

FEBRUARY 22, 2022

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U.S. IMPOSES SANCTIONS AFTER PUTIN RECOGNIZES SELF-DECLARED REPUBLICS IN EASTERN UKRAINE

On Monday February 21, 2022, the Biden Administration issued a **new Executive Order** ("the Order") imposing sanctions on the self-declared republics of Donetsk and Luhansk in Eastern Ukraine ("DNR" and "LHR," respectively). The Order creates an embargo on the two regions, prohibiting: (i) direct or indirect export, reexport, sale, or supply, from the United States or by a U.S. person of any goods, services, or technology to the regions; (ii) direct or indirect import into the United States of any goods, services, or technology from the regions; (iii) new investment by U.S. persons in the regions; and (iv) any approval, financing, facilitation, or guarantee by a U.S. person of any such transactions by foreign persons. The Order also authorizes the imposition of asset-blocking sanctions on any party determined (i) to operate in the regions; (ii) to be a leader, official, senior executive officer, or member of the board of directors of an entity operating in the regions; (iii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, any person blocked under the Order; 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 blocked under the Order. The Order authorizes imposition of the same

sanctions on "such other regions of Ukraine" as the Secretaries of Treasury and State in the future designate, so the embargo may spread as the situation in Ukraine evolves.

OFAC issued five general licenses ("GL") authorizing activities that would otherwise be prohibited by the new sanctions, as follows:

- **GL 17** authorizing wind-down activities, including transfer to foreign persons of U.S. person interests in pre-Order investments in the region, until 12:01 a.m. eastern daylight time, March 23, 2022, except any transactions involving any party blocked under the Order.
- **GL 18** authorizing (i) direct and indirect export and reexport of agricultural commodities, medicine, medical devices, replacement parts and components and software updates for medical devices, and (ii) activities for the prevention, diagnosis, or treatment of COVID-19 (including related research or clinical studies) in the regions. Agricultural commodities, medicine and medical devices are defined terms. Notably, the definition of agricultural commodities excludes agricultural equipment.

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- **GL 19** authorizing (i) transactions ordinarily incident and necessary to the receipt or transmission of telecommunications, and (ii) transactions by common carriers ordinarily incident and necessary to the receipt or transmission of mail and packages. The Order excludes: (i) any transaction involving parties blocked under the Order; and (ii) provision, sale, or lease of telecommunications equipment or technology or capacity on telecommunications transmission facilities (such as satellite or terrestrial network activity).
- **GL 20** authorizing official business of the following entities carried out by employees, grantees, or contractors thereof: (i) the United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations; (ii) the International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA); (iii) the African Development Bank Group; (iv) the Asian Development Bank; (v) the European Bank for Reconstruction and Development; (vi) the Inter-American Development Bank Group (IDB Group); (vii) the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies; and (viii) the Organization for Security and Co-operation in Europe.
- **GL 21** authorizing transactions ordinarily incident and necessary to: (i) the transfer of noncommercial, personal remittances to, from, or for or on behalf of an individual ordinarily resident in, the regions, provided that the transfer is not by, to, or through any party blocked under the Order; and (ii) maintaining, operating, or closing an account of an individual ordinarily resident in the regions, other than an individual blocked under the Order, provided that all transactions processed through the account: (a) are of a personal nature and not for the benefit of an entity, including supporting or operating a business; and (b) do not involve transfers directly or indirectly to the regions, or for the benefit of persons ordinarily resident in the regions, except as otherwise authorized by the GL.
- **GL 22** authorizing (i) services from the United States or by U.S. persons 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); and (ii) direct or indirect export or reexport from the United States or by U.S. persons of software necessary to enable such services, provided that the software is classified as EAR99 or ECCN 5D992.c or, if not

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This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

subject to U.S. Export Controls, is not listed under any multilateral export control regime. The GL excludes transactions undertaken with reason to know that they will benefit a party blocked under the Order.

The Order does not define the geographic area of DNR or LHR, and the scope of the regions may change as facts on the ground in Ukraine change. A **2018 UNICEF Report** contains a map indicating the cities not under Ukrainian government control, and other sources on the internet offer a variety of maps including **this** and **this**.

More Russia sanctions: President Biden just announced that, in addition to the sanctions announced yesterday (embargo on DPR and LHR regions), the US will: (1) impose blocking sanctions on two Russian banks: VEB (Vnesheconombank) (which was previously subject to targeted

restrictions under Directive 1 of the Sectoral Sanctions), and "Russia's Military Bank" (not clear which bank this is yet, but it might be Promsvyazbank, also known as PSB and PSBank); (2) by agreement with Germany, halt the Nordstream2 pipeline project, (3) prohibit dealings in Russian sovereign debt, and (4) announce (tomorrow) sanctions on as-yet unidentified "Russian elites and their family members". As a reminder, US blocking sanctions typically extend to any party owned 50% or more by one or more blocked parties, so watch out for entities owned by the newly sanctioned parties. More sanctions may follow, so stay tuned.

For more information and advice regarding U.S. economic sanctions, please contact **Tahlia Townsend**, co-chair of Wiggin and Dana's International Trade Compliance practice group, at **ttownsend@wiggin.com**.