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Treasury Releases List of Russian Oligarchs and Significant Senior Political Figures

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February 1, 2018 – On January 29, 2018, the U.S. Treasury Department delivered a long-awaited but classified report to Congress identifying “significant senior political figures and oligarchs in the Russian Federation and Russian parastatal entities,” as mandated by section 241 of the Countering America’s Adversaries Through Sanctions Act of 2017 (Pub. L. 115-44) (“CAATSA”). At the same time, Treasury released a public version of the report identifying 114 political figures and 96 oligarchs that purported to rely on “objective” criteria but was later revealed to have been derived in part from a Forbes magazine list of Russian individuals with an estimated net worth of greater than \$1 billion, regardless of their links to the Putin regime.¹ The same day, the U.S. State Department announced that it would not, at this time, be imposing sanctions on any foreign entities for having engaged in “significant transactions” with identified entities in the Russian defense and intelligence sectors, as mandated by section 231 of CAATSA. The State Department emphasized that January 29th was merely the first day that sanctions could be imposed under section 231 and that actions may be forthcoming. The two announcements show that the Trump Administration is taking an approach whereby it complies with CAATSA but does not go further than required.

Background on CAATSA

CAATSA was signed into law on August 2, 2017, authorizing the imposition of new sanctions on Russia, Iran and North Korea (for additional information regarding CAATSA, please see our July 2017 [client advisory](#)). The Russia-related provisions of the law are the most far reaching – in addition to codifying the sanctions regimes relating to Russia’s interventions in Ukraine and the 2016 U.S. election, CAATSA significantly expanded the scope of secondary sanctions that could be imposed upon foreign persons engaging in certain transactions with or involving Russia.

The Administration has met most (though not all) of the statutory deadlines imposed by CAATSA since the law took effect. Most relevantly:

- In September and October 2017, the Treasury Department’s Office of Foreign Assets Control (“OFAC”) amended the existing Directives imposing sectoral sanctions on entities operating in Russia’s financial, defense, and energy sectors, tightening each in accordance with section 223 of CAATSA.
- In October 2017 – while weeks past the statutory deadline – the State Department issued guidance identifying 39 entities that are part of the Russian military and intelligence sectors, transactions with which could result in the imposition of secondary sanctions under section 231 of CAATSA.

The Treasury and State Departments (which have been delegated authority under different provisions of CAATSA) have also issued several public guidance documents relating to their implementation of CAATSA, including:

- [Section 223](#) (modifying the existing directives imposing sectoral sanctions)
- [Section 225](#) (mandating sanctions relating to special Russian oil projects)
- [Section 226](#) (mandating sanctions on Russian and other foreign financial institutions engaging in certain transactions)
- [Section 228](#) (mandating sanctions relating to evasion and serious human rights abuses)
- [Section 232](#) (authorizing sanctions with respect to Russian energy export pipelines)
- [Section 233](#) (mandating sanctions relating to investment or facilitation of privatization of Russian state-owned assets)

Together, the guidance issued by the Treasury and State Departments suggest the Administration has taken a cautious approach and preserved flexibility on implementation of the various provisions of CAATSA.

CAATSA Section 241: The Oligarch Report

CAATSA section 241 required Treasury to submit a one-time “detailed report” that included information about the relationship of the named individuals with Russian President Vladimir Putin or other members of the Russian “ruling elite,” their involvement in corruption, their net worth and sources of income, and the incomes and assets of their families. While the report itself was not a sanctions list, it was widely feared to signal potential future sanctions against named individuals. However, by making public a report that indiscriminately identified all Russian billionaires, regardless of their ties to President Putin or their alleged involvement in corruption, the Administration appears to have been intent on stripping the report of any predictive value.

That said, the version of the report submitted to Congress is reported to be very different, and to directly identify individuals suspected of involvement in corruption or of having political links to the Kremlin. It’s unclear why the Treasury Department decided not to make a version of that report public, even in redacted form, and the release of the public report so close to midnight on January 29th suggests that it was a point of contention within the Administration up until the very last minute. Regardless, the information included in the classified report to Congress – including identification of income sources and links to possible corruption – could provide the foundation for future sanctions. Congress is likely to take keen interest in the named individuals, and may use the report to exert pressure on the Administration to impose additional sanctions in the coming months.

CAATSA Section 231: Targeting Russian Defense and Intelligence

As of January 29, 2018, CAATSA section 231 requires the president, acting through the State Department, to impose certain sanctions on persons determined to have knowingly engaged in a “significant transaction” with specified entities in the Russian defense or intelligence sectors. The section gives the president the authority to waive or delay the application of sanctions on such persons if the president certifies to Congress that the Russian government has made significant efforts to reduce cyber intrusions or that the person is substantially reducing the number of significant transactions with the Russian defense or intelligence sectors. Without specifically invoking either authority, the Administration declined to impose new sanctions under section 231 on January 29th. The

State Department announced that the sanctions law was already acting as a “deterrent” to those considering doing business with those Russian sectors, estimating that several billion dollars’ worth of Russian defense acquisitions by foreign governments have been abandoned since the enactment of CAATSA.

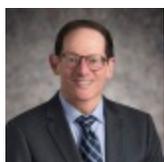
Although many viewed this development as a failure to aggressively enforce CAATSA, the Administration’s approach is not inconsistent with the language of the statute. Specifically, while Congress “mandated” the imposition of such sanctions, the decision how to interpret “significant transactions” and to determine that individuals or entities have engaged in them remains with the executive branch. Due to the chilling effect of the provision, many of the defense acquisition deals and relationships between foreign entities and the Russian defense or intelligence sectors were likely scrapped in the months since CAATSA’s enactment. Moreover, January 29th was only the first day that sanctions could be imposed under section 231. More revealing will be how and whether the Administration responds if major deals with identified entities in the Russian defense or intelligence sectors are announced in coming months.

Conclusion

The Administration’s Russia sanctions policy is no clearer following the announcements and reports issued on January 29th. By delivering the Russian oligarchs report by the statutory deadline, the Administration met the strict terms of its obligations under CAATSA. At the same time, the public report was not substantive in nature and appears to have been drafted with conscious efforts to limit its impact. While Secretary of the Treasury Steven Mnuchin subsequently indicated to Congress that the report would be the basis for future sanctions, the Administration’s Russia sanctions policy seems to remain undefined. Given the flexibility the Administration has preserved for itself in public guidance documents and other statements on these Russia sanctions, and the unpredictability it has demonstrated in other areas, companies should continue to tread cautiously when engaging in transactions involving potential sanctions targets – including those identified on the Section 231 list – and any transactions that might expose themselves to sanctions under CAATSA.

¹ Available at <https://www.scribd.com/documen...>

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