

Ukraine Crisis Update: US and EU Expand Sanction Lists; US Imposes Export Restrictions

The US expands sanctions and tightens controls on exports to Russia and Crimea.

On April 28, 2014, the White House [announced](#) expanded sanctions against Russian government officials and companies. The Obama Administration also announced that the US Departments of State and Commerce will not issue export licenses and will revoke existing export licenses for “Russia or occupied Crimea that contribute to Russia’s military capabilities.”

Beyond these restrictions on certain yet-to-be-identified high technology items, the Commerce Department imposed a ban on exports or reexports of all US-regulated items to 13 companies in Russia that now appear on the Commerce Department’s [Entity List](#). These export control restrictions go well beyond the previously announced “hold” on pending license applications for exports or reexports to Russia.

On April 29, 2014, the EU identified 15 Russian and Ukrainian political and military officials who have been targeted under EU sanctions for their association with the recent events in the Ukraine. In addition, Germany has reportedly issued a hold on the issuance permits for exports of military goods to Russia. The United Kingdom is continuing to restrict exports to Russia in accordance with its previous policy announcement, as reported in our [client alert](#) dated March 18, 2014.

New US and EU Designations

On April 28, 2014, the US imposed travel bans and asset freezes on seven Russian officials and froze the assets of 17 companies connected with these officials. This [latest round of sanctions](#) remains targeted and does not reach entire sectors of the Russian economy. President Obama warned, however, that the US was keeping such measures “[in reserve](#)” and would impose such sanctions pursuant to [Executive Order 13662](#) if the situation in Ukraine worsens.

Most of the newly designated entities are linked to individuals whose property had already been blocked under [Executive Order 13661](#). The Treasury Department’s Office of Foreign Assets Control (OFAC) takes the [position](#) that entities that are 50 percent or more owned by designated persons are automatically subject to blocking, even if those entities are not identified on OFAC’s [List of Specially Designated Nationals \(SDN List\)](#). But OFAC also has the authority under the relevant Executive Orders to designate entities determined to be “owned or controlled” by SDNs.

The designated individuals include Igor Sechin, Chief Executive Officer of Russia’s state-controlled energy giant, Rosneft. The US did not impose sanctions against Rosneft directly. While OFAC has not provided specific guidance on dealings with Rosneft, in past, analogous cases, the agency has articulated

that designating a top executive does not generally restrict dealings with the company, unless the company itself is specifically designated or owned 50 percent or more by a designated person. Consistent with this notion, the White House [Fact Sheet](#) issued in conjunction with the prior [Executive Order 13660](#) states that the US government's "current focus" is to target the personal assets of designated persons, "but not companies that they may manage on behalf of the Russian state."

In a separate but related development, on April 28, 2014, the EU issued [Council Implementing Regulation \(EU\) No. 433/2014](#), which designates 15 additional Russian and Ukrainian individuals the EU alleges are responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of the Ukraine. These individuals include officials associated with the integration of Crimea into Russia and senior Russian military personnel. Unlike the US, the EU has not designated Russian business leaders, including Igor Sechin.

The individuals designated under the latest EU sanctions are subject to a travel ban and an asset freeze, which came into force on April 29, 2014. The asset freeze, as with the EU sanctions imposed on [March 5](#) and [March 17](#), 2014, applies to all funds and economic resources (which are broadly defined) belonging to, owned, held or controlled by the 15 individuals, and prohibits EU nationals (or persons or entities otherwise falling within the scope of the EU sanctions) from making available, directly or indirectly, funds or economic resources to these individuals.

New US Export Control Constraints

On April 28, 2014, the US Departments of State and Commerce announced new restrictions on exports and reexports to Russia and Crimea under the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). These steps follow the Commerce Department's Bureau of Industry and Security (BIS) March 1, 2014 hold on issuing new licenses for exports and reexports to Russia of items subject to the EAR and the State Department's Directorate of Defense Trade Controls (DDTC) March 27, 2014 hold on issuing new licenses for the export or reexport of defense items to Russia.

Effective immediately, BIS [announced](#) it will deny new and pending license applications for exports and reexports of "high technology" articles that could contribute to Russia's military capabilities. BIS is also taking steps to revoke previously issued and still valid export and reexport licenses involving such items. BIS has not yet identified what items qualify as "high technology" items under the EAR. Notably, EAR controls apply not only to items shipped from or made in the US, but also foreign-made items that include (when intended for export to Russia) more than 25 percent US-controlled content by value.

In addition, BIS has added to its Entity List 13 Russian entities also designated by OFAC. As a result, no items "subject to the EAR" (including low-sensitivity items designated as "EAR99") can be exported from the US or reexported from third countries (by any person) to these 13 listed companies, absent BIS authorization. The agency presumes denials of such license applications. The BIS announcement explains that "[t]he United States will continue to adjust its export licensing policies toward Russia as warranted by Russia's actions in Ukraine."

A [State Department Press Statement](#) on April 28 explains that the agency will not issue new licenses for high technology defense exports to Russia and will revoke previously issued licenses for high technology items controlled under the ITAR that "contribute to Russia's military capabilities." The announcement adds that "all other pending applications and existing licenses will receive a case-by-case evaluation to determine their contribution to Russia's military capabilities." Although not entirely clear, we expect, consistent with the DDTC announcement on March 27, that DDTC continues to hold all licenses for the

export of defense articles and defense services to Russia. The extent to which DDTC will revoke existing ITAR licenses for defense articles or defense services not deemed to qualify as “high technology” also remains unclear.

Conclusion

We will continue to monitor closely changes in the US and EU sanctions landscape as they relate to the current events in Ukraine, and we will issue future Client Alerts to report on significant scope or policy changes. Latham’s Export Controls, Economic Sanctions, and Customs team is well positioned to assist clients with questions relating to the applicability of these sanctions as well as the new export control constraints that apply to exports and reexports of US-regulated commodities, software and technology.

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