

ENFORCEMENT INFORMATION FOR JULY 20, 2017

Information concerning the civil penalties process is discussed 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)

ExxonMobil Corporation Assessed a Penalty for Violating the Ukraine-Related Sanctions Regulations: ExxonMobil Corp., of Irving, Texas, including its U.S. subsidiaries ExxonMobil Development Company and ExxonMobil Oil Corp. (collectively, “ExxonMobil”), has been assessed a civil monetary penalty of \$2,000,000 for violations of the Ukraine-Related Sanctions Regulations, 31 C.F.R. part 589 (Ukraine-Related Sanctions Regulations). Between on or about May 14, 2014 and on or about May 23, 2014, ExxonMobil violated § 589.201 of the Ukraine-Related Sanctions Regulations when the presidents of its U.S. subsidiaries dealt in services of an individual whose property and interests in property were blocked, namely, by signing eight legal documents related to oil and gas projects in Russia with Igor Sechin, the President of Rosneft OAO,¹ and an individual identified on OFAC's List of Specially Designated Nationals and Blocked Persons (the “SDN List”) (referred to hereinafter as an “SDN”).

Background

On March 16, 2014, the President issued Executive Order 13661, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine,” 79 Fed. Reg. 15,535 (Mar. 19, 2014) (“E.O. 13661”). E.O. 13661, among other things, granted the Secretary of the Treasury the authority to designate officials of the Russian Government, and blocked any property and interests in property, and prohibited any dealing in any property and interests in property, of a person so designated. Section 4(b) of E.O. 13661 expressly states that U.S. persons are prohibited from the receipt of any contribution or provision of funds, goods, or services from the designated person. In response to multiple media inquiries from March to April 2014, the White House issued press guidance or held press calls in which Senior Administration officials stated that the focus of sanctions against high-level Russian cronies at the time was to identify individuals and target their assets instead of the companies they manage and that U.S. persons are prohibited from doing business with persons who had been designated under E.O. 13661.

On April 28, 2014, OFAC designated Igor Sechin pursuant to E.O. 13661 and added him to its SDN List. The Department of the Treasury stated in a press release announcing the action that “[a]s a result of today's action... transactions by U.S. persons or within the United States involving the individuals and entities designated today are generally prohibited.”

¹ Rosneft OAO is on the Sectoral Sanctions Identifications List as subject to Directives 2 and 4 under Executive Order 13662 of March 20, 2014, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine,” but those authorities are not implicated in this action. Rosneft OAO is not subject to blocking sanctions.

On May 8, 2014, before ExxonMobil signed the legal documents, but after the above-referenced White House statements were made, OFAC issued the Ukraine-Related Sanctions Regulations that included definitions of “property” and “property interest” that, along with the prohibitions in E.O. 13661 and the public statements made by the White House and the Department of the Treasury, made clear U.S. persons may not deal with any persons designated pursuant to E.O. 13361, including Igor Sechin or receive, deal in, or benefit from any service a designated person might provide.²

Despite these prohibitions and ExxonMobil’s global market and sophistication, ExxonMobil moved forward with signing the legal documents with designated person Igor Sechin between on or about May 14, 2014 and on or about May 23, 2014.

Warning Signs That the Conduct at Issue Constituted a Violation of OFAC Regulations

ExxonMobil claims that it interpreted press statements as establishing a distinction between Sechin’s “professional” and “personal” capacity, in part citing to a news article published in April 2014 that quoted a Department of the Treasury representative as saying that a U.S. person would not be prohibited from participating in a meeting of Rosneft’s board of directors. However, that brief statement did not address the conduct in this case.

Furthermore, the plain language of the Ukraine-Related Sanctions Regulations (which were issued after the Executive branch statements) and E.O. 13661 do not contain a “personal” versus “professional” distinction, and OFAC has neither interpreted its Regulations in that manner nor endorsed such a distinction. The press release statements provided context for the policy rationale surrounding the targeted approach during the early days of the Ukraine crisis, which was to isolate designated individuals who were targeted as a result of the crisis in Ukraine, rather than imposing blocking sanctions on the large companies that they managed. No materials issued by the White House or the Department of the Treasury asserted an exception or carve-out for the professional conduct of designated or blocked persons, nor did any materials suggest that U.S. persons could continue to conduct or engage in business with such individuals.

Separately, there was a Frequently Asked Question (FAQ) publicly available on the OFAC website at the time of the violations that specifically spoke to the conduct at issue in this case, though framed in the context of the Burma sanctions program. FAQ #285, which OFAC issued in 2013 and was publicly available on OFAC’s website at the time of ExxonMobil’s violations, stated that U.S. parties should “be cautious in dealings with [a non-designated] entity to ensure that they are not providing funds, goods, or services to the SDN, for example, by entering into any contracts that are signed by the SDN.” In rebuttal to this guidance, ExxonMobil has pointed out that OFAC’s regulations state that different interpretations may exist among and between the sanctions programs that it administers, but FAQ #285 clearly signaled that OFAC had, in a sanctions program also involving SDNs, viewed the signing of a contract with an SDN as

² “The terms *property* and *property interest* include, but are not limited to, ... services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.” 31 C.F.R. § 589.308.

prohibited, even if the entity on whose behalf the SDN signed was not sanctioned. OFAC acted consistently with that approach in this case.

The issuance of E.O. 13661 and the publication of the Ukraine-Related Sanctions Regulations prior to the violations at issue here; press statements by the White House and the Department of the Treasury regarding prohibited transactions with persons designated under E.O. 13661; and previous OFAC precedent published in 2013 and available on OFAC's website at the time of the violations all clearly put ExxonMobil on notice that OFAC would consider executing documents with an SDN to violate the prohibitions in the Ukraine-Related Sanctions Regulations.

OFAC Determinations and Analysis

OFAC determined that ExxonMobil did not voluntarily self-disclose the violations to OFAC and that the violations constitute an egregious case. Both the base civil monetary penalty and the statutory maximum civil monetary penalty amounts for the violations were \$2,000,000.

OFAC thoroughly considered the arguments ExxonMobil set forth in its submissions to OFAC, and the penalty 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 considered the following to be aggravating factors: (1) ExxonMobil demonstrated reckless disregard for U.S. sanctions requirements when it failed to consider warning signs associated with dealing in the blocked services of an SDN; (2) ExxonMobil's senior-most executives knew of Sechin's status as an SDN when they dealt in the blocked services of Sechin; (3) ExxonMobil caused significant harm to the Ukraine-related sanctions program objectives by engaging the services of an SDN designated on the basis that he is an official of the Government of the Russian Federation contributing to the crisis in Ukraine; and (4) ExxonMobil is a sophisticated and experienced oil and gas company that has global operations and routinely deals in goods, services, and technology subject to U.S. economic sanctions and U.S. export controls.

OFAC considered the following to be a mitigating factor: ExxonMobil has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the first transaction giving rise to the violations.

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