measures, we believe firms should (i) update their sanctions screening filters with those designated by the EU (and ultimately by the US), (ii) determine whether they are holding properties that must be blocked, (iii) prepare for the possibility of additional sanctions, and (iv) apply heightened due diligence to transactions in the region.

This **Regulatory Brief** provides an overview of the recent US and EU sanctions and recommends compliance measures for financial services firms.

US Sanctions

Under the March 6th EO, a designated person's property that is either located in the US or under the control of a US individual or entity (including foreign branches of US companies) must be blocked. Designated persons are also prohibited from entering the United States, and those currently in the country under existing visas will have their visas revoked.

In addition, the EO prohibits US individuals or entities, wherever located, from doing any of the following with respect to designated persons:

- Dealing in the property or property interests of designated persons
- Providing funds, goods, or services to designated persons (or for their benefit), including making donations
- Receiving funds, goods, or services from designated persons, including donations

Although the EO does not identify any designated persons, designations will be similar to those on the EU's list. In the US's Financial Crimes Enforcement Network's ("FinCEN") Ukraine advisory (issued the same day as the EO), the EU's list of designated persons were provided as part of FinCEN's reminder to financial institutions to apply enhanced due diligence.

Designated persons will soon be announced by the US Treasury and State Departments and published in the Federal Register. The names will then be added to the Office of Foreign Assets Control's ("OFAC") Specially Designated Nationals and Blocked Persons List.

EU Sanctions

On March 5, 2014, the European Union issued a regulation imposing financial sanctions against designated persons identified as responsible for the misappropriation of Ukrainian state funds or for human rights violations in Ukraine. The EU sanctions are similar to those under the US's EO and require the freezing of all funds and economic resources belonging to, owned, held, or controlled by designated persons.

They also require the following of those associated with designated persons:

- Refraining from dealing with frozen accounts or economic resources, or making them available to designated persons
- Supplying information to facilitate compliance with the sanctions to national authorities or the European Commission
- Cooperating with authorities to verify such information

What should firms do now?

Firms should be taking at least the following three actions:

- *Update sanctions screening filters to incorporate the names of persons designated by the EU or the US.* Firms that operate in Ukraine, Russia, and the surrounding region – or that have customers (or other relationships) – should consider implementing enhanced due diligence in these jurisdictions, particularly when local government entities are involved.
- *Review existing accounts and relationships to determine whether they hold properties that must be blocked.* Firms should file blocking reports and treat the blocked property in accordance with the requirements of their jurisdictions (e.g., the OFAC in the US, and HM Treasury in the UK). Firms subject to EU law should also check local regulations for additional requirements.
- *Closely follow new developments and prepare to respond to additional Ukraine-related sanctions.* Other jurisdictions may impose similar sanctions soon, so firms that are not subject to US or EU law may soon face blocking requirements. Firms should consider identifying accounts or relationships that could become problematic.

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