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**BUREAU OF INDUSTRY AND SECURITY**

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**Bureau of Industry and Security Announces Enhanced Enforcement of the Antiboycott Rules**

Washington, D.C.— The Department of Commerce’s Bureau of Industry and Security (BIS) is updating its policy regarding enforcement of the antiboycott rules. The amendment, which takes effect tomorrow, clarifies the categories of antiboycott violations and their associated penalties, to ensure appropriate actions are taken based on the seriousness of the violation.

“Discrimination will not be tolerated regardless of whether it impacts people or trade,” said **Assistant Secretary of Commerce for Export Enforcement Matthew S. Axelrod**. “Today’s actions will further strengthen our Office of Antiboycott Compliance’s work to combat discrimination by aggressively enforcing our antiboycott rules.”

Antiboycott rules carry strong symbolic importance to the U.S. and our allies by acknowledging the illegal nature of discrimination and other prohibited actions and the harm inflicted on U.S. foreign policy interests as a result of actions taken in furtherance of unsanctioned foreign boycotts. In the last ten years, the Office of Antiboycott Compliance (OAC) has brought over 50 enforcement actions against U.S. persons (companies, banks, other entities) who have furthered illegal boycotts of Israel. The Arab League boycott of Israel is the principal unsanctioned foreign boycott that U.S. persons must be concerned with today. The antiboycott provisions of the EAR, however, apply to all unsanctioned foreign boycotts.

The text of the rule released today is available on the Federal Register’s website [here](#). The rule takes effect on October 7, 2022. The policy memo regarding the implementation of the rule is available on the BIS Export Enforcement website [here](#).

Brief summaries of the four enhancements being announced today to strengthen the antiboycott enforcement program are below:

1. **Enhanced Penalties.** Penalty amounts imposed will reflect our assessment of the seriousness of the violation and will be commensurate with the harm caused. Because not all antiboycott violations are equivalent in seriousness, we will continue to seek different levels of penalties depending on the different nature of the antiboycott violation. For the most serious violations – those in Category A under our regulations – BIS will begin its penalty calculus with the maximum penalty under the Anti-Boycott Act of 2018. Our regulations have long provided for imposition of the maximum penalty for Category A violations. All Category A violations will be subject to the maximum penalty as the

starting point in our penalty calculus. For violations of Category B, penalties will be enhanced as well. Penalties must be high enough to both punish those who violate the antiboycott rules and deter those who would violate them. This means that penalties for Category C violations will also be increased.

2. **Reprioritized Violation Categories.** We have revised the Antiboycott Penalty Guidance to recategorize certain antiboycott violations in a manner that reflects our current view of their relative seriousness. A rule making amendments to the Export Administration Regulations reprioritizing certain categories of antiboycott violations goes into effect tomorrow.
3. **Admissions of Misconduct.** In the past, when we have resolved matters involving violations of the antiboycott rules, we have allowed companies to pay a reduced penalty without admitting misconduct. These “no admit/no deny” settlements had the advantage of making it easier to reach resolution, but also had two serious disadvantages. First, because there was no admission in such cases, there was no admitted statement of facts, i.e., no factual recitation making clear what got the company into trouble. Without such an admitted statement of facts, it is more difficult for other companies to learn from their peers’ mistakes and adjust their behavior accordingly. Second, companies get a significant reduction in penalty when they resolve matters short of trial. We want companies to resolve matters and want to incentivize them to do so. But in other enforcement contexts, including in our administrative export enforcement cases, companies must admit their conduct in order to obtain a resolution. The same will now be true in administrative antiboycott enforcement cases as well. Under the new policy, OAC will require those who enter into settlement agreements for antiboycott violations to admit to a statement of facts outlining their conduct as part of the settlement agreement.
4. **Renewed Focus on Foreign Subsidiaries of U.S. Companies.** Violations of our antiboycott rules have traditionally resulted in consequences being imposed on the U.S. parties receiving the boycott-related requests (for complying with or failing to report receipt of such requests) and not on the parties making them. The penalties we impose on U.S. recipients help to deter them from complying with boycott-related requests by attaching significant costs on the back end. But this is only one side of the equation. We also want to dissuade foreign parties from making those requests in the first place. Going forward, we will be more aggressive in exploring ways to deter foreign parties from issuing or making boycott requests of U.S. persons. In particular, we will bring a renewed focus to our enforcement efforts against controlled foreign subsidiaries of U.S. parent companies when they act in violation of our antiboycott regulations.

For questions regarding antiboycott enforcement, contact the OAC Advice Line at (202) 482-2381.

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