

## US SANCTIONS BILL MAY AFFECT RUSSIAN ECONOMIC SECTORS

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On June 15, 2017, the United States Senate passed the “Countering Iran’s Destabilizing Activities Act of 2017” (the “Bill”) with a bipartisan consensus vote of 98 to two. As initially drafted, the Bill would impose additional sanctions on Iran’s ballistic weapons program. However, a last-minute amendment added substantial new sanctions on Russia. If the Bill is enacted into law, it will impose significant new sanctions targeting certain Russian economic sectors, and may target non-Russian entities with “extraterritorial sanctions.”

### EXISTING SANCTIONS

In 2014, in response to Russia’s annexation of Crimea and apparent support for insurgents in eastern Ukraine, the US imposed significant “sectoral” sanctions on Russia. These sanctions targeted major companies operating in the Russian financial, energy, and defense sectors. However, unlike traditional “blocking” sanctions, which block all transactions between the US and the sanctioned person, the sectoral sanctions merely prohibit a US person from providing financing to the entities named on the Sectoral Sanctions Identification List (the “SSI List”), and from assisting in the exploration or production of Arctic offshore, deepwater or shale oil within Russia. The prohibition on financing applies to the issuance of debt of 30 days maturity or longer (in the case of designated financial entities), or 90 days or longer (in the case of designated energy companies).

Other transactions with entities named on the SSI List are generally not prohibited. Further, the sanctions apply only to “US persons,” so a non-US entity that avoids US ties can generally engage in any transaction with entities on the SSI List. As with most US sanctions, the sectoral sanctions are imposed by presidential “executive order,” which generally means that they can be modified or repealed at the sole discretion of the president.

In December 2016, President Barack Obama imposed additional sanctions on the Russian intelligence apparatus in response to Russia’s alleged hacking and interference in the 2016 US presidential election.

### BILL PROVISIONS

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The Bill would codify most of the existing sanctions, would require President Donald Trump (or future presidents) to undergo special procedures to repeal, relax or waive them and, in certain cases, would prohibit the president from taking any such actions. The Bill would also add three new sectors of the Russian economy to the existing sectors targeted by sanctions: railways, shipping and metals/mining. In addition, the Bill would reduce the number of days that financing can remain outstanding, from 30 to 14 days (for financial institutions), and from 90 to 30 days (for energy companies), and would extend the prohibition on assisting with deepwater, Arctic offshore, or shale projects from projects in Russia to projects anywhere in the world if designated Russian energy companies are involved. Finally, the Bill strengthens the conduct-based sanctions against Russia by imposing sanctions on parties that disrupt cyber security, supply arms to Syria, commit human rights abuses, and corruptly privatize government-owned assets.

More dramatically, the Bill would impose “extraterritorial sanctions” on non-Russian individuals and entities that engage in significant transactions with the Russian intelligence apparatus, that make significant investments in Russian energy pipelines, or that assist in privatizing Russian state-owned entities in a manner that benefits Russian officials. These extraterritorial sanctions, similar to the extraterritorial sanctions that were waived as part of the Iran nuclear deal, have been sharply criticized by the governments of Germany and Austria, which accused the US of attempting to interfere in European matters. If enacted, the Bill would likely impose sanctions in respect of the “Nord Stream 2” pipeline, intended to pump Russian gas to Germany beneath the Baltic Sea.

## POSSIBILITIES FOR PASSAGE

Although the US Senate has passed the Bill, it has not been enacted into law. In order to become law, it must also be passed by the House of Representatives, and then signed by President Trump (or, if President Trump vetoes the Bill, the veto may be overridden by a vote of two-thirds of the members of each house of Congress). It is not at all clear whether the Bill will become law, and what, if any, modifications will be made to the Bill by the House of Representatives. Secretary of State Rex Tillerson has expressed a concern that the Bill will close off diplomatic channels with Russia, and news reports have indicated that the president is working with House Republican leaders to temper the Bill by giving the president more discretion in dealing with Russia. If the Bill is enacted in its current or a similar form, it may have a significant effect on Russian industry and the ability of non-Russian entities to engage with Russia.

## KEY CONTACTS



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