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# Revisiting Sanctions and Export Control Compliance in the Face of Conflict

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Russia's recent invasion against Ukraine is prompting the United States (U.S.) and other countries to issue sanctions and restrictions on Russia. Companies that do business in Russia or in the region should take steps to keep up with this changing landscape and ensure that their transactions and exports comply with applicable laws and regulations.

While sanctions against Russia are not new, western nations are planning to impose more severe sanctions after the recent events in Ukraine. In fact, certain sanctions have already been imposed by the U.S. and the European Union (EU), including those cutting off Russia's government from Western financing so that Russia can no longer raise money from the West and cannot trade in its new debt on U.S. or European markets. President Joe Biden signed an Executive Order on Monday that stipulated any institution in Russia's financial services sector is a target for further sanctions.

The Executive Order prohibits:

- New investments in the Donestsk People's Republic (DPR) and Luhansk People's Republic (LPR) regions of Ukraine and other regions in the future as determined by the Secretary of the Treasury;
- Importing items, technology, or services from these covered regions into the U.S.; and
- Exporting any items, technology, or services to these covered regions from the U.S. or by a U.S. person.

The Office of Foreign Assets Control (OFAC) has already issued several general licenses allowing certain transactions relating to communications and other humanitarian efforts. The Bureau of Industry and Security (BIS) has also issued a final rule implementing a series of new export control measures under the Export Administration Regulations (EAR) against Russia.

The U.S. has also issued additional sanctions against Russian financial interests. More than 80 percent of Russia's daily foreign exchange transactions and half of its trade are conducted in U.S. dollars. The U.S. has sanctioned two of Russia's state-owned banks—The State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank and Promsvyazbank Public Joint Stock Company—and blocked them from trading in its debt on U.S. and European markets. That includes freezing all of those banks' assets under U.S. jurisdictions. The two Russian banks are considered especially close to the Kremlin and Russia's military, with more than $80 billion in assets. The new sanctions against Russia also include the country's "elites" and their family members, as well as civilian leaders in Russia's leadership hierarchy. OFAC has also imposed additional sanctions on various Belarusian individuals and entities for providing support or otherwise facilitating Russia's actions against Ukraine.

The EU has also announced sanctions against Russia in response to Russia's invasion of Ukraine. The

initial sanctions aim at the Russian politicians who voted for recognizing the two separatist regions (DPR and LPR) in Ukraine, as well as other Russian officials and institutions from the defense and banking sectors. The politicians and officials are targets for asset freezes and visa bans and include the 351 members of the Duma, Russia's lower house of parliament, who appealed to Russian President Vladimir Putin to recognize the two regions as independent. The EU has also sought to limit Moscow's access to EU capital and financial markets, and banks financing Russian decision-makers and other operations in these territories are also being targeted.

Additionally, Germany has halted the process of certifying the Nord Stream 2 gas pipeline from Russia—a $11.6 billion project owned by Russian state-owned gas company Gazprom—a profitable dea long sought by Moscow but criticized by the U.S. for increasing Europe's reliance on Russian energy.

The United Kingdom (U.K.) also announced sanctions against five Russian banks and three Russian billionaires—Gennady Timchenko, Boris Rotenberg, and Igor Rotenberg—who are owners of SGM Group which makes oil and gas infrastructure, and the private investment firm Volga Group. Additionally, the U.K. has announced that Britain will stop Russia from selling sovereign debt in London and has declared it is prepared to go much further if Russia does not pull back, including limiting the ability of the Russian state and Russian companies to raise funds in U.K. markets, prohibiting a range of high-tech exports, and further isolating Russian banks from the global economy.

This is a rapidly evolving situation and new U.S. sanctions are expected in the future. Similarly, the EU recently announced that it plans to freeze Russian assets in the EU and stop the access of Russian banks to European financial markets. While it is unclear exactly what additional sanctions we can expect, it is clear that more sanctions against Russia are underway as the conflict in Ukraine progresses, both from the U.S. and the EU.

**What You Can Do to Comply**

In this changing landscape, it is imperative to ensure your company has an up-to-date sanctions and export controls compliance program to keep up with these (and other) fast-changing sanctions programs. At a minimum, companies should consider:

- Reviewing whether they have relationships with any of the targets of the new sanctions and taking appropriate steps to ensure compliance with the administration's Executive Orders including additional OFAC and BIS regulations;
- Updating any automated sanctions screening systems to ensure that they identify and flag transactions and customers involving the new sanctions and export controls targets;
- That some of the newest sanctions also prohibit non-U.S. financial institutions and companies from engaging in transactions or business dealings with the sanctioned entities. For example, non-U.S. financial institutions are prohibited from engaging in transactions or other business dealings with Russia's sanctioned state-owned banks if those activities have a direct or indirect nexus with the U.S., such as a foreign bank that relies on U.S. branches to process transactions;
- That OFAC's 50% Rule will require that you conduct due diligence on an entity owned 50% or more, directly or indirectly, by the new (and most other) sanctions targets. Even if the entity has not been added to OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List), it could

still be subject to sanctions under the 50% Rule;

- That non-U.S. financial institutions and companies can be subject to secondary sanctions, including being added to OFAC's SDN List, if they conduct a "significant" transaction with a sanctioned entity or an entity subject to the 50% Rule.