

ENFORCEMENT INFORMATION FOR JANUARY 27, 2020

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)

Eagle Shipping International (USA) LLC Settles Potential Civil Liability for Apparent Violations of the Burmese Sanctions Regulations: Eagle Shipping International (USA) LLC (“Eagle Shipping”), a Marshall Islands company with its headquarters in Stamford, Connecticut, has agreed to pay \$1,125,000 to settle its potential civil liability for 36 apparent violations of the Burmese Sanctions Regulations, 31 C.F.R. part 537 (BSR).¹ The apparent violations involve Eagle Shipping’s dealings in the property interests of Myawaddy Trading Limited (“Myawaddy”), which at all relevant times was identified on OFAC’s List of Specially Designated Nationals and Blocked Persons (the “SDN List”),² and the provision of transportation services from Burma to Singapore for a land reclamation project for the benefit of Myawaddy, in apparent violation of § 537.201 of the BSR (referred to hereafter as the “Apparent Violations”). The total transaction value of the 36 Apparent Violations was \$1,796,400.

Eagle Shipping is a ship management company that carries out the commercial and strategic management of vessels owned by subsidiaries of its parent company, Eagle Bulk Shipping Inc., a Marshall Islands corporation (Eagle Bulk Shipping Inc. and its subsidiaries, including Eagle Shipping and Eagle Bulk Pte Ltd, are hereinafter collectively referred to as “Eagle”). Eagle is a fully integrated shipowner-operator engaged in the global transportation of drybulk commodities. In 2014, Eagle commenced a voluntary bankruptcy under Chapter 11 of the U.S. bankruptcy code and emerged with new ownership, a newly appointed board of directors, and a new senior management team. Shortly thereafter, Eagle initiated a review of Eagle’s past compliance with U.S. sanctions, identified the Apparent Violations that occurred between 2011 and 2014, and voluntarily self-disclosed these matters to OFAC.

On or around June 3, 2011, Eagle Shipping’s affiliate in Singapore, Eagle Bulk Pte Ltd (“Eagle Pte”), entered into a chartering agreement with a sand buyer in Singapore (the “Singaporean Company”) to carry sea sand from Kawthaung, Burma to Singapore onboard an Eagle vessel (“Eagle Vessel”). After loading the sand cargo onto the vessel, on June 28, 2011, the Singaporean Company sent Eagle Pte a set of sample shipping documents, including a bill of

¹ On October 7, 2016, the President signed Executive Order 13742, “Termination of Emergency with Respect to the Actions and Policies of the Government of Burma.” As a result, the economic and financial sanctions on Burma administered by OFAC are no longer in effect. However, section 1 of that Executive Order provides that the termination of the national emergency shall not affect any action taken or proceeding pending not finally concluded or determined as of the effective date of that order, any action or proceeding based on any act committed prior to the effective date of that order, or any rights or duties that matured or penalties that were incurred prior to the effective date of that order.

² OFAC removed Myawaddy from the SDN List on October 7, 2016.

lading and export cargo manifest, as an example for Eagle Pte's documentation of the sand cargo. However, the sample documents raised concerns for the former management of Eagle because the documents listed Myawaddy, an entity on the SDN List at that time, as the shipper.

On June 29, 2011, apparently in response to Eagle Pte's demand for clarification, the Singaporean Company sent Eagle another sample bill of lading that listed an alternate shipper of the sand. Apparently having decided to accept the change in shipper's name from Myawaddy to the alternate shipper, a former manager of Eagle instructed the captain of the Eagle Vessel that he may sign the departure documentation after making sure that the alternate shipper was identified as the shipper. The captain, however, refused to sign the departure documentation because he learned that some of the additional shipping documents (such as mate's receipt and export declaration) presented by the shipping agents explicitly listed Myawaddy as the shipper of the cargo.

On June 30, 2011, following the captain's refusal to sign the shipping documents with Myawaddy's name, the Singaporean Company's local agent sent the captain a set of revised shipping documents after changing the shipper's name from Myawaddy to the alternate shipper. The captain forwarded a copy of the revised documents to a former manager and other staff of Eagle for a review and approval, and in an email exchange, warned that according to the information from a port officer, the alternative shipper did not sell sea sand in this region, and the Burmese government had a contract only with Myawaddy and only Myawaddy was the shipper.

On the same day, Eagle received a message from the Singaporean Company that continued delays would result in a negative repercussions with the Burmese government. Additionally, the captain reported to Eagle that Burmese local officials had taken the crew's passports and refused to clear the vessel for departure. Eagle immediately applied for an OFAC license authorizing the Eagle Vessel to carry the sand cargo to Singapore due to the evidence suggesting an SDN's involvement in the shipping transaction. However, before OFAC responded to the license request, on or about July 2, 2011, Eagle, citing crew safety concerns, signed the revised shipping documents and obtained the return of the crew's passports. The Eagle Vessel then left Burma and subsequently discharged the cargo in Singapore.

After this first sand voyage, on May 18, 2012, Eagle filed a new application with OFAC requesting a license that would authorize Eagle vessels to carry more sand cargoes procured, partially or wholly, directly or indirectly, from Myawaddy. On October 11, 2012, OFAC denied the application.

While the application was pending with OFAC, and despite the absence of OFAC's authorization, Eagle resumed shipping sand procured from Myawaddy. The former President of Eagle Shipping later received OFAC's denial letter, but allegedly failed to forward it to others within Eagle. Eagle thereafter continued carrying sand cargoes supplied by Myawaddy from Burma to Singapore.

For more information regarding this matter, please see the [Settlement Agreement between OFAC and Eagle Shipping](#).

OFAC's Analysis and Conclusions

The statutory maximum civil monetary penalty amount in this matter was \$9,000,000. OFAC determined, however, that Eagle Shipping voluntarily self-disclosed the Apparent Violations, and that the Apparent Violations constitute an egregious case. Accordingly, under OFAC's Economic Sanctions Enforcement Guidelines ("Enforcement Guidelines"), the base civil monetary penalty amount applicable in this matter was \$4,500,000.

The settlement amount of \$1,125,000 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines. Specifically, OFAC determined the following to be aggravating factors:

- (1) Eagle demonstrated reckless disregard for U.S. sanctions requirements by ignoring OFAC's license denial and other warning signs about Myawaddy's involvement in the sand voyages;
- (2) the former President of Eagle Shipping was involved in and approved of the sand shipping transactions that constituted the Apparent Violations;
- (3) the transactions giving rise to the Apparent Violations conferred significant economic benefits to Burma's military regime; and
- (4) Eagle is a commercially sophisticated shipping company operating globally with experience and expertise in international trade and shipping transactions.

OFAC determined the following to be mitigating factors:

- (1) Eagle has not 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 Apparent Violations;
- (2) Eagle, under its new management, provided substantial cooperation with OFAC's investigation, including by expending significant amount of resources to conduct an internal investigation, providing clear, concise, and well-organized submissions with supporting documentation for OFAC's review, responding in an effective, efficient, and timely manner to OFAC's multiple requests for information, and executing multiple tolling agreements; and
- (3) Eagle undertook significant remedial measures by conducting a thorough internal look-back investigation to identify the causes for compliance failure and significantly enhanced its sanctions compliance program. Specifically, Eagle has confirmed that it has terminated the conduct that led to the Apparent Violations and has undertaken the following measures as part of its compliance commitments to minimize the risk of recurrence of similar conduct in the future:
 - Appointed a dedicated Compliance Officer;

- Developed and implemented a formal sanctions compliance program with specific policies and procedures for compliance screening, transaction checklists, and red flag identification tools;
- Provided sanctions training to employees in Stamford, Connecticut and Singapore, and instituted a practice of requiring continuing education and training on sanctions-related matters for its personnel;
- Enhanced its screening procedures and updated and strengthened its sanctions compliance provisions included in standard contracts; and
- Prepared for and developed contingency plans in the event that Eagle identifies the interest of an OFAC-blocked or -prohibited party after cargo is loaded on an Eagle vessel.

As noted in [OFAC's Framework for Compliance Commitments](#), this case demonstrates the importance for companies operating in high-risk industries (e.g., international shipping and trading) to implement risk-based compliance measures, especially when engaging in transactions involving exposure to jurisdictions or persons implicated by U.S. sanctions. It is essential that companies engaging in international transactions consider and respond to sanctions-related warning signs, such as information that goods originated from or were supplied by a person or entity subject to U.S. economic and trade sanctions. The failure to adhere to formal responses from OFAC, such as the adjudication of license applications or requests for guidance, can represent serious sanctions infractions.

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