

February 5, 2018

## **Treasury Department Releases Report Listing Russian Senior Political Figures and Oligarchs**

### **Treasury Secretary: Sanctions Will “Come Out of This Report”**

On January 29, 2018, the Treasury Department submitted to Congress a report pursuant to Section 241 of the Countering America’s Adversaries Through Sanctions Act (“CAATSA”). The publicly released, unclassified portion of the report lists various Russian senior political figures and “oligarchs.”<sup>1</sup> The classified annex includes, among other things, the names of Russian parastatal entities and “may” contain the names of additional senior political figures and oligarchs.<sup>2</sup>

Below, we summarize the report and discuss its implications.

### **CAATSA Section 241**

Section 241 of CAATSA requires the Treasury Secretary, in consultation with the Director of National Intelligence and the Secretary of State, to submit to Congress, by January 29, 2018, a “detailed report” on Russian senior political figures and oligarchs, including the identification of the most “significant” political figures and oligarchs as determined by their “closeness to the Russian regime and their net worth.” Section 241 requires the report to: (1) assess the relationship between these individuals and “President Putin or other members of the Russian ruling elite”; (2) identify “any indices of corruption” concerning these individuals; (3) identify the estimated net worth and known sources of income of these individuals and their family members; and (4) identify any non-Russian business affiliations of these individuals.<sup>3</sup>

Section 241 also requires the report to analyze Russian parastatal entities (*i.e.*, Russian government-owned entities), including their leadership structures and beneficial ownership; assess the exposure of key sectors of the U.S. economy to these parastatal entities; and analyze the likely consequences of imposing various sanctions on those entities on key sectors of the U.S. economy.<sup>4</sup>

Finally, the report must assess the potential impacts of imposing secondary sanctions<sup>5</sup> with respect to Russian oligarchs, state-owned enterprises, and parastatal entities, including impacts on the entities themselves, and on the economies of Russia, the U.S. and U.S. allies.

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## **The Report**

The public portion of the report lists 114 Russian senior political figures, as well as their positions within the Russian government. The Treasury Department chose to include these particular individuals because of their “closeness to the Russian regime,” which was based primarily on their official positions. The list includes, among others, senior members of the Russian presidential administration; members of the Russian cabinet and heads of other major executive agencies; senior legislative leaders; and senior executives at state-owned enterprises. The list indicates which of these persons is currently subject to U.S. sanctions.

The public portion of the report also lists 96 Russian oligarchs “who, according to reliable public sources, have an estimated net worth of \$1 billion or more.” Some commentators have suggested that the public list of oligarchs was taken substantially from a list of wealthy Russians published by *Forbes*.<sup>6</sup>

The public portion does not contain any additional information about these individuals, but notes that the classified annex contains additional information required by CAATSA. It further notes that the classified annex “may” include additional individuals who “may” hold positions below those listed on the public list or have a net worth below \$1 billion.

With respect to Russian parastatal entities, the public portion of the report defines these entities as companies with state ownership of at least 25 percent and 2016 revenues of approximately \$2 billion or more. The names of these entities, and other information required by Section 241, is provided in the classified annex. The report notes that, as of 2016, parastatals accounted for one-third of all jobs in Russia and 70 percent of Russia’s gross domestic product.

## **Significance of the Report**

The report, as well as guidance released by Treasury’s Office of Foreign Assets Control (“OFAC”), emphasizes that the report is “not a sanctions list” and does not create any restrictions or limitations on dealing with such persons or entities.<sup>7</sup> Further, the inclusion of the individuals in the unclassified portion of the report does not constitute a determination that they “meet the criteria of designation under any sanctions program” or suggest that the U.S. government possesses information showing that they have been involved in “malign activities.” Treasury’s accompanying press release indicates that Treasury will take into account “all available sources of information,” including information within the classified annex, when determining future sanctions designations.<sup>8</sup>

Following the issuance of the report, Treasury Secretary Mnuchin testified before the Senate Banking Committee and faced criticism for the administration’s alleged failure to move more quickly on Russian sanctions under CAATSA.<sup>9</sup> Secretary Mnuchin stated, among other things, that “[t]here will be sanctions that come out of this report” that “could be issued within two or three months.”<sup>10</sup> A subsequent Treasury

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press release added that the report's classified annex identified certain "links to corruption" by some of the named Russian individuals, as well as other information. This information was classified "in order to avoid potential asset flights from those individuals and entities, as well as to prevent disclosure of sensitive information."<sup>11</sup> Echoing Secretary Mnuchin's comments at the Senate Banking Committee hearing, this press release indicated that Treasury is "utilizing" the information in the report, and particularly the classified annex, "to inform future targeted sanctions."<sup>12</sup>

### **Implications**

As the Treasury Department has emphasized, the listing of persons in the report as senior political figures and oligarchs does not in itself impose sanctions or signal that these persons will be the target of sanctions in the future. Indeed, Treasury's public listing of oligarchs was based on publicly available estimates of net worth; the identity of these individuals is therefore not "new news."

Nonetheless, the analysis that Treasury and the other national security agencies were required to undertake to compile the report—and, in particular, the information and assessments included in the classified annex—raises the possibility that Treasury has identified negative information about some of the persons listed in the report. If that information indicates that such persons meet the criteria for designation under Treasury's sanctions authorities, including the Russia/Ukraine sanctions program or any other applicable sanctions program, then there is a risk that such persons may be sanctioned pursuant to those authorities. Given Secretary Mnuchin's statement to Congress that "there will be sanctions that come out of this report," it is likely that certain individuals or parastatal entities included in either the classified or unclassified portions of the report will be subject to some form of sanctions in the future.

The report creates some challenges and uncertainties from a compliance and risk perspective. Among other things, financial institutions and other companies conducting business with persons listed in the report or with Russian parastatal entities should consider undertaking or renewing enhanced due diligence to assess the risk that such persons or entities could be sanctioned in the future or are involved in corruption or other criminal activities.

For an overview of other recent developments in Russia/Ukraine sanctions, please see our prior memorandum.<sup>13</sup> We will provide future updates in this area, as circumstances warrant.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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<sup>1</sup> The report can be found [here](#).

<sup>2</sup> During his recent testimony before the Senate Banking, Housing and Urban Affairs Committee, Secretary Mnuchin stated that the classified annex was “hundreds of pages” in volume. Donna Borak and Nicole Gaouette, *Mnuchin vows additional Russia sanctions will be imposed in ‘near future’*, CNN.com (Jan. 30, 2018), <https://www.cnn.com/2018/01/30/politics/mnuchin-russia-sanctions/index.html>.

<sup>3</sup> See H.R. 3364, 115th Cong. (1st Sess. 2017), available [here](#).

<sup>4</sup> See Report, *supra* note 1.

<sup>5</sup> The U.S. government utilizes “secondary sanctions” to discourage certain specified activities by non-U.S. individuals and entities. Secondary sanctions target conduct with no nexus to the United States. Under these authorities, non-U.S. persons engaging in certain activities are at risk of being designated on the SDN List or otherwise sanctioned.

<sup>6</sup> See, e.g., John Hudson, *Trump Administration Admits It Cribbed From Forbes Magazine to Create “Oligarch List,”* BuzzFeed News (Jan. 30, 2018), [https://www.buzzfeed.com/johnhudson/trump-administration-admits-it-cribbed-forbes-magazine-to?utm\\_term=.uoY1J08dJ#.wc9R713a7](https://www.buzzfeed.com/johnhudson/trump-administration-admits-it-cribbed-forbes-magazine-to?utm_term=.uoY1J08dJ#.wc9R713a7); Emily Tamkin, *Trump Administration Says No to New Russia Sanctions, Yes to Cribbing From Forbes*, Foreign Policy (Jan. 30, 2018), <http://foreignpolicy.com/2018/01/30/trump-administration-says-no-to-new-sanctions-yes-to-cribbing-from-forbes-kremlin-russia-state-treasury/>.

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- <sup>7</sup> The Frequently Asked Question on the report can be found [here](#).
- <sup>8</sup> The press release can be found [here](#).
- <sup>9</sup> See, e.g., Kevin Breuninger, 'People don't trust the president on Russia': Senators grill Treasury Secretary Mnuchin on sanctions, CNBC (Jan. 30, 2018), <https://www.cnbc.com/2018/01/30/senators-grill-treasury-secretary-mnuchin-on-sanctions.html>.
- <sup>10</sup> Sylvan Lane, *Mnuchin promises more sanctions on Russia after outrage over report*, The Hill (Jan. 30, 2018), <http://thehill.com/policy/finance/371386-mnuchin-promises-more-sanctions-on-russia-after-outrage-over-report>.
- <sup>11</sup> The Treasury Department's press release can be found [here](#).
- <sup>12</sup> *Id.*
- <sup>13</sup> See Paul, Weiss Client Memorandum: U.S. Sanctions Relating to Russia and Ukraine: Navigating the Current Landscape, Dec. 20, 2017, available at: <https://www.paulweiss.com/media/3977533/20dec17-sanctions.pdf>. For further regulatory updates concerning economic sanctions and anti-money laundering, please review our recent memorandum, Economic Sanctions and Anti-Money Laundering Developments: 2017 Year In Review, available at: <https://www.paulweiss.com/media/3977572/23jan18-aml.pdf>.