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Client Alert

Further Sanctions Aim to Sever Remaining Ties Between Russia and U.S. Financial System

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On November 21, 2024, the Biden Administration announced sweeping new sanctions targeting numerous Russian banks, financial institutions and officials, including one of the largest remaining unblocked Russian banks, Gazprombank.[i] The move signals the Biden Administration's intent to further isolate Russia from the U.S. and global financial systems in some of its final actions prior to the change of administration. The Office of Foreign Assets Control (OFAC), the U.S. government agency responsible for implementing and enforcing sanctions, had previously avoided blocking these entities, reportedly because many of them were key to facilitating energy transactions between the Russian Federation and Europe.[ii] Before the further invasion of Ukraine in 2022, Europe was heavily dependent on Russian natural gas and oil imports. Europe is now much less reliant on Russian fossil fuels, which may have made sanctioning these entities more feasible.

The new designations arrived just days after Ukraine fired U.S.-supplied ATACMS missiles at Russia and the Pentagon announced $275 million in weapons for Ukraine. In a statement announcing the new restrictions, Treasury Secretary Janet Yellen remarked that the sanctions "will further diminish and degrade Russia's war machine" and "make it harder for the Kremlin to evade U.S. sanctions and fund and equip its military."[iii]

Notably, the sanctions come with an abbreviated wind-down and divestment period. U.S. persons currently doing business with or holding debt or equity of the newly-sanctioned entities only have until December 20, 2024, to divest from and cease all transactions with the newly sanctioned parties.[iv] Global financial institutions will therefore be forced to adapt well before the new U.S. presidential administration takes office in January 2025.

Also on November 21, 2024, OFAC issued an alert: "Sanctions Risk for Foreign Financial Institutions that Join Russian Financial Messaging System, System for Transfer of Financial Messages."[v] In this alert, OFAC cautioned against joining the Russian financial messaging system Sistema Peredachi Finansovykh Soobscheniy or "System for Transfer of Financial Messages" (SPFS). OFAC expressly identified that any financial institution that joins SPFS may be designated pursuant to Executive Order 14024 (making them the target of—and any dealings with them subject to—secondary sanctions), and clarified that "OFAC views joining SPFS after publication of this alert as a red flag and is prepared to more aggressively target foreign financial institutions that take such action."

These sanctions appear designed to sever any remaining ties between the U.S. and Russian financial systems and to further deter third-country financial institutions from conducting business with Russia. Under

E.O. 14024 (as amended by E.O. 14114) non-U.S. banks (foreign financial institutions or FFIs) already risk the imposition of sanctions for conducting or facilitating so-called “significant” transactions for any entity designated under E.O. 14024, or for providing any service involving the “Russian Military Industrial Base”, effectively making FFIs choose between severing ties with large swathes of the Russian economy, or facing the risk of being sanctioned by the U.S. government. The new warning related to the SPFS has the same effect: making third-country banks choose between an isolated Russian economy and the international financial system. Moreover, U.S. persons will likely struggle to unwind or close out ruble accounts or engage in otherwise lawful transactions in Russia through the now-listed banks and financial institutions. Of course, U.S. assets of sanctioned entities also will be frozen and potentially seized. In addition, under OFAC’s “fifty percent” rule, any entity owned 50% or more by Gazprombank, or the other sanctioned Russian entities, will be blocked, even if not explicitly identified by OFAC. Moving forward, companies seeking to conduct business involving Russia, or countries that trade with Russia, will need to ensure their compliance function is enhanced to account for these incremental—yet significant—new restrictions to avoid potential criminal and civil penalties. FFIs in particular will need to weigh the risk of OFAC designation (or loss of U.S.-dollar clearing privileges) pursuant to this new policy and existing secondary sanctions authorities against any decision to join and participate in SPFS, or continuing to deal with Gazprombank or the other newly-sanctioned Russian firms at all.

With the new administration taking office in January 2025, we anticipate significant changes in U.S. sanctions and export controls policy—though precisely how these areas will change remains the subject of speculation. Paul Hastings will be publishing alerts on these topics as the change-of-administration unfolds, to keep our readership as informed and up-to-date as possible.

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[i] Office of Foreign Assets Control, *Russia-Related Designations and Updates; Issuance of Russia-Related General Licenses and Frequently Asked Questions; Publication of Russia-Related OFAC Alert*, (Nov. 21, 2024), https://ofac.treasury.gov/recent-actions/20241121.

[ii] Fatima Hussein & Dave McHugh, *The Biggest Remaining Unsanctioned Russian Bank Hit with U.S. Sanctions, Nearly Three Years into War*, AP (Nov. 21, 2024), https://apnews.com/article/russia-ukraine-war-sanctions-treasury-5b5852a47a143be972f8afd4f8ee89cd.

[iii] U.S. Department of the Treasury, *Treasury Sanctions Gazprombank and Takes Additional Steps to Curtail Russia's Use of the International Financial System*, Press Release (Nov. 21, 2024), https://home.treasury.gov/news/press-releases/jy2725.

[iv] Office of Foreign Assets Control, *General License No. 113: Authorizing the Wind Down of Transactions Involving Certain Financial Institutions Blocked on November 21, 2024*, (Nov. 21, 2024), https://ofac.treasury.gov/media/933631/download? Inline.

[v] Office of Foreign Assets Control, *Sanctions Risk for Foreign Financial Institutions that Join Russian Financial Messaging System, System for Transfer of Financial Messages* (Nov. 21, 2024), https://ofac.treasury.gov/media/933656/download?inline.