

President Obama Signs Ukraine Bill Into Law

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Sanctions Provisions:

The new law provides additional authority for the President to further expand targeted sanctions against individuals that participate in certain activities in Ukraine and Russia. While the President has already imposed sanctions against 31 Russian and Ukrainian individuals and one Russian bank under existing Executive Orders, this new law provides the President additional authority to designate additional individuals and entities based on additional grounds.

Specifically, Section 8 of the law requires President Obama to impose targeted sanctions, including visa bans and asset freezes, on “any person” determined to have participated in, or materially aided, certain activities, including:

1. Perpetrating, ordering, controlling or otherwise directing, significant acts of violence or “gross human rights abuses” in Ukraine against persons associated with antigovernment protests that began on November 21, 2013; and
2. Perpetrating, ordering, controlling or otherwise directing significant acts intended to undermine the peace, security, stability, sovereignty or territorial integrity of Ukraine.

Section 8, further requires the President to impose sanctions, including asset freezes and visa bans, on Russian government officials or their close associates who are deemed responsible for or complicit in ordering, controlling or directing “acts of significant corruption” in Ukraine. Moreover, the law authorizes and encourages the President to impose additional sanctions on Russian government officials and their close associates who are associated with “significant corruption” within Russia. “Acts of significant” corruption include, but are not limited to

“expropriation of private or public assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation or transfer of the proceeds of corruption to foreign jurisdictions.”

Finally, the law provides that the President’s authority to block property of persons designated pursuant to this law “shall not include the authority to impose sanctions on the importation of goods.” At this point, it is unclear how this language will be implemented. For instance, it is unclear whether this exception would permit U.S. persons to import goods from those designated under the law if such designated person has an existing property interest in the goods upon importation into the United States.

Other Anti-Corruption Provisions:

The law provides expedited assistance to Ukraine to identify and recover assets linked to acts of corruption by former President Viktor Yanukovich, members of his family, and other former or current officials of the Ukrainian government, including accomplices. The law specifically provides this expedited support through the U.S. Department of Justice’s Kleptocracy Asset Recovery Initiative and the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”). These U.S. agencies are to coordinate with international partners, including the Egmont Group of Financial Intelligence Units, the Stolen Asset Recovery Initiative – a joint initiative of the World Bank Group (“StAR”) and the United Nations Office on Drugs and Crime (“UNODC”); the Camden Asset Recovery Inter-Agency Network (“CARIN”) and the Global Focal Point Initiative of the International Criminal Police Organization (“INTERPOL”).

The Kleptocracy Asset Recovery Initiative has had success in investigating, freezing and recovering assets of foreign corrupt government officials, including the recent seizure of more than \$458 million stolen by a former Nigerian dictator and hidden in foreign financial institutions. The anti-corruption provisions in the new law will likely focus similar international investigations toward recovery of assets corruptly seized by current and former Ukrainian officials, and could subject banks and companies connected with seized assets to increased scrutiny by U.S. and other international enforcement agencies.

Economic Support and Other Provisions:

The new Ukraine law includes other provisions to strengthen Ukraine’s economy and democratic institutions, including authorization of funds to provide technical support to boost democratic governance, rule of law and civil society in Ukraine, as well as to reduce

corruption. The law also provides for economic assistance to Ukraine, including a \$1 billion loan guarantee. Finally, the law provides for security cooperation with Ukraine and other countries in the region, and generally sets forth U.S. policy toward Ukraine.

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