

OFAC Updates Two General Licenses, Issues Additional Guidance Related to Recent Russia Sanctions

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On May 1, 2018, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) issued General Licenses 12B and 13A authorizing additional transactions and activities involving certain persons subject to the Ukraine-/Russia-related sanctions OFAC had issued on April 6, 2018 (the April 6 Sanctions). These general licenses and accompanying guidance address difficulties that blocked U.S. persons were having in accessing funds needed for the authorized wind-down and maintenance of activities under the existing general license, and expand and clarify the existing authorizations that permit U.S. persons to divest or transfer debt, equity or other holdings in certain blocked persons, or to facilitate such transactions.

Our [April 11, 2018, client alert](#) provides detailed treatment of the April 6 Sanctions, which targeted 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. Our [April 24, 2018, client alert](#) discusses General License 12A (now replaced and superseded by General License 12B) and General License 14 (which remains unchanged).

General License 12B contains the same general authorization as General License 12A and 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 operations, contracts, or other agreements" (including the importation of goods, services or technology into the United States) involving 12 companies designated in the April 6 Sanctions, provided those operations, contracts or other agreements were in effect prior to April 6, 2018. The authorization applies to transactions and activities involving any entity in which one or more of the 12 designated companies owns, directly or indirectly, a 50 percent or greater interest.

General License 12B also retains the requirement under General License 12A that — except as authorized under General License 14, which authorizes certain transactions involving United Company RUSAL PLC (RUSAL) — any payment to or for the direct or indirect benefit of a blocked person that is ordinarily incident and necessary to give effect to an authorized maintenance or wind-down activity must be made into a blocked, interest-bearing account at a U.S. financial institution. However, General License 12B now authorizes originating and intermediary U.S. financial institutions to process such payments if made to U.S. persons that are blocked by virtue of the April 6 Sanctions, provided the payment instructions are consistent with the authorizations of the general license. Additionally, U.S. financial institutions may release funds in accounts of these blocked U.S. persons, including funds pertaining to transactions that were entered into on or after April 6, 2018, for the limited purpose of engaging in authorized maintenance and wind-down activities.

General License 13A replaces and supersedes General License 13, which was issued concurrently with the April 6 Sanctions. General License 13A extends the authorizations of General License 13 until 12:01 am Eastern Daylight Time on June 6, 2018 (previously May 7, 2018, under General License 13). Accordingly, General License 13A permits until this time transactions ordinarily incident and necessary to (1) divest or transfer debt, equity or other holdings in three of the sanctioned companies — EN+ Group PLC, GAZ Group and RUSAL — to a non-U.S. person, or (2) facilitate the transfer of debt, equity or other holdings in these companies by a non-U.S. person to another non-U.S. person. General License 13A also goes further than General License 13 to authorize these categories of transactions for entities in which EN+ Group PLC, GAZ Group or RUSAL own, directly or indirectly, a 50 percent or greater interest, provided

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that the debt, equity or other holdings of such entities was issued by Irkutskenergo, GAZ Auto Plant or Rusal Capital Designated Activity Company (collectively, the “Other Issuer Holdings”). General License 13A does not authorize U.S. persons to engage in such transactions if the purchase or sale is directly or indirectly with a blocked person, including the sanctioned companies identified in the general license.

General License 13A explicitly authorizes facilitating, clearing and settling transactions, including on behalf of U.S. persons, to divest holdings to non-U.S. persons of debt, equity or other holdings in EN+ Group PLC, GAZ Group, RUSAL or the Other Issuer Holdings. General License 13A and accompanying OFAC guidance makes clear that these additional authorizations allow U.S. persons to engage in certain intermediate purchases of or investments in debt, equity or other holdings (*e.g.*, purchases of securities to be delivered to a counterparty to close out a short position) that are ordinarily incident and necessary to transfers or divestment authorized by General License 13A.

U.S. persons participating in transactions authorized by General Licenses 12B, 13A or 14 continue to be required to file a detailed report of each transaction with OFAC within 10 business days after the expiration of the license. 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.

In the context of secondary sanctions, OFAC’s guidance reiterates that a transaction will not be deemed “significant” under Sections 226 and 228 of the Countering America’s Adversaries Through Sanctions Act (CAATSA) if authorized by General Licenses 12B, 13A or 14.¹

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.

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