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Ukraine conflict sparks sanctions warning for Australian financial services entities

Recent changes to Australia's autonomous sanctions regime in response to Russia's invasion of Ukraine have highlighted the need for Australian financial services entities and other internationally exposed businesses to ensure that their monitoring and compliance activities are up-to-date and able to quickly respond to further developments.

While the recent introduction of Magnitsky-style thematic sanctions has received a great deal of attention, the Government has so far only exercised its existing country-specific powers under the *Autonomous Sanctions Act 2011* (Cth). Those powers give the Minister for Foreign Affairs broad discretions, including to prohibit commercial activities involving countries or regions and dealings with designated persons or entities.

According to *Castellum.Ai*, Russia is now the world's most sanctioned country, with an additional 4,053 sanctions imposed since 22 February 2022. This includes 464 additional Australian sanctions, which the Minister for Foreign Affairs has implemented by measures such as expanding the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Russia and Ukraine) List 2014*. Australian companies and individuals are prohibited from dealing with individuals and entities on this list.

At the time of writing, this list includes 612 designated persons and 74 designated entities, including the Russian Central Bank, Bank Rossiya, Russian National Commercial Bank, Black Sea Bank for Development and Reconstruction, and other major Russian financial institutions. Financial services entities will need to consider whether any customers or entities that they have commercial arrangements with have now been designated in that list.

Financial services entities should also take care to avoid breaching the commercial restrictions that are established by the autonomous sanctions regime. For Russia, these commercial restrictions include providing finance to state owned or controlled entities that promote the Russian economy, entities that are engaged in major military equipment activities, or state owned or controlled entities in the crude oil sector. The existing commercial restrictions that applied to Crimea and Sevastopol have also been extended to the separatist regions of Donetsk and Luhansk, including providing finance to the transport, telecommunications, energy, and certain natural resources sectors.

The autonomous sanctions regime also includes travel bans for individuals and export, import, and services restrictions.

The seriousness of the autonomous sanctions regime is demonstrated by the penalties in place for breaches, which for companies include penalties of up to \$2.22 million or three times the value of the transaction, whichever is the greater. A due diligence defence is available to bodies corporate, providing that they can demonstrate that they have taken reasonable precautions and exercised due diligence to avoid a breach.

Key implications

Australian financial services entities should immediately:

- investigate whether they have connections to any designated individuals or entities, and respond appropriately;
- undertake reasonable due diligence to determine if there is any connection to commercial operations in Russia and parts of Ukraine;

- regularly scrutinise the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) List 2014* for any changes;
- review existing sanctions, KYC, and AML/CTF compliance plans;
- assess the impact on other commercial arrangements, such as outsourcing, contracts, and data sharing; and
- consider whether they are also captured by other sanctions regimes, such as those in the United States, European Union, and the United Kingdom.

Contact Shannon Adams or Leighton McDonald-Stuart for advice relating to autonomous sanctions.

This article has been written for general educational purposes only, and is not to be taken as legal advice.