

Red Notice

A monthly update on global investigations and prosecutions

Akin Gump
STRAUSS HAUER & FELD LLP

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IN THIS ISSUE

- [Anticorruption Developments](#)
- [Export Controls, Sanctions and Customs Enforcement](#)
- [Exports, Sanctions and Customs Developments](#)
- [Global Investigations Resources](#)
- [Writing and Speaking Engagements](#)

ANTICORRUPTION DEVELOPMENTS

New Jersey Businessman Pleads Guilty to Improper Payments to South Korean Naval Official

On December 17, 2020, Deck Won Kang, a resident of New Jersey, pleaded guilty in federal court in the District of New Jersey to one count of violating the anti-bribery provisions of the FCPA. Kang, who controlled two U.S.-based companies specializing in naval equipment and technology, was charged with promising and making improper payments to a high-ranking official in the South Korean Navy to obtain and retain business with the Korean Defense Acquisition Program Administration (DAPA). Kang admitted to receiving nonpublic information designed to assist in retaining DAPA contracts from an official involved in the procurement process in May 2010. In return, Kang admitted to promising to provide payments to the official once the official left public office. Additionally, Kang admitted to sending \$100,000 in payments to an Australian bank account between April 2012 and February 2013 to benefit the Korean Naval official once the official retired from DAPA. Kang is subject to a maximum potential penalty of five years in prison and a fine of the greater of \$250,000, twice the gross profits to Kang or twice the gross loss suffered by the victim.

More information

- [DOJ Press Release](#)

Former Venezuelan National Treasurer Charged in Billion-Dollar Currency Exchange and Money Laundering Scheme

On December 15, 2020, former Venezuelan National Treasurer Claudia Patricia Diaz Guillen (Diaz) and her spouse, Adrian Jose Velasquez Figueroa (Velasquez), were charged in a superseding indictment filed in the Southern District of Florida for their alleged participation in a billion-dollar currency exchange and money laundering scheme. Raul Gorrin Belisario (Gorrin), a Venezuelan billionaire and owner of the Globovision news

network, is charged as a co-conspirator for the same counts.

The superseding indictment alleges that Gorrin paid millions of dollars in improper payments to Diaz and to Velasquez, as well as to another former Venezuelan National Treasurer, to corruptly secure the rights to conduct foreign currency exchange transactions for the Venezuelan government at favorable rates. The superseding indictment also alleges that Gorrin wired money to and for the benefit of Diaz and Velasquez, including money for homes, champion horses, private jets, yachts, high-end watches and a fashion line.

More information

- [Red Notice, November 2018](#)
 - [DOJ Press Release](#)
 - [Superseding Indictment](#)
-

Singapore-Based Marine Equipment Supplier Debarred by World Bank for 6 Months

On December 9, 2020, the World Bank announced the six-month debarment of the Singapore-based Jason Electronics (Pte) Ltd., a marine equipment supplier, in connection with a “fraudulent practice” in connection with its bid for work on the Urban Resilience Project in Bangladesh. According to the World Bank, Jason Electronics failed to disclose an agreement to pay a commission and fee to a local agent in bidding for a contract under the project. This misrepresentation was in violation of the World Bank Group Procurement Guidelines. Jason Electronics has cooperated and undertaken voluntary remedial actions, reducing its period of debarment. Jason Electronics has agreed to meet specified corporate compliance conditions to be released from debarment.

More information

- [World Bank Press Release](#)
-

Hacker Responsible for 2015 Breach of JPMorgan Chase & Co Faces 15 to 19 Years in Prison

On December 1, 2020, the U.S. Attorney’s Office for the Southern District of New York argued in a sentencing memorandum that Russian hacker Andrei Tyurin should be sentenced to 15 to 19 years in prison for his role in the 2015 breach of JPMorgan Chase & Co. The data breach compromised the data of 83 million customers. As part of his guilty plea, entered in September 2019, Tyurin agreed to forfeit \$19.2 million. Tyurin will be sentenced in February 2021.

More information

- [Sentencing Memorandum](#)
 - [Business Insider](#)
 - [DOJ Press Release](#)
-

German-Based Water Maintenance Equipment Manufacturer Debarred by World Bank for 30 Months

On November 4, 2020, the World Bank announced the 30 months debarment of Berky GmbH, the German-based water maintenance equipment manufacturer, in connection with collusive, fraudulent and corrupt practices in connection with its bid for work on the Ayeyarwady Integrated River Basin Management Project in Myanmar. According to the World Bank, Berky GmbH submitted a second bid for the Project under the name of a subsidiary, failed to disclose a commission paid to a local Myanmar agent in its initial bid and in a later amendment to the contract, and provided a trip to Europe for three officials

on the project management team to influence those officials. Berky GmbH is required to strengthen its compliance program as a condition of its release from debarment.

More information

- [World Bank Press Release](#)

EXPORT CONTROLS, SANCTIONS AND CUSTOMS ENFORCEMENTS

Saudi Bank Settles Apparent Violations of U.S. Sanctions Programs Targeting Sudan and Syria for \$653,347

On December 28, 2020, the Department of the Treasury's Office of Foreign Assets Control (OFAC) announced a \$653,347 settlement with National Commercial Bank (NCB) for apparent violations of the Sudanese Sanctions Regulations and the Syrian Sanctions Regulations. NCB is a bank headquartered in Jeddah, Saudi Arabia.

According to OFAC's enforcement release, between November 7, 2011 and August 28, 2014, NCB processed 13 U.S. dollar transactions totaling \$5,918,560 to or through the United States either on behalf of Sudanese or Syrian counterparties, or to facilitate payments for goods originating in or transiting through Sudan or Syria.

The applicable statutory maximum penalty in this matter was \$12,111,632, but, because NCB voluntarily disclosed violations and OFAC found the apparent violations to be non-egregious, OFAC determined that the base civil monetary penalty amount applicable in this matter was \$1,814,854.

In arriving at the settlement amount of \$653,347, OFAC considered certain aggravating and mitigating factors. OFAC considered aggravating factors to include that: (i) NCB conferred substantial economic benefit to U.S.-sanctioned parties and caused significant harm to the integrity of U.S. sanctions programs; and (ii) NCB is a large and commercially sophisticated financial institution. OFAC considered mitigating factors to include that: (i) NCB did not act with willful intent to violate U.S. sanctions law or with a reckless disregard for its U.S. sanctions obligations; (ii) NCB had no prior sanctions history; (iii) NCB cooperated with OFAC's investigation and entered into a tolling agreement; (iv) most of NCB's Syria-related apparent violations occurred shortly after the relevant prohibitions were imposed; and (v) NCB enhanced its compliance controls in response to past weaknesses and the subsequent apparent violations.

In its enforcement release, OFAC emphasized the importance of taking steps to ensure that compliance policies and procedures are able to address both direct and indirect sanctions risks.

More information

- [OFAC Enforcement Release](#)

Apparel CEO Sentenced to Six Months in Prison for Fraudulent Invoicing Schemes

On December 22, 2020, Joseph Bailey, the CEO of a New York-based apparel company, was sentenced to six months in prison after pleading guilty in January 2020 to wire fraud and entry of falsely undervalued goods.

According to the press release and indictment, Bailey directed two undervaluation schemes that relied on false invoices. The first was a double invoicing scheme, in which Bailey directed his company's suppliers to provide one invoice with the full cost of the imported apparel, and a second invoice for submission to U.S. Customs and Border Protection (CBP) that understated the cost of the imported apparel. The second scheme involved fake invoices for "sample" goods. In that scheme, the exporter would divide the cost of apparel shipments into two invoices: a "commercial" invoice that understated the actual price and a "sample" invoice that made up for the undervaluation in the commercial invoice by listing each item at a much higher price. Not only were the "samples" valued at a

price many times higher than the “commercial” items, their composition was unusual for samples and reflected “quantities as large as 24 or 48 pieces of a single color in a single style.” Because samples are often not subject to customs duties, Bailey’s employees would submit only the commercial invoice to CBP. According to the indictment, the two schemes resulted in the loss of over \$1 million in duty revenue by the U.S. government.

Separately, Bailey and his two businesses, Stargate Apparel and Rivstar Apparel, are the subject of a whistleblower lawsuit under the False Claims Act, which is stayed pending resolution of the criminal case. According to the complaint, Stargate Apparel participated in both of the aforementioned schemes by obtaining false invoices from its suppliers. Rivstar Apparel engaged in a similar scheme, in which the company fraudulently separated a portion of the shipment cost into a separate invoice for “testing costs,” which were not declared to CBP.

In addition to his six-month prison sentences, Bailey was sentenced to three years of supervised release and ordered to pay a forfeiture of \$1,661,617.

More information

- [DOJ Press Release](#)
 - [U.S. v. Bailey Indictment](#)
 - [U.S. v. Stargate, Rivstar and Bailey Complaint](#)
-

DOJ Names 15 Individuals in \$26 Million International Trade Fraud Scheme; Eight Individuals Face Criminal Charges

On December 11, 2020, the Department of Justice (DOJ) filed a civil complaint in the U.S. Court of International Trade against 14 individuals and one company alleging international trade fraud violations in a decade-long scheme involving tires from China. In a related case, on December 15, a federal grand jury in Houston, Texas, returned a criminal indictment against eight of those individuals. The civil complaint and criminal indictment allege that the defendants conspired to avoid antidumping duties associated with off-the-road (OTR) and light vehicle and truck (LVT) tires from China.

According to the indictment and the civil complaint, the defendants allegedly worked through and with the defendant company Winland to import OTR and LVT tires from companies that were subject to antidumping duties associated with Chinese tire manufacturers who had engaged in unfair trade practices in the United States. Additionally, the complaint alleges that defendants also submitted falsified records to U.S. customs officials when importing tires into the United States so that Winland could avoid paying higher duty rates. The value of these tires allegedly exceeded \$20.9 million, and the scheme deprived the United States of over \$6.5 million in import duties.

The United States plans to seek forfeiture of all property derived from proceeds traceable to the violations under the criminal indictment, and will also seek monetary judgements against each defendant. Under the civil complaint, the United States seeks up to \$5.6 million in duties owed, and approximately \$20.1 million in civil penalties from the defendants, in total.

More information

- [ICE Press Release](#)
 - [DOJ Press Release](#)
 - [Criminal Indictment](#)
 - [Civil Complaint](#)
-

Jewelry Importer Settles Unpaid Customs Duties Allegations for \$400,000

On December 8, 2020, the U.S. Attorney for the District of Massachusetts announced that TSI Accessories Group (“TSI”) settled allegations of violations of the False Claims Act related to unpaid duties on imported earrings for \$402,637.

According to the press release, TSI misrepresented the quantity and value of earrings it imported to the United States from China between 2012 and 2015 by reporting the number of display cards, which often had multiple pairs of earrings, to U.S. Customs and Border Protection (CBP) rather than the quantity of individual earrings. Duties on earrings are assessed on the value per individual earring—not on the value of sets or pairs—so TSI's misrepresentation allowed it to underpay customs duties for years. The matter initially arose from a qui tam action brought by a whistleblower under the False Claims Act, who will receive approximately \$70,000 of the recovery under the settlement.

More information

- [Amended Complaint](#)
 - [DOJ Press Release](#)
-

CBP to Detain All XPCC Cotton Products Made Using Forced Labor

On December 2, 2020, the U.S. Department of Homeland Security (DHS) announced that CBP issued a Withhold Release Order (WRO) against cotton and cotton products produced by the Xinjiang Production and Construction Corps (XPCC) and its affiliates in response to XPCC's use of forced labor. The WRO, which was effective as of November 30, 2020, also applies to goods made from XPCC cotton or cotton products. Under the WRO, CBP will detain these products at all ports of entry. Importers of detained shipments will have an opportunity to export their shipments or show that the merchandise was not produced with forced labor.

The importation of goods produced by forced labor, including convict labor, is prohibited under 19 U.S.C. § 1307. In July 2020, the U.S. State Department warned of forced labor being used in the Xinjiang Uyghur Autonomous Region as part of the Chinese government's repression of Uyghurs and other Muslim minority groups. This is the sixth such enforcement action CBP has issued against products made in Xinjiang in the last four months.

More information

- [CBP Press Release](#)
 - [State Dept. Xinjiang Supply Chain Business Advisory](#)
-

Taiwanese Individual and Businesses Charged with Conspiracy to Violate Iran Sanctions

On November 10, 2020, Chin Hua Huang (Huang), Taiwan-based DES International Co., Ltd. (DES Int'l) and Brunei-based Soltech Industry Co., Ltd. (Soltech) were charged in a criminal complaint with conspiring to defraud the United States and to violate the International Emergency Economic Powers Act (IEEPA) and the Iranian Transactions and Sanctions Regulations (ITSR).

According to the DOJ, the defendants conspired to violate the IEEPA and ITSR by buying goods from the United States, concealing the origin of those goods and sending them to Iran for use by the Iranian government and businesses. The affidavit in support of the criminal complaint alleges that Huang was a sales agent for DES Int'l and its subsidiary, Soltech. Huang allegedly used her position as a sales agent to help an Iranian research center obtain certain U.S. goods without a license, including cybersecurity software and a power amplifier designed for use in electromechanical devices. Huang allegedly purchased the goods from U.S. companies and concealed from those companies that the ultimate destination of the goods was Iran. She further informed her Iranian customer that she would conceal the U.S. origin of the power amplifier to make the item more difficult to track by removing the serial number sticker that included the phrase "Made in USA." Huang also downloaded the cybersecurity software using her own information onto a computer outside of Iran.

Concurrent to the criminal charges filed by the DOJ, the Department of the Treasury

(DOT) issued sanctions against Huang, DES Int'l, Soltech and seven related individuals and entities. All property and interests in property of these businesses and individuals that are in the United States or in the possession or control of U.S. persons must be frozen and reported to OFAC. Persons who engage in certain transactions with the individuals and entities designated may be exposed to sanctions or subject to an enforcement action by OFAC.

More information

- [Affidavit](#)
- [DOJ Press Release](#)

Chinese National Pleads Guilty to Attempting to Fraudulently Export Military-Related Maritime Equipment to China

On November 2, 2020, Ge Songtao (Ge), a Chinese national and former chairman of Shanghai Breeze Technology Co. Ltd. (Shanghai Breeze), pleaded guilty to conspiring to submit false export information through the Department of Commerce's Automated Export System (AES) in connection with an attempt to fraudulently export to China maritime raiding craft and engines used by the U.S. military.

According to the plea agreement and press release, one of Ge's U.S.-based employees, Yang Yang (Yang), attempted to order from a U.S. manufacturer seven combat rubber raiding craft equipped with multi-fuel engines used by the U.S. military. Yang falsely represented to the U.S. manufacturer that her customer was a Hong Kong-based company called United Vision Limited because she allegedly knew the manufacturer would be more likely to sell the products to an entity in Hong Kong rather than Shanghai Breeze, located in Shanghai, China. By intentionally misrepresenting this information, Yang caused the entry of false information into AES in violation of federal law.

Ge facilitated the transaction by arranging a wire transfer payment of \$110,000 from Hong Kong to the U.S. manufacturer, and then directed one of his employees to transship the craft and engines from Hong Kong to mainland China.

Yang previously pleaded guilty in September 2020. Ge faces a maximum penalty of 15 years in federal prison, a \$500,000 fine, or both. His sentencing date has not yet been set.

More information

- [Plea Agreement and Factual Basis](#)
- [DOJ Press Release](#)

EXPORTS, SANCTIONS AND CUSTOMS DEVELOPMENTS

New Executive Order Restricts U.S. Persons from Trading in Publicly Traded Securities and Derivatives of Certain "Communist Chinese Military Companies" Effective January 11, 2021

On November 12, 2020, President Trump issued a new Executive Order (EO 13959 or the EO), titled "Addressing the Threat from Securities Investments that Finance Communist Chinese Military Companies" (CCMCs). The EO prohibits U.S. persons from engaging in transactions in publicly traded securities of CCMCs named in the EO, or any securities that are derivative of, or are designed to provide investment exposure to, such securities, effective January 11, 2021, at 9:30 a.m. EST. For companies designated as CCMCs after November 12, 2020, restrictions imposed by the EO will go into effect 60 days after the designation. In a press statement on December 28, 2020, Secretary of State Mike Pompeo stated that these actions "[ensure] U.S. capital does not contribute to the development and modernization of the People's Republic of China's (PRC) military, intelligence, and security services."

Pursuant to Section 1237 of the National Defense Authorization Act (NDAA) of FY1999, as amended, the DOD is responsible for designating a list of persons ("§ 1237 List")

“operating directly or indirectly in the United States or any of its territories and possessions that are [CCMCs].” The DOD released an initial tranche of CMCCs to Congress in June 2020, and published tranches two and three in August 2020. On December 3, 2020, the DOD added several Chinese companies in a fourth tranche, bringing the total number of companies on the § 1237 list to 35. The DOD maintains the authority to add entities to the § 1237 List or remove them. Thus, the CCMCs that are subject to these restrictions currently include the 31 companies listed in the Annex to EO 13959 (“Annex”) and the § 1237 list as well as the four additional companies DOD added to the § 1237 list on December 3.

On December 28, 2020, OFAC published guidance clarifying the breadth of EO 13959, including (i) a broad interpretation of the covered financial instruments to include, for instance, derivatives (futures, options, swaps), warrants, American depositary receipts (ADRs), global depositary receipts (GDRs), exchange-traded funds (ETFs), index funds and mutual funds, to the extent such instruments fall within the definition of “security” under the EO; (ii) confirmation that the prohibition applies to investments in both U.S. and foreign funds that hold publicly traded securities of CCMCs, regardless of the level of such securities’ share of the underlying fund, ETF or derivative, and regardless of where the securities are traded or in which currency the securities are denominated; and (iii) a statement that the Treasury Department intends to list additional entities that are majority-owned or controlled by listed CCMCs.

The EO provides a limited exemption allowing U.S. persons to divest their holdings in listed CCMCs within one year from the CCMC’s designation. In guidance published January 4, 2021, OFAC affirmed that the EO does not require U.S. persons, including U.S. funds and related market intermediaries and participants, to divest their holdings by January 11, 2021 in publicly traded securities (and securities that are derivative of, or are designed to provide investment exposure to, such securities) of the CCMCs identified in EO 13959.

Significantly, the sanctions imposed by this EO do not impose broad general sanctions on the CCMCs identified by the U.S. government, but rather only limited restrictions. OFAC has not designated these CCMCs on the Specially Designated Nationals and Blocked Persons List (SDN List) subject to comprehensive sanctions, which would broadly prohibit U.S. persons from generally dealing with the SDN, absent OFAC authorization. Rather, the sanctions imposed on these entities target publicly traded securities of the listed CCMCs.

The prohibitions with respect to the CCMCs identified in the Annex are effective January 11, 2021 at 9:30 a.m. EST. The prohibitions with respect to the four additional companies added to the § 1237 list will take effect on February 1, 2021 at 9:30 a.m. EST. For CCMCs that may be added to the § 1237 list, or identified by the Treasury Department, in the future (including new listings of CCMC subsidiaries), the prohibitions will take effect 60 days after the listing or identification.

More information

- [Akin Gump Client Alert](#)
- [Executive Order 13959 and Annex](#)
- [FY1999 NDAA](#)
- [DOD Press Release](#)
- [DOD Tranche 1, Tranches 2 & 3, Tranche 4](#)
- [OFAC FAQs](#)
- [OFAC Consolidated List](#)
- [Secretary Pompeo Press Statement](#)

Department of Commerce Revokes Preferential Treatment for Exports to Hong Kong

On December 23, 2020, the U.S. Department of Commerce, Bureau of Industry and Security (BIS) revoked the differential and preferential treatment for exports, reexports, and transfers to and within Hong Kong under the Export Administration Regulations (EAR). Previously, the EAR designated Hong Kong as a separate destination from mainland

China, which allowed it to receive differential and preferential treatment. With this new rule, practically all exports, reexports, and transfers (in-country) of EAR-controlled items to and within Hong Kong will be treated the same as they would be for mainland China.

This new rule implements Executive Order 13936, which was issued in July 2020. The EO announced the Trump administration's determination that Hong Kong was no longer sufficiently autonomous to justify different treatment from mainland China. The Trump administration announced this change in response to China's adoption of a national security law that, according to U.S. government, reduces Hong Kong's autonomy and thereby increases the risk that sensitive U.S. technology will be diverted to unauthorized end uses and end users in mainland China.

More information

- [BIS Final Rule](#)
 - [Executive Order 13936](#)
-

Commerce Publishes Military End User List Restricting Exports to More Than 100 Chinese and Russian Companies

On December 23, 2020, BIS amended the EAR by issuing a new list of designated military end users (MEU List) under Section §744.21, which imposes restrictions on certain exports for military end uses or to military end users in the People's Republic of China, Russia, or Venezuela ("MEU Rule"). A license is required prior to the export, reexport or in-country transfer of items subject to the EAR and identified under Supplement 2 to Part 744 of the EAR, when the item is directed to a military end user as defined under the MEU Rule. Under BIS's current license review policy, there is a presumption of denial for such license applications.

This MEU List provides a "first tranche" of 103 designated military end users from China and Russia. The MEU List is not an exhaustive list of all entities subject to the MEU Rule. Consequently, the MEU Rule still requires comprehensive due diligence to determine whether a business from China, Russia or Venezuela is a military end user prior to the export, reexport or transfer (in-country) of any item subject to the EAR.

In a press release, Commerce Secretary Wilbur Ross stated, "this action establishes a new process to designate military end users on the MEU List to assist exporters in screening their customers for military end users" and "combat[s] efforts by China and Russia to divert U.S. technology for their destabilizing military programs." The majority of Chinese entities on the MEU list are in the aerospace industry, including seven subsidiaries of the Aviation Industry Corporation of China (AVIC) and eight subsidiaries of Aero-Engine Company of China. Entities listed on the MEU List can submit a petition to the End-User Review Committee requesting removal or modification from the MEU List by addressing why the designated entity should not be considered a "military end user" or involved in "military end uses."

More information

- [Commerce Dept. Press Release](#)
 - [BIS Final Rule](#)
-

United States Rescinds Designation of Sudan as State Sponsor of Terrorism

On December 14, 2020, the U.S. Department of State officially rescinded Sudan's designation as a State Sponsor of Terrorism (SST). Sudan was first designated as an SST in 1993. Subsequently, the U.S. government implemented a comprehensive economic sanctions program on Sudan pursuant to Executive Order 13067 (November 3, 1997) and Executive Order 13412 (October 13, 2006). This designation and these executive orders, among other things, generally prohibited U.S. persons from engaging in Sudan-related transactions, blocked the property of the government of Sudan and imposed a licensing requirement for most exports of items controlled under the Commerce Control List (CCL), maintained by the Department of Commerce.

Two key actions paved the path to Sudan's removal from the SST list. First, Sudan's agreement to pay \$335 million to the victims of the bombing in 1998 of U.S. embassies in Kenya and Tanzania and the bombing in 2000 of the U.S.S. Cole. On October 19, 2020, President Trump announced that Sudan had agreed to pay this sum. Second, on October 23, 2020, Sudan announced that it would enter an agreement to normalize its relations with Israel.

The State Department's action, by itself, does not automatically lift U.S. trade restrictions on Sudan mandated by the SST designation. These trade restrictions include substantial U.S. export control restrictions as well as access to International Monetary Fund (IMF) support. Further regulatory action must be taken to implement removal of those restrictions. However, this action paves the way for the lifting of mandatory U.S. trade restrictions on business involving Sudan, the government of Sudan and Sudanese nationals that was based on Sudan's previous SST listing.

With Sudan's removal, the countries remaining on the SST list are North Korea, Iran and Syria.

More information

- [Akin Gump Client Alert](#)
 - [State Dept. Press Statement](#)
-

State Department Extends Temporary Remote Work Provisions and Announces Upcoming Notice and Solicitation of Comments for Permanent ITAR Revisions Relating to Remote Work

On December 11, 2020, the State Department's Directorate of Defense Trade Controls (DDTC) extended until June 30, 2021 the temporary remote work-related changes to the ITAR it originally issued in May 2020. DDTC also stated that it would soon solicit comments for a permanent revision to the ITAR relating to remote work.

DDTC issued the temporary remote work-related revisions to the ITAR in May 2020 in response to the ongoing COVID-19 pandemic. Most notably, the changes allow an employee of a licensed entity to work remotely in a country not previously authorized without jeopardizing their status as "regular employees," and the changes authorize the employee to send, receive, or access any technical data that DDTC has authorized to their employer. This temporary authorization does not apply if the regular employee is in Russia, China or another country listed in ITAR § 126.1.

The proposed revisions could be an opportunity for exporters to update and implement practical telework and remote work policies for employees who require regular access to ITAR-controlled technical data. Exporters and other parties affected by ITAR compliance (e.g., non-U.S. companies that are licensees on ITAR authorizations) interested in providing comments on the proposed revisions when released should begin preparing submissions to DDTC to provide input on this rule.

More information

- [Akin Gump Client Alert](#)
 - [DDTC Federal Register Notice](#)
-

OFAC Issues New and Updated FAQs Regarding Sanctions on the Iranian Financial Sector

On December 7, 2020, OFAC published two new FAQs (FAQ 855 and 856), and published updates to four previous FAQs (FAQ 830, 831, 832, and 847), relating to Executive Order 13902 (EO 13902). EO 13902 imposes sanctions with respect to any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be involved in the construction, mining, manufacturing or textiles sectors of the Iranian economy, or any other sector identified by the Secretary of Treasury, in consultation with the Secretary

of State. On October 8, 2020 Treasury Secretary Steven Mnuchin identified the financial sector for additional sanctions under EO 13902.

FAQ 855 clarifies the scope of prohibitions under EO 13902 as they relate to conduct of official business by international organizations. Specifically, it clarifies that the prohibitions do not apply to transactions for the conduct of official business of the United Nations, and that transactions with Iranian financial institutions blocked under EO 13902 are authorized under General License (GL) L to the extent authorized under the ITSR. In turn, the ITSR authorizes transactions for the official business of certain international organizations, including the United Nations and its Specialized Agencies, Programmes, Funds, and Related Organizations. The FAQ also clarifies that, for purposes of secondary sanctions as described in FAQ 844, non-U.S. persons are not exposed to sanctions for engaging in transactions and activities involving the Iranian financial sector that would be authorized for U.S. persons under GL L. It also clarifies that OFAC does not view the following transactions with Iranian financial institutions blocked under EO 13902, or under EO 13599, as sanctionable: i) the operating expenses for the missions in Iran of international organizations of which Iran is a member, or ii) the operating expenses of the Government of Iran's missions in international organizations in which Iran is a member.

FAQ 856 clarifies how transactions related to Iran's participation in legal proceedings before international courts and tribunals are treated for purposes of secondary sanctions where an Iranian financial institution blocked under EO 13902 is involved. This FAQ similarly clarifies that certain transactions with institutions blocked under EO 13902 are authorized under GL L, such as the payment of legal and judicial costs. It also reiterates the clarification under FAQ 855 that, for purposes of secondary sanctions as described in FAQ 844, non-U.S. persons are not exposed to sanctions for engaging in transactions and activities involving the Iranian financial sector that would be authorized for U.S. persons under GL L.

FAQ 830, 831, 832, and 847 have all been updated to reflect the addition of the Iranian financial sector to the scope of the sectors of the Iranian economy sanctioned under EO 13902.

More information

- [OFAC Notice](#)

OFAC Adds Chinese Tech Company to SDN List in Connection With Venezuelan Activity and issues General License 38 Authorizing Wind-Down Activities

On November 30, 2020, OFAC announced the addition of Chinese company CEIEC (a.k.a., China National Electronic Import-Export Company) to its list of Specially Designated Nationals and Blocked Persons (SDN List), pursuant to Executive Order 13692, for "its role in undermining democracy in Venezuela." OFAC also issued General License 38 authorizing U.S. persons to conduct certain wind-down activities with CEIEC in order to comply with designation.

With respect to the designation of CEIEC, OFAC explained that CEIEC provided "software, training, and technical expertise to Venezuela[n] government entities, which was then used against the people of Venezuela." Specifically, in announcing the designation, OFAC stated that CEIEC had supported Venezuelan government efforts to restrict internet service and conduct digital surveillance and cyber operations against political opponents. As a result of CEIEC's SDN List designation, all property and interests in property of CEIEC, or any entity in which it owns, directly or indirectly, a 50 percent or greater interest, that are in the United States or in the possession or control of U.S. persons must be blocked and reported to OFAC. OFAC's regulations also generally prohibit all dealings by U.S. persons or persons within the United States (including transactions transiting the United States) that involve any property or interests in property of blocked or designated persons such as CEIEC.

Concurrent with the CEIEC's SDN List designation, OFAC issued General License 38, which authorizes certain transactions and activities by U.S. persons that are necessary to wind down transactions and activities involving CEIEC or its subsidiaries. The General License is effective until 12:01 a.m. eastern standard time on January 14, 2021. With

respect to non-US persons, OFAC issued an FAQ that notes non-US persons should be mindful of the wind-down period set forth in the General License from a “secondary sanctions” perspective. Non-U.S. persons unable to wind down activities with the Blocked CEIEC Entities before 12:01 a.m. eastern standard time, January 14, 2021, are encouraged to seek guidance from OFAC.

More information

- [General License 38](#)
 - [Treasury Press Release](#)
-

Commerce Issues Revisions to EAR Enforcement Provisions

On November 18, 2020, BIS issued a final rule (the Rule) amending and clarifying the enforcement provisions of the Export Administration Regulations (EAR) to, among other things, implement provisions of the Export Control Reform Act of 2018 (ECRA). ECRA—which was included in the John S. McCain National Defense Authorization Act for Fiscal Year 2018—repealed most of the lapsed provisions of the Export Administration Act of 1979 (EAA) and continued existing authority for the EAR.

In addition to replacing references to the EAA with references to ECRA or other export laws and regulations as appropriate, the amendments to the EAR provided by the Rule include:

- **Revisions Related to ECRA Implementation**
 - **Overseas investigative authority.** The Rule adds section 734.11 to the EAR entitled “BIS Activities conducted outside of the United States” which authorizes BIS to undertake activities outside the United States, “including, but not limited to, conducting investigations; requiring and obtaining information from persons; and conducting pre-license checks and post-shipment verifications.”
 - **Pre-license checks and Post-Shipment Verifications.** The amendments also provide that, when available, the results of pre-license checks will be communicated to licensing officials and considered in determining the outcome of a license application.
 - **Inspection of Books, Records, and Other Information.** The amendments specify that persons located outside of the United States must produce to BIS upon request records kept pursuant to the EAR.
 - **Violations and Penalties under ECRA.** BIS made multiple amendments to align provisions of the EAR with ECRA. In addition, Supplement No. 1 to EAR Part 764, which provides the standard terms for orders denying export privileges, was amended to include a prohibition on in-country transfers to, or on behalf of, a denied person.
- **Revisions Unrelated to ECRA**
 - The Rule amends § 750.7(a) of the EAR to clarify that any license obtained based on a false or misleading misrepresentation or the falsification or concealment of a material fact is void as of the date of issuance.
 - The maximum time period for payment of civil penalties, as a condition of receiving certain privileges under the EAR, is extended from one year to two years.
 - The Rule amends the EAR to reflect more accurately when the Directorate of Defense Trade Controls, Department of State, may not issue licenses, or may deny licenses, involving certain parties indicted for, or convicted of, violations of certain statutes specified in the Arms Export Control Act.

More information

- [BIS Federal Register Notice](#)

BIS Issues Proposed Rule to Add Software Used to Operate Nucleic Acid Assemblers and Synthesizers to Commerce Control List

On November 6, 2020, BIS issued a proposed rule to amend the Commerce Control List (CCL) by adding a new Export Control Classification Number (ECCN), 2D352, to control “software” related to nucleic acid assemblers and synthesizers controlled under ECCN 2B352.j. Such software has been identified as an emerging technology pursuant to the Export Control Reform Act based on a finding that the software is capable of being used in the production of pathogens and toxins. The purpose of the rule is to prevent exploitation of this software to create biological weapons material.

BIS issued this proposed rule pursuant to its authority under Section 1758(a) of ECRA which authorizes BIS to set appropriate controls on the export, reexport, or transfer of emerging and foundational technologies. The process by which such technologies are identified takes into account the development of these technologies in foreign countries, the effect export controls would have on their development in the United States, and the effectiveness such controls would have on limiting their proliferation in foreign countries.

Technologies designated pursuant to Section 1758(a) of ECRA require a license to be exported to countries subject to a United States embargo. Thus, if the proposed rule is adopted, some software currently eligible for export, reexport, and transfer without a license, will require a license to be exported. The proposed rule would apply “to all persons engaged in the export, reexport, or transfer (in-country) of the ‘software’” and “related ‘technology’ subject to the EAR.”

BIS accepted comments on the proposed rule until December 21, 2020.

More information

- [BIS Federal Register Notice](#)

GLOBAL INVESTIGATIONS RESOURCES

- [New Executive Order Restricts U.S. Persons from Trading in Publicly Traded Securities and Derivatives of Certain “Communist Chinese Military Companies” Effective January 11, 2021](#)
- [Turkey: U.S. and EU Sanctions Developments](#)
- [State Department Extends Temporary Remote Work Provisions and Announces Upcoming Notice and Solicitation of Comments for Permanent ITAR Revisions Relating to Remote Work](#)
- [United States Rescinds Designation of Sudan as State Sponsor of Terrorism](#)
- [Protecting the Crown Jewels: U.K. Introduces Expansive National Security & Investment Bill](#)

FCPA RESOURCES

For a complete record of all FCPA-related enforcement actions, please visit the following websites maintained by U.S. Regulators:

- [DOJ Enforcement Actions \(2020\)](#)
- [DOJ Declinations](#)
- [SEC Enforcement Actions](#)

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