

EU and US sanctions following events in Ukraine

Presentation for YIT / East Office of Finnish Industries



4 June 2014



How sanctions work?

What do sanctions mean for targeted individuals and companies?



- Travel ban for all targeted individuals
- Assets of any targets and of entities owned or controlled by them shall be frozen

What do sanctions mean for EU and US individuals and companies?



- Banks and finance companies must freeze any funds owned, held or controlled by any of the targets
- EU and US Persons (individuals and companies) are prohibited to have any commercial dealings with any targets or entities owned or controlled by targets, *e.g.*, by selling, leasing, paying, receiving money, etc.

What happens if a EU Company performs a prohibited transaction?



- Domestic laws of country where a EU company is incorporated may prescribe administrative or criminal liability —→ Finnish law (maximum 4 years of imprisonment)
- Companies which breach sanctions may be subject to severe fines or prohibition to operate
- Note: Breaches do not give rise to any liability if the parties “*did not know, and had no reasonable cause to suspect, that their actions would infringe*” EU sanctions



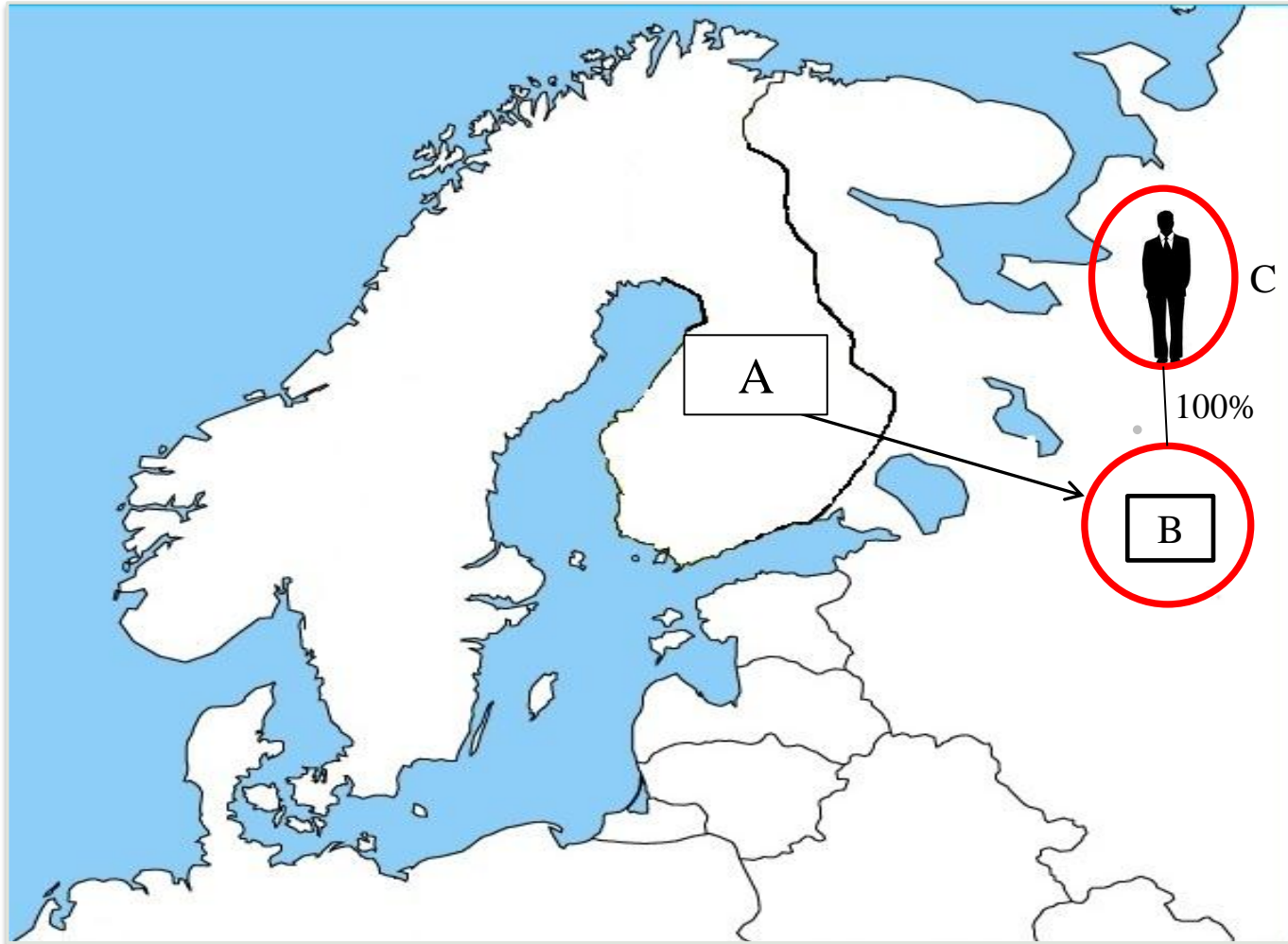
Some practical examples

How sanctions work – some examples



Company A sells to targeted individual B

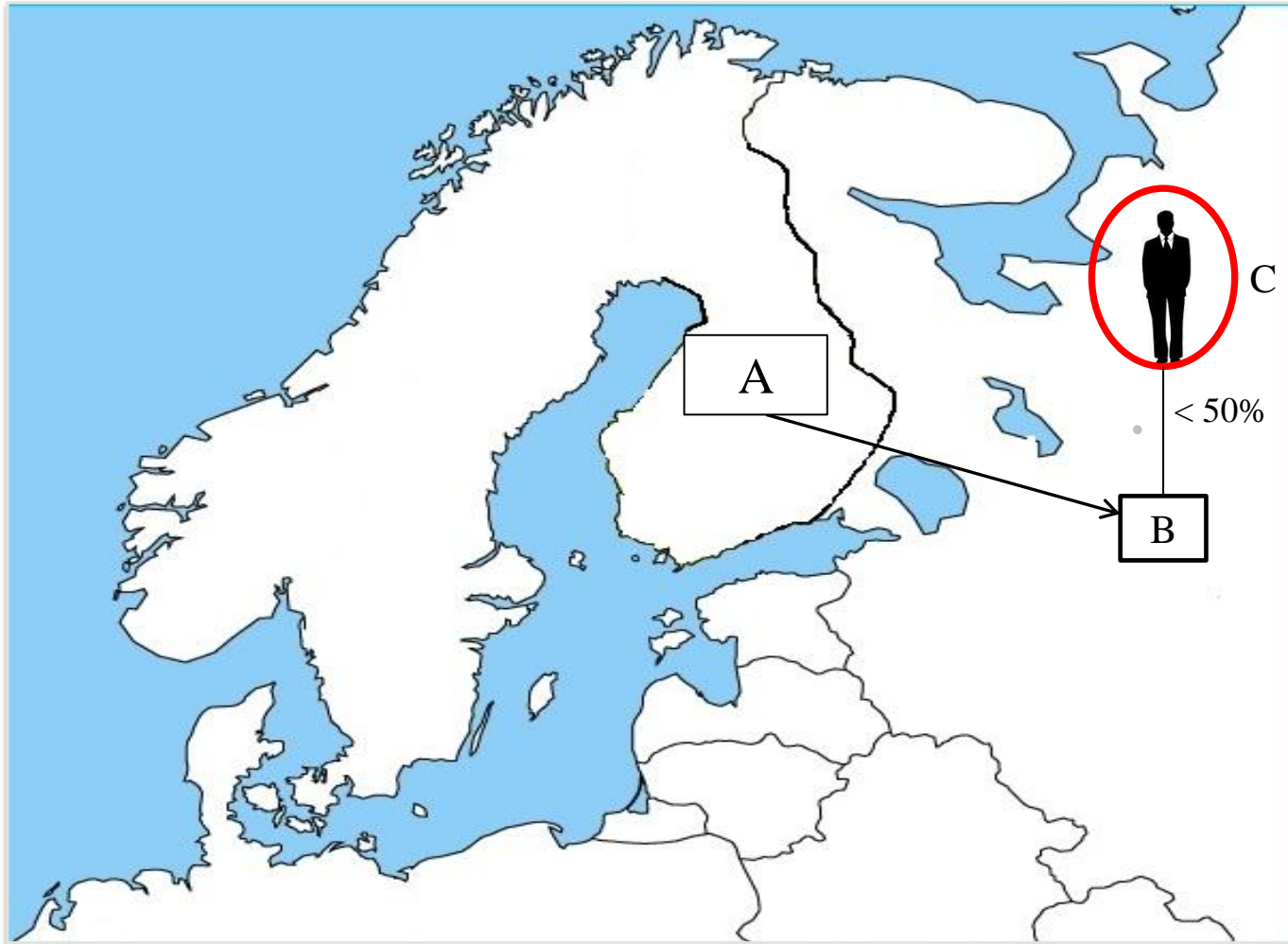
How sanctions work – some examples



Company A sells to company B

Company B is owned by targeted individual C

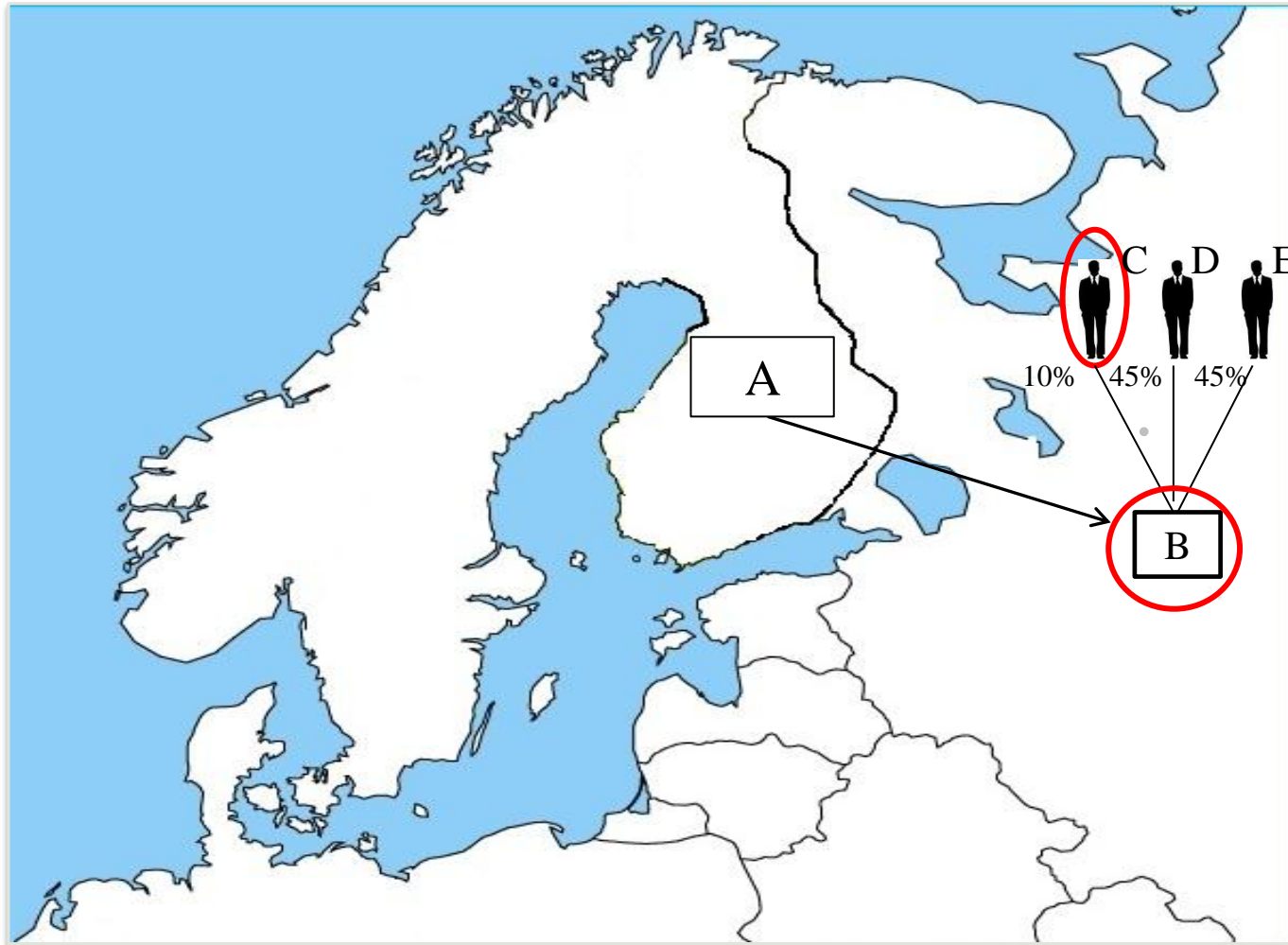
How sanctions work – some examples



Company A sells to company B

Targeted individual C owns less than 50% of company B

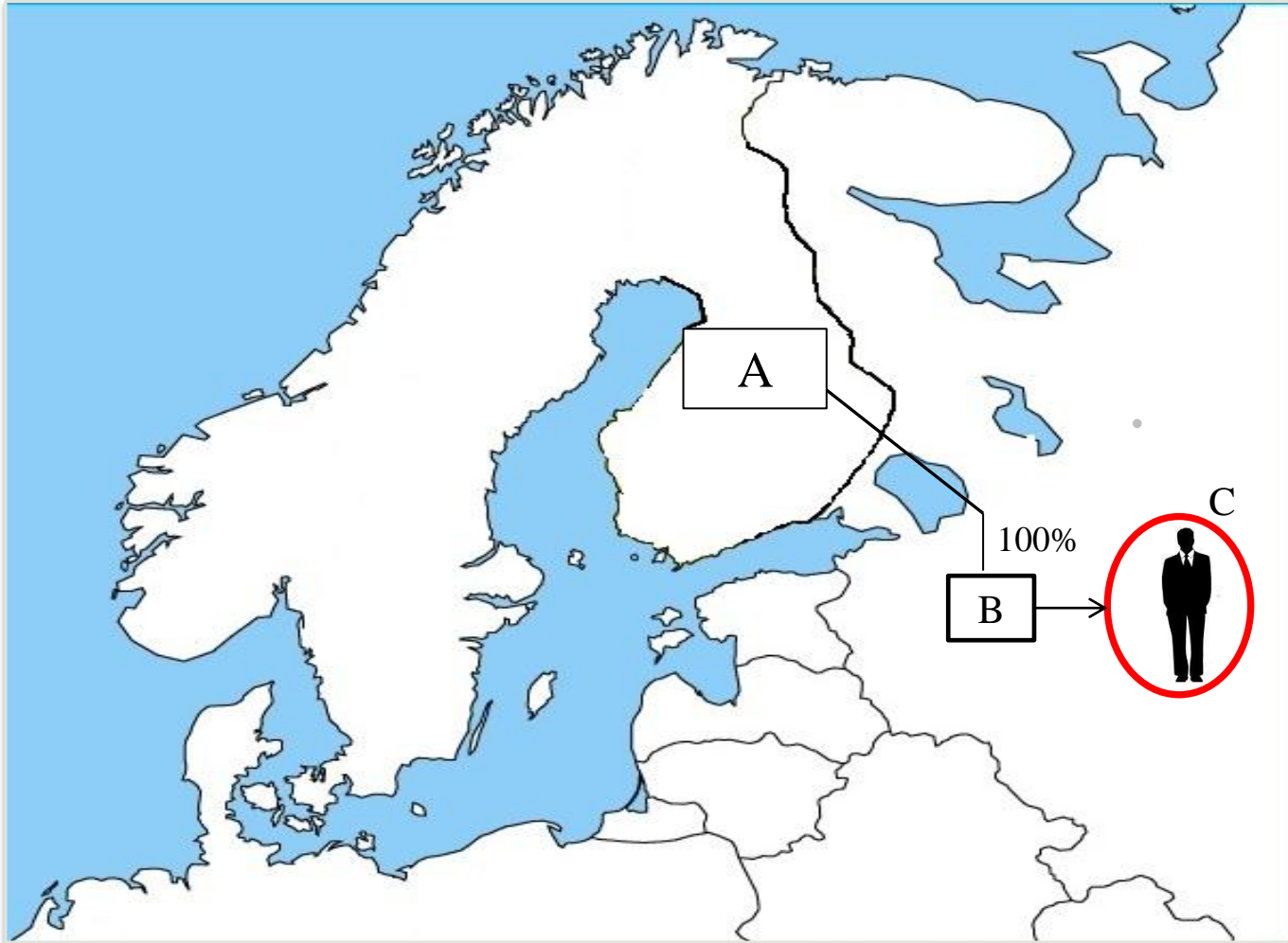
How sanctions work – some examples



Company A sells to
Company B

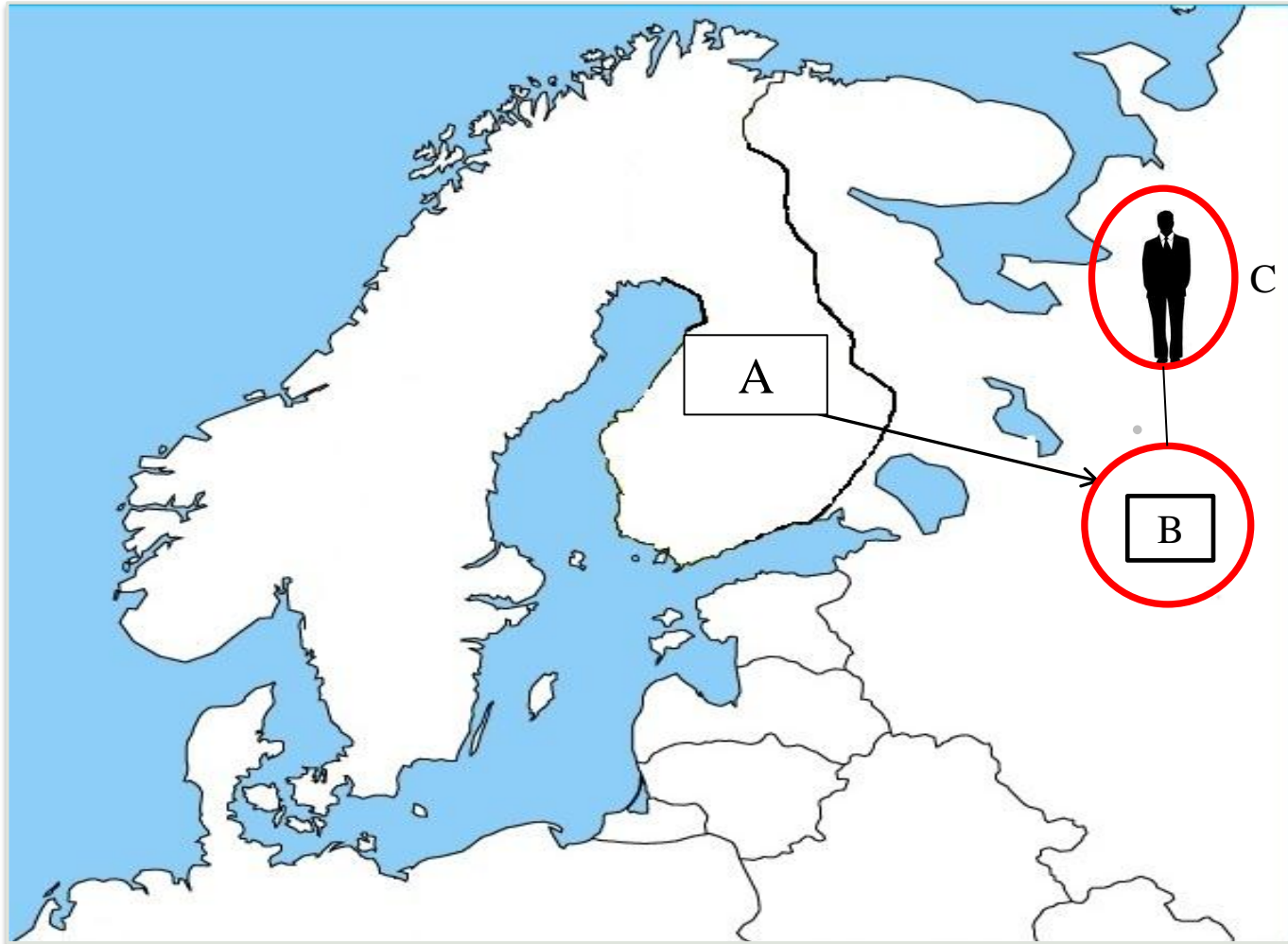
Targeted individual C owns
minority share but has
shareholders' agreement with
other shareholders

How sanctions work – some examples



Company A owns 100% subsidiary company B in Russia, B sells to targeted individual C

How sanctions work – some examples



Company A sells to company B

Individual C, who is the General Director or Chairman of the Board of company B, is a targeted person

Common misconceptions about EU and US sanctions



- The Russian subsidiaries of EU and US companies generally have no obligation to comply with EU and US sanctions
- Neither EU nor US sanctions currently prohibits business dealings with any sector of the Russian economy (defence sector, etc.)
- Neither EU nor US sanctions currently prohibits business dealings in Crimea generally



What can companies do to protect themselves from sanctions?

Measures to take to avoid EU and US sanctions



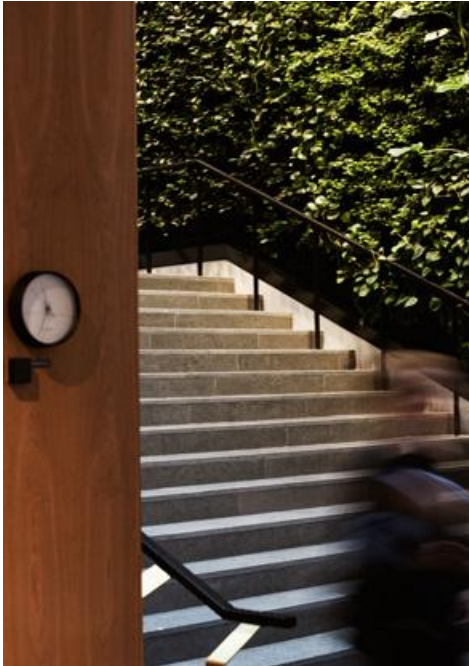
- Review concluded and planned transactions and the ownership structure of counterparties to ensure that there are no targeted persons on the other side
- Review concluded transactions with respect to illegality/export control/force majeure clauses etc.
- Possible restructuring of the operations in Russia so they are carried out through Russian subsidiary

Protection against potential Russian countermeasures



- Strive to resolve any outstanding legal disputes with Russian authorities
- Update legal opinions on sensitive issues
- Management should avoid administrative (and criminal) offences
- Assess whether investment in Russia is covered by a bilateral investment protection treaty and potentially restructure the investment if that is not the case
- Prepare a worst-case scenario exit strategy from the Russian market

The Russian response so far and looking into the future



- Russia has only made official that 6 US citizens (politicians) have been targeted with travel bans to Russia, but no Russian retaliation against EU
- Risk of “unofficial” sanctions from Russia against foreign companies and individuals in Russia
- Risk of “indirect sanctions” against Ukraine
- Exchange control if capital outflow continues
- The legal situation in Crimea is likely to become even more complex
- Legal dealings with sanctioned individuals or companies may have an effect on your US business

Contact details



Fredrik Svensson
Partner

Phone: +7 495 380 32 80
Mobile: +7 916 993 47 53
Email: fsv@msa.se



Fredrik Ringquist
Senior Associate

Phone: +7 495 380 32 80
Mobile: +7 985 774 70 57
Email: frt@msa.se