Portfolio Media. Inc. | 111 West 19th Street, 5th Floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Law Firms Dash To Handle Flood Of Russia Sanctions Q's

By **Justin Wise**

Law360 (March 3, 2022, 4:29 PM EST) -- A barrage of sanctions unleashed against Russia by the U.S., other nations and the European Union have ignited a scramble among companies to meet a new set of global economic restrictions, and it is placing sanctions and export control attorneys at the center of responses to these fast-developing issues.

The succession of sanctions orders targeting the Kremlin following its invasion of Ukraine is unprecedented in terms of both scope and speed, a group of attorneys based in Washington, D.C., told Law360 Pulse. And it has led to a flood of questions from a variety of multinational corporations that interact with Russia and its financial institutions.

"Russia was fully integrated in the world's international financial system," said John Barker, an international trade and export controls partner at Arnold & Porter. Sanctions and export controls have therefore hit all manner of business, including energy exports, banking relationships and technology sales.

And sanctions orders are emerging almost every day, each one producing a set of new and distinct legal questions for companies and a need to get answers quickly. The rapid pace of measures also means that "what was not affected a couple of days ago may now be affected," Barker said, meaning his guidance is constantly changing.

"It's been hectic," said Cari Stinebower, an international trade partner at Winston & Strawn LLP. "Mostly because there's a new sanction every day and there's slight differences in the sanctions."

An overview of the orders from the past week shows how deep the sanctions cut. The U.S. Treasury Department has imposed economic restrictions targeting Russia's top financial institutions including its largest banks, Sberbank and VTB Bank, and their subsidiaries, a move it says takes in nearly 80% of all banking assets in the country. The agency has also barred all transactions with the Central Bank of Russia and imposed sanctions on a key sovereign wealth fund.

On Wednesday, the European Union announced it was blocking seven major Russian banks from the SWIFT messaging system, which underpins the global financial structure. This came after a wave of economic restrictions imposed by countries including Germany, the U.K., Switzerland and Japan.

"It's been such a fast-moving situation, and things have evolved so much from where we were a week ago," said Caroline Brown, a Crowell & Moring LLP partner and former attorney in the Treasury

Department's Financial Crimes Enforcement Network.

Brown says she's fielding questions from clients across industries, including on how to navigate and comply with economic restrictions from different countries.

There are also tax, labor and employment implications to navigate, as well as newly pressing questions pertaining to cybersecurity and data privacy. The U.S. government has warned about possible retaliatory malware and ransomware attacks from Russia.

Beyond sanctions, the U.S. Department of Commerce has placed new export control restrictions on certain goods, such as technology and software, heading to Russia. This includes a new foreign direct product rule to restrict the country's access to certain foreign-produced items.

European countries are instituting similar restrictions, which Stinebower said will have a big impact on the aviation sector and, by extension, the insurance industry.

Many Russian air carriers are flying planes whose components are owned by European companies, Stinebower said, leaving the suppliers to figure out how to properly cut off their presence in the country. The impacts serve as an example of the wide net the sanctions and export controls cover.

"We've been told that the foreign direct product rule [will be used in the U.S.] more frequently and honed and modified over the coming months," she said. "And it's going to be in place for a long time."

Dan Waltz, an international trade expert at Squire Patton Boggs LLP, said some of these sanctions and export control orders include wind-down periods for business to fully comply. But some measures are going into effect immediately, "meaning it's very disruptive" for certain businesses.

Furthermore, some companies that are farther down the supply chains or that don't do business in Russia directly are realizing they also need to consider how sanctions orders affect them.

"Some companies are finding themselves quite dramatically impacted by the sanctions even though they don't do business in Russia or Ukraine," Barker said, for example a company without business in Russia that does have involvement from a Russian bank or investor.

It partly explains why the trickle of questions has continued building up in recent days, Barker said, as the severity and complexity of the sanctions have emerged.

Firms are taking various strategies in their response to this situation. Crowell & Moring, for instance, on Wednesday held a webinar with attorneys from the U.S. and Europe on the implications of the sanctions and export controls.

"We're helping interpret the practical implications, for their business, for their supply chain, and for their compliance program," Brown said.

The speed at which the government has responded signals how serious it will take enforcement of the economic orders, Brown said. The U.S. Department of Justice on Wednesday launched Task Force KleptoCapture, an interagency law enforcement unit designed to enforce the sanctions and export controls.

"The Justice Department will use all of its authorities to seize the assets of individuals and entities who violate these sanctions," Attorney General Merrick Garland said in a statement. "We will leave no stone unturned in our efforts to investigate, arrest, and prosecute those whose criminal acts enable the Russian government to continue this unjust war. Let me be clear: If you violate our laws, we will hold you accountable."

While the top-line concerns for international businesses have to do with complying with a new global economic order, privacy and cyber attorneys are also experiencing high demand, as businesses prepare for potential attacks on their internal systems.

That kind of activity has yet to take place, but "everyone is on high alert," said Alex Iftimie, San Francisco-based co-chair of Morrison & Foerster LLP's global risk and crisis management group.

He said the areas of concern at the moment are a company's incident response and crisis management plans, including its lines of communication with law enforcement in the event of an attack. Questions also have emerged on whether paying a possible ransomware demand would be in violation of a sanctions order, Iftimie said.

Even with wave after wave of measures, governments have yet to issue the full panoply of possible sanctions and export control restrictions. For example, the EU restrictions relating to SWIFT do not cover banks handling energy payments. The Treasury Department, meanwhile, continues to assess whether to add other entities to the specially designated nationals and blocked persons list, attorneys said.

On top of compliance risks, companies are facing questions about their future dealings with Russia or in it. Firms themselves are facing those questions. Venable LLP and Sidley Austin LLP confirmed to Law360 Pulse on Monday that they had severed ties with Russian banking clients Sberbank and VTB Group, respectively.

Baker McKenzie and Allen & Overy LLP have also said that they are reviewing their Russian client work.

--Additional reporting by Rachel Rippetoe. Editing by Robert Rudinger and Brian Baresch.
