



**SEPTEMBER 17, 2014**

**CIRCULAR NO. 26/14**

**TO MEMBERS OF THE ASSOCIATION**

**Dear Member:**

**US ECONOMIC SANCTIONS UPDATE: ADDITIONAL US SANCTIONS – RUSSIAN ENTITIES**

On September 12, 2014, the United States intensified economic sanctions against certain Russian entities. As notified to Members in [Circular No. 22/14 of July 30, 2014](#), the United States, under two Directives issued pursuant to Executive Order 13662, imposed “sectoral sanctions,” targeting Russian entities in Russia’s financial and energy sectors.

Directive 1 prohibited US persons from providing new financing for, or otherwise dealing in, new debt of longer than 90 days maturity, or from providing new equity to Russian financial entities included in the Sectoral Sanctions Identification List (SSI List) published by the US Treasury Department’s Office of Foreign Assets Control (OFAC). This prohibition extended to entities 50% or more owned by a Russian financial entity on the SSI List.

Directive 2 prohibited US persons from providing new financing for, or otherwise dealing in, new debt of longer than 90 days maturity for any Russian energy entities on the SSI List.

On September 12, the scope of the foregoing Sectoral Sanctions was expanded. OFAC amended Directives 1 and 2 and published two new Directives: 3 and 4.

**Summary**

Previous Directives

Directive 1 was amended only to shorten the relevant debt maturity period from 90 days to 30 days. Otherwise Directive 1 is unaltered. The new shortened period applies only to debt issued on or after September 12, 2014. Dealing in an SSI entity’s debt with a maturity of 90 days or less is permissible if it was issued before September 12, 2014. OFAC also has added Sberbank to the list of Directive 1 entities.

Directive 2’s amendments were not substantive. OFAC added Transneft and Gazprom Neft to the list of Directive 2 entities.

New Directives

Directive 3 targets Russia’s defense industry. It prohibits US persons from engaging in transactions involving debt of longer than 30 days maturity of identified entities. Rostec – a major Russian defense contractor - and its subsidiaries were identified under this Directive.

Directive 4, also aimed at Russia's energy sector, prohibits US persons from 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 the maritime area claimed by the Russian Federation and extending from its territory, and that involve any person determined to be subject to Directive 4, including entities owned by entities identified under Directive 4.

Under Directive 4 significant Russian energy companies have been added to the SSI List: Gazprom Neft, Gazprom OAO, Lukoil, Rosneft and Surgutneftegas.

Directive 4 complements restrictions placed on US exports to Russia by the US Commerce Department which prohibits the exportation and reexportation of US-origin items to be used directly or indirectly in Russia's energy sector for exploration or production from deep-water (greater than 500 feet), Arctic offshore, or shale projects in Russia that have the potential to produce oil or gas or with respect to items where the exporter is unable to determine whether the items will be used in such projects in Russia.

Under Directive 4, which is administered and enforced by OFAC, the relevant equipment or items can be of any origin (not only US-origin as in the Commerce Department context), the activity must involve a Directive 4 entity, and the goods must support projects that have the potential to produce oil or gas in Russia. The above prohibition covers oil projects only, and does not extend to gas projects. Additionally, Directive 4's prohibition on the supply, export or reexport of services does not include financial services.

All four Directives apply to US persons, defined in relevant regulations as US citizens, permanent resident aliens, entities organized under the laws of the United States (including foreign branches), and persons located in the United States. The term does not include foreign-incorporated subsidiaries of US companies.

Two exceptions have been made to the foregoing sanctions under Directives 1 to 4. Under a General License issued by OFAC, US persons are permitted to engage in transactions in derivative products whose value is linked to an underlying asset that constitutes a debt as described in Directives 1, 2 or 3.

Pre-existing contracts that are now subject to the prohibitions of Directive 4 have not been "grandfathered." However, OFAC has issued a General License, to allow the winding down of activities now prohibited by Directive 4, but only until September 26, 2014. The General License requires US persons, within ten business days of the winding down of operations, to file a "detailed report" with OFAC that specifies the parties involved, the activities conducted, and the dates of the activities.

### **Blocked Russian Entities**

On September 12, OFAC also added five Russian state-owned defense technology firms to the Specially Designated Nationals List. As a result, the property of these entities (and

entities in which these entities have an ownership interest of 50% or more) within US jurisdiction is now blocked, and the US persons are prohibited from conducting any business or from having any dealings with these entities and any property or interest in property of these entities.

The five entities are: OAO Dolgoprudny Research Production Enterprise, Mytishchinski Mashinostroitelny Zavod OAO, Kalinin Machine Plant JSC, Almaz-Antey GSKB, and JSC NIIP.

## **US Commerce Department (BIS) Export and Trade Restrictions**

On September 12, 2014, the US Commerce Department, Bureau of Industry and Security (BIS), adding to already existing prohibitions on exports to Russia (noted above) added Russian energy and defense companies to the Entity List -- the same five Russian energy companies designated by OFAC under Directive 4: Gazprom, Gazprom Neft, Lukoil, Rosneft, and Surgutneftegas.

With respect to these companies, a US export license is now required for US-origin items where the exporter or transferor has reason to know that the item will be used for exploration for, or production from, deepwater, Arctic offshore, or shale projects in Russia. License applications are subject to a policy of denial where the export, reexport, or transfer relates to an oil project, but this policy of denial does not seem to apply to gas projects.

BIS has also added the following defense companies to the Entity List: Almaz-Antey Air Defense Concern Main System Design Bureau Tikhomirov Scientific Research Institute of Instrument Design, Mytishchinski Mashinostroitelny Zavod, Kalinin Machine Plant; and Dolgoprudny Research Production Enterprise. A license is required to export any item subject to U.S. export control laws to these companies, regardless of end use.

BIS also now requires a license to export or reexport certain US-origin items to Russia where there is reason to know that they are intended for a military end use.

## **Compliance**

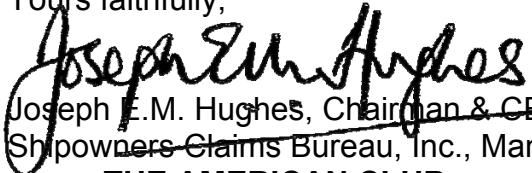
These complex US sanctions are complemented by sanctions which the EU has imposed against Russia. With respect to these sanctions, any trade or transaction involving Russia should raise a red flag and prompt due diligence. In the US sanctions context, due diligence will require consideration of OFAC as well as US Commerce Department prohibitions and an examination of, *inter alia*, all the Russian parties involved in the transaction, especially the identity of the cargo receiver or the end users of the items (screening all such entities against OFAC's SDN List, the SSI List and the Commerce Department's Entity List), the type and the origin of the items involved (including the destination of items being exported or supplied), the purpose for which the items will be used and the financial and trade transactions involved.



## Questions and guidance

Members are reminded that there is no American Club cover for any voyage, vessel or activity to the extent the same is prohibited by law. For any questions regarding any aspect of the foregoing summary, other sanctions in general, or for confirmations as to the availability of cover for a particular voyage or trade, please contact: Charles J. Cuccia, Senior Vice President – Compliance & Enterprise Risk Management, ph +1 212 847 4539, mob +1 917 215 2883, [charles.cuccia@american-club.com](mailto:charles.cuccia@american-club.com) with all relevant details of the voyage or trade.

Yours faithfully,

  
Joseph E.M. Hughes, Chairman & CEO  
Shipowners Claims Bureau, Inc., Managers for  
**THE AMERICAN CLUB**