

OFAC Announces Intent to Delist Rusal and Other Entities Owned by Sanctioned Oligarch Deripaska

December 21, 2018 | Client Update | 4-minute read

On December 19, 2018, the Department of the Treasury's Office of Foreign Assets Control ("OFAC") announced its plan to lift sanctions on three Russian entities for agreeing to distance their businesses from a prominent oligarch. Specifically, OFAC [informed Congress](#) of its intention to terminate sanctions on entities previously designated for being owned and controlled by sanctioned oligarch Oleg Deripaska ("Deripaska"). Treasury Secretary Steven Mnuchin announced that En+ Group plc ("En+"), UC Rusal plc ("Rusal"), and JSC EuroSibEnergo ("ESE") "have committed to significantly diminish Deripaska's ownership and sever his control," which qualifies them for delisting, slated to take place in thirty days. These entities were originally [designated](#) under authorities codified in the Countering America's Adversaries Through Sanctions Act ("CAATSA") on April 6, 2018, En+ for being owned or controlled by, directly or indirectly, Deripaska, Rusal for being owned or controlled by, directly or indirectly, En+, and ESE as a wholly owned subsidiary of En+.

The three companies will execute a binding "Terms of Removal" agreement with OFAC outlining these changes, including commitments to:

- reduce Deripaska's direct and indirect shareholding stake in the entities to below 50 percent;
- overhaul the composition of the EN+ and Rusal boards of directors;
- take other restrictive steps relating to their corporate governance; and
- undertake extensive and ongoing auditing, certification, and reporting requirements in the interest of full transparency with Treasury.

OFAC reserves the right to relist any or all of the entities for failure to comply with the agreement. Deripaska remains sanctioned, and his property will continue to be blocked.

The notice to Congress triggers the review provisions set forth in Section 216 of CAATSA (described in our [Client Memorandum on CAATSA](#)), and Congress may attempt to block the action by enacting a Joint Resolution of Disapproval under that provision. Such action currently appears unlikely, particularly in light of the upcoming congressional recess.

If the delisting is carried out as planned, it will represent a reversal of a substantial part of last April's sanctions action, which had been the [most significant such action](#) targeting Russia under this administration. OFAC had long signaled that this outcome was likely, however, through its [repeated extensions](#) of the duration of general licenses ("GLs") authorizing certain maintenance, wind-down, and divestment transactions related to these entities, the [most recent of which](#) will carry through until the anticipated delisting date. On December 20, 2018, OFAC also [extended](#) similar general licenses permitting such maintenance, wind-down, and divestment transactions involving GAZ Group until March 7, 2018, in order to permit further consideration of that entity's delisting request.

At the same time it announced the intended delisting, OFAC designated more than twenty Russian entities and individuals for a variety of activities representing ["Russia's continued disregard for international norms."](#) Victor Alekseyevich Boyarkin, a former officer of Russia's Main Intelligence Directorate ("GRU"), was designated pursuant to

Executive Orders (“E.O.s”) 13661 and 13662 for having acted on behalf of Deripaska. Fifteen current members of the GRU were also sanctioned for a variety of activities pursuant to Section 224 of CAATSA:

- Nine were targeted for their “direct involvement in efforts to interfere in the 2016 U.S. election”;
- Four were targeted for engaging in “significant activities undermining cybersecurity against any person, including a democratic institution or government” on behalf of the Russian Government and the GRU; and
- Two were targeted for “acting or purporting to act for or on behalf of, directly or indirectly, the GRU” by attempting to assassinate Sergei Skripal and his daughter in England through the use of a military grade nerve agent.

Additionally, several entities and individuals were designated for sanctions pursuant to E.O. 13694 in relation to Project Lakhta, a broad Russian initiative involving the Internet Research Agency (“IRA”), for its attempts to interfere in political and electoral systems around the world.

Concurrently, the State Department [added](#) twelve of the individuals and entities newly designated by OFAC to the List of Specified Persons (“LSP”) deemed to be part of, or operating for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation, pursuant to Section 231 of CAATSA. As a result, any person found to knowingly engage in a significant transaction with any of these twelve persons will also be subject to Section 231 sanctions.

Law Clerk Ilana Rice contributed to this post.

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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.

John B. Reynolds III

+1 202 962 7143

john.reynolds@davispolk.com

Will Schisa

+1 202 962 7129

will.schisa@davispolk.com

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