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U.S. Issues Second Round of Chemical Weapons Sanctions Against Russia

Client Advisories

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August 8, 2019 – On August 2, 2019, the Trump Administration imposed a second round of sanctions on Russia in response to Russia's 2018 use of chemical weapons in the United Kingdom to poison a former Russian spy. The sanctions could exacerbate tensions between the United States and Russia, as they add to a sanctions regime that has already significantly burdened Russia's economy.

Background

In March 2018, former Russian double agent Sergei Skripal (a British national) and his daughter were poisoned with Novichok, a military-grade nerve agent developed in the Soviet Union, at their home in Salisbury, England. The United Kingdom determined that the Russian government was responsible for the attacks. In response, the United States, along with Canada and a number of European countries, expelled dozens of Russian officials, and also closed the Russian consulate in Seattle. In retaliation for the attacks, the United States announced a first round of sanctions on Russia in August 2018. Those sanctions impacted, inter alia, arms sales and foreign assistance to Russia (aside from urgent humanitarian assistance and food and other agricultural products).

Overview of Sanctions

Administration officials stated that a second round of sanctions in response to the chemical attacks was necessary after Russia failed to provide adequate assurances, in accordance with the requirements of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 ("the Act"), that it would halt the use of chemical and biological weapons. The State Department and Treasury Department announced these sanctions after the Trump Administration issued a late-night Executive Order on August 1, 2019, granting the two agencies the power to impose sanctions on countries that violate the Act. According to the State Department, these new measures will include:

- Sanctions preventing the extension of any loans or financial assistance to Russia by international financial institutions, such as the World Bank Group or International Monetary Fund;
- Sanctions prohibiting U.S. banks from participating in the primary market for non-ruble denominated Russian sovereign debt and lending non-ruble denominated funds to the Russian sovereign; and
- Additional export licensing restrictions on Department of Commerce-controlled goods and technology.

The measures will go into place after a 15-day Congressional notification period and will remain in place for at least one year.

On August 2, 2019, the Treasury Department Office of Foreign Assets Control ("OFAC") issued a Russia-Related Directive implementing the second measure announced by the State Department. The measures go into effect after August 26, 2019, and they apply to U.S. banks, which are defined to include "any entity organized under the laws of the United States or any jurisdiction within the United States (including its foreign branches), or any entity in the United States, that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures, or options, or procuring purchasers and sellers thereof, as principal or agent." The term "Russian sovereign" includes any ministry, agency, or sovereign fund of the Russian Federation, but the term excludes Russian state-owned enterprises.

According to recently-published OFAC FAQs, the measure prevents U.S. banks from participating in the primary market for Russian sovereign debt, but the prohibition does not extend to the secondary market. Additionally, the prohibition does not apply to loans or bonds denominated in rubles. While the OFAC Directive is limited to the activities of U.S. banks as defined in the Directive, it is not clear if the secondary sanctions provisions of the Countering America's Adversaries Through Sanctions Act of 2017 ("CAATSA") could reach non-U.S. actors. Persons dealing in Russian sovereign debt that are not U.S. banks should also be alert to future changes in these rules that could affect their activities.

If you have questions about how imposition of these sanctions may affect your business, please contact one of Hughes Hubbard's experienced economic sanctions attorneys

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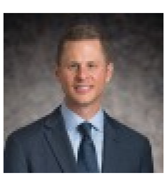

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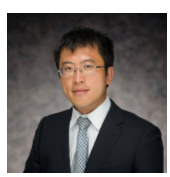

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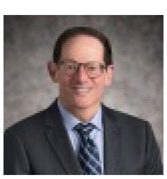

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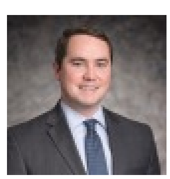

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