



U.S. Imposes Sweeping Sanctions on Crimea

On Dec. 19, 2014, President Obama signed an Executive Order prohibiting most transactions by U.S. persons with respect to the Crimea Region of Ukraine (Crimea) and blocking the property of certain individuals and entities (together, Crimea Sanctions). Additionally, the Office of Foreign Assets Control (OFAC) issued General License No. 4, providing limited relief to the new restrictions by authorizing the export and reexport of certain agricultural commodities, medicine, medical supplies, and replacement parts to Crimea. The Executive Order and General License No. 4 are described below and are available here: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20141219.aspx>.

Description of the Crimea Sanctions

A. Prohibited Activities

The Crimea Sanctions prohibit the following:

- > New investment in Crimea by U.S. persons, wherever located;
- > Importation into the United States, directly or indirectly, of goods, services, or technology from Crimea;
- > Exportation, reexportation, sale, or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods, services, or technology to Crimea;
- > Approval, financing, facilitation or guarantee by a U.S. person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this Executive Order if performed by a U.S. person or within the United States.

The prohibitions apply to U.S. persons, meaning U.S. citizens and U.S. permanent residents (wherever located), any entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States. U.S. person for purposes of the Crimea Sanctions does not include non-U.S. subsidiaries of U.S. companies.

The Crimea Sanctions also impose targeted sanctions on several individuals and entities that operate in Crimea, are leaders of entities that operate in Crimea, or are owned or controlled by persons that operate in Crimea. The entities and individuals have been added to OFAC's SDN List. The complete list of the newly added SDNs is available at the following link: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20141219.aspx>.

B. Limited Permissible Activities

OFAC's General License No. 4 authorizes U.S. persons to export and reexport certain agricultural commodities, medicine, medical supplies, and replacement parts for medical supplies to Crimea (exported or reexported pursuant to General License No. 4). General License No. 4 also authorizes related transactions, including making shipping and cargo inspection arrangements, obtaining insurance, arranging financing and payment, shipping goods, receiving payment, and entering into contracts (including executory contracts).

General License No. 4 does not authorize export or reexports of agricultural commodities, medicine, medical supplies, and replacement parts for medical supplies to military or law enforcement purchasers or importers.

> *Agricultural Commodities*

- **Permissible Agricultural Commodities:** Food for humans (including raw, processed, and packaged foods; live animal; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds); seeds for food crops; fertilizers or organic fertilizers; reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals; items designated as EAR99 or that would be designated as EAR99 if located in the United States.
- **Impermissible Agricultural Commodities:** Castor beans; castor bean seeds; certified pathogen-free eggs (unfertilized or fertilized); dried egg albumin; live animals (excluding live cattle); embryos (excluding cattle embryos); Rosary/Jequirity peas; non-food-grade gelatin powder; peptones and their derivatives; super absorbent polymers; western red cedar; all fertilizers; furniture made from wood; clothing manufactured from plant and animal materials; agricultural equipment (whether hand tools or motorized equipment); pesticides, insecticides, or herbicides; or cosmetics (unless derived entirely from plant material).

> *Medicine*

- **Permissible:** Any item that falls within the definition of "drug" in Section 201 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321) and items designated as EAR99 or that would be designated as EAR99 if located in the United States.
- **Impermissible:** Non-NSAID analgesics; cholinergics; anticholinergics; opioids; narcotics; benzodiazapenes; bioactive peptides; cosmetics.

> *Medical supplies*

- **Permissible:** Any item that (1) falls within the definition of "device" in Section 201 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321) and (2) is designated as EAR99 or would be designated as EAR99 if located in the United States. OFAC has stated it will post

the list of eligible medical supplies under General License No. 4 at the following link:
<http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx>.

Anyone who may be subject to U.S. law 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.

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