

# President Trump Signs New Sanctions Legislation into Law

## IN SHORT

**The Situation:** The United States remains concerned about Russian interference in the U.S. democratic process, Iran's ballistic missile program, and human rights abuses by the North Korean government.

**The Result:** President Trump signed into law legislation that codifies and strengthens sanctions against Russia and expands sanctions against Iran and North Korea.

**Looking Ahead:** Given the strength of the new sanctions, certain of which President Trump has signaled unconstitutionally displace the President's exclusive authority to take certain actions, parties must use increased caution when conducting business in Russia, Iran, and North Korea.

On August 2, 2017, President Trump signed the "Countering America's Adversaries Through Sanctions Act" ("Act") into law. The Act, which codifies and strengthens sanctions against Russia and expands sanctions against Iran and North Korea, passed both houses of Congress with broad support. President Trump also issued a statement questioning the constitutionality of certain of the Act's provisions that, according to President Trump, displace the President's exclusive authority to take certain actions. Provided below are brief descriptions of how the Act affects the existing U.S. sanctions programs targeting Russia, Iran, and North Korea.

### Russia

As instruments of executive action taken by President Obama, the current sanctions against Russia could be eased or eliminated by the Trump Administration without Congress. By codifying existing U.S. sanctions, the Act provides Congress with more authority over the Russian sanctions program by requiring the President to submit a report to Congress whenever he proposes to terminate Russia-related sanctions, waive their application against parties on which they have been imposed, or issue a license that significantly alters U.S. foreign policy with respect to Russia. Congress would have time to review and, if necessary, pass a joint resolution to block any proposed changes.

Unlike the comprehensive sanctions against Iran and North Korea, the Russian sanctions target only certain sectors of the Russian economy. The prohibitions are identified in a series of four directives that prohibit specific activities involving the energy, defense, and financial services sectors and apply only to parties designated as subject to those prohibitions (as well as parties that are majority-owned by one or more parties designated as subject to the prohibitions).



Given the strength of the new legislative sanctions, parties must use increased caution when conducting business in Russia.



U.S. persons should be aware, however, that in addition to codifying the provisions of the existing sanctions, the Act significantly strengthens many of the existing restrictions on Russia. For example, the Act:

- Identifies new sectors of the Russian economy for potential sanctions, including state-owned entities operating in the railway, mining, and metals sectors;
- Tightens sanctions related to the financial services sector by prohibiting transactions involving new debt with maturity greater than 14 days—reduced from 30 days;
- Tightens sanctions related to the energy sector by prohibiting transactions, financing, and other dealings in new debt of longer than 60 days—reduced from 90 days;
- Prohibits certain oil exploration or production projects involving designated persons who own a substantial noncontrolling ownership interest (33 percent or more); and
- Allows for the imposition of sanctions on parties that: (i) make investments that directly and significantly contribute to the enhancement of the ability of Russia to construct energy export pipelines; or (ii) sell, lease, or provide to Russia, for the construction of Russian energy export pipelines, goods, services, technology, information, or support above certain monetary thresholds that could directly and significantly facilitate the maintenance or expansion of the construction, modernization, or repair of energy export pipelines by Russia.

The Act also imposes new *mandatory* sanctions on parties that, among other things: (i) conduct malicious cyber activity on behalf of the Russian government; (ii) engage in significant transactions with the intelligence or defense sectors of the Russian Federation; and (iii) make an investment of \$10 million or more in the privatization of state-owned assets in a manner that unjustly benefits Russian officials or their close associates and family members. The Russian sanctions are menu-based, meaning the President can select from a list of measures to best address the threat, including: denial of Export-Import Bank and other commercial financing, denial of export licenses, debarment from U.S. government procurement, and imposition of the menu-based sanctions on the principal executive officers of a sanctioned entity.

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### Iran

The Act does not affect the nuclear-related sanctions relief granted as part of the U.S. commitment to the Joint Comprehensive Plan of Action. Instead, among other things, the Act imposes mandatory sanctions on parties determined to have materially contributed to Iran's ballistic missile program or to certain arms sales or transfers involving Iran. It also imposes mandatory sanctions on the already-sanctioned Iranian Revolutionary Guard Corps ("IRGC") and the IRGC-Quds Force (and their officials, agents, and affiliates) for their support for international terrorism. Sanctions under these provisions include blocking of property and exclusion of sanctioned individuals from the United States.

### North Korea

The Act enforces United Nations Security Council Resolutions against North Korea by expanding the list of activities subject to mandatory and discretionary designation as a Specially Designated National ("SDN"). The sanctions target those knowingly engaging in a wide array of transactions, including those involving precious and other metals, rare earth minerals, fuels, petroleum products, textiles, and fishing rights, as well as significant transactions in North Korea's transportation, mining, energy, or financial services industries. The Act also imposes sanctions against parties who traffic in or employ forced, convict, and indentured labor of North Koreans. These sanctions could result in blocking of assets and designation as an SDN.

### THREE KEY TAKEAWAYS

1. President Trump signed into law legislation that codifies and strengthens sanctions against Russia and expands sanctions against Iran and North Korea.
2. The new law provides Congress with more authority over the Russian sanctions program by requiring the President to submit a report to Congress whenever he proposes to make certain changes to U.S. sanctions on Russia.
3. President Trump has questioned the constitutionality of certain provisions of the new law on the basis that they displace the President's exclusive authority to take certain actions.

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