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LEGAL UPDATES

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Recent Actions Illustrate Continued Focus on Export Control Violations

Last week, Deputy Attorney General Lisa Monaco's statements to the American Bar Association again highlighted the fact that investigating and prosecuting individuals for violating economic sanctions, export controls, and other similar economic crimes is one of the Department of Justice's highest priorities. During her remarks, Deputy AG Monaco announced that the Department of Justice intends to hire more than 25 assistant United States attorneys (AUSAs) who will "investigate and prosecute sanctions evasion, export control violations, and similar economic crimes." These new AUSAs will be under the National Security Division's first ever Chief Counsel for Corporate Enforcement.

This announcement was made on the heels of last month's announcement from the Department of Justice and Department of Commerce that a new task force—the Disruptive Technology Strike Force—was being created to investigate violations of export controls. The Disruptive Technology Strike Force is a multi-agency initiative that will be comprised of experts from the Federal Bureau of Investigation (FBI), Homeland Security Investigations (HSI), and 14 U.S. Attorneys' Offices throughout the country.

The announcement highlighted the following areas of focus for the task force:

- Investigating and prosecuting criminal violations of export laws;
- Enhancing administrative enforcement of U.S. export controls;
- Fostering partnerships with the private sector;
- Leveraging international partnerships to coordinate law enforcement actions and disruption strategies;

Utilizing advanced data analytics and all-source intelligence to develop and build investigations; Conducting regular trainings for field offices; and Strengthening connectivity between the strike force and intelligence community.

These two announcements are part of a larger trend toward more aggressive enforcement actions for economic sanctions and export control violations. Indeed, last year Deputy AG Monaco highlighted the Department of Justice's position on these issues, proclaiming that "sanctions are the new FCPA."

In light of the new task force and the Department of Justice allocating significant resources toward investigating and prosecuting sanctions and export control violations, we expect to see additional controls placed on U.S. technologies, greater licensing restrictions on those technologies, more aggressive investigative tactics, and increased enforcement actions.

Also on March 2, 2023, the Department of Commerce's Bureau of Industry and Security (BIS), the Department of Treasury's Office of Foreign Asset Control (OFAC), and the Department of Justice issued a Tri-Seal Compliance Note titled "Cracking Down on Third-Party Intermediaries Used to Evade Russia-Related Sanctions and Export Controls." The Compliance Notes included several red flags which may signal efforts to evade sanctions, including:

- Use of different corporate structures to obscure ownership, source of funds, or countries involved;
- Customer's reluctance to share information as to the end use, including reluctance to complete an end-user form;
- Use of shell companies to conduct wire transfers;
- Declining customary installation, training, or maintenance of the purchased item(s);
- IP addresses that do not correspond to a customer's reported location data;
- Last-minute changes to shipping instructions that appear contrary to customer history or business practices;
- Payment coming from a third-party country or business not listed on the End-User Statement or other applicable end-user form;
- Use of personal email accounts instead of company email addresses;
- Operation of complex and/or international businesses using residential addresses or addresses common to multiple closely-held corporate entities;

Changes to standard letters of engagement that obscure the ultimate customer; Transactions involving a change in shipments or payments that were previously scheduled for Russia or Belarus; Transactions involving entities with little or no web presence; or Routing purchases through certain transshipment points commonly used to illegally redirect restricted items to Russia or Belarus. Such locations may include China (including Hong Kong and Macau) and jurisdictions close to Russia, including Armenia, Turkey, and Uzbekistan. The Compliance Note also included a list of best practices, including screening customers, intermediaries, and counterparties; conducting risk-based assessments and due diligence; and regularly consulting guidance from Treasury and Commerce.

In an effort to further highlight the importance of these issues, the Compliance Note provided recent examples of civil actions, designations, and criminal enforcement actions, all of which stem from efforts to help companies and individuals evade sanctions and export controls. For additional discussion of recent designations and entity list additions related to evasion efforts, see our blog posts: [OFAC Issues Sweeping Sanctions to Mark One-Year Anniversary of Russia's Invasion of Ukraine](#) and [BIS Issues New Export Controls and Entity List Additions Targeting Russia on One-Year Anniversary of Invasion](#).

What this means to you

These actions drive home a clear need for companies to have robust compliance processes in place to guard against potential sanctions and export control violations. Indeed, Matt Axelrod, BIS assistant secretary for export enforcement, in statements made during an ABA conference announced that BIS will increase penalties for export control violations committed in 2023 in an effort to further encourage companies to improve compliance processes.

Contact us

Husch Blackwell's Export Controls and Economic Sanctions Team and White Collar, Internal Investigations & Compliance Team continue to closely monitor all export controls and enforcement related developments and will provide further updates as circumstances warrant. Should you have any questions or concerns, please contact Courtney Morgan, Grant Leach, Emily Mikes, Cormac Connor, Gregg Sofer, Rick Shimon, Eric Dama, or your Husch Blackwell attorney.