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Russia Sanctions: How Do They Affect Your Business

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Overview

1. Scope of Sanctions
2. When Sanctions Apply: Establishing a 'Nexus'
3. Impact of Sanctions
 - a. Asset freezes
 - b. Trade (and other) restrictions
4. Action
5. Checklist

1. Scope of Sanctions

Sanctions regimes

- US
- UK
- EU
- Many others ... Australia, Japan, South Korea, Switzerland, Canada ...

What sanctions?

- **Asset freezes** ('designated' 'denied' 'listed' party)
- **Substantive measures**
 - Trade restrictions
 - financial services
- **Region-specific**

2. When Sanctions Apply: Establishing a 'Nexus'

EU

- EU citizens (worldwide)
- EU-incorporated entities
- Business conducted in EU

UK

- UK citizens (worldwide)
- UK-incorporated entities
- Business activity conducted in UK
- Other 'sufficient nexus'

US

- US citizens and perm residents (worldwide)
- All persons in US
- US-incorporated entities and foreign branches
- Other nexus: US servers; USD transactions; certain transactions; 'controlled' US goods

3a. Impact of Sanctions: Asset Freezes

Scope:

- Freezing of funds and economic resources of sanctioned entity
- Prohibition on 'making funds or economic resources' available directly or indirectly
- No 'circumvention' of sanctions
- Note:
 - Broad definitions
 - Licences / 'winding down'
 - Knowledge

Addressees:

- Putin and members of the Russian Parliament, high-level officials, bankers, businesspeople (c. 1000+)
- Banks (including Central Bank of Russia)
- Other entities (e.g. the Russian Internet Research Agency)
- Individuals from Belarus
- Non-listed entities "owned or controlled" by listed entity (note: nuances between regimes)

3b. Impact of Sanctions: Trade (and other) Restrictions

Export Restrictions, including:

- Dual-use items + related services
- Sector-specific: defence/security; aviation; oil-refining
- Ban on export of certain luxury goods, machinery, chemicals, plastics
- All associated technical/brokering support for banned items (note: UK/EU vs US)
- Limited humanitarian/public health exceptions

Import Restrictions

- Certain precious metals; iron and steel products; fish/seafood/alcohol products (US)
- Oil and oil-related products of Russian origin (allowing products transiting Russia)

3b. Impact of Sanctions: Trade (and other) Restrictions

Services Restrictions, including:

- Financial services:
 - Restrictions on new loans/credit (including payment terms)
 - Banks (access to Swift; clearing payments in certain currencies)
 - Deposit cap in EU accounts (and UK when enacted)
 - US ban on all “new investment” in Russia
- Accountancy, consultancy, (re)insurance, trust and (US) corporate formation services
- Energy related services (supporting oil infrastructure etc)
- Legal services generally not prohibited (but beware overlap with other prohibited services in US)

Regional Trade Restrictions: Crimea, Donetsk & Luhansk

4. Action

1. **Assess impact of sanctions**
2. **Stop any prohibited activity** – NB:
 - a. new strict liability offence (UK)
 - b. Severe penalties (US; growing UK)
 - c. Reputational damage
3. **Review contractual rights/obligations:** force majeure; MAC; sanctions clauses
4. **Consider work-arounds:** where/how transactions conducted; supply chains etc
5. **Establish compliance arrangements:** manage risk and (poss) exculpatory

5. Checklist

- ✓ Do I have business in Russia, Belarus or a Ukrainian independent region?
- ✓ Do I fall under EU, UK, US (or other) jurisdiction?
- ✓ Are my business activities covered by the scope of the sanctions?
- ✓ Are any business partners sanctioned parties?
- ✓ Do I receive/make payment to/from Russia?
- ✓ What is my financial risk?
- ✓ How flexible is my business? Can I address/manage impact?
- ✓ What are my contractual obligations/rights – use of MAC, force majeure, sanctions clauses?
- ✓ Have I got the right procedures/policies/training in place for the future?

Your Speaker



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Ashley Craig maintains a diverse practice advising on a host of domestic and international regulatory compliance concerns. Ashley counsels both U.S. and non-U.S. companies on transactional matters and cross-border legal/regulatory and policy concerns, concentrating on export controls, economic sanctions, technology transfers, Customs compliance, and transport (all modes) regulation. Ashley regularly appears on behalf of clients before executive branch agencies and congressional committees with oversight of global commercial matters, foreign investment, transport/logistics, and economic regulation.