

U.S. Issues Enhanced Sanctions on Russian Energy Sector

November 14, 2017

As required under [recent sanctions legislation](#), the U.S. Office of Foreign Assets Control (OFAC) recently issued an updated [Directive 4](#) that will expand sectoral sanctions on the Russian energy industry.

The new rules, which apply to projects initiated on or after January 29, 2018, will bar persons subject to U.S. jurisdiction from providing goods, services, or technology in support of exploration or production for deepwater, Arctic offshore, or shale oil anywhere in the world if a party subject to Directive 4 sectoral sanctions has a 33 percent or more ownership interest or owns a majority of the voting interests in the project.

It's important to note that the 33 percent ownership rule applies to the project at issue and not necessarily to the parties involved in a transaction. [Frequently Asked Questions](#) released by OFAC with the updated version of the Directive include the helpful examples below on how the 50 percent rule and 33 percent ownership requirement apply in a Directive 4 context:

Example 1: *An SSI entity listed under Directive 4 ("Entity A") has a 33 percent ownership interest in a deepwater, Arctic offshore, or shale project initiated on or after January 29, 2018 that has the potential to produce oil ("Project X"). The prohibition of subsection 2 of Directive 4 applies to Project X. Consequently, U.S. persons are prohibited from providing goods, services (except for financial services), or technology in support of exploration or production for Project X.*

Example 2: *Instead of holding a direct interest in Project X, Entity A now owns 50 percent of Entity B, and Entity B holds a 33 percent interest in Project X. As a result of OFAC's 50 percent rule, Entity B is subject to Directive 4. Because Entity B is subject to Directive 4 and owns a 33 percent or greater interest in Project X, the prohibition of subsection 2 of Directive 4 applies to Project X. Consequently, U.S. persons are prohibited from providing goods, services (except for financial services), or technology in support of exploration or production for Project X.*

Example 3: *Entity A now owns only 33 percent of Entity B, and Entity A is the only SSI entity that owns any interest in Entity B. Entity B holds a 100 percent ownership interest in Project X. Entity A owns less than 50 percent of Entity B, and so, in accordance with the 50 percent rule, Entity B is not subject to Directive 4. The prohibition of subsection 2 of Directive 4 would therefore not apply to Project X, even though Entity B owns an interest in the project that is 33 percent or greater.*

OFAC's FAQs also include useful definitions on key terms used in the Directive, including that a project is "initiated" when a relevant government authority first grants exploration, development, or production rights to any party.