

## CAN'T MAKE IT UP: BEAUTY SETTLEMENT HIGHLIGHTS OFAC SUPPLY CHAIN RISK

A recent settlement action by the U.S. Office of Foreign Assets Control ("**OFAC**") is a reminder that companies must check (and re-check) their supply chains for potential sanctions risks.

On January 31, 2019, OFAC announced its first settlement of 2019 involving e.l.f. Cosmetics, Inc. ("**ELF**"), a U.S.-based cosmetics company. The settlement highlights last year's "Risks for Businesses with Supply Chain Links to North Korea" advisory from OFAC and the U.S. Departments of State and Homeland Security (the "**Advisory**")<sup>1</sup>.

The Advisory profiled examples of goods, services, and technologies associated with North Korean trade, including the names of certain North Korean companies and joint ventures. The Advisory underlined that OFAC has authority to impose sanctions on any person determined to "*have engaged in at least one significant importation from or exportation to North Korea.*"

Per the settlement, ELF agreed to pay \$996,080 to settle civil liability for 156 apparent violations of the North Korea Sanctions Regulations, 31 C.F.R. part 510.<sup>2</sup> According to OFAC, between April 2012 and January 2017, the company imported false eyelash kits from suppliers in China that contained materials sourced from North Korea. OFAC took the opportunity to spotlight "*the risks for companies that do not conduct full-spectrum supply chain due diligence when sourcing products from overseas.*" OFAC determined that ELF voluntarily self-disclosed the apparent violations.

It is unlikely that OFAC will be sympathetic to a company that finds itself to have unintentionally sourced materials from North Korea (or other sanctioned countries). Rather, at a very minimum, OFAC will expect companies to conduct supply chain audits that verify origins of goods and the effectiveness of policies and procedures relating to suppliers and sub-suppliers. OFAC will expect executed compliance certificates and training to be provided to all employees involved in the supply chain process to identify potential red flags in items provided by suppliers.

<sup>1</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/dprk\\_supplychain\\_advisory\\_07232018.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/dprk_supplychain_advisory_07232018.pdf)

<sup>2</sup> [https://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20190131\\_elf.pdf](https://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20190131_elf.pdf).

## CONTACTS

**Wendy Wysong**  
Foreign Legal  
Consultant (Hong Kong)  
Partner (Washington,  
DC)

**T** +852 2826 3460  
+1 202 912 5030

**E** wendy.wysong  
@cliffordchance.com

**Ali Burney**  
Counsel

**T** +65 6506 1964

**E** ali.burney  
@cliffordchance.com

**George Kleinfeld**  
Partner

**T** +1 202 912 5126  
**E** george.kleinfeld  
@cliffordchance.com

**Jacqueline Landells**  
Counsel

**T** +1 202 912 5061

**E** jacqueline.landells  
@cliffordchance.com

**Michelle Williams**  
Counsel

**T** +1 202 912 5011  
**E** michelle.williams  
@cliffordchance.com

**Nicholas Turner**  
Registered Foreign  
Lawyer

**T** +852 2825 8854

**E** nicholas.turner  
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

[www.cliffordchance.com](http://www.cliffordchance.com)

Clifford Chance, 2001 K Street NW,  
Washington, DC 20006-1001, USA

© Clifford Chance 2019

Clifford Chance US LLP

Abu Dhabi • Amsterdam • Barcelona • Beijing •  
Brussels • Bucharest • Casablanca • Dubai •  
Düsseldorf • Frankfurt • Hong Kong • Istanbul •  
London • Luxembourg • Madrid • Milan •  
Moscow • Munich • Newcastle • New York •  
Paris • Perth • Prague • Rome • São Paulo •  
Seoul • Shanghai • Singapore • Sydney •  
Tokyo • Warsaw • Washington, D.C.

Clifford Chance has a co-operation agreement  
with Abuhimed Alsheikh Alhagbani Law Firm  
in Riyadh.

Clifford Chance has a best friends relationship  
with Redcliffe Partners in Ukraine.