



FIN-2014-A002

March 6, 2014

# Advisory

## *Updated Guidance to Financial Institutions on Recent Events related to the Departure of Victor Yanukovych and Other Ukrainian Officials*

The Financial Crimes Enforcement Network (FinCEN) is updating a previously issued Advisory to provide U.S. financial institutions with current information regarding persons who have been subject to sanctions and asset freezes because of their apparent role in the misappropriation of state assets or instability in Ukraine.

On February 26, 2014 FinCEN issued an [advisory](#)<sup>1</sup> to remind financial institutions of their responsibility to take reasonable, risk-based steps regarding the potential suspicious movement of assets related to Viktor Yanukovych departing Kyiv and abdicating his responsibilities and other senior officials resigning from their positions or departing Kyiv.<sup>2</sup>

On March 3, 2014 the government of Ukraine announced that it had initiated criminal proceedings against a number of former Ukrainian officials or close associates of former

Ukrainian officials. On March 5, 2014, the European Union, based on information from Ukraine's Prosecutor General, issued a [Council Regulation](#) requiring the European Union to freeze the funds and economic resources of various former Ukrainian officials and their close associates.<sup>3</sup> Additionally, the government of Canada has taken similar action against the same individuals.<sup>4</sup>

The measures being taken against these former Ukrainian officials and their close associates increase the risk that they will seek to move their assets in a deceptive fashion. To help mitigate this risk, this advisory provides the names and identifying information of those that are subject to the mentioned European Union and Canadian sanctions. The list is as follows:

1. **Viktor Fedorovych Yanukovych:** born on 9 July 1950, former President of Ukraine.

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1. See FinCEN (February, 2014) Advisory [FIN-2014-A001](#): "[Guidance to Financial Institutions on Recent Events related to the Departure of Victor Yanukovych and Other Ukrainian Officials](#)."
2. For updated information on developments concerning the administration of Victor Yanukovych, see <http://travel.state.gov/content/passports/english/alertswarnings/ukraine-travel-warning.html> and [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/141110.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/141110.pdf).
3. See Council Regulation (EU) No 208/2014 of 5 March 2014 available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:066:0001:0010:EN:PDF>.
4. See [Freezing Assets of Corrupt Foreign Officials \(Ukraine\) Regulations](#) (SOR/2014-44): entered into force on March 5, 2014.

2. **Vitalii Yuriyovych Zakharchenko:** born on 20 January 1963, former Minister of Internal Affairs.
3. **Viktor Pavlovych Pshonka:** born on 6 February 1954, former Prosecutor General of Ukraine.
4. **Oleksandr Hryhorovych Yakymenko:** born on 22 December 1964, former Head of Security Service of Ukraine.
5. **Andriy Volodymyrovych Portnov:** born on 27 October 1973, former Adviser to the President of Ukraine.
6. **Olena Leonidivna Lukash:** born on 12 November 1976, former Minister of Justice.
7. **Andrii Petrovych Kliuiev:** born on 12 August 1964, former Head of Administration of President of Ukraine.
8. **Viktor Ivanovych Ratushniak:** born on 16 October 1959, former Deputy Minister of Internal Affairs.
9. **Oleksandr Viktorovych Yanukovych:** born on 1 July 1973, son of former President, businessman.
10. **Viktor Viktorovych Yanukovych:** born on 16 July 1981, son of former President, Member of the Verkhovna Rada of Ukraine.
11. **Artem Viktorovych Pshonka:** born on 19 March 1976, son of former Prosecutor General, Deputy Head of the faction of Party of Regions in the Verkhovna Rada of Ukraine.
12. **Serhii Petrovych Kliuiev:** born on 12 August 1969, businessman, brother of Mr. Andrii Kliuiev.
13. **Mykola Yanovych Azarov:** born on 17 December 1947, Prime Minister of Ukraine until January 2014.
14. **Oleksii Mykolayovych Azarov:** son of former Prime Minister Azarov.
15. **Serhiy Vitaliyovych Kurchenko:** born on 21 September 1985, businessman.
16. **Dmytro Volodymyrovych Tabachnyk:** born on 28 November 1963, former Minister of Education and Science.
17. **Raisa Vasylivna Bohatyriova:** born on 6 January 1953, former Minister of Health.
18. **Ihor Oleksandrovych Kalinin:** born on 28 December 1959, former Adviser to the President of Ukraine.

FinCEN is reminding U.S. financial institutions that they are required to apply enhanced scrutiny to private banking accounts held by or on behalf of senior foreign political figures<sup>5</sup> and to monitor transactions that could potentially represent misappropriated or diverted state assets, the proceeds

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5. "Senior foreign political figure" means a current or former senior official of a foreign government or of a major foreign political party; a senior executive of a foreign government-owned commercial enterprise; a corporation, business, or other entity that has been formed by, or for the benefit of, any such individual; the immediate family members of any such individual; and a person who is widely and publicly known (or is actually known by the relevant covered financial institution) to be a close associate of such individual. For the purposes of this definition, "senior official or executive" means an individual with substantial authority over policy, operations, or the use of government-owned resources and "immediate family member" means spouses, parents, siblings, children and a spouse's parents and siblings. *See*, 31 CFR 1010.620(c) and 31 CFR 1010.605(p).

of bribery or other illegal payments, or other public corruption proceeds. Financial institutions should be aware of the possible impact that public reports of high-level corruption by senior members of the former Yanukovich administration and other illicit activity by members of that administration may have on patterns of financial activity when assessing risks related to particular customers and transactions. This advisory is focused on potentially suspicious transactions involving senior members of the former Yanukovich administration or those acting for or on their behalf, and is not intended to call into question the maintenance of normal relationships between financial institutions in the United States and Ukraine.

Financial institutions should also be aware that on March 6, 2014, the President of the United States issued an [Executive Order](#) authorizing the Secretary of the Treasury, in consultation with the Secretary of State, to designate individuals or entities that contribute to the undermining of Ukraine's democracy, peace, security, sovereignty or territorial integrity, or responsible for the misappropriation of Ukraine's state assets.<sup>6</sup> This new authority would require U.S. persons, including U.S. financial institutions and any foreign branch, to block assets of any designated individuals or entities that come under U.S. jurisdiction.

## Guidance

If a financial institution knows, suspects, or has reason to suspect that a transaction relating to senior foreign political figures involves funds derived from illicit activity, including money laundering, terrorist financing, or any other violation of law or regulation, or if the transaction appears to have no business or lawful purpose or has a purpose inconsistent with the customer's known business, the financial institution must file a Suspicious Activity Report (SAR) consistent with FinCEN's regulations.<sup>7</sup> In addition, covered financial institutions are reminded of the regulations implementing section 312 of the USA PATRIOT Act (31 U.S.C. 5318(i)), which require a written due diligence program for private banking accounts held for non-U.S. persons designed to detect and report any known or suspected money laundering or other suspicious activity.<sup>8</sup> In instances where senior foreign political figures maintain private banking accounts at a covered institution, those financial institutions are required to apply enhanced scrutiny of such accounts to detect and report transactions that may involve the proceeds of foreign corruption.<sup>9</sup>

6. See [Executive Order - Blocking Property of Certain Persons Contributing to the Situation in Ukraine](#) (March 6, 2014).

7. See *e.g.*, 31 CFR 1010.320.

8. See *generally* 31 CFR 1010.620.

9. 31 CFR 1010.620(c).

In April 2008, FinCEN issued Guidance to assist financial institutions with reporting suspicious activity regarding proceeds of foreign corruption. That Guidance also discusses potential indicators that transactions may be related to proceeds of foreign corruption.<sup>10</sup> Financial institutions may find this Guidance useful in assisting with suspicious activity monitoring and due diligence requirements related to senior foreign political figures.

Additional questions or comments regarding the contents of this Advisory should be addressed to the FinCEN Resource Center at (800) 949-2732. *Financial institutions wanting to report suspicious transactions that may relate to terrorist activity should call the Financial Institutions Toll-Free Hotline at (866) 556-3974 (7 days a week, 24 hours a day).* The purpose of the hotline is to expedite the delivery of this information to law enforcement. Financial institutions should immediately report any imminent threat to local-area law enforcement officials.

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10. See FinCEN (April, 2008) Guidance [FIN-2008-G005: "Guidance to Financial Institutions on Filing Suspicious Activity Reports Regarding the Proceeds of Foreign Corruption."](#)