

ADVISOR

SANCTIONS — A RISK MANAGEMENT VIEWPOINT

The political upheaval in Ukraine — including Russia’s annexation of Crimea — has created risk management implications, especially throughout Central and Eastern Europe, with broader global implications. In response to these recent developments, the US, the EU, Canada, and other governments have implemented sanctions against Russia. Discussions of potential additional sanctions are ongoing.

As of the date of this writing, the sanctions chiefly target specifically designated Russian politicians and business leaders in President Vladimir Putin’s inner circle, with travel bans and asset freezes against those individuals. There are also certain restrictions on arms trade.

US sanctions are broader and prohibit all transactions with designated individuals and Rossiya Bank, as well as entities owned (50% or more) by these designated parties.

Russia has responded with travel bans and certain other sanctions against named government politicians from the US, the EU, and Canada.

Additional sanctions may be enacted as the situation in Ukraine continues to develop. Such sanctions could be imposed against specific Russian financial institutions or other companies. The extent to which sanctions are broadened or narrowed remains uncertain.

Marsh continues to monitor these global developments and to assess their potential impact upon our clients’ global insurance programs. We recommend that multinational organizations discuss these sanctions with their own legal counsel to understand the potential impact on their operations and any resulting change to their organizations’ risk profiles. While it is impossible to predict future developments with certainty, organizations that do business with Russia and/or Ukraine may wish to consider the following practical questions:

DOES THE ORGANIZATION HAVE A MECHANISM FOR IDENTIFYING WHETHER ANY OF ITS GLOBAL OPERATIONS ARE DOING BUSINESS WITH INDIVIDUALS OR BUSINESSES THAT MAY BE THE SUBJECT OF GOVERNMENT SANCTIONS?

Consider whether the company screens its clients and payees against trade sanctions watch lists. Examples of such watch lists are those maintained by the United Nations Security Council, the US Department of the Treasury’s Office of Foreign Assets Control (OFAC), and other US and foreign government regulators.

DO ANY OF THE ORGANIZATION’S OPERATIONS HAVE CONTACT WITH OR INTERACT WITH THE INDIVIDUALS OR BUSINESSES THAT ARE THE SUBJECT(S) OF THE EXISTING GOVERNMENT SANCTIONS OR WITH COMPANIES OWNED OR CONTROLLED BY SUCH PERSONS?

If the answer is “yes,” Marsh recommends immediately seeking the advice of legal counsel to ensure compliance with sanctions.

ARE THE ORGANIZATION’S INTERNATIONAL OPERATIONS AWARE OF SANCTIONS AND IS THERE A PLAN IN PLACE TO ENSURE OPERATIONAL COMPLIANCE WITH EXISTING SANCTIONS AND/OR POTENTIAL FURTHER SANCTIONS?

Creating and maintaining clear lines of communication with international subsidiaries can help to ensure alignment of purpose and may speed identification and resolution of any business activities that may not be fully compliant with sanctions.

WILL THE ORGANIZATION BE ABLE TO MAKE RECOVERIES UNDER AN INSURANCE POLICY IF THERE ARE SANCTIONS?

Coverage under any insurance policy is always subject to laws as well as the terms and conditions of the policy. On a broad basis, if a law or regulation prohibits an insurer from making payments under a policy, then that prohibition likely will supersede any policy language and expectation of payment.

DO THE ORGANIZATION'S CURRENT INSURANCE POLICIES CONTAIN EXCLUSIONS OR CANCELLATION WORDING INVOLVING SANCTIONS?

Insurance policies may exclude or limit coverage due to sanctions, or call for policy termination in the event of sanctions. These provisions vary from policy to policy. Multinational organizations should review the terms and conditions of their insurance policies to better understand how each will respond.

DOES THE ORGANIZATION CURRENTLY PURCHASE POLITICAL RISK, TRADE CREDIT, OR OTHER TYPES OF INSURANCE THAT MAY BE CALLED UPON IN THE EVENT OF LOSS DUE TO ESCALATING TENSIONS IN THE REGION?

Multinational organizations should pay special attention to analyzing such policies, which may have reporting obligations that require them to report situations that are likely to give rise to a loss — or could include conditions that require them to cease new shipments. Organizations should maintain an open line of communication with insurance underwriters to obtain any necessary approval before taking actions to minimize loss. For trade credit insurance, it is important to monitor approved buyer credit limits to watch for insurer limit reductions and cancellations.

DOES THE ORGANIZATION RELY UPON SUPPLIERS (OR CUSTOMERS) THAT MAY BE AFFECTED BY THE EXISTING OR FUTURE SANCTIONS?

The risk issues associated with sanctions may go well beyond an organization's own operations. Multinational organizations may wish to identify alternative suppliers of critical materials or services in order to ensure continuity of business.

As with any fluid situation, a key risk management strategy is to maintain a clear line of sight to current events and place them into context. The above considerations outline a pragmatic strategy for considering sanctions and should be aligned with additional steps that multinational organizations may consider. For more information, please contact your Marsh representative.

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