

CAATSA: More of the Same, A Novelty, or a Hidden Danger?

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[Source](#)

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EXECUTIVE SUMMARY

On August 2, 2017 U.S. President Donald Trump reluctantly signed into law the Countering America's Adversaries Through Sanctions Act (CAATSA), the latest American legislation promising sanctions against the Russian Federation. Both President Trump and the European Union (EU) have voiced reservations about CAATSA. However, in important ways, the measure may differ from past U.S. sanctions against Russia. Whether CAATSA will affect the Kremlin's policies in ways favourable to Washington remains a key open and debated question.

Keywords: Russia; United States, sanctions

Background

The CAATSA may become but the latest instance in a long history of American sanctions targeting first the Soviet Union and then Russia. The various efforts have been variably successful. The 1974 Jackson-Vanik amendment, which withheld the most favored nation status in trade from the Soviet Union and subsequently Russia so long as the emigration rights of the country's Jews were denied, succeeded in impeding Russia's entry into the World Trade Organization (WTO). Jackson Vanik was not repealed until December 2012 when then-U.S. President Barack Obama signed into law the Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012 (also known as the Magnitsky Act). In 2014, following Moscow's annexation of the Crimea, the Obama administration imposed another "[wide-ranging and ambitious set of \[sectoral\] sanctions](#) that penalized energy companies, arms manufacturers, and banks, with the ultimate aim of undermining the Russian state's revenue stream and ending its aggressive behavior." CAATSA, the latest iteration of possible American sanctions against Moscow, stems from Washington's extreme displeasure with the Kremlin's [alleged interference in the 2016 U.S. Presidential election](#) and "[malicious cyber intrusions](#)."

Although a detailed analysis of the effectiveness of the above mentioned legislation is outside the scope of this paper, a few relevant observations follow. The efficacy of sanctions as a policy tool is not unequivocally accepted. In fact, research has

long showed that "[sanctions are often ineffective](#), particularly those focused on national security issues." Thus, it is unsurprising that the sectoral sanctions levied in the aftermath of Russia's invasion of Crimea have been unable to stem Moscow's "aggressive behavior", as perceived by Washington. If it is to include sanctions, one way Washington can increase CAATSA's likelihood of success is not to identify the Act's aim as to "[deter aggressive behavior](#) by the Russian government." This and other options for CAATSA's success will be re-visited and detailed below.

Introduction

Section 241 of the CAATSA signed by President Trump in August 2017 requires the U.S. Department of Treasury to publish a "[detailed report](#)" by February 2018 outlining the business interests of Russia's wealthiest and most important oligarchs, as judged by the size of their fortunes and their proximity to Russian President Vladimir Putin. Although novel, simply naming names is "[without impact, as a legal matter](#)." However, even the chance of being named in the report, not to mention the danger inherent in being levied with possible new sanctions, poses an unacceptable risk to Russia's wealthiest. Such a move could "[further cut access to foreign credit, curtail their ability to travel in the West or do business in the US](#)," with [U.S. banks abroad](#), or even with [foreign \(non-U.S.\) banks](#), and could result in a [seizure of assets held in the U.S.](#) The precipitous drop in business and [psychological](#) confidence that

likely would result from being included in the Treasury report also has spurred those likely to be named to action. In fact, despite other uncertainties surrounding the legislation, Section 241 - [“more than any other section”](#) of the bill - already has caused a [“freakout”](#) among the targeted group, Russia’s wealthiest oligarchs.

Russian Oligarchs’ Responses

First and foremost Russia’s oligarchs are trying to stave off the threat of personal sanctions - i.e. firstly, to keep their names off the Treasury Department’s upcoming report. Even though inclusion in the pending report does not necessarily or automatically trigger the levying of personal sanctions against the named individuals, the high stakes have prompted them to act. As a group, they have a lot to lose. Russia’s 96 billionaires on the Forbes 2017 World’s Billionaires List, [one of the presumed main targets](#) of the CAATSA, are [worth a combined \\$386 billion](#). Their efforts have included; vast lobbying campaigns, [“offers of rather large amounts of money... to keep them off the list”](#), [liquidation of U.S.-held assets](#), and [capital repatriation](#) to Russia with minimal losses. In addition to attempting to hedge against the risk of personal sanctions, Russia’s wealthiest are responding to threats against their companies, and other non-liquid assets. The Kremlin is actively helping them in the latter pursuit.

Threats to Companies Owned by Russian Oligarchs

The U.S. Department of State (DoS) first suggested possible CAATSA targets in October 2017. Namely, DoS “put three dozen major Russian defense companies and intelligence agencies on notice, indicating that other [companies, Russian or foreign, who do ‘significant’ business with them could face restrictions.](#)” Although exactly how much business constitutes “significant” remains unknown, Russia’s wealthiest citizens are not taking any chances. In response Alfa Bank, owned in part by Russian billionaire Mikhail Fridman, has announced that it will curtail exposure to the Russian defence industry, in order [“to minimize risks.”](#) Russian Deputy Prime Minister Dmitry Rogozin retorted that the bank [“did not have permission to lend to the sector anyway.”](#) Moscow’s set of options for defending itself from any sanctions that may stem from the CAATSA is [“extremely limited.”](#) That does not mean, however, that the Kremlin will not feel compelled to try.

The Kremlin to the Rescue?

Officially, the Kremlin is taking undisclosed [“measures aimed at hedging our risks.”](#) Behind the scenes, President Putin is very keen to shield those in his inner circle who may be identified in the Treasury report, and perhaps later targeted with a new round of sanctions. Putin is interested not only in repatriating to Russia as much of the approximately \$1 trillion USD that Russia’s richest oligarchs have moved abroad, but also in sheltering his biggest financial supporters from any CAATSA-related sanctions. To this end, the Russian President has directed the country’s central bank to create [“new mechanisms for returning](#)

[capital to Russia](#).” The Russian Ministry of Finance already has announced plans to offer [\\$3 billion USD in Eurobonds](#) for Russian investors looking to repatriate funds. To offset Alfa Bank’s withdrawal from defence sector lending, the Russian central bank recently has taken over and appointed Promsyzbank as the vehicle for channeling lending to the defence sector. This move is likely to [“exacerbate problems of ineffective procurement and increase the risk of corruption”](#) in the sector. This flurry of activity by the Russian government and oligarchs should not obscure the CAATSA-related uncertainties that remain. Those will be detailed in the following section. Next, the text will consider select possible consequences if Moscow’s above-mentioned efforts fail, or conversely if CAATSA succeeds.

By targeting two pillars critical to the Russian President’s power - the country’s defence sector, and his close financial supporters - the CAATSA may destabilise the regime. The consequences of such an event are not necessarily to Washington’s advantage. A Russia thus hobbled may become more aggressive, not less so as is America’s preference. Thus, the U.S. may be well-advised to act should Moscow become [unable to finance its state debt](#). Such a development may spark another round of inflation, and attendant negative consequences which Washington would be wise to avoid.

Additional Uncertainties Related to the CAATSA

The CAATSA is veiled in uncertainties. Another of these is enforcement. Reportedly, President Trump signed CAATSA into law “only because it passed [the U.S. House of Representatives and the Senate] with [veto-proof majorities](#).” Moreover, in a statement following the signing of the bill, the U.S. President characterised the legislation as [“seriously flawed,”](#) as it limits his powers to lift sanctions. This sentiment has led some foreign observers to question Trump’s willingness to “apply sensitive measures to the Russians [identified by the CAATSA] in order [not to sour relations with Vladimir Putin for good](#).” Daniel Fried, a former American Ambassador who crafted U.S. sanctions policy against Russia under President Barack Obama, countered that [“it doesn’t look like](#) the Trump administration has attempted to water down the report,” implying that enforcement of any resulting sanctions is unlikely to be problematic. In Brussels, like in Washington, support for a new round of sanctions against Russia is far from universal.

For its part, the EU is [“less than enthusiastic”](#) to implement new U.S.-led sanctions against Moscow. Such a move would hamper particularly [Russo-German trade](#). However, if CAATSA indeed triggers sanctions, [“many European firms will suspend investment in Russia,”](#) since those found in violation can [“face heavy fines.”](#) Which EU companies, including those in the energy sector, will be effected by any Russia sanctions under CAATSA [remains uncertain and is a contentious issue](#) between Brussels and Washington. This makes enforcement potentially more problematic. Despite these

unresolved issues, Washington can take steps to increase the likelihood of the legislation's efficacy.

How Can Washington Ensure the Effectiveness of CAATSA?

There are several ways the U.S. can increase the probability of CAATSA's success. First, the Treasury Department's CAATSA-mandated report should be a "[shame list](#) [comprised of] 40-50 people." A more extensive list, like the one reported by the newspaper [Kommersant](#), of over 300 people, would be less effective because then "[it's sort of everybody](#)." A targeted list also is more likely to irk President Putin because such an approach for the first time would seek to damage his system via "[personal pain to those closest](#)" to him. That is not to imply that either the Treasury report or the CAATSA will prompt an overthrow of the Putin regime. Rather, the publication of the report will increase "[dissatisfaction, fear, among the Russian elite](#)." Combined with the limitations placed by DoS on the Russian military industrial complex, the American approach may destabilise the Russian regime. Factors such as reliable American enforcement and increased coordination on the possible issuance of anti-Russia sanctions between Washington and Brussels also would contribute to ensuring the effectiveness of the CAATSA.

Conclusion

Many aspects of the CAATSA remain as yet undetermined. This includes; whether CAATSA will result in personal and/or additional sectoral sanctions against Russian oligarchs and/or companies, who will feature in the Treasury Department's upcoming report, or whether the legislation will be uniformly enforced by Washington. The novelty of the "naming" approach adopted by the forthcoming report is underscored by the panic even the possibility of being included in the document has engendered among Russia's wealthiest citizens. The threat of additional personal and sectoral sanctions has roused the Kremlin to defensive action. Whether the Treasury report or the CAATSA will prompt Moscow to change its policies will depend mainly on whether these instruments singly or jointly will be sufficient to destabilise the Russian regime. Whether Washington will prefer the policy choices of a Moscow thus "chastened" is far from a foregone conclusion. Currently available evidence is inconclusive.

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