

- Implementation of EU sanctions
- EU sanctions imposed on Ukraine
- EU sanctions imposed on the Russian Federation?

Impact of Sanctions in Ukraine and Russia Under the Laws of Cyprus, the BVI and the Cayman Islands

This guide contains a summary of the current sanctions regime imposed on Ukraine by the European Union in March 2014. No sanctions on the Russian Federation, as relevant to Cyprus, the British Virgin Islands (BVI) or the Cayman Islands are presently in force but these may be introduced at any time.

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Cyprus and the implementation of EU sanctions

Cyprus joined the European Union in 2004. Despite this Cyprus is currently the only Member State of the Union which is not a member of NATO and has historically been part of the non-aligned movement. As a Member State, the EC's "acquis communautaire" (roughly translated as EC jurisprudence) applies to the whole of Cyprus under its de facto control. In addition Cyprus is required to comply with the Union's Common Foreign and Security Policy (CFSP). Application of the "acquis" and CFSP means that Cyprus fully implements all sanctions, asset freezing policies and related laws adopted by the European Union. Derogation of Cyprus national and domestic law to the laws of the European Union is guaranteed under the Constitution of Cyprus (Article 1A).

BVI, the Cayman Islands and the implementation of EU sanctions

The BVI and the Cayman Islands are both Overseas Territories of the United Kingdom (UK). The UK has been a Member State of the European Union and its predecessors since 1973 however the Overseas Territories are not part of the United Kingdom or the European Economic Area. Nevertheless as dependencies of the UK they are still obliged to comply with the Union's CFSP.

To give effect to the CFSP the UK legislates directly for its Territories, including the BVI and the Cayman Islands, through legislation known as Orders in Council.

EU sanctions imposed on Ukraine

On 5 March 2014 the Council of the European Union issued CFSP 119 (Decision 2014/119/CFSP) which directed the Union and every Member State to impose restrictions and freezing orders on all funds and economic resources of listed persons “responsible for the misappropriation of Ukrainian state funds and human rights violations”. Listed persons include the former President of Ukraine, Viktor Yanukovich, his family and close acquaintances.

On the same day, the Council issued Regulation 208 (Regulation (EU) 208/2014) which provides for the following restrictions:

- (a) All funds and economic resources belonging to, owned, held or controlled by any natural or legal person, entity or body as listed in Annex I is frozen: Article 2(1).
- (b) No funds or economic resources may be made available directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in Annex I: Article 2(2).

Listed persons in Annex I include the former President of Ukraine, Viktor Yanukovich, his family and close allies. As is common to sanctions legislation, derogations from the restrictions above are provided for in the case of basic needs payments, legal expenses and pre-existing contractual payments – however an application must be made to the competent authorities in the EU in order to benefit from these. In addition to the restrictions in Regulation (EU) 208/2014 the Member States have been directed and have agreed to suspend export licences on any equipment, military or otherwise, which may be used in Ukraine for internal repression.

In order to fully implement these EU sanctions the UK government passed the following legislation on 6 March 2014:

- (a) Ukraine (European Union Financial Sanctions) Regulations 2014 (SI 2014/507), which applies within the UK and to UK nationals and companies in order to further enforce criminal sanctions.
- (b) Ukraine (Sanctions) (Overseas Territories) Order 2014 (SI 2014/497), which extends the effect of EU sanctions (and criminal offences) in the UK’s Overseas Territories, including the BVI and the Cayman Islands, to its residents and nationals, including to companies and other undertaking established there.

EU sanctions imposed on the Russian Federation?

At present the EU’s CFSP has not called on the Union to impose any sanctions or restrictions on the Russian Federation, however it has commented that: “In the absence of de-escalating steps by Russia, the EU shall decide about consequences for bilateral relations between the EU and Russia, for instance suspending bilateral talks with Russia on visa matters as well as on the New Agreement, and will consider further targeted measures. The Council decides to remain permanently seized, in order to be in a position to take rapidly all necessary measures.” (Council of the EU Conclusions on Ukraine, 3 March 2014).

At this stage it is difficult to tell whether any sanctions will be imposed, however it should be noted that the sanctions now on the Ukraine follow the format of regimes imposed on other countries such as Belarus, ex-Yugoslavia, and Moldova (Transnistria) and as such may form a precedent going forward.

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