

# Red Notice

A monthly update on global investigations and prosecutions

**Akin Gump**  
STRAUSS HAUER & FELD LLP

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## ANTICORRUPTION DEVELOPMENTS

### SEC Proposes Amendments to Whistleblower Award Program

On June 28, 2018, the Securities and Exchange Commission (SEC) proposed amendments to its whistleblower award process for the first time since the program was announced in 2010. One of the most notable proposals includes authorizing the SEC to exercise its discretion to award whistleblowers larger amounts—up to \$2 million—in cases where the recovery would typically warrant a whistleblower payout of less than \$2 million, and to award whistleblowers smaller amounts—no less than \$30 million—where the monetary sanctions imposed exceed \$100 million. Any discretionary adjustment to award payouts would remain consistent with the statutory mandate that awards range from 10 percent to 30 percent of the monetary sanctions collected, and where the total monetary sanctions are at least \$1 million.

In addition, the proposed amendments would (1) clarify that whistleblower awards are available in cases where there is a deferred prosecution agreement or a non-prosecution agreement; (2) revise the definition of whistleblower to align with a [February 2018 Supreme Court decision](#) requiring whistleblowers to report information directly to the SEC in order to qualify for anti-retaliation protection, instead of merely reporting internally to their supervisors or office compliance personnel; and (3) streamline the review process for clearly time-barred, repetitive or otherwise ineligible award applications. The proposed amendments will be subject to a public comment period that will remain open for 60 days following publication of the proposed amendments in the Federal Register.

#### More information

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

### Criminal Proceedings in Unaoil Investigation to Begin in UK

On June 26, 2018, the U.K. Serious Fraud Office (SFO) announced that it had initiated criminal proceedings against Monaco-based Unaoil SAM and Unaoil Ltd. based on

allegations of improper payments to secure contracts in Iraq. Both companies have received summonses for two counts each of conspiracy to give corrupt payments.

The SFO has been investigating Unaoil since March 2016, and several former executives of the company have been individually charged (as covered by Red Notice in [November 2017](#) and [May 2018](#)). The U.S. Department of Justice (DOJ) has opened its own investigation regarding Unaoil's activities, but has closed several investigations into companies associated with the alleged misconduct without charges (as covered by Red Notice in [October](#) and November 2017).

#### More information

- [SFO press release](#)
  - [Reuters](#)
  - [Financial Times](#)
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### Credit Suisse Pays DOJ \$47 million to End Asia Princeling Investigation

On June 6, 2018, Credit Suisse Group AG (Credit Suisse) announced that it had agreed to pay a \$47 million penalty pursuant to a non-prosecution agreement with DOJ. Notably, while Credit Suisse issued a press release, DOJ has not made a statement or released the non-prosecution agreement. Credit Suisse stated that the settlement related to potential violations of the Foreign Corrupt Practices Act (FCPA) arising from the Credit Suisse Hong Kong office's hiring practices in Asia. Credit Suisse had previously reported that DOJ was investigating allegations that, between 2003 and 2007, Credit Suisse hired employees in exchange for benefits from the government, such as government contracts and regulatory approvals.

#### More information

- [Credit Suisse press release](#)
  - [The Wall Street Journal](#)
  - [Reuters](#)
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### DOJ Resolves Libyan FCPA Probe

On June 4, 2018, DOJ announced that, pursuant to a deferred-prosecution agreement, Société Générale S.A. ("SocGen"), a global financial services institution based in France, along with its wholly owned subsidiary, SGA Société Générale Acceptance N.V. ("SGA"), agreed to pay \$860 million to U.S. and French authorities to settle allegations of misconduct in Libya. DOJ described the case as the first "coordinated resolution with French authorities in a foreign bribery case" and specifically noted that SocGen will receive credit for payment of the French penalty—equal to 50 percent of the total criminal penalty that would otherwise be paid to U.S. authorities.

Relatedly, DOJ also announced that, pursuant to a non-prosecution agreement, Legg Mason, Inc., a U.S.-based investment management firm, agreed to pay \$64.2 million in penalties and disgorgement to the DOJ. Specifically, the DOJ's investigation reviewed Legg Mason subsidiary Permal Group Ltd.'s partnership with SocGen in Libya.

#### More information

- [SocGen derferred prosecution agreement](#)
  - [SGA plea agreement](#)
  - [DOJ press release](#)
  - [DOJ press release](#)
  - [Legg Mason non-prosecution agreement](#)
  - [The Wall Street Journal](#)
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## Lisa Osofsky Named New Director of UK SFO

On June 4, 2018, the SFO announced the appointment of Lisa Osofsky as its new director, replacing former director David Green, whose term ended on April 20, 2018. Osofsky, a former U.S. federal prosecutor who also served in the FBI's General Counsel's Office, as well as in a range of private-sector positions, will begin her tenure on September 3, 2018, for a renewable five-year term.

### More information

- [U.K. Attorney General Office press release](#)
- [SFO press release](#)
- [The Guardian](#)
- [Financial Times](#)

## EXPORTS, SANCTIONS AND CUSTOMS ENFORCEMENTS

### BIS Orders California-Based Entities to Pay Civil Penalty of \$221,000 and Issues Suspended Denial Order

On May 25, 2018, the Department of Commerce's Bureau of Industry and Security (BIS) issued an order against Merit Aerospace, Inc., a Pasadena-based provider of aerospace engineering goods and trading services, and Yanghong (Joe) Zhou, the Pasadena-based CEO of Merit Aerospace.

The order charges that, on November 7, 2012, Merit Aerospace (1) prepared false shipping documents indicating that an export was for a different customer than actually intended and (2) declared the value of the parts to be far lower than the true value of the shipment. Merit Aerospace took these actions after BIS's Office of Export Enforcement (OEE) notified Merit Aerospace that its prior shipment to the true customer had been detained and while it was still in discussions with OEE about its export business with that customer. In connection with the November 7 export, Zhou submitted electronic export information to the U.S. government, through a freight-forwarding company, that falsely identified the ultimate consignee of the goods. Merit Aerospace concealed these actions by deliberately failing to inform OEE during a November 8, 2012, meeting.

BIS assessed a civil penalty of \$221,000, for which Merit Aerospace and Zhou are jointly and severally liable. The order also requires both entities to complete two external audits of Merit Aerospace's export controls compliance program. While a four-year denial order is included, this penalty is suspended assuming payment of the fine and compliance with the other requirements of the order.

### More information

- [BIS Order](#)

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### Akin Gump Client Alert: Commerce Department Signs New Agreement with ZTE Lifting Denial Order in Exchange for Unprecedented Additional Penalties and Compliance Measures

On Thursday, June 7, 2018, U.S. Secretary of Commerce Wilbur Ross announced that the administration had reached a definitive agreement with Chinese telecommunications and information technology company Zhongxing Telecommunications Equipment Corporation ("ZTE Corporation") to modify and replace the Commerce Department's April 15, 2018, denial order against ZTE Corporation and ZTE Kangxun Telecommunications Ltd. ("ZTE Kangxun") (collectively, ZTE). The April 15 order broadly barred ZTE from engaging in nearly all activities related to items subject to the Export Administration Regulations for a period of seven years in response to ZTE's failure to comply with agreed terms related to ZTE's prior illegal sales to Iran and North Korea.

The superseding settlement agreement with ZTE is conditioned on ZTE's payment of an

additional \$1 billion in fines and placement of \$400 million in an escrow account in a U.S. bank approved by BIS. ZTE must also implement unprecedented additional compliance measures, including retaining a team of special compliance officers answerable to BIS and replacing its entire board of directors and senior leadership for both ZTE companies designated in the April 15 order.

Per the [FAQs](#) issued by BIS in connection with the superseding settlement agreement, the denial order will not be lifted until ZTE has paid the fines required by the agreement; BIS will make an announcement when ZTE has been removed from the Denied Persons List and the April 15 order has been lifted.

#### **More information**

- [Akin Gump's client alert](#)
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### **DOJ Charges Massachusetts-Based Chinese National for Conspiring to Illegally Export U.S. Anti-Submarine Warfare to China**

On June 21, 2018, the U.S. Attorney's Office for the District of Massachusetts charged Shuren Qin, a Chinese national residing in Wellesley, Massachusetts, with conspiring to violate U.S. export controls and making false statements to obtain a visa.

Qin operates several Chinese companies that import U.S. and European goods with marine applications into China. Qin allegedly communicated with Northwestern Polytechnical University (NWPU), a Chinese military research institute affiliated with the People's Liberation Army (PLA), and received orders to procure and export U.S.-origin goods used for anti-submarine warfare. NWPU has been on the Department of Commerce's Entity List since 2001 because of its assistance to the PLA in developing advanced military technology. From July 2015 to December 2016, Qin allegedly exported 78 hydrophones (devices that detect sound waves underwater) from the United States to NWPU without obtaining the required licenses from Commerce. Qin concealed NWPU as the end-user and submitted false information to the U.S. government.

Qin faces up to 20 years in prison and a \$1 million fine for the export control violations. He appeared in federal court in Boston on June 22, 2018.

#### **More information**

- [DOJ press release](#)
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### **Iranian Businessman Charged with Illegally Exporting Nuclear Nonproliferation-Controlled Materials from Illinois in Newly Unsealed Federal Indictment**

On June 20, 2018, a Chicago federal district court judge unsealed the indictment of Saeed Valadbaigi for a 2011 attempt to illegally export U.S.-origin aluminum tubing, subject to nuclear nonproliferation controls, to Iran by way of Belgium and Malaysia. The indictment follows an investigation resulting in the 2015 conviction of Nicolas Kaiga, the owner of the Belgian company that received the tubing on its way to Iran. Valadbaigi is a fugitive and faces up to 20 years in prison for these crimes and others mentioned in the indictment.

The indictment also alleges an illegal exportation of titanium to Iran in 2009 by way of Georgia, the United Arab Emirates and Malaysia using companies controlled by Valadbaigi in each of those countries. The charges further allege that, in 2012, Valadbaigi was involved in the transshipment to Iran of acrylic sheets purchased from a Connecticut company. Valadbaigi had falsely claimed that these sheets only would be used in Hong Kong.

Mr. Valadbaigi faces charges of wire fraud, attempting to violate the International Emergency Economic Powers Act, conspiring to defraud the United States, illegally exporting articles from the United States and making false statements on a U.S. export form.

#### **More information**

- [DOJ press release](#)
- [DOJ indictment](#)

## EXPORTS, SANCTIONS AND CUSTOMS DEVELOPMENTS

### OFAC Issues Ukraine-/Russia-Related General License 16 Authorizing Wind-Down Transactions with Certain Entities

Following its April 6, 2018, designations of seven prominent Russian business men and 12 companies that they own or control, OFAC issued Ukraine-/Russia-related General License (GL) 16 on June 4, 2018, authorizing U.S. persons to engage in certain wind-down transactions or maintain business with EN+ Group PLC, JSC EuroSibEnergO or any entity in which either company owns, directly or indirectly, a 50 percent or greater interest, until October 23, 2018. This general license follows a series of similar licenses that are covered in prior editions of Red Notice and Akin Gump client alerts.

#### More information

- [General License](#)
  - [Akin Gump's client alert](#)
  - [Red Notice - May 2018](#)
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### Treasury Makes New Designations Under CAATSA

On June 11, 2018, OFAC designated five Russian entities and three Russian individuals under Executive Order 13694 (regarding cybersecurity-related sanctions) and Section 224 of the Countering America's Adversaries Through Sanctions Act (CAATSA). These individuals and entities were designated on the grounds that they, or entities controlled by them, provided "material and technological support" to Russia's Federal Security Service (FSB). OFAC's press release noted that this new action "targets the Russian government's underwater capabilities," namely its "tracking [of] undersea communication cables." OFAC previously designated the FSB on March 15, 2018, under CAATSA for certain cybersecurity-related activities.

#### More information

- [OFAC's press release](#)
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### OFAC Revokes JCPOA-Related General Licenses, Amends the ITSR and Publishes Updated FAQs

On June 27, 2018, OFAC revoked GL H and GL I, issued in connection with the Joint Comprehensive Plan of Action (JCPOA), commonly referred to as the Iran nuclear agreement. GL H authorized non-U.S. entities owned or controlled by U.S. persons to engage in certain activities involving Iran, and GL I authorized certain transactions related to the negotiation of, and entry into, contingency contracts with Iran involving certain commercial passenger aircraft and related parts/services transactions. Concurrently, OFAC amended the Iranian Transactions and Sanctions Regulations, 31 C.F.R. Part 560 (ITSR) to issue two new general licenses authorizing the wind down, through August 6, 2018, of transactions previously authorized under General License I, and the wind down, through November 4, 2018, of transactions previously authorized under General License H.

OFAC also narrowed the scope of the general licenses authorizing the importation into the United States of, and dealings in, Iranian-origin carpets and foodstuffs, as well as related letters of credit and brokering services, to the wind-down of the activities that it authorizes through August 6, 2018, and November 4, 2018.

OFAC also updated FAQs 4.3, 4.4 and 4.5 regarding the re-imposition of sanctions

## More information

- [OFAC's press release](#)
- [ITSR amendments](#)
- [Updated FAQs](#)
- [Akin Gump's client alert](#)

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## OFAC Publishes Global Magnitsky Sanctions Regulations

On June 29, 2018, OFAC published the Global Magnitsky Sanctions Regulations at 31 C.F.R Part 583. As noted in its press release, these regulations implement the Global Magnitsky Human Rights Accountability Act and Executive Order 13818 of December 20, 2017 ("Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption"). According to the final rule, OFAC intends to supplement the regulations with a "more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy."

## More information

- [Federal Register](#)

## GLOBAL INVESTIGATIONS RESOURCES

- [Commerce Department Signs New Agreement with ZTE Lifting Denial Order in Exchange for Unprecedented Additional Penalties and Compliance Measures](#)
- [Government Agencies Face Uncertainty After Supreme Court Rules That SEC ALJs Must Be Appointed](#)

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

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