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Export Controls and Economic Sanctions

J. PATRICK BRISCOE, JARED HOLLET, ALEXANDRE LAMY, CHRISTOPHER STAGG AND
LAWRENCE WARD*

I. Introduction

On October 15, 2014, the one-year anniversary of the first round of rulemaking in support of President Obama's Export Control Reform (ECR) initiative took place.¹ As of December 30, 2014, the Obama Administration had thus far issued final rules to revise fifteen of the twenty-one United States Munitions List (USML) categories.² Some critical categories, including firearms, artillery, and ammunition, thus far have not received formal proposed rulemaking, signaling that ECR will continue into 2015 and beyond.³ The Department of State reports a 64 percent reduction in license volume in the thirteen USML categories implemented as of November, as well as an increase in interoperability with allies and generally increased national security.⁴ In addition to the ECR changes from the past year, including those by the Department of Commerce's Bureau of Industry and Security (BIS), the purpose of this article is to summarize other major developments in U.S. export control and economic sanctions law and policy that occurred over the last year.⁵

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1. Press Release, U.S. Dep't of State, Export Control Reform Marks One Year of Progress (Nov. 3, 2014), available at <http://www.state.gov/t/pa/prs/ps/2014/11/233659.htm>; *President's Export Control Reform Initiative*, export.gov, <http://export.gov/ecr/> (last updated Dec. 31, 2014).

2. *President's Export Control Reform Initiative*, EXPORT.GOV, <http://export.gov/ecr/> (last updated Dec. 31, 2014).

3. See *Export Control Reform*, U.S. Dep't of State, <https://www.pmdtc.state.gov/ECR/index.html> (last updated July 31, 2014).

4. Export Control Reform Marks One Year of Progress, *supra* note 1.

5. This article includes developments occurring between December 1, 2013, and November 30, 2014.

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II. Export Control Reform (ECR)

A. MULTI-CATEGORY REVISIONS

The reform initiative that was set in motion in 2010—including a single, positive, tiered list of controlled items—took significant steps in 2014. The year began with the second of three major USML category revision rules from the State Department taking effect on January 6, 2014,⁶ after a six-month grace period.⁷ The BIS published a concurrent rule to avoid the potential for jurisdictional limbo and account for the migration of items from the USML to the Commerce Control List (CCL) of the Export Administration Regulations (EAR).⁸

The continued implementation rule of early January changed four USML categories: VI, VII, XIII, and XX.⁹ The rule clarifies and narrows the types of “surface vessels of war and special naval equipment” covered by the USML Category VI and moved submarines to USML Category XX.¹⁰ Instead of broadly covering all items specially designed for a defense article, the new Category VI contains a list and the remaining parts, components, accessories, and attachments are subject to the 600 series controls in the CCL.¹¹ Similarly, the continued implementation rule clarifies and narrows the scope of USML Category VII ground vehicles while implementing the new definition of “specially designed” for applicable articles.¹² USML Category XIII, which covers materials and miscellaneous articles, and USML Category XX, which lists submersible vessels and related articles, were both clarified to establish a clearer line between items controlled by the Departments of Commerce and State.¹³

Additionally, the International Traffic in Arms Regulations (ITAR) was updated to provide definitions of “ground vehicles,” “submersible vessels,” “organizational-level maintenance,” “intermediate-level maintenance,” and “depot-level maintenance,” while the definition of “surface vessels of war” was updated.¹⁴

On July 1, 2014, the third and largest major USML category update effectively revised Categories IV, V, IX, X, XVI approximately six months from the continued implementa-

6. See Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform, 78 Fed. Reg. 40,922 (July 8, 2013). The first and third rules involving major USML category revisions are Amendment to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform, 78 Fed. Reg. 22,740 (Oct. 15, 2013) and Amendment to the International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform, 79 Fed. Reg. 34 (July 1, 2014).

7. Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform, *supra* note 6, at 40,922.

8. See Revisions to the Export Administration Regulations: Military Vehicles; Vessels of War; Submersible Vessels, Oceanographic Equipment; Related Items; and Auxiliary and Miscellaneous Items That the President Determines No Longer Warrant Control Under the United States Munitions List, 78 Fed. Reg. 40,892 (July 8, 2013).

9. Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform, *supra* note 6, at 40,922.

10. *Id.*

11. *Id.* at 40,922-23.

12. *Id.* at 40,923-24.

13. *Id.* at 40,924-25.

14. Amendment to the International Traffic in Arms Regulations: Corrections, Clarifications, and Movement of Definitions, 79 Fed. Reg. 61,230 (Oct. 10, 2014); Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform, *supra* note 6, at 40,922.

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tion rule.¹⁵ The third rule revised categories that included launch vehicles, missiles, rockets, torpedoes, bombs, and mines (IV),¹⁶ explosives, and energetic materials (V),¹⁷ military training equipment (IX),¹⁸ personal protective equipment (X),¹⁹ and nuclear weapons related articles (XVI).²⁰ Catch-all paragraphs were removed from Category V,²¹ blasting caps were removed from Category IV,²² and military training articles²³ and personal protective equipment²⁴ were further defined to establish a “bright-line” classification. The BIS established a sister rule accepting the items migrated from USML to its jurisdiction on the CCL.²⁵ The third rule also implemented a definition for “equipment” in a continued effort to positively identify controlled items.²⁶

Both the continued implementation rule and the third implementation rule follow the ECR trend in adding a new “paragraph (x)” to all updated categories to avoid dual licensing.²⁷ The (x) paragraph allows commodities, software, and technical data subject to the EAR to be shipped under ITAR licenses so long as they are described in the purchase documentation submitted with the Directorate of Defense Trade Controls (DDTC) license application.²⁸ The commercial viability of shipping EAR and ITAR items under the same license caters to the industry’s request to simplify the licensing process.

A later rule moved the notes and interpretations identified after the USML to be incorporated within the USML.²⁹ This rule also moved the definitions of parts, components, accessories, attachments, firmware, software, systems, equipment, and end-items from 22 C.F.R. section 121.8 to 22 C.F.R. section 120.45.³⁰ Importantly, a number of correction rules have been issued by the Departments of State and Commerce.³¹

15. See International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform, *supra* note 6.

16. *Id.* at 34.

17. *Id.* at 35.

18. *Id.* at 36.

19. *Id.*

20. *Id.* at 37.

21. International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform, *supra* note 6, at 34.

22. *Id.*

23. *Id.* at 36.

24. *Id.*

25. Control of Military Training Equipment, Energetic Materials, Personal Protective Equipment, Shelters, Articles Related to Launch Vehicles, Missiles, Rockets, Military Explosives, and Related Items, 79 Fed. Reg. 264 (Jan. 2, 2014) (to be codified at 15 C.F.R. pts. 740 and 774).

26. See 22 C.F.R. § 121.8(g) (2014); International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform, *supra* note 6, at 37.

27. See Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform, *supra* note 6, at 40923–40925; International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform, *supra* note 6, at 35–37.

28. See Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform, *supra* note 6, at 40923; International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform, *supra* note 6, at 35.

29. See Amendment to the International Traffic in Arms Regulations: Corrections, Clarifications, and Movement of Definitions, 79 Fed. Reg. 61226 (Oct. 10, 2014).

30. See 22 C.F.R. § 120.45 (2014).

31. See, e.g., Export Control Reform, ECR Implementation Status, U.S. Dep’t of State, <https://www.pmddtc.state.gov/ECR/index.html> (last updated July 31, 2014).

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B. SINGLE CATEGORY REVISIONS: SPACE ARTICLES & MILITARY ELECTRONICS

Regarding spacecraft and related articles, the State Department published an interim final rule revising USML Category XV that took effect on November 10, 2014.³² The BIS effected a concurrent interim final rule to move space-related items formerly controlled by the ITAR to EAR jurisdiction,³³ establishing new Export Control Classification Numbers (ECCNs) under 9X515.³⁴

Formerly, all satellites and space-related items were mandatorily controlled by the ITAR under the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999,³⁵ but after a 2010 risk assessment and a 2012 interdepartmental report to Congress identifying items more appropriately governed by the EAR, the authority to determine how space-related articles are governed was returned to the President in 2013.³⁶ This rule presents a significant shift for the domestic satellite industry, as many argue that satellite exports were significantly hampered by the former export control regime.³⁷ For instance, many of the items that migrated to the CCL will now be subject to the EAR's de minimis exception, which allows for the uninhibited re-export of foreign satellites with less than 25 percent controlled U.S. origin content by value.³⁸ Commercially, this may quell the development of so-called "ITAR-free" satellites by allowing for the integration of U.S. satellite components in foreign satellite end-products.³⁹ Additionally, a new paragraph (x) has been added to USML Category XV to allow items migrated to the EAR to continue licensure with the DDTC.⁴⁰

In addition to space-related articles, concurrent rules from the Departments of State and Commerce regarding the export of military electronics were issued on July 1, 2014, and came into effect on December 30, 2014.⁴¹ This update to USML Category XI marks

32. Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV, 79 Fed. Reg. 27180 (May 13, 2014).

33. Revisions to the Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML), 79 Fed. Reg. 27418 (May 13, 2014).

34. *Id.*

35. Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 1920.

36. Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV, *supra* note 32, at 27181.

37. *Rep. Berman and Bipartisan Coalition Introduce Legislation to Restore America's International Competitiveness in Commercial Satellites*, U.S.H.R. COMMITTEE ON FOREIGN AFF.: DEMOCRATS (Nov. 2, 2011), http://democrats.foreignaffairs.house.gov/press_display.asp?id=888#.

38. Reid Whitten, *ECR Episode XI: Rewriting the Guide to the Galaxy-Satellites Passed to Commerce Control*, NAT'L L. REV. (Nov. 6, 2014), <http://www.natlawreview.com/article/ecr-episode-xi-rewriting-guide-to-galaxy-satellites-passed-to-commerce-control>.

39. David Damast, *Export Control Reform and the Space Industry*, 42 GEO. J. INT'L L. 211, 220 (2010) ("As this 'ITAR-free' competition grows, foreign businesses have become able to ignore American export controls by simply sourcing abroad.")

40. Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV, *supra* note 32, at 27181.

41. Amendment to the International Traffic in Arms Regulations: United States Munitions List Category XI (Military Electronics), and Other Changes, 79 Fed. Reg. 37536 (July 1, 2014); Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Other Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML), 79 Fed. Reg. 37551 (July 1, 2014).

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the fifteenth category overhaul to date.⁴² USML Category XI was clarified to more precisely identify the articles subject to ITAR control.⁴³ Specifically, subparagraphs were added to paragraphs (a) and (c) to enumerate additional controlled items.⁴⁴ Consistent with other revised categories of the USML, an entry for paragraph (x) was added to allow for items subject to the EAR to be exported under ITAR licenses, if the relevant commodities, software, and technology are used in or with ITAR articles and are described in the purchase documentation submitted with the license application.⁴⁵

There are currently no proposed changes to the export controls for USML Categories I, II, III, XII, XIV, and XVIII. Given the six-month delay between the publication date of the final rule and its effective date, it is very likely that ECR will continue well into 2016.

III. Ukraine-Related Sanctions

In March 2014, President Obama issued a series of three Executive Orders (EOs) to address the unrest in the Crimean region of Ukraine.⁴⁶ Through the Ukraine-Related Sanctions Regulations (URSR), codified at 31 C.F.R. Part 589, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) issued regulations to implement the EOs on May 8, 2014.⁴⁷ EOs 13660 and 13661 chiefly are property-blocking measures that provided the U.S. Departments of the Treasury and State broad authority to determine which individuals and entities qualify as persons subject to the EOs.⁴⁸ The individuals and entities determined by the Departments of the Treasury and State to be subject to the blocking measures are included on the OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List). EOs 13660 and 13661 also ban travel to and from the United States by certain individuals.⁴⁹

EO 13662 includes property-blocking measures targeting any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

- (i) to operate in the financial services, energy, metals and mining, engineering and defense and related materiel sectors in the Russian Federation;
- (ii) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of any person whose property and interests in property are blocked; or

42. *President's Export Control Reform Initiative*, EXPORT.GOV, <http://export.gov/ecr/> (last updated Dec. 31, 2014).

43. Amendment to the International Traffic in Arms Regulations: United States Munitions List Category XI (Military Electronics), and Other Changes, *supra* note 41, at 37536.

44. See 22 C.F.R. § 121.1 (2014); Amendment to the International Traffic in Arms Regulations: United States Munitions List Category XI (Military Electronics), and Other Changes, *supra* note 41, at 37536.

45. Amendment to the International Traffic in Arms Regulations: United States Munitions List Category XI (Military Electronics), and Other Changes, *supra* note 41, at 37537.

46. See Exec. Order No. 13660, 79 Fed. Reg. 13493 (Mar. 6, 2014); Exec. Order No. 13661, 79 Fed. Reg. 15535 (Mar. 16, 2014); and Exec. Order No. 13662, 79 Fed. Reg. 16169 (Mar. 20, 2014).

47. 79 Fed. Reg. 26365 (May 8, 2014) (Implementing 31 C.F.R. pt. 589.).

48. See Exec. Order No. 13660 and 13661, *supra* note 46.

49. See Exec. Order No. 13660, 79 Fed. Reg. 13,493 (Mar. 10, 2014); see Exec. Order No. 13661, 79 Fed. Reg. 15,535 (Mar. 19, 2014).

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- (iii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked.⁵⁰

As implemented, the sectoral sanctions issued under EO 13662 target specific activities in various sectors of the Russian Federation economy, but do not apply the URSR's property-blocking provisions to persons subject to the sanctions. Each of the EOs prohibits any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in the EOs.⁵¹

On July 16, under EO 13662, OFAC issued Directives implementing sectoral sanctions on the financial services (Directive 1) and energy sectors (Directive 2) of the Russian Federation economy by prohibiting persons subject to U.S. jurisdiction from transacting in, providing financing for, or otherwise dealing in new debt of longer than ninety days maturity for listed persons, their property or interests in property.⁵² Further, under Directive 1, persons subject to U.S. jurisdiction were prohibited from transacting in, providing financing for, or otherwise dealing in new equity for such persons, and such property and interests in property.⁵³ On September 12, OFAC amended Directives 1 and 2 to prohibit transactions in new debt of maturity longer than thirty days. OFAC also issued Directives 3 and 4 under EO 13662.⁵⁴ Directive 3 extends the new debt restrictions of Directives 1 and 2 to certain entities in the defense sector of the Russian Federation economy.⁵⁵ Directive 4 is targeted at certain Russian oil and gas companies and prohibits U.S. persons from the "provision, exportation, or reexportation, directly or indirectly, of goods, services . . . or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil in the Russian Federation, or in maritime area claimed by the Russian Federation and extending from its territory" . . .⁵⁶

URSR Section 589.201 prohibits all transactions prohibited under the EOs.⁵⁷ URSR Section 589.406 applies these prohibitions to all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest.⁵⁸ OFAC's *Revised Guidance on Entities Owned By Persons Whose Property and Interests in Property are Blocked* (Revised Guidance), issued on August 13, 2014, clarifies that any entity owned in the aggregate, directly or indirectly, 50 percent or more by one or more blocked persons is itself considered to be a blocked person. OFAC's Revised Guidance applies to each of the prohibitions under Directives 1 through 4. Accordingly, these prohibitions apply not only to the persons on the applicable SSI List, but also to entities which are owned 50 percent or more by one or more persons identified as subject to the Directives.

On August 6, the BIS announced new rules that limit the items subject to the EAR that may be supplied to the Russian oil and gas sector and suppliers of that sector.⁵⁹ In partic-

50. See Exec. Order No. 13662, 79 Fed. Reg. 16,169 (Mar. 24, 2014).

51. See Exec. Order Nos. 13660, 13661 and 13662.

52. Office of Foreign Asset Controls, Directives 1 and 2 Pursuant to Exec. Order 13662 (Jul. 16, 2014).

53. Office of Foreign Asset Controls, Directive 1 Pursuant to Exec. Order 13662 (Jul. 16, 2014).

54. Office of Foreign Asset Controls, Directives 1, 2, 3, and 4 Pursuant to Exec. Order 13662 (Sep. 12, 2014).

55. Office of Foreign Asset Controls, Directive 3 Pursuant to Exec. Order 13662 (Sep. 12, 2014).

56. Office of Foreign Asset Controls, Directive 4 Pursuant to Exec. Order 13662 (Sep. 12, 2014).

57. 31 C.F.R. § 589.201 (2014).

58. 31 C.F.R. § 589.406 (2014).

59. 79 FR 45675-14 (Aug. 6, 2014).

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ular, these newly covered items are those specified in ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992 and 8D999.⁶⁰ Additionally, Supplement No. 2 to EAR Part 746 (*Russian Industry Sector Sanctions List*) lists fifty-two Schedule B numbers of various controlled items.⁶¹ These new BIS rules apply when an:

[E]xporter, reexporter or transferor knows or is informed that the item will be used directly or indirectly in Russia’s energy sector for exploration or production from deepwater (greater than 500 feet [152.4 meters]), Arctic offshore, or shale projects in Russia that have the potential to produce oil or gas or is unable to determine whether the item will be used in such projects in Russia.⁶²

The new rules state that, for all items requiring a license for export to Russia, BIS’s license review policy “is a presumption of denial when there is potential for use” for the purposes above.⁶³

IV. NON-ECR, EAR and ITAR Developments

A. ITAR POLICY CHANGES: CENTRAL AFRICAN REPUBLIC ARMS EMBARGO; UK DEFENSE TRADE TREATY; VIETNAM POLICY

On April 17, the State Department issued a final rule in accordance with United Nations Resolution 2127 which established an arms embargo on the Central African Republic and Resolution 2134, which extended the embargo and added exceptions to the embargo for the European Union.⁶⁴ ITAR Section 122 was augmented with paragraph (u) to prohibit the sale of ITAR items to the Central African Republic (CAR) with exceptions for non-lethal military equipment for training purposes, personal protective equipment for UN personnel, and certain other designated end-uses.⁶⁵

A minor change was also made to the license exemption available under the Treaty Between the Government of the United States of America and the Government of the United Kingdom Concerning Defense Trade Cooperation, at ITAR Section 126.17, to more clearly define the formal exemption requirements.⁶⁶

The State Department loosened its policy on arms exports to Vietnam with a final rule that became effective on November 10.⁶⁷ It remains the policy of the United States to deny licenses for lethal defense articles to Vietnam, but when such defense articles or

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

64. See 22 C.F.R. § 126 (2014); Amendment to the International Traffic in Arms Regulations: Central African Republic, 79 Fed. Reg. 21,616 (Apr. 17, 2014).

65. Amendment to the International Traffic in Arms Regulations: Central African Republic, 79 Fed. Reg. 21,616 (Apr. 17, 2014).

66. Amendment to the International Traffic in Arms Regulations: Changes to Authorized Officials and the UK Defense Trade Treaty Exemption, 79 Fed. Reg. 21,616 (Apr. 17, 2014).

67. See 22 C.F.R. § 126 (2014); Amendment to the International Traffic in Arms Regulations: Policy on Exports to Vietnam, 79 Fed. Reg. 66,615 (Nov. 10, 2014).

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services are to enhance maritime security capabilities and domain awareness they may be approved on a case-by-case basis, along with various non-lethal articles.⁶⁸

**B. EAR DEVELOPMENTS: MCTR UPDATES, RUSSIAN ENTITY RESTRICTIONS,
VENEZUELAN MILITARY END-USE**

The BIS issued a final rule incorporating changes made to the Missile Technology Control Regime (MTCR) after the 2013 plenary meeting in Rome, Italy, and a technical experts meeting in Bonn, Germany.⁶⁹ The rule, which became effective May 27, updated eight ECCNs and added an additional ECCN.⁷⁰ Definitional changes were made to the term “payload” and “repeatability” to align with the MTCR annex and various changes were made to the ECCNs: 1B102, 1B117, 1D001, 1D018, 1D101, 6A107, 9A101.⁷¹ ECCN 9A102 was added in order to control specially designed turboprop engine systems falling under the missile controls.⁷²

Additionally, in reaction to the Venezuelan military’s violent repression of protestors starting in February, the BIS implemented “military end-use” and “military end-user” license requirements on shipments to Venezuela.⁷³ Where in Part 744.21 restrictions on military end use to the People’s Republic of China or Russia previously existed,⁷⁴ the section will now include exports to Venezuela⁷⁵ based on the Venezuelan military’s anti-democratic actions against the Venezuelan people. If the exporter has knowledge of a military end-use or end-user, a license will be required for items listed in EAR Supplement No. 2 to Part 744.⁷⁶

In other developments, the BIS elicited commentary on a proposed rule to remove the Special Comprehensive License (SCL) from the EAR.⁷⁷ The SCL involves complicated interagency review and is narrow in scope with fewer than a dozen such licenses ever issued.⁷⁸ The BIS also requested comments on the effectiveness of its licensing procedures for the export of agricultural products to Cuba, with the comment period ending October 6.⁷⁹

68. Amendment to the International Traffic in Arms Regulations: Policy on Exports to Vietnam, 79 Fed. Reg. 66,615 (Nov. 10, 2014).

69. See 15 C.F.R. 772, 774 (2014); Revisions to the Export Administration Regulations Based on the 2013 Missile Technology Control Regime Plenary Agreements, 79 Fed. Reg. 30,021 (May 27, 2014).

70. Revisions to the Export Administration Regulations Based on the 2013 Missile Technology Control Regime Plenary Agreements, *supra* note 69.

71. *Id.* at 30021–22.

72. *Id.* at 30022.

73. Venezuela: Implementation of Certain Military End Uses and End Users License Requirements Under the Export Administration Regulations, 79 Fed. Reg. 66,288 (Nov. 7, 2014) (to be codified at 15 C.F.R. pt. 744).

74. 15 C.F.R. §744.21 (2014).

75. *Id.*

76. 79 Fed. Reg. 66,288 (Nov. 7, 2014).

77. Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions, 79 Fed. Reg. 58,704 (proposed Sept. 30, 2014) (to be codified at 15 C.F.R. pt. 752).

78. *Id.* at 58,705.

79. Effectiveness of Licensing Procedures for Agricultural Commodities to Cuba, 79 Fed. Reg. 52,591 (Sept. 4, 2014) (to be codified at 15 C.F.R. § 740.18).

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In addition, the BIS, consistent with understandings reached among members of the Australia Group, revised controls on certain fermenters, adjusted the category controlling animal pathogens, and amended the EAR to reflect the membership of Mexico.⁸⁰ The BIS revised the CCL to harmonize it with changes to the Wassenaar Arrangement List of Dual-Use Goods and Technologies, including changes relating to digital computers.⁸¹ The BIS amended the EAR to reflect developments in the control list for the Nuclear Suppliers Group, to acknowledge the status of several new Group participating countries, to amend the export licensing policy for items subject to nuclear nonproliferation controls, and for other purposes.⁸²

Over a period of about six months, the BIS added a little more than two dozen entries to the Entity List in connection with the unrest in Ukraine. On April 16, the BIS added a Crimean energy company after it was largely expropriated by Russian government interests.⁸³ Thirteen more entities went on the list effective May 1,⁸⁴ followed by eleven more on July 22.⁸⁵ Two weeks later, the BIS added another entity.⁸⁶ Finally, on September 17, the BIS added ten more entries to the Entity List, and extended the EAR's military end use/user controls to Russia.⁸⁷

V. EAR and ITAR Related Enforcement Actions

A. EAR RELATED ENFORCEMENT AND OTHER ACTIONS

1. Pursuit of Li Fangwei

On April 29, the Obama Administration publicized a coordinated law enforcement effort directed at Li Fangwei (also known as Karl Lee), a Chinese national alleged to have made substantial contributions to Iran's ballistic missile program, in violation of both U.S. law and United Nations sanctions. The BIS added eight companies and one individual associated with Fangwei to the Entity List, effective May 1.⁸⁸ At the same time, OFAC made corresponding changes to the SDN List, and the Department of Justice announced that it filed criminal charges in a Manhattan federal court against Fangwei for fraud and

80. Implementation of the Understandings Reached at the June 2013 Australia Group (AG) Plenary Meeting and the December 2012 AG Intersessional Decisions, 79 Fed. Reg. 16,664-65 (Mar. 26, 2014) (to be codified at 15 C.F.R. pt. 740).

81. Wassenaar Arrangement 2013 Plenary Agreements Implementation: Commerce Control List, Definitions, and Reports; and Extension of Fly-by-Wire Technology and Software Controls, 79 Fed. Reg. 45,288 (Aug. 4, 2014).

82. Implementation of Understandings Reached at the 2005, 2012, and 2013 Nuclear Suppliers Group (NSG) Plenary Meetings and a 2009 NSG Intersessional Decision; Addition to the List of NSG Participating Countries, 79 Fed. Reg. 46,316 (Aug. 7, 2014).

83. Addition of Person to the Entity List, 79 Fed. Reg. 21,394 (Apr. 16, 2014).

84. Addition of Certain Persons to the Entity List, 79 Fed. Reg. 24,558 (May 1, 2014) (to be codified at 15 C.F.R. pt. 744).

85. Addition of Certain Persons to the Entity List, 79 Fed. Reg. 42,452 (July 22, 2014) (to be codified at 15 C.F.R. pt. 744).

86. Russian Oil Industry Sanctions and Addition of Person to the Entity List, 79 Fed. Reg. 45,675 (Aug. 6, 2014) (to be codified at 15 C.F.R. pt. 744).

87. Russian Sanctions: Addition of Persons to the Entity List and Restrictions on Certain Military End Uses and Military End Users, 79 Fed. Reg. 55,608 (Sept. 17, 2014) (to be codified at 15 C.F.R. pt. 744).

88. Addition of Certain Persons to the Entity List, 79 Fed. Reg. 24,563 (May 1, 2014).

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various violations of OFAC's regulations.⁸⁹ The Federal Bureau of Investigation has offered a \$5 million reward for information leading to the capture of Fangwei, who resides outside of the United States.⁹⁰

2. *Dutch Company Fokker Fined \$21 Million in Civil and Criminal Settlements*

On June 5, authorities announced that Fokker Services B.V. (Fokker), a company based in the Netherlands, entered into parallel civil and criminal settlement agreements with fines totaling \$21 million.⁹¹ Fokker was alleged to have engaged in unlawful transactions in connection with the unauthorized export of aircraft parts, technologies, and services to Burma, Iran, and Sudan. Government investigators found that Fokker personnel engaged in systematic efforts to avoid detection by concealing the ultimate destinations and end-users for various transactions.⁹²

3. *Wind River Agrees to \$750,000 Civil Penalty*

On October 7, Wind River Systems, Inc. (Wind River), a subsidiary of Intel Corporation, was fined \$750,000 for fifty-five alleged violations of the EAR.⁹³ The charges involved unauthorized exports of encryption software to government agencies in China, Hong Kong, Israel, Russia, South Africa, and South Korea and various entities in China on the Entity List.⁹⁴

B. MAJOR ITAR ENFORCEMENT ACTIONS

1. *Esterline Fined \$20 Million*

Esterline Technologies Corporation (Esterline) entered into a \$20 million consent agreement effective March 5.⁹⁵ The DDTTC alleged that Esterline and several acquired subsidiaries violated the ITAR a total of 282 times.⁹⁶ The alleged violations were widespread and included not only administrative and recordkeeping infractions, but also unauthorized exports, re-exports, and retransfers of a diverse variety of defense hardware, data, and services.⁹⁷ Destination countries and nationalities included Brazil, Burkina Faso, Ca-

89. Press Release, U.S. Dep't of Justice, Li Fangwei Charged in Manhattan Federal Court With Using a Web of Front Companies to Evade U.S. Sanctions (Apr. 29, 2014), <http://www.justice.gov/usao/nys/press-releases/April14/LiFangweiIndictmentPR.php>.

90. Wanted Notice, Federal Bureau of Investigation, Li Fangwei, <http://www.fbi.gov/wanted/counterintelligence/li-fangwei> (last visited Jan. 27, 2014).

91. Press Release, U.S. Dep't of Justice, Fokker Services B.V. Agrees to Forfeit \$10.5 Million for Illegal Transactions with Iranian, Sudanese, and Burmese Entities (June 5, 2014), <http://www.justice.gov/usao/dc/news/2014/jun/14-130.html>.

92. *Id.*

93. *In re* Wind River Systems, Inc. (U.S. Dep't of Commerce, Bureau of Indus. and Sec. Oct. 7, 2014), available at http://efoia.bis.doc.gov/index.php/component/docman/doc_download/959-e2394?Itemid=.

94. *Id.*

95. *In re* Esterline Technologies Corporation (U.S. Dep't of State, Bureau of Politico-Military Affairs Mar. 5, 2014), available at http://pmddtc.state.gov/compliance/consent_agreements/pdf/Esterline_CA.pdf.

96. Letter from Sue Gainor, Office of Def. Trade Controls Compliance, to Curtis Reusser, President and CEO, Esterline Technologies Corp., (Mar. 2013), available at http://pmddtc.state.gov/compliance/consent_agreements/pdf/Esterline_PCL.pdf.

97. *Id.* at 5.

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nada, Chile, Colombia, the Dominican Republic, Ecuador, El Salvador, France, Honduras, India, Liechtenstein, Mexico, South Korea, Spain, and the United Kingdom.⁹⁸

2. *Intersil Enters into \$10 Million Consent Agreement*

Intersil Corporation (Intersil) consented to a \$10 million civil ITAR settlement effective June 16.⁹⁹ DDTC alleged 339 violations of the ITAR in connection with unauthorized exports and reexports of radiation-hardened and radiation-tolerant integrated circuits.¹⁰⁰ The violations stemmed largely from Intersil's misapprehension that the circuits were subject to the EAR, rather than the ITAR.¹⁰¹ Ultimate destinations included Argentina, Austria, Belgium, Canada, China, Denmark, Finland, France, Germany, Greece, Hong Kong, India, Israel, Italy, Japan, the Netherlands, Norway, Georgia, Russia, Singapore, South Korea, Spain, Sweden, Switzerland, and the United Kingdom.¹⁰²

The DDTC's charging letter stated that several of the violations were likely the result of inaccurate reexport advice that a DDTC official provided to Intersil in 2010. According to correspondence, a DDTC official misinformed Intersil that certain ITAR-controlled items already inadvertently exported as EAR-controlled were not subject to the ITAR's reexport/retransfer restrictions.¹⁰³

C. MAJOR ITAR COURT CASES

On January 28, the U.S. Court of Appeals for the Fourth Circuit upheld a criminal conviction under the Arms Export Control Act (AECA) where the defendant, a Foreign Service Officer employed by the U.S. State Department, attempted to export without a license small arms ammunition to Jordan in anticipation of his assignment there.¹⁰⁴ The Fourth Circuit applied a broader standard of willfulness under the AECA, consistent with criminal cases that have arisen in other federal circuits,¹⁰⁵ by requiring "that willfulness under the AECA requires only general knowledge of illegality."¹⁰⁶ In this case, the court did not require that the defendant knew that the items were defense articles, and therefore required a license.¹⁰⁷ Instead, the defendant's awareness that the underlying conduct was unlawful was sufficient to support a criminal conviction. Moreover, the court considered the evidence that the defendant was an intelligence official and had awareness of the Department of State's policies.¹⁰⁸

98. *Id.* at 15.

99. INTERSIL CORP., CURRENT REPORT (FORM 8-K) (June 17, 2014), available at <http://www.fool.com/p/60/www.motleyfoolp.idmanagedsolutions.com/widgets/secFilings/download?id=10056514&downloadType=pdf>.

100. Letter from Sue Gainor, Office of Def. Trade Controls Compliance, to Dr. Necip Sayiner, President, Intersil Corp. (June 2014), available at https://www.pmdtcc.state.gov/compliance/consent_agreements/pdf/Intersil_%20PCL.pdf.

101. *Id.* at 3.

102. *Id.* at 5–6.

103. *Id.* at 5.

104. *United States v. Bishop*, 740 F.3d 927, 928–29 (4th Cir. 2014).

105. See *United States v. Murphy*, 852 F.2d 1, 7 (1st Cir. 1988); *United States v. Tsai*, 954 F.2d 155, 162 (3d Cir. 1992); *United States v. Roth*, 628 F.3d 827, 835 (6th Cir. 2011).

106. *Bishop*, 740 F.3d at 935.

107. *Id.*

108. *Id.*

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V. Other OFAC Developments and Enforcement Actions

On January 12, OFAC and the State Department announced the implementation of the “Joint Plan of Action” (JPOA) as part of the nuclear program negotiations between Iran and the “P5+1” countries (China, France, Germany, Russia, United Kingdom, United States).¹⁰⁹ Under the JPOA, and in conjunction with the European Union, the U.S. Government agreed to provide limited, temporary, and reversible sanctions relief to Iran. The JPOA sanctions relief was initially in effect between January 20 and July 20,¹¹⁰ but was later extended first to November 24,¹¹¹ and again to June 30, 2015.¹¹² Subject to various conditions and limitations, the JPOA resulted in the suspension of certain U.S. secondary (or extraterritorial) sanctions targeting exports of Iran’s petrochemical products, automotive industry, trade in gold and other precious metals, and petroleum and petroleum products.¹¹³ Except for an OFAC licensing policy for certain exports of goods or services to ensure the safe operation of commercial passenger aircraft for certain Iranian airlines,¹¹⁴ the comprehensive Iran-related prohibitions on parties subject to the Iranian Transactions and Sanctions Regulations (ITSR) were not affected by the JPOA. Finally, a mechanism to facilitate payments from Iran for humanitarian and certain other transactions was established as part of the JPOA.¹¹⁵

Notwithstanding the JPOA, other U.S. sanctions targeting Iran remain in place and have been actively enforced by OFAC and the State Department. In 2014, OFAC announced several rounds of SDN designations under U.S. terrorism and weapons of mass destruction proliferation sanctions programs for parties evading U.S. sanctions targeting Iran,¹¹⁶ and the State Department imposed sanctions against two parties under the Iran

109. See Press Release, U.S. Dep’t of the Treasury, Implementation of the Joint Plan of Action (Jan. 20, 2014), *available at* <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140120.aspx>; *see also* OFAC, Joint Plan of Action (Nov. 24, 2013), *available at* http://eeas.europa.eu/statements/docs/2013/131124_03_en.pdf.

110. U.S. Dep’t of the Treasury, Guidance Related to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan of Action Reached on November 24, 2013, between the P5+1 and the Islamic Republic of Iran (Jan. 20, 2014), *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_guidance.pdf.

111. U.S. Dep’t of the Treasury, Guidance Related to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan of Action Reached on November 24, 2013, between the P5+1 and the Islamic Republic of Iran as Extended Through November 24, 2014 (Jul. 21, 2014), *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_guidance_ext.pdf.

112. U.S. Dep’t of Treasury, Guidance Relating to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan of Action Reached on November 24, 2013, Between the P5 + 1 and the Islamic Republic of Iran, as Extended through June 30, 2015 (Nov. 25, 2014), *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/guidance_ext_11252004.pdf.

113. See Joint Plan of Action, *supra* note 109, at 3.

114. OFAC, Amended Statement of Licensing Policy on Activities Related to the Safety of Iran’s Civil Aviation Industry (Jul. 21, 2014), *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/civil_aviation_slp_iran_ext.pdf; *see also* OFAC, Statement of Licensing Policy on Activities Related to the Safety of Iran’s Civil Aviation Industry (Jan. 20, 2014), *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/civil_aviation_slp_iran.pdf.

115. See Joint Plan of Action, *supra* note 109, at 3.

116. See, e.g., Press Release, U.S. Dep’t of the Treasury, Counter Terrorism Designations; Iran Sanctions Designations; Non-proliferation Designations (Feb. 6, 2014), *available at* <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140206.aspx>; Press Release, U.S. Dep’t of the Treasury, Treasury Targets Networks Linked to Iran (Feb. 6, 2014), *available at* <http://www.treasury.gov/press-center/press>

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Sanctions Act and the Iran Freedom and Counter-Proliferation Act.¹¹⁷ OFAC also published a separate Foreign Sanctions Evaders (FSE) List in February 2014, with specific parties being accused of evading U.S. sanctions targeting Iran.¹¹⁸ These FSEs have not had their property or property interests subject to U.S. jurisdiction blocked, as is the case with SDNs, but U.S. persons are generally prohibited from engaging in any dealings with FSEs.¹¹⁹

In 2014, OFAC issued a new general license and expanded certain general licenses under the ITSR. On February 7, OFAC issued Iran General License D-1 (GL-D1) to replace Iran General License D (GL-D) from May 2013.¹²⁰ GL-D1 expanded the scope of GL-D's authorization with respect to the exportation and reexportation of certain services, software, and hardware incident to the exchange of personal communications with persons in Iran.¹²¹ Among other things, GL-D1 expanded authorizations for parties subject to the ITSR to export to Iran certain hardware and software not subject to the EAR and for parties not subject to the ITSR to export to Iran similar hardware and software subject to the EAR.¹²² On March 20, OFAC issued Iran General License G to authorize: (a) accredited U.S. academic institutions to establish and operate undergraduate and graduate academic exchange agreements with Iranian universities; and (b) exports to Iran of certain educational services or the administration of university entrance and other examinations for Iranian students.¹²³ On April 7, OFAC expanded the scope of the "Ag/Med" general license at ITSR section 560.530 to (a) expand the definition of "agricultural commodities;" (b) clarify that eligible items include those not subject to the EAR; (c) authorize parties not subject to the ITSR to export to Iran eligible items subject to the EAR; and (d) authorize the export to Iran of replacement parts for certain medical devices limited to a one-for-one export.¹²⁴

OFAC announced its Revised Guidance on August 13.¹²⁵ The February 2008 version of that guidance, which was subsequently incorporated into OFAC's regulations, provided

releases/Pages/jl2287.aspx; Press Release, U.S. Dep't of the Treasury, Counter Terrorism Designations; Iran Sanctions Designations; Non-proliferation Designations (Aug. 29, 2014), *available at* <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140829.aspx>; Press Release, U.S. Dep't of the Treasury, Treasury Targets Networks Linked to Iran (Aug. 29, 2014), *available at* <http://www.treasury.gov/press-center/press-releases/Pages/jl2618.aspx>.

117. Persons on Whom Sanctions Have Been Imposed Under the Iran Sanctions Act of 1996 and the Iran Freedom and Counter-Proliferation Act of 2012, 79 Fed. Reg. 59,890 (Oct. 3, 2014).

118. OFAC, *Identification of Foreign Sanctions Evaders and the Publication of a New Foreign Sanctions Evaders List*, U.S. Dep't of the Treasury (Feb. 6, 2014), http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/fse_list_intro.aspx.

119. *Id.*

120. See Department of the Treasury, ITSR General License D-1 (effective Feb. 7, 2014), *available at* www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_gld1.pdf; see also OFAC, *Questions Relating to Iranian General License D-1*, U.S. DEP'T OF THE TREASURY, http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx#iran_gld1 (last visited Jan. 27, 2015).

121. ITSR General License D-1, *supra* note 120, at 1.

122. *Id.* at 1-2.

123. Dep't of the Treasury, ITSR General License G (effective Mar. 20, 2014), *available at* http://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_glg.pdf.

124. 31 C.F.R. § 560.530 (2014).

125. *Revised Guidance on Entities Owned by Persons Whose Property and Interests in Property are Blocked*, U.S. DEP'T OF TREASURY, http://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf (last visited Jan. 17, 2015) [hereinafter Revised Guidance].

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that an entity 50 percent or more owned by a single SDN was itself considered to be an SDN, even though it is not identified on the SDN List.¹²⁶ Under the revised OFAC Guidance, an entity may also be considered an SDN if it is 50 percent or more owned by one or more SDNs.¹²⁷ The agency issued several “FAQs” to explain the practical application of this revised rule. The FAQs noted that the revised OFAC Guidance also applies to entities 50 percent or more owned by one or more parties on the Sectoral Sanctions Identifications (SSI) List.¹²⁸

On October 17, OFAC published its “Guidance Related to the Provision of Humanitarian Assistance by Not-For-Profit Non-Governmental Organizations,” which is intended to clarify the reach of economic sanctions for NGOs involved in humanitarian activities by highlighting the existence of humanitarian general licenses and clarifying certain SDN-related compliance issues.¹²⁹

OFAC amended regulations related to U.S. sanctions targeting Syria, Burma, and Zimbabwe. In May, OFAC reissued in their entirety the Syrian Sanctions Regulations (SSR) to incorporate prohibitions in six existing Executive Orders, as well as general licenses and licensing policies previously found on OFAC’s website.¹³⁰ In particular, the SSR now incorporate the broad prohibitions in Executive Order 13582 from August 2011, and the reissued SSR include some changes to existing general licenses and new general licenses.¹³¹ Similarly, in July, OFAC reissued in their entirety the Burmese Sanctions Regulations to incorporate existing Executive Orders and general licenses previously found only on the agency’s website.¹³² In the same month, OFAC also adopted as a final rule the Zimbabwe Sanctions Regulations with some changes to the 2004 version, which were proposed as an interim final rule.¹³³

OFAC also instituted two new SDN List-based programs. In April, OFAC issued Executive Order 13664 addressing parties who threaten the peace, security, or stability of South Sudan,¹³⁴ which was incorporated in July into the South Sudan Sanctions Regulations.¹³⁵ In May, OFAC implemented United Nations’ sanctions related to the CAR by issuing Executive Order 13667, which targeted certain persons contributing to the conflict in the CAR.¹³⁶ This order was incorporated into the Central African Republic Sanctions

126. See, e.g., 31 C.F.R. § 537.425 (2012); 31 C.F.R. § 537.416 (2014); 31 C.F.R. § 552.406 (2012).

127. Revised Guidance, *supra* note 125.

128. *Questions Related to Entities Owned by Persons Whose Property and Interests in Property are Blocked*, U.S. DEP’T OF TREASURY, http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx#50_percent (last visited Jan. 27, 2015).

129. *Guidance Related to the Provision of Humanitarian Assistance by Non-for-Profit Non-Governmental Organizations*, U.S. DEP’T OF TREASURY, http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Documents/ngo_humanitarian.pdf (last visited Jan. 27, 2015).

130. Syrian Sanctions Regulations, 79 Fed. Reg. 25,414-01 (May 2, 2014) (to be codified at 31 C.F.R. pt. 542).

131. See *id.*

132. Burmese Sanctions Regulations, 79 Fed. Reg. 37,106-01 (June 30, 2014) (to be codified at 31 C.F.R. pt. 537).

133. Zimbabwe Sanctions Regulations, 79 Fed. Reg. 39,312-01 (July 10, 2014) (to be codified at 31 C.F.R. pt. 541).

134. Exec. Order No. 13,664, 79 Fed. Reg. 19,283 (Apr. 3, 2014).

135. South Sudan Sanctions Regulations, 79 Fed. Reg. 37,190-01 (July 1, 2014) (to be codified at 31 C.F.R. pt. 558).

136. Exec. Order No. 13,667, 79 Fed. Reg. 28,387 (May 12, 2014).

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Regulations in July.¹³⁷ Several individuals have since been designated as SDNs under Executive Orders 13664 and 13667.¹³⁸

Finally, in 2014, OFAC imposed the largest single penalty in its history as part of a year in which it imposed its largest amount of penalties in aggregate. As of November 30, 2014, OFAC had entered into twenty announced settlements during calendar year 2014, totaling \$1,176,124,975.¹³⁹ The largest of these settlements was with BNP Paribas S.A. (BNPP) for \$963,619,900, which settled BNPP's civil liability for apparent violations of sanctions targeting Sudan, Iran, Cuba, and Burma.¹⁴⁰ The BNPP settlement was part of a global settlement totaling \$8.9 billion with the Justice Department, the New York County District Attorney's Office, the Federal Reserve Board of Governors, and the Department of Financial Services of the State of New York (NYDFS).¹⁴¹ OFAC determined that BNPP's apparent violations were not voluntarily self-disclosed; its actions were egregious; and it acted with reckless disregard for U.S. sanctions regulations.¹⁴²

On January 23, OFAC announced that Clearstream Banking S.A. (Clearstream) agreed to a \$151,902,000 settlement for apparent ITSR violations in relation to its maintenance of an account at a U.S. financial institution through which the Central Bank of Iran (CBI) maintained a beneficial ownership interest in securities held in custody at a central securities depository in the United States.¹⁴³ Clearstream failed to properly remedy this sanctions compliance issue after meeting with OFAC officials in late 2007 and early 2008.¹⁴⁴ OFAC determined that Clearstream's apparent violations were reckless and not voluntarily self-disclosed, and that Clearstream's actions were egregious.¹⁴⁵

OFAC's third largest settlement in 2014 was with Fokker Services B.V. for \$50,992,208 to settle potential civil liability for apparent violations of the Iranian and Sudanese sanctions.¹⁴⁶ This settlement was part of a global settlement with the BIS and the Department of Justice's U.S. Attorney's Office for the District of Columbia.¹⁴⁷

Separately, the NYDFS imposed additional penalties in 2014 on a bank with which it had previously reached a sanctions-related settlement. In November, NYDFS ordered Bank of Tokyo Mitsubishi UFJ (BTMU) to pay an additional \$315 million penalty and accept additional administrative measures, primarily for having pressured a consultant to

137. Central African Republic Sanctions Regulations, 79 Fed. Reg. 38,248-01 (July 7, 2014) (to be codified at 31 C.F.R. pt. 553).

138. *OFAC Sanctions Resources and Recent Actions*, PRICE BENOWITZ LLP, available at <http://ofaclawyer.net/resources.html> (last visited Jan. 27, 2015).

139. *Civil Penalties and Enforcement Information*, U.S. DEP'T OF TREASURY, <http://www.treasury.gov/resource-center/sanctions/CivPen/Pages/civpen-index2.aspx> (last visited Jan. 27, 2015).

140. *Enforcement Information for June 30, 2014*, U.S. DEP'T OF TREASURY, http://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20140630_bnp.pdf (last visited Jan. 27, 2015).

141. *Id.*

142. *Id.*

143. *Enforcement Information for January 23, 2014*, U.S. DEP'T OF TREASURY, http://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20140123_clearstream.pdf (last visited Jan. 27, 2015).

144. *Id.*

145. *Id.*

146. *Enforcement Information for June 5, 2014*, U.S. DEP'T OF TREASURY, http://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20140605_fokker.pdf (last visited Jan. 27, 2015).

147. *Id.*

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remove key warnings to regulators in a report that BTMU submitted to NYDFS.¹⁴⁸ In June 2013, BTMU agreed to a \$250 million settlement with NYDFS for related sanctions compliance issues.¹⁴⁹

148. Press Release, N.Y. State Dep't of Fin. Servs., NYDFS Announces Bank of Tokyo Mitsubishi UFJ to Pay Additional \$315 Million Penalty for Misleading Regulator, Individual Bank Employees will Resign and Accept Bans (Nov. 18, 2014), *available at* <http://www.dfs.ny.gov/about/press2014/pr1411181.htm>.
149. *Id.*