

# Red Notice

A Monthly Update on Global Investigations and Prosecutions



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## INTRODUCTION

**Welcome** to October's edition of *Red Notice*, a publication of Akin Gump Strauss Hauer & Feld LLP. In this month's edition, a U.S. security products company pays over USD \$20 million to settle FCPA charges; a post-acquisition audit reveals FCPA issues for an American communications firm; an executive is sentenced and fined for his role in bribing officials in China; and computer giant H-P faces bribery charges in Europe. On the anti-cartel front, DOJ obtained a record-tying criminal fine in its recent LCD prosecution, and is continuing to bring charges in its air freight and aftermarket auto parts cartel investigations. In the criminal export violation world, a large multinational bank finalizes its settlement with the New York State Department of Financial Services over its Iran-related transactions, yielding a USD \$340 million fine.

Thank you, as always, for reading *Red Notice*.

## ANTI-CORRUPTION DEVELOPMENTS

### **Security Products Manufacturer Agrees to Pay USD \$26 Million to Settle FCPA Allegations**

Security Systems firm Tyco International Ltd. entered into agreements with the Justice Department and the Securities and Exchange Commission earlier this week to settle allegations that it bribed foreign officials around the globe (*US v. Tyco Valves & Controls Middle East, Inc.*, No. 12-CR-00418 (E.D. Va.)). According to the SEC's allegations, the Swiss company made illegal payments, often in the form of 'commissions' to third parties who would pass the payments along to government officials in countries where the company conducts business, including China, Thailand, Turkey, France, and Germany. Tyco agreed to disgorge over USD \$10.5 million in profits with an additional \$2.5 million in interest. Tyco also agreed to pay nearly USD \$13.7 million to settle allegations that its Middle East subsidiary paid officials at a state-owned Saudi oil and gas company in exchange for lucrative contracts. Read the [coverage](#) at the Wall Street Journal's (*WSJ*) Corruption Currents and the DOJ's [release](#).

### **Post-Acquisition Audit Uncovers Possible FCPA Violations by Healthcare IT Company**

Florida-based Harris Corp. revealed that the company is looking into whether Carefx Corp., a company recently acquired by Harris, committed violations of the FCPA before Harris' acquisition of the company in April 2011. A post-acquisition audit uncovered evidence that Carefx provided gifts and payments to "customers and potential customers," some of which may violate the FCPA. Previously, the SEC and DOJ have taken the position that officials at state-controlled health care entities are government officials for the purposes of the FCPA. Harris already announced changes to its internal controls, additional compliance training, and the termination of "certain individuals" in Carefx's business in China. Read the [coverage](#) at the *WSJ*'s Corruption Currents.

### **California Exec Fined, Will Serve Over a Year in Home Confinement for Bribery**

Earlier this month, an executive at a California-based industrial valve manufacturer was sentenced to 13 months of home confinement and a USD \$20,000 fine. (*US v. Carson et al.*, No. 09-CR-00077 (C.D. Cal.)) Paul Cosgrove, former director of international sales, was charged in the scheme along with seven other CCI executives. CCI pleaded guilty in July 2009 to FCPA and commercial bribery charges and paid a USD \$18.2 million criminal penalty. Read the [coverage](#) at the *WSJ*'s Corruption Currents, the [coverage](#) at *The FCPA Blog*, and the DOJ's [release](#) regarding Cosgrove's guilty plea.

### **German Authorities Reportedly Charge Computer Execs in a Bribery Scheme**

According to a report from *The Wall Street Journal*, German authorities indicted one current and two former Hewlett-Packard Co. employees for paying kickbacks in an effort to acquire a EUR €35 million contract. H-P regulatory filings revealed that it is currently cooperating with a DOJ and SEC investigation into potential FCPA violations in Russia

revealed that it is currently cooperating with a DOJ and SEC investigation into potential CFC violations in Russia. Read the [coverage](#) at the *WSJ's* Corruption Currents.

## INTERNATIONAL CARTEL ENFORCEMENT DEVELOPMENTS

### Taiwanese LCD Manufacturer Fined USD \$500 Million, Execs Receive 3-Year Prison Terms

AU Optronics Corp. of Taiwan USD was fined \$500 million earlier this month following its conviction at trial for its role in a LCD screen price-fixing conspiracy (*US v. Lin et al.*, No. 09-CR-00110(N.D. Cal.)). This ties the largest criminal fine obtained by the DOJ in a criminal cartel matter. Two AUO executives who also had guilty verdicts returned against them were sentenced to three year terms and USD \$200,000 in criminal fines each. AU is the eighth company convicted as a part of the Justice Department's investigation into LCD price-fixing, which has yielded over USD \$1.39 billion in fines. The convictions of Chen and Hsiung bring the total of convicted executives up to 22 individuals. Read the [coverage](#) at *CNNMoney* and the DOJ's [release](#).

### Japanese Freight Company Pleads Guilty, Will Pay \$2.3 Million on Price-Fixing Charges

Last month, a Japanese freight forwarding company agreed to plead guilty and pay USD \$2.3 million in criminal fines for conspiring to set the prices on shipments between Japan and the US (*US v. Yamato Global Logistics Japan Co., Ltd.*, No. 12-CR-00206 (D.D.C.)). With its plea, Yamato Global Logistics is one of 14 companies that have agreed to plead guilty in the scheme. Total criminal fines paid by the companies in relation to the US investigation now exceed USD \$100 million. Read the [coverage](#) at *Air Cargo World* and the DOJ's [release](#).

### Another Executive Pleads Guilty in Auto Lights Conspiracy

Late last month, the second highest-ranking executive at a Taiwan automotive company pled guilty to price-fixing charges related to DOJ's ongoing investigation into the aftermarket auto lights industry (*US v. Hsu et al.*, No. 11-CR-00488 (N.D. Cal.)). Homy Hong-Ming Hsu of Eagle Eyes Traffic Industrial Co. Ltd admitted to his role in the conspiracy and became the fourth executive accused in the scheme to do so; two executives from other companies are awaiting sentencing, and a third was sentenced to prison time and a USD \$25,000 criminal fine. Additionally, four companies were charged in the scheme, two of which have pled guilty resulting in over USD \$43 million in fines. Read the [coverage](#) at *Law360* and the DOJ's [release](#).

## EXPORT CONTROL AND SANCTIONS ENFORCEMENT

### A Large Multinational Bank Signs Final Settlement with New York Department of Financial Services

Standard Chartered Bank finalized the settlement with the New York State Department of Financial Services for violations of U.S. sanctions on Iran and New York financial regulations, which was agreed to in principle on August 14. The final agreement solidifies the terms of the initial settlement and includes a fine of \$340 million USD, the installation of an overseer of the bank's money-laundering controls, and the creation of permanent auditors for the bank's internal procedures. The parties also agreed that the conduct at issue involved transactions of \$250 billion USD, although the bank did not admit or deny wrongdoing on their part. A criminal investigation and a joint settlement with other authorities, including the U.S. Treasury Department and the Justice Department, is still pending. Read Standard Chartered's consent order [here](#) and coverage from the *New York Times* [here](#) and *Reuters* [here](#).

## CONTACT INFORMATION

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