

Bipartisan Group of Senators Proposes Expansion of Sanctions on Russia

January 20, 2017 | Client Update | 4-minute read

On January 10, 2017, Senators Cardin (D-MD), McCain (R-AZ), Menendez (D-NJ), Graham (R-SC), Shaheen (D-NH), Rubio (R-FL), Klobuchar (D-MN), Sasse (R-NE), Durbin (D-IL) and Portman (R-OH) [introduced](#) a [bill](#) (S.94) that would expand and strengthen United States sanctions targeting Russia. The proposed legislation would, among other things, codify in statute a range of Russia-related sanctions imposed by Executive Order, and introduce new sanctions targeting certain cyber-related activities, investments in Russia's energy industry, and the issuance or purchase of Russian sovereign debt. The bill contains three titles, key provisions of which are summarized briefly below.

The proposed legislation would codify Executive Orders [13660](#) (Blocking Property of Certain Persons Contributing to the Situation in Ukraine), [13661](#) (Blocking Property of Additional Persons Contributing to the Situation in Ukraine), [13662](#) (Blocking Property of Additional Persons Contributing to the Situation in Ukraine), [13685](#) (Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to the Crimea Region of Ukraine), and [13694](#) (Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities). The codification of these measures as "legislative" sanctions could make their waiver or removal more difficult.

Title I of the bill, the "**Russian Cyber Intrusions Sanctions Act of 2017**," would require the President to impose asset blocking sanctions on, and exclude from the United States, any person that the President determines:

- knowingly engages, on behalf of the Government of the Russian Federation ("GOR"), in significant activities undermining cybersecurity that (i) have a detrimental effect on public or private infrastructure of the United States or a U.S. ally or (ii) result in the "compromise of democratic institutions" of the United States or of a U.S. ally;
- materially assists, sponsors or provides financial, material, or technological support for, or goods or services in support of, such activities; or
- is owned or controlled by, or acts for or on behalf of, directly or indirectly, a person engaged in such activities. (Title I, § 103.)

Title I would also require the President to, at regular intervals, submit to Congress a list of each person that knowingly engages in a "significant transaction" with a person that is part of, or operates on behalf of, the GOR defense or intelligence sectors. The President would be required to impose on each such person five or more of a range of enumerated sanctions measures, including prohibitions on debt, equity, and/or foreign exchange transactions involving U.S. financial institutions or other U.S. persons. (Title I, § 105.)

Title II, the "**Countering Russian Aggression Act of 2017**," would require the President to impose five or more sanctions measures chosen from a menu of sanctions on any person that knowingly purchases, subscribes to, or facilitates the issuance of Russian sovereign debt or the debt of any entity owned or controlled by the GOR, in each case (as currently proposed) without reference to a threshold value. (Title II, § 210.) Title II would also require the President to impose five or more sanctions measures on any person that the President determines knowingly makes certain investments or sells, leases or provides to Russia certain goods, services, technology, information or support, related to:

- Russia's ability to develop petroleum or natural gas resources; (Title II, § 207(a))
- the maintenance or expansion of the production of petroleum products or natural gas in Russia; (Title II, § 207(b))
- Russia's ability to construct and maintain energy export pipelines or civil nuclear power plants; (Title II, §§ 208-209) or

- the privatization of Russian state-owned assets. (Title II, § 211.)

In addition, Title II would require the President to impose sanctions on any foreign person that the President determines has participated in or supported serious human rights abuses in any territory controlled by the GOR. (Title II, § 212.)

Title III, the “**Europe and Eurasia Democracy and Anti-Corruption Initiative**,” would, among other things, require the Secretary of the Treasury to establish a high-level task force within the Financial Crimes Enforcement Network (“FinCEN”) to focus on illicit financial flows linked to Russia that interact with the U.S. financial system. (Title III, § 306.)

The proposed legislation provides for Presidential waiver and/or termination authorities for the new and newly codified sanctions, in each case subject to certain conditions, such as a certification that a waiver is vital to the national security interests of the United States, or that the targeted Russian conduct has ceased or decreased substantially.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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