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Open Letter to Financial Institutions Concerning Dan Gertler's OFAC License

February 18, 2021

As members of international civil society organizations, we would like to share with you our deepest concerns with regards to [the decision of the US Treasury Department's Office of Foreign Assets Control \(OFAC\)](#), dated January 15, 2021 and made public on January 24, 2021, granting a license to businessman Dan Gertler, who was sanctioned for corruption in the Democratic Republic of Congo (DRC) under the Global Magnitsky sanctions program. Given the many credible allegations of corrupt activity that underpinned OFAC's sanctioning of Gertler and associated persons, we urge you not to unblock or allow further activities pursuant to the license absent enhanced due diligence and until the Biden administration has had a chance to review both the reason for granting the license and the underlying process involved.

OFAC's initial designation of Gertler and associated persons under the Global Magnitsky sanctions program, made on December 21, 2017, [explained](#) that he had "amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo (DRC)." In that and subsequent rounds of designations, [OFAC applied sanctions to 34 entities and individuals in Gertler's network](#).

Notwithstanding these findings, the January 2021 license allows Gertler to resume transactions with U.S. persons for one year and unblocks his frozen property. It has come to our attention that this extraordinary license was issued opaquely and in haste during former President Donald Trump's last days in office. It appears that standard consultations both within the Treasury Department and the State Department did not take place prior to the issuance of the license, catching off guard a wide range of US officials who have worked hard to enact, uphold, and publicly defend the sanctions. This decision came after months of extensive [lobbying](#) on Mr. Gertler's behalf, including by well-known lawyers close to then-President Trump.

Along with leading members of the [Senate](#) and [House](#) of Representatives, we are urging the Biden administration to immediately investigate this last-minute license and, subject to relevant information, reverse its decision. As the Senate and House leaders' letters reiterate, the United States needs to ensure that the proceeds of alleged corruption are not being accessed and unblocked during the transition, or for political motives.

Banks and financial institutions should note that the [license may be under review](#), and that Mr. Gertler and the individuals and entities in his network remain designated by OFAC. It is also important to note that Mr. Gertler and his mining activities were highlighted in FinCEN's June 2018 "[Advisory on Human Rights Abuses Enabled by Corrupt Senior Foreign Political Figures and their Financial Facilitators](#)." Simply put, the risk of Gertler being connected to corrupt or illicit financial activity remains.

Given this risk, the eight financial institutions specifically named in the license should, as appropriate, decline to unblock and return funds connected to Mr. Gertler or his network. Additionally, neither these institutions nor any other should

open accounts or otherwise conduct new transactions for or on behalf of Mr. Gertler and his network until this matter is fully investigated and resolved, given the potential for reversal and broader risk Mr. Gertler and his network pose.

Mr. Gertler's activities:

Perhaps more than any other corruption-related example, the Dan Gertler case has illustrated how impactful Global Magnitsky sanctions can be. A longtime friend of DRC's former President Joseph Kabila, Gertler was added to the very first [Global Magnitsky sanctions list](#) in December 2017 for "opaque and corrupt mining deals in DRC." This long-awaited action came following years of public reporting, both from international media and non-governmental organizations, who sought to expose how DRC's public mining revenues had been diverted.

The scale and nature of the corruption Mr. Gertler is reported to have had a significant impact on the human rights of many Congolese. One of the bases for the sanctions, according to the press release announcing them, was Mr. Gertler acting as a middleman for deals between Kabila and extractive companies that [reportedly](#) resulted, between 2010 and 2012 alone, in a loss of US\$1.36 billion to the DRC. This [amounts](#) to nearly half of the country's health budget over those three years, which falls far below both the regional average and the per capita spending a World Health Organization-supported study identified as the minimum to provide adequate health care in DRC.

OFAC's move to sanction Mr. Gertler was the first instance in which the tireless efforts of Congolese and international organizations were recognized. They took a major toll on the Israeli billionaire's financial dealings that, according to OFAC, had enabled and facilitated significant corrupt activities during the administration of former DRC president Joseph Kabila.

Evidence published in July 2020 by [PPLAAF](#) and [Global Witness](#) suggests that Mr. Gertler and his associates set up a highly complex system of proxies, shell companies, and an international money laundering network to evade US sanctions, as a means to allow him to continue to operate in the DRC and funnel millions of dollars abroad. The ingenuity and complexity of this apparent network indicates that his access to financial networks had been essential to his previous operations. Mr. Gertler has denied any knowledge of or connection with this network as well as rejecting all allegations of wrongdoing and corruption.

In November 2020, a US judge [sentenced](#) a subsidiary of New York hedge fund Och-Ziff for corruption in DRC. Although Mr. Gertler was not charged in this case, the court documents include information about the alleged role played by Mr. Gertler in the corruption, including the arrangement of bribes to DRC officials and judges, which further underscores the need to keep sanctions in place.

Congolese civil society organizations take tremendous risks to fight corruption in DRC and have greatly appreciated support for their efforts from international actors. We hope you will stand with us and with the broader interest of protecting the integrity of the global financial system from corrupt activities.

Thank you in advance for your attention.

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