

MEMO# 27999

March 28, 2014

Russia Sanctions and Potential Effects on Investment Companies

[27999]

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TO: SEC RULES COMMITTEE No. 11-14
CHIEF COMPLIANCE OFFICER COMMITTEE No. 5-14
INTERNATIONAL COMMITTEE No. 8-14
ETF (EXCHANGE-TRADED FUNDS) COMMITTEE No. 5-14
ETF ADVISORY COMMITTEE No. 3-14 RE: RUSSIA SANCTIONS AND POTENTIAL EFFECTS ON INVESTMENT COMPANIES

Background. On March 20, 2014, President Obama issued an Executive Order (“March 20th EO”) expanding the scope of two previous executive orders freezing assets subject to U.S. jurisdiction of Russian individuals found to be undermining the democratic processes and sovereignty of Ukraine. [\[1\]](#) The March 20th EO empowers the Secretary of Treasury, in consultation with the Secretary of State, to sanction persons, including corporations that operate in certain sectors of the Russian Federation, such as financial services, energy, metals and mining, engineering and defense. Importantly, the leaders of the G7 countries, including the United States, issued a declaration on March 24th stating “We remain ready to intensify actions including coordinated sectoral sanctions that will have an increasingly significant impact on the Russian economy, if Russia continues to escalate this situation.”

[\[2\]](#)

To date, no sectors of the Russian economy have been designated for sanctions but the March 24th EO provides the framework to allow the Secretary of the Treasury to sanction one or more sectors of the Russian economy without prior notice. The statement of the G7 leaders also reflects international support for such action if the situation escalates.

Potential Effect on Investment Companies. If the Secretary of the Treasury were to designate certain sectors of the Russian economy for sanctions, such sanctions would impact the investment activities of investment companies investing in Russian securities directly or through ADRs. If funds were required to block all property or interests in property of Russian companies subject to sanctions, funds would be unable to transact in securities issued by sanctioned companies, even in secondary market transactions. If certain securities cannot be sold, it may, for example, be difficult to meet SEC liquidity requirements and manage redemptions. Affected ETFs may be required to halt creations

and redemptions.

Institute Activities. U.S. government officials, including the Department of Treasury, Department of State and the National Security Council, are actively seeking input from the U.S. business community on the impact of sanctions on U.S. interests. The Institute is engaging with these officials as well as the Securities and Exchange Commission staff. We are seeking to ensure that policymakers understand the scope of investment company activities in Russia and the possible impact of any future sanctions on investment companies and their investors. In addition, we are encouraging policymakers to consider alternative sanction approaches such that any future sanctions would still accomplish U.S. policy objectives while not unnecessarily harming investment companies and their shareholders. For example, sector sanctions could be structured to allow U.S. investors to divest their holdings in sanctioned Russian sectors as necessary to meet shareholder redemptions or regulatory requirements, while still restricting new investment in the sanctioned sectors.

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endnotes

[1] Executive Order 13662 (March 20, 2014), Executive Order 13661 (March 16, 2104), and Executive Order 13660 (March 6, 2014) are available at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx>.

[2] The Hague Declaration (March 24, 2014) is available at <http://www.whitehouse.gov/the-press-office/2014/03/24/hague-declaration>.

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