

OFAC Announces Imminent Termination of Rusal Sanctions

The Department of Treasury's Office of Foreign Asset Control (OFAC) has officially notified the U.S. Senate of its decision to terminate sanctions imposed on En+ Group PLC (En+), United Company Rusal PLC (Rusal), and JSC EuroSibEnergo (ESE) in 30 days' time. The letter states that the three companies agreed to undergo "significant restructuring," corporate governance changes, and engage in monitoring that is characterized as "unprecedented transparency."

En+, Rusal, and ESE were placed on OFAC's Specially Designated Nationals and Blocked Persons list (SDN list) on April 6, 2018, as a result of their being owned or controlled by Oleg Deripaska, a Russian oligarch sanctioned on the same day pursuant to Executive Orders 13661 and 13662. At the time of designation, OFAC issued general licenses, which provided a wind-down period for U.S. persons to complete transactions with the sanctioned companies. This wind-down period received repeated extensions, with the period now extended until January 21, 2019.

In its notification letter to the Senate, OFAC states that the three companies have satisfactorily cooperated with OFAC and agreed to necessary terms in order to be removed from the SDN list. All of the companies have agreed to sever their ties with Deripaska through divestiture and restructuring mechanisms. According to OFAC, the companies entered into a binding agreement that severs Deripaska's control and reduces his ownership in the entities to well below 50 percent. This divestiture coincides with intensive corporate restructuring whereby En+, which owns or controls both Rusal and ESE, will establish a board of directors in which independent directors comprise a majority. In addition, all three of the companies have agreed to provide monthly and quarterly updates to OFAC ensuring compliance with the terms of the agreements. Should any of the companies violate the terms of the arrangement, OFAC reserves the right to relist any or all of the entities on the SDN list.

As a result of this agreement, En+, Rusal, and ESE are expected to be removed from the SDN list on or about January 18, 2019. However, sanctions will remain against Oleg Deripaska individually. Any property in which Deripaska owns a 50 percent or greater interest will continue to be blocked going forward regardless of the arrangements with EN+, Rusal, and ESE. In addition, non-U.S. persons will continue to be at risk of secondary sanctions if they knowingly engage in significant transactions with or on behalf of Deripaska. As always, it remains critical for companies to review the SDN list to identify any potentially problematic relationships or transactions.

The application of U.S. sanctions often relies on the particular circumstances of a transaction. If you have questions about how these changes affect your business, please contact Cozen O'Connor's Transportation and Trade Group.



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