

ENFORCEMENT INFORMATION FOR APRIL 25, 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 CFR 501.805(d)(1)(i)

Haverly Systems, Inc. Settles Potential Civil Liability for Apparent Violations of the Ukraine Related Sanctions Regulations. Haverly Systems, Inc. (“Haverly”), a New Jersey corporation with offices in Texas and California, has agreed to pay \$75,375 to settle its potential civil liability for two apparent violations of the Ukraine Related Sanctions Regulations, 31 C.F.R. part 589 (URSR). Specifically, from on or about May 31, 2016 to on or about January 11, 2017, Haverly appears to have violated Directive 2 under Executive Order 13662, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine” (“Directive 2”), and § 589.201 of the URSR, when it transacted or otherwise dealt in new debt of greater than 90 days maturity of JSC Rosneft (“Rosneft”), an entity identified by OFAC on the Sectoral Sanctions Identification List (the “SSI List”) as subject to Directive 2. OFAC added Rosneft to the SSI List on July 16, 2014.

OFAC determined that Haverly did not voluntarily self-disclose the apparent violations to OFAC, and the apparent violations constitute a non-egregious case. The statutory maximum civil monetary penalty amount for the apparent violations was \$590,282 and base civil monetary penalty amount for the apparent violations was \$125,000.

On August 19, 2015, Haverly issued two separate invoices to Rosneft related to the licensing of software and purchase of software support services. Although the invoices originally contained payment due dates of between 30 and 70 days from the date of issuance, approximately 70 days after the issuance of the invoices, Rosneft notified Haverly that it required certain corrected tax documentation in order to make the payment. It took Haverly several months to obtain the corrected tax documentation. Following receipt of the tax documentation, Rosneft made the payment on the first invoice, which Haverly received on May 31, 2016, approximately nine months after its issuance.

From on or about May 31, 2016, to on or about October 27, 2016, Rosneft made four attempts to remit payment related to the second invoice, each of which was rejected by financial institutions after determining the transaction was prohibited by OFAC's regulations as debt of greater than 90 days maturity of an SSI entity subject to Directive 2. At points during the period associated with these rejected payment attempts, Haverly received information from Rosneft, including copies of Society for Worldwide Interbank Financial Telecommunication messages amongst and between financial institutions regarding the rejected transactions — some of which contained information and instructions stating that the underlying activity may have a nexus to sectoral sanctions.

However, at the time of the payment attempts Haverly did not have a sanctions compliance program and did not recognize that the delayed collection of payment was prohibited. Haverly did not approach OFAC for guidance or authorization, however, and instead explored various options to collect the payment associated with the second invoice from Rosneft. At the suggestion of Rosneft, Haverly re-issued and re-dated the second invoice. Haverly then successfully received payment on the second invoice from Rosneft on January 11, 2017.

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 considered the following to be aggravating factors:

- (1) With respect to the second apparent violation, Haverly demonstrated reckless disregard for U.S. economic sanctions requirements by repeatedly ignoring warning signs that its conduct constituted or likely constituted a violation of OFAC's regulations;
- (2) Haverly's management team had actual knowledge of the conduct giving rise to the apparent violations; and
- (3) Haverly did not possess a formal OFAC sanctions compliance program at the time the apparent violations occurred.

OFAC found the following to be mitigating factors:

- (1) The apparent violations resulted in minimal actual harm to the sanctions program objectives of the URSR, and OFAC would have likely authorized the transactions had Haverly requested a license to receive the payments;
- (2) Haverly 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;
- (3) Haverly is a small company with a limited number of employees; and
- (4) Haverly engaged in remedial efforts that included the creation of a Sanctions Compliance Officer position, and implementation of a risk-based compliance program with screening designed to review all current and future clients of Haverly for OFAC purposes.

In addition to the above, and as part of its settlement with OFAC, Haverly has committed to enhancing its compliance procedures by ensuring that it has a management team in place that: (1) is committed to a culture of compliance; (2) conducts regular risk assessments to ensure that its internal controls appropriately mitigate its sanctions-related risks; and (3) provides ongoing sanctions compliance training throughout the organization.

This enforcement action highlights the risks associated with engaging in transactions involving sectors of the Russian economy subject to U.S. economic and trade sanctions. The development

and implementation of a risk-based sanctions compliance program would provide such companies with an ability to assess prospective and real-time transactions for potential prohibitions and violations of OFAC's regulations. An effective sanctions compliance program includes policies, procedures, and controls capable of identifying at-risk transactions and customers or counter-parties for review; escalating such matters to a sanctions compliance officer or point-of-contact for proper analysis; an ability to respond and react to warning signs regarding potential violations, including transactions blocked or rejected by financial institutions in accordance with OFAC's regulations; and an adequate training program. OFAC encourages companies to exercise enhanced due diligence in business relationships with entities subject to the SSI List and to avoid the use of unorthodox business practices — such as the amendment or alteration of trade documents, or resubmission of payment information without a sanctions-related term, phrase, or location.

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