



COUNTERING AMERICA'S ADVERSARIES THROUGH SANCTIONS ACT

On Thursday 27 July, the US Senate passed the Countering America's Adversaries Through Sanctions Act, H.R. 3364 almost unanimously (98 to 2). If formally signed into law by the President, the Bill will tighten sanctions against Russia, Iran and North Korea. President Trump has indicated that he will sign the Bill, but only after negotiating critical elements of it with US Congress. The Bill looks likely to become US law, given its majority support from Congress.

“Depending on the final versions of legislation on both sides of the Atlantic, multinational corporations with offices in the US and the EU may well be caught in the cross-fire between US sanctions and potentially contradictory measures imposed by the EU, in the event of conflict between the respective regimes.”

Top Ten Issues

1. Those dealing with Russian counterparties should be aware that further State owned entities and individuals in the crude oil, mining, shipping and railway sectors may be listed as Specially Designated Nationals (SDNs). Care should be taken to consider sanctions and payment clauses that anticipate counterparty listings. Listings are without prior notice and may affect the legality of a contract and its ability to be financed, paid or logistically serviced.
2. Further entities are likely to be added to the Sectoral Sanctioned Identifications (SSI) List as the controls on financing for persons listed for contributing to the situation in the Ukraine are tightened. Executive Order No 13662 as it pertains to Directive 1 could potentially be tightened to restrict the financing of new debt to a limit of only 14 days maturity, down from the current 30 days.
3. Suppliers providing technology, services, investment or any support to Russian export pipeline projects, including Russia's Nord Stream 2 pipeline to Germany, could potentially be affected, particularly if a prohibition is imposed on US loans to develop pipelines in the Russian Federation.
4. The Act will likely impose new sanctions (including asset freezes and travel bans) on individuals and entities as punishment for human rights abuses or cyber attacks against the US and will target senior political figures in Russia, as well as restricting investment in or facilitation of privatization of assets owned by the Russian State. Investment funds dealing in Russia will need to scrutinize terms ever more carefully.
5. Under the Bill as currently proposed, current SDNs will effectively be codified into law and Congressional Committee approval will be required for any such SDN to be delisted, rather than this being within the scope of Presidential pardon.
6. In retaliation for the anticipated sanctions, Russia has ordered that 755 US diplomats must leave Russia by 1 September 2017 and seized two US diplomatic properties in Russia.
7. The Bill includes measures against Iran, imposing sanctions against Iran's ballistic missile and weapons of mass destruction programs, the sale or transfer to Iran of military equipment or provision of related technical or financial assistance to Iran, and Iran's Islamic Revolutionary Guard Corps and affiliated foreign persons.
8. The Bill makes clear that new sanctions should be adopted in co-ordination with the European Union and members of the North Atlantic Treaty Organisation, seeking consistency in the imposition of sanctions against Iran through Congressional reporting and engaging with partners in a series of measures to be taken against Russia.
9. On North Korea, the Bill provides for wide ranging sanctions against North Korean cargo and shipping, directed towards the purchase of coal, iron or iron ore from the North Korean Government, the supply of petroleum products including crude oil and natural gas to the North Korean Government and goods produced in whole or part by North Korean convict or forced labour, and foreign persons that employ North Korean forced labourers.
10. The EU has responded strongly to the proposed sanctions against export pipelines, with reports of



possible EU measures to prevent the US measures from being recognised or enforceable in Europe. Depending on the final versions of legislation on both sides of the Atlantic, multinational corporations with offices in the US and the EU may well be caught in the cross-fire between US sanctions and potentially contradictory measures imposed by the EU, in the event of conflict between the respective regimes.

HFW will provide a further update on the situation if and when the Countering America's Adversaries Through Sanctions Act passes into law.

The text of the Bill may be found here: <https://www.congress.gov/bill/115th-congress/house-bill/3364/text>.

HFW is delighted to announce that it has won the dual accolade of being awarded the World ECR Export Controls and Sanctions Law Firm of the Year (Europe) 2017.

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