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TO MEMBERS OF THE ASSOCIATION

Dear Member:

UNITED STATES ENACTS NEW LAW REQUIRING THE IMPOSITION OF ADDITIONAL ECONOMIC SANCTIONS WITH RESPECT TO NORTH KOREA, IRAN AND RUSSIA

Yesterday President Trump signed into law the House of Representatives' bill HR 3364 as the Countering America's Adversaries Through Sanctions Act (the Act). It requires the imposition of additional US economic sanctions on Iran, Russia and North Korea. The new sanctions are extensive and far reaching. The provisions applying to each of the countries mentioned are dealt with in detail below.

North Korea

The portion of the Act dealing with North Korea is entitled the Korean Interdiction and Modernization of Sanctions Act (the New North Korea Sanctions Act). The main elements/provisions of the New North Korea Sanctions Act, which build upon existing US sanctions, are as follows.

The New North Korea Sanctions Act modifies and increases the President's authority to impose sanctions on persons in violation of certain United Nations Security Council resolutions regarding North Korea. It amends existing law with respect to US North Korean sanctions and further provides for the imposition of sanctions against any person that:

1. knowingly, directly or indirectly, purchases or otherwise acquires from North Korea any significant amounts of gold, titanium ore, vanadium ore, copper, silver, nickel, zinc, or rare earth minerals;
2. knowingly, directly or indirectly, sells or transfers to North Korea any significant amounts of rocket, aviation, or jet fuel (except for use by a civilian passenger aircraft outside North Korea, exclusively for consumption during its flight to North Korea or its return flight);
3. knowingly, directly or indirectly, provides significant amounts of fuel or supplies, provides bunkering services, or facilitates a significant transaction or transactions to operate or maintain, a vessel or aircraft that is designated under an applicable Executive order or an applicable United Nations Security Council resolution, or that is owned or controlled by a person designated under an applicable Executive Order or applicable United Nations Security Council resolution;



4. knowingly, directly or indirectly, insures, registers, facilitates the registration of, or maintains insurance or a registration for, a vessel owned or controlled by the Government of North Korea, except as specifically approved by the United Nations Security Council;
5. knowingly, directly or indirectly, maintains a correspondent account (as defined in section 201A(d)(1)) with any North Korean financial institution, except as specifically approved by the United Nations Security Council;
6. knowingly, directly or indirectly, purchased or otherwise acquired from the Government of North Korea significant quantities of coal, iron, or iron ore, in excess of the limitations provided in applicable United Nations Security Council resolutions;
7. knowingly, directly or indirectly, purchased or otherwise acquired significant types or amounts of textiles from the Government of North Korea;
8. knowingly facilitated a significant transfer of funds or property of the Government of North Korea that materially contributes to any violation of an applicable United National Security Council resolution;
9. knowingly, directly or indirectly, facilitated a significant transfer to or from the Government of North Korea of bulk cash, precious metals, gemstones, or other stores of value;
10. knowingly, directly or indirectly, sold, transferred, or otherwise provided significant amounts of crude oil, condensates, refined petroleum, other types of petroleum or petroleum by products, liquefied natural gas, or other natural gas resources to the Government of North Korea (except for heavy fuel oil, gasoline, or diesel fuel for humanitarian use);
11. knowingly, directly or indirectly, engaged in, facilitated, or was responsible for the online commercial activities of the Government of North Korea, including online gambling;
12. knowingly, directly or indirectly, purchased or otherwise acquired fishing rights from the Government of North Korea;
13. knowingly, directly or indirectly, purchased or otherwise acquired significant types or amounts of food or agricultural products from the Government of North Korea;
14. knowingly, directly or indirectly, engaged in, facilitated, or was responsible for the exportation of workers from North Korea in a manner intended to generate significant revenue, directly or indirectly, for use by the Government of North Korea or by the Workers' Party of Korea;



15. knowingly conducted a significant transaction or transactions in North Korea's transportation, mining, energy, or financial services industries; or
16. except as specifically approved by the United Nations Security Council, and other than through a correspondent account, knowingly facilitated the operation of any branch, subsidiary, or office of a North Korean financial institution.

The New North Korea Sanctions Act also requires reports to Congress as to why the following entities should not be designated as sanctions targets:

(A) The Korea Shipowners' Protection and Indemnity Association, a North Korean insurance company, with respect to facilitating imports, exports and reexports of arms and related materiel to and from North Korea, or for other prohibited activities.

(B) Chinpo Shipping Company (Private) Limited, a Singapore corporation, with respect to facilitating imports, exports, and reexports of arms and related materiel to and from North Korea.

(C) The Central Bank of the Democratic People's Republic of Korea, with respect to the sale of gold to, the receipt of gold from, or the import or export of gold by, the Government of North Korea.

(D) Kungang Economic Development Corporation (KKG), with respect to being an entity controlled by Bureau 39 of the Workers' Party of the Government of North Korea.

(E) Sam Pa, also known as Xu Jinghua, Xu Songhua, Sa Muxu, Samo, Sampa, or Sam King, and any entities owned or controlled by such individual, with respect to transactions with KKG.

(F) The Chamber of Commerce of the Democratic People's Republic of Korea, with respect to the exportation of workers.

The New North Korea Sanctions Act also requires United States financial institutions to ensure that accounts managed by that institution for a foreign financial institution are not being used by the foreign financial institution to provide significant financial services indirectly to any person, foreign government, or financial institution designated as a North Korean sanctions target. The United States financial institution shall ensure that such correspondent account is no longer used to provide such services.

Under the New North Korea Sanctions Act, a foreign government that provides to or receives from North Korea a defense article or service is prohibited from receiving certain types of US foreign assistance.

The New North Korea Sanctions Act provides that the US Department of Homeland Security may require enhanced screening procedures to determine whether physical inspections are warranted of any cargo bound for or landed in the United States that:



(A) has been transported through a sea port or airport the operator of which has been identified by the President as having repeatedly failed to comply with applicable United Nations Security Council resolutions;

(B) is aboard a vessel or aircraft, or within a conveyance that has, within the last 365 days, entered the territory or waters of North Korea, or landed in any of the sea ports or airports of North Korea; or

(C) is registered by a country or jurisdiction whose compliance with international sanctions against North Korea has been identified by the President as deficient.

The foregoing shall not apply to any vessel, aircraft, or conveyance that has entered the territory or waters of North Korea, or landed in any of the sea ports or airports of North Korea, exclusively to import food, medicine, or supplies into North Korea to meet the humanitarian needs of the North Korean people.

Enforcing compliance with United Nations shipping sanctions against North Korea

The New North Korea Sanctions Act amends the Ports and Waterways Safety Act (33 US C. 1221 et seq.) by adding the following new section:

In general, no vessel described below may enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States.

A vessel referred to above is a foreign vessel for which a notice of arrival is required to be filed, and that:

- (1) is on the most recent list of vessels published in Federal Register under subsection (c) (2); or
- (2) more than 180 days after the publication of such list, is knowingly registered, pursuant to the 1958 Convention on the High Seas entered into force on September 30, 1962, by a government the agents or instrumentalities of which are maintaining a registration of a vessel that is included on such list.

The New North Korea Sanctions Act requires the Secretary of the department in which the Coast Guard is operating, with the concurrence of the Secretary of State, to

- (1) maintain timely information on the registrations of all foreign vessels over 300 gross tons that are known to be:
 - (A) owned or operated by or on behalf of the Government of North Korea or a North Korean person; or
 - (B) owned or operated by or on behalf of any country in which a sea port is located, the operator of which the President has identified in the most recent



report submitted under section 205(a)(1)(A) of the North Korea Sanctions and Policy Enhancement Act of 2016; or

(C) owned or operated by or on behalf of any country identified by the President as a country that has not complied with the applicable United Nations Security Council resolutions; and

(2) publish in the Federal Register a list of the vessels described above.

The New North Korea Sanctions Act states that the foregoing shall not be construed as authority to restrict the right of innocent passage or the right of transit passage as recognized under international law.

Sanctions on foreign persons that employ North Korean labor

The New North Korea Sanctions Act prohibits, subject to certain limited exceptions, the importation or entry into the United States of any significant goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by the labor of North Korean nationals or citizens.

Sanctions may also be imposed on designated foreign persons that employ North Korean labor. A foreign person may not be designated if the President certifies to the appropriate congressional committees that the President has received reliable assurances from such person that:

(A) the employment of North Korean laborers does not result in the direct or indirect transfer of convertible currency, luxury goods, or other stores of value to the Government of North Korea;

(B) all wages and benefits are provided directly to the laborers, and are held, as applicable, in accounts within the jurisdiction in which they reside in locally denominated currency; and

(C) the laborers are subject to working conditions consistent with international standards.

Additionally, the New North Korea Sanctions Act requires the State Department to submit a determination regarding whether North Korea meets the criteria for designation as a state sponsor of terrorism.

Sanctions imposed under the New North Korea Sanctions Act will, in most part, prohibit transactions and activities with or involving designated persons and US persons or those with a US nexus. The property and all interest in property of designated persons within the US jurisdiction will be blocked. Additionally, individuals who are sanctions targets will not be permitted to enter the United States.



The New North Korea Sanctions Act expands the existing universe of North Korean as well as non-North Korean persons that may be targeted by US sanctions.

The US Treasury Department will issue regulations implementing the New North Korea Sanctions Act and identify the new North Korea sanctions targets that are designated pursuant to the New North Korea Sanctions Act.

The persons (entities and individuals) against whom the foregoing sanctions will be imposed will be identified by the US Treasury's Office of Foreign Assets Control (OFAC) by the inclusion of such persons on OFAC's List of SDNs and Blocked Persons.

Iran

The portion of the Act dealing with Iran is entitled the Countering Iran's Destabilizing Activities Act of 2017 (the New Iran Sanctions Act), which is in addition to, and builds upon, existing US sanctions against Iran. It is summarized as follows.

The New Iran Sanctions Act directs the President to impose sanctions against any person that:

knowingly engages in any activity that materially contributes to the activities of the Government of Iran with respect to its ballistic missile program, or any other program in Iran for developing, deploying, or maintaining systems capable of delivering weapons of mass destruction, including any efforts to manufacture, acquire, possess, develop, transport, transfer, or use such capabilities; and any person that:

- a.** is a successor to or owned or controlled by the foregoing; or
- b.** is acting for or on behalf of a person referred to above; or
- c.** knowingly provides or attempts to provide financial, material, technological, or other support for, or goods or services in support of, a person referred to above.

The New Iran Sanctions Act also directs the President and provides him with authority to impose additional sanctions against:

- a.** The Iranian Revolutionary Guard Corps (IRGC) and foreign persons that are officials, agents, or affiliates of the IRGC; and
- b.** any person that the President determines 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 any battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, as defined for the purpose of the United Nations Register of Conventional Arms, or related materiel, including spare parts; or knowingly provides to Iran any technical



training, financial resources or services, advice, other services or assistance related to the supply, sale, transfer, manufacture, maintenance, or use of arms and related materiel described above.

Under the New Iran Sanctions Act, the President may also impose sanctions against persons responsible for violations of internationally recognized human rights committed against individuals in Iran.

The persons (entities and individuals) against whom the foregoing sanctions will be imposed (Sanctions Targets) will be identified by the US Treasury's Office of Foreign Assets Control (OFAC) by the inclusion of such persons on OFAC's List of SDNs and Blocked Persons.

Sanctions imposed under the New Iran Sanctions Act will prohibit transactions and activities with or involving Sanctions Targets and US persons or those with a US nexus. The property and all interest in property of Sanctions Targets within the US jurisdiction will be blocked. Additionally, individuals who are Sanctions Targets will not be permitted to enter the United States.

Exceptions to the imposition of sanctions may be made for US national security reasons. Exceptions to sanctions will also apply to US exports of agricultural commodities and medical devices and medicine to Iran. The President may temporarily waive the imposition or continuation of sanctions under specified circumstances.

The New Iran Sanctions Act expands the universe of Iranian as well as non-Iranian persons that may be targeted by US Iran sanctions. OFAC will issue regulations implementing the New Iran Sanctions Act.

Russia

The portion of the Act dealing with Russia is entitled Countering Russian Influence in Europe and Eurasia Act of 2017 (the New Russia Sanctions Act). It builds upon existing US Russia and Ukraine related sanctions, and can be summarized, generally, as follows.

The New Russia Sanctions Act imposes new sanctions on Russia and codifies existing sanctions. It also limits the administration's ability to lift sanctions by allowing Congress to block any sanctions relief, and it allows Congress to block the return of two diplomatic compounds seized in retaliation for the election interference.

- 1. Codification of existing sanctions:** The New Russia Sanctions Act codifies existing Russia sanctions that were imposed by the Obama administration. Unless authorized by the US Treasury, US persons may not engage in any transactions with persons designated as sanctions targets under the existing sanctions.



2. Expansion of “sectoral” sanctions in financial services, energy, mining, and railway sectors and modification of existing sectoral sanctions: The New Russia Sanctions Act expands the existing “sectoral” sanctions.

These sanctions target Russian firms in the financial services, energy, and defense sectors, as well as Russian oil production projects, and prohibit certain types of transactions. The New Russia Sanctions Act specifically states that Russian state-owned companies in the railway, metals, and mining sectors will also be targeted for sanctions.

The New Russia Sanctions Act also enlarges the scope of prohibited transactions with respect to the financial services and energy sectors (Sectoral Sanctions and their Directives). There are lower thresholds for sanctions targeting: e.g. a Russian oil project in which a sanctioned person holds not 50% or more but a 33% or more interest will be a sanctions target.

The New Russia Sanctions Act requires modification of the existing sectoral sanctions to ensure:

- that Directive 1 prohibits the conduct by United States persons or persons within the United States of all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity of persons determined to be subject to the directive, their property, or their interests in property.
- that Directive 2 prohibits the conduct by United States persons or persons within the United States of all transactions in, provision of financing for, and other dealings in new debt of longer than 60 days maturity of persons determined to be subject to the directive, their property, or their interests in property.
- that Directive 4 prohibits the provision, exportation, or re-exportation, directly or indirectly, by United States persons or persons within the United States, of goods, services (except for financial services), or technology in support of exploration or production for new deepwater, Arctic offshore, or shale projects:
 - (1) that have the potential to produce oil; and
 - (2) that involve any person determined to be subject to the directive or the property or interests in property of such a person who has a controlling interest or a substantial non-controlling ownership interest in such a project defined as not less than a 33 percent interest.

3. Cybersecurity: The New Russia Sanctions Act requires the imposition of sanctions against any person that knowingly engages in significant activities undermining cybersecurity against any person, including a democratic institution, or government



on behalf of the Government of the Russian Federation. The President may waive the imposition of such sanctions in certain circumstances.

- 4. Prohibition of investments in Russian energy export pipelines and related provision of goods, services, technology, or support:** The New Russia Sanctions authorize sanctions against major investors in Russian energy export pipelines. These sanctions will be imposed in coordination with and after taking into consideration any negative impact sanctions may have on allies of the United States. Sanctions are required to be imposed on any person that knowingly makes an investment or sells, leases, or provides to the Russian Federation, for the construction of Russian energy export pipelines, goods, services, technology, information, or support:

(1) any of which has a fair market value of \$1,000,000 or more; or

(2) that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more.

- 5. Sanctions relating to cybersecurity, human rights, and other matters:** The New Russia Sanctions Act requires the imposition of sanctions against:

- as noted above, designated persons who undermine US cybersecurity;
- designated foreign persons who contributed to human rights abuses;
- designated persons affiliated with Russian defense or intelligence sectors;
- designated persons found to have made major investments that facilitate the privatization of Russian state firms which unfairly benefits associates of Russian officials; and
- foreign persons found to have provided significant armaments to Syria.

- 6. Limitation on the President's discretionary authority to reduce or lift Russia sanctions:** The New Russia Sanctions Act imposes Congressional oversight on any efforts by the President to reduce or eliminate any Russia sanctions. The New Russia Sanctions Act restricts the authority of the White House to alter sanctions on Russia without the approval of the US Congress. The President will need to submit proposed actions to waive or suspend sanctions for Congressional review and approval.

- 7. Penalties on non-US persons:** The New Russia Sanctions Act expands the scope of persons who may potentially be penalized for violations. This may include foreign persons outside the United States. In general, the existing Russia sanctions prohibit US persons from engaging in transactions with sanctions targets. However, the New Russia Sanctions Act extends penalties to apply foreign persons who "cause a violation" by a US person.



8. **OFAC designations:** The persons (entities and individuals) against whom the foregoing sanctions will be imposed (Sanctions Targets) will be identified by the US Treasury's Office of Foreign Assets Control (OFAC) by the inclusion of such persons on OFAC's List of SDNs and Blocked Persons.
9. **Sanctions described:** With the exception of the Sectoral Sanctions, sanctions imposed under the New Russia Sanctions Act will, in most part, prohibit transactions and activities with or involving Sanctions Targets and US persons or those with a US nexus. The property and all interest in property of Sanctions Targets within the US jurisdiction will be blocked. Additionally, individuals who are Sanctions Targets will not be permitted to enter the United States.
10. **More Targets:** The New Russia Sanctions Act expands the universe of Iranian as well as non-Russian persons that may be targeted by US Russia sanctions.
11. **Implementation:** OFAC will issue regulations implementing the New Russia Sanctions Act and identify the new Russia sanctions targets designated under the New Russia Sanctions Act.



The American Club will keep abreast of developments regarding the implementation of the Act, and inform Members of significant developments. Members are reminded that, pursuant to American Club rules, there is no cover for voyages which would violate or pose a risk of violating sanctions prohibitions, and also that causing a violation could entail the imposition of sanctions or penalties. Members are accordingly reminded to conduct additional sanctions compliance due diligence to ensure their own and the American Club's compliance with sanctions prohibitions.

Should Members wish to discuss any questions or need additional guidance regarding any aspect of the foregoing or other sanctions in general, or for confirmations as to the availability of cover for voyages involving countries (Iran, Syria, Cuba, North Korea, Russia, Crimea region of Ukraine, Venezuela [presently only SDNs]) or entities or individuals subject to US economic sanctions (OFAC SDN List), 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.

Yours faithfully,

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