



U.S. and EU Announce Latest Ukraine-related and Russia Sanctions

On Sept. 12, 2014, the United States and European Union announced additional sanctions on Russia in connection with Russia's continued destabilization of eastern Ukraine. The sanctions are the latest round in a series of restrictions that specifically target Russia's financial, energy (oil and gas) and defense sectors.

The latest EU-side sanctions, published Friday, Sept. 12, 2014, introduce a ban on oil project services, as well as wider capital market restrictions, a dual-use export ban for nine companies, and add 24 people to the 'asset freeze' list. Just as with the EU sanctions published late July, the latest EU sanctions apply (i) within the EU territory, (ii) to nationals of EU Member States, (iii) on board vessels and aircraft under Member State jurisdiction, (iv) to companies incorporated or registered under the law of a Member State, and (v) to other companies in respect of business done in whole or in part in the EU.

The U.S. measures, also published on Sept. 12, 2014, broaden and deepen the existing sanctions on Russia, and include additional blocking orders (asset freezes) and export restrictions, as well as restrictions on certain services related to the oil industry. The sanctions are effective immediately, and apply to all U.S. persons (any U.S. citizen, permanent resident alien, or entity organized under the laws of the U.S. or any jurisdiction within the U.S., or any person in the United States).

Financial Sector Sanctions

The U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) has tightened the current debt financing restrictions on six major Russian banks, banning credits and loans with maturities of more than 30 days, instead of more than 90 days.¹

¹ OFAC Directive 1 (as amended) under Executive Order 13662.

Regarding capital markets, the new EU sanctions expand the ban on short-term transferable securities and money-market instruments. It shall be prohibited to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 30 days, issued after Sept. 12 by three entities engaged in the production of military equipment, **OPK Oboronprom**, **United Aircraft Corporation**, and **UralVogonZavod**, or three publicly owned or partially publicly owned entities in the energy sector, **Rosneft**, **Transneft**, and **Gazprom Neft**. Of these companies, several were already subject to some type of U.S. sanctions. UralVogonZavod is listed on the U.S. Specially Designated Nationals (SDN) list, and all three energy companies, Rosneft, Transneft, and Gazprom Neft were added to the U.S. Sectorial Sanctions Identification (SSI) list on Sept. 12.

Energy (Oil and Gas) Sector Restrictions

With respect to the energy sector, the new U.S. sanctions constitute a near-comprehensive ban on oil exploration-related activities in Russia.² First, the direct and indirect provision of goods, services, and technology by U.S. persons to the five major Russian energy companies in support of exploration or production for deepwater, Arctic offshore, or shale projects in Russia is now prohibited.³

The sanctioned Russian energy companies include **Gazprom**, **Gazprom Neft**, **Lukoil**, **Rosneft**, and **Surgutneftegas**. Companies are required to file detailed reports of the winding down activities upon their conclusion.

In a complementary action, the U.S. Department of Commerce, Bureau of Industry and Security (BIS) added the same five energy companies, **Gazprom**, **Gazprom Neft**, **Lukoil**, **Rosneft**, and **Surgutneftegas**, to its Entity List, imposing a license requirement in order to export, reexport, and retransfer items used for oil exploration and production activities to any of the named companies. Such U.S. export license applications will be treated with a presumption of denial. The latest EU sanctions also introduce a ban on the direct or indirect EU sale, supply, transfer or export by nationals of Member States, or from the territories of Member States, or using vessels or aircraft under the jurisdiction of Member States, of key energy-related equipment and technology for use in deepwater oil exploration and production, Arctic oil exploration and production, and shale oil projects in Russia.

In addition, OFAC added more entities involved in the oil industry to the SSI list, subjecting them to a ban on most U.S. debt and equity financing.⁴

The energy companies subject to the U.S. SSI designation are **Gazprom Neft**, **Transneft**, **Novatek**, and **Rosneft**. Cutting these companies off from U.S. financing is intended to significantly hinder their ability to undertake exploration and development of new oil fields.

² OFAC Directives 2 and 4 under Executive Order 13662.

³ OFAC Directive 4 under Executive Order 13662.

⁴ OFAC Directive 2 (as amended) under Executive Order 13662.

Defense Sector Sanctions

The U.S. Government also applied additional sanctions against the Russian defense industry. Specifically, OFAC added five state-owned defense technology firms to the SDN list, freezing their assets: **OA OAO 'Dolgoprudny Research Production Enterprise', Mytishchinski Mashinostroitelny Zavod OAO, Kalinin Machine Plant JSC, Almaz-Antey GSKB, and Tikhomirov Scientific Research Institute of Instrument Design, a.k.a. JSC NIIP.**

BIS, meanwhile, added the same five entities to its Entity List, requiring a license for the export, reexport, and retransfer to these entities of items subject to the Export Administration Regulations (EAR). BIS also extended its military end-use license requirement to include Russia.⁵

Applications to export any items subject to the EAR to the sanctioned entities will be treated with a presumption of denial. Meanwhile, the Department of State Directorate of Defense Controls (DTC) continues to treat with a policy of denial any license for high technology defense articles or services to Russia or occupied Crimea that contribute to Russia's military capabilities.

The latest EU measures prohibit the sale, supply, transfer or export, directly or indirectly, of certain dual-use goods and technology, whether or not originating in the EU, to nine additional designated Russian companies involved in trade or production of military products. Furthermore, export of related services, financing, and technical assistance to these companies is prohibited. The companies are **JSC Sirius, OJSC Stankoinstrument, OAO JSC Chemcomposite, JSC Kalashnikov, JSC Tula Arms Plant, NPK Technologii Maschinostrojenija, OAO Wysokototschnye Kompleksi, OAO Almaz Antey, and OAO NPO Bazalt.** Two of these entities can also be found on the U.S. SDN list. JSC Kalashnikov was already on the SDN list, and OAO Almaz Antey was added to the list on Sept. 12.

OFAC also added Rostec, a defense conglomerate, to the SSI list, effectively preventing it from accessing U.S. debt financing.

Asset Freezes (Blocking Orders) and SDNs

As mentioned above, the assets of several Russian companies and individuals were frozen on Sept. 12 by means of their addition to the U.S. SDN list or the EU 'asset freeze' list.⁶ The companies whose assets were frozen are all in the defense sector, and were added to the U.S. SDN list. The EU, on the other hand, froze the assets of 24 individuals.⁷ Additionally, on Sept. 15, Asia Bank (of Moscow) was designated under the Iran sanctions. Though this bank was not designated under the Ukraine-Russia sanctions, U.S. persons are nevertheless not permitted direct or indirect dealings with this bank located in Russia.

⁵ Russian Sanctions: Addition of Persons to the Entity List and Restrictions on Certain Military End Uses and Military End Users, 79 Fed. Reg. 55608, at 55610 (Dep't of Commerce, September 17, 2014).

⁶ These companies are: OAO 'Dolgoprudny Research Production Enterprise', Mytishchinski Mashinostroitelny Zavod OAO, Kalinin Machine Plant JSC, Almaz-Antey GSKB, and Tikhomirov Scientific Research Institute of Instrument Design, a.k.a. JSC NIIP.

⁷ Persons added to EU Asset Freeze

Alexander ZAKHARCHENKO, Vladimir KONONOV/ aka 'Tsar', Miroslav Vladimirovich RUDENKO, Gennadiy Nikolaiovych TSYPKALOV, Andrey Yurevich PINCHUK, Oleg BEREZA, Andrei Nikolaevich RODKIN, Aleksandr KARAMAN, Georgiy L'vovich MURADOV, Mikhail Sergeyevich SHEREMET, Yuri Leonidovich VOROBIOV, Vladimir Volfovich ZHIRINOVSKY, Vladimir Abdualiyeovich VASILYEV, Viktor Petrovich VODOLATSKY, Leonid Ivanovich KALASHNIKOV, Vladimir Stepanovich NIKITIN, Oleg Vladimirovich LEBEDEV, Ivan Ivanovich MELNIKOV, Igor Vladimirovich LEBEDEV, Nikolai Vladimirovich LEVICHEV, Svetlana Sergeevna ZHUROVA

Looking Ahead

In a press release published earlier this week, the President of the European Council, Mr. Van Rompuy, announced that before the end of the month the Permanent Representatives Committee (COREPER) will carry out a review of the situation on the ground in Ukraine, which may lead to new proposals, amendments, suspension or repeal of the sanctions in force, in all or in part.

It is unknown whether additional sanctions are on the horizon. In his statement on Sept. 11, 2014, the U.S. President emphasized that the U.S. Government is watching the developments of the ceasefire in Ukraine closely and will roll back the sanctions as soon as it sees “conclusive evidence” that Russia has ended its illegal actions in Ukraine.

Given the nature of the Russia/Ukraine situation and economic sanctions, U.S. and EU persons should exercise caution in dealings (direct and indirect) with or benefitting entities in Russia and Ukraine. Importantly, they should, at a minimum, screen all entities in proposed transactions against the U.S. and EU lists of sanctioned entities and individuals.

Furthermore, anyone who may be subject to U.S. or EU law (or Australian, Canadian or Japanese law, for that matter) should assess the particular activities contemplated to determine whether they are permissible under existing sanctions and export control measures. They may also review and consider enhancing commercial contract terms to provide expressly for termination, without penalty, if economic sanctions would prohibit performance of the contract. This may help to protect the individual or company doing business with Ukraine or Russia from contractual claims by a counterparty, if one party ceases performance of the contract due to restrictions dictated by economic sanctions.

Accordingly, we recommend a close and careful monitoring of the sanctions. While the U.S. sanctions do not restrict all U.S. or EU persons from activities involving Russia or Ukraine, the situation is fluid and additional restrictions may be imposed at any time. We recommend that U.S. and EU companies continue to exercise scrutiny and due diligence before engaging in transactions, direct or indirect, with or benefitting anyone located in Russia or Ukraine.

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