



U.S. Issues Executive Order and Guidance in Response to Crisis in Ukraine



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President Obama issued an Executive Order on March 6 in response to the growing political unrest in Ukraine, authorizing sanctions against certain categories of entities involved in threatening that country's sovereignty. Furthermore, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinGen) issued guidance for financial institutions on mitigating risk associated with dealing with the former Ukrainian government.

The sanctions outlined in the Executive Order include: the blocking of assets, the suspension of entry in the United States, and the prohibition of donations of food, clothing, and medicine to such entities. The Executive Order is issued under the authorities granted under the International Emergency Economic Powers Act (IEEPA), the National Emergencies Act, the Immigration and Nationality Act of 1952, and the U.S. Code.

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Specifically, the Executive Order requires the blocking of all property and interests in property that come within the United States (or the possession of U.S. persons) belonging to persons who:

1. Are responsible for or complicit in any actions or policies (i) undermining Ukraine's democratic process or institutions; (ii) threatening the peace, security, stability, sovereignty, or territorial integrity of Ukraine; or (iii) result in the misappropriation of Ukrainian state assets or the assets of any economically significant Ukrainian entity; or
2. Have asserted governmental authority over any part of the region of Ukraine without the authorization of the Ukrainian Government.

Additional persons subject to the blocking sanctions include any person:

1. Who is a leader of an entity, or whose members have engaged in any of the above actions;
2. Who has materially assisted or supported any of the above activities; or
3. That is owned or controlled by, or acted on behalf of any person engaged in any of the above activities.

Notably, all persons are prohibited from providing funds, goods, or services to or for the benefit of any person whose property is blocked, as well as from receiving any funds, goods, or services from any such person.

Furthermore, any person whose property has been blocked pursuant to the above listed activities will be prohibited from entering the United States as an immigrant or nonimmigrant, and will be prohibited from receiving donations of food, clothing, and medicine.

The Executive Order authorizes the Treasury and State Departments to promulgate rules and regulations as may be necessary to carry out the Order, therefore additional regulations may be forthcoming.

Following the issuance of the Executive Order, FinCen also issued guidance for financial institutions on mitigating risk associated with dealing with the former Ukrainian government. This guidance features a list of former Ukrainian officials subject to European Union (EU) sanctions, including former Ukrainian President Viktor Yanukovich. FinCen had also issued an advisory last week (February 25) for financial institutions regarding matters concerning the Yanukovich government. Notably, the guidance highlights Patriot Act obligations for U.S. financial institutions and the requirements to file Suspicious Activity Reports (SARs) under the FinCen regulations for certain types of activities.

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These recent responses by the U.S. Government highlight key compliance concerns for U.S. entities, particularly financial institutions which may have exposure to the former Ukrainian Government and its officials. Notably, although no entities have been designated under this most recent Executive Order, such action is likely forthcoming in the near future. FinCen's guidelines also illustrate the acute risks that financial institutions in particular may have. Accordingly, as the situation in Ukraine progresses, there will be more need for a heightened alertness and a revision of compliance policies for U.S. entities that are potentially exposed.

This Client Alert is intended solely for informational purposes and should in no way be construed as legal advice. If you have any questions or are unclear on any of the subject matters addressed or discussed on this Client Alert, please consult a licensed legal professional.