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Export Penalties Increase Five-Fold Under USA PATRIOT Act Reauthorization

President Bush has signed into law the 2005 USA PATRIOT Improvement and Reauthorization Act. Included in this law is the Combating Terrorism Financing Act of 2005 ("the Act"), which raises civil and criminal penalties for violations of the International Emergency Economic Powers Act ("IEEPA"). Several agencies have recently adopted implementing regulations to conform the new penalty measures. IEEPA serves as the primary statutory authority for most export control- and economic sanctions-related laws and regulations administered by the U.S. Department of Treasury, Office of Foreign Assets Control ("OFAC") and the U.S. Department of Commerce, Bureau of Industry & Security ("BIS"). Accordingly, the increased penalties under the Act will serve as an additional tool in enforcement proceedings against those found to violate U.S. export control and economic sanctions regulations.

Increased Penalties

Specifically, under the Act effective March 9, 2006, maximum civil monetary fines increase five-fold from \$11,000 per violation (adjusted for inflation from \$10,000) to \$50,000 per violation. Additionally, criminal fines for willful violations increase from 10 to 20 years imprisonment. These penalties supplement the existing potential criminal monetary fines for violations of the export control and economic sanctions laws and regulations of up to \$1,000,000 per violation for acts committed by a corporation and \$250,000 per violation against an individual. Furthermore, monetary penalties for criminal violations may further exceed these amounts to total two times the pecuniary gain or loss a corporation or individual derived from the offense, or five times the value of any exports involved. Additionally, for any violation of the BIS or OFAC regulations, seizure and forfeiture of goods may result. Finally, administrative denial of export privileges also may be imposed.

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