



Trade Matters

Lowenstein Sandler's Global Trade & Policy Newsletter

April 2021

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1. Recent Enforcement Actions Outline the Need for Compliance Measures

Over the past few months, the Office of Foreign Assets Control (OFAC) and the Bureau of Industry and Security (BIS) in the Department of Commerce have issued several important penalty announcements. At the same time, the Federal Trade Commission (FTC) issued its highest-ever penalty, and a relatively rare False Claims Act (FCA) case resulted in a penalty for failure to properly mark country of origin on imported goods. These enforcement actions highlight regulatory regimes that multinational companies need to understand in order to avoid penalties:

- Chemence Inc. paid \$1.2 million, **the highest monetary judgement ever**, to settle its Made in USA labeling case. A repeat offender, Chemence previously had settled a case in 2016 but continued to represent in promotional materials that its products were all or virtually all made in the United States, even though foreign materials accounted for more than 50 percent of overall manufacturing costs for these products.
- A Georgia-based digital payment service provider agreed to pay \$507,375 to settle its **civil liability for 2,102 apparent violations** of U.S. sanctions programs. According to OFAC, the apparent violations occurred because the payment service provider did not screen the locations of the ultimate customers, which included Crimea, Cuba, North Korea, Iran, Sudan, and Syria. These customers transacted with merchants in the United States using digital currency.
- Similarly, UniControl Inc., an Ohio-based electronic inspection and monitoring instruments manufacturer, **paid \$216,464 to settle its potential civil liability** for apparent violations of Iranian Transactions and Sanctions Regulations. From 2013 to 2017, UniControl failed to act on multiple signs that 19 shipments of goods valued at \$687,189 from the United States to two European

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companies were subsequently reexported to Iran. This enforcement action demonstrates the need to identify and assess red flags about the identity of the ultimate end user of exported products.

- Garner-Gibson Inc. paid \$160,933 to [settle a qui tam suit](#) under the FCA. Gardner-Gibson violated the FCA by failing to mark imported products with their country of origin. Use of the FCA to attack customs compliance failures is relatively rare, but it is increasing.

2. Increased Export Restrictions for Russia

In response to the poisoning of Russian political opposition leader Alexei Navalny, the U.S. Commerce and State departments have instituted increased export controls against Russia. The [Department of Commerce](#) has imposed a policy of denial for all exports to Russia that are controlled for national security reasons. The [State Department](#) has added Russia to the list of countries subject to a policy of denial for exports of defense goods and services. Additional sanctions also include the termination of all foreign military financing for Russia. There are a few exceptions available under both Commerce and State regulations.

Trade tip of the month: All U.S. businesses are required to file reports identifying foreign direct investment (FDI) with the [Bureau of Economic Analysis \(BEA\)](#). Reports are filed at the inception of the investment and then every five years in a follow-up “benchmark survey.”

Additional Resources

Upcoming Webinars:

- **“Assessing FIRRMA’s Impact on Investment Deals Involving Private Equity Funds”**
National Conference on CFIUS
[Doreen M. Edelman](#)
April 21, 2021
Panel time: 3:45 p.m. ET
To learn more and register, [click here](#). For a 10 percent discount, use code: S10-858-858L21.S
- **“Key Focus Areas to Strengthen Compliance and Meet Increased Regulator Expectations”**
U.S. Economic Enforcement and Sanctions Compliance,
[Doreen M. Edelman](#)
April 28, 2021
Panel time: 10 a.m. ET
To learn more and register, [click here](#). For a 10 percent discount, use code: S10-897-897L21.S

Insights:

- **Client Alert:** “2020 and Q1 2021 Developments and Annual Compliance Checklists”
March 31, 2021
[Lowenstein Sandler LLP](#)
[Scott H. Moss](#), [Brian A. Silikovitz](#), [Rachel Ingwer](#), [Mary J. Hildebrand CIPP/US/E](#), [Andrew E. Graw](#), [Doreen M. Edelman](#), [Megan Monson](#), [George Danenhauer](#), [Andrew Bisbas](#), [Christian C. Contardo](#), and [Manas Kumar](#)
- **Article:** “Are you subject to US economic sanctions?”
March 30, 2021

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The Times of Israel

Doreen M. Edelman, Dotan Barnea, Abbey E. Baker,
and Christian C. Contardo

- **Client Alert:** “Refunds of Some Section 301 Chinese Duties May Be Available”

February 25, 2021

Lowenstein Sandler LLP

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Fraedrich, and Christian C. Contardo

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