

June 19, 2017

## **A BLOCKBUSTER WEEK IN U.S. SANCTIONS**

To Our Clients and Friends:

In the aftermath of the 2016 U.S. presidential election, many of you asked us how U.S. sanctions would change under the Trump Administration. Pointing to President Trump's extensive criticism of former President Barack Obama's foreign policy, we predicted significant developments with the Iran and Cuba sanctions programs, and noted that Congress might make its own attempts to force the President's hand with respect to sanctions on the Russian Federation. These predictions have borne out. In the space of one week, the U.S. Senate voted by an overwhelming majority to expand and codify Obama-era sanctions imposed on Iran and President Trump pulled back on certain aspects of the Cuba sanctions program. Most significantly, the Senate also attached to the Iran bill a significant amendment which would codify and expand U.S. sanctions against the Russian Federation on several fronts, and which would limit the ability of the Trump Administration to weaken both the current sanctions and the new sanctions the amendment would impose.

These changes will be jolting for many companies who have sought to take advantage of the relaxation of sanctions against Cuba and Iran or who have struggled to steer clear of violating the complex Russia sectoral and other sanctions to date. However, they are just the latest manifestation of an ongoing struggle between the executive and legislative branches to shape U.S. foreign policy through the crafting of sanctions over the last several decades.

The Senate's 98-2 vote in favor of the Countering Iran's Destabilizing Activities Act of 2017 (S. 722 or "CIDA") presented a rare moment of bipartisan unity in a bruising political season.[1] CIDA introduced widely popular measures to sanction Iran for its ballistic missile testing. On June 12, Senate Majority Leader Mitch McConnell (R-KY), Senate Banking Committee Chairman Mike Crapo (R-ID), Ranking Member Sherrod Brown (D-OH), Senate Foreign Relations Committee Chairman Bob Corker (R-TN) and Ranking Member Ben Cardin (D-MD) introduced the Countering Russian Influence in Europe and Eurasia Act of 2017 ("CRIIEA"), as Senate Amendment 232 to S. 722. CRIIEA is the latest of several efforts by the 115th Congress to impose sanctions on Russia in response to its ongoing actions in the Ukraine and Syria as well as Russian government interference in the U.S. election.[2] CRIIEA would tighten and expand existing regulations by instituting new sectoral and secondary sanctions. Notably, the proposed legislation would make it significantly more difficult for the Trump Administration to roll back sanctions absent Congressional approval.

By joining the Iran and Russia bills, the Senate assured that President Trump would have to veto more aggressive measures against Iran—which he supports—in order to rid his administration of the new Russian sanctions—which he has criticized.[3] President Trump has reportedly stated since taking office that he does not intend to lift existing Russian sanctions, but his administration also has proposed such

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relief as a possible incentive to secure Russia's cooperation in the fight against terrorism. Secretary of State Rex Tillerson had urged the Senate to give the administration "flexibility" to determine appropriate use of sanctions. The Trump Administration has also dismissed reports regarding Russia's alleged interference in the 2016 election. S. 722 awaits approval from the House of Representatives, where key leadership appears more reticent to go against the wishes of the Trump Administration by imposing additional sanctions. Questions remain as to how the House may alter the substance of the bill, whether President Trump will sign it, and how his administration will implement the measures if passed.

Days after the Senate vote on CIDA, President Trump announced that his administration would unravel many of former President Obama's rapprochement initiatives with Cuba. Although President Trump's policy shift was met with cheers from the anti-Castro block in Florida, the reversal caused confusion and concern among many U.S. companies that had already begun to invest in Cuba pursuant to the relaxed sanctions. Notably, although President Trump announced that he was "canceling" the "last administration's completely one-sided deal with Cuba," the changes announced by the White House and the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") fell far short of a complete reversal.[4]

The proposed changes to the Iran, Russia and Cuba sanctions programs are discussed in more detail below.

## **Iran**

Although President Trump and various members of Congress have criticized the Joint Comprehensive Plan of Action ("JCPOA"), a deal to ease certain sanctions on Iran in exchange for limitations on the country's nuclear program, the deal remains in place. For more information regarding the current state of play with regard to the JCPOA, please see our recent client alert, *Iran Sanctions Update - Status Quo So Far, Uncertainty Remains*.

Leaving the nuclear sanctions untouched, CIDA takes issue with Iran's recent ballistic missile testing and requires the President to impose sanctions against any U.S. and foreign person who "knowingly engages in any activity that materially contributes" to Iran's ballistic missile program or efforts to develop, deploy, or maintain systems capable of delivering weapons of mass destruction.[5] Sanctioned persons would be subject to asset "blocking," meaning that U.S. persons would be required to freeze the assets of sanctioned persons in their possession or control.[6] Sanctioned persons would also be prohibited from entering the United States.

CIDA's other measures address the following:

### ***Iranian Revolutionary Guard Corps***

CIDA targets the Iranian Revolutionary Guard Corps ("IRGC") and its special forces unit, the Quds Force ("IRGC-QF").[7] The IRGC currently is listed as a Specially Designated National ("SDN") by virtue of its involvement in weapons proliferation activity and human rights abuses in Iran and Syria. The IRGC-QF was sanctioned due to its actions in support of terrorist and insurgent groups, including the provision of terrorist operatives throughout the Middle East and South Asia.[8] CIDA

would require the President to impose sanctions against the IRGC, the IRGC-QF, and their officials, agents, and affiliates under Executive Order 13224, which targets persons or entities involved in terrorism, but stops short of requiring the designation of such persons or entities as Foreign Terrorist Organizations.

The practical impact of this requirement would be to potentially increase the number of entities associated with the IRGC identified on the sanctions list. Counterintuitively, this could help enable companies to better capitalize on pre-existing sanctions relief. The challenge faced by many companies considering now-legal Iranian transactions is that even though they seek to avoid doing business with the IRGC, the opacity of the Iranian economic system can make it difficult to determine if a given counterparty is affiliated with the IRGC. If OFAC is charged with constructing a more complete list of where in the Iranian economy the IRGC and its affiliates reside, it is possible that companies will have an easier time navigating the Iranian system and finding "clean" counterparties.

### ***Human Rights Abuses***

CIDA would also authorize the President to sanction persons responsible for "extrajudicial killings, torture, or other gross violations of internationally recognized human rights" committed against individuals in Iran who seek to expose illegal activity conducted by the government of Iran or to "obtain, exercise, defend or promote" internationally recognized human rights and freedoms.<sup>[9]</sup> Notably, because the Secretary of State would be required to identify such individuals, the bill leaves the executive branch with significant discretion over how this measure would be enforced.

### ***Weapons Transfers***

CIDA would require the President to impose sanctions on any person who "knowingly engages in any activity that materially contributes to the supply, sale, or transfer directly or indirectly to or from Iran, or for the use in or benefit of Iran" of certain enumerated conventional weapons, as well as any person who knowingly provides "technical training, financial resources or services, advice, other services or assistance" related to the supply, sale, or transfer of those weapons.<sup>[10]</sup> As with human rights abuses, the discretion over the threshold finding that persons are "knowingly" engaging in such activities is left to the discretion of the President.

### ***Codification of Previous Designations***

CIDA codifies the SDN listing of persons pursuant to Executive Order 13382 (Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters) and Executive Order 13224.<sup>[11]</sup> Such persons may only be removed from the SDN List if the President "determines and reports to the appropriate congressional committees that it is vital to the national security interests of the United States to waive such sanctions."<sup>[12]</sup>

Questions remain regarding the appropriate separation of powers between the executive and legislative branches when "locking in" these designations. Although the codification of such designations has become a favored Congressional tool, some critics believe it is an overextension of legislative power. Moreover, the President retains the ability to license otherwise prohibited transactions with

entities and individuals who may remain listed. As such, if this bill becomes law and the President is unable to remove certain individuals from the SDN List, he would nonetheless still be able to promulgate licenses to exempt transactions with certain specified SDNs. Congress would be hard pressed to limit this aspect of the President's discretionary authority.

## **Russia**

The newly proposed Russian sanctions present a dramatic expansion of existing regulations, building on what has become one of OFAC's most complex sanctions regimes. The existing U.S. sanctions program against Russia was developed in concert with the European Union and other allies and implemented, for the most part, by Executive Orders. CRIIEA would codify existing Obama-era Executive Orders, impose additional cybersecurity-related sanctions, authorize the imposition of sanctions against additional sectors of the Russian economy such as shipping and mining, and require Congressional review of any Presidential decision to terminate or relax existing Russia sanctions.

### ***Expansion of Sectoral Sanctions***

Notably, the existing "sectoral sanctions" imposed on certain Russian industries differ depending on the sector of the Russian economy in which a specific entity operates.[13] In September 2014, through a complicated and unprecedented process of Executive Orders and Presidential Directives, the United States instituted sanctions targeting Russia's finance, energy and defense sectors, measures that impact some of the largest companies in Russia.[14] The policy goal behind the sectoral sanctions was to increase political pressure on President Vladimir Putin by hindering the ability of major Russian firms to continue providing Russia with hard currency and other resources—but to do so in a manner that would limit collateral consequences for the U.S. and our European allies, as well as the global economy.[15] As such, whereas the traditional tool of U.S. sanctions was to "blacklist" targets resulting in a near-complete ban on their undertaking U.S.-related transactions, these so-called "sectoral sanctions" are much more limited and surgical.

CRIIEA would extend the sectoral sanctions set forth in Executive Order 13662 to state-owned entities operating in the railway, shipping, or metals and mining sector in Russia.[16] Originally, Executive Order 13662 authorized sanctions on any person determined by the Secretary of the Treasury to operate in Russia's financial services, energy, metals and mining, engineering, and "defense and related materiel" sectors. These targeted sectoral sanctions were implemented through a series of "Directives" targeting specific entities in the aforementioned sectors.[17]

CRIIEA would further tighten certain financial restrictions pertaining to subject sectors by directing OFAC to modify Directive 1 to reduce the maximum maturity on new debt that U.S. persons can finance, transact in or otherwise deal with in relation to sanctioned entities from 30 to 14 days.[18] CRIIEA would modify Directive 2 by reducing the longest maturity period of new debt that U.S. persons are allowed to finance, transact in or otherwise deal in with regard to the sanctioned entities from 90 to 30 days.[19]

Critically, CRIIEA also would expand the prohibitions in Directive 4 from deep water, Arctic offshore or shale projects *within* Russian territory to any project *worldwide*.[20] Directive 4 would be modified

to prohibit the provision, exportation, or reexportation by U.S. persons of goods, services (except for financial services), or technology in support of exploration or production for deep water, Arctic offshore, or shale projects "(1) that have the potential to produce oil; (2) in which a Russian energy firm is involved; and (3) that involve any person determined to be subject to the directive or property or interests in property of such a person."<sup>[21]</sup> Given the breadth of global activities in which the Russian energy firms already subject to the Directive are involved (including in projects throughout Asia and the Middle East) this expansion could indirectly impact close U.S. allies and partners involved with projects using the same firms. While consequences could be serious, note that the provision stops short of imposing "secondary sanctions" on non-U.S. entities for their dealings with these Russian entities—the bill saves such for other activities (see below).

### *Expansion of Secondary Sanctions*

The United States' willingness to impose secondary sanctions on foreign persons and companies is a historical point of contention between the U.S. and its allies, as such measures reach non-U.S. persons with no ostensible connection to U.S. jurisdiction. These measures threaten to cut off non-U.S. persons who conduct business in violation of certain regulations from access to the U.S. goods, services, technology, business opportunities, and capital, and to significant international finance opportunities, such as international financial institution projects or transactions in which the U.S. has a say. Even when these secondary sanctions are focused on what U.S. persons can become involved with, their collateral impact can be huge, as many non-U.S. banks and financial institutions opt to "de-risk" their offerings to steer well clear of U.S. sanctions.

CRIEEA would mandate secondary sanctions for non-U.S. persons who engage in certain efforts to undermine cybersecurity, engage in certain transactions with Russian intelligence or defense sectors, provide investment in or support to Russian energy export pipelines, or invest or otherwise facilitate the privatization of Russia's state-owned assets.<sup>[22]</sup> Of particular note to companies supporting international energy pipeline development is the proposed Section 235 authority to impose secondary sanctions on companies who either invest or provide technology, information, goods and services above certain threshold value levels to support Russian energy export pipelines.<sup>[23]</sup>

Section 235 of CRIEEA specifies 12 options for the President to consider when applying sanctions to targeted foreign persons, a menu that draws heavily from options developed in prior legislation, specifically the Iran Sanctions Act of 1996, as amended, and the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010.

As enumerated in Section 235, the 12 possible secondary sanctions include:

1. **Denial of Export-Import Bank Assistance for Exports to Sanctioned Persons.** The President may direct the Export-Import Bank to withhold approval of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or technology to the sanctioned person.

2. **Export Licensing Sanctions.** The President may order the U.S. Government not to issue any specific license nor grant any other specific permission or authority to export goods or technology under relevant authorities.
3. **Prohibition on Loans from U.S. Financial Institutions.** The President may prohibit any U.S. financial institution from making loans or providing credits to a sanctioned person totalling more than U.S. \$10 million in any 12 month period.
4. **Opposition to Loans from International Financial Institutions.** The President may direct the U.S. executive director of an international financial institution to "use the voice and vote of the United States" to oppose any loan to benefit a sanctioned person.
5. **Prohibitions for Sanctioned Financial Institutions.** For sanctioned financial institutions, possible sanctions may include prohibitions on (A) designation as a primary dealer or (B) service as a repository of government funds.
6. **Procurement Sanction.** The U.S. Government may not procure or enter into any contract for the procurement of any goods or services from sanctioned persons.
7. **Foreign Exchange.** The President may prohibit transactions in foreign exchanges subject to the jurisdiction of the United States and involving interests of a sanctioned person.
8. **Banking Transactions.** The President may prohibit transfers of credit or payments between financial institutions or by, through or to any financial institution to the extent subject to the jurisdiction of the United States and involving interests of a sanctioned person.
9. **Property Transactions.** The President may prohibit any person from (A) acquiring, holding, withholding, transporting, importing or exporting property subject to the jurisdiction of the United States and with respect to which the sanctioned person has interest, (B) dealing with or exercising any right, power or privilege with respect to such property, or (C) conducting any transaction involving such property.
10. **Ban on Investment in Equity or Debt.** The President may prohibit any U.S. person from investing in or purchasing significant amounts of equity or debt instruments of a sanctioned person.
11. **Exclusion of Corporate Officers.** The President may direct the Secretary of State to deny a visa to, and the Secretary of Homeland Security to exclude from the United States, any alien determined to be a corporate officer or principal of, or a shareholder with a controlling interest in, a sanctioned person.
12. **Sanctions on Principal Executive Officers.** The President may impose on the principal executive officer or officers of a sanctioned person, or on persons performing similar functions and with similar authorities as such officer or officers, any of the sanctions specified above.

In addition to the secondary sanctions applicable to foreign persons, CRIIEA would further revise existing Russia sanctions legislation to impose penalties on foreign persons found to be evading sanctions.[24] The foreign sanctions evaders provision could present significant risks for non-U.S. persons involved in Russia-related investments and transactions. Notably, CRIIEA would block the property of "foreign sanctions evaders," similar to provisions in the Iran and Syria sanctions program. This would include any foreign person whom the President determines knowingly "materially violates, attempts to violate, conspires to violate, or causes a violation" of any Russia sanctions; or "facilitates significant deceptive or structured transactions for or on behalf of—(A) any person subject to sanctions imposed by the United States with respect to the Russian Federation; or (B) any child, spouse, parent, or sibling of an individual described in subparagraph (A)."[25]

### ***Cybersecurity Sanctions***

CRIIEA would also direct the President to impose sanctions on persons determined to have knowingly engaged in "significant activities undermining cybersecurity against any person, including a democratic institution, or government" on behalf of the Russian government, as well as any person or entity that is owned or controlled by, or that acts on behalf of such persons.[26] "Significant activities undermining cybersecurity" include significant efforts to "deny access to or degrade, disrupt or destroy an information and communications technology system or network" or to "exfiltrate, degrade, corrupt, destroy, or release information from such a system or network" without authorization for the purpose of (i) conducting influence operations; or (ii) causing a significant misappropriation of funds, economic resources, trade secrets, personal information, or financial information for commercial or competitive advantage or private financial gain; as well as significant destructive malware attacks and significant denial of service activities.[27]

In this context we note that the Council of the European Union (the "E.U.") has today announced that for the first time it will be prepared to impose sanctions against "state and non-state actors" as a part of a broader policy response to malicious cyber activity.[28] The imposition of sanctions is one element within what the E.U. is describing as its "cyber diplomacy toolbox".[29] The Council has published Conclusions on a Framework for a Joint E.U. Diplomatic Response to Malicious Cyber Activities which clarifies the policy objectives behind this development: "*The EU affirms that measures within the Common Foreign and Security Policy, including, if necessary, restrictive measures, adopted under the relevant provisions of the Treaties, are suitable for a Framework for a joint EU diplomatic response to malicious cyber activities and should encourage cooperation, facilitate mitigation of immediate and long-term threats, and influence the behavior of potential aggressors in a long term*".[30] Pending BREXIT this extension of the E.U.'s sanctions regime would be implemented by the United Kingdom alongside the other Member States.

### ***Other Mandatory Sanctions***

The Act would mandate certain sanctions on foreign persons whom the President determines "knowingly" make a "significant investment" in a "special Russian crude oil project," which includes deepwater, Arctic offshore or shale. Namely, the Act would modify Section 4(b)(1) of the Ukraine Freedom Support Act of 2014, 22 U.S.C. 8923(b)(1) ("UFSA"), by striking "on and after the date that is

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45 days after the date of the enactment of this Act, the President *may* impose" (emphasis added) and inserting "on and after the date that is 30 days after the date of the enactment of the Countering Russian Influence in Europe and Eurasia Act of 2017, the President *shall* impose, unless the President determines that it is not in the national interest of the United States to do so" (emphasis added).[31] The Act would similarly mandate sanctions with respect to foreign financial institutions by replacing "may impose" with "shall impose" and otherwise updating the UFSA.[32] Once more, the actual impact of this change would be to change the President's political calculations regarding whether he would impose such sanctions—the President would retain the discretion to make (or not to make) the initial findings that would lead to these otherwise "mandatory" sanctions.

Notably, the existing sectoral sanctions against Russia are further complemented by certain behavior-based and region-specific initiatives. The 2012 Sergei Magnitsky Rule of Law Accountability Act of 2012 punishes Russian officials thought to be responsible for the death of lawyer Sergei Magnitsky by prohibiting their entrance to the United States and their use of its banking system. CRIIEA would mandate penalties on those persons found to have engaged in significant corruption or to have contributed to human rights abuses in territories occupied or controlled by the Russian Federation.[33] Targeting corruption has been a goal of many sanctions proponents in Congress—the challenge, and the concern prior administrations have had with such a strategy, is how to define significant corruption. This legislation advances that objective, but does not break new ground in that regard.

## **Cuba**

On June 16, 2017, President Trump announced that his administration would reimpose some of the sanctions on Cuba that were relaxed under President Obama. In late 2014, the Obama Administration began a diplomatic process that gradually thawed tensions with the Communist state and eased commercial and travel restrictions between the two countries. While President Obama did not end the embargo on Cuba, which was established by Congress and consequently can only be ended by statutory amendment, the U.S. eased travel restrictions and the two countries reopened embassies in each other's capitals for the first time since 1961. Since then, the U.S. and Cuba have signed multiple bilateral agreements to collaborate on issues ranging from human and drug trafficking to maritime security and migration, and President Obama ended the "wet foot, dry foot" immigration policy that provided visas to Cubans who had reached U.S. shores. Although President Trump had hinted at a more wholesale rejection of the Obama Administration's Cuba policies, the changes announced by the White House and OFAC were relatively modest in scope.[34]

According to a fact sheet issued by the White House, the new Cuba policy aims to keep the Grupo de Administración Empresarial, a conglomerate run by the Cuban military, from benefiting from the opening in U.S.-Cuba relations.[35] The new policy purports to enhance existing travel restrictions to "better enforce the statutory ban" on U.S. tourism to Cuba, including limiting travel for non-academic educational purposes to group travel and prohibiting individual travel permitted by the Obama Administration.[36] Senior White House officials also indicated that the current Administration will not close the newly re-opened U.S. Embassy in Havana or reinstate the "wet foot, dry foot" policy.[37] The Trump Administration indicated that the policy changes will not take effect until the Departments of the

Treasury and Commerce issue new regulations, and directed those Departments to begin the process of issuing new regulations within 30 days.[38]

OFAC notes in a series of new Frequently Asked Questions that the announced policy changes will not change the authorizations for sending remittances to Cuba. However, the announced changes also include an exception allowing transactions incident to the sending, processing, and receipt of authorized remittances to the extent they would otherwise be restricted by the new policy limiting transactions with certain identified Cuban military, intelligence, or security services.[39]

The U.S. State Department will be publishing a list of entities with which direct transactions generally will not be permitted, along with further guidance.[40]

## Conclusion

While the Russia, Iran and Cuba sanctions regimes are all based on different legal authorities and speak to diverse political and national security interests, the focus on these three areas reflects the continuing use of sanctions as a tool to address U.S. competing foreign policy concerns. Sanctions have become a primary foreign policy battleground, both with respect to how U.S. foreign policy is received and regarding clashes between the branches as Congress and the President maneuver to see which side will be able to push certain foreign policy interests forward. The result is a very fluid environment and one in which banks, corporations and individuals with cross-border exposure (or potential exposure) almost anywhere in the world need to remain vigilant to changing policies, enforcement priorities, and risks.

The Gibson Dunn team will provide frequent updates to the sanctions matters described above—as well other sanctions programs that may receive alterations and enhancements in the time ahead.

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[1] Only two Republican Senators—Mike Lee of Utah and Rand Paul of Kentucky—voted against the bill.

[2] *See, e.g.*, the Countering Russian Hostilities Act of 2017 (S. 94) (introduced on January 11, 2017).

[3] 115<sup>th</sup> Congress (2017-2018), Amendment 232 to S. 722, *available at* <https://www.congress.gov/amendment/115th-congress/senate-amendment/232/amendments-to-this-amendment?r=2>.

[4] Adam Fisher, "Trump 'canceling' Obama's Cuba policy but leaves much in place," ABC News, (June 17, 2017), *available at* <http://abcnews.go.com/Politics/trumps-cuba-policy/story?id=48058622>.

[5] S. 722, Section 4.

[6] *Id.* The restrictions would apply not only to sanctioned persons but to their successors, parent company, subsidiaries and affiliates.

[7] *Id.*, Section 5.

[8] *Id.*, Section 5 (1).

[9] S. 722, Section 6.

[10] *Id.*, Section 7.

[11] *Id.*, Section 8.

[12] Section 12.

[13] OFAC, Frequently Asked Question and Answers ("FAQ") Nos. 370-474, *available at* [https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_other.aspx#ukraine](https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#ukraine).

[14] *Id.*

[15] Blacklisting some of these actors could have had substantial collateral consequences for U.S. and European interests, as well as for the global economy.

[16] Section 223(a).

[17] On July 16, 2014, OFAC exercised the authority granted by Executive Order No. 13662 and issued Directives that placed limited sanctions on four entities in the Russian financial services and energy sectors, as identified on a newly published SSI List. The SSI List has been amended over time. Entities owned a total of 50 percent or more by one or more sanctioned parties are similarly blocked (the "50 Percent Rule"). OFAC has confirmed that this 50 Percent Rule applies to persons identified on the SSI as well as the SDN Lists.

[18] Section 223(b).

[19] Section 223(c).

[20] Directive 4 currently prohibits "the provision, exportation, or reexportation, directly or indirectly, of goods, services (except for financial services), or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil in the Russian Federation, or in maritime area claimed by the Russian Federation and extending from its territory, and that involve any person determined to be subject to this Directive, its property, or its interests in property."

[21] Section 223(d).

[22] Section 224(a)(2) (cybersecurity), Section 231((b) (transactions with Russia's defense or intelligence sectors), Section 232(a) (Russian pipelines), Section 233(a) (investment in or facilitation of privatization of Russian state-owned assets).

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[23] We further note that the current text of Section 235 could be construed to support the imposition of secondary sanctions against *any* Russian energy pipelines, not just energy export pipelines. *See* Section 235(c).

[24] Sections 228 (a) (setting forth proposed changes to the Support for the Sovereignty, Integrity, Democracy and Economic Stability of Ukraine Act of 2014, 22 U.S.C. 8901 *et. seq.*)

[25] *Id.*

[26] Section 224 (a)(1)(A)-(B).

[27] Section 224 (c).

[28] Press Release, Council of the European Union, "Cyber attacks: EU ready to respond with a range of measures, including sanctions", *available at* <http://www.consilium.europa.eu/en/press/press-releases/2017/06/19-cyber-diplomacy-toolbox/>.

[29] *Id.*

[30] Council of the European Union, Conclusions on a Framework for a Joint EU Diplomatic Response to Malicious Cyber Activities (Cyber Diplomacy Toolbox"), *available at* <http://data.consilium.europa.eu/doc/document/ST-9916-2017-INIT/en/pdf>.

[31] The amended Section 4(b)(1) would read: "Except as provided in subsection (d), on and after the date that is 30 days after the date of the enactment of the Countering Russian Influence in Europe and Eurasia Act of 2017, the President shall impose, unless the President determines that it is not in the national interest of the United States to do so, 3 or more of the sanctions described in subsection (c) with respect to a foreign person if the President determines that the foreign person knowingly makes a significant investment in a special Russian crude oil project."

[32] Section 226. The amended language would read: "The President shall impose, unless the President determines that it is not in the national interest to do so, the sanction described in subsection (c) with respect to a foreign financial institution that the President determines knowingly engages, on or after the date of the enactment of this Act, in significant transactions involving activities described in subparagraph (A)(ii) or (B) of section 8923(a)(2) of this title or paragraph (1) or (3) of section 8923(b) of this title for persons with respect to which sanctions are imposed under section 8923 of this title. [...] The President may impose the sanction described in subsection (c) with respect to a foreign financial institution if the President determines that the foreign financial institution has, on or after the date that is 30 days after the date of the enactment of the [CRIIEA], knowingly facilitated a significant financial transaction on behalf of any Russian person included on the [SDN List]..."

[33] Sections 227 (corruption), 228 (foreign sanctions evaders and serious human rights abusers).

[34] Fisher, *supra* n. 4; *see* Fact Sheet on Cuba Policy, Whitehouse.gov (June 16, 2017) ("White House Fact Sheet on Cuba Policy"), *available at* <https://www.whitehouse.gov/blog/2017/06/16/fact-sheet->

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cuba-policy and OFAC, Frequently Asked Questions on President Trump's Cuba Announcement (June 16, 2017) ("OFAC Cuba FAQs"), available at [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba\\_faqs\\_20170616.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_20170616.pdf).

[35] White House Fact Sheet on Cuba Policy.

[36] *Id.*

[37] Fisher, *supra* n. 4.

[38] *Id.*

[39] OFAC Cuba FAQs, No. 8.

[40] OFAC Cuba FAQs, No. 11.



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