



FedFin Client Report

Tuesday, September 20, 2022

Senate Banking Questions Sanctions Impact

Client Report: SANCTION19

Executive Summary

Today's Senate Banking hearing on Russian sanctions showcased bipartisan concern that anti-Russian sanctions have yet to have meaningful impact and doubts about the extent to which oil-price caps will reverse this. Ranking Member Toomey (R-PA), joined by Sen. Van Hollen (D-MD), have thus introduced a measure to mandate secondary sanctions on financial institutions involved in a transaction with Russian oil above the price cap. Although Treasury's Assistant Secretary for Terrorist Financing and Financial Crimes, Elizabeth Rosenberg, repeatedly claimed that secondary sanctions are unnecessary, senators on both sides of the aisle were skeptical, grilling her on key definitions (e.g., "inadvertent") and potential loopholes such as crude oil blending. This report analyzes today's hearing, which also touched on broader sanctions enforcement questions and Administration calls for new statutory authority.

Analysis

Opening Statements

Chairman Brown (D-OH) praised the Biden Administration for its efforts supporting Ukraine and economically isolating Russia, highlighting the effectiveness of sanctions so far but expressing interest in strengthening them through price caps.

Ranking Member Toomey underscored the record-breaking profitability of the Russian oil and gas industries as evidence that sanctions have not worked, arguing that, while price caps may enhance the sanctions regime, certain actors could skirt them without effective deterrents.

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Testimony

Ms. Rosenberg's testimony emphasized that sanctioning Russia raises challenges never encountered with rogue nations such as North Korea and Iran because of Russia's integration into the global financial system. She also acknowledged that implementing a price cap will prove very challenging but emphasized Treasury's commitment to do so in concert with at least thirty other nations. She also defended FinCEN's work, noting that it is "standing up" the beneficial-ownership database and looking at ways to contain actions evasion at investment advisers and funds.

Andrew Adams, Director of the DOJ's Task Force KleptoCapture, provided testimony outlining multiple proposals to strengthen DOJ's sanctions enforcement efforts, including enabling the transfer of forfeited kleptocrat property to Ukraine, expanding forfeiture authorities, adding criminal violations to the statutory definition of racketeering, extending the statute of limitations from five to ten years to enhance money laundering investigations, and facilitating enforcement of foreign restraint and forfeiture orders for criminal property.

Q&A

- **Sanctions Evasion:** Sen. Daines (R-MT) argued for legislation that would authorize the Biden Administration to seize Russian assets and provide restitution for Ukraine and asked Mr. Adams if such legislation would help with asset seizure; Mr. Adams said it would. Sens. Tillis (R-NC) and Menendez (D-NJ) also asked about the legal hurdles to Russian asset seizure and the extent to which these remain significant obstacles; Mr. Adams said international coordination has served as the greatest hurdle to this historically but emphasized that coordination has increased significantly in recent months. Sens. Smith (D-MN) and Sinema (D-AZ) inquired about evolving strategies by the Russian state and oligarchs to evade sanctions, with Sen. Sinema focusing on how Russian crude oil blending might be used to skirt sanctions. Ms. Rosenberg stated that Treasury's answer to this issue will be addressed in forthcoming guidance and FAQs by the U.S. and partners in conjunction with the price cap. Sen. Cortez-Masto (D-NV) supported the proposals outlined in Mr. Adams' testimony, including the addition of "sanctions evasion" to the definition of racketeering activity under RICO Act and the expansion of the statute of limitations for money laundering investigations.
- **Crypto Evasion:** Sen. Warren (D-MA) expressed serious concern that Russian elites are using cryptocurrency and particularly stablecoins to evade sanctions and launder money. She asked Ms. Rosenberg if digital assets can be used to circumvent sanctions; Ms. Rosenberg said yes. Sen. Warren also asked whether mixers and other technology used to hide crypto transactions make sanctions enforcement harder; Ms. Rosenberg agreed that anonymity-enhancing technologies cause enforcement difficulties and that deterrents to money laundering are an effective enforcement tool for Treasury.

- **Due diligence:** Sen. Ossoff (D-GA) asked Ms. Rosenberg how she defines the term “inadvertent” in the context of oil-trading compliance under the proposed price cap regime, also asking her to lay out the steps financial institutions will need to take to ensure compliance and due diligence. Ms. Rosenberg highlighted that service providers are expected to act in good faith and conduct due diligence along the normal course of supervisory frameworks, and that Treasury’s enforcement focus will pertain to material misrepresentations.
- **Private Sector Coordination:** Sen. Rounds (R-SD) asked Mr. Adams about the capacity of his task force to use “cutting edge” techniques to identify sanctions evasion and related criminal misconduct and the extent to which the private sector is relied upon as a source of assistance and information sharing. Mr. Adams referred to the private sector as an “enormous partner” in this effort, opining that working with the banking sector is not separate from working with public and law enforcement entities.