

# Client Alert

## International Trade

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# EU broadens Ukraine sanctions and adds two companies and 13 individuals to sanctions list



### I. Introduction

On 12 May 2014, the EU Council broadened the scope of EU sanctions in response to the situation in Ukraine. The legal basis for EU sanctions was broadened notably to cover obstruction of the work of international organisations and involvement in the transfer of ownership of entities in Crimea or Sevastopol. In addition, 13 persons and – for the first time – two Crimea-linked companies were added to the list of sanctioned parties. These changes entered into force on 12 May 2014. The EU Council has reiterated that work on possible targeted EU measures continues, to enable further steps depending on future events.

### II. Sanctions

Based on Council conclusions issued on Monday, 12 May 2014,<sup>1</sup> the EU has amended its sanctions in relation to the situation in Ukraine.

First, the EU has decided to **broaden the legal basis for restrictive measures** in response to actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (originally featured in Regulation 269/2014).<sup>2</sup> These changes are made in **Regulation 476/2014**, which was published and entered into force on 12 May 2014.<sup>3</sup>

This means that the EU has expanded the scope of criteria for imposing an asset freeze (and, in the case of persons, a visa ban) on certain parties in relation to the Ukraine crisis. Previously, an asset freeze could be imposed on parties “responsible for” actions which undermine or threaten the territorial integrity, sovereignty, and independence of Ukraine. Now, the EU may more broadly designate parties (and their associates) for “actively supporting or implementing” such related actions and policies, and also for other activities – relating to obstruction of the work of international organizations and the transfer of ownership of entities in Crimea or Sevastopol.

In other words, this amended legal basis enables the EU to impose sanctions on more parties deemed responsible for unrest in Ukraine.

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<sup>1</sup> See [Council conclusions on Ukraine](#) of 12 May 2014.

<sup>2</sup> See [Council Regulation 269/2014](#) of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, [2014] OJ L 78/6.

<sup>3</sup> See [Council Regulation \(EU\) No 476/2014](#) of 12 May 2014 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, [2014] OJ L 137/1.

Second, the EU has decided to add another 13 persons and two entities to the list of parties subject to a visa ban and asset freeze under Regulation 269/2014. This change was introduced through **Implementing Regulation 477/2014**,<sup>4</sup> which also entered into force on 12 May 2014, and brings the total count of this designated parties list to **61 persons and two entities** (see our latest alert from 29 April 2014 on the expansion of this list [here](#)). (This designated parties list is separate from the EU asset freeze list in relation to alleged misappropriation of Ukrainian state funds and human rights violations in Ukraine, which currently features **22 persons**.<sup>5</sup>)

The **13 persons and two entities designated as of 12 May 2014** are as follows:

1. Vyacheslav Viktorovich VOLODIN (*First Deputy Chief of Staff of the Presidential Administration of Russia*)
2. Vladimir SHAMANOV (*Commander of the Russian Airborne Troops, Colonel-General*)
3. Vladimir Nikolaevich PLIGIN (*Chair of the Duma Constitutional Law Committee*)
4. Petr Grigorievich JAROSH (*Acting Head of the Federal Migration Service office for Crimea*)
5. Oleg Grigorievich KOZYURA (*Acting Head of the Federal Migration Service office for Sevastopol*)
6. Viacheslav PONOMARIOV (*Self-declared mayor of Slaviansk*)
7. Igor Mykolaiovych BEZLER (*One of the leaders of self-proclaimed militia of Horlivka*)
8. Igor KAKIDZYANOV (*One of the leaders of armed forces of the self-proclaimed 'Donetsk People's Republic'*)
9. Oleg TSARIOV (*Member of the Rada*)
10. Roman LYAGIN (*Head of the 'Donetsk People's Republic' Central Electoral Commission*)
11. Aleksandr MALYKHIN (*Head of the 'Lugansk People's Republic' Central Electoral Commission*)
12. Natalia Vladimirovna POKLONSKAYA (*Prosecutor of Crimea*)
13. Igor Sergeievich SHEVCHENKO (*Acting Prosecutor of Sevastopol*)
14. PJSC CHERNOMORNEFTEGAZ (*Enterprise effectively confiscated by the Crimean 'authorities' on 17 March 2014*)
15. FEODOSIA (*Enterprise effectively confiscated by the Crimean 'authorities' on 17 March 2014*)

As a result of the asset freeze, all funds and economic resources belonging to, or controlled by, the listed persons and that fall under EU jurisdiction (e.g., held by EU banks) will be frozen. Furthermore, *no funds or economic resources may be made available – directly or indirectly – to or for the benefit of the listed persons by parties falling under EU jurisdiction.*

Member States can authorise derogations from the asset freeze in certain limited circumstances. There are two notable situations (in addition to the standard provisions relating to basic needs, legal services, etc.): first, where

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<sup>4</sup> See [Council Implementing Regulation \(EU\) No 477/2014](#) of 12 May 2014 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, [2014] OJ L 137/3.

<sup>5</sup> As first established on 6 March 2014 through [Council Regulation 208/2014](#) and expanded on 15 April 2014 through [Council Implementing Regulation 381/2014](#) (see our alert of [15 April 2014](#)).

release of funds is to satisfy a court or arbitral decision that predates the asset freeze, where the beneficiary is not the listed person; and, second, where a payment by a listed party is due under a contract that pre-dates the asset freeze provided the payment does not benefit that listed party.

These sanctions apply to the **EU territory** (including its airspace), **nationals of EU Member States** (including those located outside the EU), and **on board vessels and aircraft under Member State jurisdiction**. Sanctions further apply to **companies incorporated or registered under the law of an EU Member State** and **to other non-EU companies in respect of business done in whole or in part in the EU**. This means that non-EU companies can be covered by the newly adopted measures, depending on the particular circumstances under which they perform their business activities in the EU.

### III. Related developments and next steps

With respect to potential further expansion of EU sanctions in response to Ukraine-related developments, the Council reiterated in its conclusions of 12 May 2014 that the work on a proposal for possible targeted measures continues to enable further steps depending on future events. While the Council statement confirms that particular attention will be paid to the upcoming Ukraine elections in this context, the timing of such potential additional EU sanctions continues to be unclear.

For additional information about US and EU sanctions, see <http://www.whitecase.com/ukraine-news-update/>.

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