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OFAC to Delist Deripaska Companies

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December 21, 2018 – On December 19, 2018, the U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”) announced that it will remove several companies linked to Russia oligarch Oleg Deripaska from its sanctions list. Deripaska himself, however, will remain a sanctioned Specially Designated National (“SDN”). The delistings will occur within 30 days, or by January 18, 2019, unless Congress acts to block the action under the Countering America’s Adversaries Through Sanctions Act (“CAATSA”).

The companies that will be delisted include EN+ Group plc, a Russian mining, metals and energy group; United Company RUSAL, the world’s second largest aluminum company; and SC EuroSibEnergo, the largest independent Russia power producer. OFAC designated all three companies as SDNs on April 6, 2018 for being owned or controlled by Deripaska, who is a close ally of Russian President Vladimir Putin and who was himself designated on the same day. Deripaska has reportedly agreed to cede control of the companies, reduce his ownership interests to less than 50%, and move his shares to a blind trust. The companies also agreed to undertake corporate governance reforms and commit to “ongoing auditing, certification, and reporting requirements” to OFAC. EN+ and Rusal will also overhaul their boards of directors.

Although the companies have been sanctioned for the past eight months, OFAC had issued a series of general licenses authorizing the “maintenance” of existing business since April 23, 2018. (The general licenses also require parties conducting transactions under them to file a report of those transactions within 10 days after the license expires, but it is unclear if that requirement will remain after the designations are removed.) Once the sanctions are formally lifted in January, persons subject to U.S. jurisdiction will be able to enter into new business and long-term contracts with the companies.

The corporate restructuring is a notable win for OFAC, and demonstrates the financial pressure U.S. sanctions can exert. In August, Under Secretary of the Treasury for Terrorism and Financial Intelligence Sigal Mandelker noted that the sanctions had caused Deripaska’s estimated net worth to drop by roughly half, and caused the share price of EN+ to fall from \$12.20 to \$5.40 on the London Stock Exchange. OFAC signaled its intention to continue to apply pressure to Deripaska by announcing on the same day as the company delisting that it was sanctioning

Victor Alekseyevich Boyarkin, a “former GRU officer who reports directly to Deripaska and has led business negotiations on Deripaska’s behalf.”

Although it is not unusual for OFAC to “delist” a person based on changed circumstances, the extent of information being provided publicly to explain the delisting is somewhat unusual. This could be due to three factors. First, under CAATSA, OFAC is required to notify Congress 30 days in advance of reducing sanctions against Russia. Second, this particular sanctions action has been the subject of much publicity in the media because of the economic importance of Rusal in the world economy. Last, because there is so much skepticism of President Trump’s attitude towards Russia, OFAC may have felt the need to try to demonstrate that its decision is justified, and that the government is not being “soft” on Deripaska.

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