

B O R E N I U S

M C M X I

OVERVIEW OF SANCTIONS AND COUNTER-SANCTIONS

TYPES, CRIMINAL AND ADMINISTRATIVE LIABILITY ISSUES

SANCTIONS

Individual:

visa ban + asset freeze



Sectoral:

restrictions in financial, oil
and defense sectors



Regional:

restrictions for operating in
Crimea, Sevastopol



EU SANCTIONS

Structure

- personal
- sectoral
- regional



Application:

- on EU territory + on board of aircraft / vessel under EU jurisdiction
- to any EU national (inside / outside EU)
- to EU companies and their foreign branches
- to any transactions made partially or in full on EU territory

No codified act (enacted by EU Council's Decision + Regulation)

Liability for non-compliance: set by EU members separately

US SANCTIONS

Structure

personal (**SDN** – *Special Designated Nationals and Blocked Persons List*)

sectoral (**SSI** – *Sectoral Sanctions Identification List*)

regional



OFAC (*Office of Foreign Assets Control*): implements, enforces and interprets sanctions

CAATSA (*Countering America's Adversaries Through Sanctions Act*): codification act of 2 Aug 2017

50% rule: sanctions apply to entities owned 50% or more in the aggregate by SDN / SSI persons

US SECONDARY SANCTIONS

- Introduced by **UFSA** (Ukraine Freedom Support Act, 2014)
- Made mandatory by CAATSA, 2017
- Applies to non-US persons
- *Facilitating* to be understood broadly; *significant* to be determined upon “totality of the facts and circumstances”

...knowingly *facilitating significant transaction* for or on behalf of any sanctioned person or close relatives of sanctioned individuals...

SANCTIONED

US SANCTIONS EXPANDED

- 6 April 2018: 24 individuals and 14 companies added to SDN
- 50% rule applies
- Transition period:
 - till 7 May 2018
 - till 5 Jun 2018
 - till 23 Oct 2018



RUSSIA COUNTERMEASURES: ALREADY EXISTED

Structure

personal: visa bans / entry restrictions

embargo: import ban on agricultural products from US, EU, Canada, Norway and several other countries
(*prolonged till 31 Dec 2019*)



**as of 6 Aug 2015, imported banned goods are to be destroyed*

RUSSIA COUNTERMEASURES: ADOPTED 4 JUNE 2018

- ✗ Import ban for certain* goods, raw materials originating from foreign states or produced by foreign manufacturers
- ✗ Export ban of certain* goods, raw materials by foreign entities
- ✗ Termination of cooperation between Russia/Russian companies and foreign states/entities in certain sectors**
- ✗ Prohibition of provision of certain* services by foreign entities for state/municipal needs and for certain types of entities
- ✗ Prohibition for participation of foreign entities in privatization



...and **other measures****

* *to be determined by the Government*

** *to be determined by the President*

LIABILITY FOR NON-COMPLIANCE WITH RU SANCTIONS

- **Current:** Administrative liability for import of banned goods (*up to RUB 300K with or without confiscation*)
- **Passing preliminary discussion in State Duma:** Administrative liability for any transactions with banned goods (*up to RUB 100K with or without confiscation*)



CRIMINAL LIABILITY

- **Criminal acts:**

- 1) acts (omission to act) with the purpose of observing foreign sanctions, which lead to restriction or refusal to conclude an ordinary commercial transaction by
- 2) deliberate action by Russian citizen that might promote new foreign sanctions against Russia (e.g. providing recommendations, etc.)

- ▶ *Russian citizen*
- ▶ *Russian company*
- ▶ *Russia or its subjects*
- ▶ *Entities controlled by them*

- **Punishment:** fine up to RUB 600K; imprisonment up to 4 years
- **Status:** approved by State Duma in 1st reading, next reading postponed



SUMMARY TABLE

Form of doing business in Russia:	US / EU sanctions (respectively)	US secondary sanctions	Criminal liability in Russia
Cross-border transactions	Apply directly	Apply	Not applicable*
Branch / Rep office	Apply directly	Apply	Not applicable*
Russian subsidiary	Do not apply directly ! Are often applied due to parent company's policy ! Can apply if subsidiary is used to circumvent the sanctions	Apply	Can apply

** according to current wording of the bill*

CONTACT INFORMATION



ANDREI GUSEV

Managing Partner, Borenius Russia

Mob. +7 921 938 29 90

Mob. +358 40 660 5690 (Finland)

andrei.gusev@borenius.com