

US Amends Russia Sanctions Directives on Debt for Financial and Energy Sectors

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On September 29, 2017, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) amended Directive 1 and Directive 2 of the Russia Sectoral Sanctions in accordance with Section 223 of the Countering America's Adversaries Through Sanctions Act passed by the US Congress and signed into law by the President on August 2, 2017. As a result of the changes, Directive 1, applicable to the financial sector, will prohibit dealings in new debt of parties designated under Directive 1 with a maturity of greater than 14 days, rather than 30 days. In addition, Directive 2, applicable to the energy sector, will prohibit dealings in new debt of parties designated under Directive 2 with a maturity of greater than 60 days, rather than 90 days. These changes will become effective as of November 28, 2017.

Revised Directive 1

Directive 1 prohibits transactions, financing, or dealings by US persons¹ or within the United States in "new debt" exceeding a specified tenor and "new equity" of persons operating in Russia's financial sector designated under Directive 1.² These restrictions also apply to entities 50% or greater owned by one or more persons designated under Directive 1.

Previously, Directive 2 prohibited dealings in new debt issued on or after July 16, 2014 with longer than 90 days maturity. The new amendment, effective November 28, 2017, lowers the maturity date of prohibited new debt to 60 days. The applicable tenor is based on the text of the Directive when the debt was issued.

OFAC has provided a chart indicating the relevant tenors of prohibited debt as follows:

¹ US persons means US citizens and permanent residents, wherever located, entities organized under US law (including foreign branches), and individuals and entities located within the United States.

² https://www.treasury.gov/resource-center/sanctions/Programs/Documents/eo13662_directive1_20170929.pdf

Period when the debt was issued	Applicable tenor of prohibited debt
On or after July 16, 2014 and before September 12, 2014	Longer than 90 days maturity
On or after September 12, 2014 and before November 28, 2017	Longer than 30 days maturity
On or after November 28, 2017	Longer than 14 days maturity

Revised Directive 2

Directive 2 prohibits transactions, financing, or dealings by US persons or within the United States in new debt exceeding a specified tenor for persons operating in Russia's energy sector designated under Directive 2.³ These restrictions also apply to entities 50% or greater owned by one or more persons designated under Directive 2.

Previously, Directive 2 prohibited dealings in new debt issued on or after July 16, 2014 with longer than 90 days maturity. The new amendment, effective November 28, 2017, lowers the maturity date of prohibited new debt to 60 days. The applicable tenor is based on the text of the Directive when the debt was issued.

OFAC has provided a chart indicating the relevant tenors of prohibited debt as follows:

Period when the debt was issued	Applicable tenor of prohibited debt
On or after July 16, 2014 and before November 28, 2017	Longer than 90 days maturity
On or after November 28, 2017	Longer than 60 days maturity

OFAC has further stated in a corresponding FAQ that US persons should reject transactions or dealings prohibited under Directives 1 or 2 and must report to OFAC any rejected transactions within ten business days to the extent required under the Reporting Procedures and Penalties Regulations.⁴

Companies doing business relating to Russia should monitor closely any measures imposed by the United States to ensure compliance. Penalties for noncompliance can be severe.

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³ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/eo13662_directive2_20170929.pdf

⁴ https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#ukraine.