

CLIENT ALERT

# OFAC Imposes First-Ever Penalty Under Russia Sectoral Sanctions, Signaling Willingness to Target Acceptance of Late Payments from SSI Entities

May 6, 2019

## AUTHORS

**David Mortlock** | **Priya R. Aiyar** | **William J. Stellmach** | **Miriam A. Bishop**  
**Noman A. Goheer** | **Nikki M. Cronin**

On April 25, 2019, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") imposed a \$75,375 civil penalty against Haverly Systems, Inc. ("Haverly") related to two invoices issued for the sale of software and software support systems to JSC Rosneft ("Rosneft"), an entity identified by OFAC on the Sectoral Sanctions Identification List ("SSI List"). According to the OFAC settlement, Rosneft's late payment of the invoices resulted in Haverly dealing in new debt with a maturity of greater than 90 days in violation of Directive 2 under Executive Order 13662 and Section 589.201 of the Ukraine Related Sanctions Regulations, 31 C.F.R. Part 589. The Haverly settlement is the first time OFAC has imposed a penalty under the Russia sectoral sanctions.

This new line of enforcement is significant for several reasons. First, it illustrates the risks of dealing with persons/entities on the SSI List. In this case, the initial transaction (the sale of software and support services) was permissible. However, Rosneft's late payment resulted in the apparent sanctions violation. In addition, OFAC has expanded its use of sectoral sanctions in multiple sanctions programs, including for Venezuela. Thus, the potential sanctions risks are not limited to Russia or Ukraine.

---

## **OFAC Imposes First-Ever Penalty Under Russia Sectoral Sanctions, Signaling Willingness to Target Acceptance of Late Payments from SSI Entities**

Second, the case also demonstrates how acceptance of late payments from SSI entities can result in an enforcement action. On August 19, 2015, Haverly issued two separate invoices to Rosneft related to the licensing of software and purchase of software support services with permissible 30 to 70 day payment due dates. Rosneft informed Haverly that it required certain corrected tax documentation to make the payments. Obtaining the corrected tax documentation took Haverly several months. After receiving the tax documentation, Rosneft made a successful payment on the first invoice, which was received by Haverly on May 31, 2016, approximately nine months after its issuance.

Rosneft made four attempts to pay the second invoice between roughly May 31, 2016 to October 27, 2016, each of which was rejected by financial institutions who determined the transaction was prohibited by OFAC's prohibition on dealing in debt of greater than 90 day maturity of an SSI entity subject to Directive 2, the maturity limit for debt of a Directive 2 SSI entity applicable at the time. Only after Haverly re-issued and re-dated the second invoice did it successfully receive payment from Rosneft on January 11, 2017.

OFAC recently provided its most extensive guidance on compliance practices to date in the form of [“A Framework for OFAC Compliance Commitments”](#), which outlines best practices for establishing and implementing a sanctions compliance program. Had Haverly implemented an effective sanctions compliance program and been aware that late payments can trigger the prohibitions of the sectoral sanctions, it should have been able to identify the sanctions issues related to the Rosneft invoices. In addition to serving as a first example of sectoral sanctions enforcement by OFAC, it serves as a continuing reminder of the need for diligence over payments from SSI entities and, more broadly, for sanctions compliance policies and procedures for businesses involved in international trade.

---

## OFAC Imposes First-Ever Penalty Under Russia Sectoral Sanctions, Signaling Willingness to Target Acceptance of Late Payments from SSI Entities

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

---

**David Mortlock**

202 303 1136

dmortlock@willkie.com

**Priya R. Aiyar**

202 303 1189

paiyar@willkie.com

**William J. Stellmach**

202 303 1130

wstellmach@willkie.com

**Miriam A. Bishop**

202 303 1126

mbishop@willkie.com

**Noman A. Goheer**

202 303 1295

ngoheer@willkie.com

**Nikki M. Cronin**

202 303 1203

ncronin@willkie.com

Copyright © 2019 Willkie Farr & Gallagher LLP.

This alert is provided by Willkie Farr & Gallagher LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This alert may be considered advertising under applicable state laws.

Willkie Farr & Gallagher LLP is an international law firm with offices in New York, Washington, Houston, Palo Alto, Paris, London, Frankfurt, Brussels, Milan and Rome. The firm is headquartered at 787 Seventh Avenue, New York, NY 10019-6099. Our telephone number is (212) 728-8000 and our fax number is (212) 728-8111. Our website is located at [www.willkie.com](http://www.willkie.com).