

## U.S. ECONOMIC SANCTIONS UPDATE: RUSSIA



*Washington, August 2, 2017*

### **THE UNITED STATES ENACTS NEW LAW REQUIRING THE IMPOSITION OF ADDITIONAL U.S. ECONOMIC SANCTIONS WITH RESPECT TO IRAN, RUSSIA AND NORTH KOREA**

Today, President Trump signed into law, H.R. 3364, Countering America's Adversaries Through Sanctions Act (the "Act"). The Act requires the imposition of additional U.S. economic sanctions with respect to Iran, Russia and North Korea.

The portion of the Act dealing with Russia is entitled as Countering Russian Influence in Europe and Eurasia Act of 2017 (the "New Russia Sanctions Act"), which builds upon existing U.S. Russia and Ukraine related sanctions, is summarized generally, as follows:

The New Russia Sanctions Act imposes new sanctions on Russia and codifies existing sanctions for its aggression in Ukraine and interference in the 2016 election. It also limits the administration's ability to lift sanctions by allowing Congress to block any sanctions relief, and it allows Congress to block the return of two diplomatic compounds seized in retaliation for the election interference.

- 1. Codification of Existing Sanctions:** The New Russia Sanctions Act codifies existing Russia sanctions that were imposed by the Obama Administration. Unless authorized by the U.S. Treasury, U.S. persons may not engage in any transactions with persons designated as sanctions targets under the existing sanctions.

**2. Expansion of “Sectoral” Sanctions in Financial Services, Energy, Mining, and Railway Sectors**

**and Modification of Existing Sectoral Sanctions:** The New Russia Sanctions Act expands the existing “sectoral” sanctions. These sanctions target Russian firms in the financial services, energy, and defense sectors, as well as Russian oil production projects, and prohibit certain types of transactions. The New Russia Sanctions Act specifically states that Russian state-owned companies in the railway, metals, and mining sectors will also be targeted for sanctions. The New Russia Sanctions Act also enlarges the scope of prohibited transactions with respect to the financial services and energy sectors (Sectoral Sanctions and their Directives). Lower threshold for sanctions targeting: A Russian oil project in which a sanctioned person holds not 50% or more but a 33% or more interest will be a sanctions target.

The New Russia Sanctions Act requires modification of the existing sectoral sanctions to ensure:

- that Directive 1 prohibits the conduct by United States persons or persons within the United States of all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity of persons determined to be subject to the directive, their property, or their interests in property.
- that Directive 2 prohibits the conduct by United States persons or persons within the United States of all transactions in, provision of financing for, and other dealings in new debt of longer than 60 days maturity of persons determined to be subject to the directive, their property, or their interests in property.
- that Directive 4 prohibits the provision, exportation, or reexportation, directly or indirectly, by United States persons or persons within the United States, of goods, services (except for financial services), or technology in support of exploration or production for new deepwater, Arctic offshore, or shale projects—

(1) that have the potential to produce oil; and

(2) that involve any person determined to be subject to the directive or the property or interests in property of such a person who has a controlling interest or a substantial non-controlling ownership interest in such a project defined as not less than a 33 percent interest.

**3. Cybersecurity:** The New Russia Sanctions Act requires the imposition of sanctions against any person that knowingly engages in significant activities undermining cybersecurity against any person, including a democratic institution, or government on behalf of the Government of the Russian Federation. The President may waive the imposition of such sanctions in certain circumstances.

- 4. Prohibition of Investments in Russian Energy Export Pipelines and Related Provision of Goods, Services, Technology, or Support:** The New Russia Sanctions authorize sanctions against major investors in Russian energy export pipelines. These sanctions will be imposed in coordination with and after taking into consideration any negative impact sanctions may have on allies of the United States. Sanctions are required to be imposed on any person that knowingly makes an investment or sells, leases, or provides to the Russian Federation, for the construction of Russian energy export pipelines, goods, services, technology, information, or support

- (1) any of which has a fair market value of \$1,000,000 or more; or
- (2) (2) that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more.

- 5. Sanctions Relating to Cybersecurity, Human Rights, and Other Matters:** The New Russia Sanctions Act requires the imposition of sanctions against:

- as noted above, designated persons who undermine U.S. cybersecurity,
- designated foreign persons who contributed to human rights abuses,
- designated persons affiliated with Russian defense or intelligence sectors,
- designated persons found to have made major investments that facilitate the privatization of Russian state firms which unfairly benefits associates of Russian officials, and
- foreign persons found to have provided significant armaments to Syria.

- 6. Limitation on the President's Discretionary Authority to Reduce or Lift Russia Sanctions:** In what is viewed to be a significant encroachment on the President's foreign affairs authority, the New Russia Sanctions Act imposes Congressional oversight on any efforts by the President to reduce or eliminate any Russia sanctions. The New Russia Sanctions Act restricts the authority of the White House to alter sanctions on Russia without the approval of the U.S. Congress. The President now needs to submit proposed actions to waive or suspend sanctions for Congressional review and approval.



- 7. Penalties on Non-U.S. persons:** The New Russia Sanctions Act expands the scope of persons who may potentially be penalized for violations. This may include foreign persons outside the United States. In general, the existing Russia sanctions prohibit U.S. persons from engaging in transactions with sanctions targets. However, the New Russia Sanctions Act extends penalties to apply foreign persons who "cause a violation" by a U.S. person.

- 8. OFAC Designations:** The persons (entities and individuals) against whom the foregoing sanctions will be imposed (“Sanctions Targets”) will be identified by the U.S. Treasury’s Office of Foreign Assets Control (“OFAC”) by the inclusion of such persons on OFAC’s List of SDNs and Blocked Persons.
- 9. Sanctions Described:** With the exception of the Sectoral Sanctions, sanctions imposed under the New Russia Sanctions Act will, in most part, prohibit transactions and activities with or involving Sanctions Targets and U.S. persons or those with a U.S. nexus. The property and all interest in property of Sanctions Targets within U.S. jurisdiction will be blocked. Additionally, individuals who are Sanctions Targets will not be permitted to enter the United States.
- 10. More Targets:** The New Russia Sanctions Act expands the universe of Iranian as well as non-Russian persons that may be targeted by U.S. Russia sanctions.
- 11. Implementation:** OFAC will issue regulations implementing the New Russia Sanctions Act and identify the new Russia sanctions targets designated under the New Russia Sanctions Act.

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## Questions and Further Guidance

For more information or questions regarding the subject covered in this *Economic Sanctions Update*, please contact:

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The Eren Law Firm is an economic sanctions boutique. Its other core areas of concentration and practice include corporate transactions, and international dispute resolution, anti-money laundering, and international trade regulation. The Firm’s clients from around the world include banks and financial institutions; insurance, reinsurance and other financial services companies; natural resource extraction companies, industrial companies, marine and air transportation companies, ship owners; sovereign governments; foreign state enterprises; and individuals.

Mr. Eren and Mr. Pinter of the Firm served in senior positions at the U.S. Treasury’s Office of Foreign Assets Control (OFAC), the U.S. government agency that administers and enforces U.S. economic sanctions, for a combined 25 years prior to entering private law practice, respectively 17 and 16 years ago, and since this time, they have devoted and continue to devote most of their time in private practice to economic sanctions issues and matters, particularly those involving Iran.

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