

**Akin Gump**  
STRAUSS HAUER & FELD LLP

# Red Notice

A Monthly Update on Global Investigations and Prosecutions



MARCH 2014

## Introduction

**Welcome** to the March 2014 edition of *Red Notice*, a publication of Akin Gump Strauss Hauer & Feld LLP.

This month on the anticorruption front, a New York court orders two former Siemens executives to pay record civil penalties in a bribery case involving the company's Argentina business; Canada prosecutes former executives from an engineering giant for bribery in Libya; and a European chemical company pays nearly USD 50 million to settle bribery charges in Norway, only to face a follow-on investigation in India.

In export control and sanctions enforcement news, two international banks reach settlements with the U.S. government to settle allegations that they violated U.S. sanctions; a California computer parts manufacturer illegally exports technology to a Russian national, leading to a USD 115,000 fine; and the government nabs, respectively, a dual U.S.-Iranian citizen who attempted to smuggle military information to Iran and a Chinese national who tried to illegally transport U.S.-controlled electronic devices to China.

In developments in export control and sanctions law, the U.S. Office of Foreign Assets Control (OFAC) had a busy month, implementing both the Foreign Sanctions Evaders List and announcing Iran General License D-1 regarding access to internet services and equipment.

Thank you as always for reading *Red Notice*.

## ANTICORRUPTION DEVELOPMENTS

### Former Siemens Executives Agree to Pay USD 1.5 Million to Settle FCPA Case

In February 2014, two former senior executives of Siemens AG ("Siemens"), the European engineering conglomerate based in Germany, were ordered to pay record fines for participating in a decade long USD one billion contract bribery scheme with the Argentine government. A New York federal court entered a default judgment against Stephan Signer and Ulrich Bock, both German nationals, ordering them to pay a civil penalty of USD 524,000 each, the largest amount assessed to an individual for a Foreign Corrupt Practices Act (FCPA) violation. Bock was further ordered to pay USD 413,957 in disgorgement of profits that resulted from the illegal activities. The combined total of civil penalties and disgorgement levied against Signer and Bock is approximately USD 1.46 million. The second highest FCPA civil penalty levied against an individual was imposed upon former Siemens board member Uriel Sharef in April 2013 for his role in the scheme. Prosecutors allege that Signer, Bock and other Siemens executives paid Argentine government officials roughly USD 100 million in bribes for more than a decade (1996-2007) to secure a contract to produce Argentine national identification cards in a scheme that was worth nearly USD one billion. In 2008, Siemens, along with three of its subsidiaries, agreed to a settlement with the U.S. Department of Justice (DOJ) and U.S. Securities and Exchange Commission (SEC) to pay a USD 450 million criminal penalty and disgorge USD 350 million in wrongful profits. Siemens also settled with German prosecutors, agreeing to pay a total of €596 million (USD 854 million). In total, Siemens paid nearly USD 1.6 billion to U.S. and German authorities to settle charges related to the Argentine contract scheme and other bribery schemes. Read the [SEC's release](#) on the executives' penalties, and [coverage](#) at *Law360*.

### Canadian Prosecutors Charge Two Former Engineering Executives with Bribery Related to Gadhafi

In late January 2014, Canadian authorities announced charges

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## WRITING AND SPEAKING ENGAGEMENTS

In February 2014, Akin Gump's Wynn Segall appeared on a panel titled "Anticorruption and the FCPA—What Should Your Fund's Policy Look Like" at the Hedge Fund Compliance Master Class held at the Princeton Club in New York. Akin Gump's Tamer Soliman also spoke in February 2014, at Aviation Week's Bi-Annual MRO Middle East trade show in Dubai on the topic of "Defense/Military MRO Industry Trends and Export Controls Impacting Operations."

Also in February 2014, the American Criminal Law Review published a law review article written by Akin Gump's Nicole Sprinzen, with the research assistance of Jacob Weixler, entitled "Asadi v. GE Energy (USA) L.L.C.: A Case Study of the Limits of Dodd-Frank Anti-Retaliation Protections and the Impact on Corporate Compliance Objectives," which discusses recent civil whistleblower lawsuits in the FCPA context.

Coming up on March 10, 2014, Akin Gump's Rebekah Jones will speak on the Export Administration Regulation and the International Traffic in Arms Regulations at the Export Compliance Training Institute's seminar on US export controls on non-US transactions at the Novotel Clark Quay Hotel in Singapore.

On March 11-12, 2014, Akin Gump's Tamer Soliman will speak on "Applying U.S. and EU Export Control and Sanctions Regulations to Your Operations in the Middle East" at C5's Advanced Forum on Trade Compliance in the Middle East at the Dubai Chamber of Commerce & Industry in Dubai, UAE.

If you would like to invite Akin Gump Strauss Hauer & Feld LLP lawyers to speak at your company or to your group about anticorruption law, compliance, enforcement and policy

against the former executive vice president and the former comptroller of Montreal-based engineering firm SNC-Lavalin Group Inc. ("SNC") for allegedly bribing members of Moammar Gadhafi's late regime in Libya. According to the Royal Canadian Mounted Police, former SNC vice president and head of the international construction division Sami Bebawi funneled CAN 118 million to a British Virgin Islands-based company in order to make bribe payments to Saadi Gadhafi, the former Libyan leader's son. Stephane Roy, SNC's former comptroller, is alleged to have maintained a Toronto apartment for Saadi Gadhafi. Both Bebawi and Roy are charged with bribery of a foreign official and fraud under Canadian law. Bebawi was considered an important hire for SNC when he joined the company in 1998, touring the Middle East and North Africa shortly after his arrival on a promotional tour with SNC's chief executive officer. During Bebawi's tenure with SNC, the company won contracts in Libya and Algeria worth upwards of several hundred million Canadian dollars. Read [more](#) about the charges at *The Globe and Mail*.

#### **European Regulators Fine Chemical Company USD 48 Million for Bribery Scheme in India, Libya and Russia; India Initiates Follow-on Investigation**

In January 2014, Norwegian chemical company Yara International ASA ("Yara") was fined USD 48 million by Norwegian officials for participating in a scheme to bribe government officials in India, Libya and Russia over five years. Yara admitted that a Swiss subsidiary facilitated nearly USD 12 million in bribes to government officials, including to a Libyan oil minister from the Gaddafi regime. Yara also admitted to making corrupt payments to suppliers in Russia, and Yara allegedly paid a former senior Indian government official to secure business in India. The company uncovered the scheme and reported it to the Norwegian authorities in 2011. Norwegian authorities have also indicted three former executives in the scheme. Indian authorities continue to investigate the bribery scheme and its potential connection to a joint venture. Read the [coverage](#) at India's *Business Standard*.

### **EXPORT CONTROL AND SANCTIONS ENFORCEMENT**

#### **Luxembourg Financial Institution Pays USD 152 Million to Settle Allegations that It Allowed Iranian Entities to Avoid U.S. Sanctions**

Clearstream Banking SA ("Clearstream"), Luxembourg, agreed to a settlement of USD 152 million with the OFAC in late January 2014 regarding allegations that it violated the Iranian Transaction and Sanctions Regulations by exporting financial services to the Central Bank of Iran (CBI). Clearstream held an account with a U.S. financial institution through which CBI held a beneficial ownership interest in 26 securities within the United States, valued at over USD 2.8 billion. Clearstream had informed U.S. regulators in late 2007 and early 2008 that it had ended all business with Iranian clients, but in fact it merely altered the way in which it held accounts for CBI, obscuring CBI's financial interest in the securities. The total base penalty amount for the apparent violations was USD 5.626 billion. Read the [OFAC enforcement action](#), the [U.S. Department of the Treasury press release](#) and [coverage](#) by *The Wall Street Journal*.

#### **Russian Bank Fined Over USD 9 Million for Alleged Illegal Fund Transfers**

In 2008 and 2009, Joint-Stock Commercial Bank "Bank of Moscow" of Moscow, Russian Federation, engaged in numerous funds transfers processed to or through the United States—totaling over USD 41 million—for or on behalf of Bank Melli Iran ZAO of Moscow Russia ("BMI Russia"). In 2007, OFAC designated BMI Russia as a Specially Designated National (SDN) pursuant to [Executive Order 13382](#), which blocks the assets of proliferators of weapons of mass destruction and their supporters. Bank of Moscow's funds transfers in question failed to specifically identify BMI Russia, Iran or any other red flag indicators. OFAC alleged Bank of Moscow committed 69 violations of the Weapons of Mass Destruction Proliferations Sanctions Regulations and Executive Order 13382 and set the base penalty amount at over USD 14 million. Bank of Moscow agreed to a settlement of the charges totaling almost USD 9.5 million. Read the [OFAC enforcement action](#) and [Law360 coverage](#).

#### **Illegal Export of Technology to Russian Engineer Leads to USD 115,000 Fine for California Computer Parts Manufacturer**

On February 24, 2014, the Bureau of Industry and Security (BIS) announced that it had reached a settlement of USD 115,000 with California computer parts manufacturer Intevac, Inc. ("Intevac") over allegations that the company illegally released export-controlled manufacturing technology (drawings and blueprints) to a Russian national who was employed as an engineer by the company. Intevac

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had applied for a deemed export license upon discovering the initial release of sensitive information to the employee, but failed to stop additional releases of information while the application was pending. BIS considered Intervac's knowledge of these continued violations as an aggravating factor in determining the amount of the penalty. Intervac was also charged with an unauthorized transfer of controlled technology to its subsidiary in China. Read the [BIS press release](#).

#### **Dual U.S.-Iranian Citizen Indicted for Attempting to Ship Sensitive Military Information to Iran**

Mozaffar Khazee, a dual U.S.-Iranian citizen, was indicted on January 21, 2014 for attempting to ship proprietary information regarding military jet engines and the U.S. Air Force's F35 Joint Strike Fighter program to Iran. Khazee had stolen the information from a defense contractor that employed him as an engineer. U.S. Customs and Border Protection (CBP) discovered the scheme in November, 2013 when it inspected a package intended to be shipped by Khazee from the United States to Iran. Khazee claimed that the package contained household goods, but it actually included sensitive technical manuals, specification sheets and other similar information. The indictment charges Khazee with two counts of interstate transportation of stolen property. Each charge carries a maximum term of imprisonment of 10 years and a fine of up to USD 250,000. Read the [DOJ press release](#) and [CNN coverage](#).

#### **Chinese National Indicted for Attempt to Smuggle U.S. Controlled Electric Devices**

See Kee Chin, aka Alfred Chin, a Chinese national, was indicted on February 19, 2014 for attempting to smuggle accelerometers—electromechanical equipment used in smartphones, laptops and aircraft—to China. The items are designated on the United States Munitions List and controlled for export under the International Traffic in Arms Regulations. Chin conspired with a Canadian buyer to purchase the devices in the United States and to transport them from Canada to China, where they would likely be used to build combat aircraft. Chin and the Canadian buyer had been in contact with undercover federal agents to make the purchase; those agents repeatedly warned them that the transport of the devices to China was illegal. Nonetheless, Chin went forward with the USD 85,000 purchase of the equipment in Seattle on February 8, 2014 and booked an international flight for the following day. Federal agents arrested Chin immediately after the purchase. Read the [DOJ press release](#) and [press coverage](#).

### **EXPORT CONTROL AND SANCTIONS DEVELOPMENTS**

#### **OFAC Implements the Foreign Sanctions Evaders List**

In early February 2014, OFAC introduced the Foreign Sanctions Evaders List to identify persons sanctioned under Executive Order 3608 because they have engaged in conduct related to the evasion of U.S. sanctions against Iran and Syria. OFAC first established the list in 2012, but was not actively engaged in adding parties until recently. In addition to the single entity that comprised the original list, eleven additional parties have now been added. As a result of these listings, U.S. persons are generally prohibited from all transactions or dealings, whether direct or indirect, with designated persons. However, there is no requirement to block the property or interests of persons on the Foreign Sanctions Evaders List, although certain listed persons may also be on [OFAC's List of Specially Designated Nationals and Blocked Persons](#) (the "SDN List") pursuant to other OFAC sanctions programs. The Foreign Sanctions Evaders List is not currently incorporated into OFAC's SDN List or the ["Consolidated Screening List"](#) on the Export.gov website, so it must be screened separately. Some of the major screening providers appear not to have incorporated the new list into their services yet. Read the [OFAC press release](#) and the full [Foreign Sanctions Evaders List](#). In addition, Akin Gump recently published a client alert on this topic. The alert can be viewed [here](#).

#### **OFAC Announces Iran General License D-1 Regarding Access to Internet Services and Equipment**

The U.S. Department of the Treasury, together with the U.S. departments of State and Commerce, published on February 7, 2014 the amended Iranian General License D-1, which clarifies certain elements of General License D and adds new authorizations on providing hardware, software and personal communications services to Iran. Among the major changes in the General License are (1) a new authorization for non-U.S. persons located outside the United States to export to Iran certain eligible hardware and software that are subject to the EAR (instead of limiting such authorization to exports by U.S. persons) and (2) a new authorization for U.S. persons located outside the United States to export to Iran certain eligible hardware and software that is not subject to the EAR. The

amended general license aims to foster Iran's access to Internet services, including email, social networking, web browsing and blogging. Read the [OFAC press release](#) and [General License D-1](#).

## CONTACT INFORMATION

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The "Anticorruption Developments" section of *Red Notice* is edited by [Jacob Weixler](#).

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