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Russia/Ukraine Crisis: The Evolving International Sanctions Response

On February 21 and 22, in response to escalating Russian aggression toward neighboring Ukraine, the United States, European Union, and United Kingdom (1) announced initial sanctions targeting Russia and Russian-claimed regions within Ukraine; and (2) threatened additional sanctions if Russia persists in its incursion into Ukraine.

The following provides an overview of key sanctions-related actions announced to date. The situation remains extremely fluid, and this summary will be updated if/when additional actions are announced.

U.S Sanctions

Separatist Regions

On February 21, President Joe Biden signed an executive order (the “EO”) imposing broad-based sanctions targeting the so-called Donetsk People’s Republic (“DNR”) and Luhansk People’s Republic (“LNR”) regions of Ukraine, as well as any other regions of Ukraine that may be subsequently designated by the Secretary of the Treasury, in consultation with the Secretary of State (collectively, “Covered Regions”).

Similar to the existing embargo targeting the disputed Crimea region, which Russia attempted to annex in 2014, the EO prohibits:

- new investment in DNR, LNR, or any other Covered Region by a U.S. person, wherever located;
- the importation into the United States, directly or indirectly, of any goods, services, or technology from any Covered Region;
- the 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 any Covered Region; and
- any 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 the EO if performed by a U.S. person or within the United States.

In connection with the EO, OFAC published general licenses authorizing certain transactions involving DNR or LNR. These licenses include General License No. 17 (authorizing wind-down transactions involving DNR or LNR through March 23, 2022) and general licenses relating to agricultural commodities, medicine, medical devices, telecommunications, personal remittances, internet-based communications, and activities of designated international organizations.

The EO also authorizes the imposition of sanctions on any person—regardless of nationality—determined:

- to operate in any Covered Region from February 21, 2022;
- to be a leader, official, senior executive officer, or member of the board of directors of an entity operating in any Covered Region;

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- to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the EO; or
- to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to the EO.

As a result, going forward, non-U.S. persons—not ordinarily subject to U.S. jurisdiction—who meet any of the above criteria would be at risk of being targeted by U.S. sanctions.

SDN Designations

Following a speech by President Biden on February 22, OFAC announced several designations to the Specially Designated Nationals And Blocked Persons (“SDN”) List, as follows:

- OFAC designated Russian state development bank Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank (“VEB”) to the SDN List. VEB previously was subject to sectoral sanctions pursuant to Directive 1, which prohibited U.S. persons from transacting in, providing financing for, or otherwise dealing in new equity or debt of specified tenors of VEB. As a result of the February 22 designation, virtually all transactions involving VEB are prohibited for U.S. persons, and all property of VEB Bank within the United States or the possession or control of U.S. persons is subject to blocking requirements. OFAC announced the designation due to VEB’s role as “the servicer of Russia’s sovereign debt, financier for exports, and a funding source for investment projects with a loan portfolio of over \$20 billion.”
- OFAC designated state-backed Russian bank Promsvyazbank Public Joint Stock Company (“PSB”) for its activities within the Russian defense sector, including “servic[ing] nearly 70 percent of Russia’s defense contracts and provides banking and personal finance to Russian military personnel.”
- Although, pursuant to OFAC’s 50 Percent Rule, all majority-owned subsidiaries of VEB and PSB automatically are subject to blocking requirements and associated restrictions, OFAC took the additional action of designating 25 subsidiaries of VEB and 17 subsidiaries of PSB to the SDN List to underscore their newly sanctioned status, as follows:
 - Designated VEB Subsidiaries: Bank BELVEB OJSC (based in Belarus); VEB Leasing OJSC; Prominvestbank (based in Ukraine); VEB Capital; VEB Engineering LLC; JSC Infraveb; JSC VEB.DV; VEB Asia Limited (based in Hong Kong); LLC Infrastructure Molzhaninovo; LLC Resort Zolotoe Koltso; JSC Russian Export Center; LLC VEB Ventures; LLC VEB Service; LLC Special Organization for Project Finance Factory of Project Finance; LLC Sibulglemet Group; JSC Angstrom-T; LLC NM-Tekh; JSC Slava; JSC PFC CSKA; LLC Torgovy Kvartal-Novosibirsk; LLC Baikal Center; LLC Progorod; LLC VEB.RF Asset Management; Eximbank of Russia JSC; and Russian Agency for Export Credit and Investment Insurance OJSC.
 - Designated PSB Subsidiaries: Alkes Treid OOO; Antares OOO; Elitnye Doma OOO; PSB Innovations and Investments Limited Liability Company; PSB-Foreks OOO; Kholtsvud OOO; Kourf OOO; Management Company Promsvyaz LLC; Paskal OOO; PSB Biznes OOO; Saint-Petersburg International Banking Conference LLC; Sergievo-Posad Lend OOO; PSB Avializing OOO; Tekhnosoft OOO; Trinitex OOO; and PSB Lizing OOO.
- OFAC designated three oligarchs to the SDN List: Denis Aleksandrovich Bortnikov (a Deputy President of VTB Bank), Petr Mikhailovich Fradkov (Chairman and CEO of PSB), and Vladimir Sergeevich Kiriyenko (CEO of VK Group, parent company of Russian social media platform VKontakte). In addition, OFAC re-designated

Bortnikov’s father, Aleksandr Vasilevich Bortnikov (Director of the Russian Federal Security Service of Russia and permanent member of the Security Council), and Kiriyyenko’s father, Sergei Vladilenovich Kiriyyenko (First Deputy Chief of Staff of the Presidential Office).

Of note, OFAC issued two limited general licenses relating to VEB, as follows:

- General License No. 2 authorizes any dealings that “are ordinarily incident and necessary to the servicing of bonds [involving VEB or a VEB subsidiary] issued before March 1, 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation.” This general license will *not* cover newly issued bonds, which are subject to the sovereign debt restrictions discussed below.
- General License No. 3 is a wind-down general license allowing U.S. persons until March 24, 2022 to wind down any transactions involving VEB or VEB subsidiaries.

Sovereign Debt Restrictions

OFAC issued Russia-related Directive 1A under Executive Order 14024, amending and superseding a previous version of the Directive. Directive 1A extends existing sovereign debt prohibitions on U.S. financial institutions to cover participation in the secondary market for ruble or non-ruble denominated bonds issued after March 1, 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance for the Russian Federation. The term “U.S. financial institution” means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent.

EU Sanctions

On February 23, the European Union imposed targeted sanctions on individuals deemed to be responsible for Russia’s acts in Ukraine, including the Russian Defence Minister, President Putin’s Chief of Staff, other high-ranking members of the military, and the roughly 350 members of the Russian Duma who voted in favour of recognition of the regions’ independence. President Putin was not named. As a result of these designations, entities incorporated in or operating in the European Union are prohibited from directly or indirectly providing funds or economic resources to named individuals and entities.

The European Union also sanctioned banks determined to be financing Russian military and other operations in Ukraine: Bank Rossiya, VEB, and PSB. Similar to the U.S., members of VTB’s senior management, including the President and Deputy President and Chairman of VTB Bank management board, were also added to the sanctions list.

The EU also prohibited import into the EU of goods originating in the non-government-controlled areas of the DNR and LNR, with the exception of goods having been granted a certificate of origin by the Government of Ukraine. The prohibition includes financing or financial assistance, insurance or reinsurance for the same.

In addition, the EU prohibited export, sale, supply or transfer from the EU of goods and technology for use in certain sectors in the non-government-controlled areas of the DNR and LNR. These sectors mirror those in the current Crimea sanctions: transport, telecommunications, energy or the prospecting, exploration and production of oil, gas and mineral resources, as well as services related to tourism activities in the non-government-controlled areas of the DNR and LNR. Finally, Germany announced that it has stopped the ongoing certification process for the Nord Stream 2 pipeline, which means that this pipeline will not become operational at this time. Germany had to date contested any efforts by the U.S. to impose sanctions on the Nord Stream 2 project in light of Europe’s dependence on Russian energy, and Germany’s ultimate willingness to halt the certification process is consistent with the stated commitment of Germany—and the rest of the European Union—to impose stringent sanctions measures on Russia.

While further details regarding new European Union sanctions are forthcoming, European Union officials have said it is coordinating measures with the United States, so companies incorporated or operating in the European Union should evaluate links to the DNR and LNR, as well as the individuals and entities newly sanctioned by the United States.

UK Sanctions

On February 22, the United Kingdom sanctioned five banks believed to support Russian military (including PSB) and other operations in disputed Ukrainian territories, along with three prominent Russian oligarchs. Sanctioned Financial Institutions: Bank Rossiya; Black Sea Bank for Development and Reconstruction; Joint Stock Company Genbank; IS Bank; Public Joint Stock Company Promsvyazbank (*i.e.*, PSB).

- Sanctioned Oligarchs: Gennady Timchenko; Boris Rotenberg; Igor Rotenberg,
- The United Kingdom added additional names to the sanctions list on February 24 including Denis Alexandrovich (Deputy President and Chairman of the VTB Management Board), and Petr Mikhailovich (Chairman/CEO of PSB), and three other prominent businesspeople.

Additionally the United Kingdom sanctioned military companies:

- UralVagonZavod ("UVZ");
- United Aircraft Corporation,
- United Shipbuilding Corporation,
- JSC Tactical Missiles Corporation (TMC) and
- Rostec.

Finally, the United Kingdom also added VTB Bank (which had previously been subject to more limited list-based sanctions) to the previous list of sanctioned financial institutions.

United Kingdom authorities have also been granted broad powers to designate any persons who are or have been involved in “obtaining a benefit from or supporting the Government of Russia” and are expected to add additional names to the sanctions list to mirror U.S. and EU designations in coming days. Similar to the European Union, entities incorporated or operating in the United Kingdom are prohibited from providing funds or economic resources to designated individuals and entities.

To date, the United Kingdom has not implemented any new financial or trade restrictions, but has announced that it will extend current Crimea sanctions to non-government-controlled territories in DNR and LNR. It has also stated it is coordinating with the United States and European Union to consider measures to prevent Russia from issuing sovereign debt on UK markets and to target financing to individuals and entities supporting the Russian government’s military efforts.

Prospective Considerations

The above prohibitions may represent only the opening salvo in a significant escalation of U.S. and other international sanctions in response to Russian aggression in Ukraine. As immediate next steps, U.S. and non-U.S. persons subject to one or more of the above sanctions regimes should prioritize identification of any business or dealings (direct or indirect) involving DNR, LNR, or the new additions to the SDN List and other restricted party lists; develop a strategy for communicating the new—and possible forthcoming—restrictions to affected subsidiaries and personnel; review existing contractual commitments with Russian and Ukrainian counterparties; and consider appropriate updates to internal compliance processes and template agreements. In addition, all interested parties should continue to monitor the rapidly evolving situation.