

International Trade Enforcement Roundup

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You are reading the **November 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

- ◆ November saw a flurry of designations involving **Russian** individuals and entities, including new designations against entities transporting Russian oil below the \$60 price cap. The Treasury Department's Office of Foreign Assets Control (OFAC) and the Department of State also targeted a number of entities and individuals.
- ◆ There was a notable Department of Justice (DOJ) enforcement case in which two men were found guilty of violating **sanctions on Iran** for selling Iranian oil to a Chinese refinery.
- ◆ The Treasury Department settled with Binance, a large cryptocurrency exchange, to resolve allegations of sanctions violations. A fine of almost \$1 billion was imposed. The **OFAC settlement** was undertaken in coordination with an agreement with the Treasury Department's Financial Crimes Enforcement Network (FinCEN), which further imposed a \$3.4 billion penalty—the largest penalty imposed in the history of the Treasury Department.
- ◆ The DOJ entered into Deferred Prosecution Agreements (DPAs) with two British reinsurance companies for bribing Ecuadorian officials in violation of the **Foreign Corrupt Practices Act (FCPA)**.
- ◆ November also saw the Commerce Department's Bureau of Industry and Security (BIS) bring an **anti-boycott enforcement action** against a Pennsylvania-based synthetic fiber manufacturer.
- ◆ Lastly, OFAC issued new guidance to help international nongovernmental organizations (NGOs) provide **humanitarian aid to Palestinians** without running afoul of U.S. sanctions programs.

Russia

Treasury Sanctions Additional Maritime Companies, Vessels Transporting Oil Sold Above the Coalition Price Cap (OFAC Action)

Selling above the cap. On November 16, OFAC designated three entities and identified three vessels as blocked for carrying Russian crude oil priced above the \$60 per barrel cap. As we wrote about in a [December 2022 blog post](#), an agreement between the EU, G7 countries, and Australia prohibited companies transporting oil priced above the \$60 cap from accessing financing, shipping, flagging, insurance, and other key services. Kazan Shipping Incorporated, Progress Shipping Company Limited, and Gallion Navigation Incorporated were designated, and their vessels, the Kazan, Ligovsky Prospect, and NS Century, were blocked. As a result of these designations, all transactions by U.S. persons involving the property of the designated entities (and vessels) are prohibited. Additionally, U.S. persons holding property of any of these entities must block and report that property to OFAC.

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

Notably. These designations follow an October 12 [advisory](#) providing recommendations on how to comply with the price cap, and represent an increased U.S. government focus on enforcing the price cap.

BIS and OFAC Announce Additional Actions Targeting the Russian War Effort (OFAC and BIS Actions)

Treasury Expands Sanctions with 130 New Russian Targets

Over 200 new sanctions. On November 2, OFAC designated 130 new individuals and entities that the agency claims are supporting the Russian war efforts. The designations focus on those individuals and entities purportedly supplying Russia with technologies using third-party countries as transshipment points. The OFAC press release states that Russia currently lacks the domestic capacity to develop the necessary technologies and equipment to fuel its war effort, so it has turned to third-party countries like the United Arab Emirates (UAE), Turkey, and China to circumvent sanctions and procure the requisite items. In addition, the Department of State sanctioned a further 90 entities and individuals targeting Russian energy capabilities.

The OFAC press release can be found [here](#). The Department of State press release can be found [here](#).

Commerce Adds 13 Entities to Entity List for Aiding Russia's Illegal War in Ukraine

New additions. On November 2, BIS issued a rule adding 13 entities to the Entity List (EL) for procuring and developing UAVs for the Russian military. Twelve of the added entities are located in Russia, and one is located in Uzbekistan. 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](#).

Notably. The designations and restrictions highlight the risk associated with doing business in or involving Russia. A designation can be made with little or no warning and can immediately disrupt otherwise permissible business, including with Russia, to which many U.S.-origin items can still be shipped without violating the law.

Iran

Two Men Found Guilty of Conspiring to Sell Sanctioned Iranian Petroleum (DOJ Action)

Those involved. Zhenyu “Bill” Wang, a Dallas, Texas resident, and Daniel Lane, a McKinney, Texas resident.

Charges with penalties. One Count of Attempting to Violate the International Emergency Economic Powers Act (IEEPA) (maximum of 20 years in prison); One Count of Conspiracy to Violate IEEPA (maximum of five years in prison); One Count of Conspiracy to Commit Money Laundering (maximum 20 years in prison).

What happened? On November 17, Wang and Lane were found guilty of attempting to violate the IEEPA, conspiracy to violate the IEEPA, and conspiracy to commit money laundering in furtherance of a plot to buy Iranian oil, sell it to a Chinese refinery, and launder the proceeds. To mask the illegal nature of the transactions, the defendants obtained Antiguan passports, drafted fraudulent contracts, and used shell companies. Prior to their arrest, the defendants planned to facilitate two oil shipments per month, reaping \$28 million in profit.

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

Notably. According to court documents, “[t]he defendants were charged as a result of an undercover sting operation designed to identify persons willing to make illegal purchases of sanctioned Iranian oil.” Much of the evidence presented in the case involves recordings of meetings and telephone conversations between the defendants and a government source. The extensive nature of the investigation shows the seriousness with which the DOJ takes sanctions evasion.

Venezuela

Commerce Adds Four to Entity List Related to Circumvention of U.S. Sanctions Against Venezuela, Russia (BIS)

Four EL additions. On November 17, BIS added three entities to the EL—Aerofalcon S.L., Novax Group S.A., and Zero Waste Global SA—for “supplying the representatives of Nicolas Maduro in Venezuela with U.S. origin aircraft parts,” in circumvention of U.S. sanctions. Si2 Microsystems Private Limited, an Indian company, was added for “providing support to Russia’s military and/or defense industrial base.”

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

Notably. The designations evidence the U.S. government’s close watch on Venezuelan transactions. Companies operating in the region should recognize that even after the recent issuance of OFAC general licenses, which we detailed in our [October Enforcement Roundup](#), companies doing business in or involving Venezuela must be cognizant of sanctions and export control compliance requirements.

OFAC Settlements

OFAC Settles with Binance for Nearly \$1 Billion Related to Apparent Sanctions Violations (OFAC Action)

Those involved. Binance Holdings, Ltd., a Cayman Islands-based virtual currency exchange.

Charges with penalties. 1,667,153 apparent violations of multiple sanctions programs (agreed to pay \$968,618,825).

What happened? On November 21, OFAC agreed to settle its investigation into Binance's apparent violations of multiple sanctions programs. The penalty amounted to almost \$1 billion—the largest ever OFAC settlement. Between August 2017 and October 2022, Binance, the largest cryptocurrency trading platform in the world, matched and executed trades between U.S. persons and persons located in sanctioned jurisdictions. According to OFAC, Binance facilitated over \$700 million in improper transactions with nexuses in Iran, Syria, North Korea, Cuba, Crimea, as well as the so-called Donetsk and Luhansk People's Republics.

While Binance senior management promoted compliance publicly, they privately obstructed any meaningful implementation of internal controls. For example, the chief compliance officer (CCO) falsely represented to a financial institution that Binance used "IP blocking to deny business from sanctioned counties," and the CEO even sought to encourage customers to use VPNs with carefully worded "popup notice[s]."

In addition to the large fine, Binance agreed to retain a compliance monitor for five years and implement certain compliance policies, procedures, and internal controls related to compliance with sanctions programs. Further, the OFAC settlement reserves the right to impose additional penalties upon any breach of the settlement agreement. The OFAC settlement was announced in coordination with FinCEN, which further imposed a \$3.4 billion penalty—the largest penalty in the history of both FinCEN and the Treasury Department. Lastly, Binance's CEO is currently awaiting sentencing after being charged and pleading guilty to federal criminal charges, while the CCO, Samuel Lim, agreed to pay the Commodities Future Trading Commission (CFTC) a \$1.5 million penalty for his actions.

The OFAC press release can be found [here](#). The Department of Treasury press release can be found [here](#). The CFTC press release can be found [here](#).

Notably. First, the Treasury Department consistently preaches the importance of a culture of compliance and managerial buy-in. In addition, the Treasury Department issued [sanctions guidance](#) for the virtual currency sector in October of 2021, calling "[s]enior management's commitment to a company's sanctions compliance program one of the most important factors in determining the program's success." Companies should ensure they employ a top-down, adequately resourced commitment to compliance to better protect against committing sanctions violations and potentially realize credit if violations do occur.

Second, companies should deploy compliance systems specifically tailored to the nature of the organization. These systems should include tools like IP blocking and geofencing to protect against potential violations. Moreover, the development and deployment of an adaptable compliance framework should be a primary consideration when launching a business, especially in the financial services sector.

OFAC Settles with daVinci Payments for \$206,213 Related to Apparent Violations of Multiple Sanctions Programs (OFAC Action)

Those involved. Swift Prepaid Solutions, d/b/a daVinci Payments, an Illinois-based financial services company that administers pre-paid reward card programs.

Charges with penalties. 12,391 apparent violations of OFAC sanctions programs (agreed to remit \$206,213).

What happened? On November 6, daVinci agreed to remit approximately \$200,000 for over 12,000 apparent violations of OFAC sanctions programs covering Crimea, Cuba, Iran, and Syria after it enabled reward cards to be redeemed by individuals in sanctioned jurisdictions. The company administers a program where clients can award pre-paid rewards cards to their employees or customers. While the clients funded the cards themselves, daVinci would either digitally or physically transmit the cards to the ultimate beneficiaries.

While daVinci's compliance system prohibited issuing cards to individuals with addresses in sanctioned jurisdictions and user names were screened against sanctions lists, the company learned it had issued cards to users with internet protocol (IP) addresses linked to Crimea, Cuba, Iran, and Syria. daVinci remediated the compliance gap but then learned that 13 awardees had email addresses with suffixes related to sanctioned countries. Overall, daVinci discovered over 12,000 apparent violations totaling \$549,134.89 in transactions. daVinci voluntarily self-disclosed the violations once they were discovered.

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

Notably. OFAC's penalty amounted to one-half of the transaction value for each apparent violation, due, in part, to the company's voluntary self-disclosure of the violations, which were identified following a compliance review and subsequent investigation. This settlement attests to the vital role of internal compliance reviews. It is not sufficient to simply implement a compliance system and allow it to collect dust on the shelf. Compliance is an iterative process where review are conducted, and necessary adjustments are made. If potential violations are found, the next step would be determining whether disclosure is warranted.

BIS Imposes Penalty Against Pennsylvania Company to Resolve Alleged Violations of the Anti-Boycott Regulations (BIS Action)

Those involved. Forta LLC, a Pennsylvania-based synthetic fiber manufacturer.

Charges with penalties. Three violations of the anti-boycott provisions of the Export Administration Regulations (EAR) (civil penalty of \$44,750 imposed).

What happened? On November 3, BIS announced it had settled three alleged violations of the anti-boycott provisions of the EAR, and imposed a penalty of \$44,750 on Pennsylvania manufacturer Forta. As part of the settlement agreement, Forta admitted furnishing information to a freight forwarder certifying the goods being shipped to a trade show were not of Israeli origin or manufactured by a country on the "Israeli Boycott Blacklist." Forta also admitted to failing to report its receipt of the request to the Department of Commerce in violation of 15 C.F.R. § 760.5.

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

Notably. Subject to limited exceptions, 15 C.F.R. § 760.5 requires U.S. persons to report the receipt of boycott requests to the Department of Commerce on a periodic basis. Failure to do so can impart monetary and reputational liability on a company. Given the current conflict between Israel and Hamas, boycott requests may become more common. Companies should issue internal guidance as a reminder to report all boycott requests to the appropriate compliance officials to ensure timely reporting.

FCPA

British Reinsurance Brokers Resolve Bribery Investigations (DOJ Action)

Those involved. Tysers Insurance Brokers Limited, formerly known as Integro Insurance Brokers Limited, and H.W. Wood Limited, two United Kingdom-based international reinsurance brokers.

Charges with penalties. Tysers Insurance Brokers Limited: Violating the anti-bribery provisions of the FCPA (\$36 million criminal penalty and forfeit an additional \$10.5 million in proceeds associated with the offense). H.W. Wood Limited: Violating the anti-bribery provisions of the FCPA (\$508,000 and no administrative forfeiture).

What happened? On November 20, Tysers Insurance Brokers Limited and H.W. Wood Limited settled allegations they violated the FCPA by paying bribes to officials of Ecuadorian state-owned insurance companies in exchange for obtaining and retaining reinsurance contracts. Tysers and H.W. Wood paid over \$2.8 million in bribes to the former Chairman of Seguros Sucre S.A. and Seguros Rocafuerte S.A., two Ecuadorian reinsurance companies, and three other Ecuadorian officials. Both companies sent commissions to an intermediary company, which doled out the bribes. Both Tysers and H.W. Wood agreed to three-year deferred prosecution agreements (DPAs) with the DOJ.

The press release can be found [here](#). Tysers' DPA can be found [here](#). H.W. Wood's DPA can be found [here](#).

Notably. The DOJ noted that both Tysers and H.W. Wood received credit for strengthening their respective compliance programs by allocating additional resources to the program, enhancing governance and oversight of the compliance systems, updating existing anti-bribery policies and compliance training, and enhancing onboarding procedures of third parties. The DPAs signify the importance of timely remediation upon discovery of an FCPA violation.

Regulatory Updates

Guidance for the Provision of Humanitarian Assistance to the Palestinian People (OFAC Action)

Humanitarian instructions. On November 14, OFAC issued guidance to clarify ways in which U.S. persons can provide humanitarian assistance to Palestinians without violating existing sanctions programs. While it continues to impose sanctions on Hamas leadership and those the terrorist organization conducts business with, OFAC has also worked to ensure legitimate humanitarian aid can be provided to Palestine. The guidance clarifies which specific organizations are authorized under the International Organizations General Licenses (GLs), the authorized categories of activities under the GLs, whether NGOs can transfer funds to blocked persons in furtherance of an activity authorized under the GLs, and whether designated individuals with leadership roles in certain government institutions can impart their designation to the governing institution.

The guidance can be found [here](#).

Notably. The guidance serves as a valuable resource for any NGO providing humanitarian support to Palestinians in Gaza or the West Bank (or whenever providing humanitarian support anywhere in the world). As OFAC continues to designate individuals in Gaza and Hamas attempts to find new ways to raise funds, transacting with individuals and organizations in the Gaza Strip will become more difficult. Organizations should consult this guidance and continually screen organizations and individuals they transact with to ensure compliance.

International Trade Practice Group

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), anti-bribery (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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