

Red Notice

A monthly update on global investigations and prosecutions

Akin Gump
STRAUSS HAUER & FELD LLP

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ANTICORRUPTION DEVELOPMENTS

\$34 Million SEC Settlement for Legg Mason

On August 27, 2018, the Securities and Exchange Commission (SEC) announced that Legg Mason Inc. will pay more than \$34 million to settle an investigation related to the conduct of a subsidiary in Libya. This resolution comes after Legg Mason agreed to pay \$64.2 million to settle an investigation by the Department of Justice (DOJ) into the same conduct. The Libya investigations were previously covered in the [June 2018 edition of Red Notice](#).

More information

- [SEC press release](#)
- [The Wall Street Journal](#)
- [Reuters](#)

U.S. Appeals Court Limits Jurisdiction of FCPA

On August 24, 2018, the U.S. Court of Appeals for the 2nd Circuit affirmed in part a ruling from the U.S. District Court of Connecticut and held that conspiracy liability to violate the Foreign Corrupt Practices Act (FCPA) does not extend to a foreign individual if the foreign individual never entered the United States to commit the alleged misconduct and the foreign individual did not operate as an agent, employee, shareholder, director or officer of a U.S. company or citizen. Lawrence Hoskins, a U.K. citizen and retired executive of a subsidiary of the French company Alstom SA, challenged DOJ's view that the FCPA applied to Hoskins as a result of his alleged supervisory role over U.S. individuals who allegedly made corrupt payments to facilitate a contract for a power plant in Indonesia. Three other Alstom executives were also charged, and these three individuals – all of whom worked for Alstom's Connecticut-based subsidiary – have pleaded guilty. Hoskins, on the other hand, was employed at Alstom UK, worked in France, and never traveled to the U.S. for the alleged corrupt scheme. The 2nd Circuit held that, as a foreign national

without any relevant U.S. presence, Hoskins could not face liability under the FCPA merely by virtue of the suggestion that he was involved in a wider conspiracy as an accessory. The three-judge panel held that Congress carefully designated the categories of foreign nationals designed to be held liable under the FCPA, and DOJ's articulated theory of liability did not place Hoskins into any of those categories. Breaking with the District Court, the 2nd Circuit held that Hoskins could nevertheless be found liable for conspiracy based on other co-defendants' illicit acts in the U.S. if he were determined to be an agent of the U.S.-based subsidiary. DOJ has suggested that it intends to pursue this theory of FCPA liability against Hoskins, who is also facing four counts of money laundering and one count of conspiracy to commit money laundering.

In December 2014, Alstom SA pleaded guilty as part of an enforcement action that included the Indonesia conduct and agreed to pay a criminal penalty of \$772 million.

More information

- [Second Circuit Opinion](#)
 - [New York Law Journal](#)
 - [Law 360](#)
 - [FCPA Blog](#)
-

DOJ Issues Declination to Insurance Corporation of Barbados Limited

On August 23, 2018, DOJ issued a declination to Insurance Corporation of Barbados Limited (ICBL), a Barbados-based insurance company. In its declination, DOJ alleges that ICBL made approximately \$36,000 in improper payments to a Barbadian government official in return for approximately \$687,000 in total premiums for insurance contracts, for which the firm made approximately \$94,000 in net profits.

DOJ identified the official as Donville Inniss, a former member of the Parliament of Barbados and the Ministry of Industry, International Business, Commerce and Small Business Development of Barbados. DOJ alleges that, in exchange for the improper payments, Inniss leveraged his position as the Minister of Industry to enable ICBL to obtain two government contracts. Inniss was initially indicted in the U.S. District Court for the Eastern District of New York in March 2018. He was arrested in Florida on August 6, 2018, and pleaded not guilty to his charges at his arraignment on August 23, 2018.

The declination references DOJ's [recent amendment to its FCPA Corporate Enforcement Policy](#), adopting the April 2016 Pilot Program, that creates a presumption that companies that voluntarily disclose an FCPA violation fully which cooperate in an ensuing investigation and, timely and appropriately remediate, will receive a declination from DOJ.

Consistent with the policy, the declination cites seven factors in DOJ's decision to close its investigation: (1) ICBL's timely self-disclosure; (2) ICBL's "thorough and comprehensive investigation"; (3) ICBL's continued cooperation with DOJ's investigation; (4) ICBL's voluntary agreement to disgorge; (5) ICBL's enhancement of its compliance program and internal accounting controls; (6) ICBL's remediation, including the termination of involved employees; and (7) "the fact that the Department has been able to identify and charge the culpable individuals."

More information

- [DOJ Declination Notice](#)
 - [Superseding Indictment as to Donville Inniss](#)
 - [FCPA Blog](#)
-

Former Brazil Soccer Official Sentenced to Four Years in Prison

On August 22, 2018, José Maria Marin, the former president of the Brazilian soccer federation, was sentenced to four years in prison after he was convicted of conspiratorial racketeering, wire fraud and money laundering at trial in the Eastern District of New York. Marin, who also served on several Fédération Internationale de Football Association

standing committees, was further ordered to pay \$1.2 million in restitution and to forfeit \$3.3 million in corrupt payments. During trial, the government presented evidence that Marin engaged in a conspiracy to offer and receive tens of millions of dollars in illicit payments and kickbacks involving media and sports marketing companies and soccer officials related to several South American and Brazilian soccer tournaments.

Marin's prosecution is part of a larger sports corruption probe launched by the U.S. Attorney's Office for the Eastern District of New York, as reported by Red Notice in February 2018.

More information

- [DOJ press release](#)
 - [The Wall Street Journal](#)
 - [Akin Gump's Red Notice - February 2018](#)
-

New Developments in PDVSA Case

On August 22, 2018, Matthias Krull, a former managing director and vice chairman of Swiss bank Julius Baer Group Ltd., pleaded guilty to one count of conspiracy to commit money laundering of funds embezzled from Venezuela's state-owned energy company, PDVSA. Krull, a German national and resident of Panama, admitted that he sought to launder more than \$1 billion in funds through Miami real estate and other investments to conceal the source of the funds. Red Notice has extensively covered the PDVSA investigation to date, including in its [July](#) and [February](#) 2018 editions, in which DOJ has charged 17 individuals, 12 of whom have pleaded guilty thus far.

In addition, on July 31, 2018, DOJ filed and unsealed an indictment charging Jose Manuel Gonzales Testino with conspiring to pay and providing corrupt payments to a former official at PDVSA in exchange for the award of contracts and preferential treatment in violation of the FCPA. Gonzalez, a U.S.-Venezuelan citizen, is alleged to have paid more than \$600,000 in bribes, together with a co-conspirator.

More information

- [DOJ press release – Krull](#)
 - [DOJ press release – Gonzalez](#)
 - [FCPA Blog](#)
 - [The Wall Street Journal](#)
-

SEC Ends Investigation into Potential FCPA Violations by Chinese Biopharmaceutical Products Provider

On August 20, 2018, Sinovac Biotech Ltd. announced that the SEC had ceased its investigation into possible violations of the FCPA by the company. In May 2017, the SEC issued subpoenas to Sinovac, a Chinese-based provider of biopharmaceutical products, after Sinovac announced that it was conducting an internal investigation into allegations of corrupt payments to public officials in China. Specifically, Sinovac had received allegations that its CEO Weidong Yin had made illicit payments to a public official at China's food and drug agency in order to gain approval for a clinical trial. Sinovac did not comment on the status of a parallel investigation being conducted by DOJ.

More information

- [Sinovac press release](#)
 - [Law 360](#)
-

UK Enforcement Agency Charges Engineering Company Executives While DOJ Declines to Prosecute Company

On August 17, 2018, the U.K. Serious Fraud Office (SFO) announced charges against two former employees of Güralp Systems Limited, a U.K.-based engineering company that produces seismic testing equipment, for allegedly making corrupt payments to a South Korean government official. SFO charged Dr. Cansun Güralp, founder of Güralp Systems, and Andrew Bell, the managing director of the company, for allegedly conspiring to make corrupt payments to Heon-Cheol Chi, the former director of the South Korean Institute of Geoscience and Mineral Resources. Chi is currently serving a 14-month sentence in the U.S. for laundering corrupt payments that he received through a U.S. bank. Güralp Systems has been under investigation by SFO since December 2015 for allegedly corrupt contracts in South Korea.

On August 20, 2018, DOJ issued Güralp Systems a declination notice, advising the company that it had closed its inquiry and did not intend to prosecute “notwithstanding evidence of violations of the FCPA.” Regarding the rationale for its declination, DOJ cited the FCPA Corporate Enforcement Policy; Güralp Systems’ voluntary disclosure of the matter; its cooperation in DOJ’s investigation, including in the prosecution of Chi; and significant remedial efforts taken by Güralp Systems, as well as the parallel investigation by SFO into the company.

More information

- [SFO press release](#)
 - [DOJ Declination Notice](#)
 - [National Law Journal](#)
 - [FCPA Blog](#)
-

Colombia’s Former Top Anti-Graft Prosecutor Pleads Guilty to Conspiracy

On August 14, 2018, before U.S. District Judge Ursula Ungaro in the Southern District of Florida, Luis Gustavo Moreno Rivera, the former National Director of Anti-Corruption in Colombia, pleaded guilty to conspiracy to launder money in order to promote foreign bribery. Moreno admitted that he engaged in a corrupt scheme in which he traveled to Miami, Florida, in 2016 in order to solicit bribes from a former Colombian governor under investigation by Moreno’s agency in Colombia. Moreno sought a total of nearly \$200,000 USD in improper payments in exchange for a promise to provide the governor with statements from witnesses testifying against him and to ultimately direct prosecutors’ attention away from the case. The governor was, in fact, a cooperating source of information for the U.S. government and acted in coordination with the Drug Enforcement Administration during interactions with Moreno. Moreno’s attorney, Leonardo Luis Pinilla Gomez, was also arrested and pleaded guilty as part of the conspiracy.

[As reported by Red Notice in July 2017](#), Moreno was arrested in Colombia and extradited to Miami last year. Both Moreno and Pinilla are scheduled to be sentenced in November 2018.

More information

- [DOJ press release](#)
 - [The Wall Street Journal](#)
-

India Amends Anti-Corruption Law

On July 26, 2018, India’s revised anti-corruption law, The Prevention of Corruption (Amendment) Act, 2018 (the “Law”) came into effect after unanimous approval by the parliament. The most important changes include (1) revising the definition of bribery, (2) expanding the scope of the Law to cover both commercial organizations and those who corruptly provide or promise to provide an undue advantage to a public official, and (3) requiring approval before investigating former or current government officials.

One major revision under the Law appears in the definition of “bribery,” in which corruptly

offering or receiving a “valuable thing” is replaced with “undue advantage.” In addition, previously, commercial organizations could be found to only have abetted corruption and could not be held liable in their own right. Commercial entities can now be liable if employees or any “person associated with” the organization promises to give any undue advantage for obtaining or retaining business; however, commercial entities are afforded a defense if they can show a well-developed compliance program. The Law also now expressly imposes liability on those who offer an undue advantage, along with any third-party intermediaries, without regard to whether the offered undue advantage was accepted or not. Another major revision of the Law is to provide a shield for current and former government officials by requiring investigating agencies to get prior approval before initiating an investigation into such officials.

Among other amendments, the Law provides a defense of coercion to those making corrupt payments if those individuals report the issue to authorities within seven days, and provides that those offering or receiving an undue advantage are subject to a maximum punishment of seven years in prison and a fine.

More information

- [*Economic Times*](#)
 - [*Times of India*](#)
 - [*Business Today*](#)
-

Anticorruption Spotlight: World Bank Announces of Two Debarments

On August 22, 2018, the World Bank announced the 18-month debarment of Flycom d.o.o., a Slovenian infrastructure services provider, based on improper payments made by Flycom on a World Bank project in the Democratic Republic of Congo. Flycom made the payments to a consultant from 2010 to 2014 related to contracts that it obtained on the project. The company received a reduced period of debarment due to its ongoing cooperation, and has agreed to develop and implement an integrity compliance program before its debarment is lifted.

On August 1, 2018, the World Bank also announced the debarment of Chinese IT company Jiangsu Zhidehuatong Information Technology Co., Ltd. (“Trachtech”), related to a World Bank project in China. Trachtech was deemed to have committed fraudulent practices after it falsified a document included in its procurement bid in order to disguise a failure to meet tender requirements. Trachtech received a reduced period of debarment of 15 months after receiving credit for cooperation and taking voluntary remedial actions.

These debarments qualify for cross-debarment by other Multilateral Development Banks under [the Agreement of Mutual Recognition of Debarments](#) that was signed on April 9, 2010. The list of all World Bank debarred entities and individuals is available [here](#).

More information

- [World Bank press release – Flycom](#)
- [FCPA Blog – Flycom](#)
- [World Bank press release – Trachtech](#)
- [FCPA Blog – Trachtech](#)

EXPORTS, SANCTIONS AND CUSTOMS ENFORCEMENT

Former CEO of Wellco Enterprises Sentenced to 41 Months in Prison for Scheme to Sell Mislabeled Boots to DOD

On August 8, 2018, DOJ announced that Vincent Lee Ferguson, formerly the President and CEO of Wellco Enterprises, Inc., was sentenced to 41 months in prison for his role in a wire fraud conspiracy to sell Chinese-origin, military-style boots to the Department of Defense (DOD), government contractors and the general public as “Made in the USA” and as compliant with the Berry Amendment and the Trade Agreements Act. Wellco’s former

Senior Vice President of Sales and former Director of Marketing and Communications were previously sentenced in June 2018 to each serve six months in federal prison for the same crime.

Wellco was a leading manufacturer and supplier of military footwear to DOD and to civilian customers for more than 70 years. According to DOJ, from 2008 to 2012, Wellco's executives, including Mr. Ferguson, instructed Wellco's Chinese manufacturer to include "USA" on the labels of boot uppers. After two shipments were seized by U.S. Customs and Border Protection, the individuals ordered the same facility to stitch tear away "Made in China" labels in the boot uppers. After importation, the conspirators instructed Wellco factory workers in Tennessee to tear out the "Made in China" labels before shipping the boots to government and commercial customers. According to DOJ's press release, the company sold more than \$8.1 million in fraudulent boots.

More information

- [DOJ press release](#)
-

Logistics Company Settles Alleged Violations of the EAR for \$155,000

On August 10, 2018, Mohawk Global Logistics Corp. (fka Mohawk Customs and Shipping Corp.) settled alleged violations of the Export Administration Regulations (EAR) with the Department of Commerce's Bureau of Industry and Security (BIS). Under the terms of the settlement agreement, Mohawk agreed to pay a civil penalty of \$155,000, with \$20,000 suspended subject to a probationary period.

According to the order, Mohawk allegedly caused, aided and/or abetted the unlawful export of an LNP-20 Liquid Nitrogen Plant, designated EAR99, and valued at \$33,587 to the All-Russian Scientific Research Institute of Experimental Physics (VNIIEF), aka Russian Federal Nuclear Center-VNIIEF (RFNC-VNIIEF), entities listed on BIS's Entity List. Although Mohawk—a freight forwarder—flagged the relevant shipment with screening software, a Mohawk export supervisor overrode the flag and proceeded to forward the items without further diligence, indicating on its Electronic Export Information (EEI) filing that the shipment did not require a license.

Mohawk was also alleged to have caused, aided and/or abetted two violations of the EAR by forwarding (and later reforwarding) certain EAR99 items to the University of Electronic Science and Technology of China (UESTC)—also a listed entity—without a license. On both occasions, Mohawk allegedly received documents containing UESTC's full name, but, in the first instance, screened only the abbreviation, thereby failing to flag the transaction; in the second instance, it failed to screen the transaction at all and did not file EEI for the export.

More information

- [BIS Order, Settlement Agreement and Charging Documents](#)
-

California Man Pleads Guilty to Syrian Sanctions Violations

On August 14, 2018, the DOJ announced that Rasheed Al Jijakli, a Syrian-born, naturalized U.S. citizen living in California, pleaded guilty to a charge of conspiring to export U.S.-origin tactical gear to Syria in violation of the International Emergency Economic Powers Act and Syrian sanctions laws.

According to the press release, Jijakli admitted that, from April 2012 through March 2013, he was part of a conspiracy to export at least 43 laser boresighters, 85 day rifle scopes, 30 night vision rifle scopes, tactical flashlights, a digital monocular, five radios and one bulletproof vest to Ahrar Al-Sham and other rebel groups in Syria. In June and July 2012, Jijakli and another purchased the items, after which Jijakli traveled to Istanbul, Turkey, with the items to give them to Syrian rebels training in Turkey for fighting in Syria. In August and September 2012, Jijakli then directed co-conspirators to withdraw thousands of dollars from Palmyra Corporation, where Jijakli was the Chief Executive Officer, to pay for the

More information

- [DOJ press release](#)

Group of 33 Charged in Counterfeit Luxury Goods Smuggling Scheme

On August 16, 2018, U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations announced the charging of 33 individuals in connection with a conspiracy to import counterfeit luxury goods manufactured in China to the U.S. The charges included conspiracy to traffic and trafficking in counterfeit goods, conspiracy to smuggle and smuggling counterfeit goods, money laundering conspiracy and immigration offenses. ICE agents also seized real and personal property of the defendants in the New York metropolitan area worth more than \$12 million.

According to court filings, ICE alleged that the defendants played various roles in the trafficking and counterfeiting of the goods, which were brought to the U.S. in 40-foot shipping containers, smuggled through ports of entry disguised as legitimate imports, and subsequently distributed throughout the country. According to the ICE press release, the seized goods were counterfeits of brands, including Chanel, Tory Burch, Hermes, Louis Vuitton and Michael Kors, which, if genuine, would be worth approximately \$500 million. Of the 33 individuals, 32 have been arrested.

More information

- [ICE press release](#)
- [New York Times](#)

EXPORTS, SANCTIONS AND CUSTOMS DEVELOPMENTS

Client Alert: President Trump Issues New Iran Executive Order and Reimposes First Set of Sanctions Following JCPOA Withdrawal

On August 6, 2018, President Trump issued Executive Order 13846, "Reimposing Certain Sanctions with Respect to Iran." The Order sets forth the legal authority to reimpose sanctions on Iran consistent with the May 8, 2018, decision to cease participation in the Joint Comprehensive Plan of Action (JCPOA). In connection with the Order, the Department of Treasury's Office of Foreign Assets Control (OFAC) also issued a new series of FAQs clarifying which aspects of U.S. sanctions will be reimposed pursuant to the JCPOA withdrawal.

The Order reimposes sanctions on Iran following either a 90-day or 180-day wind-down period depending on the activity. The first wind-down period concluded on August 6, 2018, and the first set of sanctions became effective on August 7, 2018. These sanctions target activities in the Iranian automotive sector; the trade of certain precious, raw and semifinished metals; transactions for the purchase or sale of the Iranian rial or contracts based on the rial; purchase of, subscription to or facilitation of the issuance of Iranian sovereign debt; and transactions involving the purchase or acquisition of U.S. dollar banknotes by the government of Iran. The next wind-down period will conclude on November 4, 2018. Sanctions targeting transactions involving the Iranian energy, shipping and shipbuilding sectors; petroleum, petrochemicals and the Central Bank of Iran will go into effect November 5, 2018.

Following the issuance of the Order, on August 7, 2018, the European Union expanded the scope of its sanctions blocking regulation. That regulation now prohibits EU persons from complying with the reinstated U.S. extraterritorial sanctions against Iran. EU Member States must now individually determine whether, and how, to penalize noncompliance with the EU Blocking Regulation with respect to the Iran sanctions and may differ in their approaches.

More information

- [Akin Gump Client Alert on New Iran Executive Order](#)
 - [Executive Order 13846](#)
 - [OFAC Iran Sanctions FAQs](#)
 - [Akin Gump Client Alert on JCPOA Withdrawal](#)
-

Client Alert: CFIUS Reform Legislation, FIRRMA, Became Law

On August 13, 2018, President Trump signed the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) that reforms the Committee on Foreign Investment in the United States (CFIUS) process.

CFIUS will continue to have broad jurisdiction to conduct national security reviews of foreign investments that could result in foreign control of a U.S. business. When regulations implementing FIRRMA become effective within the next 18 months, CFIUS will have additional jurisdiction over (a) real estate transactions near sensitive government locations and ports, and (b) noncontrolling investments in U.S. businesses associated with critical technology, critical infrastructure or sensitive personal data. Certain covered transactions involving foreign government investors and, potentially, U.S. critical technology companies will trigger mandatory CFIUS filings.

To address concerns regarding the transfer of uncontrolled critical emerging and foundational technologies to foreign persons, FIRRMA requires an interagency process to identify and, after public notice and comment, control such technologies in the export control regulations. (This identification process has already begun.) Unlike the bill as introduced, FIRRMA does not expand CFIUS's authority to review outbound investments to address this issue.

The timelines for CFIUS review of filings will be extended when the law goes into effect. The Treasury Department is, however, required to publish regulations to create a quicker short-form "declaration"—"light filing"—process that could be used in place of full filings.

FIRRMA leaves many key details and definitions to the Treasury Department to address through implementing regulations. Those potentially affected by the new CFIUS authorities will likely want to monitor and eventually comment on them, particularly (i) U.S. businesses that might receive noncontrolling foreign investments and are involved in critical technology, critical infrastructure or sensitive personal data; (ii) funds with foreign limited partners that might have access to such information or the ability to influence what is done with it; and (iii) those involved, directly or indirectly, with covered investments by foreign governments and involving U.S. critical technology companies because of the mandatory filing requirements that will be created.

More information

- [Akin Gump Client Alert](#)
-

State Department Imposes Sanctions on Russia in Response to Alleged Chemical Attack

On August 8, 2018, the State Department announced that the U.S. had determined, pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 ("Act"), that the Russian Federation had impermissibly used chemical or biological weapons in violation of international law. The determination resulted from Russia's alleged involvement in the March 2018 use of a "Novichok" nerve agent on U.K. citizen Sergei Skripal and his daughter Yulia Skripal.

On August 27, 2018, the State Department issued a Federal Register notice implementing sanctions on Russia pursuant to the Act. The following sanctions will be in place "for at least one year and until further notice":

- termination of assistance to Russia under the Foreign Assistance Act of 1961, except

for urgent humanitarian assistance and food or other agricultural commodities or products

- termination of (a) sales to Russia of any defense articles, services, or design and construction services; and (b) licenses for the export or reexport to Russia of any item on the USML, except for licenses in support of space cooperation
- termination of all foreign military financing for Russia under the Arms Export Control Act
- denial to Russia of any credit, credit guarantees or other financial assistance by any department, agency or instrumentality of the U.S. government, including the Export-Import Bank of the United States
- prohibitions, subject to a number of waivers, on the export to Russia of certain goods and technology subject to the EAR that are controlled for national security-related reasons.

More information

- [State Department press release](#)
 - [Federal Register notice](#)
-

OFAC Issues Ukraine-/Russia-related General License

On July 31, 2018, OFAC issued General License (GL) 13C to replace and supersede former GL 13B. GL 13C extended the time period during which certain transactions necessary to divest or transfer debt, equity or other holdings in EN+ Group PLC, GAZ Group, and United Company RUSAL PLC are authorized. The close of the winddown period is now October 23, 2018. These updates follow OFAC's April 6, 2018, designation of the aforementioned entities, among others, as Specially Designated Nationals pursuant to Ukraine-/Russia-related sanctions authorities.

More information

- [OFAC press release \(July 31, 2018\)](#)
 - [GL 13C](#)
 - [Updated OFAC FAQs](#)
 - [OFAC press release \(April 6, 2018\)](#)
-

BIS Adds 44 Chinese Companies and Institutions to Entity List

On August 1, 2018, BIS named 44 Chinese entities to the Entity List, designating the firms as "reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States." Such actions included illicit procurement of commodities and technologies for unauthorized military end use in China. BIS's action imposes strict requirements and limitations on U.S. exports, reexports and transfers by U.S. businesses and individuals to the designated entities. The designations include eight companies and their subsidiaries with key roles in China's defense, aerospace, communications and semiconductor sectors.

As a result of the designations, U.S. businesses will need to satisfy additional licensing requirements, and most license exceptions will not be available for export, reexport or transfer of dual-use goods to the designated entities. These licensing requirements apply to any transaction in which items subject to the EAR are to be exported, reexported or transferred (in-country) to any of the entities or in which such entities act as purchaser, intermediate consignee, ultimate consignee or end user. The license review policy will be a presumption of denial.

More information

- [Federal Register](#)

BIS Adds South Sudan to List of Embargoed Countries Under the EAR

On August 3, 2018, BIS amended the EAR to place the Republic of South Sudan on the list of U.S. Embargoed Countries (i.e., Country Group D:5 under Supplement No. 1 to Part 740 of the EAR). This action conforms the EAR with a related final rule published by the State Department (February 14, 2018) revising the ITAR § 126.1 to add South Sudan to the list of countries to which certain arms exports, imports and sales are prohibited. South Sudan's listing imposes additional restrictions on exports to that country, including on *de minimis* U.S. content, license exception availability and the licensing policy for certain items.

More information

- [Federal Register](#)
-

BIS Eases Licensing Requirements on Exports to and from India

On July 30, 2018, Secretary of Commerce Wilbur Ross announced that the Department of Commerce would formally recognize and implement India's membership in the Wassenaar Arrangement and ease certain license requirements on exports to or involving India and selected countries, including NATO countries and certain U.S. allies. On August 3, 2018, BIS implemented this announcement with the following key amendments to the EAR:

- removing India from the list of countries subject to license requirements for National Security Column 2 (NS2) reasons
- adding India to Country Group A:1 and A:5, authorizing the use of License Exceptions APP, APR, GOV and STA
- removing the requirement that exporters file EEI for exports to India of items controlled for Crime Control Columns 1 and 3 reasons, and Regional Stability Column 2 reasons.

In general, these changes expand the range of goods that U.S. companies can export, reexport or transfer to, from or within India and other similarly listed countries. According to Ross's statement, these changes will, among other things, make U.S. exports "more efficien[t]" to "Indian high technology and military customers." Based on the types of goods covered by the licenses described above, the policy changes will especially affect companies in the aerospace, life sciences, electronics and communications manufacturing, and defense-related industries.

More information

- [Federal Register](#)
 - [Commerce press release](#)
 - [15 C.F.R. Part 740 - License Exceptions](#)
-

Federal Judge Blocks Posting of 3D-Printed Gun Blueprints

On August 27, 2018, the U.S. District Court for the Western District of Washington granted a preliminary injunction barring the public posting on the Internet of blueprints and designs for 3D-printed firearms by Texas-based Defense Distributed. The State Department had previously reached a settlement agreement with Defense Distributed and its founder, Cody Wilson, to allow the postings despite the State Department's earlier claims that the postings amounted to an unlicensed export of ITAR-controlled technical data.

The successful injunction arises from a suit filed by several states alleging, among other things, that the State Department violated the Administrative Procedure Act by revising the USML, without required congressional notice, to allow for the posting of the blueprints and files. As a result of the injunction, Defense Distributed will continue to be barred from posting the designs publicly until the litigation is complete.

More information

- [Preliminary Injunction](#), State of Washington, et al. v. United States Department of State, No. 2:18-cv-01115-RSL (Aug. 27, 2018).

GLOBAL INVESTIGATIONS RESOURCES

- [With NAFTA Developments, New Milestone to Be Reached in TPA Timeline](#)
- [President Trump Issues New Iran Executive Order and Reimposes First Set of Sanctions Following JCPOA Withdrawal](#)
- [Six Recent Government Supply Chain Risk and Cybersecurity Initiatives](#)
- [The CFIUS Reform Legislation—FIRRMA—Will Become Law on August 13, 2018](#)

WRITING AND SPEAKING ENGAGEMENTS

On September 17, [Kevin Wolf](#) will present on the topic, “Recent Developments in Export Controls: University Focus,” at the Export Compliance Training Institute's 3rd Annual University Export Controls seminar in Columbus, OH.

On September 18, [Kevin Wolf](#) will be a panelist discussing “Focus on New Developments in US Export Controls and Foreign Trade Investment Rules” at KNect365's Global Trade Controls 2018 in London.

On September 26, [Hamish Lal](#) will be speaking at the 8th International Society of Construction Law Conference on “Penalty Clauses Around the World” in Chicago.

If you would like to invite Akin Gump lawyers to speak at your company or to your group about anticorruption law, compliance, cybersecurity, enforcement and policy or other international investigation and compliance topics, please contact Jaime Sheldon at +1 212.407.3026 or [email](#).

[More information](#) for lawyers in the global investigations and compliance practice.

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