

## **Updated CAATSA Section 232 Guidance**

The Department of State is committed to fully implementing sanctions authorities in the Countering America's Adversaries Through Sanctions Act (CAATSA or the Act). We continue to call on Russia to honor its commitments to the Minsk agreement and to cease its malicious cyber intrusions.

Section 232 sanctions are discretionary. In accordance with Sections 212 and 232 of the Act, the Secretary of State, in consultation with the Secretary of the Treasury, will coordinate with allies of the United States in imposing these sanctions. The intent of such sanctions would be to impose costs on Russia for its malign behavior, such as in response to aggressive actions against the United States and our allies and partners.

Any implementation of Section 232 sanctions would seek to avoid harming the energy security of our partners or endangering public health and safety. Consistent with the Act (Section 257), it remains the policy of the United States to "work with European Union Member States and European institutions to promote energy security through developing diversified and liberalized energy markets that provide diversified sources, suppliers, and routes."

For the purposes of Section 232, the focus of implementation would be on energy export pipelines that (1) originate in the Russian Federation, and (2) transport hydrocarbons across an international land or maritime border for delivery to another country. Pipelines that originate outside the Russian Federation and transit through the territory of the Russian Federation would not be the focus of implementation.

The focus of implementation of Section 232 sanctions would be on persons who the Secretary of State, in consultation with the Secretary of the Treasury, determines knowingly, on or after August 2, 2017, (1) made an investment that meets the fair market value thresholds in Section 232(a) and directly and significantly enhances the ability of the Russian Federation to construct energy export pipelines, or (2) sells, leases, or provides to the Russian Federation goods or services that meet the fair market value thresholds in Section 232(a) and that directly and significantly facilitate the expansion, construction, or modernization of energy export pipelines by the Russian Federation.

Implementation of Section 232 sanctions would not target investments or other activities related to the standard repair and maintenance of pipelines in existence on, and capable of transporting commercial quantities of hydrocarbons, as of August 2, 2017.

### **Frequently Asked Questions**

#### **1. Why is the Department of State issuing updated public guidance for Section 232 on July 15, 2020?**

The Department of State is updating the public guidance for Section 232 on July 15, 2020, to expand the focus of implementation of Section 232 to address certain growing threats to U.S. national security and foreign policy interests related to Russian energy export pipelines,

particularly with respect to Nord Stream 2 and the second line of TurkStream. Russia uses its energy export pipelines to create national and regional dependencies on Russian energy supplies and leverages these dependencies to expand its political, economic, and military influence and undermine U.S. national security and foreign policy interests.

In this context, Nord Stream 2 and the second line of TurkStream – both of which are under construction – could undermine Europe’s energy security by maintaining Russia’s dominant share in Europe’s gas markets for decades, discouraging investment in critical diversification projects, and limiting the ability of European countries to gain leverage over Russia on issues of price, commercial transparency, and the environment. These projects could destabilize the Ukrainian economy and government by severely limiting gas transit through Ukraine, thereby depriving the Ukrainian government of significant transit revenues and reducing a large deterrent against further Russian aggression against Ukraine. The development of these projects also provides Russia with vehicles to further spread its malign influence in Europe.

**2. What specific changes to the public guidance for Section 232 did the Department of State make on July 15, 2020?**

The Department of State deleted the portions of the public guidance in effect prior to July 15, 2020, that limited the focus of implementation of Section 232 to Russian energy export pipeline projects for which a contract was signed on or after August 2, 2017. In doing so, the Department of State clarified that the focus of implementation will include Russian energy export pipelines such as Nord Stream 2 and the second line of TurkStream.

In addition, the Department of State deleted the portions of the public guidance in effect prior to July 15, 2020, that stated that investments and loan agreements made prior to August 2, 2017, would not be subject to Section 232. The Department of State has clarified how it intends to apply Section 232 to such investments and loan agreements in FAQs #3-5 below.

The updated public guidance continues to make clear that implementation of Section 232 will not target investments or other activities related to the standard repair and maintenance of pipelines in existence on, and capable of transporting commercial quantities of hydrocarbons, as of August 2, 2017.

**3. Will the Department of State impose sanctions under Section 232 on a person who made investments or engaged in other activities prior to July 15, 2020, that were not the focus of implementation of Section 232 sanctions pursuant to the public guidance in effect prior to July 15, 2020, but are now the focus of implementation of Section 232 sanctions pursuant to the public guidance in effect on July 15, 2020?**

No. The Department of State will not impose Section 232 sanctions for activity undertaken prior to July 15, 2020, that was consistent with the public guidance in effect prior to July 15, 2020; see also FAQs 4 and 5.

**4. Will the Department of State impose sanctions under Section 232 on a person who made investments or engaged in other activities on or after July 15, 2020, that are ordinarily**

**incident and necessary to the wind down of operations, contracts, or other agreements in effect prior to July 15, 2020?**

No, provided that: (1) such investments or other activities are consistent with the guidance in effect prior to July 15, 2020; (2) such investments or other activities are undertaken pursuant to a written contract or written agreement entered into prior to July 15, 2020; and (3) the person making such investments or engaging in such activities is taking reasonable steps to wind down the operations, contracts, or other agreements as soon as possible after July 15, 2020.

**5. Will the Department of State impose sanctions under Section 232 on a person who made investments or engaged in other activities on or after July 15, 2020, that are ordinarily incident and necessary to the maintenance of operations, contracts, or other agreements in effect prior to July 15, 2020?**

The Department of State may impose sanctions under Section 232 on a person who made such investments or engaged in such activities on or after July 15, 2020. This applies, but is not limited, to persons facilitating the construction or deployment of the pipelines such as financing partners, pipe-laying vessel operators, and related engineering service providers. Except as provided in FAQ #4 above, the updated guidance does not grandfather contracts or other agreements signed prior to July 15, 2020.

**6. Does the Department of State consider either the Nord Stream 2 pipeline or the second line of TurkStream to be a pipeline in existence on, and capable of transporting commercial quantities of hydrocarbons, as of August 2, 2017, for purposes of Section 232?**

No. As a result, investments or other activities related to the standard repair and maintenance of these pipelines could be the target of sanctions.

**7. How will the Department of State interpret the term “investment” as used in Section 232 of CAATSA?**

For purposes of implementing Section 232 of CAATSA, the Department of State will interpret the term “investment” broadly as a transaction that constitutes a commitment or contribution of funds or other assets or a loan or other extension of credit to an enterprise. For purposes of this interpretation, a loan or extension of credit is any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including: overdrafts, currency swaps, purchases of debt securities issued by the Government of Russia, purchases of a loan made by another person, sales of financial assets subject to an agreement to repurchase, renewals or refinancing whereby funds or credits are transferred or extended to a borrower or recipient described in the provision, the issuance of standby letters of credit, and drawdowns on existing lines of credit.

**8. Does the updated public guidance apply to the first line of TurkStream?**

The first line of TurkStream, which is designed exclusively to supply Turkey’s domestic natural gas market, is not the focus of our Section 232 implementation efforts.