

# International Trade Enforcement Roundup

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You are reading the **December 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.

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## Overview

- ❖ December saw continuing enforcement actions involving **Russia**. First, the Treasury Department's Office of Foreign Assets Control (OFAC) settled investigations into apparent sanctions violations by a New York-based insurance company and California-based virtual currency exchange. In addition, a Belgian national was indicted by the Department of Justice (DOJ) and designated by OFAC after conspiring to illegally procure products for resale in Russia and China.
- ❖ There were two notable actions involving **Iran** this month. The DOJ charged two individuals for allegedly procuring U.S.-origin microelectronics for an Islamic Revolutionary Guard Corps (IRGC) drone program. Also, OFAC agreed with Nasdaq to settle an investigation of sanctions violations committed by Nasdaq's Armenian subsidiary.
- ❖ The DOJ entered into a Deferred Prosecution Agreement (DPA) with Freepoint Commodities, a Connecticut-based commodities trader, for bribing officials at Petróleo Brasileiro S.A. (Petrobras), a Brazilian state-owned oil company, in violation of the **Foreign Corrupt Practices Act (FCPA)**.
- ❖ Lastly, a **new Executive Order** gives the Secretary of Treasury broader authority to take enforcement actions against foreign financial institutions (FFIs), and the Departments of Commerce, Homeland Security, Justice, State, and Treasury issued a first-ever joint note on **compliance best practices for the maritime and transportation industry**.

# Russia

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## *OFAC Settles with Privilege Underwriters Reciprocal Exchange for \$466,200 Related to Apparent Violations of U.S. Sanctions Related to Ukraine and Russia (OFAC Action)*

**Those involved.** Privilege Underwriters Reciprocal Exchange (PURE), a New York-based insurance company.

**Charges with penalties.** 39 apparent violations of OFAC's Ukraine-/Russia-Related sanctions (\$466,200 in penalties imposed).

**What happened?** On December 21, OFAC announced it had settled with PURE over allegations that the company engaged in transactions related to insurance policies issued to Medallion, Inc., a designated Panamanian company. Medallion was blocked as a result of the April 2018 designation of Viktor Vekselberg, a prominent Russian businessman and the insurance company's sole shareholder. PURE received 38 premium payments totaling \$308,391 and also paid out a \$7,500 claim, resulting in 39 apparent violations of the sanctions program. OFAC considered three aggravating factors when determining the penalty: PURE's failure to exercise due caution for its sanctions compliance obligations, its having reason to know it was violating the sanctions, and its providing an economic benefit to a sanctioned person. On the other hand, OFAC identified PURE's remedial efforts and level of cooperation as mitigating factors. PURE did not voluntarily self-disclose the conduct.

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

**Notably.** PURE issued four insurance policies to Medallion in 2010, eight years before OFAC added Vekselberg to the Specially Designated Nationals (SDN) List. The compliance program was not updated to reflect the change. The action demonstrates the importance of constantly refining a compliance system as changes to the SDN List occur frequently and must be properly reflected in a compliance system.

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## *OFAC Settles with CoinList Markets LLC for \$1,207,830 Related to Apparent Violations of U.S. Sanctions on Russia and Ukraine (OFAC Action)*

**Those involved.** CoinList Markets LLC (CLM), a California-based virtual currency exchange.

**Charges with penalties.** 989 apparent violations of Ukraine-/Russia-Related sanctions (\$1,207,830 in penalties imposed).

**What happened?** On December 13, OFAC announced it had reached an agreement with CLM to settle allegations that the virtual currency exchange allowed users residing in sanctioned jurisdictions to buy, sell, and convert various cryptocurrencies. While CLM maintained a fairly robust compliance program that included screening customers and transactional monitoring, the company's processes were unable to identify users who represented themselves as residing in non-embargoed countries while providing addresses in Crimea (a sanctioned region of Ukraine). Dozens of accounts were thus created for customers residing in Crimea.

OFAC considered CLM's failure to exercise due caution, its knowledge or reason to know of the apparent violations, and harm to sanctions objectives as aggravating factors. For mitigating factors, OFAC identified CLM's level of cooperation, the volume of apparent violations, and the company's remedial efforts. CLM agreed to pay \$1,207,830 to settle its potential civil liability arising from those transactions, which reflected non-egregious, but not voluntarily disclosed, apparent violations. \$300,000 of the penalty was suspended pending the implementation of enhanced screening controls and the onboarding of additional compliance personnel.

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

**Notably.** The action is the latest penalty imposed on a virtual currency exchange and highlights the importance of implementing fulsome Know Your Customer (KYC) compliance controls that include safety nets to catch issues that fall through the first line of defense. Both information received at onboarding and through transactional arrangements (such as IP location information) should be fully integrated into an organization's compliance program.

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### ***Treasury Imposes Sanctions on More than 150 Individuals and Entities Supplying Russia's Military-Industrial Base (OFAC Action)***

**More sanctions.** On December 12, OFAC again targeted the Russian defense industrial base when it designated over 150 individuals and entities who purportedly have assisted Russia in acquiring equipment and other key inputs to wage war in Ukraine. The designations include third-country suppliers and procurement networks in China, Turkey, and the United Arab Emirates (UAE), as well as Russia-based entities involved in producing, importing, and selling defense materials to the Russian military. The State Department concurrently imposed sanctions on more than 100 additional individuals and entities involved in "Russia's future energy export and production capabilities, Russia's metals and mining sector, and third country networks facilitating sanctions evasion and circumvention." All transactions by U.S. persons involving the property of the designated entities are prohibited and U.S. persons holding property of any of these entities must block and report that property to OFAC.

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

**Notably.** Individuals and entities from countries including the Maldives, Pakistan, Tajikistan, and even Singapore and Switzerland were among the newly designated. The U.S. government continues to broaden its focus beyond the territorial boundaries of Russia and occupied Ukrainian territory to individuals and entities hailing from a variety of countries, including key U.S. trading partners. This makes compliance more difficult. When conducting business with any non-U.S. company, U.S. persons must ensure that they are not conducting business with an entity or individual on the SDN List.

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### ***Commerce Adds 42 Entities to the Entity List for Supporting Russia's Military, Including Co-Production of Drones with Iran (BIS Action)***

**Entity list additions.** On December 6, the Bureau of Industry and Security (BIS) added 42 parties to the Entity List for "contribut[ing] to Russia's military and defense industrial base." Eleven entities were added for their involvement in joint Russian-Iran efforts to develop UAV production capacity at a facility in the "Alabuga Special Economic Zone." Eighteen entities were added for their efforts to divert U.S.-origin items to Russia in contravention of U.S. export control laws and 13 entities were added for improperly engaging with entities on the Entity List. 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 Entity List.

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

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## ***Belgian National Faces Federal Charges for Illegally Procuring Critical U.S. Technology for End Users in China and Russia (DOJ Action)***

**Those involved.** Hans Maria De Geetere, a Belgian National and owner of Knooke Heist Support Corporation Management (KHSCM), a Belgian company providing supply chain management and procurement services to third parties.

**Charges with penalties.** First indictment: Four Counts of Making False Statements (maximum of 20 years in prison for each count) and One Count of Obtaining Goods in Violation of the Export Administration Regulations (EAR) (maximum of 20 years in prison). Second indictment: One Count of Conspiracy to Smuggle Goods Out of the United States (maximum of 10 years in prison); Conspiracy to Launder Monetary Instruments (maximum of 20 years in prison); and One Count of Illegal Export of Defense Articles (maximum of 20 years in prison).

**What happened?** On December 5, DOJ unsealed two indictments alleging De Geetere attempted to procure accelerometers controlled for export to China and conspired to illegally smuggle export-controlled field programmable gate array circuits to Russia and short-wave infrared surveillance (SWIR) cameras to China.

### ***United States v. De Geetere (District of Oregon)***

As part of a scheme to illegally route controlled accelerometers to China, De Geetere caused a U.S. company to ship EAR-controlled technology to Germany for resale to China. The indictment alleges that when BIS's Office of Export Enforcement (OEE) contacted the German company, De Geetere completed a BIS form claiming the accelerometers were destined for Belgium—a jurisdiction that does not require a license—to be used by the Belgian government. In addition, over the course of the OEE investigation, De Geetere allegedly lied to BIS agents about customer relationships, the intended end use of the accelerometers, and even doctored a fraudulent email address purportedly from De Geetere's point of contact in the Belgian government.

### ***United States v. De Geetere (Eastern District of Texas)***

In a second indictment, the DOJ alleged De Geetere, together with his co-defendant Eddy Johan Coopmans, conspired to illegally smuggle export-controlled field programmable gate array circuits to Russia and SWIR cameras, which are controlled under the International Traffic in Arms Regulations (ITAR), to China. Coopmans pleaded guilty on October 5, 2022, which we addressed in an [October 2022 installment](#) of this roundup. De Geetere and Coopmans conspired with an undercover officer who posed as an individual who could procure the circuits and SWIR cameras without the required U.S. government authorizations. The two men wired over \$1.2 million to the undercover officer's account in furtherance of the conspiracy.

De Geetere was arrested concurrently with the unsealing of the indictment. In addition, BIS and OFAC added De Geetere and his companies to both the BIS Entity List and SDN List.

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

**Notably.** DOJ closely coordinated with Belgian law enforcement authorities to investigate, arrest, and charge De Geetere. The indictment is a reminder that U.S. jurisdiction over export control issues extends to non-U.S. persons and may involve close coordination with officials in other countries, as well as traditional law enforcement techniques such as undercover operations.

# Iran

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## *Iranian National Charged with Unlawfully Procuring Microelectronics Used in Unmanned Aerial Vehicles on Behalf of the Iranian Government (DOJ Action)*

**Those involved.** Hossein Hatefi Ardakani, an Iranian National, and Gary Lam, a Chinese National.

**Charges with penalties.** One Count of Conspiracy to Export U.S. Goods to Iran and Defraud the United States (maximum five years in prison); One Count of Unlawfully Exporting and Attempting to Export Goods to Iran (maximum 20 years in prison); One Count of Conspiracy to Engage in International Money Laundering (maximum 20 years in prison).

**What happened?** On December 19, the DOJ charged Ardakani and Lam for allegedly procuring U.S.-manufactured dual-use microelectronics for an IRGC drone program. Ardakani and Lam used a web of non-U.S. companies to disguise their efforts to supply the Iranian program with technology subject to export control laws. In one instance, Ardakani and Lam caused a French company to purchase controlled products from a U.S. company and ship them to Hong Kong for eventual re-export to Iran.

Concurrent with the unsealing of the indictment, OFAC designated Ardakani and Lam, two other individuals, and 10 entities involved in the scheme. Additionally, DOJ unsealed seizure actions for Nava Hobbies SDN BHD, Arta Wave SBN BHD, and their property totaling over \$800,000. Both Ardakani and Lam remain at large.

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

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## *OFAC Settles with Nasdaq, Inc. for \$4,040,923 Related to Apparent Violations of the Iranian Transactions and Sanctions Regulations Undertaken by Former Armenian Subsidiary (OFAC Action)*

**Those involved.** Nasdaq, Inc., a New York-based financial services company that owns and operates stock exchanges and other businesses across the world.

**Charges with penalties.** 151 apparent violations of the Iranian Transactions and Sanctions Regulations (ITSR) (\$4,040,923 in penalties imposed).

**What happened?** On December 8, OFAC announced it had reached an agreement with Nasdaq to settle its potential liability resulting from the conduct of Nasdaq OMX Armenia OJSC (OMX Armenia), the former owner and operator of the Armenian Stock Exchange, which Nasdaq acquired in 2008. OMX Armenia provided Armenian banks, including Mellat Bank SB CJSC (Mellat Armenia), an OFAC-designated entity pursuant to the ITSR, with access to liquidity loans and foreign exchange services. The improper conduct started prior to the acquisition and continued following Nasdaq's purchase. OFAC identified Nasdaq's failure to exercise due caution, Nasdaq's actual knowledge that Mellat Armenia was trading on the stock exchange, and its failure to take remedial steps, as well as Nasdaq's sophisticated operation, as aggravating factors. OFAC noted the company's clean record, full cooperation, remedial efforts, eligibility for a license that would have permitted the conduct, and the magnitude of harm as mitigating factors. In addition, Nasdaq voluntarily self-disclosed the apparent violations, which helped reduce the penalty from the maximum civil monetary penalty of over \$450 million.

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

**Notably.** The action highlights the critical role compliance due diligence plays in the acquisition process and the corresponding need to ensure integration efforts reflect any issues identified during that diligence.

# Foreign Corrupt Practices Act (FCPA)

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## *Freemont Commodities Agrees to Pay Over \$98 Million to Resolve Foreign Bribery Case (DOJ Action)*

For more information on this matter, please review our [blog](#) post from December 2023.

## Regulatory Updates

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### *U.S. Issues Executive Order 14114, "Taking Additional Steps With Respect to the Russian Federation's Harmful Activities"*

**Non-U.S. financial institutions beware.** On December 22, the Biden administration issued a new Executive Order (EO) entitled "Taking Additional Steps with Respect to the Russian Federation's Harmful Activities." The action amends [EO 14024](#) by adding a new section 11 which allows OFAC to impose sanctions on FFIs that "conducted or facilitated any significant transaction involving" persons designated for operating or having operated in certain Russian industries, including the manufacturing, construction, aerospace, material, or any other sector identified by the Treasury Department.

On the same day, OFAC issued a determination pursuant to the newly created section 11, which highlights certain "items of classes of items," the supply, sale, or transfer of which could trigger the imposition of sanctions on an FFI. The determination lists 29 items under eight categories, including certain machine tools and manufacturing equipment; certain manufacturing materials for semiconductors and related electronics; certain electronic test equipment; certain propellants, chemical precursors for propellants and explosives; certain lubricants and lubricant additives; certain bearings; certain advanced optical systems; and certain navigation instrument.

In addition, OFAC issued several FAQs which further explain some of the nuances of the new EO. For example, FAQ 1148 describes certain activities, such as maintaining accounts or transferring funds, that can trigger sanctions against an FFI. Lastly, OFAC issued guidance for complying with the new EO.

The EO can be found [here](#). Treasury Secretary Janet Yellen's statement, the determinations, general licenses, and FAQs can be found [here](#).

**Notably.** The new EO expands OFAC authority to target FFIs that are acting in contravention of U.S. foreign policy goals. Secretary Yellen stated, "We expect financial institutions will undertake every effort to ensure that they are not witting or unwitting facilitators of circumvention and evasion. And we will not hesitate to use the new tools provided by this authority to take decisive, and surgical, action against financial institutions that facilitate the supply of Russia's war machine." FFIs should immediately attempt to reduce exposure to the Russian defense industrial base. They should also consider implementing measures to gain a better understanding of the risk areas, including sending questionnaires to customers to better understand their counterparties and directly communicating compliance expectations to customers. With the new authority, OFAC will actively pursue violations involving FFIs.

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### *Departments of Commerce, Justice, Homeland Security, State, and the Treasury Issue Joint Compliance Note Reinforcing Best Practices to Ensure the Safe and Compliant Transfer of Goods in Maritime and Other Forms of Transportation (Joint Action)*

**Joint Notice.** On December 12, the Departments of Commerce, Justice, Homeland Security, State, and the Treasury released their first-ever joint compliance note "highlighting common tactics deployed by malign

actors” in the maritime and transport industries. The note aims to inform the industry as to the risks and provide guidance on how companies should comply with U.S. sanctions and export control laws. The note identifies potential indicators of efforts to evade export controls and sanctions laws, including manipulating location or identification data, falsifying cargo and vessel documents, ship-to-ship transfers, voyage irregularities and use of abnormal shipping routes, frequent registration changes, and complex ownership or management structures. The note also emphasizes the importance of implementing and strengthening compliance controls, especially when operating in proximity to locations determined to be high risk. Companies can strengthen these controls through institutionalizing sanctions and export control compliance programs, establishing location monitoring best practices and contractual requirements, performing know-your-customer diligence, exercising supply chain due diligence, and engaging in industry-wide information sharing.

The full note can be found [here](#).

**Notably.** The joint notice continues the emphasis on providing the private sector with tools to comply with U.S. sanctions and export control laws. In addition, the guidance signals an increased focus on enforcement in the maritime and transportation space. Accordingly, companies operating in these industries should ensure their compliance programs reflect the measures summarized in the guidance.

## 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), 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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