

E-ALERT | International Trade Controls

April 15, 2014

RECENT DEVELOPMENTS IN SANCTIONS RELATING TO UKRAINE AND SOUTH SUDAN

On April 11, 2014, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") imposed sanctions on six Crimean separatist leaders, one former Ukrainian official, and one Crimean natural gas company – Chernomorneftegaz. These sanctions were imposed pursuant to [Executive Order 13660](#), which was signed by President Obama on March 6, 2014 and summarized in our [e-alert](#) that same day. Simultaneous with the OFAC designations, the U.S. Commerce Department's Bureau of Industry and Security ("BIS") added Chernomorneftegaz to its Entity List.

The new designations came at the end of a week of increasing tension in eastern Ukraine, where pro-Russian separatists have reportedly launched a series of armed assaults on regional government buildings. Ukraine's Interim President Oleksandr Turchynov has accused Russia of sowing "disorder" in eastern Ukraine, and on April 13, U.S. Ambassador to the United Nations Samantha Power suggested that the United States may ramp up sanctions further if Russia and its supporters continue to destabilize eastern Ukraine.

Moreover, today, the EU published [Regulation 381/2014](#) which imposes further sanctions in the context of the Ukrainian crisis. The EU sanctions impose visa bans and asset freezing measures on four additional Ukrainian politicians, identified for their role in the embezzlement of Ukrainian state funds and the illegal transfer of those funds out of Ukraine. The EU also agreed to provide to Ukraine macro-financial assistance up to a maximum of EUR 1 billion, with a view to supporting Ukraine's economic stabilization and reforms.

Separately, on April 3, 2014, President Obama signed [Executive Order 13664](#), which imposes sanctions on persons contributing to the unrest in South Sudan, in response to renewed violence in that country.

ADDITIONAL OFAC DESIGNATIONS AND UPDATE TO BIS ENTITY LIST

The individuals and entity newly designated by the United States for sanctions relating to the unrest in Ukraine and Russia's purported annexation of Crimea are as follows:

- Chernomorneftegaz:** Chernomorneftegaz (also known as "Chornomornaftogaz" and "NJSC Chornomornaftogaz") is the Crimean subsidiary of the Ukrainian state-owned gas company Naftogaz. Chernomorneftegaz was seized by the Crimean parliament on March 18 and is now overseen by Russian government interests. Importantly, Naftogaz itself is not subject to sanctions.
- Aleksei Mikhailovich Chaliy:** Chaliy is the mayor of Sevastopol who signed the March 16, 2014 agreement between the Russian Federation and the "Republic of Crimea" to unite Crimea and the city of Sevastopol with Russia.

3. **Mikhail Grigorevich Malyshev:** Malyshev is the de facto Chairman of the Crimea Electoral Commission, which administered the March 16, 2014 referendum in which Crimea voted to join the Russian Federation.
4. **Rustam Ilmirovich Temirgaliev:** Temirgaliev is the de facto Deputy Chairman of the Council of Ministers of Crimea and ran the March 16, 2014 referendum in Crimea.
5. **Valery Kirillovich Medvedev:** Medvedev is the de facto Chairman of the Sevastopol Electoral Commission, which administered the March 16, 2014 referendum for the city of Sevastopol.
6. **Yuriy Gennadiyevych Zherebtsov:** Zherebtsov is the de facto counselor to the Speaker of the Crimean parliament, and was one of the main organizers of the March 16 referendum in Crimea. Also, on March 9, 2014, Zherebtsov signed a letter on behalf of the authorities of the “Autonomous Republic of Crimea” requesting that the commander of the military base in Yevpatoria, Crimea disarm his troops and surrender the base to the Black Sea Fleet of the Russian Federation.
7. **Pyotr Anatoliyovych Zima:** Zima was appointed as de facto head of the Crimean directorate of Ukraine’s Security Service in March 2014. Zima was subsequently dismissed from his duties by interim Ukrainian President Turchynov for taking an oath of loyalty to the new Crimean authorities.
8. **Sergey Pavlovich Tsekov:** Tsekov was previously the Vice Speaker of Ukraine's parliament and was responsible for facilitating the March 16 referendum in Crimea.

The property and property interests of designated parties that are or come into the United States or the possession or control of a U.S. person are blocked and cannot be dealt in absent licensing or other authorization from OFAC. As a result, the designations effectively prohibit U.S. persons from engaging in any business or financial dealings with the designated persons or, under OFAC policy, with any entity in which any designated person owns a 50% or greater interest (regardless of whether such entities are themselves designated). The designations will also impact non-U.S. companies because U.S. banks will no longer process transactions involving a designated person or entities in which a designated person owns a 50% or greater interest.

Also on April 11, BIS [added Chernomorneftegaz to its Entity List](#). As a result, any person, including any non-U.S. person, that wishes to export, reexport, or transfer to Chernomorneftegaz any items subject to the U.S. Export Administration Regulations (“EAR”), which include U.S.-origin items and non-U.S. items with more than *de minimis* U.S. content by value, must first obtain a license from BIS. Applications for such licenses will be subject to a “presumption of denial.”

ADDITIONAL EU DESIGNATIONS AND THE EU MACRO-FINANCIAL ASSISTANCE TO UKRAINE

The Ukrainian individuals newly designated by the EU—who are subject to visa bans and asset freezing measures—are:

1. **Serhiy Arbuzov:** former Prime Minister of Ukraine.
2. **Yuriy Ivanyushchenko:** Party of Regions MP.
3. **Oleksandr Klymenko:** former Minister of Revenues and Charges.
4. **Edward Stavtyskyi:** former Minister of Fuel and Energy of Ukraine.

As a result of the asset freezing measures, all funds and “economic resources” belonging to, owned, held, or controlled by the designated individuals must be frozen. (“Economic resources” is a broad term, and includes “assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but which may be used to obtain funds, goods or services.”) Regulation

381/2014 also prohibits the making available of funds or “economic resources,” directly or indirectly, to or for the benefit of the listed individuals. As a practical matter, the foregoing measures will restrict most business activities with the designated individuals, and may also restrict dealings with entities that are owned or controlled by those individuals.

Separately, the EU [agreed](#) to provide to Ukraine macro-financial assistance in the form of loans up to a maximum of EUR 1 billion, with a view to supporting Ukraine's economic stabilization and reforms. The assistance will cover some of Ukraine's urgent balance-of-payments needs, as identified in the Ukrainian government's economic program supported by the International Monetary Fund (“IMF”). It will be managed by the European Commission in line with the agreements reached between the IMF and Ukraine and the key principles and objectives of economic reforms set out in the EU-Ukraine Association Agenda.

POTENTIAL ADDITIONAL DEVELOPMENTS IN U.S. AND EU SANCTIONS RELATING TO UKRAINE

The situation in Ukraine continues to be fast-moving, and companies should be prepared for the possibility that both the United States and the EU may impose additional sanctions this week or in the weeks ahead. As described in [our e-alert of March 21](#), President Obama has already signed an executive order authorizing the imposition of sanctions against persons who operate in various sectors of the Russian economy, which positions OFAC to expand sanctions quickly as the situation in Ukraine evolves.

Additionally, EU authorities are reportedly considering the possibility of new sanctions as tensions with Russia continue to rise. On April 10, Russian President Vladimir Putin wrote to 18 European leaders to warn that Russia may completely or partially cease natural gas supplies to Ukraine if it does not pay its outstanding gas debt to Russia. On April 14, the EU Council [announced](#) that the European Commission and Member States are evaluating further sanctions against Russia. The Council also asked the European Commission to agree on consultations with Russia and Ukraine with a view to ensuring the security of supply and transit of Russian gas.

NEW U.S. LIST-BASED SANCTIONS PROGRAM RELATING TO SOUTH SUDAN

Separately, in response to renewed violence in South Sudan, President Obama signed Executive Order 13664 on April 3, which blocks the property and interests in property of any persons determined to be responsible for, complicit in, or to have engaged in actions or policies that threaten the peace, security, or stability of South Sudan. The executive order does not impact pre-existing U.S. sanctions against the Republic of Sudan, and does not impose a comprehensive trade embargo on South Sudan. Rather, it only prohibits U.S. persons from dealing with persons designated pursuant to the executive order. No such designations have yet been made.

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We are following developments in Ukraine and South Sudan closely and will provide further updates as events unfold. Our U.S. and EU offices have deep expertise in the application of U.S. and EU sanctions, and we are well-positioned to advise companies and individuals on compliance with the sanctions relating to both Ukraine and South Sudan, as well as on the broader impact of the Ukraine crisis on foreign investment and other commercial and legal interests in Ukraine, Russia, and elsewhere in the region.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our international trade controls practice group:

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