

Red Notice

A Monthly Update on Global Investigations and Prosecutions



May 2016

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ANTICORRUPTION DEVELOPMENTS

Former Securrency Manager Convicted of Corruption

On May 11, 2016, Peter Michael Chapman, former manager of polymer banknote manufacturer Securrency PTY Ltd. ("Securrency"), was convicted on four of six counts relating to corrupt payments he made to a foreign official in violation of the U.K.'s Prevention of Corruption Act 1906.

Mr. Chapman previously managed Securrency's African office, Innovia Securrency PTY Ltd. ("Innovia"). In an attempt to guarantee orders of polymer substrate (used to make plastic banknotes) for Innovia, Mr. Chapman paid about \$205,000 in bribes to an agent of Nigerian Security Printing and Minting PLC. Mr. Chapman's actions came to light in May 2009 when Securrency and the Reserve Bank of Australia (then a partial owner of Securrency) informed the Australian Federal Police (AFP) of corruption allegations. The AFP in turn disclosed the allegations

to the U.K. Serious Fraud Office (SFO). Following a joint AFP and SFO investigation, Mr. Chapman was extradited from Brazil in April 2015.

Mr. Chapman was sentenced to 30 months for each count on which he was convicted, and he will serve the time concurrently.

To read more, see the [coverage](#) in the *FCPA Blog*.

Nonprofit Alleges Corrupt Payments by African Mining Company

The Wall Street Journal recently reported the results of an independent investigation of Sable Mining Africa Ltd. (“Sable”) by the nonprofit organization Global Witness into possible corrupt payments to West African government officials. Sable Mining focuses on developing iron ore assets in West and Southern Africa. The WSJ reports that it reviewed internal documents and emails that appear to support allegations that the company made payments to Guinean and Liberian officials in exchange for mineral concessions.

Sable denied any wrongdoing, and stated that, while a 2011 review of the company’s activities identified a lack of controls over certain types of payments which have since been remedied, the company’s recent review of Global Witness’s claims “found no evidence to support or justify” the allegations.

To learn more, see [coverage](#) in *The Wall Street Journal*.

The Government Speaks – Deputy Attorney General Yates on the Yates Memo

On May 10, 2016, Deputy Attorney General Sally Quillian Yates considered the impact of the eight-month old Individual Accountability for Corporate Wrongdoing Memorandum in remarks to the New York City Bar Association White Collar Criminal Law Committee. From Yates’s perspective, while the policy has pushed corporations to tailor their cooperation to make “real and tangible efforts” to identify culpable individual conduct, it has not earned the doomsday reputation it generated when first released.

Yet even in its infancy, the [memo](#) has created a ripple effect across federal law enforcement agencies. The DOJ Antitrust Division and FinCEN are following suit by placing the charging focus on individuals, and the FCPA Unit of the DOJ Fraud Section is now predicating corporate cooperation credit on disclosure of information concerning responsible individuals. Emphasizing that cooperation does not require companies to waive the attorney-client privilege, Yates reiterated that the Justice Department only expects factual disclosures and that pressure to waive the privilege would be an “unintended consequence.” Yates dismissed criticism that the policy’s goal is to force companies to “serve up someone to take the fall.” Rather, the policy evolved to address the difficulties of identifying and prosecuting individuals within the corporate structure by asking companies to help establish who may have held the requisite knowledge and intent. During her [remarks](#), Yates acknowledged the increased efforts of corporations to meet the contemplated cooperation standard. She reported that corporate cooperation now looks more substantive, complete with “Yates binders” of emails from relevant individuals. Though the ultimate impact of the memo is still a matter for debate, Yates’s speech was another hint that individual prosecutions may soon be on the rise.

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EXPORT CONTROL AND SANCTIONS ENFORCEMENT

Chinese National Charged with Export Violations in Relation to AES Filings

On April 21, 2016, Amin Yu, a Chinese national, was indicted on 18 charges stemming from unlawful export activities and smuggling of goods from the United States to China. According to the indictment, from 2002 to 2014, Yu obtained systems and components for marine submersible vehicles at the direction of Harbin Engineering University, a state-owned entity by the People’s Republic of China with connections to the Chinese military. The DOJ alleges that Yu illegally exported these systems and components by failing to file electronic export information (EEI) through the Automated Export System (AES) and by filing false and misleading EEI.

The charges levied in the indictment did not include violations of U.S. export control laws under the International Emergency Economic Powers Act, Export Administration Regulations or International Traffic in Arms Regulations (ITAR). Instead, the export charges relate to violations of the Foreign Trade Regulations (15 C.F.R Part 30), which are often viewed as technical violations and rarely result in criminal enforcement actions.

For more information, see the DOJ [press release](#) and [indictment](#).

New Jersey Resident Pleads Guilty to Conspiring to Provide False Statements on Iranian Exports

On May 17, 2006, DOJ announced that it reached a plea agreement with Asim Fareed of North Brunswick, New

Jersey, pertaining to charges that he conspired to provide false statements in connection with illegal exports to Iran. According to the indictment, Fareed operated an export business in New Jersey and had agreed to ship items from the United States to Iran via the United Arab Emirates. DOJ alleged that to hide the illegal nature of the exports, Fareed agreed to prepare false invoices for submission to the Department of Commerce that misrepresented the identity and geographical location of the purchasers. Even though no shipments were actually made to Iran in this case, DOJ was able to build a conspiracy case against Fareed and reach a plea agreement.

For additional information, see the DOJ [press release](#).

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EXPORT CONTROL AND SANCTIONS DEVELOPMENTS

State Department Lifts U.S. Arms Embargo on Vietnam

Following President Obama's announcement at a press conference in Hanoi, the U.S. Department of State, Directorate of Defense Trade Controls (DDTC) announced on May 23, 2016, that it was lifting the decades-old ban prohibiting the sale or transfer of lethal weapons to Vietnam, including restrictions on exports to, and imports from, Vietnam for arms and related material. Effective immediately, DDTC will conduct case-by-case review of applications for licenses to export or temporarily import defense articles and defense services to or from Vietnam. DDTC is expected to publish a rule implementing the changes in the ITAR in the near future.

Press reports indicate that the reversal in policy is linked to Vietnam's improving human rights record and increased trade relations with the U.S. This policy may also further United States foreign policy in the region by bolstering Vietnam's defense capabilities to counter China's military presence in the South China Sea.

For additional information, see the DDTC industry [notice](#) and [coverage](#) in *The New York Times*.

OFAC Loosens Sanctions on Myanmar to Support Increased Trade

On May 17, 2016, the Office of Foreign Assets Control (OFAC) announced amendments to the Burmese Sanctions Regulations and the Specially Designated and Blocked Persons (SDN) List to support increased trade with Myanmar. The amendments add a general license to allow U.S. persons to conduct transactions ordinarily incident to residing in Myanmar, such as paying rent, paying living expenses, and purchasing goods and services for personal use. The amendments also expand and remove the six-month expiration to General License 20, which was added in December 2015 and authorizes U.S. persons to engage in transactions ordinarily incident to the exportation of goods, technology or nonfinancial services. These amendments also expand this authorization to allow additional transactions incident to the movement of goods within Myanmar.

With respect to financial institutions, OFAC updated General License 19, which was added in February of this year and authorizes most transactions involving Myanmar's major financial institutions. The update removes two financial institutions that were delisted from the SDN List and adds two new banks to the general license.

In conjunction with these regulatory amendments, OFAC removed seven state-owned companies and three-state owned banks from the SDN List. OFAC also designated six companies reportedly owned 50 percent or more by either Steven Law or Asia World Co., both of which are still identified on the SDN List.

For more information, see the OFAC [press release](#) and [coverage](#) in *The Wall Street Journal*.

OFAC Announces Sanctions on 77 Entities Engaged in Money Laundering in Latin America

On May 5, 2016, OFAC announced sanctions against 77 entities and individuals tied to the Waked Money Laundering Organization ("Waked MLO")—an organization led by a Spanish, Lebanese, and Colombian national named Nidal Ahmed Waked Hatum. The Waked MLO reportedly engages in money laundering activities through a vast network of businesses and individuals in the retail, real estate, legal and finance industries in Panama and other Latin American countries. The sanctions target the Waked MLO, as well as individuals and companies tied to the network. This includes a chain of duty-free stores operating throughout Latin America, a luxury mall and real estate development in downtown Panama City, a bank, two newspapers and various financial services, real estate development, construction, hospitality and media companies. Given the breadth of the sanctions, OFAC has since issued general licenses and related FAQs, permitting U.S. persons to engage in limited transactions (e.g., winding down) with certain designated entities.

For additional information, please see the OFAC [press release](#) and coverage in the Akin Gump Client Alerts from [May 9, 2016](#) and [May 17, 2016](#).

DOJ Civil Rights Division Underscores Risk of Discrimination Claims when Requesting Information from Applicants and Employees for Export Compliance

In late March 2016, the DOJ Civil Rights Division issued a technical assistance letter (TAL) that highlights the

potential for employers to create discrimination claims inadvertently when requesting and reviewing citizenship and national origin information for applicants and employees for compliance with the U.S. export control laws. The TAL was written in response to an inquiry about whether employers, including staffing agencies, could ask job applicants or newly hired employees certain questions regarding their status as a U.S. person for purposes of complying with U.S. export control laws. In response, the Civil Rights Division cautioned employers from asking certain questions that could cause "confusion among applicants or human resource personnel" and might deter certain individuals from applying for employment. The Civil Rights Division further noted that such questions could lead to discrimination claims under the Immigration and Nationality Act.

For additional information and insight into the practical implications for U.S. companies, see the Akin Gump International Trade Alert from [May 2, 2016](#).

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WRITING AND SPEAKING ENGAGEMENTS

On June 2, partner [Tatman Savio](#) will be speaking at AIPN Asia Chapter and SPE Singapore Section's panel titled "Iran Sanctions: Implications, Recent Developments and Opportunities" in Singapore. For more information, please visit www.aipn.org.

On June 7, counsel [Christian Davis](#) will be speaking at ECTI's EAR/OFAC Export Controls Seminar and on June 9 at ECTI's ITAR Defense Trade Controls Seminar in Washington, D.C. To register for the seminars, please click [here](#).

On June 16, partner [Tatman Savio](#) will be speaking at ACI's Anti-Corruption China Conference in Shanghai, China, on a panel titled "What Is an Effective Whistleblower Response Strategy: How to Encourage a Whistleblower to Report to You First and How to Respond to Anonymous Reports." To register for the event, please click [here](#).

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 Mandy Warfield at mwarfield@akingump.com or +1 202.887.4464.

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Contact Information

For more information about the stories highlighted in *Red Notice*, please contact:

[Kristine L. Sendek-Smith](#) at 202.887.4078 or ksendeksmith@akingump.com or [Christian Davis](#) at 202.887.4529 or chdavis@akingump.com.

Contact information for attorneys in related practices can be found [here](#).

The "Anticorruption Developments" section of Red Notice is edited by [Jonathan Vukicevich](#).

The "Export Control and Sanctions Developments and Enforcement" sections are edited by Johann Strauss, Law Clerk.

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