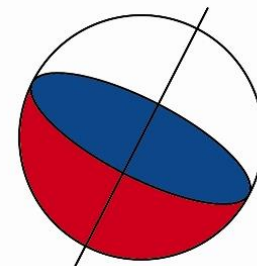


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US and EU sanctions Summary of key norms and implications for Russia

Helge Masannek
Director Taxes & Legal, Attorney (Germany)
AEB Business Meeting
Moscow, 7th July 2014

- Overview of sanctions
 - ✓ EU
 - ✓ US
 - ✓ Russia's reactions
- Who shall follow the sanctions?
- Who is sanctioned?
- What is forbidden?

1st stage

- 6th March: Talks on cooperation agreement and visa-free regime suspended

2nd stage

- “Regulations concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine”
- Economic sanctions, asset freeze, travel ban
 - 5th March (2014/119/CFSP)
 - 17th March (2014/145/CFSP)
 - 12th May (2014/265/CFSP)
- Currently sanctions against 61 individuals and 2 legal entities
- Council Regulation 692/2014 as of 23rd June 2014: Import ban for goods originating in Crimea or Sevastopol (exception: goods with Ukrainian certificate of origin)

3rd stage

- Industry sectors restrictions – not introduced (yet?)

- Currently sanctioned: 52 individuals and 19 legal entities
(Economic sanctions, asset freeze and travel ban)
 - ✓ Executive Order 13660 (6th March)
 - ✓ Executive Order 13661 (17th March, additional persons)
 - ✓ Executive Order 13662 (20th March, additional persons)
- 3rd April 2014: “The Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014”
 - ✓ Legislative basis for further sanctions (asset blocking, exclusion from the US and revocation of visa) and financial support for Ukraine
- 28th April: Export and re-export prohibition to Russia of certain goods
 - ✓ Covered: high tech goods subject to the Export Administrative regulations (especially dual use goods)
 - ✓ U.S. Commerce Department’s Bureau of Industry and Security revoked existing export licenses

More countries follow

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- Implementing the EU sanctions:
 - ✓ Norway
 - ✓ Montenegro
- Switzerland
- Canada
- Australia
- Japan
 - ✓ no sanctions, but freezing of bilateral talks on economic, security, visa and border topics

Some persons are not on the lists

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- Handelsblatt, 12th May: „Pressure on Brussel“, „Many phone calls have been necessary“
 - ✓ Alexei Miller, Gazprom: gaz supply

- **Travel bans**
 - ✓ Russia bans entry to 9 US politicians

- **Law on “National Payment System”**
 - ✓ Adopted on 5th May 2014 in response to Visa and Mastercard freezing services to Russian banks under US sanctions
 - ✓ Prohibition of international payment systems to cut off services to Russian clients and obliges them to base their processing centers in Russia
 - ✓ International payment systems shall make security deposits in Russia's central bank equal to the average value of two days' worth of transactions
 - Visa and MasterCard: total \$3.8 billion
 - ✓ Law came into force on 1st July 2014
 - ✓ If a payment system unilaterally freezes operations:
 - Penalty of 10 million rubles (\$280,000) for every day of suspended service if “nationally significant”
 - Smaller operators: 10% of their security deposits for each day
 - ✓ Amendments to the law expected

Who shall follow the sanctions?

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■ EU sanctions

- ✓ **Legal entities or citizens acting in the EU, place of company registration or citizenship does not matter**
 - E.g. European branch of a Japanese company delivers goods to a Russian buyer
- ✓ **EU-citizens and companies registered in the EU, no matter where they act**
 - E.g. French general director of an OOO signs a contract with a Russian customer
 - E.g. Russian branch of an Austrian company renders services to a Russian customer
- ✓ **Not obliged to follow the sanctions**
 - Subsidiaries of EU companies in Russia (OOOs)
 - But if general director EU-citizen, he/she shall follow the sanctions, PR/non-legal consequences should be taken into account

Who shall follow the sanctions?

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■ US sanctions

- ✓ **Legal entities or citizens acting in the US, place of company registration or citizenship does not matter**
 - E.g. US branch of a Japanese company delivers goods to a Russian buyer
- ✓ **US citizens and companies registered in the US, no matter where they act**
 - E.g. US general director of an OOO signs a contract with a Russian customer
 - E.g. Russian branch of a US company renders services to a Russian customer
- ✓ **Not obliged to follow the sanctions**
 - Subsidiaries of US companies in Russia (OOOs)
 - But if general director is a US citizen, he/she shall follow the sanctions, PR/non-legal consequences should be taken into account

Who is sanctioned?

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- Individuals and legal entities on the lists
- Any company that belongs to 50% or more to a listed person/company
 - ✓ Task: Check your counterpart!
 - ✓ Problem: offshore-companies
- Any person that is controlled by a listed person (“dominant influence”/”owns directly or indirectly a 50% or greater interest”)
 - ✓ Problem: Nominee shareholders

What is forbidden (EU)?

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- It is forbidden to:
 - ✓ ...buy or sell goods to or from the listed persons
 - ✓ ...transfer money or receive money
 - ✓ ...make available all other economic resources or funds, including:
 - cash, cheques, monetary claims
 - deposits with financial institutions
 - publicly- and privately traded securities and debt instruments, including stocks and shares
 - interest, dividends or other income
 - credit, guarantees
 - letters of credit
 - documents showing evidence of an interest in funds
 - etc.

What is forbidden (USA)?

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“All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in...”

- A EU company may receive payment for a contract which has been signed before the sanctions, if the goods has already been delivered
- Special needs: acute medical treatment etc.
- Legal protections against sanctions
- Official delegations (UN, UNESCO, EU etc.)

- US Department of the Treasury's Office of Foreign Assets Control (OFAC) can grant licenses on engaging in certain activities that otherwise would be prohibited
 - ✓ E.g. wind down a transaction involving listed persons started prior to sanctions, processing payments for certain transactions (food, medicine, humanitarian goods etc.)

Consequences for breach of sanctions

■ EU

- ✓ Depending upon legislation of respective member state, e.g.
 - Germany:
 - Administrative penalty up to 0,5 million €
 - Imprisonment up to 10 years
 - France:
 - Administrative penalty up to 10 times the transaction value
 - Imprisonment up to 5 years

■ US

- ✓ Administrative penalty up to \$ 1 million per transaction
- ✓ Imprisonment up to 20 years

Thank you for your Attention!

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- Tax Consulting
- Import, Customs Clearance, Certification
- IT Services / ERP
- Interim Management
- Office Sublease
- Recruiting
- Visa and Work Permit
- Business Workshops

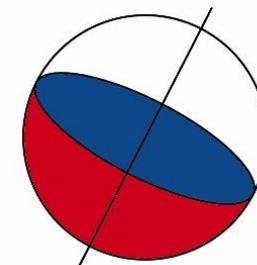
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