

March 3, 2022

# The Launch of Task Force KleptoCapture

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## Department of Justice Creates Task Force to Hold Accountable Corrupt Russian Oligarchs

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### SUMMARY

On March 2, 2022, the U.S. Department of Justice (“DOJ”) announced the creation of Task Force KleptoCapture (“KleptoCapture”), an inter-agency task force designed to enforce sanctions and export restrictions imposed against Russian officials and oligarchs in response to the invasion of Ukraine.<sup>1</sup> The task force, which consists of prosecutors and federal agents, will have the power to investigate and prosecute U.S. sanctions violations and efforts to undermine restrictions on Russian financial institutions, including by evading know-your-customer and anti-money laundering measures or using cryptocurrency as a means to avoid sanctions. The task force will also seize and forfeit assets that belong to oligarchs and others who violate the sanctions, as well as assets identified as the proceeds of unlawful conduct.

### BACKGROUND

In response to Russia’s invasion of Ukraine on February 24, 2022, the U.S. government imposed sanctions designed to isolate Russia from global markets and impose costs for its attack on Ukraine.<sup>2</sup> During his State of the Union address on March 1, 2022, President Joe Biden signaled the creation of a task force to enforce the sanctions, stating: “I say to the Russian oligarchs and corrupt leaders who have bilked billions of dollars off this violent regime: no more. The U.S. Department of Justice is assembling a dedicated task force to go after the crimes of Russian oligarchs. We are joining with our European allies to find and seize your yachts, your luxury apartments, your private jets.”<sup>3</sup> DOJ officially announced the launch of KleptoCapture on March 2, 2022.

The task force will be run out of the Office of the Deputy Attorney General and led by a veteran corruption prosecutor from the U.S. Attorney’s Office for the Southern District of New York who has “a long and successful track record of investigating Russian organized crime and recovering illicit assets.” Leadership

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of the task force will also include Deputy Directors from both the National Security and Criminal Divisions, attorneys from those divisions, and attorneys from the Tax Division, Civil Division, and U.S. Attorneys' Offices across the country. The task force will also include agents and analysts from the Federal Bureau of Investigation, the Marshals Service, the Internal Revenue Service, the Postal Inspection Service, the Department of Homeland Security, the Secret Service, and other agencies.

According to DOJ, the task force will “leverage all of the Department’s tools and authorities against efforts to evade or undermine the economic actions taken by the U.S. government in response to Russian military aggression.” It will investigate and prosecute violations of new and future sanctions, as well as those imposed for prior instances of Russian aggression and corruption, and combat unlawful efforts to undermine restrictions taken against Russian financial institutions. In addition to prosecuting sanctions violations and efforts to undermine restrictions against Russian banks, the task force will target “efforts to use cryptocurrency to evade U.S. sanctions, launder proceeds of foreign corruption or evade U.S. responses to Russian military aggression.” Finally, the task force will use criminal and civil asset forfeiture authorities to seize assets belonging to sanctioned individuals or assets identified as the proceeds of unlawful conduct.

DOJ noted that KleptoCapture will be working cooperatively with the transatlantic task force that was announced by President Biden and leaders of the European Commission, France, Germany, Italy, the United Kingdom, and Canada on February 26, 2022, which has a similar mission of identifying, hunting down, and freezing the assets of sanctioned Russian companies and oligarchs.

State governments are also announcing new measures to strengthen the enforcement of sanctions against Russia. For example, on March 2, 2022, New York Governor Kathy Hochul announced that the state’s Department of Financial Services (“DFS”) would be taking additional actions to enforce sanctions, including the expedited procurement of blockchain analytics technology, which would strengthen DFS’s ability to identify connections between DFS-licensed virtual currency businesses and Russian individuals, banks, and others sanctioned by the U.S. government and enforce Bank Secrecy Act/Anti-Money Laundering (“BSA/AML”) laws.<sup>4</sup>

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## IMPLICATIONS

The creation of Task Force KleptoCapture has broad implications for many U.S. and international institutions that have Russian clients, investors, or tenants, as there will be significant scrutiny of strict compliance with current and future sanctions.

U.S. financial institutions must know their customers and the beneficial owner(s) of their legal entity customers. Doing so is critical not only to ensure compliance with the U.S. government’s measures targeting Russia, but also to ensure compliance with ongoing BSA/AML obligations. Because KleptoCapture’s mission specifically includes the prosecution of “those who try to evade know-your-customer and anti-money laundering measures [as well as] [t]argeting efforts to use cryptocurrency to

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evade U.S. sanctions, launder proceeds of foreign corruption, or evade U.S. responses to Russian military aggression,” financial institutions and other companies should review their high-risk Russian clients to evaluate the relationship and consider the implications of the imposition of new and future sanctions. In particular, financial institutions should be alert to the risk that, in terminating a client relationship, assets could be moved beyond the reach of DOJ’s seizure authority. Institutions should consider the extent to which actions intended to mitigate risk could be viewed as aiding a client to evade U.S. sanctions.

DOJ has stressed that it will use “all of its authorities to seize the assets of individuals and entities who violate these sanctions,” and that it “will leave no stone unturned in [its] efforts to investigate, arrest, and prosecute those whose criminal acts enable the Russian government to continue this unjust war.” We expect that among the authorities DOJ may employ is its enhanced subpoena authority under the recently enacted Anti-Money Laundering Act of 2020, which now provides a basis for DOJ and the Department of the Treasury (“Treasury”) to issue subpoenas to a foreign bank with a U.S. correspondent account for “any records relating to ... *any account* at the foreign bank, including records maintained outside the United States” (emphasis added).<sup>5</sup>

Finally, KleptoCapture may receive some assistance from the public in its efforts to identify the assets of sanctioned individuals and proceeds of unlawful conduct. Under the Kleptocracy Asset Recovery Rewards Act, Treasury can provide payment of rewards to individuals or entities that help identify and recover stolen assets linked to foreign government corruption.<sup>6</sup> Under the program, Treasury can pay a reward to any individual who furnishes information leading to the restraint, seizure, forfeiture, or repatriation of stolen assets in an account at a U.S. financial institution (including a U.S. branch of a foreign financial institution) that come within the United States or within the possession or control of any U.S. person.<sup>7</sup>

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ENDNOTES

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- <sup>1</sup> U.S. Dep't of Justice, "Attorney General Merrick B. Garland Announces Launch of Task Force KleptoCapture" (March 2, 2022), available at <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-launch-task-force-kleptocapture>.
- <sup>2</sup> These sanctions add to those the U.S. government imposed with respect to Russia following its annexation of Crimea in 2014.
- <sup>3</sup> The White House, "Remarks of President Joe Biden – State of the Union Address As Prepared for Delivery" (March 1, 2022), available at <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/01/remarks-of-president-joe-biden-state-of-the-union-address-as-delivered/>.
- <sup>4</sup> Reuters, "New York to Strengthen Enforcement of Sanctions Against Russia" (March 2, 2022), available at <https://www.reuters.com/world/new-york-strengthen-enforcement-sanctions-against-russia-2022-03-02/>.
- <sup>5</sup> AMLA, § 6308.
- <sup>6</sup> Kleptocracy Asset Recovery Rewards Act, § 9703.
- <sup>7</sup> *Id.*

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