

US Imposes New Russia Sanctions Targeting Oligarchs, Senior Government Officials and Entities

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04 / 11 / 18

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NOTE: On April 23, 2018, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) issued Ukraine-/Russia-related General Licenses 12A and 14, which provided certain additional authorizations beyond those discussed below. Please see our [April 24, 2018, client alert](#) for more details.

Further, on May 1, 2018, OFAC issued Ukraine-/Russia-related General Licenses 12B and 13A. Please see our [May 7, 2018, client alert](#) for more details.

On April 6, 2018, OFAC announced sanctions against seven Russian oligarchs, 12 companies owned or controlled by these oligarchs, 17 senior Russian government officials, a state-owned Russian weapons-trading company, and its Russian bank subsidiary (the April 6 Sanctions).

The April 6 Sanctions come in the wake of the Treasury Department's January 2018 report to Congress under Section 241 of the Countering America's Adversaries Through Sanctions Act (CAATSA) (the [Section 241 Report](#)), the unclassified version of which identified 96 Russian oligarchs and 114 Russian senior political figures. The Section 241 Report was not a sanctions list. The April 6 Sanctions targeted 15 of the 210 Russian oligarchs and senior political figures listed in the Section 241 Report.

The possibility of further sanctions on Russia remains, particularly if tensions continue or escalate between Russia and the United States.

Impact of the April 6 Sanctions

The April 6 Sanctions, which were implemented under certain Ukraine-/Russia-related executive orders, create both a "primary" sanctions risk (*i.e.*, prohibitions enforceable with respect to U.S. persons or transactions with a U.S. nexus) and a "secondary" sanctions risk (*i.e.*, sanctions that may be imposed on non-U.S. persons for, among other activities, certain dealings with sanctioned persons), as set forth below:

Primary Sanctions: U.S. persons are generally prohibited from transacting with blocked persons, including persons subject to the April 6 Sanctions, unless otherwise authorized by OFAC. Any property or interest in property of blocked individuals and entities that is in the United States or comes within the possession or control of a U.S. person must be blocked (*i.e.*, frozen). Any property, including entities, directly or indirectly owned 50 percent or more by one or more of the sanctioned individuals or entities is sanctioned by operation of law and also must be blocked.

Impact on Nondesignated Companies With Sanctioned Officers or Directors: Certain of the individuals identified in the April 6 Sanctions are officers and/or directors of nondesignated companies. This fact does not automatically prohibit U.S. persons from transacting with these nondesignated companies. OFAC has made clear in its guidance that an entity is not sanctioned by virtue of the designation of a senior executive or official of that entity.

The presence of a sanctioned officer or director at a nonsanctioned company may, however, create practical issues for both U.S. and foreign persons dealing with those entities. U.S. persons remain prohibited from dealing with a blocked person, even if that person is acting on behalf of a nonsanctioned entity. OFAC has indicated that U.S. persons should therefore be cautious in dealing with a nonsanctioned entity to ensure that they are not dealing with a blocked person representing the nonsanctioned entity, such as by entering into a contract that is signed by that person.

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Secondary Sanctions: Non-U.S. persons could face the imposition of secondary sanctions under Section 228 of CAATSA for knowingly facilitating “significant transactions” for or on behalf of persons sanctioned pursuant to Ukraine-/Russia-related sanctions authorities, including persons subject to the April 6 Sanctions. Section 228 requires the U.S. president to impose sanctions on a foreign person the president determines knowingly “facilitates a significant transaction or transactions, including deceptive or structured transactions, for or on behalf of [] any person subject to sanctions” imposed by the United States with respect to Russia or Ukraine, or that sanctioned person’s spouse, child, parent or sibling. Additionally, under Section 226 of CAATSA, a foreign financial institution risks the loss of its U.S. correspondent account or payable-through account access if it knowingly facilitates a “significant financial transaction” on behalf of any person sanctioned pursuant to Ukraine-/Russia-related sanctions authorities, including any person subject to the April 6 Sanctions.¹

While OFAC has provided guidance listing certain factors that it will consider when making this determination,² it ultimately has substantial leeway in assessing whether a transaction or financial transaction is “significant.” Given OFAC’s broad discretion under this standard, non-U.S. persons should exercise care in their dealings with the individuals and entities designated under Ukraine-/Russia-related sanctions authorities.

Two New General Licenses and OFAC Guidance

Concurrent with its announcement of the April 6 Sanctions, OFAC issued two general licenses and accompanying guidance to minimize immediate disruptions to U.S. persons, partners and allies. The general licenses permit certain otherwise prohibited transactions and activities necessary to wind down dealings with or divest interests in certain of the companies sanctioned under the April 6 Sanctions.

General License 12

General License 12 permits until 12:01 a.m. Eastern Daylight Time on June 5, 2018, transactions and activities “ordinarily incident and necessary to the maintenance or wind down of oper-

¹ We provide a more detailed treatment of Sections 226 and 228, and secondary sanctions in general, in our [August 4, 2017](#), and [November 9, 2017](#), client alerts on CAATSA and other related provisions.

² OFAC enumerated the following factors as relevant to the determination: (1) the size, number and frequency of the transaction(s); (2) the nature of the transaction(s); (3) the level of awareness of management and whether the transaction(s) are part of a pattern of conduct; (4) the nexus between the transaction(s) and a blocked person; (5) the impact of the transaction(s) on statutory objectives; (6) whether the transaction(s) involve deceptive practices; and (7) such other factors that the secretary of the Treasury deems relevant on a case-by-case basis.

ations, contracts, or other agreements” (including the importation of goods, services or technology into the United States) involving the 12 designated companies in the April 6 Sanctions owned or controlled by the sanctioned oligarchs. General License 12 also applies to any entity in which one or more of the designated companies owns, directly or indirectly, a 50 percent or greater interest. General License 12 does not apply to the two other entities targeted by the April 6 Sanctions: Rosoboronexport, the state-owned weapons-trading company, or its subsidiary bank, Russian Financial Corporation Bank.

Among the activities permitted under General License 12, U.S. persons who are employees of or work at the offices of the 12 designated companies may continue to provide services to and receive salary, pension or other benefits from these companies until June 5, 2018. Absent authorization from OFAC, however, continued employment or board membership with such companies is prohibited. Additionally, U.S. persons who previously ordered goods from a newly sanctioned entity may import such goods, except that payment for such goods must be deposited in a blocked account at a U.S. financial institution.

General License 12 is subject to certain restrictions. Any payments made for the direct or indirect benefit of a sanctioned person pursuant to General License 12 must be made into a blocked, interest-bearing account located in the United States. Furthermore, General License 12 does not authorize the divestiture or transfer of debt, equity or other holdings in, to or for the benefit of the listed blocked persons — this activity is addressed in General License 13. General License 12 also does not permit the unblocking of any property except as authorized under the general license, or the exportation of goods from the United States to any sanctioned entity.

NOTE: On April 23, 2018, General License 12 was superseded and replaced in its entirety by [General License 12A](#). OFAC also issued [General License 14](#) to provide additional authorizations related to United Company RUSAL PLC. Please see our [April 24, 2018, client alert](#) for more details.

General License 13

General License 13 authorizes until 12:01 a.m. Eastern Daylight Time on May 7, 2018, transactions and activities that are ordinarily incident and necessary to (1) divest or transfer debt, equity or other holdings in three of the newly sanctioned companies — EN+ Group PLC, GAZ Group and United Company RUSAL PLC — to a non-U.S. person; or (2) facilitate the transfer of debt, equity or other holdings in these three companies by a non-U.S. person to another non-U.S. person.

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The transactions and activities authorized in General License 13 include facilitating, clearing and settling transactions, including on behalf of U.S. persons, to divest or transfer holdings to non-U.S. persons. U.S. persons may not, however, sell debt, equity or other holdings to a blocked person — including to those listed in the general license — or facilitate such transactions.

Reporting Requirements Under General Licenses 12 and 13:

All U.S. persons participating in transactions and activities authorized by General License 12 or General License 13 are required, within 10 business days after the expiration date of the licenses, to file a detailed report of each transaction with OFAC.

The report should include the names and addresses of the parties involved, the type and scope of the activities conducted, and the dates on which the activities occurred.

Impact of General Licenses 12 and 13 on Secondary Sanctions:

OFAC has indicated that a transaction is not “significant” under applicable secondary sanctions if U.S. persons would not require specific licenses from OFAC to participate in it. Therefore, any activity authorized by General Licenses 12 and 13, and occurring within the time period authorized in these general licenses, would not be considered “significant” for the purposes of Sections 226 and 228 of CAATSA.

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