

ENFORCEMENT INFORMATION FOR OCTOBER 05, 2017

Information concerning the civil penalties process can be found in the Office of Foreign Assets Control (OFAC) regulations governing each sanctions program; the Reporting, Procedures, and Penalties Regulations, 31 C.F.R. part 501; and the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. These references, as well as recent final civil penalties and enforcement information, can be found on OFAC's website at www.treasury.gov/ofac/enforcement.

ENTITIES – 31 CFR 501.805(d)(1)(i)

BD White Birch Investment LLC (“White Birch USA”) Settles Potential Civil Liability for Apparent Violations of the Sudanese Sanctions Regulations: White Birch USA, a company headquartered in Greenwich, Connecticut, has agreed to pay \$372,465 to settle its potential civil liability for three apparent violations of the Sudanese Sanctions Regulations, 31 C.F.R. part 538 (SSR).¹ Specifically, White Birch USA appears to have violated §§ 538.205 and 538.206 of the SSR when it facilitated the sale and shipment of 543.952 metric tons of Canadian-origin paper from Canada to Sudan with a value of \$354,602.26. The export transactions occurred in April and December 2013. Various personnel within White Birch USA and its Canadian subsidiary, White Birch Paper Canada Company NSULC (“White Birch Canada”), were actively involved in discussing, arranging, and executing the export transactions to Sudan.

OFAC determined that White Birch USA did not voluntarily disclose the apparent violations to OFAC, and that the apparent violations constitute a non-egregious case. The statutory maximum civil monetary penalty amount for the apparent violations was \$853,746, and the base civil monetary penalty amount for the apparent violations was \$445,000.

This settlement agreement reflects OFAC's consideration of the following facts and circumstances pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. OFAC considered the following to be aggravating factors: (1) White Birch USA exhibited reckless disregard for U.S. sanctions requirements by failing to exercise a minimal degree of caution or care with regard to the apparent violations; (2) White Birch Canada personnel appear to have attempted to conceal the ultimate destination of the goods from its bank (a U.S. financial institution serving as the confirming bank on a letter of credit) with respect to two of the apparent violations; (3) multiple White Birch USA personnel, including individuals in supervisory or managerial positions, had actual knowledge of and were actively involved in, or had reason to know of, the conduct that led to the apparent violations; (4) White Birch USA is a large and commercially sophisticated company; (5) White Birch USA's compliance program was either non-existent or inadequate at the time of the apparent violations; and (6) White Birch USA did not initially cooperate with OFAC's investigation into the apparent violations, particularly when it submitted materially inaccurate, incomplete, and/or misleading information to OFAC.

¹ Effective January 17, 2017, all transactions prohibited under the SSR are authorized pursuant to the general license located at 31 C.F.R. § 538.540. The general license does not affect past, present, or future OFAC enforcement investigations or actions related to any apparent violations of the SSR relating to activities that occurred prior to the effective date of the general license.

OFAC found the following to be mitigating factors in this case: (1) White Birch USA has no prior OFAC sanctions history, and has not received a penalty notice or Finding of Violation in the five years preceding the earliest date of the transactions giving rise to the apparent violations; and (2) White Birch USA has reported to OFAC that it has taken remedial steps in response to the apparent violations, including by updating the company's employee manual to include additional information concerning economic sanctions, implementing new compliance policies, and administering company-wide OFAC compliance training.

This enforcement action reinforces certain compliance obligations for U.S. persons, including U.S. parent corporations that maintain subsidiaries located outside of the United States, as well as their U.S. person employees. Unless authorized by OFAC or otherwise exempt by statute, foreign subsidiaries of U.S. parent corporations must act independently from their parent corporations and any other U.S. person with respect to all transactions and activities that would be prohibited if the transactions were engaged in by a U.S. person or in the United States. In addition, any persons who submit information to OFAC regarding potential violations should take steps to ensure that such information is both accurate and complete.

For more information regarding OFAC regulations, please go to: <http://www.treasury.gov/ofac>.