



March 11, 2022

## Ukraine Update

The current situation in Ukraine and associated countries is rapidly evolving. Below are some employee- and benefits-related considerations for employers.

### Insurers and policy terms

Employers will need to monitor whether local carriers, or their parent company, are on the sanctions list and whether they can continue to compliantly do business with such carriers by consulting with local legal counsel. Employers should work with their local broker to determine the best approach to continuing coverage.

Local and international policies may include specific war/terrorism or nuclear/chemical/biological exclusions as well as other exclusions that may apply in these circumstances. The language and approach for each carrier, location and type of policy will differ. Policy terms may differentiate between active combatants and innocent bystanders, but policies should be carefully reviewed considering the current circumstances in Russia, Belarus and Ukraine.

### Movement of employees/refugees

Over 2 million individuals have departed Ukraine for neighboring and other countries with the largest number going to Poland and other countries bordering Ukraine. Corridors for the safe travel or evacuation of individuals out of Ukraine remain uncertain and fluid. Travel remains limited in and out of Russia. The potential for the declaration of martial law will restrict movement even further and assistance providers will be limited in their ability to evacuate, if they retain their ability to assist at all.

Several countries, including Canada, Brazil and most European countries, are offering asylum/visa-free travel to their countries for Ukrainian refugees. Please note, in many cases this does not include work authorization. Additionally, since Ukraine is not part of the European Union, Ukrainians do not enjoy the freedom of movement throughout the E.U. and will be subject to local laws and regulations. However, the E.U. has issued a Temporary Protection Directive where, if a country chooses to participate, Ukrainians may live and work in a country for up to 3 years. Employers should confirm the position of each country.

As noted, a number of countries are likely to make exceptions for Ukrainian refugees regarding visa entry. However, compliance in the host country will need to be monitored. A company that allows a displaced worker to work remotely will need to investigate local work visas, the applicability of social contributions and remittance of income tax payments, the ability to cover employees under local insurance coverages, payroll requirements, and updating work contracts, among other items. It is likely that time thresholds (such as for tax residency) will affect employer decisions,

and the situation by country is expected to remain fluid based on the course and duration of the conflict. Employers should consult with internal and external legal counsel and tax and benefits advisors.

## Conscription of employees

There is the potential for employees to be conscripted in Ukraine, Russia and Belarus. For civilians in war zones and/or informally but actively participating in war or civil unrest, it is likely that exclusions in most insured policies pertaining to such activity would be activated in response to any claims. Employers should carefully review relevant policies for such exclusions.

## Sanctions on Russia/Belarus

The U.S., European Union and a number of other countries have imposed broad sanctions as a result of the invasion. The scope of sanctions continues to expand from those prohibiting doing business in contested regions of Eastern Ukraine in place before the invasion to Russian and Belarusian institutions and individuals. Two major Russian financial institutions, the State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank ("VEB") and Promsvyazbank Public Joint Stock Company ("PSB"), have been banned from Swift, in addition to several smaller Russian and Belarusian banks, making payments to and from those entities virtually impossible. U.S. banks have 30 days from the imposition of sanctions to sever their banking ties.

Companies with operations in Russia and Belarus should carefully consider whether or not local operations can be compliantly maintained. As a result, a number of companies with operations in Russia are temporarily, or permanently, halting operations.

- Several insurance companies in Russia are owned by banks and thus subject to sanctions and OFAC restrictions. As a result, any continued business with these companies needs to be carefully considered. Direct dealings by U.S. persons with these companies is prohibited. Companies may have difficulty remitting premium, which may result in policies lapsing for non-payment. In addition, companies should be aware of the potential for insolvency of carriers as a result of sanctions, as well the reputational risk of continuing to do business with sanctioned/prohibited entities.
- Companies with operations in Russia will need to determine the extent to which restrictions will limit the ability of their local Russian operations to make payments to vendors that pay and/or provide benefits to employees. As a result of sanctions, many companies are reevaluating their banking relationships and options are becoming more limited.
- Companies will need to identify additional payment issues, such as those made to independent contractors, service companies, or other third parties, especially as it affects the ability to provide services required under contractual obligations.
- Major credit card companies (Visa and Mastercard) are ceasing operations in Russia, further limiting payment options.

Employers should continue to monitor sanctions, and risks brought about by those sanctions, as they continue to evolve and keep legal counsel involved in the decision-making process.

# Cross-border policies

## **Duty of care**

Employers should consider whether assignments for cross-border employees posted to Ukraine, Russia or Belarus should continue and evaluate plans/options for their removal, especially as conditions deteriorate and the viability of evacuation decreases due to restrictions on flights and congestion at border crossings. Employers should communicate with carriers regarding the locations of affected cross-border employees. Employers may want to document resources/assistance made available to employees, including offers to evacuate as well as the employee's decision.

## **Security evacuation**

Cross-border policies may include an evacuation program. Employers should determine whether the included program offers only medical evacuation or if it also includes political/security evacuation. Employers should check levels of coverage and what, specifically, is covered. Many programs may offer up to \$1 million in coverage, but that is likely for "consulting" and not the actual substantial evacuation costs, which the employer would be expected to pay out of pocket.

## **Exclusions**

Both local and cross-border policies (business travel accident, business travel medical, expatriate life and medical) include specific war/terrorism or nuclear/chemical/biological exclusions, as well as other exclusions that may apply in these circumstances. The language and approach for each carrier and type of policy will differ, as well as the application of coverage to specific territories. Policy terms may differentiate between active combatants and innocent bystanders, but policies should be carefully reviewed considering the current circumstances in Russia, Belarus and Ukraine. Further guidance will likely be issued by carriers, and employers should review their policies. Most international insurers continue to assess the circumstances, and employers should maintain communication with carriers as they develop guidance and contingencies.

## **Business travel accident**

Companies with a global business travel accident policy will find that payment of claims into Russia or Belarus may be difficult, if not impossible, due to sanctions. Companies should also contact their business travel accident carrier when looking to relocate employees from Ukraine/Russia. Depending on the carrier, such relocation may be considered a transfer of the usual place of work and carriers have not committed to payment of claims at this point.

## **Business travel medical/Global medical**

Where a claim is covered under the cross-border program, it is anticipated that it will be paid, but claims filed as reimbursements may be impacted as payment of claims will likely only occur into a non-sanctioned bank account. This could pose problems in Russia, Belarus and previously sanctioned areas in Eastern Ukraine.

# Employee well-being

Employees all over the world are likely experiencing additional stress as a result of the situation in Ukraine. Employers should communicate support services available such as EAPs and mental health services. Please note, for employers without services currently in place, certain global EAPs will set up a hotline for a specific country.

# Tax

Social and income tax collection continues in Russia, Belarus and Ukraine under normal procedures and deadlines.

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**Not legal advice:** Nothing in this alert should be construed as legal advice.

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