

March 10, 2014

President Obama Signs Executive Order Targeting Persons Threatening Peace, Sovereignty, and Territorial Integrity of Ukraine; European Union Sanctions Former Ukrainian Leaders

To Our Clients and Friends:

In response to the ongoing crisis in Ukraine, on March 6, 2014, President Obama signed an Executive Order "Blocking Property of Certain Persons Contributing to the Situation in Ukraine" ("Ukraine E.O." or "E.O.").^[1] The text of the E.O. is available [here](#). The Ukraine E.O. targets persons who undermine democratic processes and institutions in Ukraine and who threaten the country's peace, security, stability, sovereignty, and territorial integrity. President Obama signed the Ukraine E.O. in response to the recent political upheaval in Ukraine, including Russia's movement of troops into the Crimea, a peninsula off southeastern Ukraine with a large ethnically Russian population.

While the Ukraine E.O. provides the Secretary of the Treasury with the authority to block the property of individuals who have violated the provisions of the E.O.,^[2] no individuals have yet been determined to have committed such violations. Depending on how the political crisis in Ukraine unfolds, it is likely that the Secretary of the Treasury will make such determinations in the coming days. Companies should pay close attention to any announcements by the Office of Foreign Assets Control ("OFAC") at the U.S. Department of the Treasury related to the Ukraine E.O. to monitor for new designations. Once an entity or person is designated, it will immediately be unlawful for any U.S. person or company to do business with the designated party, and any property in which the designated party has an interest must be blocked.

In addition, on March 5, 2014, the European Union imposed restrictive measures on 18 former senior Ukrainian officials, including former Ukrainian President Viktor Yanukovich, identified for being responsible for the misappropriation of Ukrainian state funds.^[3] The Council of the European Union's Decision provides the authority to freeze funds and economic resources belonging to, owned, held, or controlled by persons having been identified for the misappropriation of Ukrainian state funds or human rights abuses in the Ukraine.^[4] In addition, the United Kingdom issued sanctions consistent with European Union regulation 208/2014. The U.K. financial sanctions froze the assets of Viktor Yanukovich and others, including members of his family, certain members of his government, and associates. The notice is available [here](#).

Key Provisions of the Executive Order

The Ukraine E.O. broadly targets individuals who undermine both the democratic institutions and the peace and stability of Ukraine. Notably, the E.O. provides the Secretary of the Treasury with the authority to penalize both Ukrainian and Russian persons.

First, the E.O. blocks all property and interests in property in the United States of any person determined by the Secretary of the Treasury to be responsible for, or complicit in, a number of different activities.[5] These activities include actions that undermine democratic processes or institutions in Ukraine, that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine, or that misappropriate Ukrainian state assets or those of a significant entity in Ukraine.[6]

Second, the E.O. also blocks the property of those persons determined to have asserted governmental authority over any part or region of Ukraine without the authorization of the Government of Ukraine, or those persons determined to be a leader of an entity that has, or whose members have, engaged in any of the activities threatening the democratic processes or peace and stability of Ukraine.[7]

Third, the E.O. blocks the property of those persons determined to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any of the activities threatening the democratic processes or peace and stability of Ukraine.[8] It also blocks the property of persons determined to be owned or controlled by any person whose property and interests in property are blocked pursuant to the E.O.[9]

Fourth, the E.O. suspends entry into the United States of persons determined to have engaged in the activities described above.[10]

Though no specific list of the individuals and entities targeted by the E.O. has yet been released, a senior administration official has indicated that these sanctions initially will be limited to a small number of people.[11]

Recommendations

The Ukraine E.O. and the European Union's restrictive measures are the first steps the United States and the European Union have taken to bring economic pressure to bear in helping resolve the political crisis in Ukraine. Whether the crisis deepens or relaxes will likely determine if the United States and the European Union take additional steps to penalize former Ukrainian leaders and Russian officials. Looking ahead, companies should also be aware of at least three potential developments.

First, Russia has indicated it may penalize U.S. businesses following the imposition of U.S. sanctions. Companies should therefore pay close attention to any such Russian actions to ensure that they are not targeted. Second, if the United States sanctions Russian officials, such action may significantly increase the likelihood that Russia will target U.S. businesses. Third, the United States may impose additional penalties on Ukrainian and Russian persons, and companies should closely monitor any additional Executive Orders, legislation, or regulations that target such persons.

Gibson, Dunn & Crutcher attorneys stand ready to assist our clients and friends with any issues they may face related to these developments.

[1] Exec. Order No. 13,660 of March 6, 2014, Blocking Property of Certain Persons Contributing to the Situation in Ukraine, 79 Fed. Reg. 13,491 (Mar. 10, 2014), *available at* <https://federalregister.gov/a/2014-05323>.

[2] *Id.*

[3] *See* Council Decision 2014/119/CFSP, 2014 O.J. (L. 66) 52 and Council Regulation (EU) No 208/2014, 2014 O.J. (L 66) 1.

[4] *Id.*

[5] Exec. Order No. 13,660.

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *See* David M. Herszenhorn, Michael R. Gordon, and Alissa J. Rubin, "Crimea Approves a Secession Vote as Tensions Rise," N.Y. Times, Mar. 6, 2014, *available at* <http://www.nytimes.com/2014/03/07/world/europe/ukraine-sanctions.html>.



Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding the above developments. Please contact the Gibson Dunn lawyer with whom you usually work or any of the following lawyers:

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