

Updated Russia Sanctions Bill Is Introduced to the U.S. Congress

February 19, 2019

On February 13, 2019, a bipartisan group of U.S. senators, led by Senator Lindsey Graham (R - SC), introduced an updated and expanded version (S. 482) of last year's proposed bill (S. 3336), Defending American Security from Kremlin Aggression Act ("DASKA"). Several of these sponsors led Congress' previous effort to expand U.S. sanctions against Russia, the Countering America's Adversaries Through Sanctions Act ("CAATSA").



We are continuing to consider the proposed legislation, but an initial review indicates that, like DASKA 2018, the new bill would result in both new secondary sanctions and new designations. Below, we highlight several of DASKA 2019's important provisions, including several departures from its predecessor.

Blocking sanctions targeting corrupt political figures, "oligarchs" and parastatal entities. DASKA 2019 continues to propose to amend CAATSA by authorizing blocking sanctions on "political figures, oligarchs, and other persons" who "facilitate illicit and corrupt activities" on behalf of the Russian President.

Additionally, this provision would authorize blocking sanctions on persons acting on behalf of such corrupt officials, as well as family members who "derive significant benefits" from this conduct, "Russian parastatal entities" that "facilitate illicit and corrupt activities," and any person, including a financial institution, that engages in a significant transaction with one of these officials, family members, agents or parastatal entities.

Blocking sanctions targeting Russian financial institutions. DASKA 2019 would authorize blocking sanctions against any Russian financial institution that provides "financial or other support" for the Russian government's interference "in the democratic process of elections of any country other than the Russian Federation."

Notably, DASKA 2018 would have required blocking sanctions against at least one significant Russian financial institution, regardless of any other circumstances. This provision no longer appears in DASKA 2019.

Blocking sanctions related to Kerch Strait incident. DASKA 2019 provides a two-step response to Russia's detention of Ukrainian naval personnel in November 2018 in the Kerch Strait.

- First, within 90 days of enactment, DASKA 2019 would require at least 24 senior officers of the Russian Federal Security Service to be added to the SDN list until the Ukrainian naval personnel detained by Russian forces in Kerch Strait are no longer in detention.
- Secondly, DASKA 2019 would require the Secretary of State to issue a report every 180 days describing whether Russia "has interfered with the freedom of navigation of one or more vessels in Kerch Strait or elsewhere in a manner inconsistent with international law," and, in the case of an affirmative report, would require blocking sanctions on "all entities operating in [Russia's] shipbuilding sector." Blocking sanctions remain in effect until the Secretary of State determines and certifies to the Congress that Russia has not been interfering in freedom of navigation in Kerch Strait or elsewhere for 3 years predeceasing the report and has provided assurance that no such interference will repeat in the future.

Menu-based sanctions on energy sector. DASKA 2019 continues to authorize new secondary sanctions that target transactions with Russia's energy sector. Menu-based sanctions, which authorize a range of penalties up to blocking sanctions, may be imposed on any person determined to have:

- invested in a liquefied natural gas export facility located outside of Russia if the fair market value of such investment is \$1 million or more in any single transaction, or \$5 million or more over the course of a 12-month period, and the investment directly and significantly contributes to Russia's ability to construct such facilities;
- invested in an energy project outside of Russia that is supported by a Russian parastatal entity or an entity owned or controlled by the Russian government, if the total value of the project exceeds, or is reasonably expected to exceed, \$250 million; or
- provided goods, services, technology, financing or support to Russia, valued at \$1 million or more per transaction or \$5 million in aggregate over a 12-month period, that could directly and significantly contribute to Russia's ability to develop or engage in the production of crude oil reserves located in Russia, except that ongoing projects as of the date of enactment of DASKA 2019 would be grandfathered.

Financing restrictions on Russian sovereign debt. Similarly to its predecessor, DASKA 2019 would prohibit U.S. persons from dealing in new Russian sovereign debt.

DASKA 2019 describes “Russian sovereign debt,” which includes: (1) bonds issued by the Central bank, the National Wealth Fund, or the Federal Treasury of the Russian Federation, or agents or affiliates of these entities, with a maturity of more than 14 days; (2) foreign exchange swap agreements with these entities with a duration of more than 14 days; or (3) any other financial instrument of more than 14 days’ maturity that was issued by a Russian financial institution on behalf of the Russian government or that the U.S. government determines to represent Russian sovereign debt.

Blocking sanctions targeting malicious cyber activities. DASKA 2019 would authorize blocking of persons that engage in significant transactions with any person in Russia that supports or facilitates “malicious cyber activities,” or is owned or controlled by, or purports to act on behalf of, a person that engages in such significant transactions.

Codification of Global Magnitsky Sanctions. Just as CAATSA required Congressional review to lift Russia-related sanctions, DASKA 2019 would similarly provide for Congressional review and potential veto of a determination to lift sanctions imposed under the Global Magnitsky Act.

Beneficial ownership requirements for “high-value” real estate transactions. DASKA 2019 would amend the Bank Secrecy Act to require title insurance companies in the United States to report to the U.S. government the identity of real persons that own 25% or more of a legal entity that purchases residential real estate in a high-value transaction.

Coordination with the European Union. DASKA 2019 would establish a new Office of Sanctions Coordination at the U.S. State Department, to be headed by an official of the rank and status of ambassador. In addition to advising on sanctions policy generally, the Office would be tasked with coordinating “with the European Union to ensure the maximum effectiveness of sanctions” and would be required to issue periodic reports if the United States and European Union were to take divergent actions with respect to sanctions against Russia.

New and updated reports. DASKA 2019 requires an updated report on Russia’s “oligarchs and parastatal entities” to be submitted within 180 days of enactment. In February 2018, we issued a Client Update on the original list, which can be found [here](#).

DASKA 2019 also requires multiple reports on actions taken to date under existing Russian sanctions, including secondary sanctions authorities under CAATSA and sanctions under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (“CBW Act”). This latter report would require the Trump Administration to describe whether it has imposed all sanctions mandated by the CBW Act. In August

2018 we issued a Client Update on the proposed sanctions under the CBW Act that can be found [here](#).

Other required reports relate to, among other issues, whether Russia should be designated as a “state sponsor of terrorism,” whether Russia has committed war crimes in Syria, the circumstances of Boris Nemtsov’s assassination and the extent of the Russian President’s personal assets and net worth.

Prospects of enactment. DASKA 2019 was referred to the United States Senate’s Committee on Foreign Relations. The bill is not yet scheduled for further consideration, and we will provide further updates as relevant.

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Please do not hesitate to contact us with any questions.

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