

# Red Notice

A monthly update on global investigations and prosecutions

**Akin Gump**  
STRAUSS HAUER & FELD LLP

[Arabic](#) [Chinese](#) [Spanish](#) [Russian](#)

April 2020

SHARE THIS



## IN THIS ISSUE

- [Anticorruption Developments](#)
- [Export Control Sanctions and Customs Enforcement](#)
- [Export Control and Sanctions Developments](#)
- [Global Investigations Resources](#)

## ANTICORRUPTION DEVELOPMENTS

### New Guilty Plea in College Admissions Scandal

On April 21, 2020, Jorge Salcedo, a former tennis coach at a prominent California university, entered into a plea agreement related to his alleged role in the ongoing college admissions scandal known as Operation Varsity Blues. Salcedo admitted to falsely labeling two students as soccer recruits so they would gain admission to the school in exchange for \$200,000. The corrupt payment was brokered by William “Rick” Singer, the discredited college admissions consultant and cooperating witness at the heart of the scandal. As part of his deal, Salcedo will plead guilty to one count of conspiracy to commit racketeering and has also agreed to pay \$200,000 in restitution and an unspecified fine. A date for his sentencing hearing has not yet been set.

As part of the widespread investigation [previously covered](#) by Red Notice, at least 32 people have pleaded guilty for their roles in the college admissions scandal out of the 53 defendants charged thus far.

#### More information

- [Plea Agreement](#)
- [Law360](#)

### Elderly Cooperating Witness Escapes Prison for Role in Decades-Old \$100 Million Corruption Scheme

On April 17, 2020, Eberhard Reichert, an 80-year-old German native and former technical manager at global industrial manufacturing company Siemens AG, was sentenced to time served with no fine after previously pleading guilty to one count of conspiracy to violate the Foreign Corrupt Practices Act (FCPA) and agreeing to cooperate with prosecutors in 2018. According to the Department of Justice (DOJ), Siemens was awarded a contract in Argentina for a \$1 billion project to produce new national identity cards, known as the DNI Project, in the mid-1990s. Reichert worked at Siemens from 1964 to 2001, and at the time held a leadership role in a scheme to obtain the contract by making \$100 million in illicit

payments to Argentine officials. During sentencing, U.S. District Judge Denise L. Cote noted that, of the eight defendants in the scheme, Reichert was the only one to serve time in jail—less than four months in Croatia prior to his extradition to the United States in 2017.

#### More information

- [Law360](#)
- 

### Cooperating Witness Avoids Prison in Corruption Scheme

On April 13, 2020, Larry Puckett, a former sales executive at a U.S. subsidiary of French power and transportation company Alstom SA, was sentenced to time served and two years of supervised release in a hearing held via videoconference before Judge Janet Bond Arterton in the U.S. District Court for the District of Connecticut. Puckett was also ordered to perform 100 hours of community service and pay a \$5,000 fine. Puckett, a former regional sales manager, played a limited role in a scheme involving the making of corrupt payments to government officials in Indonesia in order to obtain a \$118 million energy contract in 2003. For years, Puckett cooperated significantly with the government, including testifying against former Alstom executive Lawrence Hoskins at trial. [As previously covered](#) by Red Notice, in March 2020, Hoskins was sentenced to 15 months in prison on money laundering charges. In December 2014, Alstom agreed to pay \$772 million to resolve alleged violations of the FCPA for its practices in Indonesia and elsewhere.

#### More information

- [Plea Agreement](#)
  - [Law360](#)
  - [The Wall Street Journal](#)
- 

### Sports Broadcasting Executives Charged in FIFA Corruption Scheme

On April 6, 2020, the DOJ unsealed charges against multiple media executives based on their alleged roles in improper payment schemes involving the rights to broadcast the Fédération Internationale de Football Association (FIFA) World Cup in 2018 and 2022. Hernan Lopez and Carlos Martinez, both former executives of a major U.S. mass media company, are alleged to have facilitated improper payments to officials of the South American football confederation, CONMEBOL. The improper payments allegedly helped the executives obtain confidential information to secure contracts for the broadcasting rights for the two sporting events. Gerard Romy, another media company executive, was also charged after allegedly steering improper payments to a former leader of the North American, Central American and Caribbean football confederation, CONCACAF, in an effort to secure rights to World Cup qualifier matches. [As previously covered](#) by Red Notice, these indictments are a new component of the Eastern District of New York's ongoing investigation into corruption in international soccer.

#### More information

- [DOJ Press Release](#)
  - [The Wall Street Journal](#)
  - [Law360](#)
- 

### SEC Issues Whistleblower Determinations

On April 28, 2020, the Securities and Exchange Commission (SEC) announced a whistleblower award of more than \$18 million. In its Order, the SEC noted that the whistleblower's information assisted retail investors in recovering millions of dollars in investments. In addition, the whistleblower reported the issue "multiple times internally in an attempt to immediately correct the problem" and "suffered hardships" as a result of

making the internal reports.

On April 20, 2020, the SEC announced whistleblower awards to two separate individuals. One whistleblower was awarded \$5 million after being terminated for raising concerns within the whistleblower's company. A second whistleblower was awarded an undisclosed amount after internally reporting a potential violation of the securities laws through the company's compliance mechanism, after which responsible individuals at the company in turn reported the whistleblower's complaint to the SEC. Based on this chain of events, the SEC used its discretionary authority to waive the requirement that a whistleblower report be provided to the SEC in writing and provided the original whistleblower with an award.

On April 16, 2020, the SEC announced multiple whistleblower determinations. A claimant was denied a whistleblower award after the SEC determined that SEC enforcement staff did not use and were unaware of tips provided by the claimant. The SEC separately awarded a whistleblower \$27 million due to the whistleblower providing substantial assistance in a successful enforcement action involving conduct that took place, in part, overseas.

On April 3, 2020, the SEC announced a whistleblower award of \$2 million to a whistleblower who provided "significant new information" in an ongoing investigation despite receiving threats and suffering hardships as a result.

Whistleblower awards—provided for under the DoddFrank Act—can range from 10 to 30 percent of the money collected from monetary sanctions in an eligible enforcement action exceeding \$1 million. Notices of Covered Actions—enforcement actions with sanctions greater than \$1 million—are posted on the SEC and Commodity Futures Trading Commission (CFTC) websites, and claims must be submitted within 90 days of such posting.

The SEC has made 81 whistleblower awards totaling more than \$448 million since it first began the practice in 2012. Similarly, since issuing its first award in 2015, the CFTC has awarded more than \$90 million to whistleblowers. Neither agency discloses the identities of whistleblowers, or identifying details regarding the covered actions in which they assisted.

### More information

- [SEC Press Release and Order – April 28, 2020 Award](#)
- [SEC Press Release and Order – April 20, 2020, \\$5 Million Award](#)
- [SEC Order – April 20, 2020, Undisclosed Award](#)
- [SEC Order – April 16, 2020 Denial](#)
- [SEC Press Release and Order – April 16, 2020 Award](#)
- [SEC Press Release and Order – April 3, 2020 Award](#)

## EXPORTS, SANCTIONS AND CUSTOMS ENFORCEMENTS

### OFAC Finds American Express Subsidiary Violated WMD Proliferators Sanctions Regulations

On April 30, the Department of the Treasury's Office of Foreign Asset Control (OFAC) issued a Finding of Violation to American Express Travel Related Services Company ("Amex") for violating the Weapons of Mass Destruction Proliferators Sanctions Regulations (WMDPSR). Findings of Violations do not carry a monetary penalty.

According to OFAC's Web Notice, between March 26 and May 19, 2015, Amex issued a prepaid card to and processed 41 transactions totaling \$35,246.82 on behalf of Gerhard Wisser, a Specially Designated National (SDN). When Wisser applied for the card at a non-U.S. bank on March 26, 2015, Amex's screening system, which utilizes a "risk engine," identified Wisser as an SDN and generated multiple "declined" messages rejecting his application. However, the bank made further attempts to approve Wisser's application, which caused the risk engine to time out and automatically approve Wisser for the card. The risk engine routed Wisser's application to an Amex compliance analyst for manual review, but the analyst incorrectly determined that Wisser was a different person than the individual listed as an SDN. Wisser was ultimately approved for the card, and subsequently

made two deposits and 39 withdrawals at various ATMs in Germany and the United Arab Emirates in violation of the WMDPSR.

OFAC considered aggravating factors to include that: (i) Amex caused sanctions harm by conferring an economic benefit to an SDN; (ii) Amex is a commercially sophisticated financial institution; and (iii) Amex's automatic approval of applications after the risk engine timeout was a "critical shortcoming" of its compliance program. OFAC considered mitigating factors to include that: (i) Amex did not engage in willful or reckless behavior; (ii) Amex apparently did not know it maintained a card for an SDN, or that its screening system could be overridden; (iii) Amex remediated, disclosed the violations to OFAC and cooperated with OFAC's investigation; and (iv) Amex has had no OFAC enforcement history in the preceding five years.

In its Web Notice, OFAC emphasized the importance of taking steps to ensure that automated sanctions compliance measures, such as the screening system and risk engine described above, cannot be overridden without appropriate review.

#### **More information**

- [OFAC Recent Actions Notice](#)
  - [OFAC Web Notice](#)
- 

### **EPA and CBP Block Imports of Fraudulent Anti-COVID Products and EPA Calls on Tech Companies to Remove Products From Websites**

In a series of news releases since March, the Environmental Protection Agency (EPA) and Customs and Border Protection (CBP) have announced successful enforcement efforts aimed at seizing unregistered products making unsubstantiated claims about their efficacy against the coronavirus. The EPA also called on eight companies to take action against online sellers of fraudulent and illegal disinfectants. On April 23, 2020, the agencies announced that to date they had identified and seized over 7,800 such products being sent via international mail to U.S. consumers at U.S. Postal Service facilities at the Los Angeles International Airport and San Francisco International Airport. This follows an earlier announcement on March 25, 2020, when EPA and CBP denied entry to a product named "Virus Shut Out" at ports in Honolulu and Guam because it had not been registered with the EPA under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). CBP announced similar seizures of the product in Louisville. According to CBP, the product contains the hazardous pesticide Chlorine Dioxide, which can leach into the wearer's skin causing breathing issues and related health concerns.

According to the EPA and CBP, Virus Shut Out and other illegal disinfectants are being sold by certain online retailers and third-party platforms, and are then imported from Japan and Hong Kong to the United States via international mail. Under FIFRA, products that claim to kill or repel viruses, bacteria or other germs are considered pesticides and must be registered with the EPA prior to distribution or sale. Disinfectants and antimicrobial products claiming to control, prevent, destroy, repel or mitigate the virus that causes COVID-19 are thus regulated under FIFRA. Virus Shut Out and the other products were unregistered under FIFRA and thus subject to seizure. Additionally, EPA's announcement of the seizures noted that the labeling of these products was not in English and their online advertising materials contained "misleading" claims about their effectiveness and safety. The EPA has advised several companies to remove advertisements for or listings of the offending products from their platforms.

Under FIFRA, the maximum civil penalty is \$19,446 per violation, and knowing violations of FIFRA carry criminal penalties of up to one year imprisonment and/or \$50,000.

#### **More information**

- [CBP News Release, May 1](#)
- [EPA News Release, Apr. 23](#)
- [EPA News Release, Apr. 23](#)
- [EPA News Release, Mar. 25](#)

## BIS Announces the Elimination of License Exception CIV, Expanded Licensing Requirements on Exports to Chinese, Russian and Venezuelan Military End Users and End Uses, and a Proposed Rule to Narrow License Exception APR

On April 28, 2020, the Bureau of Industry and Security of the U.S. Department of Commerce announced changes to the Export Administration Regulations (EAR) through three notices published on the Federal Register. The changes may have far reaching implications involving countries subject to national security controls under category D:1, including China and Russia. The new rules are intended to safeguard U.S. national security interests by imposing additional restrictions involving countries that have a “military-civil fusion” doctrine, and present heightened risk of diversion of civil items for military applications.

The first of three notices is a [final rule](#), effective on June 29, 2020, that expands export control restrictions under EAR Section 744.21 involving certain military end uses and end users in China, Russia and Venezuela. The expanded scope of Section 744.21 will perhaps have the most far reaching impact on industry—particularly among the semiconductor, telecommunications, consumer electronics and aerospace industries. The new rule expands the restrictions in three significant ways. First, the new rule expands the scope of items subject to this rule to include many Anti-Terrorism (AT)-only Export Control Classification Numbers (ECCNs). Second, the rule expands the definition of “military end use” to include “any item that supports or contributes to the operation, installation, maintenance, repair, overhaul, refurbishing, ‘development,’ or ‘production,’ of military items.” Third, the rule expands the restrictions to not only cover exports of items in Supplement No. 2 to Part 744 for military end uses in China, but also to military end users in China. The expanded definition of military end use, coupled with new restrictions on military end users in China, will create complex compliance challenges for companies, including for companies that traditionally have not needed to worry significantly about export controls. The term “military end user” is not limited to what most people think is a traditional military end user, such as an army or navy. For purposes of the new export license requirements, the term “military end user” applies to any person or entity whose actions or functions are intended to support “military end uses” under the new expanded definition of that phrase. Thus, even if an export is for purely civil end uses, a license will be required if it is destined to such a “military end user.”

The second of three notices is a [final rule](#), effective on June 29, 2020, that eliminates License Exception Civil End Users (CIV) for eligible D:1 countries. License Exception CIV allows the export of certain items controlled for national security (NS) reasons only to civil end users in D:1 countries. These exports will now be subject to a case-by-case license review, and given China’s adoption of the military-civil fusion doctrine, it is unclear what additional information license applicants will need to provide to rebut the U.S. government’s concern that any NS-controlled items exported or reexported to Chinese firms may be potentially diverted to military end users.

The last of the three notices is a [proposed rule](#) that would remove currently eligible D:1 countries from license exception Additional Permissive Reexports (APR). Comments on the proposed rule are due by June 29, 2020. The change, if adopted, would mean that reexporters seeking to ship U.S. items from specific third countries to a D:1 country such as China would require a U.S. reexport license, even when the third country has granted a valid export authorization for the shipment. BIS will review requests for such reexport authorizations on a case-by-case basis.

### More information

- [Akin Gump International Trade Alert](#)
  - [BIS Final Rule: China, Russia, and Venezuela](#)
  - [BIS Final Rule: License Exception CIV](#)
  - [BIS Proposed Rule: License Exception APR](#)
-

## OFAC Adjusts Maximum Civil Monetary Penalties for Inflation

On April 9, 2020, OFAC issued a final rule pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, adjusting the maximum Civil Monetary Penalties (CMP) for violations of statutes that OFAC enforces. The adjusted maximum CMPs are: for violations of the Trading with the Enemy Act (TWEA), \$90,743; for violations of the International Emergency Economic Powers Act, \$307,922; for violations of the Antiterrorism and Effective Death Penalty Act of 1996, \$81,283; for violations of the Foreign Narcotics Kingpin Designation Act, \$1,529,991; and for violations of the Clean Diamond Trade Act, \$13,910.

### More information

- [OFAC Recent Actions Notice](#)
- [Federal Register Final Rule](#)

## GLOBAL INVESTIGATIONS RESOURCES

- [BIS Announces the Elimination of License Exception CIV. Expanded Licensing Requirements on Exports to Chinese, Russian, and Venezuelan Military End Users and End Uses, and a Proposed Rule to Narrow License Exception APR](#)
- [Members Agreement Ensures That WTO Dispute Settlement Continues to Operate Smoothly](#)
- [EU and Mexico Announce the Finalization of an Updated Free Trade Agreement](#)
- [Attempted Imagination Coup Triggers UK Push for More National Security Blocking Powers on Foreign Asset Stripping](#)
- [President Trump Signs Proclamation Suspending Entry of Certain Immigrants](#)
- [Executive Order and CBP Rule Authorize 90-Day Duty Deferral for Certain Imports](#)
- [FEMA Issues New Exemptions to Temporary Rule Authorizing CBP to Detain Certain Exports of Health and Medical Materials](#)
- [DDTC Publishes New FAQs on Activities by Non-U.S. Persons After the Expiration of an Agreement](#)
- [What Audit Committees Can Do to Prevent Accounting Fraud in Uncertain Times](#)

## 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](#)

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

Executive Editors

[Paul W. Butler](#)

[Christian Davis](#)

Anticorruption Developments Editors

[Melissa Whitaker](#)

[Abigail Kohlman](#)

[Jillie Richards](#)

[Michael Fires](#)

[Allison Thornton](#)

[Matthew Breen](#)

[McKenzie Miller](#)

[Suzanne Kane](#)  
[Katherine Padgett](#)  
[Jennifer Thunem](#)  
[Michael Adame](#)  
[John Callahan](#)  
[Cameron Peek](#)

Translations of Red Notice into Chinese, Russian, Arabic and Spanish are available on a delayed basis. Please check via the links above or archived editions links below to view past translated editions.

[Archives](#) | [Archives—Arabic](#) | [Archives—Chinese](#) | [Archives—Spanish](#) | [Archives—Russian](#)

[akingump.com](http://akingump.com)



© 2020 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin Gump Strauss Hauer & Feld is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our [Legal Notices page](#).

[Update your preferences](#) | [Subscribe](#) | [Unsubscribe](#) | [Forward to a friend](#) | [Legal Notices](#) | [Akin Gump Website](#)

This email was sent by: 2001 K Street, N.W., Washington, DC 20006-1037