

ENFORCEMENT INFORMATION FOR NOVEMBER 27, 2018

Information concerning the civil penalties process can be found in the 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 Web site at www.treasury.gov/ofac/enforcement.

ENTITIES – 31 CFR 501.805(d)(1)(i)

Cobham Holdings, Inc. Settles Potential Civil Liability for Apparent Violations of the Ukraine Related Sanctions Regulations: Cobham Holdings, Inc. (“Cobham”), a company based in Arlington, Virginia, on behalf of its former subsidiary, Aeroflex/Metelics, Inc. (“Metelics”), has agreed to pay \$87,507 to settle potential civil liability for three apparent violations of the Ukraine Related Sanctions Regulations, 31 C.F.R. part 589 (the URSR). Specifically, between July 31, 2014 and January 15, 2015, Metelics appears to have violated § 589.201 of the URSR when it sold 3,400 LM 102202-Q-C-301 switch limiters, 6,900 MSW 2061-206 switches, and 20 silicon diode switch limiter samples through distributors in Canada and Russia to a person whose property and interests in property are blocked pursuant to Executive Order 13661 of March 17, 2014, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine” (collectively referred to hereafter as the “Apparent Violations”).

Prior to December 14, 2015, Metelics was a subsidiary of Cobham, a global provider of technology and services in aviation, electronics, communications, and defense. During negotiations to sell Metelics, the purchaser identified a July 31, 2014 shipment of silicon diode switches and switch limiters to a Metelics distributor in Canada for end-use by Almaz Antey Telecommunications LLC (“AAT”) in Russia. Cobham investigated the shipment and discovered that in December 2014 and January 2015, Metelics made two additional shipments through a Russian distributor for end-use by AAT. At all relevant times, although AAT was not explicitly identified on OFAC's List of Specially Designated Nationals and Blocked Persons (the “SDN List”), it was 51 percent owned by Joint-Stock Company Concern Almaz-Antey (“JSC Almaz-Antey”), which OFAC had blocked and added to the SDN List on July 16, 2014, two weeks before the July 31, 2014 shipment. As a result, AAT was blocked pursuant to §§ 589.201 and 589.406 of the URSR at the time Metelics engaged in the three shipments described below. These shipments arose out of two separate transactions – one taking place between June and July 2014, and the other taking place between October 2014 and January 2015.

On June 18, 2014, Metelics agreed to ship an order of 6,900 switches and 6,900 switch limiters through a Canadian distributor to AAT. The total value of the order was \$1,123,182. On June 19, 2014, Metelics performed a denied party screening for the order that returned warnings for Russia generally but not AAT specifically, as JSC Almaz-Antey had not yet been added to the SDN List. Metelics did not have sufficient stock to fill the order, so it arranged to split the order into two shipments.

Metelics prepared the first shipment associated with the June 18, 2014 order for June 27, 2014 and performed another denied party screening that day with similar results to the first screening. Knowing the shipment was destined for Russia, Metelics forwarded the end-use certificates to its Director of Global Trade Compliance to confirm that required compliance procedures had been followed and for final approval. After completing its global trade compliance review, Metelics shipped the first part of the order on June 27, 2014. The value of the shipment was \$377,860.

On July 16, 2014, OFAC designated JSC Almaz-Antey and added it to the SDN List.

Metelics prepared the second shipment on July 31, 2014 and again performed a denied party screening. Although OFAC had designated JSC Almaz-Antey and added it to the SDN List approximately two weeks before, and despite the inclusion of two uncommon terms in the names of both the SDN and the specific end-user for the subject transaction (“Almaz” and “Antey”), Metelics’ denied party screening produced no warnings or alerts for AAT. After the Director of Global Trade Compliance, in reliance on the results of the screening software, approved the transaction, Metelics shipped the second part of the order on July 31, 2014. The total value of the second shipment was \$745,322.

In October 2014, Metelics received an order for 10 samples of two different silicon diode switch limiters from a Russian distributor for end-use by AAT. On October 27, 2014, Metelics performed a denied party screening for the parties involved in the transaction (including AAT) which did not return any matches. Metelics subsequently shipped the samples in two separate shipments following the same procedures of performing a denied party search just prior to shipment and seeking approval from its Director of Global Trade Compliance (similar to the July 2014 transaction). The first shipment occurred on December 19, 2015 and the second on January 15, 2015. The value for each of these two shipments listed on the commercial invoices was \$10.

Cobham determined that its screening software failed to generate an alert because JSC Almaz-Antey (the entity identified on the SDN List) did not include the word “telecom.” The third-party screening software relied on by Cobham used an all word match criteria that would only return matches containing all of the searched words, even though Cobham had set the search criteria to “fuzzy” to detect partial matches. This meant that the software failed to match “Almaz Antey” when Cobham searched for “Almaz Antey Telecom.”

OFAC determined that Cobham voluntarily self-disclosed the Apparent Violations on behalf of Metelics, and that the Apparent Violations constituted a non-egregious case. The statutory maximum civil monetary penalty applicable in this matter is \$1,990,644. The base civil monetary penalty amount for the Apparent Violations is \$125,010.

The settlement amount 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 determined the following to be aggravating factors: (1) Metelics failed to recognize warning signs when exporting goods on multiple occasions through distributors to the subsidiary of a blocked person with nearly the same name as the blocked person; (2) the Director of Global Trade Compliance reviewed and approved the transactions constituting the apparent violations; (3) the apparent violations resulted in harm to the sanctions

program objectives of the URSR by conferring an economic benefit to a blocked person tied to Russia's defense industry; (4) Metelics and Cobham are large and sophisticated entities operating in a sensitive industry; and (5) Cobham and its compliance personnel were involved in prior apparent violations of the Iranian Transactions and Sanctions Regulations administered by OFAC and Metelics was subject to a consent agreement for violations of the International Traffic in Arms Regulations administered by the U.S. Department of State resulting from recurring compliance failures.

OFAC determined the following to be mitigating factors: (1) Metelics has not received a penalty notice or finding of violation from OFAC in the five years preceding the earliest date of the transactions giving rise to the Apparent Violations; (2) Cobham cooperated with OFAC by submitting a detailed disclosure; (3) Cobham implemented certain remedial measures, including those described in more detail below; and (4) that the primary transaction underlying the Apparent Violations straddled changes in the URSR such that a portion of the transaction occurred prior to it being prohibited.

Additionally, Cobham has confirmed to OFAC that it has terminated the violative conduct and taken the following steps to minimize the risk of recurrence of similar conduct in the future:

- Cobham acquired and implemented new and enhanced sanctions screening software which, according to Cobham, does not possess the same deficiency as its prior sanctions screening software and that is capable of identifying and flagging potential matches to persons with close name variations to parties identified on the SDN List;
- Cobham acquired and implemented a screening and business intelligence tool with the capability of identifying and flagging persons known to be owned by parties identified on the SDN List, and has developed a process for employing the business intelligence tool to conduct enhanced due diligence on high-risk transactions from an OFAC sanctions perspective, to include any transaction involving a Cobham U.S. entity and any party in either Russia or Ukraine; and
- Cobham circulated a lessons learned bulletin to all U.S.-based international trade compliance personnel that described the apparent violations, reiterated that U.S. law may prohibit transactions with unlisted entities owned or controlled by listed parties, and urged personnel to alert Cobham's compliance team whenever a proposed transaction involves an entity who they have reason to believe may be owned or controlled by a prohibited party.

This case demonstrates the importance of companies operating in high-risk industries (*i.e.*, defense) to implement effective, risk-based compliance measures, especially when engaging in transactions involving high-risk jurisdictions. Persons employing sanctions screening software should take steps to ensure it is sufficiently robust and that appropriate personnel are trained on its functionality. Furthermore, it is essential that companies engaging in international transactions maintain a culture of compliance where front line staff are encouraged to follow up on sanctions issues, including by promptly reporting to compliance personnel transactions suspected to involve sanctioned parties.

OFAC expects companies settling apparent violations of its regulations to ensure their compliance units receive adequate resources, including in the form of human capital, information technology, and other resources, as appropriate.

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