



Trade Matters

Lowenstein Sandler's Global Trade & National Security Newsletter

June 2022

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1. BIS Announces Plans To End Categorizing Emerging and Foundational Tech

On May 22, BIS announced in a proposed rule that it will end the effort to characterize specific technology as emerging or foundational for purposes of Section 1758 of the Export Control Reform Act of 2018. Instead, BIS will characterize any technology that they identify as "Section 1758 technologies," no longer drawing a distinction between emerging or foundational technologies. This change will not affect the designation of critical technologies for the purposes of review by the Committee on Foreign Investment in the United States. BIS believes that this new sole categorization will allow it to more efficiently review and implement regulations.

2. Logistics Company OFAC Settlement Shows Need for Integrated Compliance Program

The Office of Foreign Assets Control (OFAC) recently announced a \$6 million settlement with Toll Holdings Limited (Toll), an Australian freight forwarding and logistics company, for the company's 2,958 apparent violations of multiple sanctions regimes. OFAC based its jurisdiction on Toll's use of U.S. financial institutions to process payments to sanctioned entities. OFAC notes in the enforcement release that Toll's violations occurred partly due to Toll's rapid international growth and the acquisition of numerous entities, which resulted in the company having more than 600 different invoicing, data, payment, and other applications. The compliance policy failed to keep pace with the business's acquisitions and complexity. The case highlights the importance of integrated compliance controls and screening; while Toll executives emphasized their commitment to abide by sanctions obligations, Toll failed to implement appropriate policies and procedures.

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for more information about any matters in this newsletter:

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3. Biden Administration Issues Cuba General Licenses

Effective June 9, 2022, OFAC amended the Cuban Assets Control Regulations (CACR) to implement elements of policy changes announced by the administration on May 16, 2022, to increase support for the Cuban people. A new general license authorizes, subject to conditions, travel-related and other transactions incident to attending or organizing professional meetings or conferences in Cuba. The agency also removed certain restrictions on authorized academic educational activities, including people-to-people educational travel conducted under the auspices of an organization that is subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people contact. Travel for tourist activities still is not permitted. Finally, OFAC removed the \$1,000 quarterly limit on family remittances to Cuban nationals who are close relatives and reinstated donative remittances to Cuban nationals who are not prohibited officials of the government of Cuba, prohibited members of the Cuban Communist Party, or close relatives of a prohibited official of the government of Cuba or prohibited member of the Cuban Communist Party. It remains to be seen whether this is the first step toward further expansion.

4. US Government Authorizes Transactions Related to Patent Protection in Russia

On May 5, 2022, OFAC issued [General License No. 3](#), which authorizes transactions in Russia in connection with the filing and prosecution of patent applications and the maintenance of issued patents, as well as activities related to the filing and prosecution of any opposition or infringement proceeding. Those companies prosecuting a Russian patent application or maintaining a Russian patent (or a Eurasian patent validated in Russia) should remain cognizant of sanctions imposed by the EU, the UK, and other countries, as this general license applies only to sanctions imposed by the United States.

5. Commerce Wants Input on Crypto Framework

The Department of Commerce is seeking [input and comments](#) on enhancing U.S. economic competitiveness in digital asset technologies. This request for information comes a few months after [Executive Order 14067](#), which directed federal agencies to assess the risks and opportunities associated with cryptocurrencies. President Biden urged regulators to focus on six principal policy objectives: consumer protection, financial stability, illicit finance, the U.S.'s position in the global financial system, promotion of access to safe and affordable financial services, and support of technological advances that promote responsible development and use of digital assets. Commerce also is seeking comment on several specific questions. Any interested parties should submit their comment to [Docket ITA-2022-0003](#) or by email to DigitalAssets@trade.gov by 5 p.m. Eastern Time on July 5, 2022.

6. Tech Exec Sentenced to Federal Prison for Illegal Exports

[Obaidullah Syed](#), owner of Pakistan-based Business System International PVT. LTD. and Chicago-based BSI USA, has been sentenced to a year in federal prison for illegally exporting

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computer equipment from the United States to a nuclear research agency of the Pakistani government. Not only did Syed export computer equipment to the Pakistan Atomic Energy Commission (on the BIS Entity List) from 2006 to 2015 without obtaining the required authorization from the Department of Commerce, but he and his other conspirators also falsely identified the end user to U.S.-based computer manufacturers.

TRADE TIP OF THE MONTH: Disclosure Obligations Stemming from Russia's Invasion of Ukraine

On May 3, the U.S. Securities and Exchange Commission's Division of Corporation Finance issued guidance for reporting companies and a [sample comment letter](#) regarding potential disclosures related to the direct or indirect impacts of Russia's invasion of Ukraine on their business. Among other things, the letter identifies as possible areas of disclosure impacts suffered by companies on their business, operations, or prospects due to changes in their employee base, disruptions of their supply chain, changes in their business relationships, heightened cybersecurity risks, and increased volatility of the trading prices of commodities. In light of this guidance and given the continued introduction of substantial sanctions and controls on Russia, companies should ensure they are continuing to update their disclosure controls and procedures.

Additional Resources

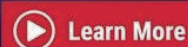
- **Client Alert:** "Material Investment Management Developments and Template Annual Compliance Checklists for Registered Investment Advisers, Exempt Reporting Advisers, Commodity Pool Operators, Commodity Trading Advisors and Private Fund Managers" May 5, 2022
Investment Management Client Alert
Scott H. Moss, Brian A. Silikovitz, Rachel Ingwer, Mary J. Hildebrand CIPP/US/E, Andrew E. Graw, Doreen M. Edelman, George Danenhauer
- **Firm News:** "Lowenstein Represents GoldenSource in Acquisition by Gemspring Capital" May 17, 2022



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