

establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants submit that for the reasons stated in the Reference Order the requested relief meets the exemptive standards under sections 6(c), 17(b) and 12(d)(1)(f) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-15903 Filed 7-22-20; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 11163]

Notice of Department of State Update to the Public Guidance for Section 232 of the Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA)

ACTION: Notice.

SUMMARY: The Department of State is updating the public guidance for CAATSA 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 related to Russian energy export pipelines, particularly with respect to Nord Stream 2 and the second line of TurkStream. 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.

DATES: The update to the public guidance for Section 232 is effective on July 15, 2020.

ADDRESSES: The Department of State has published the updated public guidance

for Section 232 on its website. <https://www.state.gov/caatsa-crieea-section-232-public-guidance/>

FOR FURTHER INFORMATION CONTACT: Stu Hoffman at CAATSA_EnergySanctions@state.gov or (202)-647-7201.

SUPPLEMENTARY INFORMATION:

Background

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 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, leveraging these dependencies to expand its political, economic, and military influence and undermining 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 severely limit gas transit revenues 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.

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.

Accordingly, the Department of State's public guidance for Section 232 is updated as follows:

CAATSA Section 232 Public 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 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.

Melissa Simpson,

Deputy Assistant Secretary, Bureau of Energy Resources, Department of State.

[FR Doc. 2020-15901 Filed 7-22-20; 8:45 am]

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**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

**Notice of Product Exclusions and
Amendments: China's Acts, Policies,
and Practices Related to Technology
Transfer, Intellectual Property, and
Innovation**

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: On August 20, 2019, at the direction of the President, the U.S. Trade Representative determined to modify the action being taken in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by imposing additional duties of 10 percent *ad valorem* on goods of China with an annual trade value of approximately \$300 billion. The additional duties on products in List 1, which is set out in Annex A of that action, became effective on September 1, 2019. The U.S. Trade Representative initiated a product exclusion process in October 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to grant certain exclusion requests, as specified in the Annex to this notice, and make certain amendments to previously announced exclusions.

DATES: The product exclusions announced in this notice apply as of September 1, 2019, the effective date of List 1 of the \$300 billion action, and extend to September 1, 2020.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsels Philip Butler or Megan Grimboll, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725. For specific questions on customs classification or implementation of the product exclusions identified in the

Annex to this notice, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 84 FR 20459 (May 9, 2019), 84 FR 43304 (August 20, 2019), 84 FR 45821 (August 30, 2019), 84 FR 57144 (October 24, 2019), 84 FR 69447 (December 18, 2019), 85 FR 3741 (January 22, 2020), 85 FR 13970 (March 10, 2020), 85 FR 15244 (March 17, 2020), 85 FR 17936 (March 31, 2020), 85 FR 28693 (May 13, 2020), 85 FR 32098 (May 28, 2020), 85 FR 35975 (June 12, 2020), and 85 FR 41658 (July 10, 2020).

On August 20, 2019, the U.S. Trade Representative, at the direction of the President, announced a determination to modify the action being taken in the Section 301 investigation by imposing an additional 10 percent *ad valorem* duty on products of China with an annual aggregate trade value of approximately \$300 billion. 84 FR 43304 (August 20, 2019) (August 20 notice). The August 20 notice contains two lists of tariff subheadings, with two different effective dates. List 1, which is set out in Annex A of the August 20 notice, was effective September 1, 2019. List 2, which is set out in Annex C of the August 20 notice, was scheduled to take effect on December 15, 2019.

On August 30, 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the action being taken in the investigation by increasing the rate of additional duty from 10 to 15 percent *ad valorem* on the goods of China specified in Annex A (List 1) and Annex C (List 2) of the August 20 notice. *See* 84 FR 45821. Subsequently, the U.S. Trade Representative announced determinations suspending until further notice the additional duties on products set out in Annex C (List 2) and reducing the additional duties for the products covered in Annex A of the August 20 notice (List 1) to 7.5 percent. *See* 84 FR 69447, 85 FR 3741.

On October 24, 2019, the U.S. Trade Representative established a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit Harmonized Tariff Schedule of the United States (HTSUS) subheading covered by List 1 of the \$300 billion

action from the additional duties. *See* 84 FR 57144 (October 24 notice). Under the October 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant eight-digit subheading covered by the \$300 billion action. Requestors also had to provide the ten-digit subheading of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years, among other information. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to "Made in China 2025" or other Chinese industrial programs.

The October 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objectives of the Section 301 investigation.

The October 24 notice required submission of requests for exclusion from List 1 of the \$300 billion action no later than January 31, 2020, and noted that the U.S. Trade Representative periodically would announce decisions. In March 2020, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 85 FR 13970. The U.S. Trade Representative granted additional exclusions in March, May, June and July 2020. *See* 85 FR 15244, 85 FR 17936, 85 FR 28693, as modified by 85 FR 32098, 85 FR 35975 and 85 FR 41658. The Office of the United States Trade Representative regularly updates the status of each pending request on the Exclusions Portal at <https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0017>.

B. Determination To Grant Certain Exclusions

Based on the evaluation of the factors set out in the October 24 notice, which