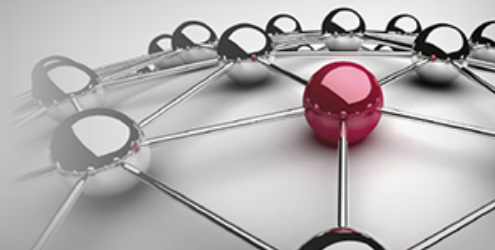


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# Global Connection



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## The Russia-Ukraine Conflict: How to Prepare for Looming Sanctions

By Brett W. Johnson, Derek Flint and Mary Colleen Fowler

As the Russia-Ukraine conflict escalates, the U.S. Government has started to implement new sanctions on Russian entities on top of the ones that already existed. On February 21, 2022, the Executive Order on Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to Continued Russian Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine (the “Order”) was issued.<sup>1</sup> The Order seeks to cut Russia off from Western financing by prohibiting Western individuals from investing, trading, or financing in the separatist regions. Companies should be prepared to address the current and future sanctions against Russia—and others—to help avoid operational and supply chain disruptions.

Specifically, some of the sanctions in the Order target Russian financial institutions, including Vnesheconombank, Promsvyazbank, and their subsidiaries. This portion of the Order seeks to eliminate Russia’s primary means of raising funds by preventing U.S. entities from buying Russian sovereign debt. In addition, the U.S. Department of Treasury updated the Office of Foreign Asset Control’s Specially Designated Nationals list to include designated individuals who operate or have operated in the financial services sector of the Russian economy. It is expected that additional financial institutions – in and out of Russia – will be added to this list and may directly impact several industries globally, primarily in regard to energy.

Following up on the Order, on February 23, 2022, the Biden administration also issued sanctions against the Nord Stream 2 pipeline, which is a sign that sanctions will continue to impact the gas and oil industries. Of note, European countries, including Germany, have now followed suit, issuing similar sanctions against the Nord Stream 2 pipeline. Additional sanctions are likely—both from the U.S. government and European governments—as Russia pushes deeper into Ukrainian territory. As with sanctions that have existed since 2014, there will likely be intricate “triggers” related to the sanctions that may not be applicable to every transaction related to Russia and Ukraine.

In light of the fluid sanctions environment, U.S. companies face substantial exposure throughout their supply chains. To help mitigate this exposure, companies should evaluate the impact of current and future sanctions on their supply chains. They should also evaluate *force*

*majeure* provisions in contracts that may be impacted by the Russia-Ukraine conflict, and consider notifying customers and suppliers about potential disruptions. The notification requirements (timeline to provide such notification) are at times overlooked, which companies should be aware. Companies will likely be in a better situation in future legal disputes with vendors and customers if they can point to compliance with contractual provisions, government guidance, and, most importantly, declarations and regulations.

Companies should also review their policies and procedures—including procedures for screening entities and individuals against sanctions lists—to help ensure that contingency plans are in place. Even companies with developed response plans should consider reviewing their procedures to account for new sanctions. Specifically, ensuring that entities in the supply chain (including financiers and investors) are screened against the various denied parties' lists maintained by the United States, Canada, and Europe may be crucial at this time. This includes transactions that have already been screened and are currently being performed, not just future business opportunities.

Continuity of operations can be critical. Ongoing planning can help alleviate, or at least mitigate, potentially devastating financial and legal consequences. It is not too late for companies to review their policies and procedures in an effort to anticipate all types of emergencies and establish a plan that will help ensure continuity of operations. Flexibility, while maintaining legal defenses, can be the key to ensuring a strong global supply chain.

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Note:

[1]Executive Order available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/02/21/executive-order-on-blocking-property-of-certain-persons-and-prohibiting-certain-transactions-with-respect-to-continued-russian-efforts-to-undermine-the-sovereignty-and-territorial-integrity-of-ukraine/>.



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