

Client Update

U.S. Congress Passes Final Sanctions Legislation

On July 27, 2017, the U.S. Congress passed H.R. 3364, known as the Countering America's Adversaries Through Sanctions Act ("CAATSA"), which expands U.S. sanctions against Russia and adopts additional sanctions against Iran and North Korea. Although the bill is not yet law, Russia has already announced retaliatory measures.

As of this publication, the bill has been approved by both chambers of Congress but has not yet been submitted to the President. The White House has given no indication whether President Trump will sign the bill or use his veto authority. As the bill passed both houses of Congress with little dissent, there is a strong chance that any veto will be overridden by Congress.

MODIFICATION OF SANCTIONS AGAINST RUSSIA

If adopted as law the bill would, among other actions, (i) codify existing sanctions against Russia and establish a congressional review process to authorize any changes to existing sanctions against Russia, (ii) expand the sectoral sanctions program and (iii) authorize secondary sanctions against non-U.S. persons for engaging in certain Russia-related activities.

Codification and Congressional Review

The bill codifies the executive orders underpinning the U.S. sanctions program against Russia and establishes congressional review of any attempts by the President to ease the existing sanctions against Russia.

The Senate bill, discussed here, extended this congressional review to licensing actions that significantly alter U.S. policy towards Russia. Subsequent amendments by the House of Representatives, now included in CAATSA, direct that this review would not apply "to the routine issuance" of a license that does not significantly alter U.S. policy.

Sectoral Sanctions

The final bill amends the sectoral sanctions program, which imposes limited restrictions, known as directives, on U.S. persons' activities with designated Russian companies, by:

- Directing that state-owned entities operating in the railway or metals and mining sectors are potential targets of U.S. sectoral sanctions. An earlier version of the bill also would have included state-owned entities operating in the shipping sector as potential targets of U.S. sectoral sanctions, but the House amended the bill to remove that provision.
- Revising *Directive 1* (restricting equity and debt financing of certain Russian financial institutions and their subsidiaries) and *Directive 2* (restricting debt financing of certain Russian oil and gas companies and their subsidiaries) to limit permissible transactions in new debt of designated entities to a maximum maturity of 14 days and 60 days, respectively. The current restrictions apply to debt with a maturity of longer than 30 and 90 days, respectively.
- Revising *Directive 4* (restricting supply of goods and services to oil exploration and production) to apply to any deep water, Arctic offshore or shale project for the exploration or production of oil, whether in Russia or elsewhere, in which a designated Russian company holds at least a 33% interest. The current restrictions apply only to such projects in Russian territory. An earlier version of the bill would have applied to any such project in which a designated Russian company held any interest, but an amendment in the House added the 33% threshold.

Secondary Sanctions

The final bill authorizes “secondary sanctions,” which seek to restrict non-U.S. persons from engaging in certain Russia-facing activities. These secondary sanctions can be applied against any non-U.S. companies or persons (including, to be clear, entities and persons that are based outside of Russia) that:

- facilitate significant deceptive or structured transactions for a sanctioned Russian person, or his or her close relatives;
- undermine cybersecurity;
- amount to “significant transactions” with Russia’s intelligence and defense sectors;
- involve large investments in Russian energy export pipelines; or
- relate to corrupt privatizations of Russian state-owned assets.

The bill directs the President to (i) specify persons within Russia’s intelligence and defense sectors targeted by these sanctions within 60 days following the bill’s enactment and (ii) impose

secondary sanctions regarding large investments in Russian energy export pipelines “in consultation with the allies of the United States.”

In addition, the final bill authorizes sanctions against any person that:

- knowingly violates, or causes a violation of, U.S. sanctions against Russia or facilitates a “significant” transaction on behalf of a person subject to the United States’ sanctions against Russia or, if an individual, his or her close family members; and
- knowingly provides Syria “significant” financial, material or technological support that contributes materially to that government’s ability to develop or acquire controlled arms and defense goods.

AMENDMENTS TO IRAN SANCTIONS

The bill’s Iran-related provisions

- Expand the scope of potentially sanctionable activities, particularly as they relate to Iran’s development of ballistic missiles and support of Iran’s human rights abuses.
- Sanction Iran’s Islamic Revolutionary Guard Corps under a terrorism-related sanctions program. The Corps is already subject to sanctions as a proliferator of weapons of mass destruction and as an entity of the Government of Iran.
- Limit the President’s authority to remove certain newly designated persons from the Iran sanctions lists.

EXPANSION OF SANCTIONS ON NORTH KOREA

The bill calls for expanded sanctions against North Korea, particularly targeting businesses that facilitate North Korean industry. Among other restrictions, the bill authorizes sanctions against persons who:

- provide certain natural resources or aviation, rocket or maritime related fuels or services to North Korea;
- facilitate certain North Korean business activities, including online commercial activities (*i.e.*, online gambling) as well as purchasing fishing rights or significant amounts of food or agricultural commodities from North Korea;
- provide or facilitate significant transfers to North Korea of bulk cash, precious metals, gemstones and other specified stores of value;
- sell or transfer significant amounts of crude oil and other petroleum-based products to North Korea; or

- facilitate human rights abuses by North Korea, including with regard to forced labor of North Koreans in any country.

Additionally, the bill prohibits indirect correspondent account activity at any U.S. financial institution on behalf of North Korea or any person in North Korea.

* * *

For a semimonthly e-mail summary of developments in economic and trade sanctions, please subscribe to the Debevoise & Plimpton LLP Sanctions Alert. To subscribe, please e-mail sanctions@debevoise.com or sign up [here](#). The Firm's sanctions-related publications may also be found at [The Sanctions Resource](#).

* * *

We will continue to monitor the situation and provide updates. Please do not hesitate to contact us with any questions.

WASHINGTON, D.C.

Satish M. Kini
smkini@debevoise.com

Robert T. Dura
rdura@debevoise.com

NEW YORK

Carl Micarelli
cmicarelli@debevoise.com

MOSCOW

Alan V. Kartashkin
akartashkin@debevoise.com