

Fried Frank International Trade and Investment *Alert*TM

U.S. Imposes Embargo on the Donetsk and Luhansk People's Republics and Announces New Russia Sanctions

On February 21, 2022, President Biden issued [Executive Order](#) 14065 (“the EO”) placing comprehensive sanctions and investment restrictions on the Donetsk People’s Republic (DNR) and Luhansk People’s Republic (LNR) regions of Ukraine. The EO broadly prohibits transactions in or with the DNR and LNR. The Office of Foreign Assets Control (“OFAC”) also imposed additional sanctions targeting Russia’s financial sector, including an expansion of the existing prohibition on dealings in Russian sovereign debt and blocking sanctions on two Russian banks. The Biden Administration described these moves as the first of what will likely be a series of sanctions announced in response to the escalating crisis in Ukraine.

Embargo on the Donetsk and Luhansk People’s Republics

The EO prohibits (1) new investment in the DNR or LNR, (2) the importation, directly or indirectly, of any goods, services, or technology from the DNR or LNR, and (3) the exportation, reexportation, sale, or supply from the United States or by a U.S. person of any goods, services, or technology to the DNR or LNR. The EO further prohibits any approval, financing, facilitation, or guarantee by a U.S. person of a transaction by a foreign person that would be prohibited if the transaction were performed by a U.S. person or within the United States.

Notably, the EO does not specify whether the DNR and LNR regions include the entirety of the Donetsk and Luhansk oblasts in Ukraine or only the territory under the control of the DNR and LNR. The Office of Foreign Assets Control (“OFAC”) may issue guidance clarifying the territorial scope of the EO’s prohibitions.

The EO also authorizes OFAC to block the property of any person determined by the Secretary of the Treasury:

- (i) to operate or have operated since the issuance of the EO in the DNR or LNR,
- (ii) to be or have been a leader, official, senior executive officer, or member of the board of directors of a company operating in the DNR or LNR,
- (iii) to be owned, or controlled by, or have acted or purported to act for or on behalf of any person whose property is blocked pursuant to the EO, or

- (iv) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property is blocked pursuant to this EO.

As of February 22, 2022, no persons have been designated pursuant to the EO, although the U.S. will likely designate persons in the coming days. Previously, however, certain DNR and LNR political and military leaders were designated on the Specially Designated Nationals and Blocked Persons List (“SDN List”) pursuant to other U.S. sanctions regimes.

In conjunction with the new EO, OFAC issued the following six general licenses, which are common among OFAC sanctions programs:

- **General License 17 - Wind down of transactions:** This general license authorizes transactions that are ordinarily incident and necessary to the wind down of transactions involving the DNR or LNR, including the divestiture or transfer of a U.S. person's share of ownership in investments located in the DNR or LNR. Such wind-down transactions are authorized until March 23, 2022.
- **General License 18 - Exportation of agricultural commodities, medicine, and medical devices:** This general license, similar to licenses issued in connection with other U.S. sanctions programs, authorizes the exportation or reexportation of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices.
- **General License 19 - Transactions related to telecommunications and mail:** This general license authorizes transactions that are ordinarily incident to the receipt or transmission of telecommunications. It does not, however, authorize the sale or lease of telecommunications equipment or technology or telecommunications transmission facilities.
- **General License 20 - Official business of certain international organizations and entities:** This general license authorizes all transactions that are for the conduct of the official business of the United Nations, the International Committee of the Red Cross, the Organization for Security and Co-operation in Europe (OSCE), and other enumerated international organizations.
- **General License 21 - Noncommercial, personal remittances:** This general license authorizes transactions that are ordinarily incident and necessary to the transfer of noncommercial, personal remittances to or from the DNR or LNR or for or on behalf of individuals resident in the DNR or LNR. Charitable donations of funds that are to be used to support or operate a business, including a family-owned business, are not authorized by this general license.
- **General License 22 - Exportation of services and software incident to internet-based communication:** This general license authorizes the export of services incident to the exchange of personal communications over the internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging. The export of related software is authorized provided that the software is classified as EAR99 or as “mass market” software under 5D992.c.

With the exception of General License 18, these general licenses do not authorize transactions with any person whose property or interests are blocked pursuant to the EO. These general licenses, like the EO itself, are modeled after the [sanctions placed on Crimea](#) in 2014 following Russia’s occupation of Crimea.

Sanctions on Russia's Financial Sector

In addition, on February 22, 2022, OFAC published Directive 1A under [Executive Order 14024](#), which was issued in April 2021 as a response to Russia's election interference and malicious cyber activities. Directive 1A prohibits U.S. financial institutions from participation in the secondary market for ruble or non-ruble denominated bonds issued after March 1, 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation. Under a previously issued directive (Directive 1), U.S. financial institutions were already prohibited from participating in the primary market for Russian sovereign debt. Directive 1A extends that prohibition to the secondary market. Simultaneously with the issuance of Directive 1A, OFAC issued two general licenses that allow for the winding down of transactions through March 1, 2022 and the servicing of bonds issued before March 1, 2022.

Also pursuant to Executive Order 14024, OFAC announced new blocking sanctions on VEB and Promsvyazbank, a military bank, as well as 42 of their subsidiaries. OFAC also imposed sanctions on three individuals who operate within President Putin's inner circle. In a [statement](#), Treasury Secretary Janet Yellen explained that these sanctions "begin the process of dismantling the Kremlin's financial network and its ability to fund destabilizing activity in Ukraine and around the world." Treasury Secretary Yellen also issued [a determination](#), pursuant to Executive Order 14024, authorizing additional future sanctions against individuals and entities that operate in the financial services sector, suggesting that the sanctions on VEB and Promsvyazbank may be followed by sanctions on other Russian banks or oligarchs.

Key Takeaways:

The EO and new restrictions on investing in Russian sovereign debt are the first set of additional sanctions imposed in response to the escalating crisis in Ukraine. These measures were taken in response to Russia's decision to formally recognize the DNR and LNR. In a [press release](#) announcing these sanctions, the White House left open the possibility of further sanctions, stating "these measures are separate from and would be in addition to the swift and severe economic measures we have been preparing in coordination with Allies and partners should Russia further invade Ukraine." The White House has also announced that it is closely consulting with allies, including the United Kingdom and Germany.

While the impact of these sanctions may be limited, given the scale of existing U.S. investment in the DNR and LNR, companies should review their dealings with Russian and Ukrainian persons and their export control and sanctions policies to ensure compliance with these new sanctions. If you have any questions regarding these sanctions or how they may affect your business, please reach out to the contacts listed below.

