

# The Sanctions Counter-Measures Bill Has Passed its Final Reading by the Duma

May 2018

On 22 May 2018 the State Duma of the Russian Federation passed an act concerning counter-measures in response to sanctions imposed by a number of foreign states against Russian companies and citizens (the “Act”)<sup>1</sup> at its third (and final) reading.

The Act provides that certain counter-measures may be imposed against so-called “hostile” states, which are defined as those conducting any hostile activities against the Russian state, Russian companies or Russian citizens (and expressly include the United States of America).

Not only “hostile” foreign states may be targeted as subjects of counter-measures, but also (i) legal entities formed under the laws of a “hostile” jurisdiction; (ii) companies controlled (directly or indirectly) by a “hostile” state or affiliated with it; and (iii) public officials and citizens of a “hostile” jurisdiction, if any of them were involved in “hostile” activities. In accordance with the Act, the Russian government may by Presidential Decree impose certain counter-measures in relation to the “hostile” state or the said legal entities, public officials and citizens, including any or all of the following:

- 1) a ban on import to Russia or export from Russia of products or raw materials as may be specified by the Russian government;
- 2) a ban or restriction on the provision of services to the Russian state authorities and state-owned Russian companies;
- 3) a ban on participation in the privatization of state property; and
- 4) termination or suspension of international cooperation in designated sectors by the Russian state and Russian companies with “hostile” foreign states or companies under the jurisdiction of such states.

In addition to the above measures, the Russian President may decide to impose other counter-measures at his discretion, as well as to institute a “mirror” sanctions regime with regard to products whose origin is of a “hostile” state or works and services rendered by companies of a “hostile” jurisdiction.

Despite the significant discretion provided to the Russian President by the Act, implementation of certain measures is restricted. In particular, import of vitally important products to Russia may not be banned if the products or their equivalents are not manufactured in Russia. This may reduce the risk that importers of unique medicines will suffer from the implementation of counter-measures.

The Act grants wide powers to the Russian President and the Russian government to determine the nature and specific regime of counter-measures and to react promptly to “hostile” activities of foreign states against the national interests of the Russian Federation.

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<sup>1</sup> See Bill No.441399-7 «On measures of influence (counteraction) against hostile acts of the United States of America and other foreign states”. The text of the Act and its status may be found at: <http://sozd.parliament.gov.ru/bill/441399-7>.

The Act is to form a cornerstone for Russian laws aimed at opposing foreign sanctions and minimizing their negative effects for the Russian economy, together with a separate bill that would impose criminal liability for complying with foreign sanctions<sup>2</sup>.

The second reading of the bill imposing criminal liability was postponed by the State Duma pending consultations with representatives of the business community, who have strongly opposed it, but is expected to resume in the near future, most likely following further amendment.

In order for the Act to come into force, it must first be passed by the Federation Council (the upper chamber of the Russian legislature) and then be signed into law by the Russian President. Since political support for the Act is strong, it is likely that the Act will come into force in the near future. Taking into account that both Russian legal entities and citizens will be obliged to adhere to the proposed counter-measures in case of their imposition, we recommend tracking the status of the Act.

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<sup>2</sup> See Bill No. 464757-7 “On implementation of amendments to the Criminal Code of the Russian Federation”. The text of the bill and its status may be found at: <http://sozd.parliament.gov.ru/bill/464757-7>.