

CLIENTTOPICS

October 18, 2007

IEEPA Enhancement Act – Increased Penalties for Violations of US Economic Sanctions

Economic Sanctions Developments

The International Emergency Economic Powers Enhancement Act, signed into law by President Bush on October 16, 2007, significantly increases the maximum civil and criminal penalties for violations of economic sanctions imposed under the International Emergency Economic Powers Act (IEEPA) – the statutory authority for almost all of the economic sanctions administered by the U.S. Treasury’s **Office of Foreign Assets Control (OFAC)**.

Under the new law, “A civil penalty may be imposed ... in an amount not to exceed the greater of – (1) \$250,000; or (2) an amount that is twice the amount of the transaction”

Under the new law, it appears that even very low dollar amount transactions could be subject to a civil fine of up to \$250,000. For example, in a violative wire transfer of \$5,000 involving a blocked person, it appears that OFAC would have authority to impose a penalty of up to \$250,000 (the greater) versus a penalty of up to twice the amount of the transaction, or \$10,000 (the lesser). On the other hand, if the amount of the transaction is, for example, \$1,400,000, OFAC will have the authority to impose a maximum penalty of \$2.8 million. Prior to the new law, the maximum IEEPA-based civil penalties imposed by OFAC per violation were limited to the amount of the transaction not to exceed \$11,000, and then later in March 2006, the maximum civil penalty was increased to \$50,000.¹ It remains to be seen how OFAC will calculate maximum civil penalties under the new law.

The new law increases penalties for willful and knowing (criminal) violations from \$50,000 to \$1,000,000. The maximum period of imprisonment of up to 20 years per violation is unchanged by the new law. As before, under the new law, criminal penalties include fines, imprisonment, or both.

¹ In March 2006, the maximum civil penalty for violations of IEEPA-based economic sanctions increased from \$11,000 to \$50,000, and the maximum term of imprisonment for criminal violations went from 10 to 20 years.

CLIENTTOPICS

October 18, 2007

IEEPA Enhancement Act - Increased Penalties for Violations of US Economic Sanctions and US Export Controls (cont.)

Economic Sanctions Developments

The new civil penalties apply to violations where an enforcement action is pending or commenced on or after October 16, 2007, while the new criminal penalties apply only prospectively. OFAC has not yet informed the public on how the new law will affect matters that were voluntarily disclosed to OFAC prior to the enactment of the new law.

For more information or questions, please contact:

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The Eren Law Firm is a leading economic sanctions and anti-money laundering boutique firm based in Washington, DC. Prior to entering private law practice, Mr. Pinter and Mr. Eren served at the US Department of the Treasury's Office of Foreign Assets Control (OFAC), the agency that administers US economic sanctions, for a combined 25 years.

During his 17-year tenure at OFAC, Mr. Pinter participated in the shaping of economic sanctions programs administered by OFAC, and in the formulation, implementation, modification and termination of sanctions. Mr. Pinter was a prime arbiter of all major OFAC decisions and OFAC's Chief of Licensing between 1987 and 2002, and Mr. Pinter later also oversaw OFAC's Civil Penalties program.

Between 1992 and 2000, Mr. Eren participated in the formulation of OFAC-administered laws and regulations, including the Iranian Transactions Regulations, and dealt with OFAC adjudications and decisions involving the application of sanctions laws and regulations to complex and sensitive trade and financial transactions. Between 2000 and 2002, Mr. Eren was a lawyer at the Washington DC office of Clifford Chance, where he advised the firm's clients and the firm itself on US economic sanctions and anti-money laundering matters.

Mr. Pinter and Mr. Eren advise banks, broker-dealers, investment banks and other financial institutions, financial services companies, other businesses as well as foreign governments on matters implicating OFAC-administered economic sanctions, the US Bank Secrecy Act, the anti-money laundering (AML) provisions of the USA Patriot Act, and their implementing regulations. Mr. Eren and Mr. Pinter also design OFAC and AML compliance programs for US as well as non-US clients and represent clients in, among other things, applications for OFAC licenses (such as for the unblocking of funds and accounts), SDN list removal petitions, other sanctions relief, and in sanctions, anti-money laundering, and export control enforcement actions.

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