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Trade Compliance Flash: Treasury Ramps Up Russia-Related Sanctions in Final Days of Biden Administration

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The U.S. Department of the Treasury's (Treasury) Office of Foreign Assets Control (OFAC) took significant steps in the past week to intensify sanctions on persons connected to the Russian energy sector and on persons who facilitate or participate in evasion of U.S. Russia-related sanctions. The actions seek to "ratchet[] up the sanctions risk" entailed in doing business related to Russia's oil trade and its military-industrial complex in a manner that would be difficult to unwind by executive fiat, should the next administration seek to do so.

On January 10, Treasury announced myriad sanctions targeting Russia's energy sector:

- Treasury issued new determinations pursuant to Executive Order (E.O.) 14024 (as amended) and E.O. 14071. The determination pursuant to E.O.14024, effective immediately, authorizes the imposition of sanctions on any person determined to operate or have operated in the energy sector of the Russian Federation economy. The determination pursuant to E.O. 14071, effective February 27, 2025, prohibits the provision from the U.S. or by a U.S. person, wherever located, of petroleum services to persons located in the Russian Federation. There are a handful of exclusions, including for certain wind-down and divestiture transactions.
- In conjunction with the U.K., OFAC designated two significant Russian oil producers. OFAC also designated oil exporters and oilfield service providers, and dozens of oil executives, under not only E.O. 14024 (pursuant to the Russian Harmful Foreign Activities Sanctions Regulations (RuHSR)), but also E.O. 13662 (the Ukraine-/Russia-related Sanctions Regulations (URSR)), the latter of which carries increased secondary sanctions risk. Such designations under the URSR also require congressional approval to be removed.
- OFAC designated 183 vessels of the so-called " shadow fleet" and a number of other entities, including insurance companies and traders, connected with the maritime shipment of Russian oil, under both E.O. 14024 and E.O. 13662. These sanctions include a re-designation of Sovcomflot, Russia's state-owned shipping company, and designation of 69 of its vessels.
- OFAC amended and reissued RuHSR General License (GL) No. 8L, superseding GL 8K. Instead of generally authorizing transactions related to energy involving specified entities, the GL is now a wind-down license that expires March 12, 2025. OFAC also issued URSR GL 26, which authorizes certain activity with designated persons under the URSR if such activity is already authorized under the RuHSR. Other wind-down GLs were also issued.

On January 15, Treasury announced that it was taking action to curb Russian evasion of U.S. sanctions and reinforce the "grave risks" foreign persons face if they continue to work with Russia's military-industrial complex:

- Fifteen entities and one individual were designated pursuant to both E.O.s 14024 and 13662 for their role in a "sanctions evasion scheme" by which the parties set up regional clearing platforms (RCPs) between Russia and China to allow for cross-border payments for sensitive goods through non-cash mutual settlement.
- OFAC designated a Kyrgyz Republic-based bank under E.O. 14024 for having conducted or facilitated significant transaction(s) on behalf of a designated Russian bank, exercising its secondary sanctions designation authority under the amended E.O.
- OFAC re-designated over 100 persons, under E.O. 13662, who were found to operate in the financial services, energy, and defense and related materiel sectors of the Russian economy and who were already designated under E.O. 14024. The re-designations include numerous Russian banks.

- OFAC designated additional entities found to operate in the energy sector and defense and related materiel sector under E.O. 13662.

Key Takeaways

- **Increased secondary sanctions risk by re-designation under E.O. 13662** : The recent designations and re-designations are almost all pursuant to E.O. 13662 under the URSR, which serves to implement prohibitions under the Countering America's Adversaries Through Sanctions Act (CAATSA). Section 228 of CAATSA includes a mandatory secondary sanctions provision, by which the president is required to impose sanctions on any foreign person whom the president determines knowingly facilitates any significant transaction(s) for or on behalf of a party sanctioned under certain E.O.s, including E.O. 13662. As a result, the secondary sanctions risk for foreign persons who transact with parties sanctioned under E.O. 13662 is significantly higher than the secondary sanctions risk when parties are sanctioned only under E.O. 14024. OFAC's authority to impose secondary sanctions under the latter is discretionary and is limited to foreign financial institutions.
- **Congressional approval required to remove listings under E.O. 13662** : CAATSA also includes provisions requiring congressional approval not only to remove designations issued under E.O. 13662, but also to issue licenses (general or specific), in relation to such sanctions, that "significantly alter[] United States' foreign policy with regard to the Russian Federation." The actions OFAC has taken in the past week thus make it more difficult for the incoming administration to mitigate the impact of or remove many new or re-designations imposed under the URSR.
- **Incoming administration may bring changes in U.S. Russia-related sanctions strategy** : Though the above sanctions carry significant risks for persons continuing to engage in Russia-related business, their ultimate impact will depend on the incoming Trump administration's sanctions strategy. Whether the new administration decides that its stated goal of bringing an end to the war in Ukraine is best served by easing Russia-related sanctions or, alternatively, by strengthening the prior administration's efforts, remains an open question.

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