



DEPARTMENT OF THE TREASURY
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OFAC Settles with Construction Specialties Inc. for \$660,594 Related to Apparent Violations of the Iranian Transactions and Sanctions Regulations

Construction Specialties Inc. (“CS”), a company headquartered in New Jersey that sells specialized building materials, has agreed to pay \$660,594 to settle its subsidiary’s potential civil liability for three apparent violations of OFAC sanctions on Iran. The conduct at issue occurred when CS’s wholly controlled United Arab Emirates (UAE) subsidiary, Construction Specialties Middle East L.L.C. (“CSME”), imported building materials from the United States to the UAE and then knowingly reexported them to Iran. In doing so, CSME’s general manager and another senior manager disregarded CS company policy and falsified trade documents. The settlement amount reflects OFAC’s determination that CSME’s apparent violations were egregious and voluntarily self-disclosed.

Description of the Apparent Violations

During a June 2016 visit by CS executives to CSME in Dubai, CSME’s general manager (GM), a non-U.S. person, made a business pitch for CSME to supply building materials to construct a shopping mall in Tehran, Iran. Prior to authorizing such activity, CS executives informed CSME’s GM that CSME should not pursue any business in Iran until after CS consulted with external counsel to determine if such dealings were permissible under U.S. sanctions.

Two months later, in August 2016, CS disseminated a new Iran sanctions policy to CSME and other relevant CS business units, which had been developed with the assistance of outside counsel. It reflected the regulations and authorizations in effect at that time, including then-active General License H and the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (“ITSR”), which authorized foreign subsidiaries of U.S. persons and their non-U.S. person employees to conduct certain commercial trade transactions with Iran. General License H, however, expressly did not authorize the direct or indirect exportation, reexportation, sale, or supply of goods from the United States to Iran. In the cover email accompanying the distribution of the policy, which the CSME GM received, CS executives specified that “[CS executives and CSME’s GM] want you all to be aware of [the prohibitions] so that neither you nor your teams inadvertently get involved.” Nor could U.S. persons approve of or be operationally involved with their foreign subsidiaries’ dealings with Iran. Such conduct continued to be prohibited under the ITSR despite the issuance of General License H.¹

Consistent with these conditions, CS’s new policy also realigned reporting chains so that CSME’s GM no longer reported to CS’s Chief Executive Officer, a U.S. person, for any matters relating to CSME’s business dealings with Iran. CS executives emailed specific written instructions to

¹ See the [Archive of Selected Revoked and Expired General Licenses](#) including General License H (revoked on June 27, 2018).

CSME's GM that U.S. persons were not allowed to engage in, facilitate, or support Iranian business in any way.

Notwithstanding CS's circulation of the new policy, and the policy's specific direction to CSME's GM, between December 4, 2016 and August 3, 2017, CSME—at the GM's direction—imported goods from CS and another supplier in the United States to the UAE and then knowingly reexported them to Iran.

In doing so, CSME's GM and another CSME senior manager engaged in a pattern of behavior that concealed or obfuscated the destination of the goods from the U.S. suppliers. Among their deceptive acts, the senior managers falsified the ultimate destination of goods on seven purchase orders to the U.S. suppliers, omitted the ultimate destination on another purchase order, used a false project name to avoid linkage to Iran, and took steps to ensure that purchase of these U.S.-origin goods and their association with Iran would not be reflected in CSME records. CSME also removed labels denoting the U.S. origin of goods, and commingled U.S.-origin goods with goods produced by CSME in the UAE when they were sold to Iran, all in an effort to obfuscate the true country of origin.

Despite CSME's senior managers' efforts to conceal these activities, a U.S. person employed at CSME in Dubai discovered the conduct at issue after overhearing the CSME senior managers reference U.S.-origin goods for a "big job." When the U.S. person employee inquired, the managers told them they were "confused." Unconvinced, and suspicious of the secretive behavior of the CSME senior managers, the CSME employee inspected related documentation and discovered elevated levels of sales, general, and administrative expenses in the region, which the U.S. person employee believed corroborated their suspicion. CSME's GM immediately dismissed the employee after they confronted the GM about the unexplained elevation in regional expenses. The same day, the U.S. person employee flew to the United States and reported their discovery and suspicions to CS headquarters. CS initiated an internal review soon thereafter, terminated all Iran-related business activity, and voluntarily reported the matter to OFAC.

CSME's import and reexportation of goods from the United States to Iran resulted in three apparent violations of § 560.215 of the ITSR (the "Apparent Violations"). [The settlement agreement for this action may be found here.](#)

Penalty Calculations and General Factors Analysis

The statutory maximum civil monetary penalty applicable in this matter is \$2,201,982. OFAC determined that the Apparent Violations were egregious and voluntarily self-disclosed. Accordingly, under OFAC's Economic Sanctions Enforcement Guidelines ("Enforcement Guidelines"), the base civil monetary penalty amount applicable in this matter equals one half of the applicable statutory maximum, which in this case is \$1,100,991.

The settlement amount of \$660,594 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

OFAC determined the following to be **aggravating factors**:

- (1) Two members of CSME’s senior management, including CSME’s GM, willfully violated the ITSR when it purchased building products from suppliers in the United States to sell to Iran with the knowledge that such activities were impermissible under U.S. sanctions;
- (2) CSME senior management—specifically the GM and another non-U.S. person CSME senior manager—had actual knowledge of the conduct at issue, including personally conducting, or overseeing, the stripping of Iran as the final destination of the U.S.-origin goods and the United States as the country of origin from all relevant documentation; and
- (3) CSME is a commercially sophisticated company that is among 25 CS-owned or -controlled affiliates in 16 countries around the world.

OFAC determined the following to be **mitigating factors**:

- (1) CS headquarters in the United States appears to have been unaware of CSME’s activity;
- (2) CS’s sanctions compliance program appears to have been reasonably designed to comply with the restrictions in place at that time;
- (3) CS’s remedial response, which included immediately terminating the responsible employees, promptly initiating an internal investigation, hiring new key compliance personnel, and implementing updated company-wide corporate compliance policies; and
- (4) CS’s cooperation with OFAC’s investigation, including promptly disclosing CSME’s Apparent Violations to OFAC, responding to information requests in a timely manner, and agreeing to toll the statute of limitations.

Compliance Considerations

This action highlights the challenges that multinational companies face when they pursue business opportunities in high-risk jurisdictions. Especially, though certainly not exclusively in such areas, employees may act on their own initiative to disregard policies and controls and seek to circumvent applicable sanctions. In such cases, their actions may result in violations attributable to their parent organizations. Companies should consider the need to institute tailored controls, using a risk-based approach, to avail themselves of permissible opportunities while precluding the ability of “rogue” employees to engage in prohibited conduct.

More generally, this case illustrates the importance for parent companies to ensure that they and their overseas subsidiaries implement appropriate compliance programs and procedures, routinely audit their overseas subsidiaries or ensure that independent auditing occurs, and otherwise exercise appropriate oversight over activities of those subsidiaries that may pose sanctions risks. Appropriate testing or audit functions responsive to firms’ business operations and sanctions environment can help ensure that their overseas subsidiaries—particularly in high-risk jurisdictions—effectively implement compliance programs and procedures.

Lastly, this case demonstrates the importance of “seeing something and saying something” if misconduct is discovered or suspected, and of responding quickly and meaningfully to the credible claims of those who speak up. Whistleblowers play a vital role in identifying prohibited conduct and promoting compliance, and responsible companies should have channels in place for employees to raise concerns without fear of retaliation. To that end, firms should consider creating and proactively communicating the existence of mechanisms by which employees can confidentially and without fear of reprisal report potential breaches of a company’s sanctions compliance policies, procedures, and internal controls. To appropriately respond to such reports, companies should consider establishing processes to investigate possible misconduct, complete a timely and thorough investigation, follow up with any necessary remedial response, report possible violations to OFAC, and cooperate actively in any subsequent investigation.

FinCEN’s Anti-Money Laundering and Sanctions Whistleblower Program

Separately, the Financial Crimes Enforcement Network (FinCEN) maintains a whistleblower incentive program for violations of OFAC-administered sanctions, in addition to violations of the Bank Secrecy Act. Individuals who provide information may be eligible for awards totaling between 10 to 30 percent of the monetary penalties collected in an enforcement action, if the information they provide leads to a successful enforcement action that results in penalties exceeding \$1,000,000. FinCEN is currently accepting whistleblower tips. Individuals with questions about the whistleblower program, including questions about how best to submit information, should contact FinCEN through its website, www.fincen.gov/contact.

OFAC Enforcement and Compliance Resources

On May 2, 2019, OFAC published [A Framework for OFAC Compliance Commitments](#) (the “Framework”) in order to provide organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States or U.S. persons, or that use goods or services exported from the United States, with OFAC’s perspective on the essential components of a sanctions compliance program. The Framework also outlines how OFAC may incorporate these components into its evaluation of apparent violations and resolution of investigations resulting in settlements. The Framework includes an appendix that offers a brief analysis of some of the root causes of apparent violations of U.S. economic and trade sanctions programs OFAC has identified during its investigative process.

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 Enforcement Guidelines. These references, as well as recent civil penalties and enforcement information, can be found on OFAC’s website at <https://ofac.treasury.gov/civil-penalties-and-enforcement-information>.

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