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Weatherford International Agrees to Pay \$253 Million to Settle Alleged Violations of Export Controls Regulations *Settlement Highlights Need for an Effective Internal Compliance Program*

The coordinated, multi-agency investigation and enforcement of export-related violations continued its upward trend with the recent global settlement of administrative, civil, and criminal charges against Weatherford International Limited and four of its subsidiaries and affiliates (collectively “Weatherford”). On November 26, 2013, Weatherford International, a Swiss oil-field services company, and certain of its subsidiaries and affiliates agreed to pay almost \$253 million in penalties and fines to settle parallel investigations and prosecutions by the U.S. Department of Justice (“DOJ”), the U.S. Securities and Exchange Commission (“SEC”), the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”), the U.S. Department of Treasury’s Office of Foreign Assets Control (“OFAC”), and the U.S. Attorney’s Office for the Southern District of Texas. The crux of the enforcement actions involved allegations that Weatherford violated the Foreign Corrupt Practices Act (“FCPA”) and various sanctions regulations prohibiting exports of goods and services to Cuba, Iran, Sudan, and Syria.

To settle the FCPA charges brought by the DOJ, Weatherford International entered into a deferred prosecution agreement and agreed to pay \$87.2 million in criminal penalties, and its subsidiary, Weatherford Services Limited, entered into plea agreements for violating the FCPA’s anti-bribery provisions. The SEC also settled related claims against Weatherford for FCPA violations in which Weatherford agreed to pay more than \$65 million in disgorgement, interest, and civil penalties and retain an independent corporate compliance monitor to improve its FCPA compliance program.

In criminal informations filed by DOJ and a related civil complaint filed by the SEC in the U.S. District Court for the Southern District of Texas, the government alleged that Weatherford violated the FCPA between 2002 and 2011 by authorizing: (1) bribes and improper travel and entertainment intended for foreign officials in multiple countries, (2) illicit payments to obtain commercial business in Congo, and (3) kickbacks in Iraq to obtain contracts under the United Nations’ Oil for Food Program, which was designed to allow Iraq to bypass certain sanctions and sell oil in exchange for food, medicine, and other humanitarian aid for Iraqi citizens. The government further alleged that prior to 2008, Weatherford International did not have a

compliance and ethics program to detect and prevent criminal conduct, including corruption, bribery, and export control violations, despite operating in an industry with a substantial risk of corruption. Acting Assistant Attorney General Mythili Raman noted, “[e]ffective internal accounting controls are not only good policy, they are required by law for publicly traded companies – and for good reason. This case demonstrates how loose controls and an anemic compliance environment can foster foreign bribery and fraud by a company’s subsidiaries around the globe.”

Because it lacked an effective internal export compliance program, Weatherford International failed to identify numerous violations, including its subsidiaries’ violations of the anti-bribery provisions of the FCPA when they allegedly bribed foreign officials in Africa and the Middle East to obtain lucrative oil services contracts. According to the government, the failure to implement an effective compliance program fostered a “permissive and uncontrolled environment” that permitted Weatherford International and one of its subsidiaries to fraudulently misuse the United Nations’ Oil for Food Program.

In yet another action, OFAC and BIS charged Weatherford with exporting oil and gas equipment to sanctioned countries -- including Cuba, Iran, Sudan, and Syria -- in violation of the Export Administration Regulations and various sanctions regulations, and exporting items controlled for nuclear non-proliferation reasons to Venezuela and Mexico. Weatherford agreed to pay \$100 million to settle criminal and administrative charges brought by OFAC and BIS.

Overall, the investigations resulted in the entry of two deferred prosecution agreements by Weatherford International, guilty pleas by three Weatherford International subsidiaries, and aggregate settlements of \$252.7 million in penalties and fines. According to U.S. Attorney Kenneth Magidson of the Southern District of Texas, “[t]he resolution today of these criminal charges represents the seriousness that our office and the Department of Justice puts on enforcing the export control and sanctions laws.” As the Under Secretary for Industry and Security Eric L. Hirschhorn noted, “[s]erious consequences ensue when companies evade U.S. sanctions and export controls.”

The violations highlight the need for companies engaged in international business to implement a comprehensive and effective export compliance program and establish internal policies for monitoring compliance. Among other things, an effective export compliance program should:

- Confirm the company’s commitment to compliance with export control regulations;
- Create an internal organization charged with monitoring export compliance;
- Appoint an export compliance official to oversee the export compliance program;
- Implement a process for screening third-parties;



- Address record keeping requirements;
- Establish a procedure for employees to report suspected violations; and
- Provide a means for investigating potential violations and when necessary, reporting them to appropriate government agencies.

The settlements also reflect the importance the government places on compliance with export controls and sanctions regulations. The trend over the last few years has been increased investigation and enforcement of export related violations by government agencies. The criminal prosecution of Weatherford International and its subsidiaries, the ensuing guilty pleas, and the substantial criminal penalties and civil fines imposed send a clear message to businesses engaged in international trade of the necessity of complying with export controls and sanctions regulations.

Questions or Assistance?

If you have any questions regarding this alert, please contact Ross Garber at (202) 469-7750, (860) 251-5901 or rgarber@goodwin.com, or Scott Cowperthwait at (860) 251-5134 or scowperthwait@goodwin.com.

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