



**Enforcement Release: July 28, 2020**

**OFAC Settles with Whitford Worldwide Company, LLC for Its Potential Civil Liability for Apparent Violations of the Iranian Transactions and Sanctions Regulations**

Whitford Worldwide Company, LLC (“Whitford”), a cookware coating manufacturer based in Elverson, Pennsylvania, has agreed to pay \$824,314 to settle its potential civil liability for its foreign subsidiaries’ sales to Iran. Whitford’s foreign subsidiaries continued to sell coatings to Iran despite changes to OFAC’s Iran sanctions program that prohibited such transactions. Additionally, U.S.-person employees of Whitford oversaw and provided instructions relating to some of these sales. The settlement amount accounts for the remedial measures implemented by Whitford in response to these apparent violations.

**Description of the Apparent Violations and the Conduct Leading to the Apparent Violations**

Between November 2012 and December 2015, Whitford and its owned or controlled foreign subsidiaries appear to have violated the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR), 74 times when (1) Whitford’s foreign subsidiaries exported goods to Iran and engaged in trade-related transactions with Iran<sup>1</sup>; and (2) U.S.-person employees of Whitford facilitated the Iran-related business<sup>2</sup> (collectively referred to hereafter as the “Apparent Violations”).

Whitford’s foreign subsidiaries, Whitford S.r.l. in Italy (“Whitford-Italy”) and Whitford Yuzey Kaplamalari Sanayi ve Ticaret Limited Sirketi in Turkey (“Whitford-Turkey”), historically sold coatings to Iran. After changes to OFAC’s Iran sanctions program in 2012 that prohibited U.S.-owned or -controlled foreign entities from knowingly engaging in transactions with Iran,<sup>3</sup> Whitford-Italy and Whitford-Turkey continued to sell coatings to Iran. Whitford failed to comply with the new prohibitions arising from changes to the Iran sanctions program.

According to Whitford, when it realized in 2013 that Whitford-Turkey’s sales to Iran may be problematic, its Regulatory Affairs Manager (who did not specialize in sanctions compliance) incorrectly advised that Whitford’s foreign subsidiaries could legally continue selling to Iran so long as there were no direct connections between a Whitford subsidiary and Iran. After receiving this advice, Whitford’s Managing Director for Europe (a U.S. person who oversaw

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<sup>1</sup> In apparent violation of § 560.215 of the ITSR, by engaging in conduct that would have been prohibited if engaged in by a U.S. person under §§ 560.204 or 560.206 of the ITSR.

<sup>2</sup> In apparent violation of § 560.208 of the ITSR.

<sup>3</sup> On October 9, 2012, the President of the United States signed Executive Order 13628, “Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran” (“E.O. 13628”). Section 4(a) of E.O. 13628 prohibited any U.S.-owned or -controlled foreign entity from knowingly engaging in any transaction, directly or indirectly, with the government of Iran or any person subject to the jurisdiction of the Government of Iran, if that transaction would be prohibited by the relevant Executive orders imposing U.S. sanctions on Iran, if the transaction were engaged in by a United States person or in the United States. This prohibition was incorporated into the ITSR at § 560.215 on December 26, 2012. See 77 Fed. Reg. 75845 (Dec. 26, 2012).

both Whitford-Italy and Whitford-Turkey), along with managers from both entities, developed a plan to continue selling to Iran by instructing that sales to Iran go indirectly through third-party distributors and documents related to those sales avoid referencing Iran. By adopting this plan, from approximately February 2014 through December 2015, Whitford, Whitford-Turkey, and Whitford-Italy engaged in additional Apparent Violations by selling to Iran, making payments to and receiving payments from their Iranian sales agent, and engaging in prohibited facilitation of transactions with Iran.

According to Whitford, when it became aware of Iran General License H, “Authorizing Certain Transactions Relating to Foreign Entities Owned or Controlled by a United States Person,” (issued in January 2016) and realized that its foreign subsidiaries’ transactions with Iran likely violated U.S. sanctions law, Whitford hired outside counsel to conduct an investigation, submitted a disclosure to OFAC, substantially cooperated with OFAC’s investigation, and took significant corrective actions, as further described below.

### **Penalty Calculation and General Factors Analysis**

The statutory maximum civil monetary penalty applicable in this matter is \$19,953,513. OFAC determined, however, that Whitford voluntarily self-disclosed the Apparent Violations and that the Apparent Violations constitute a non-egregious case. Accordingly, under OFAC’s Economic Sanctions Enforcement Guidelines (“Enforcement Guidelines”), 31 C.F.R. part 501, app. A, the base civil monetary penalty amount applicable in this matter is \$1,526,508.

The settlement amount of \$824,314 reflects OFAC’s consideration of the General Factors under the Enforcement Guidelines.

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

- (1) With a lengthy history of foreign subsidiary sales to Iran, Whitford acted recklessly by failing to implement compliance policies commensurate with selling to a high-risk jurisdiction such as Iran and taking affirmative steps to help its foreign subsidiaries to continue selling to Iran, using indirect channels, after being warned that foreign subsidiary sales to Iran were problematic;
- (2) Whitford, including its Managing Director for Europe (a U.S. person) and other senior managers, had actual knowledge of the conduct associated with the Apparent Violations and also facilitated transactions with Iran by developing a plan to continue its Iran-related business through indirect channels; and
- (3) Whitford conferred an economic benefit to Iran of \$3.05 million through 74 transactions over the course of approximately three years.

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

- (1) Whitford substantially cooperated with OFAC’s investigation by providing data analysis of the Apparent Violations, submitting detailed information in a well-organized manner, and entering into multiple tolling agreements to extend the statute of limitations.

Additionally, Whitford, through outside counsel, conducted an internal investigation without receiving an administrative subpoena and identified and disclosed the transactions that led to the Apparent Violations;

(2) Whitford has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the earliest transaction giving rise to the Apparent Violations; and

(3) Whitford undertook significant remedial measures, including:

- Hiring outside counsel to investigate and advise the company on sanctions matters;
- Appointing an independent external compliance monitor, responsible for auditing Whitford's compliance with U.S. sanctions and export controls, who reports directly to the Board of Directors;
- Appointing an internal compliance monitor, with responsibility for executing implementation of the recommendations made by an external compliance monitor, including the corrective actions;
- Making changes to Whitford's leadership, including requesting and receiving the resignation of the Chief Executive Officer (formerly the Managing Director for Europe who was part of the plan to continue selling goods to Iran) from the Board of Directors, and appointing a new, independent member to the Board of Directors to provide additional compliance perspective and scrutiny;
- Establishing annual and quarterly reporting requirements related to U.S. sanctions compliance, including certification requirements for Managing Directors at each of the company's subsidiaries, the Chief Executive Officer, the internal compliance monitor, external compliance monitor, and the General Counsel;
- Adopting a Code of Conduct that applies to Whitford and all its subsidiaries and provides an ethical and legal framework for business practices and conduct to which all Whitford employees must adhere, and includes a commitment to complying with trade compliance laws in all countries in which Whitford does business;
- Adopting a new, global sanctions and export controls compliance policy that utilizes an export compliance program manual; and
- Providing export controls and sanctions compliance training and establishing a central repository for compliance and training materials.

## **Compliance Considerations**

This case demonstrates the importance of companies dedicating sufficient resources to U.S. sanctions compliance, staying abreast of changes to sanctions regulations, and understanding the full scope of sanctions prohibitions, especially when operating in higher risk jurisdictions. U.S. companies with foreign operations – particularly those with a history of trading with Iran – may face a myriad of sanctions risks. Sanctions compliance personnel at U.S. companies should have the appropriate technical knowledge and expertise, based on the company’s risk exposure.

As highlighted in this case, failing to develop, implement, and routinely update a sanctions compliance program can result in apparent violations. Sanctions programs and the corresponding regulations, like the ITSR, may change based on U.S. national security objectives. Failure to dedicate sufficient resources to monitor, apply, and ensure ongoing compliance with new sanctions laws may result in potential exposure to civil monetary penalties, including for activities related to foreign subsidiaries.

## **OFAC Enforcement and Compliance Resources**

On May 2, 2019, OFAC published [A Framework for OFAC Compliance Commitments](#) 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 U.S.-origin goods or services, 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 is discussed in OFAC regulations governing the each sanctions program; the Reporting, Procedures, and Penalties Regulations, 31 C.F.R. part 501; and the 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 <http://www.treasury.gov/ofac/enforcement>.

For more information regarding OFAC regulations, please go to: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).