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Treasury Department Quintuples Maximum Civil Penalty for Trade Sanction Violations

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The Treasury Department's Office of Foreign Asset Controls (“OFAC”) has adopted regulations increasing the maximum civil penalty for each violation of certain trade sanctions from $11,000 to $50,000. The regulations also increase the maximum term of imprisonment for willful violations from ten years to twenty years. The increased penalties became effective May 22, 2006.

The impact of these regulations promises to be significant for companies engaged in international business. The new penalties affect transactions with connections – including some indirect connections – to Iran, Burma, the Sudan, Zimbabwe, Syria, and the Western Balkans. The penalties also affect transactions with persons involved in narcotics trafficking, the proliferation of weapons of mass destruction, and global terrorism.

OFAC adopted the new regulations pursuant to amendments to the International Emergency Economic Powers Act (“IEEPA”) made by the March 9, 2006 USA PATRIOT Improvement and Reauthorization Act (“the Act”).

The amendments to IEEPA also increase the penalties for violations of the Export Administration Regulations enforced and administered by the Commerce Department's Bureau of Industry and Security (“BIS”). BIS may follow OFAC's lead, and amend the Export Administration Regulations (“EAR”) to reflect the newly authorized penalties under IEEPA. The Commerce Department is currently studying whether such revisions are warranted, and has not yet announced its intentions.

Holland & Hart's Export Controls practice group is monitoring the publication of further regulations and is prepared to address your questions regarding this issue. Please contact one of the following Export Controls attorneys in the Denver office for assistance or additional information:

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