LEGAL UPDATES

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Ukraine-Related Sanctions Update: OFAC Issues Sanctions Regulations; President Withdraws GSP Status for Russia

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CORTNEY O'TOOLE MORGAN

WASHINGTON:

202.378.2389

CORTNEY.MORGAN@HUSCHBLACKWELL.COM

Recently, the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) promulgated regulations which formally implement the Ukraine-related sanctions set forth in Executive Orders 13660 ("Blocking Property of Certain Persons Contributing to the Situation in Ukraine"), 13661 ("Blocking Property of Additional Persons Contributing to the Situation in Ukraine"), and 13662 ("Blocking Property of Additional Persons Contributing to the Situation in Ukraine"). OFAC has made numerous designations of entities and individuals under the executive orders, which can be reviewed here.

The new regulations, entitled the Ukraine-Related Sanctions Regulations (URSR) 31 CFR Part 589, have been published in abbreviated form in an effort to provide immediate guidance to the public. OFAC has indicated that it intends to supplement the regulations in the near future with a more comprehensive set of regulations which may include additional guidance on interpretations and definitions, as well as additional general licenses and statements of licensing policy.

The URSR set forth general licenses authorizing certain activity, including:

1. Payments and transfers to blocked accounts in U.S. financial institutions;

2. Debits from blocked accounts by U.S. financial institutions for normal service charges;

3. The provision of certain legal services to or on behalf of blocked persons;

4. Payments from funds originating outside the United States for reimbursement of professional fees and legal services expenses; and

5. The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked.

The URSR also sets forth that property and interests in property are “blocked” if a person’s ownership interest is “50 percent or more”.

In addition to these economic sanctions, the U.S. Departments of State and Commerce have also instituted new restrictions on exports and re-exports to Russia and Crimea under the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). These recent restrictions follow the Department of Commerce’s Bureau of Industry and Security (BIS) hold on issuing new licenses for exports and re-exports to Russia of items subject to the EAR issued on March 1, 2014 and the State Department’s Directorate of Defense Trade Controls (DDTC) hold on issuing new licenses for the export and re-export of defense items issued on March 27, 2014. BIS and DDTC further announced on April 28, 2014 that they will deny new and pending license applications (and may revoke previously issued licenses) for exports and re-exports of “high technology” articles which could contribute to Russia’s military capabilities. BIS has also added 13 Russian entities (also designated by OFAC) to its Entity List.

President Obama also recently announced his intent to withdraw beneficiary developing country status for Russia under the Generalized System of Preferences (GSP). The GSP is a program designed to promote economic growth in the developing world by providing preferential duty-free entry for up to 5,000 products when imported from certain designated beneficiary countries; the program lapsed on July 31, 2013, but may be reinstated in the future with retroactive effect. The President determined that “Russia is sufficiently advanced in economic development and improved in trade competitiveness that continued preferential treatment under the GSP is not warranted.”

What This Means to You

The situation relating to Ukraine-related economic sanctions and export controls is developing rapidly. Companies should assess the nature and extent of their business in Russia and Ukraine to understand any potential exposure these regulations may present.

Contact Us

If your company has questions concerning the applicability of these recent regulations to its business or requires advice on any specific transactions or plans, please contact Cortney Morgan in Husch Blackwell’s Washington, D.C. office or Linda Tiller in Husch Blackwell’s Kansas City office.