

CANADA, US AND THE EU EXPAND THEIR LISTS OF ECONOMIC SANCTIONS AGAINST RUSSIA AND THE UKRAINE

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Since March 17, 2014, Canada, the United States and the European Union have coordinated their response to the escalating tensions in Eastern Ukraine. The response has come, in large part, in the form of economic sanctions measures targeted against designated persons and entities in Russia and the Ukraine. Collectively, there are currently 107 sanctioned individuals and 34 sanctioned entities. Of the entities targeted, 11 are energy-related companies, 10 are banks or banking-related entities, and 8 are aerospace or defence firms.

On July 16, 2014, the US Office of Foreign Assets Control introduced the Sectoral Sanctions Identifications List (the "SSIL") and listed several energy-related companies from which the US will identify sanctioned individuals operating in specified sectors of the Russian economy. [\[1\]](#)

What do the Canadian Sanctions Say?

The Canadian government has taken a strong position against Russia and has largely kept stride with the US and the EU. The Canadian economic sanctions impose criminal liability against Canadian persons and companies in Canada and abroad from engaging in the following activities with designated persons and entities:

- dealing in any property, wherever situated, held by them or on their behalf;
- facilitating or providing financial or other related services in respect of such a dealing;
- making any goods, wherever situated, available to them;
- providing any financial or related services to or for their benefit; and
- causing, assisting or promoting any of the above prohibited activities.

What Are the Positive Obligations?

Both the Ukrainian and Russian economic sanctions impose a reporting obligation requiring persons in Canada and Canadians outside of Canada to disclose to the Royal Canadian Mounted Police the existence of property in their possession that may be property of a listed person and of information about any actual or proposed transaction regarding such property.

The sanctions also impose a duty on both federal and provincial financial institutions and financial services companies to determine on a continuing basis whether they are in possession or control of a Designated Person's or entity's property.

What are the Consequences for Non-Compliance?

Canada's sanctions regulations impose criminal liability and are enforced by the Royal Canadian Mounted Police, Public Prosecution Service of Canada and the Canada Border Services Agency. In accordance with section 8 of the *Special Economic Measures Act*,^[2] every person who contravenes the *Special Economic Measures (Ukraine) Regulations*^[3] or the *Special Economic Measures (Russia)*^[4] Regulations is liable to a fine of up to \$25,000. More importantly, individuals convicted under the Act face a term of imprisonment of up to five years. Further, any publicity about a company's non-compliance may result in reputational risk and may hinder a company's lawful export and import activities.

What Do I Do If My Business is Affected By Russian and/or Ukrainian Sanctions?

Should Canadian business activities be restricted or prohibited by the sanctions, permits may be issued by the Minister of Foreign Affairs for specified activities or transactions or any class of activity or transaction, with a designated person that is otherwise restricted or prohibited pursuant to the Regulations.

In the event that a person or businesses listed on the sanction list have reasonable grounds to be delisted, the designated person may apply to the Minister of Foreign Affairs to have their name removed from the sanction list. For example, ExpoBank is currently seeking to be delisted from the *Economic Measures (Russia) Regulations*.^[5]

What Can I Expect Moving Forward?

The Designated Persons, Entities and Sectoral lists in the economic sanctions measures are designed to evolve as the situation in Crimea unfolds. There is no indication that the tensions will subside soon; if anything, they are increasing. The Canadian, American and European governments are re-evaluating the situation on a daily basis and taking measures to respond to Russian activities as they occur.

In a larger sense, the rapidity with which Canada, the US and the EU drafted sanctions and the rate at which they have expanded speak to the growing importance placed on economic sanctions as a foreign policy tool. Beyond the Crimea crisis, it is reasonable to expect that sanctions will crop up as a response to future international crises.

Canadian companies doing business with Ukraine, Russia or other countries potentially targeted by Canada, US and EU sanctions should ensure enhanced diligence in active monitoring of the status of the sanction lists so

that internal trade control compliance programs and screening procedures are updated to reflect the most current sanctions.

by Martin Masse and Monica Podgorny

[1][ps2id id='1' target=''] *Office Of Foreign Assets Control, Sectoral Sanctions Identifications List* The Department of the Treasury.

[2][ps2id id='2' target=''] *Special Economic Measures Act*, SC 1992, c 17.

[3][ps2id id='3' target=''] *Special Economic Measures (Ukraine) Regulations*, SOR/2014-60.

[4][ps2id id='4' target=''] *Special Economic Measures (Russia) Regulations*, SOR/2014-58.

[5][ps2id id='5' target=''] Lee Berthiaume, "[*Russian Bank Enlists Help to Fight Canadian Sanctions*](#)" *The Ottawa Citizen* (4 June 2014).

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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