



Trade Matters

Lowenstein Sandler's Global Trade & National Security Newsletter

January 2024

Share: [in](#) [twitter](#)



TRADE TIP OF THE MONTH: Joint Agency Publication of Supply Chain Compliance Best Practices

On December 11, the Department of Justice, the Department of Commerce's Bureau of Industry and Security (BIS), the Department of Homeland Security, the Department of State's Directorate of Defense Trade Controls (DDTC), and OFAC issued a [quint-seal compliance note](#) about best practices for shippers, forwarders, brokers, ship owners, and others in maintaining a secure supply chain. The note stresses the importance for all involved in the transport of goods to assess their risk profile and implement rigorous, risk-based internal compliance programs to avoid transacting with bad actors who seek to evade sanctions and export controls. These bad actors use tactics such as manipulating location or identification data, falsifying cargo and vessel documents, ship-to-ship transfers, voyage irregularities and use of abnormal shipping routes, frequent registration changes, and complex ownership or management. The five agencies stressed that forwarders or other agents can be held liable for an illegal export. To avoid penalties, those agents and exporters must raise red flags as appropriate, ask the counterparty about the red flags, and ensure that they are appropriately addressed.

1. OFAC Settlement Highlights Continued Focus on Virtual Currency Industry

On December 13, the Office of Foreign Assets Control (OFAC) announced a [\\$1.2 million settlement](#) with CoinList Markets LLC (CLM), a San Francisco-based virtual currency exchange. Between April 2020 and May 2022, CLM processed 989 transactions for users living in Crimea. While CLM collected

Contact Us

for more information about any matters in this newsletter:

Doreen M. Edelman

Partner
Chair, Global Trade & National Security
202.753.3808
dedelman@lowenstein.com

Laura Fraedrich

Senior Counsel
202.753.3659
lfraedrich@lowenstein.com

Abbey E. Baker

Counsel
202.753.3806
abaker@lowenstein.com

Andrew Bisbas

Counsel
202.753.3807
abisbas@lowenstein.com

Jeffrey B. Jones

Special Counsel
202.753.3769
jejones@lowenstein.com

certain information to screen new and existing customers against OFAC and other restricted party lists, a gap in CLM's procedures caused them to fail to capture users who said they lived in a non-embargoed country but who nonetheless provided an address within Crimea. The CoinList settlement represents just one of many recent OFAC actions against companies in the virtual currency space, which continues to be a focus area for the agency.

2. New EO Targets Non-U.S. Financial Institutions That Facilitate Transactions Supporting the Russian Military Industrial Base

On December 22, President Biden signed [an executive order](#) (EO) providing authorization for sanctions against foreign financial institutions that facilitate shipments of dual-use and critical items to Russia. More specifically, under directives issued pursuant to the executive order, the United States can now sanction foreign financial institutions determined to have (1) conducted or facilitated any significant transaction for or on behalf of companies or individuals sanctioned for operating in the technology, defense and related material, construction, aerospace, manufacturing, or other designated sector of the Russian economy that supports Russia's military industrial base; or (2) provided any service involving Russia's military industrial base, including the direct or indirect sale, supply, or transfer to Russia of [certain critical items](#). The order also authorizes the United States to place new import restrictions on certain products mined, harvested, or produced in Russia, such as diamonds and seafood, even if those products are then substantially transformed in a third country. A directive issued pursuant to this provision prohibited the importation into the United States of salmon, cod, pollack, and crab harvested in Russian waters or by Russian-flagged vessels.

3. OFAC Issues Penalty for Indirect Sanctions Violation, Citing 50 Percent Rule

On December 21, [Privilege Underwriters Reciprocal Exchange](#) (PURE), an insurance organization, agreed to pay \$466,200 to settle potential liability for 39 apparent violations of OFAC's Ukraine-/Russia-Related sanctions. Beginning in 2010, PURE issued and annually renewed several insurance policies to Medallion, Inc., a Panama-based company owned by Viktor Vekselberg. In April 2018, Vekselberg was added to OFAC's List of Specially Designated Nationals and Blocked Persons, making Medallion, Inc., a blocked entity due to OFAC's 50 Percent Rule. PURE collected 38 premium payments from Medallion, Inc., totaling \$308,391, between May 2018 and July 2020. The maximum potential penalty for the violations was \$13,906,581. The parties settled for a reduced penalty of \$466,200, which took into consideration PURE's implementation of remedial measures, its cooperation with OFAC, and its lack of prior violations. However, even after mitigating factors were applied, the settlement penalty owed was still \$150,000 more than the revenue collected. This violation was not voluntarily disclosed and therefore stands as a warning that OFAC can identify and penalize violations, even if they are not obviously public.

4. Nasdaq Pays \$4 Million for Foreign Subsidiary's Violations of Iran Sanctions

Nasdaq, Inc. settled with OFAC for [\\$4 million](#) over its foreign

Christian C. Contardo
Associate
202.753.3804
ccontardo@lowenstein.com

Kei Komuro
Associate
212.419.5948
kkomuro@lowenstein.com

Megan C. Bodie
Administrative Specialist
202.753.3809
mbodie@lowenstein.com

Subscribe—and stay in the know!

If you would like to update your mailing preferences for Lowenstein Sandler communications, please [click here](#).

[MANAGE MY PREFERENCES](#)

subsidiary's 151 apparent violations of the Iran sanctions regulations. Nasdaq's subsidiary, Nasdaq OMX Armenia OJSC, owned and operated the Armenian Stock Exchange. Nasdaq OMX Armenia OJSC knowingly processed trades and settled payments for Mellat Armenia, a subsidiary of Iran's state-owned Bank Mellat and a designated entity. This settlement illustrates the importance of implementing appropriate sanctions programs based on a business's particular risk profile. Cross-border mergers and acquisitions present a challenge in ensuring that compliance policies and procedures, including proper training and oversight, are rolled out to newly acquired entities.

5. China Tariff Review May Be Further Delayed, Certain Exclusions Extended

On December 26, the Office of the United States Trade Representative (USTR) announced an **additional extension** of the COVID-19-related product exclusions as well as 300 other exclusions in the China Section 301 investigation. The exclusions for these 77 **medical-care products** were originally granted on December 29, 2020, and the extended exclusions are now valid through May 31, 2024. The government is also seeking comments on whether to extend exclusions for these products even further and asks interested companies to submit comments via the online portal that will be open from January 22 until February 21. USTR noted in its announcement that this extension will "facilitate the alignment of further decisions on these exclusions with the ongoing four-year review."

Additional Resources

- **Client Alert:** "[USPTO Introduces Pilot Program For Expedited Review of Semiconductor Manufacturing-Related Patent Applications](#)"
December 12, 2023
Patent Counseling & Prosecution Client Alert
[Madhumita Datta, Ph.D.](#)
- **Client Alert:** "[Governor Signs New York LLC Transparency Act into Law](#)"
January 3, 2024
Anti-Money Laundering Client Alert
[Robert A. Johnston Jr.](#), [Melissa L. Wiley](#), [Paula A. Ladd](#), [Samantha Sigelakis-Minski](#), [Sara Lazarevic](#), [Stephanie Stephenson](#)
- **Article:** "[International Trade Policies To Watch In 2024](#)"
January 1, 2024
Law360
[Doreen M. Edelman](#)
- **Article:** "[International Trade Cases To Watch In 2024](#)"
January 1, 2024
Law360
[Andrew Bisbas](#)



www.lowenstein.com

**GENERATING BUSINESS RELATIONSHIPS
IN THE DEFENSE & GOVERNMENT ENVIRONMENT (G-BRIDGE)**

Linking innovative companies to government opportunities and legal support



NEW YORK

PALO ALTO

NEW JERSEY

UTAH

WASHINGTON, D.C.

© 2024 Lowenstein Sandler LLP | One Lowenstein Drive, Roseland, New Jersey 07068 |
+1 973.597.2500

We respect your right to privacy, [click here](#) to view our privacy policy. If you would like to update your mailing preferences for Lowenstein Sandler communications, please [click here](#).

To unsubscribe from Lowenstein Sandler email communications, [click here](#).