

# Alert

## Sanctions Update: Russia, Iran, North Korea and Venezuela

August 2, 2017

On Aug. 2, 2017, President Trump signed into law the Countering America's Adversaries Through Sanctions Act (the "Act"), after it was passed by overwhelming majorities in the House and Senate.<sup>1</sup> While media coverage of the legislation has focused on its provisions tying the hands of the current administration when it comes to lifting Russia-related sanctions, the Act also authorizes, and in many instances directs, the President to impose additional sanctions against Russia, as well as against Iran and North Korea. The sanctions described in the Act contemplate Executive Branch implementation anywhere from 30 to 180 days after the Act's enactment (implementation requirements vary by provision), so firms should expect to see regulations released and designations by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") made in the coming months.

Separately, on July 26 and 31, 2017, 14 current and former Venezuelan government officials, including Venezuelan President Nicolas Maduro and the current Vice President of Finance for Petroleos de Venezuela, S.A. ("PDVSA"), were added to OFAC's Specially Designated Nationals List ("SDN List"). The Venezuelan sanctions take effect immediately.

U.S. firms, including financial institutions and investment fund managers, engaged in any business activity in or with persons or entities in Russia, Iran, North Korea and Venezuela are advised to pay close attention to these new prohibitions.

### I. The Countering Russian Influence in Europe and Eurasia Act of 2017<sup>2</sup>

The Act's provisions relating to Russia are likely to have the greatest practical impact. These provisions modify and expand the scope of existing Russia-related sanctions and require the President to take steps to sanction additional persons engaged in other types of conduct involving Russia.

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<sup>1</sup> The full Act, which runs to 184 pages, may be found here: <https://www.congress.gov/115/bills/hr3364/BILLS-115hr3364eh.pdf>. President Trump also issued a signing statement questioning the constitutionality of certain provisions in the Act, including the form of Congressional review applicable to the waiving or easing of Russia-related sections and the absence of certain exceptions in provisions requiring him to deny certain persons entry to the United States. The full signing statement may be found here: <https://www.whitehouse.gov/the-press-office/2017/08/02/statement-president-donald-j-trump-signing-hr-3364>.

<sup>2</sup> The Act is divided into three main sections relating to Iran (Title I), Russia (Title II) and North Korea (Title III), each of which bears its own short title (e.g., Title II is entitled "Countering Russian Influence in Europe and Eurasia Act of 2017").

## A. Modifications to Existing Executive Orders and SSI Directives

In 2014, following Russia's annexation of Crimea, President Obama issued a series of Executive Orders ("E.O.") to block property of persons contributing to the undermining of the democratic processes and institutions in Ukraine. These included sanctions directed against various Russian government officials, as well as businesses and individual business executives connected to the Russian government and certain sectors of the Russian economy.<sup>3</sup> In December 2016, President Obama also amended a cybersecurity-related E.O. originally issued in April 2015, to block property of persons involved in cyber-enabled attacks directed at influencing the United States presidential election.<sup>4</sup> The Act codifies the sanctions provided for in each of those Executive Orders and requires the President to obtain Congressional approval prior to the termination of any such sanctions or the waiver of the initial application of the sanctions against qualifying persons.<sup>5</sup>

In addition, Section 223 of the Act modifies E.O. 13662, which was issued on March 20, 2014, in order to strengthen and expand its existing sanctions. Specifically, Section 223 of the Act authorizes the imposition of sanctions against state-owned enterprises in the railway or metals and mining sector of the Russian economy. This section of the Act does not mandate any new sanctions; rather, it provides that "the Secretary of the Treasury *may* determine that a person" is subject to the E.O.<sup>6</sup>

Section 223 also orders the Secretary of the Treasury to modify Directives issued by OFAC pursuant to E.O. 13662. Under these Directives, U.S. persons are prohibited from participating in transactions involving new equity and/or new debt of certain maturities issued by entities designated on OFAC's Sectoral Sanctions Identification List ("SSI List"). Directive 1 is intended for the financial services sector of the Russian economy, while Directives 2 and 4 apply to the energy sector of the Russian economy. The modifications required by the Act must be made to Directives 1 and 2 within 60 days of the legislation's enactment, and to Directive 4 within 90 days of enactment.

**Directive 1.** Directive 1 is amended to prohibit all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity of persons determined to be subject to the Directive, their property or their interests in property. The existing prohibition in Directive 1 applies to new debt of longer than 30 days maturity.

**Directive 2.** Directive 2 is amended to prohibit all transactions in, provision of financing for, and other dealings in new debt of longer than 60 days maturity of persons identified under Directive 2, their property, or their interests in property. Prior to this amendment, Directive 2 applied to new debt of longer than 90 days maturity.

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<sup>3</sup> See Executive Order 13660, [Blocking Property of Certain Persons Contributing to the Situation in Ukraine](#) (Mar. 6, 2014); Executive Order 13661, [Blocking Property of Additional Persons Contributing to the Situation in Ukraine](#) (Mar. 16, 2014); Executive Order 13662, [Blocking Property of Additional Persons Contributing to the Situation in Ukraine](#) (Mar. 20, 2014); Executive Order 13685, [Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to the Crimea Region of Ukraine](#) (Dec. 19, 2014).

<sup>4</sup> See Executive Order 13694, [Blocking Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities](#) (Apr. 1, 2015); Executive Order 13757, [Taking Additional Steps to Address the National Emergency with Respect to Significant Malicious Cyber-Enabled Activities](#) (Dec. 28, 2016).

<sup>5</sup> § 222 of the Act.

<sup>6</sup> § 223(a) of the Act (emphasis added).

**Directive 4.** Directive 4 is amended to prohibit the provision, exportation, or reexportation, directly or indirectly, of goods, services (except for financial services) or technology in support of exploration or production for new deepwater, Arctic offshore or shale projects that both have the potential to produce oil and involve any person or property of a person subject to Directive 4 who has a controlling interest or substantial non-controlling interest ( $\geq 33$  percent) in the project. The Act modifies the existing Directive 4 in two principal ways. First, its restrictions apply not only to projects in Russia itself, but also to projects anywhere in the world, regardless of location, if a designated person is involved in the project. Second, whereas the existing Directive 4 applies to projects involving “entities owned 50 percent or more” by a designated person,<sup>7</sup> the Act extends its application to entities in which a designated person has a “substantial non-controlling interest,” which is defined as not less than 33 percent.

## **B. Amendments to the Ukraine Freedom Support Act of 2014**

Sections 225 and 226 of the Act amend sections 4(b)(1) and 5 of the Ukraine Freedom Support Act of 2014 (“UFSA”), respectively, by removing permissive language simply allowing the President to impose certain sanctions and adding language requiring the President to impose such sanctions 30 or more days after the Act’s enactment, unless the President determines that it is not in the national interest of the United States to do so. Section 4(b)(1) of UFSA, as amended by Section 225 of the Act, pertains to foreign persons that knowingly make a significant investment in a special Russian crude oil project.<sup>8</sup> Section 5 of UFSA, as amended by Section 226 of the Act, applies to foreign financial institutions that knowingly engage, after the Act’s passage, in significant transactions involving certain defense- and energy-related sanctioned persons, and foreign financial institutions that, 30 or more days after enactment, knowingly facilitate a significant financial transaction on behalf of any sanctioned Russian person.<sup>9</sup>

## **C. Amendments to the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014<sup>10</sup>**

Sections 227 and 228 of the Act amend Section 9 of, and add new Sections 10 and 11 to, the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (the “Ukraine Sovereignty Act”), respectively.<sup>11</sup> Consistent with the amendments to UFSA, the amendments to Section 9 of the Ukraine Sovereignty Act remove the permissive language allowing the President to impose sanctions, replace such language with a requirement that he impose such sanctions and extend the scope of the sanctions to include acts of significant corruption anywhere in the world, and not only in Russia. As revised, the President “shall” impose certain sanctions with respect to “any official of the Government of the Russian Federation, or close associate or family member of such an official, that ... is

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<sup>7</sup> [OFAC Frequently Asked Questions](#) at No. 373 (Sept. 12, 2014).

<sup>8</sup> See 22 U.S.C. § 8923(b)(1) (2014). Section 2(9) of UFSA, 22 U.S.C. § 8921(9), defines “special Russian crude oil project” as “a project intended to extract crude oil from — (A) the exclusive economic zone of the Russian Federation in waters more than 500 feet deep; (B) Russian Arctic offshore locations; or (C) shale formations located in the Russian Federation.” “Significant transaction,” on the other hand, is not defined in either the Act or UFSA.

<sup>9</sup> See 22 U.S.C. § 8924 (2014).

<sup>10</sup> See 22 U.S.C. § 8901 *et seq.* (2014).

<sup>11</sup> Note that, unlike other sections of the Act, Sections 227 and 228 do not specify the date by which the President must act to implement the provisions.

responsible for, complicit in, or responsible for ordering, controlling, or otherwise directing acts of significant corruption in the Russian Federation or elsewhere ... .”<sup>12</sup>

Section 228 of the Act adds Sections 10 and 11 to the Ukraine Sovereignty Act. The new Section 10 directs the President to impose sanctions against foreign persons that materially violate, attempt to violate, conspire to violate, or cause a violation of any covered E.O., the Ukraine Sovereignty Act, or UFSa, or that facilitate a significant transaction or transactions for or on behalf of any person subject to Russia-related sanctions or such person’s child, spouse, parent or sibling. Similarly, the new Section 11 directs the President to impose sanctions on foreign persons responsible for, complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses in any area forcibly occupied or otherwise controlled by the Russian government, as well as foreign persons that materially assist, sponsor, or provide financial, material or technological support for, or goods or services to, such a person or are owned or controlled by, or act or purport to act for or on behalf of, such a person.

#### **D. Additional Russia-Related Sanctions**

In addition to the codification of existing Russia-related sanctions and modifications to existing Directives and legislation, the Act requires the imposition of new sanctions regimes targeting: (1) persons that, on behalf of the Russian government, undermine cybersecurity; (2) the defense and intelligence sectors of the Russian government; (3) investments that aid in the privatization of state-owned assets so as to unjustly benefit Russian government officials and their associates; and (4) persons who provide support to the Syrian government. In addition, the President is authorized, though not required, to impose, in collaboration with the United States’ allies, sanctions related to Russian pipeline developments.

**Cybersecurity.** Section 224(a) of the Act requires the President, 60 days after enactment, to impose certain sanctions against persons involved in actions on behalf of the Russian government that undermine cybersecurity. First, the President must impose blocking sanctions against persons that: (1) knowingly engage, on behalf of the Russian government, in significant activities undermining cybersecurity (as defined in the Act) against any person or government or (2) are owned or controlled by, or act or purport to act for or on behalf of, directly or indirectly, such a person. Second, the President must impose five or more of the sanctions described in Section 235 of the Act (described below in “Types of Sanctions”) against any person that knowingly materially assists, sponsors, or provides financial, material, or technological support for, or goods or services (except financial services) in support of, such activity. Third, the President must impose three or more of the sanctions described in Section 4(c) of UFSa, 22 U.S.C. § 8923(c), against any person that knowingly provides financial services in support of such activity.<sup>13</sup>

**Defense and Intelligence Sectors.** Section 231 of the Act requires the President, 180 days after the enactment of the Act, to impose five or more of the sanctions described in Section 235 against persons

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<sup>12</sup> “Acts of significant corruption” are not defined in the Ukraine Sovereignty Act, but examples of such acts are described in Section 9(a)(1) – “the expropriation of private or public assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation or transfer of the proceeds of corruption to foreign jurisdictions.” 22 U.S.C. § 8908(a)(1) (2014).

<sup>13</sup> Section 4(c) of the UFSa provides for nine types of sanctions, including: (1) a prohibition on Export-Import Bank assistance; (2) a prohibition on procurement contracts with an executive agency; (3) an arms export prohibition; (4) a dual-use export prohibition; (5) property transaction prohibitions; (6) banking-related prohibitions; (7) prohibitions on investment in equity or debt; (8) exclusion from the United States; and (9) the extension of sanctions to principal executive officers of an otherwise sanctioned entity. See 22 U.S.C. § 8923(c) (2014).

that knowingly, on or after the Act's enactment, engage in a significant transaction with a person that is a part of, or operates for or on behalf of, the defense or intelligence sectors of the Russian government. The imposition of such sanctions may, however, be delayed with respect to such a person if the President certifies to the appropriate Congressional committees, at least every 180 days during which the delay is in effect, that the person is substantially reducing the number of qualifying significant transactions in which that person is engaged.

**Privatization of State-Owned Assets.** Section 233 of the Act requires the President to impose five or more of the sanctions described in Section 235 against any person that, with actual knowledge, on or after the Act's implementation, makes an investment of \$10 million or more (or a combination of investments, each at least \$1 million, that aggregate to \$10 million or more in a 12-month period) or facilitates such an investment, if the investment directly and significantly contributes to the ability of Russia to privatize state-owned assets in such a way as to unjustly benefit Russian government officials or their close associates or family members.

**Support for the Government of Syria.** Section 234 of the Act requires the President to impose blocking sanctions against a foreign person that, on or after the date on which the Act is enacted, knowingly exports, transfers, or otherwise provides to Syria significant financial, material, or technological support that contributes materially to the ability of the Syrian government to acquire or develop (a) chemical, biological, or nuclear weapons or related technology; (b) ballistic or cruise missile capabilities; or (c) destabilizing numbers and types of advanced conventional weapons; or to acquire certain defense-related materials defined in or designated under the Arms Export Control Act. These sanctions extend not only to such foreign persons, but also to successor entities of such foreign persons and foreign persons owned or controlled by, or that have acted for or on behalf of, such foreign persons.

**Russian Pipeline Developments.** Section 232 of the Act permits the President to coordinate with allies of the United States to impose five or more of the sanctions described in Section 235 against persons that knowingly, on or after the date of enactment, make certain investments (defined in the Act) or sell, lease, or provide to Russia, for the construction of Russian energy export pipelines, goods, services, technology, information or support (as described in the Act). Unlike other sections of the Act, Section 232 grants the President the authority to impose sanctions but does not require that such sanctions be implemented.

**Types of Sanctions.** Section 235 of the Act provides 12 types of sanctions from which the President may choose in implementing the provisions contained in Sections 224 (relating to cybersecurity), 231 (relating to the defense and intelligence sectors of the Russian economy), 232 (relating to Russian pipeline developments) and 233 (relating to the privatization of state-owned assets). The available sanctions most relevant for U.S. firms include: (a) the prohibition of loans or the provision of credits in amounts greater than \$10 million over any 12-month period to sanctioned persons by United States financial institutions (subject to a limited exception); (b) the use of the voice and vote by the United States executive director to each international financial institution to oppose any loan from such institution to the benefit of a sanctioned person; (c) specific prohibitions against sanctioned persons that are financial institutions; (d) the prohibition of foreign exchange transactions subject to the jurisdiction of the United States in which the sanctioned person has any interest; (e) the prohibition of banking transactions subject to the jurisdiction of the United States involving any interest of the sanctioned person; (f) the prohibition of property transactions subject to the jurisdiction of the United States involving the sanctioned person; and (g) the prohibition of United States persons from investing in or purchasing significant amounts of equity or debt instruments of the sanctioned person.

## E. Executive Branch Reporting Requirements

**Congressional Review of Easing of Sanction and Licenses.** As noted above, Section 216 of the Act establishes a framework for Congressional review of any proposal by the President to lift or waive any of the Russia-related sanctions, including the grant of a license that “significantly alters United States’ foreign policy with regard to the Russian Federation.”<sup>14</sup> The President must not only report to Congress any proposed action easing or waiving the Russia-related sanctions, but the President may not act if Congress passes a joint resolution of disapproval, and may not act during the 30 days in which such Congressional review is pending (absent a joint resolution of approval).

**Senior Foreign Political Figures and Sovereign Debt.** The Act also identifies a number of detailed reports that the Secretary of the Treasury, in certain instances in consultation with the Director of National Intelligence and the Secretary of State, must submit to the appropriate Congressional committees. Notably, Sections 241 and 242 of the Act require, within 180 days of enactment, the submission of detailed reports (1) concerning senior foreign political figures and oligarchs in Russia and Russian parastatal entities, the exposure of key economic sectors of the United States to both, and the potential impact of certain sanctions against each; and (2) describing the potential effects of expanding the sanctions under Directive 1 of E.O. 13662 to include “sovereign debt and the full range of derivative products.”

## II. The Countering Iran’s Destabilizing Activities Act of 2017

The Iran-related provisions of the Act primarily codify into law existing sanctions regimes involving Iran and include a reporting mechanism the President must follow in the event he seeks to waive any required sanction designations. The Iran-related sanctions relate, generally, to Iran’s ballistic missile program, Iran’s Islamic Revolutionary Guard Corps (“IRGC”), and persons responsible for human rights abuses, as well as to enforcing arms embargoes against the country.

More specifically, Section 104 of the Act, which is designed to respond to Iran’s ballistic missile program, directs the President to block from entering the United States persons, and to block all transactions in the property and interests in property of persons, that he determines satisfy criteria outlined in the Act.<sup>15</sup> Section 105 of the Act requires the President, 90 days after the Act’s passage, to impose sanctions against the IRGC and foreign persons that are officials, agents, or affiliates of the IRGC.<sup>16</sup> Section 107 of

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<sup>14</sup> Section 216(a)(6) clarifies that the provision requiring Congressional review in advance of any grant of a license that “significantly alters United States’ foreign policy” with respect to Russia is not to be construed to require the submission of a report for “the routine issuance of a license that does not significantly alter United States foreign policy” with respect to Russia. Nevertheless, as written, the provision is applicable to either a general or a specific license, if such a license significantly alters the United States’ foreign policy with respect to Russia.

<sup>15</sup> Such persons include those that: (1) knowingly engage in any activity that materially contributes to the activities of the Iranian Government with respect to its ballistic missile program or any other Iranian program for developing, deploying or maintaining systems capable of delivering weapons of mass destruction (“WMDs”); (2) are a successor entity to a person referred to in (1); (3) are owned or controlled by a person referred to in (1); (4) form an entity with the purpose of evading sanctions otherwise imposed pursuant to (3); (5) are acting for or on behalf of a person referred to in (1)-(4); or (6) knowingly provide or attempt to provide financial, material, technological, or other support for or goods or services in support of a person referred to in (1)-(5). See §§ 104(b)(1)-(6) of the Act.

<sup>16</sup> The IRGC, and the IRGC-Quds Force, are presently subject to sanctions under existing sanctions regimes related to WMD proliferators and their supporters, terrorist organizations and their supporters, and Iran. See Executive Order 13606, [Blocking the Property and Suspending Entry Into the United States of Certain Persons With Respect to Grave Human Rights Abuses by the Governments of Iran and Syria via Information Technology](#) (Apr. 22, 2012); Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, 22 U.S.C. §§ 8501 *et seq.*; Executive Order 13553, [Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses By The Government of Iran and Taking Certain Other Actions](#) (Sept. 28, 2010); Executive Order 13382, [Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters](#) (Jun. 28, 2005); Executive Order 13224, [Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism](#) (Sept. 23, 2001).

the Act requires the President to impose sanctions intended to enforce arms embargoes against Iran and identifies such persons against whom the sanctions should be implemented.<sup>17</sup> Section 106 of the Act, unlike sections 104, 105, and 107, which require the President to implement sanctions, reaffirms the President's authority, pursuant to the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. § 1701 *et seq.*, to block transactions in all property and interests in property of a person identified on an annual list the Secretary of State is required to prepare identifying persons responsible for human rights abuses. Section 111 of the Act contains, among other things, national security and humanitarian exceptions to the sanctions established in Sections 104, 105, 106 and 107.

### III. The Korean Interdiction and Modernization of Sanctions Act

The Act imposes additional sanctions against North Korea, primarily by amending the North Korea Sanctions and Policy Enhancement Act of 2016 ("NKSPEA"), 22 U.S.C. Ch. 99. Section 333 of the Act requires the President to promulgate regulations aimed at implementing this portion of the Act within 180 days of its enactment, and Section 324 requires the Secretary of State, within 90 days of enactment, to submit to the appropriate Congressional committees a determination as to whether North Korea meets the criteria for designation as a state sponsor of terrorism.

**Additional Designations.** Section 311 of the Act expands the scope of the mandatory and discretionary designations defined in Section 104 of NKSPEA. With respect to the mandatory designations, Section 311(a)(1) modifies the ninth mandatory designation category to include "any defense article or defense service," and Section 311(a)(3) adds five new mandatory designation categories relating to persons that (1) engage in transactions with North Korea involving significant amounts of certain minerals or rocket, aviation, or jet fuel; (2) engage in certain transactions associated with sanctioned aircrafts and vessels or vessels owned or controlled by the North Korean government; and (3) maintain correspondent accounts, as that term is defined in 31 U.S.C. § 5318A, with any North Korean financial institution (unless specifically approved by the United Nations Security Council). Section 311(b)(1)(D) adds 11 new categories of discretionary designations pursuant to which the President may impose sanctions, including, among other things, transactions or transfers with the government of North Korea involving (1) coal, iron or iron ore, textiles, bulk cash, precious metals, gemstones and other stores of value, crude oil and other petroleum products and natural gas resources, online commercial activities including online gambling, fishing rights and food and agricultural products; (2) North Korea's transportation, mining, energy or financial services industries; and (3) the operations of any branch, subsidiary, or office of a North Korean financial institution. Section 311(d) also requires the President to submit to the appropriate Congressional committees, within 180 days of the Act's enactment, a report that includes a determination as to whether reasonable grounds exist to designate as subject to sanctions under NKSPEA certain specific persons.<sup>18</sup>

**Indirect Correspondent Accounts.** In addition to requiring sanctions against persons that maintain correspondent accounts with any North Korean financial institution, the Act amends NKSPEA by

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<sup>17</sup> The President must block all transactions in property and interests in property of any person who: (1) 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, certain arms; or (2) knowingly provides to Iran any technical training, financial resources or services, advice or other services or assistance related to the supply, sale, transfer, manufacture, maintenance or use of arms and related material described in the Act. *See* §§ 107(a)-(b) of the Act.

<sup>18</sup> The persons identified in this section include: (1) The Korea Shipowners' Protection and Indemnity Association; (2) Chinpo Shipping Company (Private) Limited; (3) The Central Bank of the Democratic People's Republic of Korea; (4) Kumgang Economic Develop Corporation (KKG); (5) Sam Pa and any entities owned or controlled by such individual; and (6) The Chamber of Commerce of the Democratic People's Republic of Korea.

inserting a new Section 201A prohibiting U.S. financial institutions from knowingly maintaining indirect correspondent accounts for designated persons. Pursuant to Section 312 of the Act, U.S. financial institutions that have or obtain knowledge “that a correspondent account established, maintained, administered, or managed by that institution for a foreign financial institution is being used by the foreign financial institution to provide significant financial services indirectly” to a party designated under Section 104 of NKSPEA must ensure that “such correspondent account is no longer used to provide such services,” subject to certain exceptions.<sup>19</sup> Pursuant to the USA PATRIOT Act, U.S. financial institutions are presently prohibited from maintaining correspondent accounts for North Korean financial institutions,<sup>20</sup> and must, generally, apply enhanced due diligence procedures to their foreign financial institution customers.<sup>21</sup> In applying such enhanced due diligence, U.S. financial institutions should remain alert to any activity or information indicating that the foreign financial institution customer’s correspondent account is being used to provide significant financial services to person sanctioned under NKSPEA.

**Employment of North Korean Laborers.** Section 321 amends NKSPEA to strengthen the United States’ response to human rights abuses by the Government of North Korea. Section 321(a)(1) directs the Secretary of State to identify to Congress a list of “foreign persons that knowingly employ North Korean laborers,” as that term is defined in NKSPEA. Section 321(b) prohibits, under the Tariff Act of 1930, any “significant goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by the labor of North Korean nationals or citizens,” unless certain findings are made by the Commissioner of the U.S. Customs and Border Protection. It also requires the President to impose blocking sanctions against such foreign persons that knowingly employ North Korean laborers.

#### **IV. Recent Actions by OFAC Related to Venezuelan Sanctions**

On July 26, 2017, pursuant to E.O. 13692,<sup>22</sup> OFAC added to the SDN List 13 senior current or former Venezuelan government officials in an action designed to respond to the plans of the Venezuela President, Nicolas Maduro, to hold an election on July 30, 2017, that appears designed to consolidate his power.<sup>23</sup> Among the individuals added to the SDN List were Simon Alejandro Zerpa Delgado and Carlos Erik Malpica Flores, the current and former Vice Presidents of Finance for PDVSA, Venezuela’s state-owned oil company. In the press release announcing the new designations of July 26, 2017, the Treasury Department described Venezuelan government corruption as being “associated heavily – but by no means exclusively – with two government entities[,]” one of which is PDVSA.<sup>24</sup> On July 31, 2017, after he chose to hold the disputed election, OFAC added the Venezuelan president himself to the SDN List. As tensions between the Trump Administration and the Venezuelan government continue to escalate, U.S.

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<sup>19</sup> Under these exceptions, a U.S. financial institution is permitted to “process transfers of funds to or from North Korea, for the direct or indirect benefit of” a designated party “only if the transfer—(1) arises from, and is ordinarily incident and necessary to give effect to, an underlying transaction that has been authorized by a specific or general license issued by the Secretary of the Treasury; and (2) does not involve debiting or crediting a North Korean account.” See § 201A(b) of NKSPEA, as amended.

<sup>20</sup> Final Rule, [Imposition of a Special Measure Against North Korea as a Jurisdiction of Primary Money Laundering Concern](#), 81 Fed. Reg. 78715 (Nov. 9, 2016) (implementing the fifth special measure under Section 311 of the USA PATRIOT Act, 31 U.S.C. § 5318A, against North Korea and prohibiting the maintenance of correspondent accounts for, or on behalf of, North Korean financial institutions).

<sup>21</sup> See [Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions](#), 31 C.F.R. § 1010.610 (2012), implemented pursuant to Section 312 of the USA PATRIOT Act, 31 U.S.C. § 5318(i) (2001).

<sup>22</sup> Executive Order 13692, [Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela](#) (Mar. 8, 2015).

<sup>23</sup> See Treasury Press Release, [Treasury Sanctions 13 Current and Former Senior Officials of the Government of Venezuela](#) (Jul. 26, 2017).

<sup>24</sup> *Id.*



firms engaged in any business activity in or with persons or entities in Venezuela, particularly PDVSA, should remain alert to further actions by OFAC.<sup>25</sup>

## V. Summary

The Countering America's Adversaries Through Sanctions Act expands the existing sanctions regimes related to Russia, Iran, and North Korea, and requires the President to take steps to implement the various provisions by imposing sanctions on a host of foreign persons whose activities touch upon the three countries. While the specific entities and individuals targeted by these sanctions are yet to be identified, firms should expect to see updates and releases from OFAC in the coming months aimed at fulfilling the requirements established by this legislation. Likewise, firms should keep an eye out for updates and releases from OFAC relating to Venezuelan sanctions.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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<sup>25</sup> See e.g., Patricia Zengerle, *U.S. Lawmakers Expect More Sanctions on Venezuela Over Vote*, Reuters.com (Jul. 28, 2017) (quoting Sen. Marco Rubio (R-FL) as stating that more Venezuela-related sanctions can be expected and that there is "high-level engagement throughout this administration on this issue").