

Red Notice

A Monthly Update on Global Investigations and Prosecutions



May 2018

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ANTICORRUPTION DEVELOPMENTS

New Unaoil Charges by U.K. Serious Fraud Office

On May 22, 2018, the United Kingdom’s Serious Fraud Office (SFO) charged two additional individuals in the ongoing probe related to allegations that Unaoil SAM made improper payments on behalf of companies in the oil and gas sectors to governments in the Middle East. Basil Al Jarah, Unaoil’s former territory manager for Iraq, and Ziad Akle, Unaoil’s former “Iraq partner,” face charges that they conspired to make corrupt payments on behalf of Leighton Contractors Singapore PTE Ltd (a subsidiary of Australia-based Leighton Holdings now d/b/a CIMIC Group Limited) to secure a contract to build oil pipelines in Iraq in 2010. Al Jarah and Akle were first charged in November 2017 in connection with payments made on behalf of SBM Offshore. Two other Unaoil executives were also charged in connection with SBM Offshore payments.

The SFO’s press release is available [here](#). For more information, see coverage from the *FCPA Blog* [here](#). Red Notice previously covered the Unaoil investigation in [December 2017](#).

Four-Year Sentence for Chinese Businessman for UN Bribery Scheme

On May 11, 2018, Judge Vernon Broderick of the U.S. District Court for the Southern District of New York sentenced Chinese businessman Ng Lap Seng to 48 months in prison and three years of supervised release for Ng's role in a scheme to bribe U.N. officials for the construction of a conference center in his hometown of Macau. Ng was convicted in July 2017 of money laundering, violating the Foreign Corrupt Practices Act (FCPA) and U.S. domestic bribery laws, and engaging in conspiracy related to the bribery offenses. Ng is the first to be sentenced of six defendants who have been charged in this matter. Red Notice previously reported on events in this U.N. scheme in the [April 2018 edition](#).

The Department of Justice's (DOJ) press release is available [here](#). For more information, see coverage from *Law360* [here](#) and from the *FCPA Blog* [here](#).

New DOJ Policy to Limit "Duplicative Penalties"

On May 9, 2018, Deputy Attorney General Rod Rosenstein announced a new DOJ policy to encourage cooperation among U.S. law enforcement agencies to avoid levying multiple penalties for the same conduct against the same defendant. The policy is discussed in a new section of the *U.S. Attorneys' Manual*. In particular, the manual counsels that criminal enforcement authority should not be used "solely to persuade a company to pay a larger settlement in a civil case," and that departments and divisions within the DOJ should coordinate with each other, as well as with other federal, state, local, and international authorities, to avoid imposing duplicative fines, penalties, and forfeitures. Rosenstein reiterated the new policy briefly in remarks delivered to compliance and risk professionals on May 21, specifically related to the policy's applicability under the FCPA.

Rosenstein's May 9 remarks are available [here](#), and the updated *U.S. Attorneys' Manual* section is available [here](#). Rosenstein's May 21 remarks are available [here](#). For more information on the new policy, see coverage from *The Wall Street Journal* [here](#) and from the *FCPA Blog* [here](#).

SEC's Peikin Outlines Approaches for Effective and Ineffective Wells Meetings

On May 9, 2018, Steve Peikin, the Co-Director of the Securities and Exchange Commission's (SEC) Division of Enforcement, gave remarks at the New York City Bar Association's White Collar Crime Institute, where he outlined his views regarding successful "Wells meetings," which take place between a defendant and SEC enforcement staff after the SEC has opened an investigation, but before the staff make charging recommendations to the SEC. The process allows those brought before the agency and their counsel to provide input on key issues in a case. Among his suggestions to ensure an effective Wells meeting, Peikin advised defense counsel to focus on key issues rather than addressing every fact in the case, and to educate the SEC staff on the operative facts before the Wells meeting, rather than trying to introduce new facts that the SEC staff has not had an opportunity to consider. Peikin also advised defense counsel that they can be more effective by providing recent and persuasive case law and/or prior SEC actions that support their positions, carefully setting out the ways in which a defendant is entitled to cooperation credit and substantively discussing the weaknesses in the SEC's proposed case should it proceed to trial.

Read Peikin's remarks [here](#).

African Development Bank Debars Chinese Electric Power Company over Misrepresentations in Project Bids

On May 7, 2018, the African Development Bank ("AfDB") announced its debarment of CHINT Electric Co., Ltd. for 36 months over allegations that CHINT misrepresented its qualifications in seven bids for projects in Ethiopia, Tanzania and Zimbabwe. Early relief from the disbarment, reducing it to two years, is available to CHINT should it achieve early compliance with all of the conditions, such as enhancing internal compliance mechanisms. The settlement agreement between the AfDB and CHINT also requires CHINT to cooperate with the AfDB in its "investigations of unrelated cases of misconduct" in AfDB-financed projects.

The debarment of CHINT qualifies for cross-debarment by other Multilateral Development Banks under the Agreement of Mutual Recognition of Debarments that was signed on April 9, 2010 (available [here](#)).

See the AfDB's press release [here](#). For more information, see coverage from the *FCPA Blog* [here](#).

U.S. Charges Honduran Official's Brother with Laundering Bribe Money

On May 1, 2018, the DOJ charged Carlos Alberto Zelaya Rojas, a Honduran citizen living in New Orleans, with money laundering violations, alleging that he conspired with his brother—a former Honduran government official who was, at the time, the executive director of the Honduran Institute for Social Security—to launder more than \$1.3 million in funds allegedly received as bribe payments. Rojas allegedly used some of the funds to purchase rental properties in the New Orleans area.

The DOJ's press release is available [here](#). For more information, see coverage from the *FCPA Blog* [here](#).

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EXPORTS, SANCTIONS AND CUSTOMS ENFORCEMENTS

Turkish Banker Sentenced to 32 Months for Conspiring to Violate U.S. Sanctions Laws

On May 16, 2018, the DOJ announced that Mehmet Hakan Atilla was sentenced to 32 months for his participation in a conspiracy to provide access to restricted oil revenues through international financial networks, including U.S. financial institutions, to the government of Iran, Iranian entities and entities identified by the Department of the Treasury Office of Foreign Assets Control (OFAC) as Specially Designated Nationals (SDN). Atilla was convicted of the crimes on January 3, 2018.

According to court documents and evidence produced at trial, Atilla was a manager of international banking operations at a Turkish bank. Atilla used his position in furtherance of the conspiracy. He also made false statements to U.S. Treasury officials about his activities and the bank's compliance programs, and he conspired to produce and use false documents to disguise the prohibited transactions.

For further information, please see the DOJ [press release](#) and previous coverage in our [January 2018](#) and [September 2017](#) issues of Red Notice.

Iranian Auto Parts Executives Indicted for Iran Sanctions Violations

On April 27, 2018, the DOJ announced the arrest and indictment of Sadr Emad-Vaez, Pouran Aazad and Hassan Ali Moshir-Fatemi in connection with a conspiracy to illegally export goods and services to Iran and structure financial transactions to evade the Iranian Transactions Sanctions Regulations.

According to the press release, the defendants are Iranian nationals who subsequently became naturalized U.S. citizens and lived in both Tehran and California. They jointly participated in the management of Ghare Sabz Company, aka GHS Technology, a large manufacturing corporation in Tehran. According to the indictment, starting in November 2012, the defendants allegedly acquired, and attempted to acquire, various automobile components from manufacturers in the United States and other countries for use by GHS in Tehran. They also allegedly submitted false and misleading customs documentation and used elaborate systems of international wire transfers—including through prohibited financial institutions—to provide funding for the sourced products.

For further information, please see the DOJ's [press release](#).

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EXPORTS, SANCTIONS AND CUSTOMS DEVELOPMENTS

President Trump Announces U.S. Withdrawal from JCPOA; U.S. Sanctions on Iran Will Be Re-Imposed Following Wind-Down Periods

On May 8, 2018, President Trump announced that the United States would cease its participation in the Joint Comprehensive Plan of Action (JCPOA). The JCPOA, often referred to as the “Iran Nuclear Deal,” was implemented in January 2016 between the P5+1 (i.e., the five permanent members of the U.N. Security Council—China, France, Russia, the United States and the United Kingdom—plus Germany) and Iran. The agreement brought sanctions relief to Iran in exchange for its compliance with key nuclear-related commitments.

This announcement was coupled with the issuance of a National Security Presidential Memorandum (NSPM) directing the Secretary of State and the Secretary of the Treasury to prepare for the re-imposition of all U.S. sanctions lifted or waived in connection with the JCPOA “as expeditiously as possible and in no case later than 180 days from the date of the NSPM.” Accordingly, within 90 or 180 days of the NSPM, depending on the type of business, non-U.S. persons subject to these secondary sanctions must wind-down their business operations in Iran or else face risk of secondary sanctions.

For further information, please read Akin Gump's [Client Alert](#).

United States Imposes New Sanctions Restricting Transactions with the Government of Venezuela

On May 21, 2018, the Trump administration imposed new sanctions on the Government of Venezuela in response to the reelection of President Maduro and the “deepening humanitarian and public health crisis” fueled by the Maduro regime. The Executive Order expands the existing Venezuela sanctions program by prohibiting certain transactions by U.S. persons involving debt owed to the Government of Venezuela, including Petroleos de Venezuela, S.A., and it broadly restricts U.S. persons from engaging in certain dealings involving equity interests

of entities that are majority-owned by the Government of Venezuela. Previous restrictions related to dealings in “new debt” of the Government of Venezuela of a certain maturity, bonds issued by the government of Venezuela, “new equity” and the purchase of securities, but they did not cover debt owed to the Government of Venezuela or as broadly restrict transactions involving existing equity owned by the Government of Venezuela.

The Executive Order expands the debt- and equity-related provisions of Executive Order 13808 by prohibiting “[a]ll transactions related to, provision of financing for, and other dealings” by U.S. persons in three categories of transactions: (1) the purchase of any debt owed to the Government of Venezuela, including accounts receivable; (2) any debt owed to the Government of Venezuela that is pledged as collateral after the effective date of the order, including accounts receivable; and (3) the sale, transfer, assignment or pledging as collateral by the Government of Venezuela of any equity interest in any entity in which the Government of Venezuela has a 50 percent or greater ownership interest.

For further information, please read Akin Gump’s [Client Alert](#).

OFAC Issues Updated General Licenses Clarifying and Extending Authorized Activities with Russian Sanctioned Entities

On May 1, 2018, OFAC issued General Licenses 12B and 13A following its April 6, 2018, designations of seven prominent Russian businessmen and 12 companies that they own or control. Concurrent with the April 6 designations, OFAC had issued General License 12 to authorize, until June 5, 2018, transactions and activities that are ordinarily incident and necessary to the maintenance or wind-down of operations, contracts or other agreements in effect prior to April 6, 2018 with the 12 designated companies or any entity in which one or more of the 12 companies owns, directly, or indirectly, a 50 percent or greater interest. General License 12B superseded 12A (a prior revision) and authorized U.S. financial institutions to process funds transfers that they would otherwise block to an account held by a blocked U.S. person and allows the financial institutions to release such funds for authorized maintenance or wind-down activities only. OFAC explained in its FAQ #583 that it issued General License 12B “to address difficulties blocked U.S. persons are having accessing funds needed for authorized wind-down and maintenance activities.” On May 22, OFAC issued amended General License 12C, which contains minor changes intended to reflect and reference the new authorization provided in General License 15 (discussed below).

On April 6, OFAC also issued General License 13 to authorize, until May 7, transactions and activities that are ordinarily incident and necessary to (1) divest or transfer debt, equity or other holdings in three of the Russian companies designated on April 6—EN+ Group PLC, GAZ Group and United Company RUSAL PLC (RUSAL)—to a non-U.S. person; or (2) facilitate the transfer of debt, equity or other holdings in these three companies by a non-U.S. person to another non-U.S. person. General License 13A, issued on May 1, superseded General License 13 and extended the end of the wind-down period from May 7 to June 6, 2018. On May 31, 2018, OFAC issued General License 13B, superseding General License 13A and extending the wind-down period to August 5, 2018.

Finally, on May 22, 2018, OFAC issued General License 15, which authorizes U.S. persons to engage in specified transactions related to the maintenance or wind-down of operations, contracts or other agreements involving GAZ Group or any entity in which GAZ Group owns, directly or indirectly, a 50 percent or greater interest, until October 23, 2018, extending the previous deadline of June 5, 2018. This is the same type of relief that OFAC authorized under General License 14 with regard to UC RUSAL PLC on April 23, 2018.

For additional information, read Akin Gump’s Client Alerts [here](#) and [here](#) as well as OFAC’s General License 13B [here](#) and OFAC’s General License 15 [here](#).

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WRITING AND SPEAKING ENGAGEMENTS

On June 13, 2018, [Kevin Wolf](#) will be speaking at the Export Compliance Training Institute's Washington, D.C. 2018 Reexports conference on the topic “EAR/OFAC Controls on Non-US Transactions” in Alexandria, VA.

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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