

Russia Sanctions Updates

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The past two weeks have seen a number of developments with respect to U.S. sanctions relating to Russia, as the Trump administration has (1) taken additional steps to ameliorate adverse consequences for U.S. persons of the [significant sanctions actions](#) targeting Russian oligarchs announced on April 6, 2018; (2) further implemented the Russia-related sanctions provisions of the [Countering America's Adversaries Through Sanctions Act of 2017](#) ("CAATSA"); and (3) issued a new Executive order creating a framework for assessing interference by Russia or other foreign actors in U.S. elections and imposing sanctions in response to such interference. These developments are summarized below.

Extension of General Licenses and Issuance of Related FAQs

On September 21, 2018, the Treasury Department's Office of Foreign Assets Control ("OFAC") announced that it was extending until November 12, 2018 the expiration date of certain general licenses ("GLs") related to the sanctioned Russian entities EN+ Group plc ("EN+") and United Company RUSAL PLC ("RUSAL"). OFAC [designated](#) both entities on April 6, 2018 – EN+ for being owned or controlled by sanctioned Russian oligarch Oleg Deripaska, and RUSAL for being owned or controlled by EN+. According to the [press release](#) announcing the extension, EN+ and RUSAL have approached the U.S. Government about substantial corporate governance changes that could potentially support the delisting of these entities, and the extension is needed in order to allow sufficient time for review of these changes.

Specifically, OFAC issued the following updated GLs:

- [GL 13D](#), which replaces and supersedes GL 13C, authorizes, until 12:01 a.m. eastern standard time, November 12, 2018, transactions by U.S. persons necessary and incident to divest or transfer debt, equity or other holdings in EN+, RUSAL, and their subsidiaries to a non-U.S. person, or to facilitate such

transfers by a non-U.S. person to another non-U.S. person. The GL's authorization of such transactions with respect to holdings in GAZ Group and its subsidiaries continues to expire at 12:01 a.m. eastern daylight time on October 23, 2018.

- **GL 14A**, which replaces and supersedes GL 14, extends until 12:01 a.m. eastern standard time, November 12, 2018 the expiration date of the GL's authorization of transactions ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements involving RUSAL or its subsidiaries that were in effect prior to April 6, 2018.
- **GL 16A**, which replaces and supersedes GL 16, extends until 12:01 a.m. eastern standard time, November 12, 2018 the expiration date of the GL's authorization of transactions ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements involving EN+, JSC EuroSibEnergo, or their subsidiaries that were in effect prior to April 6, 2018.

Separately, on September 14, 2018, OFAC issued two additional responses to Frequently Asked Questions (**FAQs**) concerning the scope of "maintenance" transactions authorized under GLs 14 (now 14A), 15, and 16 (now 16A). **FAQ 625** clarifies that as a general matter, the authorization for "maintenance" in these GLs includes all transactions ordinarily incident to continuity of operations, as well all transactions and activities ordinarily incident to performing under a contract or agreement in effect prior to April 6, 2018, provided that the level of performance is consistent with the terms of the GL and consistent with past practices that existed between the party and the blocked entity prior to April 6, 2018. In cases where there is no contract or agreement in place with the blocked person prior to April 6, 2018, OFAC notes that "maintenance" also generally includes all transactions and activities ordinarily incident to obtaining goods or services from or providing goods or services to a blocked entity in a manner consistent with the terms of the GL and consistent with past practices that existed between the party and the blocked entity prior to April 6, 2018. The FAQ also clarifies that the authorization for "maintenance" also generally includes authorization to enter into contingent contracts for transactions and activities consistent with the above, extending beyond the current expiration of the above-referenced GLs, where any performance after the expiration of the GL is contingent on such performance either not being prohibited or being authorized by OFAC.

FAQ 625 further notes that OFAC will consider the transaction history between the party, or any intermediary party, and the blocked entity prior to April 6, 2018 in assessing whether activity is consistent with past practices. It clarifies that the GLs do not authorize purchase orders and shipments involving the blocked entities where there was no preexisting relationship between a person and a blocked entity or where the contemplated activity exceeds past practices that existed between the party and the blocked entity prior to April 6, 2018 as demonstrated by transaction history. New [FAQ 626](#) specifically clarifies that the stockpiling of inventory – even if pursuant to a contract executed prior to April 6, 2018 – is not authorized by the GLs unless the transaction history indicates that the scope and extent of maintaining inventory is consistent with past practice between the party and the blocked entity.

CAATSA Section 231 Sanctions

On September 20, 2018, the U.S. State Department [announced](#) that it was imposing sanctions under section 231 of CAATSA on the Chinese military entity Equipment Development Department (“**EDD**”) and its director, Li Shangfu, for engaging in significant transactions with Rosoboronexport, Russia’s main arms export entity, involving Russia’s delivery to China of combat aircraft and air defense systems. This is the first time sanctions have been imposed under section 231.

The sanctions imposed on EDD are a denial of export licenses; a prohibition on foreign exchange transactions under United States jurisdiction; a prohibition on transactions with the United States financial system; blocking of all property and interests in property within United States jurisdiction; and the imposition of sanctions on an EDD principal executive officer, its director Li Shangfu, which include a prohibition on foreign exchange transactions under United States jurisdiction, a prohibition on transactions with the United States financial system, blocking of all property and interests in property within United States jurisdiction, and a visa ban. As a result of the imposition of asset blocking sanctions, OFAC [added](#) EDD and Li to the List of Specially Designated Nationals and Blocked Persons. All property and interests in property of EDD and Li in the United States or in the possession or control of a U.S. person are now blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Prior to the announcement of these sanctions, the President issued an [Executive Order](#) authorizing relevant federal departments and agencies to take necessary actions to implement menu-based sanctions under CAATSA, including the sanctions provided for under section 231.

Also on September 20, the State Department added 33 additional individuals and entities to the CAATSA section 231 [List of Specified Persons](#) (“LSP”) for being a part of, or operating for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation. This included three entities that are part of the Russian defense sector and thirty individuals and entities associated with the intelligence sector. Under section 231 of CAATSA, persons determined to have knowingly engaged in significant transactions with any person on the LSP are subject to sanctions. The State Department also updated its [FAQs](#) regarding section 231 in connection with these actions.

Election Interference Executive Order

On September 12, 2018, the President issued [Executive Order 13848](#), “Imposing Certain Sanctions in the Event of Foreign Interference in a United States Election” (“E.O. 13848”). E.O. 13848 establishes a framework for the U.S. government to assess efforts by foreign governments to interfere in U.S. federal elections and impose sanctions in response to such interference. Among other things, the order authorizes OFAC to impose sanctions on foreign persons determined to have been involved in such interference, and provides a process to recommend to the President broader sanctions targeting the economies of foreign countries whose governments engage in such election interference activities. No sanctions have been imposed under E.O. 13848, and so the order as yet has no practical consequences. It may have been intended to preempt ongoing efforts in Congress to require the administration to impose harsher sanctions in response to potential Russian election interference, such as the proposed [DETER Act](#) sponsored by Senators Rubio and Van Hollen, though [initial reports](#) suggest that this effort was received skeptically.

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We will continue to monitor Russia sanctions developments and publish updates as appropriate.