

In report to Congress, U.S. Administration identifies, but does not sanction, leading Russian oligarchs and senior government officials

31 January, 2018

On Monday, 29 January, the U.S. Treasury Department submitted an unclassified report to Congress concerning significant senior political figures and oligarchs in the Russian Federation and Russian parastatal entities. The report was required by section 241 of the Countering America's Adversaries Through Sanctions Act (CAATSA). The Treasury Department also submitted a classified annex to the report. Access to that annex is restricted to U.S. government parties with security clearances. As such, its contents are unknown at this time. As clearly stated by the Treasury Department in the report, as well as the press release and guidance accompanying the release, the list of parties in the report is not a sanctions list.

The Trump Administration has not yet taken steps to sanction any individuals identified in the report. Congress may attempt either to enact legislation requiring the Executive Branch to impose sanctions on certain individuals, or to pressure the Administration into using existing sanctions authorities to sanction some of these individuals. For now, the Administration appears to oppose either course.

The unclassified report has not been officially released by the Treasury Department on its website, but was apparently released by congressional sources. It is available [here](#). Treasury also issued a press release available [here](#).

1. What is contained in the unclassified report?

The unclassified report contains a list of senior political figures and oligarchs in the Russian Federation, "as determined by their closeness to the Russian regime and their net worth." For purposes of the list contained in the unclassified report, these determinations were made using "objective criteria related to individuals' official position in the case of senior political figures, or a net worth of US\$1 billion or more for oligarchs."

The senior political figures consist of: 1) senior members of the Russian Presidential Administration; 2) members of the Russian cabinet, cabinet-rank ministers, and heads of other major executive agencies; and 3) other senior political leaders, including the leadership of the State Duma and Federation Council, other members of the Russian Security Council, and senior

executives at state-owned enterprises. The oligarchs identified on the list consist of individuals who, “according to reliable public sources, have an estimated net worth of US\$1 billion or more.”

2. What is contained in the classified annex to the report?

According to the unclassified version of the report, the classified annex “may include” additional political figures and oligarchs who are not identified in the unclassified version. The political figures may hold less senior positions, while the oligarchs may have a net worth less than US\$1 billion. Additionally, the classified annex contains a list of Russian parastatal entities, which are defined by Treasury as “companies in which state ownership is at least 25 percent and that had 2016 revenues of approximately US\$ 2 billion or more.”

According to Treasury’s press release, the “classified version of the report includes other items required by CAATSA Section 241.” As such, the classified annex may include an assessment on persons alleged to have engaged in corrupt activities or an assessment of the impact of imposing U.S. secondary sanctions on listed oligarchs, as was required by CAATSA section 241. However, Treasury made it clear that the list of persons and entities in the unclassified report is only compiled based on the objective criteria noted above and does not reflect the U.S. government’s views on whether such parties are engaged in any sanctionable activities.

3. What is the legal significance of the report?

In short, there is no legal significance immediately, but its practical significance will be proven only over time. As confirmed by Treasury in the body of the report, as well as in a Frequently Asked Question (FAQ) issued on 30 January, the report is not a sanctions list. Further, the report explains that the inclusion of a person on this list does not reflect a determination by the U.S. government that the person meets the criteria for designation criteria under one of the existing U.S. sanctions authorities. (The report denotes with an asterisk those individuals or entities already under U.S. sanctions at the time that this list was compiled.)

The operative language from the report is as follows:

This report has been prepared and provided exclusively in response to Section 241 of CAATSA. It is not a sanctions list, and the inclusion of individuals or entities in this report, its appendixes, or its annex does not and in no way should be interpreted to impose sanctions on those individuals or entities. Inclusion in this report also does not constitute the determination by any agency that any of those individuals or entities meet the criteria for designation under any sanctions program. Moreover, the inclusion of individuals or entities in this report, its appendixes, or its classifies annexes does not, in and of itself, imply, give rise to, or create any other restrictions, prohibitions, or limitations on dealings with such persons by either U.S. or foreign person. Neither does inclusion on the unclassified list indicate that the U.S. Government has information about the individual’s involvement in malign activities.

Treasury’s press release confirms these points and also contains the following statement: “The Treasury Department will rely on all available sources of information, including the classified version of the CAATSA report when making determinations about additional sanctions.” However, this does not mean that the classified version of the report contains a list of parties that are subject

to sanctions, as explained by Treasury’s Office of Foreign Assets Control (OFAC) in its guidance noted below.

4. What is the practical impact of the report?

In the immediate term, financial institutions and other businesses are not required to change their current compliance practices. Nevertheless, there has been some initial uncertainty about the practical consequences of this report. It remains to be seen how financial institutions will react—whether they will use this information to guide their internal policy decisions about risk appetite—even though the U.S. government did not sanction anyone pursuant to this report.

To the contrary, OFAC’s guidance in the form of [FAQ 552](#) confirms that Treasury has not sanctioned these individuals and entities identified in the report. FAQ 552 further states that “[w]hile some persons mentioned in the report may have been sanctioned pursuant to other authorities, the inclusion of individuals or entities in this report, its appendices, or its classified annex does not and in no way should be interpreted to impose sanctions on those individuals or entities.” In other words, OFAC is explaining that the classified part of the report does not constitute a determination by any agency that any of those individuals or entities meet the criteria for designation under any sanctions program.

Finally, OFAC stated that “the inclusion of individuals or entities in this report, its appendices, or its classified annex does not, in and of itself, imply, give rise to, or create any restrictions, prohibitions, or limitations on dealings with such persons by either U.S. or foreign persons. Neither does inclusion in the unclassified report indicate that the U.S. government has information about the individual’s involvement in malign activities.” Therefore, OFAC’s clear statement serves to provide comfort to U.S. and non-U.S. parties that dealing with persons and entities on the list (except those already sanctioned and marked as such) would not, in and of itself, create sanctions exposure.

5. What are possible next steps?

In the near term, the Trump Administration does not appear inclined to sanction persons identified in this report. It potentially could have done so using existing sanctions authorities, but elected not to. Indeed, the Administration has the authority to designate (either for asset freeze purposes or for sectoral sanctions) parties identified in the report. For example, Treasury can designate individuals or companies (or both) under existing sanctions authorities, such as Executive Order 13661 of 2014 or the Global Magnitsky Executive Order 13818 of December 2017, among others.

For its part, Congress may react either by introducing new legislation or by trying to pressure the Administration into designating persons identified in the report using existing sanctions authorities. For example, House Foreign Affairs Committee Chairman Ed Royce has written a [letter](#) to Treasury Secretary Steven Mnuchin requesting that Treasury review the individuals and entities in the section 241 report to determine whether they should be designated under existing U.S. sanctions authorities. For now, the Administration appears to oppose either course.

We are continuing to monitor U.S. developments. Please contact any member of our global sanctions team if you have any questions about these developments.

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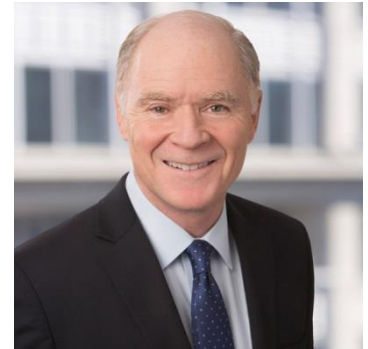
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