

Taking Control: How the Barker Plan Permanently Removes Oleg Deripaska from Control of En+ and Rusal

Background: After months of negotiations, the Treasury Department announced December 19 that it had reached an agreement with the independent chairman of En+ to affect a major restructuring of the company's corporate governance and ownership structure to comply with U.S. policy goals. Specifically, the agreement calls for sanctioned Russian oligarch Oleg Deripaska to be removed from his control of En+, forcing him to divest his majority stake in the company and constituting a new board of directors dominated by an independent group that will include six distinguished U.S. and U.K. nationals who have been vetted by the U.S. Treasury Department.

The bottom line: The Treasury Department's agreement will permanently eliminate Deripaska's control while forcing him to take a loss of billions of dollars while still facing aggressive sanctions from the U.S. government.

Severing Deripaska's Control – The Specifics

- Deripaska's shareholding in En+, the holding company for RUSAL, **falls from 70% to 44.95%. A further 10% of Deripaska's holdings are vested in an independent trust approved by OFAC. His tangible voting rights are reduced to 35%.**
- **Independent directors vetted by OFAC will make up 8 of 12 seats** on a newly constituted board, including six U.S. or U.K. citizens.
- **The number of independent directors will increase to eight from three.**
- **Two-thirds of the company's voting rights will be held by independent trustees or minority shareholders.**
- **Any dividends or potential revenue from transferred shares will never be provided to Deripaska for as long as he remains sanctioned.**
- Voting rights for additional shares – those held by VTB Bank and any Deripaska family member or related party – are similarly vested in a U.S. trustee.

Further Protections for the United States

- OFAC's plan is **designed to cement enduring changes at En+ and RUSAL.**
- The binding agreement requires the companies to submit to **unprecedented ongoing transparency with Treasury, including extensive and regular auditing, certification and reporting requirements.**
- Any breach of the agreement by En+ or RUSAL would result in the companies being immediately sanctioned again.
- **All of Deripaska's property will remain blocked and he will remain on the SDN list.** His investments in En+ and RUSAL are frozen and **he cannot obtain cash either in return for his shares or from future dividends issued by these companies.**
- As Treasury has stated, **"These companies will be subject to ongoing compliance and will face severe consequences if they fail to comply."**

DISSEMINATED BY MERCURY, LLC, A REGISTERED FOREIGN AGENT, ON BEHALF OF THE RT. HON. LORD GREGORY BARKER. MORE INFORMATION IS ON FILE WITH THE U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Alternatives?

- **If sanctions are not removed, the U.S. Government will lose its ability to eliminate Mr. Deripaska's control of EN+ and Rusal.**
- **Moreover, these companies and their affiliates, including operating companies in Europe, the United States and Jamaica, will lose their ability to operate in a manner consistent with U.S. sanctions law and policy, creating the likelihood that the companies will either be nationalized by Russia or purchased by the Chinese.**

Other Positives

- Deripaska remains blocked as do all other entities in which he has 50 percent or more ownership.
- Aluminum customers/suppliers (including number in US - such as chemical suppliers for aluminum production, those using aluminum) will benefited.
- Sends strong signal re: seriousness of USG sanctions in that relief only given if key elements of oligarch ownership and control are surrendered under USG oversight.
- Provides credible pathway for others to follow suit and at same time make oligarchs pay for support to Putin; flip side of coin, overturning this decision undermines OFAC's ability to secure this type of concession/reduction in future (and there are other sanctions targets and entities looking at this as they decide what to do).

DISSEMINATED BY MERCURY, LLC, A REGISTERED FOREIGN AGENT, ON BEHALF OF THE RT. HON. LORD GREGORY BARKER. MORE INFORMATION IS ON FILE WITH THE U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.