

Red Notice

A monthly update on global investigations and prosecutions

Akin Gump
STRAUSS HAUER & FELD LLP

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ANTICORRUPTION DEVELOPMENTS

Miami Businessman Pleads Guilty to Conspiracy Charges in PetroEcuador Investigation

On January 23, 2020, Armengol Alfonso Cevallos Diaz (“Cevallos”) pleaded guilty to one count of conspiracy to violate the Foreign Corrupt Practices Act (FCPA) and one count of conspiracy to commit money laundering. Cevallos, an Ecuadorian citizen living in Miami, Florida, admitted that from 2012 to 2015 he worked with others to direct \$4.4 million in improper payments to public officials at Ecuador’s state-owned oil company, PetroEcuador. Specifically, Cevallos stated that he conspired with others to launder the money through Miami-based shell companies and bank accounts and by purchasing properties in Miami for the benefit of the PetroEcuador officials. Cevallos admitted to facilitating these payments on behalf of his own companies as well as other Ecuadorian contractors in order to obtain oil services contracts with PetroEcuador.

Cevallos’ plea is part of an ongoing investigation of improper payments to PetroEcuador officials, [previously covered](#) by Red Notice. Twelve other charges and guilty pleas have been made public against other individuals, including contractors that made payments, former PetroEcuador officials who received the payments as well as financial advisors and other consultants who facilitated the payment transfers. Cevallos’ sentencing is scheduled for April 2, 2020.

More information

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

Barbadian Former Government Official Convicted in Money Laundering Trial

On January 16, 2020, Donville Inniss, a Florida resident and former official for the government of Barbados, was convicted in federal court for his role in an improper payments scheme. Inniss, a former member of the Parliament of Barbados and Minister of

Industry, International Business, Commerce and Small Business Development, was found to have laundered corrupt payments that he received from Insurance Corporation of Barbados Ltd. (ICBL) for the purpose of steering two insurance contracts to the company. Inniss attempted to conceal the payments by routing them through a friend's dental business in New York. As covered by [Red Notice](#) at the time, the Department of Justice (DOJ) previously issued a declination letter with a nearly \$94,000 disgorgement penalty to ICBL, after ICBL voluntarily disclosed its possible violations of the FCPA.

More information

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

Florida Businessman Sentenced to Four Years in Corruption Case

On January 8, 2020, Juan Jose Hernandez Comerma ("Hernandez"), a Florida resident and businessman, was sentenced to four years' imprisonment and ordered to pay a \$127,000 fine and forfeit \$3 million for conspiring to violate and violating the FCPA. Hernandez pleaded guilty in 2017 for his role in the wide-ranging corruption scheme involving Venezuela's state-owned energy company, Petroleos de Venezuela S.A. (PDVSA). Hernandez admitted to conspiring with others to make improper payments and pay kickbacks to PDVSA employees in order to obtain advantages while competing for PDVSA contracts. At least 25 individuals have been charged in the scheme, as [previously covered](#) by Red Notice, and 19 have pleaded guilty.

More information

- [DOJ Press Release](#)
 - [Law360](#)
-

DOJ Closes Uber Probe Without Charges

On January 6, 2020, Uber Technologies, Inc. ("Uber") disclosed in its Form 8-K filing with the Securities and Exchange Commission (SEC) that DOJ had closed an investigation into the company regarding potential violations of the FCPA without bringing charges. According to the filing, DOJ informed Uber that the investigation into Uber's activities in Indonesia, Malaysia, China and India had concluded, and that no enforcement action would be pursued. DOJ first requested information from Uber in May 2017, and Uber first acknowledged the investigation in April 2019.

More information

- [Uber Form 8-K](#)
 - [The Wall Street Journal](#)
 - [Law360](#)
-

Contractors Sued for Alleged Improper Payments to Taliban

On December 27, 2019, family members of American troops and contractors killed or wounded in Afghanistan by the Taliban filed suit in federal court in the District of Columbia, alleging that multiple United States and international contractors made improper payments to the Taliban in exchange for the Taliban's promise not to attack the contractors. The complaint also alleges that some contractors directly hired Taliban guards. The suit, filed under the Anti-Terrorism Act, alleges that the contractors directly and indirectly financed the attacks that resulted in the deaths of plaintiffs' family members. It is illegal under the Anti-Terrorism Act to provide material support for terrorism. No contractors have been held criminally responsible for making payments to the Taliban in Afghanistan; however, in 2010, congressional reports indicated that contracting payments were often diverted to the Taliban and other local groups for protection.

More information

- [Complaint](#)
- [The Wall Street Journal](#)

SEC Issues Whistleblower Determinations

On January 22, 2020, the SEC announced a whistleblower award of \$45,000. In its order, the SEC noted that the whistleblower was a defrauded investor who lost money in the underlying scheme and provided critical information to the agency during its investigation.

Also on January 22, 2020, the SEC announced a second whistleblower award of \$277,000 in an unrelated enforcement action. The whistleblower reportedly assisted the SEC and U.S. Attorney's Office in prosecuting a fraudulent retail scheme.

Whistleblower awards—provided for under the Dodd-Frank 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 72 whistleblower awards totaling approximately \$387 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, nor identifying details regarding the covered actions in which they assisted.

More information

- [SEC Order - \\$45,000 Award](#)
- [SEC Order - \\$277,000 Award](#)
- [SEC Press Release](#)

EXPORTS, SANCTIONS AND CUSTOMS ENFORCEMENTS

New York Lobbying Firm Settles Apparent Violations of the Global Terrorism Sanctions Regulations with OFAC for \$12,150

On January 21, 2020, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) announced a \$12,150 settlement with New York lobbying firm Park Strategies, LLC ("Park Strategies") for apparent violations of the Global Terrorism Sanctions Regulations (GTSR). At the time of the apparent violations, Park Strategies marketed itself as a consulting and government relations firm that provided strategic advisory, consulting and lobbying services.

According to OFAC's web notice, from August 25 to November 25, 2017, Park Strategies apparently violated the GTSR by dealing in the property or interests in property of Al-Barakaat Group of Companies Somalia Limited ("Al-Barakaat"), a Specially Designated Global Terrorist (SDGT), by signing a contract with Al-Barakaat to provide lobbying services and receiving payment for those services from Al-Barakaat. Under the terms of the contract, Park Strategies was to "engage in lobbying activity before the administrative, executive, and legislative branches of the United States government" on behalf of Al-Barakaat, and Park Strategies would receive a total of \$30,000 from Al-Barakaat over a period of three months. Al-Barakaat sent the first payment of \$10,000 on September 6, 2017, and Park Strategies began performing services under the contract. However, on October 12, 2017, Park Strategies requested that the payment be placed in a blocked account, directed its outside counsel to start an investigation, suspended performance under the contract and voluntarily disclosed the potential violations to OFAC.

Because OFAC found that Park Strategies voluntarily disclosed the apparent violations

and that the apparent violations constitute a nonnegotiable case, the base civil monetary penalty amount in this matter was \$15,000, far less than the statutory maximum penalty of \$302,584. OFAC considered aggravating factors to include that: (i) Park Strategies' executives had actual knowledge of, and participated in, the conduct that led to the apparent violations; and (ii) Park Strategies harmed the integrity of the GTSR by dealing with an SDGT that was designated for its terrorist financing operations. OFAC considered mitigating factors to include that: (i) Park Strategies had no OFAC enforcement history in the preceding five years; and (ii) Park Strategies took sufficient remedial measures, such as suspending performance on the contract, placing all funds received in a blocked account and adopting new OFAC screening procedures.

In its web notice, OFAC emphasized the distinction between certain legal services, which are typically authorized by most sanctions programs under general licenses, and other related professional services such as lobbying and consulting, which are generally not covered by general licenses.

More information

- [OFAC Press Release](#)
 - [Web Notice](#)
-

Group of Five Foreign Nationals Indicted for Conspiring to Violate U.S. Export Control Laws by Smuggling U.S.-Origin Goods to Pakistan

On January 15, 2020, the DOJ unsealed the October 16, 2019, indictment of five men—Muhammad Kamran Wali (“Kamran”) of Pakistan; Muhammad Ahsan Wali (“Ahsan”) and Haji Wali Muhammad Sheikh (“Haji”) of Canada; Ashraf Khan Muhammad (“Khan”) of Hong Kong; and Ahmed Waheed (“Waheed”) of the United Kingdom—for conspiring to violate the International Emergency Economic Powers Act (IEEPA) and the Export Control Reform Act (ECRA) by smuggling U.S.-origin goods to Pakistan.

According to the indictment, between September 2014 and October 2019, the defendants operated an international procurement network consisting of nine front companies that existed to acquire and export U.S.-origin electronic components, connectors, capacitors, semiconductors and other parts and equipment from the United States to the Advanced Engineering Research Organization (AERO) and Pakistan Atomic Energy Commission (PAEC) in Pakistan without obtaining the requisite export licenses. Both AERO and PAEC were added to the Department of Commerce, Bureau of Industry and Security's (BIS) Entity List in 2014 and 1998, respectively, due to national security concerns regarding Pakistan's nuclear capabilities and development of missile and strategic unmanned aerial vehicle programs. The defendants used these front companies on 38 separate occasions to purchase the goods from unsuspecting U.S. companies while concealing Pakistan as the ultimate destination and AERO and PAEC as the ultimate end users, causing the U.S. companies to file export documents that falsely identified ultimate consignees other than AERO and PAEC.

All five defendants have been charged with two felony counts of conspiracy but have yet to be apprehended. The conspiracy charges carry maximum sentences of 20 and 5 years in prison, respectively. The first conspiracy charge also carries a maximum criminal monetary penalty of \$1 million.

More information

- [DOJ Press Release](#)
 - [Indictment](#)
-

BIS Denies Export Privileges of Turkish Businessman Previously Convicted of Conspiracy to Violate U.S. Sanctions

On January 8, 2020, BIS announced an order denying the export privileges of Resit Tavan (“Tavan”), a Turkish citizen and owner of Turkey-based Ramor Dis Ticaret Ltd. (“Ramor

Group”). The announcement followed Tavan’s conviction and sentence to 27 months in prison on August 29, 2019, for conspiring to violate U.S. sanctions by exporting specialized marine equipment from the United States to Iran for end-use by the Iranian military. The order denies Tavan’s export privilege for 10 years, the maximum amount of time for which such a penalty may be assessed for violation of the ECRA. In addition, BIS ordered revoked any BIS licenses or other authorizations issued under the ECRA in which Tavan had an interest.

According to the DOJ press release announcing Tavan’s sentence, and Tavan’s plea agreement, from March 2013 to July 2015, Tavan used Ramor Group to acquire various pieces of U.S.-origin marine equipment, including high-powered outboard engines, marine power generators and propulsion equipment, from companies in the United States. Tavan allegedly transshipped the equipment through Turkey to Iran, working in concert with Iranian officials to use the U.S.-origin equipment to support the development of a prototype high-speed missile attack boat for the Iranian military. No parties to the transaction ever sought authorization from OFAC or the U.S. Department of Commerce to export the equipment to Iran. Conversely, on export paperwork for the outboard engines, Tavan falsely certified that the ultimate consignee was Ramor Group and the engines were for end-use in Turkey.

As of the DOJ’s press release on September 3, 2019, a co-defendant charged in the same indictment, Fulya Kalafatoglu Oguzturk, a Turkish citizen, remains at large.

More information

- [Federal Register Notice](#)
- [DOJ Press Release](#)
- [Plea Agreement](#)

EXPORTS, SANCTIONS AND CUSTOMS DEVELOPMENTS

Client Alert: Treasury Releases Final Regulations Implementing CFIUS Reform

On January 13, 2020, the U.S. Department of the Treasury released final rules implementing the Foreign Investment Risk Review Modernization Act (FIRRMA), which reforms the Committee on Foreign Investment in the United States (CFIUS) framework. These rules will take effect on February 13, 2020.

The final rules expand the jurisdiction of CFIUS, implement mandatory reporting requirements for certain foreign government-affiliated transactions, maintain a modified version of the pilot program requiring mandatory filing requirements for certain investments involving critical technologies and revise and clarify a number of provisions included in the proposed rules from September 2019.

In addition, Australia, Canada and the United Kingdom have been identified as “eligible foreign states,” and, barring removal from the list, will be treated as excepted foreign states until at least February 13, 2020. Still, investors from these states must meet certain criteria to qualify for an exclusion under the new rules. The list of eligible foreign states is not closed and may be expanded going forward.

The Department of the Treasury also incorporated revisions to clarify the applicability of these rules to investment funds. One such change was to remove a mandatory reporting requirement that could have applied based on a foreign government holding limited partnership interests in a fund. In addition, the Treasury published an interim rule defining “principal place of business,” which is intended to clarify which entities qualify as foreign, particularly in the context of investment funds. While this interim rule will become effective on February 13, 2020, the Treasury is seeking public comment on the definition and may amend it based on the comments received.

These final rules are the culmination of a multiyear effort to revamp the CFIUS regime to account for evolving national security risks that arise in the context of foreign investments. Investors and companies are now faced with a more complicated CFIUS framework and an interagency committee that is better resourced to administer and enforce these rules. As a result, CFIUS is on course to continue to be a key issue in a variety of transactions going

forward.

More information

- [Akin Gump International Trade Alert](#)
 - [Federal Register Notice: 31 CFR Parts 800-801](#)
 - [Federal Register Notice: 31 CFR Part 802](#)
-

President Trump Issues Executive Order Curtailing Online Sales of Contraband and Counterfeit Goods

On January 31, 2020, President Trump issued an Executive Order (E.O.) titled “Ensuring Safe & Lawful E-Commerce for US consumers, Businesses, Government Supply Chains, and Intellectual Property Rights.” The E.O. requires the U.S. Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) to establish a set of criteria that importers must meet in order to obtain an importer of record number, and calls for enhanced enforcement efforts against customs brokers, carriers and others that help importers circumvent those criteria.

The E.O. broadly states that the government “shall consider all appropriate actions that it can take” to ensure that any persons suspended or debarred are prohibited from importing goods into the United States. As such, Section 2(b) of the E.O. requires one criterion to provide that any person debarred or suspended by CBP “for lack of present responsibility for reasons related to importation or trade” are ineligible to obtain an importer of record number for the duration of that person’s suspension or debarment (“ineligible persons”).

Additionally, the E.O. directs CBP to take steps to ensure that express consignment operators, carriers, hub facilities and license customs brokers notify the agency of any attempt by ineligible persons to re-establish business activity through a different name or address. The E.O. also provides various consequences for parties that facilitate the importation of goods by ineligible persons, including (i) suspending or revoking customs broker licenses; (ii) limiting an express consignment operator’s, carrier’s or hub facility’s participation in any CBP trusted trader programs; (iii) and taking “appropriate action” with regards to operating privileges for those parties.

Separately, Section 6(a) of the E.O. requires CBP to publish information about customs seizures that involve intellectual property (IP) rights violations, illegal drugs and other contraband, incorrect country of origin, undervaluation or other violations of law of particular concern. Section 6(b) of the E.O. directs the Attorney General to (i) “assign appropriate resources” so that prosecutors will “accord a high priority to prosecuting offenses related to import violations,” and (ii) increase the number of prosecutors to enforce criminal and civil laws related to the importation of goods.

More information

- [Executive Order](#)
 - [Akin Gump Client Alert](#)
-

DHS Publishes Strategy to Combat Importation of Goods Produced with Forced Labor

On January 15, 2020, DHS issued its *Strategy to Combat Human Trafficking, the Importation of Goods Produced with Forced Labor, and Child Sexual Exploitation* (“Strategy”). The Strategy outlines five priorities DHS will focus on over the next five years: (i) preventing exploitative crimes; (ii) protecting victims; (iii) investigating and prosecuting perpetrators; (iv) partnering with the homeland security enterprise; and (v) enabling DHS through organizational improvements to combat these illicit activities. The Strategy aligns with the *2017 National Security Strategy* and the United Nations’ *A Call to Action to End Forced Labour, Modern Slavery and Human Trafficking*, among other key laws and protocols.

Specifically, with regards to goods produced with forced labor, DHS plans to “expand its capacity to assess civil penalties and pursue criminal prosecutions against U.S. importers for violations of forced labor authorities,” as well as “streamlin[e] regulatory frameworks” for forced labor enforcement actions and “coordinate, consolidate, and publicize allegation and intake reporting channels.” DHS also plans to “educate industry on the threat of goods produced with forced labor destined for U.S. importation and improve trade alert reporting, due diligence policies, and compliance assistance tools.” Raising awareness of and coordination on this issue among foreign trading partners and encouraging the international adoption of reciprocal safeguards is another DHS priority, as no other country currently has civil and criminal penalties associated with the importation of goods produced with forced labor.

DHS will publish an implementation plan within 180 days that includes specific deliverables, timelines and key metrics.

More information

- [DHS Press Release](#)
 - [DHS Strategy Document](#)
-

President Trump Issues Executive Order Authorizing Sanctions with Respect to Additional Sectors of Iran’s Economy; Designates Eight Senior Iranian Officials and Targets Iran’s Metals Industry

On January 10, 2020, President Trump issued Executive Order (E.O.) 13902, “Imposing Sanctions with Respect to Additional Sectors of Iran,” in response to Iran’s recent use of military force against U.S. military assets and civilians. The E.O. authorizes sanctions against persons operating in or transacting with additional sectors of the Iranian economy, including construction, mining, manufacturing and textiles, and against persons who have provided material assistance, including donations, to sanctioned persons or entities controlled by such persons. Additionally, the E.O. authorizes OFAC to impose sanctions on foreign financial institutions that it determines knowingly conducted or facilitated any significant financial transaction for the sale, supply or transfer to or from Iran of goods and services used in connection with the specified sectors, or on behalf of any person whose property and interests in property are blocked pursuant to the E.O. Finally, the E.O. suspends the immigrant and nonimmigrant entry into the United States of persons meeting the criteria specified above.

Concurrently and according to OFAC’s press release, OFAC added to its List of Specially Designated Nationals and Blocked Persons (“SDN List”) eight senior Iranian regime officials and targeted Iran’s metals industry by designating: 17 of Iran’s largest metals producers and mining companies; a network of three China- and Seychelles-based entities that, according to OFAC, knowingly engaged in significant transactions of metals with Iran and provided material assistance to an Iranian minerals trading firm; and a vessel allegedly involved in purchasing, selling and transferring Iranian metals products and providing production components to Iranian metal producers. The individuals designated included Ali Shamkhani, the Secretary of Iran’s Supreme National Security Council; Mohammad Reza Ashtiani, the Deputy Chief of Staff of Iranian armed forces; Gholamreza Soleimani, the head of the Basij militia of the Islamic Revolutionary Guards Corps; and other senior military officials. The designated entities notably include Mobarakeh Steel Company, the largest steel producer in the Middle East and the biggest direct reduced iron producer in the world, and Iran Aluminum Company, which accounts for approximately 75 percent of Iran’s aluminum production.

More information

- [Executive Order 13902](#)
 - [OFAC Press Release](#)
 - [OFAC Recent Actions Notice](#)
-

Client Alert: DDTC Publishes New FAQs on Defense Services Performed by U.S. Persons Abroad and How to Get Them Approved via GC

On January 6, 2020, DDTC published a new FAQ on Defense Services Performed by U.S. Persons Abroad, confirming that the ITAR regulates defense services performed by a U.S. person employed by a non-U.S. company outside of the United States.

The FAQ includes a link to 14 additional FAQs that describe how such a U.S. person may comply with the ITAR by getting a general counsel authorization and confirming that registration is not required if the U.S. person is outside the United States.

The FAQs also confirm that a U.S. person providing approved defense services does not per se cause a foreign-origin defense article that results from the service to be subject to the ITAR.

More information

- [Akin Gump International Trade Alert](#)
 - [DDTC Frequently Asked Questions](#)
-

Client Alert: BIS Publishes a Temporary Unilateral Control on a Type of Machine Learning Software for Automating Analyses of Geospatial Imagery and Point Clouds

On January 6, 2020, BIS published an interim final rule to add a new worldwide (minus Canada) unilateral export control on a type of geospatial imagery software specially designed for training Deep Convolutional Neural Networks to automate the analysis of geospatial imagery and point clouds. Classification, control and licensing obligations took effect as of January 6, 2020, the day the rule was published.

This rule represents the first dual-use export control explicitly for a kind of artificial intelligence (AI) software. It is limited to specific machine learning software that meet all of the control parameters but, depending upon how they are defined, could be quite broad. BIS is accepting public comments on the control, and is interested in controlling those items of national security concern without unnecessary collateral impacts on the industry.

Notably, this control is not an “emerging technology” control. As part of the Export Control Reform Act of 2018, Congress required Commerce to lead an interagency effort to identify and control “emerging and foundational technologies.” To begin this process, BIS announced that it would study 14 broad categories of technologies, including “artificial intelligence (AI) and machine learning technology.” This rule is a specific, narrow rule, and is not related to BIS’s ongoing consideration of a broad unilateral control for AI and machine learning technology.

More information

- [Akin Gump Client Alert](#)
 - [Federal Register – Interim Final Rule](#)
-

DOC Adjusts Maximum Civil Monetary Penalties for Inflation

On January 3, 2020, the Department of Commerce’s Office of the Chief Financial Officer and Assistant Secretary for Administration published a final rule pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, adjusting the maximum Civil Monetary Penalties (CMP) for violation of statutes that the Department of Commerce enforces.

The rule adjusts a large number of CMPs. With regard to CMPs related to export control violations, the maximum value of CMPs assessed under the International Emergency Economic Powers Act increased from \$302,584 to \$307,922, and those assessed under the Export Control Reform Act of 2018 increased from \$300,000 to \$305,292. The adjustments took effect on January 15, 2020, and only apply to those CMPs which were assessed by the Department of Commerce after this effective date.

More information

- [Federal Register Final Rule](#)
-

Department of State Adjusts Civil Monetary Penalties for Inflation

On January 14, 2020, the U.S. Department of State issued a final rule pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, adjusting the CMP for violations of regulations enforced by the Department. In particular, the maximum CMP for most violations of the International Traffic in Arms Regulations has been increased to \$1,183,736 per violation.

More information

- [Federal Register Final Rule](#)
-

District Court Vacates OFAC Penalty for Violation of Fifth Amendment Right to Due Process

On December 31, 2019, the U.S. District Court for the Northern District of Texas vacated a \$2 million fine issued against Exxon Mobile Corporation (“Exxon”) in 2017 by OFAC under the Ukraine-Related Sanctions Regulations (URSR). The court found that OFAC failed to provide Exxon with fair notice of its interpretation of the URSR, and thereby violated Exxon’s Fifth Amendment right to due process.

The underlying fine originated from Exxon’s business with Rosneft, a Russian petroleum company. Rosneft’s President and Chairman of the Management Board is Igor Sechin (“Sechin”), who was designated by the Treasury designated as a Specially Designated National (SDN) under E.O. 13661 (incorporated as part of the URSR) in April 2014. However, in announcing Sechin’s designation, the Treasury noted that Rosneft “[had] not been sanctioned.” Following the imposition of the URSR and Sechin’s designation, Exxon executed eight contracts with Rosneft, on which Sechin signed off. Under OFAC’s interpretation of E.O. 13661, Sechin signing off on the contracts between Exxon and Rosneft constituted a prohibited “contribution or provision of . . . services” by SDN Sechin to U.S. person Exxon. Exxon challenged OFAC’s penalty on the grounds that “OFAC failed to provide fair notice of its interpretation of the Regulations in violation of due process.”

The court determined that the text of the URSR did not provide Exxon with fair notice of OFAC’s interpretation that SDN Sechin “provided a prohibited “contribution or provision of . . . services”” to U.S. person Exxon because the URSR fails to address (1) what constitutes a receipt of services; and (2) when does an entity “take,” “come into possession” or “get” a service. Moreover, the court found that OFAC’s 50 Percent Rule did not apply because Sechin did not own a 50 percent or greater interest in Rosneft. Under the 50 Percent Rule, where an entity is owned 50 percent (in aggregate) directly or indirectly by an SDN, the entity is also considered blocked, regardless of whether it appears on an SDN list. The court concluded that the text of the URSR does not “fairly address” whether a U.S. entity receives a service from an SDN when that SDN performs a service enabling the U.S. person to contract with a nonblocked entity.

The court also considered whether any other factors would have constituted fair notice, including FAQs issued under other sanctions programs, FAQs issued after Exxon had entered into the contracts, and public statements by OFAC and executive officials, but did not find that any of these considerations tipped the scales in favor of finding that OFAC has provided fair notice of its interpretation.

This decision is a rare instance in which a party succeeded in challenging OFAC penalties. However, as a district court opinion, the precedential value of this case is limited, and it is still possible for OFAC to appeal the decision. Further, it is unlikely this decision will impact OFAC’s decisions to enforce the various prohibitions under its programs for which clear guidance exists.

More information

- [Court Opinion](#)
- [OFAC Penalty](#)
- [OFAC Press Release Announcing Sechin's Designation](#)

GLOBAL INVESTIGATIONS RESOURCES

- [New Proposed Grant Restrictions on Use of Certain Chinese Products and Services: OMB Proposes Guidance Implementing Grant Provisions of Section 889\(b\) of 2019 NDAA](#)
- [False Claims Act - Year In Review: Five Decisions That Will Affect the Future of FCA Litigation](#)
- [U.S. v. Blaszczak: The 2nd Circuit Makes it Easier to Prosecute Insider Trading](#)

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 \(2019\)](#)
- [DOJ Declinations](#)
- [SEC Enforcement Actions](#)

WRITING AND SPEAKING ENGAGEMENTS

On February 18, 2020, [Kevin Wolf](#) will speak on a panel titled "Controlling U.S. Tech Exports to China: How to Get It Right," presented by the Information Technology and Innovation Foundation in Washington, D.C.

On February 25, 2020, [Peter Altman](#) will moderate a panel titled "What's Next on the Regulatory and Enforcement Agenda" at Managed Funds Association (MFA) West 2020 in Laguna, CA. The panel will feature speakers from the Department of Justice, FBI, CFTC, National Futures Association and SEC's Office of Compliance Inspections and Examinations.

On March 24, 2020, [Christian Davis](#) will speak on a panel titled "It's Critical! Determining What Constitutes Critical Technology, Infrastructure, and Data to Better Prepare for Potential CFIUS Enforcements," at Momentum's The Advanced Forum on CFIUS & Foreign Investment for Critical Technology, Infrastructure and Data in Cupertino, CA.

On March 25, 2020, [Shiva Aminian](#) will speak on a panel titled "Implications of Emerging and Foundational Technology Controls for Industry and Academia" and [Jasper Helder](#) will speak on a panel titled "Focus on the European Union: New Regulations to be Aware of" at the 10th Advanced Forum on Global Encryption, Cloud & Cyber Export Controls in San Francisco, CA.

On April 13, 2020, [Mac Fadlallah](#) and [Johann Strauss](#) will present at NielsonSmith's Sanctions, Anti-Corruption & Export Controls Compliance in the Middle East 2020 Conference in Dubai, U.A.E.

On June 8, [Robert Monjay](#) will speak on a panel titled "Seeing the Wood from the Trees: ITAR and EAR Compliance for Space Technologies" at SMI's Military Space USA conference in Los Angeles, CA.

If you would like to invite Akin Gump lawyers to speak at your company or to your group about anticorruption law, compliance, cybersecurity, enforcement and policy or other international investigation and compliance topics, please contact Jaime Sheldon at +1 212.407.3026 or [email](#).

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

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