

**Alert | White Collar Defense & Special Investigations/  
Export Controls & Economic Sanctions**



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## **DOJ Establishes Task Force KleptoCapture to Enforce Sanctions, Export Restrictions in Response to Russia's Invasion of Ukraine**

On March 2, 2022, the U.S. Department of Justice (DOJ) announced the establishment of Task Force KleptoCapture, an interagency law enforcement task force created to enforce the broad range of sanctions, export restrictions, and economic countermeasures that the United States has imposed as part of its response to Russia's invasion of Ukraine. According to Attorney General Merrick B. Garland, the goal of the task force is to give full effect to the sanctions, which target certain Russian government officials, government-aligned elites and oligarchs, and individuals and entities who aid or conceal their unlawful conduct.

### **Structure of Task Force KleptoCapture**

The task force will be run out of the Office of the Deputy Attorney General led by a veteran money laundering prosecutor for the U.S. Attorney's Office for the Southern District of New York, and will include prosecutors from various DOJ components, including the National Security Division, the Criminal Division, and the U.S. Attorney's Offices. It will also include agents from numerous federal law enforcement agencies, including the FBI, U.S. Marshals Service, U.S. Secret Service, Department of Homeland Security, IRS-Criminal Investigation, and the U.S. Postal Inspection Service. The decision to house the task force in the Deputy Attorney General's office signals that its work will be a top priority for DOJ, and that prosecutors working on task-force cases are likely to receive the resources needed to

support the task force's mission. It is not surprising that the task force will be coordinated from Washington, given the potential foreign policy and national security implications of the task force's work.

### **KleptoCapture's Specific Mission**

The task force's mission has four prongs, which build on DOJ's anti-corruption and anti-money laundering efforts in other contexts (including, but not limited to, the Kleptocracy Initiative run out of the Criminal Division's Money Laundering and Asset Recovery Section).

1. *Investigating and prosecuting violations of new and future sanctions imposed in response to the Ukraine invasion, as well as sanctions imposed for prior instances of Russian aggression and corruption.*

The task force is expected to focus on criminal violations of Russia-related sanctions. While the Department of Treasury's Office of Foreign Assets Control (OFAC) has jurisdiction and responsibility for enforcing *civil* violations of sanctions laws (including technical or unintentional violations), DOJ has exclusive jurisdiction to enforce *criminal* violations, which arise through willful violations of sanctions law. Unlike civil penalties, criminal penalties in this context may include significant terms of imprisonment.

DOJ can initiate criminal sanctions investigations based on information or intelligence received from other government agencies, financial institutions, voluntary self-disclosures, and/or regulatory institutions. Given the international condemnation of the invasion and the focus of the new task force, DOJ will likely receive a significant amount of information from a wide range of sources.

2. *Combating unlawful efforts to undermine restrictions taken against Russian financial institutions, including the prosecution of those who try to evade know-your-customer and anti-money laundering measures.*

From the perspective of federal authorities, U.S. anti-money laundering obligations, including those embodied in the Bank Secrecy Act (BSA), are critical to hardening the U.S. financial system against exploitation by Russian actors intent on laundering funds in furtherance of sanctions evasion or concealment of illicit proceeds. It is reasonable to expect the new task force will take a hard look at financial touchpoints with the Russian economy and Russian oligarchs; this may include scrutiny not just of banks and other financial institutions but also of other gatekeeping functions such as accountants and lawyers.

3. *Targeting efforts to use cryptocurrency to evade U.S. sanctions, launder proceeds of foreign corruption, or evade U.S. responses to Russian military aggression.*

Targeting the use of cryptocurrency to evade sanctions is consistent with DOJ's recent establishment of a National Cryptocurrency Enforcement Team (NCET) to focus on complex investigations and prosecutions of criminal acts involving cryptocurrency, particularly crimes committed by virtual currency exchanges, and individuals and financial institutions that use cryptocurrency to facilitate money laundering transactions. Given the emerging legal, technical, and policy issues associated with these types of investigations, the new task force likely will coordinate closely with the NCET on this aspect of their mission.

4. *Using civil and criminal asset forfeiture authorities to seize assets belonging to sanctioned individuals or assets identified as the proceeds of unlawful conduct.*

A major area of focus for the task force is likely to be the seizure and subsequent forfeiture of assets belonging to Russian and Belarussian individuals identified to be of interest for their relationship to President Putin and, thus, for the source of their funds. MLARS's Kleptocracy Initiative has shown that, with committed resources, DOJ can identify and forfeit the proceeds of foreign corruption even where the perpetrators are outside the reach of U.S. jurisdiction. The prospect of concerted forfeiture efforts targeting oligarch assets may impact not just the targeted individuals but also third-party business partners, lenders, or counterparties engaged in business dealings with Russian or Belarussian individuals or entities who DOJ may target. Although U.S. law protects bona fide purchase for value (BFPs) from forfeiture of assets that turn out to have a criminal nexus, the burden is on the buyer to establish a BFP defense once DOJ forfeiture proceedings have commenced. And it is reasonable to expect DOJ to take a harder look at business transactions involving Russian and Belarussian oligarchs going forward.

### Conclusion

The attorney general's announcement makes it clear that DOJ intends to devote considerable resources to coordinate an interagency effort to ensure the efficacy of U.S. sanctions by targeting violators, their facilitators, and their assets. It will be interesting to see how this task force works with existing anti-money laundering and sanctions enforcement efforts run out of other parts of DOJ.

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