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Treasury Begins Pilot Program for Updated CFIUS Rules

Although the final regulations will not be effective until February 2020, Treasury will do a 16-month test run to implement the expanded jurisdiction of the Committee on Foreign Investment in the U.S. (CFIUS), the department announced Oct. 10. The pilot program will put in place provisions in the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), which the president signed in August (see **WTTL**, Aug. 20, page 2).

> The pilot program "expands the scope of transactions subject to review by CFIUS to include certain non-controlling investments made by foreign persons in U.S. businesses involved in critical technologies related to specific industries; and makes effective FIRRMA's mandatory declarations provision for transactions that fall within the specific scope of the pilot program," Treasury noted in a fact sheet.

The pilot covers controlled technology in 27 industries, including manufacturing of aircraft, electronic computers, petrochemicals and semiconductors and related devices. As such, it puts a premium on companies to know the classification status of their technology, one observer told WTTL. The pilot program will begin Nov. 10 and run until the provisions go into effect in 2020.

The program "will make America safer and more secure in the 21st century," Commerce Secretary Wilbur Ross said in a statement. "We will not stand idly by as technology critical to national security is acquired or stolen by state actors seeking to gain a global strategic advantage," he added. Ross also cited the parallel effort to "identify, review, and potentially control" emerging and foundational technologies that the Bureau of Industry and Security will soon publish (see **WTTL**, Oct. 1, page 1).

Industry Mines Support for Section 232 Uranium Investigation

Unlike the other Section 232 investigations that the administration has started, the question of "whether the present quantity and circumstances of uranium ore and product

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imports" threaten national security drew comments from hundreds of individual environmentalists and the hospitality industry, in addition to the expected domestic mining trade associations.

Commerce Secretary Wilbur Ross launched the latest investigation in July (see **WTTL**, July 23, page 1). Energy Fuels Inc. and Ur-Energy Inc. jointly petitioned Commerce in January, claiming that imports of uranium from state-owned enterprises in Russia, Kazakhstan and Uzbekistan now fulfill nearly 40% of U.S. demand, while domestic production fulfills less than 5%.

> As expected, the mining industry supported an investigation and measures to protect the domestic industry. "The current market imbalance and state of the domestic uranium industry clearly warrant the Administration to take swift action to ensure there is a viable domestic uranium industry supporting U.S. energy and national security interests," Uranium Producers of America (UPA) wrote.

"Unfortunately, U.S. uranium production is falling to levels not seen since the dawn of the industry. We are at risk of losing our domestic industry, becoming entirely dependent on imported uranium to fuel our nuclear reactors, creating a notable energy and national security risk," UPA noted.

"The U.S. uranium mining industry can compete on a level-playing field with anyone. However, the anti-competitive practices of state-owned and state-subsidized entities are putting U.S. producers at an enormous disadvantage," the Colorado Mining Association wrote (CMA). The group called the potential remedies including a 75% import quota and a "buy American" policy for U.S. government purchases "sensible and achievable," noting that "they will have an impact on foreign entities, but very little impact on U.S. utilities and their customers."

Companies also supported other measures. "To combat the uncertainties faced by the nuclear industry, the U.S. Government should take measures to promote the U.S. uranium industry by eliminating conflicting, redundant and onerous regulations thereby reducing time required to obtain operating licenses/permits," R and D Enterprises, Inc. (RDE) wrote.

The Canadian government urged Commerce to exclude the NAFTA partner from any quotas or any other remedy. "Open uranium trade with Canada strengthens U.S. national security by allowing the U.S. nuclear power industry to purchase uranium from its most trusted, stable, and reliable trading partner. Overlooking this reality could leave the United States even more dependent on state-owned production from non-allied countries, increasing the influence of those governments whose actions are destabilizing the market," it wrote.

In contrast, the majority of comments Commerce received were from individuals objecting to the potential environmental effects of opening uranium mining in national parks such as Grand Canyon or Bears Ears. "With mining claims already in place on the lands protected by the original Bears Ears National Monument, a uranium quota and subsequent higher prices could have a direct effect. Artificially inflated prices would make these mining claims more valuable. This will destroy the sanctity of these treasures," Elizabeth Garratt wrote as one example.

The Flagstaff Lodging & Restaurant Association (FLRA) agreed with the environmental concerns, citing mining's negative effects on tourism to the Grand Canyon. "The Energy Fuels Resources' Canyon Mine, at one time, employed nine people, but that number has dwindled to two. We consider that number in comparison to the 6,840 that are currently employed in Park gateway communities and stand to be directly impacted by additional mining operations if and as those operations impact tourism. The value of mining compared to tourism in this area does not make sense," FLRA wrote.

FinCEN Advisory Predicts Evasion of Iran Sanctions

With three weeks to go before the reimposition of Iran sanctions, financial institutions should be on the lookout for possible evasive practices involving Iranian shipping companies, as well as possible Iranian abuses of virtual currency and precious metals to evade U.S. sanctions, the Financial Crimes Enforcement Network (FinCEN) warned in an advisory Oct. 11.

> Following the full reimposition of sanctions that were lifted under the Joint Comprehensive Plan of Action (JCPOA), FinCEN "expects that Iranian financial institutions, the Iranian regime, and its officials will increase their efforts to evade U.S. sanctions to fund malign activities and secure hard currency for the Government of Iran," the agency noted (see **WTTL**, Oct. 1, page 3). Sanctions will "snap back" Nov. 5.

"The Iranian regime has long used front and shell companies to exploit financial systems around the world to generate revenues and transfer funds in support of malign conduct, which includes support to terrorist groups, ballistic missile development, human rights abuses, support to the Syrian regime, and other destabilizing actions targeted by U.S. sanctions," the advisory noted.

The advisory specifically called out aviation and shipping companies as likely to return to evasive practices. "Financial institutions may see indications of these deceptive shipping practices in the information contained in international wires, payment requests, and letters of credit. Documents may also be falsified, and include bills of lading and shipping invoices to conceal shipping routes, embarkation ports, or shipping agents," it said.

* * * Briefs * * *

<u>RUSSIA</u>: OFAC Oct. 12 issued general license (GL) 13E, extending previous GL that expanded sanctions relief for certain designated firms. Specifically, OFAC extended GL expiration date for certain firms to Dec. 12 from Nov. 12. OFAC also issued GL 14B and 16B extending authorization

for U.S. persons to engage in specified transactions related to winding down or maintaining business involving EN+ Group PLC, RUSAL and other companies until same date.

NUCLEAR EXPORTS: Energy Department (DOE) Oct. 11 announced restrictions on energy exports, including presumption of denial for new license applications or extensions to existing authorizations related to China General Nuclear Power Group (CGN). "The licensing policy for exports of *material* will be a presumption of approval for new license applications and amendments or extensions to existing authorizations, but a resumption of denial for any transfer to CGN and/or CGN subsidiaries or related entities," DOE said in fact sheet. CGN was indicted in 2016 for conspiring to steal U.S. nuclear technology, department noted.

TARIFFS: Sen. Pat Toomey (R-Pa.) Oct. 12 urged administration to consider exclusion petitions from 13 Pennsylvania employers from 25% tariffs on Chinese goods (see **WTTL**, July 16, page 2). "While USTR's tariffs are meant to target some Chinese imports that benefit from Beijing's industrial policies, such as the 'Made in China 2025' initiative, many of these tariffs will have a pronounced negative effect for American manufacturers," Toomey said in statement.

OIL EXPORTS: Amid press reports that China stopped importing U.S. crude oil in August, Sen. Heidi Heitkamp (D-N.D.) Oct. 12 urged administration to stop trade war. "With U.S oil production on the rise, our oil industry should be seeing a boon in exports to countries like China where demand is high," Heitkamp said in statement. "Instead, the administration's trade war has caused China to curtail imports of U.S. oil, and it is instead buying oil from our competitors and adversaries like Saudi Arabia and Iran," she added. Heitkamp also cited record crude oil exports earlier in 2018 after she helped push for 2015 lift of export ban (see **WTTL**, Jan. 4, 2016, page 1).

HIZBALLAH: Senate Oct. 11 passed Hizballah International Financing Prevention Amendments Act (S. 1595) by unanimous consent. House Sept. 25 passed bill by voice vote (see **WTTL**, Oct. 1, page 8). Sens. Marco Rubio (R-Fla.) and Jeanne Shaheen (D-N.H.) introduced bill in July 2017. "This bipartisan legislation helps further close the space in which Hizballah operates and ensures that our government is comprehensively targeting Hizballah's networks of support and holding its backers accountable," Shaheen said in statement. Bill now heads to president's desk for signing.

GLOBAL TRADE: "We have to explore all avenues which could ease the current tensions and strengthen the trading system. We all know the risks of further escalation — risks to the economy and risks to the trading system itself, which would multiply the economic risks over the long term. We can't let that happen. We need trade and the trading system to play their part in fuelling growth — just as they have done so effectively for seven decades," World Trade Organization (WTO) Director-General Roberto Azevêdo said Oct. 10 at conference in Bali jointly organized with International Monetary Fund (IMF) Managing Director Christine Lagarde, World Bank President Jim Kim and Organization for Economic Cooperation and Development (OECD) Secretary General Angel Gurria. Now hope White House is listening.