

# ClientAlert

## White Collar

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### Pulling the Purse Strings: Ukraine Forum on Asset Recovery Pursues Funds of Former Senior Government Officials

Led by the United States and the United Kingdom, the international community met this week to take steps to trace assets allegedly stolen through corruption by former Ukrainian leaders and return them to Ukraine. Senior government officials, policy makers, judicial experts, prosecutors, financial intelligence analysts and regulators met Tuesday and Wednesday in London at the Ukraine Forum on Asset Recovery (UFAR) to have a direct exchange and plan practical steps. As happened with the Arab Forum on Asset Recovery formed in 2012 following the Arab Spring, the formation of the group likely heralds a host of potential enforcement actions—not only freezing and forfeiture of potentially stolen assets, but possible wide-ranging bribery and money laundering investigations akin to those now being conducted in relation to Libya—for those suspected of involvement in the theft of assets, as well as those institutions and businesses where former Ukrainian officials' assets are located.

Following closely on the heels of sanctions and freeze orders by the European Union and the United States, the primary objectives of UFAR include facilitating international cooperation for the early tracing of assets and identifying specific capacity building needs for Ukraine. US Attorney General Eric Holder announced at the conference that the Department of Justice would be placing a Justice Department attorney in Kyiv to work exclusively on asset recovery and mutual legal assistance. He also announced the formation of a dedicated kleptocracy squad within the FBI.

UFAR's organizers, the United States and the United Kingdom, have long been the most aggressive in recovering and repatriating assets of corrupt officials and have formed units specifically to address the issue since the entry into force of the United Nations Convention Against Corruption, which, among other international commitments, contains a critical chapter on the return of the proceeds of corruption to countries of origin.

The United States has taken steps to enhance the reach and effectiveness of its asset recovery efforts. After September 11, 2001, the United States passed the PATRIOT Act, which included acts of wholly foreign corruption as a predicate act for money laundering and asset recovery for the first time. In 2010, the US Department of Justice's Kleptocracy Initiative was formed to target proceeds of high-level corruption abroad, to bring kleptocrats to justice and to create barriers in the US financial system against illegal money flows. The Initiative has recovered more than US\$450 million belonging to corrupt Nigerian officials and recently filed a civil forfeiture complaint against property belonging to the former president of the Republic of Korea.



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Ukrainian officials are not new territory for the Kleptocracy Initiative. The precursor to the unit previously prosecuted former Ukrainian Prime Minister Pavel Lazarenko for money laundering, related to the more than US\$200 million he was believed to have taken during his tenure. Lazarenko was ultimately sentenced to 97 months in prison.

Previously, US law enforcers have pursued financial institutions that hold funds belonging to corrupt governments and political leaders for failing to adequately prevent the deposit of corrupt assets. For example, in 2004, investigators found that Riggs Bank failed to monitor very large suspicious transactions involving accounts it held for former Chilean dictator General Pinochet, the Saudi Arabian embassy and the government of Equatorial Guinea. Riggs was criticized for helping these account holders disguise and wire funds even when assets were frozen and for failing to inquire about the source of large cash deposits. Although Riggs ultimately pled to only one count of failing to file suspicious activity reports and paid a little more than US\$40 million in civil and criminal fines, the action proved to be a death blow to Riggs.

The United Kingdom has likewise been very aggressive in pursuing the recovery of stolen assets, led by specialized teams in the City of London Police, the Metropolitan Police and the Crown Prosecution Service, which were recently given increased funds by the UK government specifically for stolen asset recovery. The United Kingdom has not only recovered and repatriated hundreds of millions of pounds in corruption proceeds, it has brought multiple charges against individuals who participated in a number of cases, most notably in Nigeria.

The combination of these two asset recovery powerhouses in UFAR likely spells an international enforcement effort that could go well beyond civil forfeiture efforts. Such concentrated reviews of deposed regimes often spawn further investigations for bribery, sanctions or other crimes. Given how wide-ranging previous similar inquiries have been, any number of institutions may be swept up in significant multijurisdictional investigations for some time to come. Internal reviews of relationships to identify red flags ahead of any governmental inquiries may substantially assist in reducing any issues, which can place organizations in a far better position if law enforcement comes knocking.

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