OFAC Designates Diamond Mining Billionaire, “Thieves in Law,” and Many Other International Targets as Subject to U.S. Sanctions and Asset Freezes

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The Office of Foreign Assets Control (“OFAC”) wrapped up 2017 by issuing a series of high-profile designations generally prohibiting U.S. persons from conducting financial or other transactions with the identified individuals and entities, and freezing any assets which these individuals and entities may have under U.S. jurisdiction. Specifically, OFAC, acting in conjunction with a new Executive Order issued by the President pursuant to the Global Magnitsky Human Rights Accountability Act (“Magnitsky Act”), sanctioned on December 21 a list of alleged international bad actors, including Dan Gertler, a billionaire and international businessman from Israel who has been involved in, among other notorious ventures, alleged corruption in the mining of diamonds and copper in the Democratic Republic of the Congo. The next day, OFAC then sanctioned individuals and entities allegedly associated with Thieves-in-Law, an alleged and unapologetically-named Eurasian criminal entity; according to the U.S. government, Thieves-in-Law originated in Stalinist prison camps and has grown over time into a “vast criminal organization” stretching across the globe and into the United States.

The Magnitsky Act Sanctions

According to the government’s December 21 press release, the President signed an Executive Order pursuant to the Magnitsky Act, declaring a national emergency as to certain alleged human rights abuses and corruption around the world, and providing for the imposition of sanctions on actors engaged in these activities. In an Annex to the Order, the President imposed sanctions on 13 alleged human rights abusers and corrupt actors. Further, OFAC imposed sanctions on an additional 39 affiliated individuals and entities under the newly-issued Order. All of the assets within U.S. jurisdiction of the individuals and entities included in the Annex to the Order or designated by OFAC are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

The Magnitsky Act authorizes the U.S. President to block or revoke the visas of certain “foreign persons” or to impose property sanctions on them. Persons can be sanctioned (a) if they are responsible for or acted as an agent for someone responsible for “extra-judicial killings, torture, or other gross violations of internationally recognized human rights,” or (b) if they are government officials or senior associates of government officials complicit in “acts of significant corruption.” The Act is named after Russian lawyer Sergei Magnitsky, who allegedly was improperly arrested and jailed, tortured and finally killed while in captivity by Russian law enforcement for inconveniently exposing a massive tax fraud scheme which allegedly implicated high-level Russian officials. We previously have blogged about a high-profile U.S. civil forfeiture action arising out of this alleged Russian tax scheme. Further, Special Counsel Robert Mueller’s investigation reportedly is examining alleged efforts by Russian operatives to undermine sanctions imposed under the Magnitsky Act.

The identifying information of the sanctioned individuals and entities are listed by OFAC here. Chief among them is Dan Gertler. According to OFAC, Gertler “has amassed his fortune through hundreds of millions of dollars’ worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo (DRC).” Further, “Gertler has used his close friendship with DRC President Joseph Kabila to act as a middleman for mining asset sales in the...
DRC, requiring some multinational companies to go through Gertler to do business with the Congolese state. As a result, between 2010 and 2012 alone, the DRC reportedly lost over $1.36 billion in revenues from the underpricing of mining assets that were sold to offshore companies linked to Gertler. According to some media sources, the dealings of Gertler and some associated companies were exposed in the Paradise Papers, yet another massive cache of documents regarding alleged international tax evasion and money laundering – akin to the Panama Papers – leaked primarily from the Caribbean-based law firm Appleby. Previously, Mr. Gertler’s response in part to his critics has been to suggest that he in fact should be considered for a Nobel Peace Prize as a reward for his perceived beneficence to the citizens of the DRC.

We previously have blogged about the ability of OFAC in other contexts to block assets and prohibit financial transactions with designated individuals and entities (here and here); we also have blogged about other unfortunate allegations of entrenched corruption in regards to the mining and oil resources of African nations being misused to enrich the few at the expense of the many. This recent announcement adds another chapter to such international enforcement efforts.

In addition to Gertler, the newly-announced sanctions also include an alleged rogues’ gallery of international (very) bad actors who reportedly have pursued various money laundering schemes and underlying crimes of fraud, violence, human rights abuses, and other offenses:

- The former President of Gambia, who allegedly created a terror and assassination squad;
- The Director General of Gambia’s National Intelligence Agency, who allegedly oversaw the torture and murder of NIA captives;
- The President of Nicaragua’s Supreme Electoral Council, who allegedly has enriched himself through corruption and being “above the law;”
- One of the biggest dealers of arms and munitions in the Balkans who allegedly spent nearly a decade on the United Nations Travel Ban List for violating U.N. sanctions against arms exports;
- The former chief of the Burmese Army’s Western command, who allegedly oversaw ethnic cleansing by the military;
- The President of ABMC Thai-South Sudan Construction Company Limited, who also has served as the Chairman of the South Sudan Chamber of Commerce, Industry, and Agriculture, and who allegedly profited from official corruption;
- A Pakistani surgeon specializing in kidney transplants who is suspected of kidnapping and the removal of and trafficking in human organs;
- The daughter of a former Uzbekistan leader who allegedly headed a powerful organized crime syndicate;
- A politically connected businessman and lobbyist in the Dominican Republic who allegedly profited from official corruption;
- The son of the Prosecutor General of the Russian Federation who allegedly “has leveraged his father’s position and ability to award his subordinates to unfairly win state-owned assets and contracts and put pressure on business competitors;”
- The Beijing Public Security Bureau Chaoyang Branch director, who allegedly oversaw the death of a jailed human rights activist;
- The commander of the Berkut, an elite Ukrainian police unit, who allegedly oversaw attacks on and killings of peaceful political protestors; and
- A Guatemalan Congressman accused of ordering an attack in which two journalists were killed and another injured.

Thieves-in-Law

The Thieves-in-Law originated in Stalinist prison camps. Its members are initiated or “crowned” after demonstrating an “ideal” criminal biography and take an oath to uphold a code that includes living exclusively off their criminal profits and supporting other Thieves-in-Law. Gatherings of Thieves-in-Law are called “skhodka,” during which decisions are made on issues, such as specific criminal activity, redistribution of criminal spheres of interest, responses to law enforcement operations, crowning of new Thieves-in-Law, and punishment of those who violate Thieves-in-Law traditions and customs. Law enforcement in various countries have attempted to break up such gatherings in order to prevent Thieves-in-Law from coordinating activities by raiding them and detaining the participants.

The Thieves-in-Law has grown into a vast criminal organization which has spread throughout the former Soviet
Union, Europe, and the United States, engaging in a variety of crimes, such as money laundering, extortion, bribery, and robbery.
