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CLIENT MEMORANDUM

OFAC Updates Ukraine-Related Sanctions for Russia With New Designations, While Congress Moves to Expand Sectoral Sanctions on Russian Entities

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Recent actions by the administration and Congress indicate that the Ukraine-related sanctions on Russian individuals and entities will be maintained, and possibly expanded, in the near future. On June 20, 2017, the U.S. Department of the Treasury, Office of Foreign Assets Control ("OFAC"), designated an additional 38 individuals and entities pursuant to the four executive orders relating to the Ukraine/Russia-related sanctions program. In addition, during the previous week, the Senate passed S.722, a bill that would expand the sectoral sanctions that restrict U.S. persons from providing certain financing and support for oil exploration to listed Russian state-owned enterprises.

I. Additional Designations of Ukrainian Separatists and Russians

OFAC's new designations, announced here, include 21 Ukrainian separatists designated pursuant to EO 13660; 11 individuals and entities designated pursuant to EO 13660 for operating in the Crimea region of Ukraine; and six individuals designated pursuant to EO 13661 as persons operating in the arms or related material sector in Russia or as officials of the Russian government. Any property or interest in property of the designated persons that is in the possession or control of U.S. persons or within the United States must be blocked, and transactions by U.S. persons involving these persons are generally prohibited.

OFAC also identified 20 subsidiaries as owned 50 percent or more by Transneft. Subsidiaries that are owned 50 percent or more by Transneft are subject to Directive 2, and U.S. persons are prohibited from dealing in new debt with a maturity of greater than 90 days of such sanctioned entities. OFAC explained that the identification of the Transneft subsidiaries was done to provide additional information to the private sector to assist with sanctions compliance.

Significantly, the Treasury Department's announcement stated that the United States is committed to a diplomatic solution to the crisis in Ukraine and will maintain its sanctions program in furtherance of that commitment, as follows: "U.S. sanctions on Russia related to the situation in eastern Ukraine will remain in place until Russia fully honors its obligations under the Minsk Agreements. U.S. sanctions related to Crimea will not be lifted until Russia ends its occupation of the peninsula."

II. Legislation Passed by Senate Would Expand Sectoral Sanctions

Legislation passed by the Senate on June 15, 2017, would materially expand the sectoral sanctions on dealings with listed Russian state-owned enterprises that are currently sanctioned pursuant to E.O. 13622. S.722, available here, would require the president to modify three directives that restrict certain financing and assistance for oil projects by U.S. persons to listed state-owned enterprises.

The legislation would require the president to modify Directive 1, which currently prohibits U.S. persons from engaging in any transaction in, provision of financing for, or other dealings in new debt of longer than 30 days maturity or new equity of persons determined to be subject to the Directive. The legislation would shorten the permissible maturity to 14 days. Similarly, the legislation would modify Directive 2, which prohibits U.S. persons from dealing in debt of subject persons having longer than 90 days maturity, by shortening the permissible maturity to no more than 30 days.

The legislation would also modify Directive 4, which currently prohibits U.S. persons from the provision, exportation, or reexportation, directly or indirectly, of goods, services (except for financial services), or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil in the Russian Federation or in Russian territorial waters involving a person determined to be subject to the Directive. The legislation would remove the limitation that the project be in Russia, and apply the restriction to any deepwater, Arctic offshore, or shale projects that have the potential to produce oil and involve a Russian energy firm and any person, or the property interests of such a person, determined to be subject to the Directive. The legislation would therefore modify the directive in a manner that would prohibit U.S. persons from providing services to Russian energy firms subject to Directive 4 for non-conventional oil projects outside of Russia, as well as those in Russia.

The legislation contains a number of other provisions regarding both the Ukraine-related sanctions program and the malicious cyber activities sanctions program, including codifying the executive orders underlying the two programs and making mandatory a number of the authorities to impose sanctions in the Ukraine Freedom Support Act of 2014. The legislation also would limit the president's ability to act without congressional review to terminate or waive the codified sanctions, or to issue a license that significantly alters U.S. foreign policy with regard to Russia.

The House of Representatives is currently considering the bill, which also includes new sanctions for Iran.

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