

# International Trade Enforcement Roundup

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You are reading the **October 2023 Update** of the Bass, Berry & Sims Enforcement Roundup, where we bring notable enforcement actions, policy changes, interesting news articles, and a bit of our insight to your inbox.

To stay up to date, subscribe to our [GovCon & Trade blog](#). If you have questions about any actions addressed in the Roundup, please contact the international trade team. We welcome your feedback and encourage you to share this newsletter. Let's jump in!

## Overview

- ❖ October saw two major enforcement actions involving **Russia**. First, three individuals were indicted for facilitating the export of controlled U.S.-origin electronics to Russia. Second, the president of a U.S. steel trading company pleaded guilty to sanctions violations for transacting with a designated Russian oligarch.
- ❖ There were also several notable **U.S. sanctions matters** in October. The U.S. Treasury Department Office of Foreign Assets Control (OFAC) issued two tranches of sanctions targeting Hamas financial networks. In addition, U.S. sanctions on **Venezuela** were eased through the issuance of four General Licenses (GLs). And a U.S. citizen pleaded guilty to violating the International Emergency Economic Powers Act (IEEPA) for exceeding the scope of an OFAC license related to Iran.
- ❖ October also saw a number of enforcement policy updates. The Departments of Justice, Commerce, State and Treasury issued an advisory alert detailing the threats posed by **Iran's procurement efforts** for its ballistic missile programs. In addition, after issuing rules in 2022 to control various types of advanced **semiconductors**, the Commerce Department's Bureau of Industry and Security (BIS) issued new rules strengthening and clarifying those requirements.

# Russia

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## *New York Company Received Over \$250,000 from Sanctioned Russian Entity to Purchase and Export Electronic Components (Department of Justice (DOJ) Action)*

**Those involved.** Artem Oloviannikov, a U.S. resident; Nikita Arkhipov, a Russian citizen; and Nikolay Grigorev, a Russian citizen.

**Charges and penalties.** One Count of Conspiracy to Defraud the United States (maximum five years in prison); One Count of Attempt and Conspiracy to Commit Mail Fraud; One Count of Smuggling Goods into the United States (maximum of 10 years in prison); and One Count of Unlawful Export Information Activities (maximum of five years in prison).

**What happened?** On October 31, Arkhipov, Grigorev, and Oloviannikov were indicted for facilitating unauthorized exports of controlled U.S. technologies to Russian military end-users. Between October 2021 and February 2022, SMT-iLogic, a Russian technology company designated by OFAC in 2016, paid over \$270,000 to a New York-based entity registered and controlled by Grigorev and Oloviannikov so the company could procure U.S.-origin electronics for export to Russia. Communications between the parties specifically referenced “efforts to circumvent US sanctions.” Grigorev was arrested on November 1, but Arkhipov and Oloviannikov remain at large.

The press release can be found [here](#).

**Notably.** The enforcement action highlights the U.S. government’s continued efforts to pursue sanctions evaders, particularly with respect to Russia. Any U.S. company that manufactures or sells potentially sensitive items should ensure that robust due diligence is conducted on transaction partners.

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## *President of Metalhouse LLC Pleads Guilty to Conspiracy to Launder Over \$150 Million to Promote Russia Sanctions Violations (DOJ Action)*

**Those involved.** John Can Unsalan, president of Metalhouse LLC, a U.S. company in the steel service industry.

**Charges with penalties.** One Count of Conspiracy to Commit Money Laundering to Promote Violations of the IEEPA (Agreed to forfeit \$160,416,948.56) (Any prison sentence will be determined according to the U.S. Sentencing Guidelines at a future sentencing hearing).

**What happened?** On October 3, Unsalan pleaded guilty to conspiracy to commit money laundering to further violations of the IEEPA. Unsalan had been indicted in April 2023 for improperly engaging with a sanctioned Russian oligarch, Sergey Kurchenko, and two of his companies. Over a three-year period, Unsalan provided the sanctioned oligarch with over \$150 million in return for steel-making equipment and materials. We wrote about the indictment in our [April Enforcement Roundup](#).

The press release can be found [here](#).

**Notably.** The plea agreement is a reminder of the risk of doing business with any party subject to sanctions restrictions. In April, Attorney General Merrick Garland stated, “[t]he arrest of John Can Unsalan should serve as a warning to those who seek to do business with sanctioned individuals or entities that endanger the security of the United States and our allies.”

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## ***Commerce Adds 49 Entities to the Entity List for Providing Support to Russia's Military and Defense Industrial Base***

On October 6, BIS added 49 parties to the Entity List (EL) for their efforts to support the Russian defense industrial base. Forty-two of the parties are based in China, while the others are based in Estonia, Finland, Germany, India, Turkey, the United Arab Emirates, and the United Kingdom. The entities were found to have supplied Russia with U.S.-origin integrated circuits without authorization. As a general matter, a license is required to export, re-export, or transfer nearly any U.S.-origin item to a party on the EL.

The press release can be found [here](#). The rule can be found [here](#).

**Notably.** The press release notes that integrated circuits are considered a “Tier 1” item by the [Common High Priority Item List](#)—a resource developed by the United States, European Union, United Kingdom, and Japan to aid industry in preventing the diversion of critical items to Russia. The list identifies those items at heightened risk of diversion by the 6-digit Harmonized Tariff Code and is a helpful compliance resource for industry.

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## **Middle East**

### ***Telecommunications Consultant Pleads Guilty to Violating Sanctions on Iran (DOJ Action)***

**Those involved.** Farhad Nafeiy, a U.S. citizen.

**Charges with penalties.** One Count of Violating IEEPA (maximum of 20 years in prison); One Count of Tax Evasion (maximum of five years).

**What happened?** On October 3, Nafeiy pleaded guilty to a violation of the IEEPA for exceeding the scope of his OFAC licenses when he provided software upgrades for telecommunications equipment in Iran. In 2012, Nafeiy obtained a license from OFAC to advise certain non-Iranian telecommunications companies. However, the license, which Nafeiy subsequently renewed four times, did not authorize either the export of software to Iran or the provision of services to Iranian nationals or entities. Nafeiy admitted to having known these activities exceeded the scope of his license when he illegally sold approximately \$400,000 in software upgrades to Iranian companies.

The press release can be found [here](#).

**Notably.** This enforcement action serves as a reminder that OFAC licenses are specific in nature. Business decisions should be made with a clear eye to the scope of the license, as the provision of any goods or services beyond the explicit terms of the license is likely to be prohibited.

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### ***U.S. Imposes Sanctions on Hamas (OFAC Action)***

On October 18, OFAC imposed sanctions on Hamas financiers, operatives, and other members of the terrorist group. OFAC called the actions “part of a continuous effort by the United States to root out Hamas's sources of revenue in the West Bank and Gaza and across the region.” The October 18 actions added six individuals who manage a Hamas investment portfolio, two senior Hamas officials, and a virtual currency exchange based in Gaza to the Specially Designated National List. On October 27, OFAC announced a second round of sanctions on officials affiliated with Hamas, assets in the terrorist group's investment portfolio, and individuals aiding Hamas in evading sanctions. As a result of these designations, all transactions by U.S. persons involving the property of the designated entities are prohibited. Additionally, U.S. persons holding property of any of these entities must block and report that property to OFAC.

The press release detailing the first tranche of designations can be found [here](#). The press release detailing the second tranche of designations can be found [here](#).

**Notably.** Hamas is reliant on a global financial network and secretive investment portfolio to fund its operations; OFAC is working to disrupt it. According to public reports, a U.S. official signaled there would be several rounds of designations. Accordingly, companies that do business in the region should be proactive in strengthening their compliance program and conducting enhanced screening.

## Venezuela

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### *Issuance of Venezuela-Related General Licenses (GLs) and Associated Frequently Asked Questions (OFAC Action)*

On October 18, OFAC announced the issuance of four GLs, suspending certain sanctions and providing an avenue for U.S. corporations to conduct business with the Venezuelan energy industry. The licenses temporarily allow transactions involving the Venezuelan oil and gas sector; authorize transactions with Minerven, a Venezuelan state-owned gold company; and remove a secondary ban on trading sovereign bonds and PdVSA debt and equity. These GLs were issued following an agreement committing the Maduro regime to “an electoral roadmap.”

The press release can be found [here](#). The FAQs can be found [here](#).

**Notably.** While the issuance of the GLs signals a potential thaw in relations between the United States and Venezuela, there continue to be significant restrictions on doing business in and with Venezuela.

## Mexico

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### *Montana Man Admits Buying Firearms in Montana, Illegally Exporting Them to Mexico (DOJ Action)*

**Those involved.** Cristyan Jose Gonzalez-Carrillo, a Montana resident.

**Charges with penalties.** One Count of Illegal Export (maximum of 10 years in prison, a \$250,000 fine, and three years of supervised release).

**What happened?** On October 11, Gonzalez-Carrillo pleaded guilty to the illegal export of handguns after an investigation conducted by the Bureau of Alcohol, Tobacco, Firearms and Ammunition (ATF) found he advertised weapons for sale on WhatsApp, made multiple border crossings between April 2020 and June 2020 evidenced by license plate records, and sold firearms to individuals in Mexico. The sentencing hearing is set for February 15, 2024.

The press release can be found [here](#).

**Notably.** The enforcement action should signal to the exporting community that DOJ not only allocates resources to large-volume transactions but to lower-level violations as well. Exporters of all sizes should endeavor to comply fully and completely with the relevant requirements.

# Regulatory Updates

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## *United States Government Regulators Issue Advisory to Industry on Iran Ballistic Missile Procurement*

On October 18, the DOJ and the Departments of Commerce, State and Treasury issued an advisory alerting private industry to the threats posed by Iran's attempts to procure materials for its ballistic missiles program. The advisory highlights certain deceptive practices used by Iranian parties to improperly procure materials, including obscuring the end user by routing transactions through various layers of corporations, falsifying documents, and using third-party countries as transshipment points. The advisory also lists entities involved in Iran's ballistic missile program and key goods sought by Iran for these programs. In particular, the advisory lists production and testing equipment like computer numerical control (CNC) machines; materials such as aluminum tubing, carbon fiber, and graphite cylinders; electronics including circuit card assemblies, complex programmable logic devices, and cryogenic accelerometers; and guidance, navigation and control technologies like accelerometers, gyroscopes, and navigational sensors.

The press release can be found [here](#). The advisory can be found [here](#).

**Notably.** This guidance is only the most recent example of enforcement agencies providing the private sector with advice to aid industry in their compliance efforts. In addition, given that the guidance signals an increased focus on enforcement related to Iran's ballistic missile program, companies involved in industries referenced in the guidance should ensure their compliance efforts reflect the advice.

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## *Commerce Strengthens Restrictions on Advanced Computing Semiconductors, Semiconductor Manufacturing Equipment, and Supercomputing Items to Countries of Concern (BIS Action)*

On October 17, BIS issued a sweeping package of rules updating and expanding the October 2022 semiconductor controls. We wrote about the October 2022 controls in a previous [blog post](#). The rules were designed to "maintain the effectiveness" of the October 2022 controls, "close loopholes, and ensure they remain durable." The package of new regulations consists of three rules: an interim final rule related to advanced computing chips, an interim final rule related to the expansion of export controls on semiconductor manufacturing items, and a rule adding entities to the Entity List.

**Advanced Computing Chips Interim Final Rule.** While the rule continues the People's Republic of China (PRC)-wide licensing requirements imposed by the October 2022 rule, it makes two major changes to expand and strengthen existing controls.

First, it adjusts how BIS will determine the rule's application to advanced chips, expanding the number of semiconductors controlled. Second, the rule imposes new measures to combat circumvention efforts.

Following the effective date of November 16, 2023, BIS will no longer apply the licensing requirements to chips based on their "interconnect bandwidth" for chips controlled under ECCN 3A090. Instead, BIS will restrict the export of chips if they exceed either "the preexisting performance threshold set in the October [2022] rule; or a new 'performance density threshold.'" "Performance density" is a metric designed to ensure Chinese entities cannot simply procure "chiplets"—smaller versions of full chips that fall below the previous level of restriction. The rule also creates nine new ECCNs that meet or exceed these new performance parameters.

The rule creates a tiered system with a first and second tier. Chips that fall into both tiers are controlled. However, those in the second tier are eligible for a license exception for export or re-export to certain countries. In addition, the rule requires exporters to notify BIS when they export certain chips just below the threshold to allow BIS to ensure these exports are not being used in Chinese AI efforts.

Additionally, the new rule makes a number of changes to combat circumvention efforts. First, the new rule expands the licensing requirement from just the PRC and Macau to “any company that is headquartered in any destination subject to a U.S. arms embargo . . . or whose company is headquartered in those countries” and any country BIS has identified for national security purposes. Over 40 countries fit this criteria. The rule also imposes new due diligence requirements on foundries, creates a notification requirement for certain gaming chips, and requests public comment on a number of topics.

**Semiconductor Manufacturing Items Interim Final Rule.** Effective 30 days after publication, the interim final rule makes critical changes to the October 2022 rule by controlling additional semiconductor manufacturing equipment, expanding the preexisting controls to all countries (currently more than 20) on which the U.S. maintains an arms embargo, refines and clarifies U.S. person restrictions on supporting advanced semiconductor manufacturing in the PRC, and establishes a temporary GL to give manufacturing suppliers time to comply with the rule or acquire the necessary licenses from BIS.

**Entity List.** The third rule adds a host of entities to the EL. Thirteen Chinese entities were added for their roles in developing advanced chips involved in activities contrary to U.S. national security and foreign policy interests. The listings include a “footnote 4” designation pursuant to the EL foreign direct product rule, requiring that foundries obtain a BIS license before exporting chips to these entities.

**Notably.** While BIS noted its “concern[] regarding the potential for China to use IaaS solutions to undermine the effectiveness” of the rules, the package of regulations did not specifically target cloud computing services. With that said, the rules do seek comments “on the feasibility for [IaaS providers] in complying with additional regulations in this area . . . and what actions would be needed to address this national security concern while minimizing the business process changes that would be required to comply.” IaaS solutions providers should submit comments to ensure their views are heard and incorporated into the process of crafting new regulations. Providers have 60 days from the date the rule was published to submit these comments.

## International Trade Practice Group

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The Bass, Berry & Sims International Trade Practice Group helps clients navigate the complex regulations associated with a global marketplace. Our team is experienced in guiding clients through challenging issues related to economic sanctions (OFAC), exports (DDTC and the ITAR; BIS and the EAR), imports (CBP), antibribery (DOJ and SEC), anti-boycott regulations (OAC and Treasury), and the Committee on Foreign Investment in the United States (CFIUS). Our work in this area has been recognized in leading legal industry outlets, including Chambers USA, whose research revealed that “Bass, Berry & Sims represents a range of clients in export controls and economic sanctions matters. The team is experienced in handling EAR, OFAC and ITAR issues.” A client added, “Bass, Berry & Sims is very responsive and service-oriented.” (from Chambers USA). Learn more [here](#).

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