

United States Senate

WASHINGTON, DC 20510

January 30, 2018

The Honorable Rex Tillerson
Secretary of State
U.S. Department of State
2201 C St, NW
Washington, DC 20520

Dear Secretary Tillerson:

We are writing to express concern that the administration has imposed no new sanctions required under the mandatory provisions in the Countering America's Adversaries Through Sanctions Act (CAATSA), though the law was enacted six months ago. This is unacceptable.

This law, which passed with overwhelming bipartisan majorities in the House and Senate, was developed in response to the Russian government's interference in the 2016 election, its continued aggression in Ukraine and to deter such behavior in the future. By imposing no new sanctions under CAATSA mandates, the U.S. remains vulnerable to an emboldened Russian government in advance of this November's congressional elections. CIA Director Michael Pompeo was asked in an interview this week if Russia would try to influence the mid-term elections in the United States. He replied, "Of course. I have every expectation that they will continue to try and do that." With that in mind, we as a government should be doing everything in our power to deter this behavior, starting with robust implementation of the CAATSA law. We urge you to renew your efforts to counter this urgent threat to our democratic process. This letter summarizes our current concerns with respect to implementation.

Unimplemented Provisions in CAATSA

We acknowledge and welcome the administration's efforts to use authorities under Obama-era executive orders to roll out sanctions maintenance packages related to the Russian government's invasion of Ukraine and illegal occupation of Crimea. Last month, we also welcomed the implementation of sanctions packages under the Global and Russia Magnitsky Acts.

Despite these positive developments and having issued guidance on several CAATSA provisions, the administration has not imposed any new sanctions under the CAATSA's mandatory provisions. Again, this magnifies a concern that the Trump administration's policies on Russia do not fully reflect the clear congressional intent described in the legislation. During the Senate Foreign Relations Committee briefing next week, we expect the administration to provide a full explanation as to why it has not imposed mandatory sanctions under the following provisions of the law:

- Sec. 224: Sanctions with respect to activities of the Russian Federation undermining cybersecurity;

- Sec. 225: Sanctions related to special Russian crude oil products;
- Sec. 226: Sanctions with respect to Russian and other foreign financial institutions;
- Sec. 227: Sanctions with respect to significant corruption in the Russian Federation;
- Sec. 228: Sanctions with respect to certain transactions with foreign sanctions evaders and serious human rights abusers in the Russian Federation;
- Sec. 231: Mandatory Sanctions with respect to persons engaging in transactions with the intelligence and defense sectors of the Government of the Russian Federation.
- Sec. 233: Sanctions with respect to investment in or facilitation of privatization of state-owned assets by the Russian Federation; and
- Sec. 234: Sanctions with respect to the transfer of arms and related materiel to Syria.

Specific Concerns on Section 231 Implementation:

A recent Senate Foreign Relations Committee minority committee report on Russian interference in democratic institutions in Europe made clear that President Trump has not prioritized countering the growing threat posed by the Russian Federation to the United States and our allies. While there is deterrent value in Section 231, it is only effective if potential targets believe that the threat of sanctions is genuine. Yesterday's statement by the State Department unfortunately fell short of sending a strong signal that the U.S. is fully prepared to impose these secondary sanctions in the event of a violation. We expect that future statements and actions from your department will make clear the resolve of the United States to act to protect our democratic institutions.

As you know, Section 231 of the law was mandated in order to target the income streams of entities in the defense and intelligence sectors, given the sectors' responsibility for the attack on our political process in 2016. While we respect the classified nature of some of the information related to your decision making, we urge you to make as much information as possible public so that the American people understand the actions you are taking to implement the sanctions. Moreover, this would act as a public warning to others contemplating working with entities in the Russian defense and intelligence sectors.

We appreciate the Administration's willingness to engage with the Senate on this issue and we thank you for your letter regarding Section 231, dated January 29th. We understand that senior State Department officials will be made available to brief the Senate Foreign Relations Committee next week. To further understand the administration's actions, we request that you address the following issues with respect to Section 231:


1. Has any person, as defined under the law, conducted a significant transaction with the defense and intelligence sectors of the Russian Federation since August 2, 2017?
2. If so, why has the administration decided not to make a determination that the significant transaction had taken place?
3. Without any such determinations, the president was not required to make a formal certification that would delay the imposition of sanctions. With that in mind, how will

you implement the law moving forward? Without a baseline determination of current significant transactions with the defense and intelligence sectors, how will you determine whether a person has made substantial reductions? These questions on how you will define a “significant transaction,” as well as a “substantial reduction” remain unclear.

4. How has the administration specifically prevented significant transactions from taking place over the past six months? Can you attach a specific dollar amount to these efforts? While we understand the sensitive nature of this diplomacy, we would urge the administration to publicly share as much information as possible to show the deterrent effect of your actions.
5. We are especially concerned about Russia’s defense relationships with Syria, in the context of war crimes that have occurred in Syria’s civil war. How does the administration define a significant transaction in the context of Russian government “in kind” support to the Syrian regime’s war effort? Could such a relationship be considered sanctionable under CAATSA?
6. Please describe in detail your personal efforts made to convince potential violators to substantially reduce significant transactions with the defense and intelligence sectors. We understand that key figures in the regional and functional bureaus have engaged in intense diplomacy around Section 231 in recent months, but it is less clear how the most senior levels of the department, much less the broader administration, have engaged in these efforts. How often have you raised this provision of the law with your counterparts in bilateral meetings and other diplomatic interactions over the past six months? How often and in what settings have senior officials at the State Department raised these issues, including Deputy Secretary John Sullivan and Under Secretary Tom Shannon?


Thank you for your attention to these critical issues. We look forward to your response.

Sincerely,


Benjamin L. Cardin
United States Senator

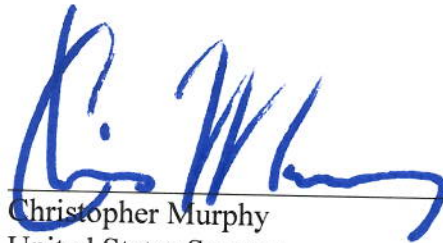

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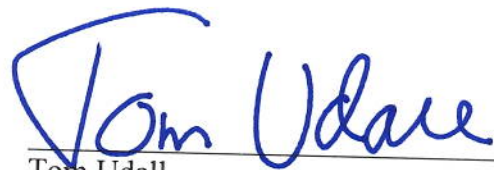
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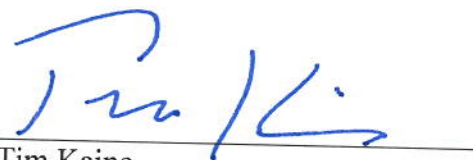
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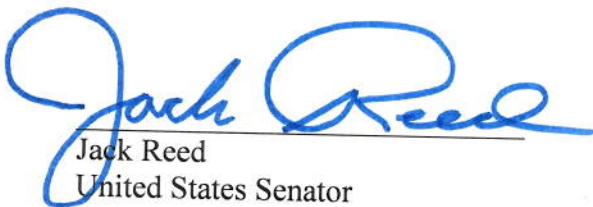
Brian Schatz
United States Senator



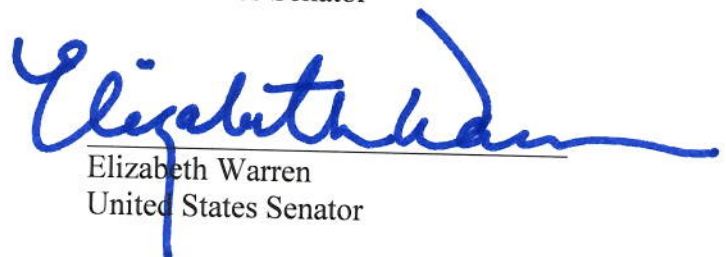
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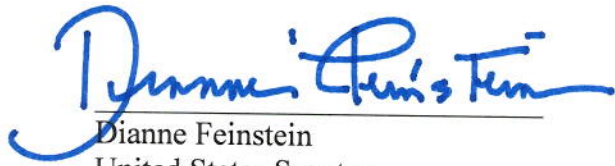
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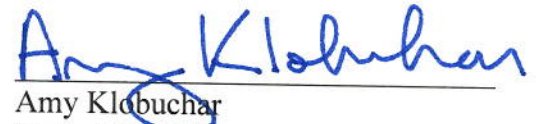
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