



OFAC Regulations – Update on Recent Enforcement Action

We kindly wish to refer your attention a recent enforcement action by the US Office of Foreign Asset Control (OFAC) with regard to transactions with sanctioned entities and countries. **This action highlights the importance of carefully reviewing compliance implications when a U.S. entity absorbs or otherwise becomes involved in activities of foreign subsidiaries, whether as a result of acquisition or internal restructuring.**

The ruling was issued on February 4th, 2016. The case concerns one of the subsidiaries of a major US-based global company in the Middle East.

OFAC asserted that a US subsidiary of the company which held its Middle Eastern operations (hereinafter: "ME-SUB"), violated the Sudanese Sanction Regulations, 31 C.F.R. 538 (hereinafter: "SSR"). OFAC claimed that the company's General Manager for "Emerging Markets, Middle East and North Africa" engaged in the coordination and supervising of shipments of consumer hygiene products valued at \$200,000 from the company's Egyptian subsidiary to Khartoum, Sudan.

This transaction followed a November 2009 organizational change through which ME-SUB became directly involved in supervising the Egyptian subsidiary's transactions. OFAC treated those actions as a prohibited facilitation.

In its finding, OFAC addressed various aggravating and mitigating factors, and did not impose any monetary penalty.

The aggravating factors included the lack of proper training for the ME-SUB General Manager and also the failure to consider the implications of OFAC regulations in connection with the restructuring that resulted in a US company being responsible for sales to Sudan.

OFAC also found that ME-SUB acted with reckless disregard by making the

exports to Sudan, after being made aware that such exports might be subject to US sanctions restrictions.

OFAC highlighted in its statement announcing the ruling, that US companies, and particularly those with a global presence, are required to train their employees on OFAC compliance. This is especially true for employees who are involved in high risk regions or transactions.

Please note, that any transaction, disbursement of money, merger or acquisition, which has involvement of a US entity, whether directly or through a subsidiary or through a company that it acquires, when a sanctioned country is involved, may be construed as a violation of OFAC regulations and subject to OFAC sanctions.

We strongly recommend that any Israeli company with links or future anticipated links to US companies abide by all US regulations with regard to its business activities. In addition, we recommend that Israeli companies implement a proper compliance plan for these regulations, in order to properly train each employees in minimizing the risk of violating these regulations.

Please feel free to contact our firm for any questions that you have with regard to this issue.

The purpose of this memorandum is to bring to your attention updated information. The memorandum does not constitute legal advice.

If you have any questions regarding the subject of this article, please contact the following attorneys or call your regular Meitar contact:

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