

Ukraine- and Russia-Related Economic Sanctions



On February 21, 2022, President Joe Biden issued an executive order that blocked new US investment, trade, and financing involving the Russia-backed Ukrainian separatist oblasts (or regions) of Donetsk and Luhansk.¹ The order followed Russian President Vladimir Putin's announcement that Russia would recognize the oblasts as independent, an action widely seen as a further escalation of Russian activity related to Ukraine.

As part of the United States' "first tranche" of sanctions against Russia, the White House on February 22 announced further sanctions against (a) two large financial institutions—VEB and its military bank; (b) Russian sovereign debt; and (c) the Russian elite and their family members. As President Biden stated:

That means we've cut off Russia's government from Western financing. It can no longer raise money from the West and cannot trade in its new debt on our markets or European markets either.²

The international community also has responded swiftly to the situation:

- The UK imposed sanctions on five Russian banks (Rossiya, IS Bank, General Bank, Promsvyazbank, and the Black Sea Bank) and sanctioned three "very high net worth individuals" (Gennady Timchenko, Boris Rotenberg, and Igor Rotenberg), freezing their assets in the UK and banning them from entering the country.³ Prime Minister Boris Johnson indicated that these are simply the first tranche of sanctions against Russia.
- Germany paused the certification process for the Nord Stream 2 pipeline, with German Chancellor Olaf Scholz indicating that "the situation now is fundamentally different."⁴
- European Union foreign ministers met on February 22 to discuss proposals to sanction 351 Russian Duma members who voted to recognize the separatist "republics," along with Russian officials and banks that do business with those territories. The EU also is expected to discuss targeting the "ability of the Russian state and government to access the EU's capital and financial markets and services."⁵
- China's response, in contrast, has been seen as more favorable to Russia, focusing instead on encouraging a diplomatic solution, stopping short of condemning Russia's recognition of the independence of Donetsk and Luhansk.⁶

Before this current action, the US had issued three executive orders (13660, 13662, and 13685)—all in 2014—against Russia related to Ukraine. These orders, among other things, authorized sanctions against various Russian officials and those in the Crimea region, against the arms and related materiel sector in Russia, and prohibited new investments and the importation or exportation of goods, services, or technology to or from the Crimea region.

¹ The White House, *Executive Order on Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to Continued Russian Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine* (February 21, 2022). <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/02/21/executive-order-on-blocking-property-of-certain-persons-and-prohibiting-certain-transactions-with-respect-to-continued-russian-efforts-to-undermine-the-sovereignty-and-territorial-integrity-of-ukraine/>

² The White House, *Remarks by President Biden Announcing Response to Russian Actions in Ukraine* (February 22, 2022). <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/02/22/remarks-by-president-biden-announcing-response-to-russian-actions-in-ukraine/>

³ HM Treasury and Office of Financial Sanctions Implementation, *Guidance: Financial sanctions, Russia* (updated February 22, 2022). <https://www.gov.uk/government/publications/financial-sanctions-ukraine-sovereignty-and-territorial-integrity>

⁴ Frank Jordans, "Ukraine-Russia: Germany suspends Nord Stream 2 gas pipeline," Associated Press (February 22, 2022). <https://apnews.com/article/russia-ukraine-business-germany-europe-berlin-79e3dafb0d231f6a033613b7dab78cdf>

⁵ Financial Times, "Ukraine latest: Nato says Putin's moves suggest Russia is planning for 'full-scale attack.'" (February 22, 2022). <https://www.ft.com/content/b787a27f-78f4-411e-9435-bb9e980c2a7f>

⁶ Simone McCarthy, "As the West condemns Russia over Ukraine, Beijing strikes a different tone," CNN (February 22, 2022). <https://www.cnn.com/2022/02/22/china/china-ukraine-russia-reaction-united-nations-intl-hnk/index.html>

What Firms Should Do

The situation is evolving rapidly. Based on these fast-moving sanctions and governments' expectations of immediate cooperation to address Russia's actions in Ukraine, we recommend that financial institutions and other organizations take specific actions regarding the "essential components" of their sanctions compliance programs:⁷

1. **Management commitment:** Senior executives should remind the firm of its commitment to compliance with economic sanctions, of the potential consequences of noncompliance, and that all personnel have a role in protecting the firm and the financial system.
2. **Risk assessment:** Review the institution's risk assessment to determine the extent to which these changing sanctions could affect the firm's risk exposure at the line of business, jurisdictional, and enterprise-wide levels. For those institutions with foreign affiliates or considering M&A activity with firms that have global footprints, reconfirm the enterprise-wide sanctions policy and check that affiliates fully understand their obligations. This is important particularly in organizations that have decentralized or federated compliance functions.
3. **Internal controls:** Now is a good time to look at the systems of controls that the firm has in place to identify, interdict, escalate, report, and document sanctions matters. Firms should consider:
 - **Due diligence:** Russia-related sanctions will target previously unlisted individuals and entities, as well as activity such as new investment in the region. Firms should review their due diligence standards and procedures to gain comfort that potential nexuses to sanctioned parties and activity are identified and addressed.
 - **50 Percent Rule:** Ensure that procedures around entities properly consider Office of Foreign Assets Control's 50 Percent Rule: any entity owned in the aggregate, directly or indirectly, 50 percent or more by one or more blocked person(s) is itself considered to be a blocked person.
 - **Screening and filtering programs:** Firms should be sure that they are applying the most up-to-date lists of specially designated nationals, screening activity that might pose heightened risk, escalating potential matches for review by appropriately skilled teams, and tracking metrics related to exposure for use in upstream and downstream controls.
4. **Testing and Auditing:** Teams in charge of independent testing should evaluate their processes to assess the firm's controls that are designed to respond to changing sanctions regimes. These processes likely will face increased strain to keep pace with the evolving situation, evidenced by longer lead times and missed service level agreements, for example.
5. **Training:** Firms should share intelligence gained from the actions above with appropriate personnel. Those involved in resolving screening alerts should be well versed in the geography and risk factors associated with the changing sanctions regimes.

⁷ US Treasury, *A Framework for OFAC Compliance Commitments*. https://home.treasury.gov/system/files/126/framework_ofac_cc.pdf

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