

# Brown Rudnick Russia & CIS Briefing

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## First successful removal from the US Treasury's "Kremlin List" of Russian oligarchs

On 11 September 2019 the US Treasury issued a letter to Dr Valentin Gaponstev, one of the individuals listed on its so-called "Kremlin List" that was published in January 2018. The letter stated that, if the Treasury had to create the list today, Dr Gaponstev would not be on it.

### Background

The US Treasury published its Kremlin List in a report to Congress in January 2018, under the Countering America's Adversaries through Sanctions Act 2017 (CAATSA). CAATSA is a federal sanctions law passed in response to Russian involvement in Syria and Ukraine, as well as alleged cyber-attacks and interference in the 2016 US elections.

Included on the list are senior Russian political figures, state-owned entities and a list of 96 "oligarchs". In the words of the Treasury, the oligarch list comprises *"individuals who, according to reliable public sources, have an estimated net worth of \$1 billion or more"*.

The Treasury has emphasised that being named on the Kremlin List does not indicate that those individuals or entities are the subject of US sanctions or US government intelligence. It is understood simply to be a list of individuals and entities who Congress may wish to sanction at some point in the future.

### Dr Valentin Gaponstev

Dr Gaponstev moved to the US more than 20 years ago. He has dual Russian and US citizenship. His NASDAQ-listed business, IPG Photonics, is based in Oxford, Massachusetts and is valued at \$7 billion. According to the Washington Post, Russia is IPG Photonics' second-largest country after the US in terms of employee base, and in 2010 its Russian subsidiary received a \$45 million investment from a Russian-government backed business entity (two years later, IPG re-purchased the shares and re-gained full ownership of the subsidiary). Dr Gaponstev's estimated personal wealth is \$1.7 billion.<sup>1</sup>

Dr Gaponstev lobbied the US Treasury Department for months over his inclusion on the Kremlin List, and issued federal court proceedings last December. He argued that he had built his company over three decades on the basis of its advanced fibre laser technology, not on the basis of any Kremlin connections. The Treasury's 11 September letter is understood to be the result of settlement negotiations between Dr Gaponstev and the Treasury over the summer.

### Implications of the Gaponstev decision

The effective removal of Dr Gaponstev from the Kremlin List casts fresh doubt on the list's practical effect and ongoing significance.

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<sup>1</sup> <https://www.forbes.com/profile/valentin-gaponstev/#27027c0a1a0c>

Although it does not impose direct sanctions, being included on the Kremlin List may nevertheless have a detrimental effect. The list is clearly a political tool, if not a legal one. Dr Gaponstev, for example, complained that his business faced increased oversight from banks as a result of his inclusion on the list.

The Treasury's sources for the list have already been called into question. Shortly after the list was published, the media group Forbes confirmed that the oligarchs section was "*an exact replica*" of the list of Russians in Forbes' 2017 list of the World's Billionaires. The Treasury's letter to Dr Gaponstev said that its decision was "*based on information we did not have at the time the report was submitted to Congress. Among other things, Dr Valentin Gaponstev is a US citizen and chairman and CEO of IPG Photonics Corporation, a publicly-traded corporation headquartered in the United States.*" It seems unlikely that information on Dr Gaponstev's citizenship and business interests would not have been available to the Treasury in 2018. The letter does not say what other new information the Treasury may now have taken into account.

Now that the Treasury has effectively back-tracked over its inclusion of one individual, there is further doubt over its ongoing ability to defend and justify the list. It remains to be seen whether Dr Gaponstev's case will create a pathway for others wishing to bring a challenge.

In the meantime, in September 2019 the US Treasury Department's Office of Foreign Assets Control (OFAC) issued new Russia-related sanctions over attempted interference in the 2018 US midterm elections. The latest sanctions apply to four entities and seven individuals associated with the Internet Research Agency and its financier, Yevgeniy Prigozhin. These sanctions are also intended to safeguard against foreign interference in the 2020 presidential elections.

## Brown Rudnick's Russia/CIS Team Leaders



**Neil Micklethwaite**

Partner

T: +44.20.7851.6086

E: nmicklethwaite@brownrudnick.com

Neil Micklethwaite is the Managing Director of Brown Rudnick's Dispute Resolution Department, and has over 25 years of experience in handling complex litigation and regulatory investigations. He acts for international corporations, asset managers and hedge funds, as well as representing UHNW individuals in large scale litigation cases and in defending regulatory investigations both in the UK and worldwide. Neil has extensive experience in complex disputes concerning the Russian Federation and other CIS states and in devising asset protection strategies to defend the interests of businessmen operating in high risk countries.



**Neill Shrimpton**

Partner

T: +44.20.7851.6073

E: nshrimpton@brownrudnick.com

Neill Shrimpton practises in all areas of commercial litigation and arbitration. He has represented clients in disputes in all divisions of the High Court, the Court of Appeal and the Privy Council, and pursuant to the rules of many arbitration institutions. He also has extensive off-shore experience, in particular in the British Virgin Islands and the Eastern Caribbean Court of Appeal. Neill is also experienced in representing clients under criminal and/or regulatory investigation having advised clients in recent years in connection with investigations by the National Crime Agency and the Serious Fraud Office.



**Olga Bischof**

Partner

T: +44.20.7851.6095

E: obischof@brownrudnick.com

Olga Bischof is a partner in Brown Rudnick's London office entitled to exercise rights of audience in all civil proceedings in the higher courts. Olga practises in all areas of commercial litigation and arbitration and has represented clients in disputes in all divisions of the High Court, the Court of Appeal and pursuant to the rules of many arbitration institutions. Olga also has a wide range of experience of litigating in offshore jurisdictions such as the British Virgin Islands and Cyprus. Olga speaks Russian, English and German.



**Elena Rey**

Partner

T: +44.20.7851.6101

E: esrey@brownrudnick.com

Elena Rey is a partner in Brown Rudnick's Finance Group in London and senior member of the European Special Situations practice. Elena represents private equity funds, property companies, family offices and high net worth individuals on complex corporate finance, general lending and real estate financings as well as NPLs and debt restructurings. As a member of the Special Situations team, Elena provides a range of services from helping clients to raise finance for corporate and real estate projects to introducing co-partners and connecting sources of capital to off-market investment opportunities.