

ENFORCEMENT INFORMATION FOR OCTOBER 1, 2019

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 C.F.R. 501.805(d)(1)(i)

The General Electric Company Settles Potential Civil Liability for Alleged Violations of the Cuban Assets Control Regulations: The General Electric Company ("GE") of Boston, Massachusetts, on behalf of three current and former GE subsidiaries, Getsco Technical Services Inc., Bentley Nevada, and GE Betz (collectively, the "GE Companies"), has agreed to pay \$2,718,581 to settle its potential civil liability for 289 alleged violations of the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR). Specifically, between December 2010 and February 2014, the GE Companies appear to have violated § 515.201(b) of the CACR on 289 occasions by accepting payment from The Cobalt Refinery Company ("Cobalt") for goods and services provided to a Canadian customer of GE.

Since June 1995, Cobalt had been identified as a specially designated national (SDN) of Cuba and appeared on OFAC's List of Specially Designated Nationals and Blocked Persons (the "SDN List"). Publicly available information also demonstrated that GE's former Canadian customer is a corporation with strong historic and then-current economic ties to the Cuban mining industry through its business partnerships and joint ventures with the Cuban government. Cobalt is one of three entities owned by a public joint venture between GE's Canadian customer and the Cuban government. From at least 1996 until the GE Companies terminated their relationship with their Canadian customer, the GE Companies maintained — and renewed on at least 18 occasions — this customer relationship despite the obvious sanctions risk posed by the relationship.

On February 24, 2014, GE Working Capital Solutions discovered that from at least 2010 to 2014, the GE Companies received numerous payments directly from Cobalt for invoices issued to GE's Canadian customer. While the GE Companies negotiated and entered into contracts with GE's Canadian customer, and sent all of their invoices to GE's Canadian customer, Cobalt paid the GE Companies for its goods and services in more than 65 percent of the total transactions. The GE Companies approved Cobalt as a third-party payer and, over a four-year period, failed to appropriately recognize the significant and widely published relationship between Cobalt and their Canadian customer and did not undertake sufficient diligence into their customer's activities. The GE Companies deposited all checks received from Cobalt into GE's bank account at a Canadian financial institution. The checks contained Cobalt's full legal entity name as it appears on OFAC's SDN List as well as an acronym for Cobalt ("Corefco"), but the GE Companies' sanctions screening software, which screened only the abbreviation of the SDN's name, never alerted on Cobalt's name.

In total, the GE Companies received 289 checks directly from Cobalt from on or about December 9, 2010 to on or about February 28, 2014 totaling approximately \$8,018,615. Additionally, goods and services the GE Companies provided to its Canadian customer were, in turn, used to supply utility services and other benefits to Cobalt, which is co-located with GE's Canadian customer.

The statutory maximum civil monetary penalty applicable in this matter is \$18,785,000. OFAC determined, however, that GE voluntarily self-disclosed the alleged violations, and that the alleged violations constitute a non-egregious case. Accordingly, under OFAC's Economic Sanctions Enforcement Guidelines ("Enforcement Guidelines"), the base civil monetary penalty amount applicable in this matter is \$3,377,119.

The settlement amount of \$2,718,581 also reflects OFAC's consideration of the General Factors under the Enforcement Guidelines. Specifically, OFAC determined the following to be aggravating factors:

- (1) The GE Companies failed to take proper or reasonable care with respect to their U.S. economic sanctions obligations — particularly given GE's commercial sophistication. GE failed to identify that (i) for at least four years it was receiving payments that were on their face from a SDN of Cuba that has been on the SDN List since 1995, and (ii) it was providing goods and services to a customer that provides a direct and indirect benefit to a facility owned and operated by that designated Cuban company;
- (2) The GE Companies' actions caused substantial harm to the objectives of the Cuba sanctions program by conducting a large volume of high-value transactions directly with a Cuban company on the SDN List over a period of many years; and
- (3) The substance of GE's disclosures and other communications with OFAC leave substantial uncertainty about the totality of the benefits conferred to a Cuban company on the SDN List by the GE Companies through their Canadian customer, which had substantial and public ties to Cuba and the Cuban mining industry. While OFAC considered certain jurisdictional limitations on GE's ability to provide a full picture of the scope of work performed at the request of its Canadian customer, at all relevant times, GE had reason to know of its customer's specific and longstanding relationship with Cobalt. GE should have treated its Canadian customer as higher risk due to the customer's publicly known joint venture with Cuba and substantial reliance on Cuban-origin ore. Finally, despite the provision to GE of OFAC's Office of Enforcement Data Delivery Standards, GE did not provide its primary submissions to OFAC in a clear and organized manner and the submissions contained numerous inaccuracies, placing a substantial resource burden on OFAC during the course of its investigation.

OFAC determined the following to be mitigating factors:

- (1) None of the GE Companies has received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the earliest transaction giving rise to the alleged violations;
- (2) GE identified the alleged violations by testing and auditing its compliance program. Additionally, GE implemented remedial measures and new processes to enhance its sanctions compliance procedures, including developing a training video for all company employees using the alleged violations as a case study; and
- (3) GE cooperated with OFAC by executing and extending multiple statute of limitations tolling agreements.

This enforcement action highlights the sanctions risks to U.S. companies and their foreign subsidiaries associated with (i) accepting payments from third parties and (ii) conducting transactions in foreign currency or at a foreign financial institution. Additionally, this action demonstrates the importance of conducting appropriate due diligence on customers and other counter-parties when *initiating* and *renewing* customer relationships. Ongoing compliance measures should be taken throughout the life of commercial relationships.

As noted in [OFAC's Framework for Compliance Commitments](#), U.S. companies can mitigate sanctions risk by conducting risk assessments and exercising caution when doing business with entities that are affiliated with, or known to transact with, OFAC-sanctioned persons or jurisdictions, or that otherwise pose high risks due to their joint ventures, affiliates, subsidiaries, customers, suppliers, geographic location, or the products and services they offer.

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