

Insights

NEW SANCTIONS UNDER CONSIDERATION IN THE SENATE

Mar 05, 2020

As we discussed in [our last alert](#), Congress has exhibited increased willingness to consider imposing sanctions in order to advance US foreign policy interests. Multiple sanctions-related bills are currently under consideration in both the US House of Representatives (House) and the US Senate (Senate). Two such bills that would target Russia and Turkey in new sanctions measures, though still pending, made particularly significant progress through the legislative process late last year.

Defending American Security from Kremlin Aggression Act (S.482)

The [Defending American Security from Kremlin Aggression Act \(DASKA\)](#) advanced to the full Senate with its passage through the Senate Committee on Foreign Relations (SCFR) on December 18, 2019. A version of DASKA was introduced in the last Congress, and like that prior bill, DASKA expands the sanctions authority established in 2017 under the Countering America's Adversaries Through Sanctions Act (CAATSA). In addition to the CAATSA amendments, DASKA also includes new sanctions and sanctions-related provisions.

If passed, DASKA would require additional sanctions targeting, among others, persons that knowingly:

- Engage in a significant transaction with a Russian political figure, oligarch, family member of the same, or certain parastatal entities;
- Engage in a significant transaction with a person in Russia that supports or facilitates malicious cyber activities;
- Make certain investments in certain liquefied natural gas export facilities;
- Make certain investments in certain crude oil and natural gas projects; or
- Sell, lease, or provide goods, services, technology, financing, or support to Russia that could contribute to Russia's crude oil capabilities.

Further, sanctions must be imposed against Russian financial institutions determined to have knowingly provided financial or other support for interference by the Russian Government in the democratic process or elections of any country other than Russia. DASKA also contains provisions regarding the blocking of the Russian shipbuilding sector and dealings in Russian sovereign debt.

Notably, following amendments made by the SCFR, these sanctions are generally tied to joint findings of the Secretary of State and Director of National Intelligence (DNI) regarding whether the Russian Government is engaged in or knowingly supporting “operations to interfere in the democratic process, including the administration of elections, in the United States” or “offensive military operations in Ukraine.”

DASKA also contains a number of provisions that do not impose sanctions but are nonetheless worthwhile to mention. Of particular note is § 632 of the bill, which would amend § 241 of CAATSA to require the Secretary of the Treasury, in consultation with the DNI and Secretary of State, to provide an updated list of Russian senior political figures, oligarchs, and parastatal entities pursuant to that section.^[1] In addition, § 701 would require the Department of State to determine whether Russia should be considered a “state sponsor of terrorism.” Although not a direct sanctions provision, such a determination would impact parties that provide to Russia items that are subject to US export controls.

Promoting American National Security and Preventing the Resurgence of ISIS Act (S.2641)

The SCFR also voted to approve the [Promoting American National Security and Preventing the Resurgence of ISIS Act of 2019 \(PANSPRIA\)](#), sending that bill on December 12, 2019, to the full Senate for consideration. PANSPRIA proposes a wide range of sanctions and other restrictions against Turkey, largely in connection with Turkey’s activities in Syria.

Certain of the potential sanctions and other measures are tied to a joint finding of the Secretaries of State and Defense and the DNI regarding whether the Government of Turkey is (a) engaged in or knowingly supporting offensive operations against the Syrian Democratic Forces (SDF) or certain civilians in northeast Syria, (b) committing, directing, or knowingly facilitating the commission of serious international human rights violations in northeast Syria, (c) hindering counterterrorism operations against ISIS or its affiliates, or (d) engaged in the forcible repatriation of Syrian refugees from Turkey to Syria. These sanctions and restrictions include:

- **Defense Articles** – A prohibition on the provision of defense articles, defense services, and technical data if those items are “likely to be used in operations by the Turkish Armed Forces in Syria,” except for items that will be used by the US military, used in NATO-approved military operations, or incorporated into other items that are reexported to other countries.
- **International Monetary Assistance** – Opposition from the United States with respect to loans from international financial institutions that would benefit the Government of Turkey, unless

such financial or technical assistance is provided for basic human needs. Such opposition may be waived by the Secretary of the Treasury under certain circumstances related to reducing Turkey's or Europe's reliance on oil or gas from Russia or Iran.

- **Sanctions Against Senior Officials** – Imposition of blocking and visa-related sanctions against specified Turkish Government senior officials, as well as other persons determined to be senior officials of the Turkish Armed Forces who have led offensive operations against the SDF or certain civilians in northeast Syria or senior officials of the Turkish Government who have significantly facilitated such operations.
- **Sanctions Related to Turkish Armed Forces** – Imposition of menu-based sanctions against foreign persons determined by the Secretary of State, in consultation with the Secretary of Defense and the DNI, to have knowingly provided significant defense articles, defense services, or technical data to Turkey that is likely to be used in operations by the Turkish Armed Forces in Syria.
- **Sanctions Against Halk Bankasi** – Imposition of menu-based sanctions against the state-owned Turkish bank Halk Bankasi, Halkbank, or any successor entity (Halkbank). If the required sanctions are not imposed within a specified timeframe, Halkbank will be subject to blocking. These sanctions may also be expanded to include other foreign financial institutions that are determined to have knowingly facilitated a significant transaction for the Turkish Armed Forces for the purposes of supporting Turkey's military operations in Syria.

The menu-based sanctions contained in PANSPRIA mirror other secondary sanctions programs, such as those found at § 235 of CAATSA. These sanctions measures and other restrictions would go into effect 45 days after PANSPRIA's enactment if the required joint finding is not able to be made (*i.e.*, if the Secretary of State, Secretary of Defense, and DNI are not able to certify that the Government of Turkey is not engaging in the actions described above).

Other proposed measures would be effective upon enactment of PANSPRIA (though not necessarily imposed as of that date) and are mostly focused on Turkey's acquisition of defense articles, including certain aircraft or air defense systems, as follows:

- **Human Rights Abuse Sanctions** – Mandatory blocking and visa-related sanctions against persons determined by the President to be responsible for serious international human rights abuses related to Turkey's invasion of northeast Syria.
- **Syria-Related Sanctions Against Russian Persons** – Mandatory blocking sanctions against Russian persons determined by the Secretary of State, in consultation with the Secretary of Defense and the DNI, to have knowingly exported, transferred, or otherwise provided to Syria significant financial, material, or technological support that materially contributes to the Government of Syria's ability to acquire defense articles, defense services, and related

information. Such sanctions may be waived by the President if in the vital national security interest of the United States.

- **S-400 Air Defense System Sanctions** – PANSRIA requires the imposition of (already mandatory) sanctions pursuant to § 231 of CAATSA by indicating that Turkey’s acquisition of the S-400 air defense system from Russia is considered a “significant transaction” for purposes of that section. As a result, within 30 days of the bill’s enactment, the Government of Turkey and other persons that knowingly engaged in the transaction would be subject to the menu-based sanctions detailed at CAATSA § 235.
- **F-35 Aircraft** – PANSRIA subjects any sale or transfer of F-35 aircraft to Turkey to congressional notification requirements under §123.15 of the International Traffic in Arms Regulations. Further, the bill prohibits spending or obligating funds for (1) the transfer of F-35 aircraft to Turkey (or facilitation or authorization of such transfer), (2) the transfer of maintenance and support technical data related to the F-35 to Turkey (or facilitation or authorization of such transfer), or (3) construction of storage for or facilitating storage of F-35 aircraft in Turkey.
- **F-16 Aircraft** – No licenses may be issued to export to the Government of Turkey F-16 aircraft or logistics, training, spare parts or components, or other support for F-16 aircraft.

The aircraft restrictions would be applicable unless the President provides a certification to Congress that the Government of Turkey is no longer operating, possessing, exercising effective control over, or pursuing to reacquire the S-400 air defense system or any successor system and that no such system is being operated or maintained in Turkey by persons acting on behalf of Russia.

In recent years, bad acts by foreign governments have quickly become pressing domestic political issues. Apart from policy considerations, enacting and enforcing economic sanctions legislation is politically popular and a preferred method for Congress and the White House to respond. The 2020 campaign season will likely see continued interest in this activity. Several other sanctions-related bills have been introduced and remain under consideration in various committees and subcommittees of both congressional bodies. The annual National Defense Authorization Act remains one of the very few “must pass” pieces of legislation in Congress, and it is likely to be a vehicle for more economic sanctions provisions later this year. We will continue monitoring these legislative developments and encourage you to contact the professionals linked above for more information.

1. The US Department of the Treasury released [the original report](#) required under CAATSA § 241 on [January 29, 2018](#). Perhaps due to [news reporting about the origins](#) of the original report, DASKA § 632 specifically states that the updated report shall exclude individuals for “which there is no

credible information suggesting the individual has the close financial or political relationships, or engages in the illicit activities, described” in § 241(a) of CAATSA.

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MEET THE TEAM



Megan A. Gajewski Barnhill

Washington

megan.barnhill@bcplaw.com

[+1 202 508 6302](tel:+12025086302)



David C. Russell

Washington

dave.russell@bcplaw.com

[+1 202 508 6353](tel:+12025086353)

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