

# Red Notice

A monthly update on global investigations and prosecutions

**Akin Gump**  
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## ANTICORRUPTION DEVELOPMENTS

### DOJ Releases Revised Guidance for Prosecutors Evaluating Corporate Compliance Programs

On Tuesday April 30, 2019, Assistant Attorney General Brian Benczkowski announced revised guidelines for the Criminal Division's Evaluation of Corporate Compliance Programs. The revised guidance constitutes a significant reorganization that emphasizes three fundamental inquiries: (1) is a company's compliance program well designed? (2) is a company's compliance program being implemented effectively? And (3) does a company's compliance program work in practice? Under each inquiry, the revised guidelines provide specific topics and considerations of importance to the evaluation of a company's compliance protocol and related policies. The policy revision represents, in Benczkowski's own words, an effort to "harmonize" DOJ's existing guidance on the importance, and DOJ consideration, of compliance protocols and related policies.

#### More information

- [DOJ Guidance Document](#)

### Additional Guilty Pleas in College Admissions Scandal

On April 23, 2019, the former assistant women's soccer coach at the University of Southern California (USC), Laura Janke, agreed to plead guilty to one count of conspiracy to commit racketeering. Janke's is the latest guilty plea in a widespread Department of Justice (DOJ) investigation of a college admissions scandal [previously covered by Red Notice](#), in which at least 50 people—five of whom are former USC employees—have been charged with participation in a scheme to secure spots at elite schools.

The government charged Janke with accepting corrupt payments in exchange for helping students gain admission to USC. In her plea agreement, Janke agreed to forfeit the

\$134,213.90 in corrupt payments that she received. Janke also entered into a formal cooperation agreement with the government that mandates that she cooperate with the investigation, including by providing testimony in court, if requested. Janke's plea hearing is set for May 14, 2019, before the Honorable Indira Talwani of the U.S. District Court for the District of Massachusetts.

On the same day, another defendant in the same investigation, Toby MacFarlane, agreed to plead guilty to one count of conspiracy to commit mail fraud and honest services mail fraud. MacFarlane is alleged to have paid \$450,000 to secure admission to USC for his children as athletic recruits, which Janke is alleged to have facilitated.

#### **More information**

- [Janke Plea Agreement](#)
  - [MacFarlane Plea Agreement](#)
  - [DOJ Press Release](#)
  - [The Wall Street Journal](#)
  - [Bloomberg](#)
- 

### **Seven Found Guilty in \$40 Million Hospital Kickback Scheme**

On April 9, 2019, a federal jury in Texas convicted seven individuals for their roles in an improper payments scheme related to a medical center located in Dallas, Texas. The government alleged that numerous professionals connected to the medical center accepted improper payments in return for making patient surgery referrals. The payments for surgeries helped the hospital earn money and some of the payments were cast as "marketing agreements" to give them the appearance of legitimacy. While 21 individuals were indicted in 2016, 10 pleaded guilty and only nine defendants were tried by the Texas jury. Four doctors, two additional hospital staff members including a former administrator, and another individual were found guilty of conspiracy to pay and receive health care bribes and kickbacks, among other charges. After multiple days of deliberation following seven weeks of trial, the jury deadlocked on one defendant's charges and found another not guilty.

#### **More information**

- [DOJ Press Release](#)
  - [Law360](#)
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### **Florida Nursing Home Owner Convicted in Largest Ever Medicare Fraud Case by DOJ**

On April 5, 2019, a jury in the U.S. District Court for the Southern District of Florida convicted Philip Esformes, a 50-year-old Miami businessman, on 20 counts, including charges of conspiracy to defraud the United States, paying and receiving kickbacks, money laundering and conspiracy to commit bribery. Esformes orchestrated an 18-year, \$1.3 billion Medicare and Medicaid fraud—the largest health care scheme ever charged by the DOJ. Esformes, who ran nursing and assisted-living facilities in south Florida, made corrupt payments to health regulators and doctors in order to persuade them to admit patients to his facilities and to receive advance notice of inspections. Esformes then submitted inflated invoices for performing medically unnecessary services on patients. Prosecutors argued that Esformes profited more than \$37 million through the scheme and, then, used the illicit proceeds to purchase luxury items and to make a corrupt payment to the University of Pennsylvania's basketball coach in order to secure his son a spot on the team and to secure admission to the Wharton School of Business.

Two of Esformes' co-conspirators, physician's assistant Arnaldo Carmouze and hospital director Odette Barcha, previously pleaded guilty for their roles in the scheme. Barcha was sentenced to 15 months in prison and ordered to pay \$704,516 in restitution.

## More information

- [DOJ Press Release](#)
  - [Law360](#)
  - [Bloomberg](#)
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### Micronesian Government Official Pleads Guilty to Money Laundering

On April 3, 2019, Master Halbert, a former Micronesian government official, pleaded guilty to conspiracy to commit money laundering in the U.S. District Court for the District of Hawaii. As previously covered by [Red Notice](#), the plea stems from Halbert's role in a decade-long scheme to make corrupt payments to secure engineering and project management contracts worth \$8 million from the government of the Federated States of Micronesia (FSM). Halbert, the former Assistant Secretary of Civil Aviation in the FSM Department of Transportation, Communications and Infrastructure, admitted that the scheme took place between 2006 and 2016, and that he accepted corrupt payments in violation of the Foreign Corrupt Practice Act (FCPA). Halbert is scheduled to be sentenced on July 29, 2019.

## More information

- [DOJ Press Release](#)
  - [The Wall Street Journal](#)
- 

### Eighteen-Month Sentence in Texas Charity Fraud Case

On April 2, 2019, former congressional staffer Jason Posey was sentenced to 18 months in prison for his role in a scheme that purportedly raised money for charitable projects but diverted the funds in order to pay campaign expenses and personal debts for former Texas congressman Steve Stockman, for whom Posey served as director of special projects. Posey, who testified against Stockman, pleaded guilty to one count of mail fraud, one count of wire fraud and one count of money laundering after raising more than \$800,500 in proceeds for fake nonprofit entities. In addition to his prison sentence, Posey was ordered to pay \$564,718.65 in restitution and \$156,855.29 in forfeiture.

Stockman is currently serving a 10-year sentence related to the same conduct. A third member of the scheme, fundraising specialist Thomas Dodd, was sentenced to 18 months imprisonment in December 2018.

## More information

- [DOJ Press Release](#)
  - [Law360](#)
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### Mozambique Government Officials Indicted for Fraudulently Diverting Loan Funds

On March 7, 2019, the DOJ unsealed an indictment in the U.S. District Court for the Eastern District of New York detailing a complex scheme orchestrated by Mozambican government officials in coordination with business executives and investment bankers, to divert loan proceeds "meant to benefit the people of Mozambique." From 2013 to 2016, the indictment alleges that eight individuals conspired to divert more than \$200 million from three loans, which were used to pay kickbacks to Mozambican officials and the investment bankers. The co-conspirators also marketed the loans to U.S. investors, who were misled about the loans' details and use of the proceeds. The loans, valued at \$2 billion, were intended to fund maritime projects and were made to government-run companies in Mozambique.

Three Mozambican officials, Manuel Chang, a former finance minister; Antonio do Rosario, an official with the State Information and Security Service; and Teofilo Nhangumele, an

official working “on behalf of” the Office of the President, were all charged with conspiracy to commit wire fraud and conspiracy to commit money laundering. Chang and Rosario were also charged with conspiracy to commit securities fraud. Three U.K. residents were also charged in connection to the scheme. Andrew Pearse, Surjan Singh and Detelina Subeva—all Credit Suisse investment bankers—helped facilitate the improper payments to Mozambican government officials in order to divert loan proceeds. All three bankers were charged with conspiracy to commit wire fraud, to commit securities fraud, to commit money laundering and to violate the internal controls provisions of the FCPA. Lastly, two Lebanese citizens and executives of the shipping company “the Privinvest Group” were also charged for their role in the scheme. Jean Boustani and Najib Allam were charged with conspiracy to commit wire fraud, securities fraud and money laundering after allegedly coordinating \$200 million in improper payments relating to the loans that were later “marketed and sold to U.S. victim investors.”

Chang was arrested on December 29, 2018. Boustani was arrested on January 2, 2019. The investment bankers were arrested in early 2019 and the United States is seeking to extradite all three.

### More information

- [DOJ Press Release](#)
- [Law360](#)

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### Anticorruption Currents: World Bank Debars Vietnamese State-Owned Water and Environment Investment Corporation

On March 27, 2019, the World Bank announced the debarment of the Vietnamese state-owned Vietnam Water and Environment Investment Corporation (VIWASEEN) for one year. VIWASEEN was debarred for submitting successful bids to win contracts from the Mekong Delta Water Resources Management for Rural Development Project and Urban Water Supply and Wastewater Projects and then transferring the entirety of the work to be performed to its affiliates without obtaining the proper approvals from the respective procurement agencies. Additionally, the World Bank also found that VIWASEEN misrepresented its role as executor of both contracts as they were entirely executed by its affiliates.

VIWASEEN received a reduced period of sanction for its cooperation and acceptance of responsibility. Moreover, as VIWASEEN’s debarment is for less than one year, it is not eligible for cross-debarment by other 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](#)
- [FCPA Blog](#)

## ANTICORRUPTION RESOURCES

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

- [DOJ Enforcement Actions \(2019\)](#)
- [DOJ Declinations](#)
- [SEC Enforcement Actions](#)

## EXPORTS, SANCTIONS AND CUSTOMS ENFORCEMENTS

Standard Chartered Bank and OFAC Settle Apparent Violations of Several U.S.

## Sanctions Programs for more than \$650 Million

On April 9, 2019, the Office of Foreign Assets Control (OFAC) announced two settlements with Standard Chartered Bank (SCB), a U.K.-based financial institution, to settle apparent violations of various U.S. sanctions laws and regulations. SCB agreed to pay \$639,023,750 to settle apparent violations of sanctions against the following countries: Burma, Cuba, Iran, Sudan, and Syria (the “First Settlement”). SCB separately agreed to pay \$18,016,283 to settle apparent violations of sanctions against Zimbabwe (the “Second Settlement”). OFAC determined that SCB did not voluntarily self-disclose the apparent violations in the First Settlement but did in the Second Settlement.

With respect to the First Settlement, from June 2009 to June 2014, SCB’s Dubai, United Arab Emirates (UAE), branch allegedly processed 9,355 transactions totaling \$437,553,380 to or through SCB’s New York branch office that involved persons or countries subject to comprehensive sanctions programs. Most of the conduct involved Iran-related accounts maintained by SCB’s UAE branches. With respect to the Second Settlement, from May 2009 to July 2013, SCB’s New York branch office allegedly processed 1,795 transactions totaling \$76,795,414 for or on behalf of persons identified on the Specially Designated Nationals and Blocked Persons List (the “SDN List”) or that were majority owned, directly or indirectly, by persons on the SDN List. SCB’s affiliate in Zimbabwe (SCBZ) maintained the relevant account relationships.

In determining the settlement amounts, OFAC weighed various aggravating and mitigating factors. Aggravating factors included: (i) SCB’s reckless disregard and failure to exercise a minimal degree of caution; (ii) SBC’s actual knowledge regarding the conduct at issue and exposure to parties on the SDN List; (iii) significant harm to U.S. sanctions programs; (iv) SBC’s inadequate compliance program and efforts; and (v) that SBC is a large, sophisticated financial institution. Mitigating factors included: (i) SCB’s cooperation with OFAC, including by executing a statute of limitations tolling agreement with multiple extensions and submitting detailed, voluminous information to OFAC throughout the multi-year investigation; (ii) SCB’s remedial efforts; (iii) SCB had not received a Penalty Notice or Finding of Violation from OFAC in the preceding five years; and (iv) with respect to the First Settlement, a small number of the Syria-related transactions occurred shortly after those sanctions were effected.

### More information

- [OFAC Web Notice](#)
- [OFAC Recent Actions Notice](#)
- [OFAC Press Release](#)
- [Settlement Agreement](#)

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## OFAC Settles with Energy Services Providers for Apparent Violations of Cuban and Iranian Sanctions

On April 11, 2019, OFAC announced two settlements with Aceton Group Ltd. (“Aceton”), a U.K.-based subsea service provider for the oil and gas industry, for apparent violations of the Cuban Assets Control Regulations (CACR) and Iran Transactions Sanctions Regulations (ITSR). First, Aceton agreed to pay \$227,500 for seven apparent violations of the CACR involving its subsidiary 2H Offshore Engineering Ltd. (“2H Offshore”) and two of 2H Offshore’s Malaysian affiliates (the “First Settlement”). Second, Aceton agreed to pay \$213,866 to settle thirteen apparent violations of the CACR by its subsidiaries Seatronics Ltd. of the UK, Seatronics, Inc. of Texas, and Seatronics Pte. Ltd. of Singapore (collectively, “Seatronics”) and three apparent violations of the ITSR by its U.S. investor-parent company KKR & Co. Inc. (KKR), a New York-based global investment firm (the “Second Settlement”). OFAC determined that Aceton voluntarily self-disclosed in both instances, and the First and Second Settlements constituted egregious and nonegregious cases, respectively.

With respect to the First Settlement, between 2011 and 2012, 2H Offshore’s Malaysian affiliates allegedly performed engineering design analyses for oil well drilling projects in Cuban territorial waters and sent engineers to Cuba to conduct workshops on its analyses.

With respect to the Second Settlement, between August 2010 and March 2012, Seatronics allegedly rented or sold equipment for oil exploration projects in Cuban territorial waters and sent company engineers to service equipment on vessels operating in Cuban territorial waters on three occasions in violation of the CACR. Additionally, between September and November 2014, Seatronics rented or sold marine equipment to two customers in the UAE who appear to have embarked the equipment on vessels that operated in Iranian territorial waters in violation of the ITSR.

In determining the settlement amounts, OFAC weighed various aggravating and mitigating factors. Aggravating factors included: (i) 2H Offshore and Seatronics demonstrated reckless disregard for U.S. sanctions laws by failing to exercise minimal caution or care; (ii) 2H Offshore and Seatronics engaged in a pattern or practice of conduct over the course of several years; (iii) 2H Offshore and Seatronics had ineffective compliance programs that were established by Aceton; (iv) 2H Offshore and Seatronics senior management had actual knowledge of some of the sanctioned activity; (v) Aceton, 2H Offshore, and Seatronics conferred economic benefit on Cuba and Iran; (vi) Aceton, 2H Offshore, and KKR are sophisticated, international businesses, and Aceton operates in a high-risk industry; and (vii) specifically in relation to the First Settlement, 2H Offshore's former Global Director willfully violated U.S. sanctions laws and with Aceton's knowledge and approval in at least one instance. Mitigating factors included: (i) Aceton's voluntary disclosure, responsiveness to follow-up questions, and cooperation with OFAC's investigation, including agreements to toll the statute of limitations on three occasions; (ii) Aceton's remedial steps including undertaking disciplinary actions and compliance training; and (iii) Aceton, Seatronics and KKR had not received a Penalty Notice or Finding of Violation from OFAC in the preceding five years.

#### **More information**

- [OFAC Web Notice](#)
  - [OFAC Recent Actions Notice](#)
  - [OFAC Press Release](#)
  - [Settlement Agreement](#)
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### **UniCredit Group Banks and OFAC Settle Multiple Apparent Violations of Several U.S. Sanctions Programs for more than \$600 Million**

On April 15, 2019, OFAC announced the conclusion of settlement agreements totaling \$611 million with three UniCredit Group banks: UniCredit Bank AG in Germany ("UniCredit Germany"), UniCredit Bank Austria AG in Austria ("UniCredit Austria") and UniCredit S.p.A in Italy ("UniCredit Italy"). The settlements related to OFAC's investigation into apparent violations of U.S. sanctions programs related to the proliferation of weapons of mass destruction, global terrorism and the following countries: Burma, Cuba, Iran, Libya, Sudan and Syria. The three banks agreed to pay \$553,380,759 (UniCredit Germany), \$20,326,340 (UniCredit Austria) and \$37,316,322 (UniCredit Italy). OFAC determined that none of the UniCredit entities voluntarily self-disclosed and that all apparent violations by UniCredit Germany and UniCredit Italy constituted an egregious case. The apparent violations by UniCredit Austria constituted in part an egregious case and in part a nonegregious case.

Specifically with respect to the largest settlement with UniCredit Germany, between January 2007 and December 2011, the bank allegedly processed 2,158 payments valued at \$527,467,001 through financial institutions in the United States in violation of the above-mentioned sanctions regimes. UniCredit Germany operated U.S. dollar (USD) accounts on behalf of the Islamic Republic of Iran Shipping Lines ("IRISL") and three companies owned by or affiliated with IRISL, managing the accounts in a way that did not identify IRISL's interest or involvement. UniCredit Germany allegedly processed USD payments in a non-transparent manner through financial institutions in the United States on behalf of sanctioned persons pursuant to instructions outlined in a step-by-step guide for handling transactions in an "OFAC neutral manner." Finally, UniCredit Germany processed USD payments related to oil deliveries from Kazakhstan after examining information and documents indicating onward shipment to Iran as the ultimate destination.

In determining the settlement amount, OFAC weighed various aggravating and mitigating factors. Aggravating factors included that UniCredit Germany: (i) with respect to IRISL-related transactions, acted with at least reckless disregard for U.S. sanctions requirements and recklessly continued to transact with IRISL after it was added to the SDN List; (ii) with respect to its "OFAC neutral" process, acted with willful intent to circumvent U.S. sanctions laws over five years; (iii) with respect to oil-related transactions, at least had reason to know the transactions involved Iran; and (iv) generally, demonstrated a pattern or practice of conduct that spanned many years, branches and product lines, conferred significant economic benefit to sanctioned persons, and is a large, sophisticated financial institution. Mitigating factors included that UniCredit Germany: (i) had not received a Penalty Notice or Finding of Violation from OFAC in the preceding five years; (ii) cooperated with OFAC's investigation by conducting an internal investigation, identifying all subject transactions and executing a statute of limitations tolling agreement with multiple extensions; and (iii) undertook remedial action. Additionally, a small number of the apparent violations involving IRISL occurred shortly after its addition to the SDN List in September 2008.

### **More information**

- [OFAC Web Notice](#)
  - [OFAC Recent Actions Web Notice](#)
  - [OFAC Press Release](#)
  - [Settlement Agreement – UniCredit Bank AG](#)
  - [Settlement Agreement – UniCredit Bank Austria AG](#)
  - [Settlement Agreement – UniCredit S.p.A](#)
- 

### **New Jersey Company and OFAC Settle Violations of Ukraine Sanctions for \$75,375**

On April 25, 2019, OFAC announced a \$75,375 settlement with Haverly Systems, Inc. ("Haverly"), a New Jersey corporation, related to two apparent violations of the Ukraine Related Sanctions Regulations (URSR). Haverly allegedly violated Directive 2 under Executive Order (EO) 13662, "Blocking Property of Additional Persons Contributing to the Situation in Ukraine," by transacting or dealing in new debt of greater than 90 days maturity of JSC Rosneft ("Rosneft"), an entity listed on OFAC's Sectoral Sanctions Identification List (SSI) as subject to Directive 2. OFAC determined that Haverly did not voluntarily self-disclose the apparent violations, and the apparent violations constituted a nonnegotious case.

According to OFAC's Web Notice, in May 2016, Haverly allegedly issued two separate invoices to Rosneft that originally contained payment due dates of between 30 and 70 days from issuance. However, approximately 70 days after issuance, Rosneft notified Haverly that it required certain corrected tax documentation to make the payment on the first invoice. Haverly took several months to obtain corrected documentation, and Rosneft ultimately made the payment approximately nine months after the invoice was issued. With respect to the second invoice, Rosneft made four attempts to remit payment, but financial institutions rejected the payments after determining that they were prohibited under Directive 2. Rosneft provided information to Haverly related to the rejected payments, including documents indicating the underlying activity may be related to sectoral sanctions. To process the payments, Haverly ultimately re-issued the second invoice and received payment in January 2017.

In determining the settlement amount, OFAC weighed various aggravating and mitigating factors. Aggravating factors included that: (i) with respect to the second invoice, Haverly demonstrated reckless disregard for U.S. sanctions requirements by ignoring warning signs that its conduct may constitute a violation of OFAC regulations; (ii) Haverly's management team had actual knowledge of the conduct underlying the apparent violations; and (iii) Haverly did not have in place a formal sanctions compliance program. Mitigating factors included that: (i) the apparent violations resulted in minimal actual harm to URSR program objectives, as OFAC would have likely authorized the transactions if a license request had been submitted; (ii) Haverly had not received a Penalty Notice or Finding of Violation from OFAC in the preceding five years; (iii) Haverly is a small

company; and (iv) Haverly undertook remedial efforts including creating a Sanctions Compliance Officer position and implementing a compliance program including screening current and future clients for OFAC compliance purposes.

### **More information**

- [OFAC Web Notice](#)
  - [OFAC Recent Action Notice](#)
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## **New Jersey Business Owner Pleads Guilty to Conspiring to Violate the Arms Export Control Act**

On April 23, 2019, the U.S. Department of Justice (DOJ) announced that Oben Cabalceta (“Cabalceta”) pleaded guilty to violating the Arms Export Control Act in connection with a scheme to defraud the U.S. Department of Defense (DOD). Cabalceta owned two manufacturing companies in West Berlin, New Jersey: Owen’s Fasteners Inc. (“Owen’s”) and United Manufacturer LLC (“United”). According to court documents, Cabalceta admitted that between August 2004 and March 2016, Owen’s and United obtained contracts with DOD by falsely claiming that parts would be supplied by authorized manufacturers while instead supplying nonconforming parts from other sources. DOD paid Owen’s and United \$1,890,939 for the nonconforming parts.

Cabalceta also admitted that he was a native and citizen of Costa Rica who overstayed his tourist visa in 2000 and was not lawfully present in the United States. Between August 2005 and November 2010, then again in 2015, Cabalceta used a family member and another accomplice to submit to the DOD a fraudulent application for access to export controlled drawings and technical data on behalf of Owen’s. Cabalceta acknowledged that access to the controlled drawings and technical data was limited to U.S. citizens and those lawfully present in the United States. He further admitted that in 2011 and between January 2013 and November 2015, while he was unlawfully in the United States, he accessed or downloaded drawings that were sensitive in nature and required special access.

Cabalceta is scheduled to be sentenced on August 2, 2019, and faces up to 20 years in prison and a \$500,000 fine.

### **More information**

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

## **ICE Agents Arrest California Business Owner for Import and Sales of Counterfeit Phone Parts from China**

On April 18, 2019, special agents with U.S. Immigration and Customs Enforcement (ICE) arrested California businessman Chan Hung Le (“Le”) on charges of conspiracy to defraud the United States, conspiracy to traffic in counterfeit goods, conspiracy to illegally import merchandise, conspiracy to commit mail fraud and wire fraud, and aggravated identity theft. Starting in 2010, EZ Elektronik, a company owned by Le and his wife, imported counterfeit electronics products, including screens and other cell phone parts, from China to the United States. According to the ICE’s press release, ICE alleges that Le attempted to conceal the scheme by using multiple business names and addresses, as well as “virtual offices” and post office boxes, in at least three U.S. states. Once the counterfeit products arrived, Le and his co-conspirators distributed the parts through various online stores that falsely claimed the parts were genuine. According to Le’s criminal affidavit, between January 2012 and December 2018, EZ Elektronik paid more than \$72 million to three companies, which conspired with Le to traffic the counterfeit products from Hong Kong and China into the United States.

Le faces up to 45 years in prison for the conspiracy charges and a mandatory two-year consecutive sentence for the aggravated identity theft charge.



## More information

- [ICE Press Release](#)
  - International Trade Today (subscription required)
- 

### Forinet, Inc. Agrees to Pay \$545,000 to Resolve False Claims Act Allegations

On April 12, 2019, the DOJ announced a \$545,000 settlement with Forinet, Inc. (“Forinet”), a California network security company, related to allegations that it violated the False Claims Act by falsely representing that its products were in compliance with the Trade Agreements Act (TAA). Forinet agreed to pay \$400,000 and to provide the U.S. Marine Corps with \$145,000 in equipment.

According to the DOJ press release, between January 2009 and fall 2016, a Forinet employee responsible for supply chain management arranged to have labels on certain products altered to make the products appear TAA-compliant such that government contractors could purchase the products because they were either entirely from or substantially transformed in the United States or TAA-designated countries. Forinet acknowledged that the employee, now terminated, directed other employees and contractors to change product labels to either state no country of origin or include phrases indicating that the product was designed in the United States and Canada or assembled in the United States. Some of the products were resold through distributors and subsequent resellers to U.S. Government end-users.

According to the DOJ press release, Forinet cooperated with the government’s investigation, including by sharing the results of its internal investigation.

## More information

- [DOJ Press Release](#)
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### California Tobacco Executive Charged in Scheme to Avoid Paying More than \$5 Million in Federal Excise Taxes

On April 12, 2019, Akrum Alrahib (“Alrahib”), an executive of California tobacco company Trendsettah USA, Inc. (“Trendsettah”), was arrested and charged with conspiracy to evade the payment of excise taxes on imported cigars.

According to the indictment, Trendsettah sold various tobacco products and marijuana paraphernalia imported from the Dominican Republic. In April 2013, Alrahib partnered with Gitano Pierre Bryant, Jr. (“Bryant”), president of an authorized tobacco importer incorporated in Florida, to import large cigars from the Dominican Republic into Miami, Florida. Alrahib and Bryant agreed to lower their costs by underreporting the Federal Tobacco Excise Tax (FTET) due on the imported large cigars by concealing the actual first sale price paid by Alrahib to the Dominican Republic-based cigar manufacturer. To hide the first sale price, Bryant and Alrahib created false invoices stating that Alrahib purchased the cigars from Bryant, which were then provided to the licensed customs broker who calculated and paid the excise tax. The indictment alleges that Alrahib paid over \$9 million for untaxed tobacco products and received over \$700,000 in kickbacks from Bryant.

The indictment alleges the following counts against Alrahib: conspiracy to defraud the United States, conspiracy to commit wire fraud, wire fraud, and violations of the Internal Revenue Code (IRC) with respect to the FTET on large cigars, including refusal to pay and attempting to evade or defeat payment of the excise tax and willfully attempting to evade or defeat the excise tax. If convicted, Alrahib can be sentenced to up to five years in prison for conspiracy to defraud the United States and each IRC violation, and up to 20 years in prison for wire fraud and wire fraud conspiracy. The court may also impose a fine of up to \$250,000 on each count alleged in the indictment.

## More information

- [DOJ Press Release](#)
  - [Law360](#)
  - [Arrest Warrant and Indictment](#)
- 

## CFIUS Fines Unidentified Entity \$1 Million for Breaching Mitigation Agreement

In April 2019, the Committee on Foreign Investment in the United States (CFIUS) reported that it had imposed a \$1 million civil monetary penalty in 2018 against an unidentified entity for repeated breaches of a 2016 mitigation agreement, including “failure to establish requisite security policies and failure to provide adequate reports to CFIUS.” The penalty is reportedly the first-ever civil penalty for breach of a CFIUS mitigation agreement. CFIUS posted the report without a press release.

### More information

- [CFIUS Penalty Statement](#)
  - [Law360](#)
- 

## Univar USA Inc. and ICE Settle Antidumping Duty Evasion Allegations for \$62.5 Million

On April 9, 2019, ICE announced a \$62.5 million settlement with Univar USA Inc. (“Univar”), an Illinois chemical company, regarding allegations under the customs penalty statute that Univar was negligent or grossly negligent when it imported 36 shipments of saccharin manufactured in China and transshipped through Taiwan between 2007 and 2012 to evade an antidumping duty order imposing an additional 329% duty on Chinese saccharin. As a result of the transshipment, Univar evaded \$36 million in antidumping duties.

The settlement resolves a lawsuit jointly brought by DOJ, ICE, and U.S. Customs and Border Protection (CBP) under 19 U.S.C. § 1592 seeking recovery of \$84 million plus interest in unpaid antidumping duties and penalties. According to the complaint, Univar was grossly negligent or negligent in failing to determine that its supplier in Taiwan was not a manufacturer but rather transshipped saccharin through Taiwan from China for import into the United States. This settlement constitutes the largest recovery under § 1592 ever reached in the U.S. Court of International Trade.

### More information

- [DOJ Press Release](#)
  - [ICE Announcement](#)
  - [Complaint](#)
- 

## DOJ Joins Reverse False Claim Suit over Illegal Use of De Minimis Exemption

In a March 27, 2019, filing, the DOJ, on behalf of CBP, intervened in a qui tam whistleblower lawsuit against Selective Marketplace Ltd. (“Selective”), a UK-based womenswear retailer, regarding the company’s alleged use of de minimis exemptions to avoid payment of customs duties.

The complaint-in-intervention alleged that, throughout at least 2010 and 2011, Selective improperly avoided import duties and fees by splitting U.S. customers’ aggregate single orders exceeding \$200 into multiple different parcels to evade applicable de minimis value limits. This splitting of shipments allowed Selective to improperly and artificially value separate parcels below the de minimis limit despite the fact that the aggregate, non-split value of the items in the order would have otherwise exceeded the de minimis limit.

The suit is filed under the False Claims Act. The government is seeking treble damages and civil penalties arising out of Selective’s “reverse” false claims (through its avoidance of the obligation to provide CBP with information required to accurately calculate duty) and accounting and damages for unjust enrichment under state common law.

## More information

- [Complaint](#)
- International Trade Today (subscription required)

## EXPORTS, SANCTIONS AND CUSTOMS DEVELOPMENTS

### OFAC Announces New Venezuela Designations Linked to the Venezuelan Oil and Financial Sectors

On April 5 and April 12, 2019, OFAC added new parties operating in the oil sector of the Venezuelan economy to the SDN List pursuant to EO 13850. On April 5, OFAC designated two non-U.S. companies and identified one vessel, which recently transported oil from Venezuela to Cuba, as blocked property that is owned by one of these companies. OFAC also identified 34 vessels as blocked property of PdVSA, the Venezuelan state oil company that OFAC designated on January 28, 2019, for operating in the oil sector of the Venezuelan economy. On April 12, 2019, OFAC designated four additional non-U.S. companies and identified nine vessels as blocked property owned by the four companies.

OFAC's press release accompanying the April 5, 2019, designation stated that the Cuban government "provid[e]s a lifeline to keep the illegitimate Maduro regime afloat." It underscored that the United States believes the Cuban regime's support of Maduro is impeding Venezuela's transition to democracy. OFAC claims that this support is bolstered by the trade of oil from Venezuela to Cuba.

On April 17, 2019, OFAC placed Banco Central de Venezuela (the Central Bank of Venezuela) ("BCV"), on its SDN List pursuant to EO 13850, as amended by EO 13857, for operating in the financial sector of the Venezuelan economy. According to Secretary of the Treasury Steven Mnuchin, OFAC designated BCV "to prevent it from being used as a tool of the illegitimate Maduro regime, which continues to plunder Venezuelan assets and exploit government institutions to enrich corrupt insiders." National Security Advisor John Bolton added that BCV "has been crucial to keep Maduro in power, including through its control of the transfer of gold for currency." The BCV designation follows OFAC's designation last month of Banco De Desarrollo Economico y Social de Venezuela ("BANDES"), Venezuela's national development bank, for operating in the financial sector of the Venezuelan economy. OFAC also designated a director of BCV in this action.

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## More information

- [OFAC Web Notice – April 17, 2019](#)
- [OFAC Press Release – April 17, 2019](#)
- [OFAC Press Release – April 12, 2019](#)
- [OFAC Press Release – April 5, 2019](#)

## GLOBAL INVESTIGATIONS RESOURCES

- [U.S. Supreme Court: Disseminators of False Statements with Intent to Defraud Can Be Held Liable Under Securities Exchange Act Rule 10b-5](#)
- [Commerce Adds 50 Foreign Entities to the Unverified List \(and Removes 10\)](#)
- [Importers to Face Additional Duties on European Goods](#)
- [Legal and Practical Considerations of the Trump Administration's Designation of the IRGC as a Foreign Terrorist Organization](#)

## WRITING AND SPEAKING ENGAGEMENTS

On June 13, 2019, [Chuck Connolly](#) will speak at AlixPartners firmwide retreat in Las Vegas,

NV.

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](#).

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