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Huawei Charged in Racketeering Conspiracy and Conspiracy to Steal Trade Secrets; Temporary General License Extended

On February 13, 2020, Huawei Technologies Co. Ltd. (Huawei) and two of its U.S. subsidiaries [were charged in U.S. federal court](#) in Brooklyn, NY with conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (RICO). The DOJ indictment also adds charges that Huawei stole trade secrets from U.S. companies in order to gain access to U.S. technology that would help Huawei grow its business. DOJ describes that the theft enabled Huawei "to drastically cut its research and development costs and associated delays, giving the company a significant and unfair competitive advantage." Charges also include violations of sanctions on Iran and North Korea by arranging sales through local affiliates in the sanctioned countries. Huawei allegedly concealed these transactions by using code names, such as "A2" for Iran and "A9" for North Korea. The indictment also alleges that Huawei employees lied about Huawei's relationship with its affiliate Skycom, which provided surveillance technology to the Government of Iran.

While no changes have been made to Huawei's designation on the Entity List, on February 18, 2020, the temporary general license (TGL) for exports to Huawei has again been extended. The TGL partially restores the licensing requirements and policies under the Export Administration Regulations (EAR) for certain exports, reexports, and transfers (in-country) to Huawei. The first TGL went into effect in May 2019, and the new TGL is in effect through April 1, 2020. For more information, see the [Bureau of Industry and Security FAQs](#).

Guidance on Financial Sanctions During Brexit's "Transition Period"

The UK Office of Financial Sanctions Implementation (OFSI) released an updated [Guide to Financial Sanctions](#) regarding the impact of the UK's exit from the EU. A transition period is in place from January 31, 2020 through December 31, 2021. The guidance explains that during this time, the UK will continue to be bound by EU sanctions, and will continue to implement UN and EU sanctions through EU law.

Under the [UK Sanctions and Anti-Money Laundering Act 2018 \(the Sanctions Act\)](#), the UK has the power to impose and remove sanctions after leaving the EU. The Sanctions Act allows the UK to issue autonomous sanction regimes during the transition period. However, most sanction regimes in the Sanctions Act do not come into force until after the transition period ends in January 2021.

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\$3.9 Billion Airbus SE Settlement for Export Violations and Bribery Charges

On January 31, 2020, Airbus SE (Airbus), a global provider of civilian and military aircraft entered into a settlement of more than \$3.9 billion with the United States, France and the United Kingdom. Airbus was charged with using third-party business partners to bribe government officials and with violating the Arms Export Control Act (AECA) and its implementing regulations, the International Traffic in Arms Regulations (ITAR). This represents the largest yet U.S. cooperative investigation involving France.

As part of the settlement, Airbus will pay the U.S. \$527 million for Foreign Corrupt Practices Act (FCPA) and ITAR violations, in addition to a \$10 million penalty to the U.S. Department of State's Directorate of Defense Trade Controls (DDTC).

Between December 2011 and December 2016, Airbus filed multiple applications for the export of defense articles and defense services to foreign armed forces. Airbus was required by the ITAR to provide certain information related to political contributions, fees or commissions paid in connection with the sale of defense articles or defense services. However, Airbus knowingly and willfully failed to disclose accurate information related to commissions paid by Airbus to third-party brokers who were hired to solicit, promote or otherwise secure the sale of defense articles and defense services to foreign armed forces. The defense sales in violation of the ITAR included the sale of military aircraft to Indonesia, Ghana, and Vietnam.

In violation of the FCPA, Airbus conspired with a Chinese business partner between 2013 and 2015 to conceal bribes to Chinese government officials in connection with the purchase and sale of Airbus's aircrafts to state-owned Chinese airlines as payments to the business partner. In order to conceal this activity, Airbus did not pay the business partner directly but instead made payments to a bank account in Hong Kong under a different name.

For more information, see the charges [available here](#) and the Department of Justice [statement](#) on the settlement. More information on the Department of State penalty is [available here](#).

OFAC Approves Agreement for Humanitarian Trade with Iran, Issues New General License and FAQ

On January 27, 2020, the first payment for a shipment of medicine to Iran was approved under the Swiss Humanitarian Trade Arrangement (SHTA). As the first Office of Foreign Assets Control (OFAC)-consented humanitarian trade arrangement, SHTA is the result of collaboration between the Swiss government and the U.S. Department of the Treasury. SHTA allows Swiss banks to process certain humanitarian transactions involving medicine and food between Switzerland and Iran in compliance with U.S. sanctions. As many financial institutions will not process payments to Iran due to concerns about U.S. sanction violations, SHTA provides a new OFAC-approved process for humanitarian aid. For more information, see the Swiss government [press release](#).

In order to implement SHTA, OFAC [issued a general license](#), which authorizes certain SHTA-covered transactions with the Central Bank of Iran that would otherwise be prohibited under the Global Terrorism Sanctions Regulations (GTSR). A [related FAQ](#) released by OFAC clarifies that the general license allows for entities to engage in certain humanitarian transactions with the Central Bank of Iran, and that the general license does not apply to any other Iranian bank or financial activity.

Thirteen Sanctioned Pursuant to INKSNA for Supporting Iran's Missile Program

On February 25, 2020, the State Department announced two-year sanctions on thirteen foreign entities and individuals in China, Iraq, Russia, and Turkey. These sanctions are pursuant to the Iran, North Korea, and Syria Nonproliferation Act (INKSNA) and are based on the designated parties' support for Iran's missile program. INKSNA mandates periodic review of sanctionable activity, which resulted in these designations. These sanctions underscore that deterring Iranian proliferation continues to be a central focus of State Department actions. For more information, see the State Department press release [here](#).

Five Arrested for Conspiracy to Sell Iranian Oil to China

On February 11, 2020, the Department of Justice (DOJ) announced that five defendants (Nicholas Hovan of New

York, Zhenyu Wang of Texas, Robert Thwaites of Texas, Nicholas James Fuchs of Texas, and Daniel Ray Lane of Texas) were arrested and charged with conspiracy and violations of the International Emergency Economic Powers Act (IEEPA) for attempting to sell oil purchased from Iran in violation of U.S. sanctions to a Chinese refinery. The defendants allegedly planned to use a Polish shell corporation to sell the oil and two of the defendants agreed to apply for foreign passports to set up offshore accounts for the illicit transactions. The five defendants each face a maximum possible sentence of 25 years in addition to a maximum possible fine of \$1.25 million.

For more information, see the DOJ [press release](#).

Venezuelan Update: More Sanctions and a New General License

As we reported in our [January Update](#), the U.S. continues to use sanctions to support Venezuelan opposition leader Juan Guaidó in the power struggle against incumbent President Nicolas Maduro.

OFAC Identifies Blocked Venezuelan Airline

On February 7, 2020, [OFAC announced](#) that Venezuelan state-owned airline Consorcio Venezolano de Industrias Aeronauticas y Servicios Aereos, S.A. (CONVIASA) and its aircraft fleet (40 aircrafts) was blocked pursuant to [Executive Order 13884](#), which imposes sanctions on the Government of Venezuela. Secretary of Treasury Steven T. Mnuchin described in the State Department press release that CONVIASA was used by Maduro “to shuttle corrupt regime officials around the world to fuel support for its anti-democratic efforts.”

New Sanctions, General License, and FAQs on Rosneft Trading

On February 18, 2020 OFAC sanctioned Rosneft Trading S.A. (Rosneft Trading), a Russian-owned oil brokerage firm, pursuant to [Executive Order 13850: Blocking Property of Additional Persons Contributing to the Situation in Venezuela](#) which allows OFAC to block the property of any person who has “materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of” the entities identified by the EO.

As stated in the State Department [press release](#), Rosneft

Trading has been the primary broker of global deals for the sale and transport of Venezuela’s crude oil. In addition, Rosneft Trading had previously been sanctioned by OFAC under Directives 2 and 4 of the [Ukraine-related sanctions](#), however the new sanctions block all transactions between U.S. persons and Rosneft Trading absent a license from OFAC.

Simultaneously with the Rosneft Trading designation, OFAC released Venezuela-related [General License 36](#), “Authorizing Certain Activities Necessary to the Wind Down of Transactions Involving Rosneft Trading S.A.” OFAC also issued new Venezuela-related FAQs related to the designation, which explain that U.S. persons are not prohibited from dealing with Rosneft Trading’s unblocked parent company (Rosneft Oil Company) and its unblocked subsidiaries.

Treasury Announces New Illicit Finance Strategy

On February 6, 2020, the U.S. Department of the Treasury issued the 2020 National Strategy for Combating Terrorist and Other Illicit Financing (the 2020 Strategy). The 2020 Strategy targets money laundering and terrorist financing by identifying key threats, vulnerabilities, and priorities for disrupting and preventing illicit finance activities. The 2020 Strategy seeks to improve anti-money laundering/ countering the financing of terrorism (AML/CFT) regimes in three main areas:

- 1) Increasing transparency and closing gaps in the U.S. AML/CFT legal framework;
- 2) Improving the efficiency and effectiveness of the U.S. AML/CFT regulatory and supervisory framework for financial institutions; and
- 3) Enhancing current AML/CFT operational capabilities.

The Department of the Treasury press release is [available here](#).

BIS Amends Country Groups for Exports to Russia and Yemen

On February 24, 2020, the Bureau of Industry and Security (BIS) amended the Export Administration Regulations (EAR) to revise the Country Group designations for the Russian Federation and Yemen. This change was based on national security and foreign policy concerns, including nuclear proliferation-related concerns.

Under the EAR, export requirements are based on the Commerce Control List (CCL), which identifies certain country groups. Export requirements differ based on country groups, with some groups subject to more stringent requirements than others. The new rule moves Russia from the more favorable Group A:2 and A:4 to Group D:2 and D:4 and Yemen from Group B to Group D:1. As a result of the changes, certain license exceptions may no longer apply to exports to Russia and Yemen, and licenses are now required for the export, re-export, and in-country transfer of certain controlled items. Anyone engaged in exports to Russia or Yemen should ensure that their procedures are up to date for compliance with the EAR. For more information, see the final rule [here](#).

OFAC Releases New Reporting FAQs

On February 20, 2020, OFAC published [two new FAQs](#) related to the [Reporting, Procedures, and Penalties Regulations](#) (RPPR). RPPR details the processes for filing OFAC reports on blocked property, unblocked property, or rejected transactions. The FAQs confirm that the June 2019 amendment to the RPPR is in effect. The amendment expanded the application of the 10-day reporting requirements regarding blocked financial transactions so that it now extends to all U.S. persons (instead of only to U.S. financial institutions); updated the procedures for submitting electronic license applications; and added additional instructions and clarifications regarding applications for the release of blocked funds.

If you have questions regarding or would like additional assistance in developing and effectively implementing compliance policies and procedures, contact a member of the [Foley Hoag Trade Sanctions and Export Controls](#) practice, or your lawyer at Foley Hoag.

For more information about cross-border compliance, visit the [Foley Hoag Trade Sanctions & Export Controls Practice Group](#).



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