To: Our Clients and Friends

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US and EU Impose Economic Sanctions In Response to the Crisis in Ukraine

As part of the broad and ongoing international response to the crisis in Ukraine, the United States, the European Union and other countries have imposed or announced economic sanctions against persons involved in the crisis. While not explicit, the US sanctions include measures that will allow the United States to impose sanctions on persons that threaten peace and security in Ukraine, including those who are asserting governmental authority in the Crimean region. As yet, however, no person has been identified as a target of the sanctions. In contrast, the European Union’s sanctions specifically target former Ukrainian President Viktor Yanukovych and seventeen other members of his former regime, but at this time avoid targeting the Russian Federation.

Persons and entities that are engaging in business involving Ukraine and Russia should keep a close eye on these sanctions and future developments in order to comply with the law.

United States

On March 6, President Obama signed an Executive Order imposing sanctions against and prohibiting entry into the United States by persons determined to be involved in the Ukrainian crisis. Persons targeted by these sanctions include those who (a) are involved in the breakdown of or threats to democratic processes or institutions, peace, security, stability, sovereignty, territorial integrity, or the proper disposition of assets in Ukraine; (b) have been determined “to have asserted governmental authority over any part or region of Ukraine without the authorization of the Government of Ukraine;” or (c) are either leaders of entities involved in such activities, have provided assistance or support for such activities or for a person sanctioned for such activities, or are owned or controlled by or acting on behalf of a person sanctioned for such activities.

Among other things, the Executive Order freezes sanctioned persons’ property and interests in property in, or that come into, the United States or that are in the control or possession of US persons (including persons in the United States, US citizens and permanent resident aliens, and US entities and their foreign branches). The Executive Order also prohibits the contribution or provision of funds, goods, or services by, to, or for the benefit of any sanctioned person—including donations of humanitarian articles—and the receipt of any funds, goods, or services from any sanctioned person.

The Executive Order does not yet list any person designated as a target of the sanctions. Administration officials have said that about a dozen persons are now subject to the travel ban although the list is being withheld for privacy reasons. Officials also have said that more people would be added to the travel ban over the coming days.

The United States had previously taken softer actions to protest Russia’s involvement with Ukraine, such as suspending trade, military, and multilateral engagement with Russia (including the G-8 summit). By including those asserting governmental authority over any part of Ukraine without the authority of the Ukrainian government, the U.S. sanctions also target officials of Crimea who are cooperating with the Russian invasion. The Executive Order also provides the US Government sufficient latitude to designate officials of the Russian Federation who, in the US Government’s view, engage in such actions, threaten the peace or territorial integrity of Ukraine or provide material assistance for such activities.

US Secretary of State John Kerry has reportedly characterized the Executive Order as merely providing a tool. The US Congress is also considering legislation to deal with the crisis.
European Union

On March 5, the Council of the European Union adopted a Regulation directly applicable in all the EU Member States, imposing sanctions against former Ukrainian president Viktor Yanukovych and seventeen other members of his former regime. Notably, these sanctions did not include any Russian nationals or entities. The former Ukrainian leaders are under investigation by the new Ukrainian government for embezzlement of state funds and the illegal transfer of those funds outside of Ukraine.

The Regulation applies with immediate effect. With limited exceptions, it requires funds and economic resources of the designated persons to be frozen and prohibits making available, directly or indirectly, funds or economic resources to or for the benefit of the designated persons. The term “economic resources” means all kinds of assets, including goods. Thus supply of goods to designated persons is prohibited. The Regulation also requires certain reporting to competent authorities in the relevant EU Member States, such as with respect to information on accounts and amounts frozen in accordance with the Regulation.

The reach of the Regulation is broad, applying: 1) within the EU; 2) to individuals who are nationals of an EU member state, wherever located; 3) to all EU legal persons (companies and organizations incorporated or constituted under the laws of an EU member state), wherever they are in the world; and 4) to any legal person in respect of any business done in whole or in part within the EU.

Notably, while talk of travel and visa restrictions against the former regime was mentioned in previous European Council talks, no official announcement of such restrictions has yet been made, although they may be applied without public notice.

Meanwhile, the Council continued to meet in emergency session on March 6 and voted to suspend talks with Russia on a wide-ranging economic pact and a visa agreement. Further sanctions in line with the US asset freeze and travel ban aimed directly at Moscow will be held in reserve pending the outcome of diplomatic efforts.

Other Nations

So far, the US remains the only nation to announce that it may impose sanctions against Russia. Several non-EU European nations, including Switzerland, Lichtenstein and Norway, have also announced asset freezes and travel bans on former Yanukovych regime members, but stopped short of sanctions on Russia. US neighbor Canada has also moved swiftly to follow the sanctions on the former Ukrainian president; but, although it has suspended participation in the Russian-Canadian Intergovernmental Economic Commission and recalled its ambassador to Russia, it too has taken no further steps against Russia.

Events in Ukraine continue to move quickly. Great vigilance is the order of the day.

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