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## MEMORANDUM

June 18, 2009

**To:** Clients and Friends of the Firm

**From:** George Thompson  
Neville Peterson LLP

**Re:** New Sanctions Imposed by the Office of Foreign Assets Control

The Office of Foreign Assets Control (OFAC) of the U.S. Treasury Department has imposed three additional new sanctions programs and published regulations for their implementation.

First, OFAC has adopted a new set of sanctions regulations that apply to transactions with weapons of mass destruction proliferators (WMDP). The new regulations add proliferators to the Specially Designated Nationals (SDN) list, with the designation [NPWMD] following the name of the person or organization.

The WMDP sanctions are similar to those applicable to SDNs under other OFAC sanctions adopted under the International Emergency Economic Powers Act (IEEPA). They apply to United States persons. U.S. persons are defined as citizens, permanent resident aliens, persons physically present in the U.S., or entities organized under the laws of the U.S. or a sub-national jurisdiction. Therefore, foreign-incorporated and located subsidiaries are outside their scope. U.S. persons are prohibited from contributing or providing any goods or services to, or receiving goods or services from, a designated WMDP. In addition, financial transactions involving WMDPs are blocked, so U.S. financial institutions must intercept and sequester any WMDP funds or other property that come into their possession.

The WMDP list includes foreign and domestic parties. Therefore, for legal compliance purposes, companies must screen to ensure that neither their domestic nor foreign transactions involve a WMDP.

OFAC also has published a new set of sanctions regulations that apply to transactions with certain parties engaged in military activities in the Democratic Republic of the Congo

(Congo). The new regulations add sanctioned parties to the SDN list, with the designation [DRC] following the name of the person or organization. The parties that may be designated under the regulations include foreign armed groups operating in the Congo and political or military leaders of armed groups in the Congo that impede the disarmament, repatriation, or resettlement of combatants; political or military leaders that use children in armed conflict in the Congo in violation of international law; persons that have violated international law by using children in armed combat in the Congo; persons involved in arms traffic in the Congo; persons providing material assistance or other support for the preceding activities; and persons owned or controlled by a SDN designated under this program.

The Congo sanctions, too, are similar to those applicable to SDNs under other OFAC programs authorized by IEEPA. They apply to United States persons. U.S. persons are defined as citizens, permanent resident aliens, persons physically present in the U.S., or entities organized under the laws of the U.S. or a sub-national jurisdiction. Therefore, foreign-incorporated and located subsidiaries are outside their scope. U.S. persons are prohibited from contributing or providing any funds, goods or services to, or receiving funds, goods or services from, a designated SDN. In addition, financial transactions involving designated SDNs are blocked, so U.S. financial institutions must intercept and sequester any SDN funds or other property that come into their possession.

The SDN[DRC] list designations include only foreign persons at this time.

Finally, OFAC has published new sanctions regulations that apply to transactions with certain parties that are undermining the peace process in the Darfur region of Sudan, or engaged in proscribed activities in that area. The new regulations are in addition to the existing Sudan sanctions regulations. They will add sanctioned parties to the SDN list, with the designation [DARFUR] following the name of the person or organization. It is unclear whether and to what extent SDNs already named under the Sudan sanctions will be separately included in the Darfur sanctions.

The Darfur sanctions apply to United States persons. U.S. persons are defined as citizens, permanent resident aliens, persons physically present in the U.S., or entities organized under the laws of the U.S. or a sub-national jurisdiction. Therefore, foreign-incorporated and located subsidiaries are outside their scope. U.S. persons are prohibited from contributing or providing any funds, goods or services to, or receiving funds, goods or services from, a designated SDN. In addition, financial transactions involving designated SDNs are blocked, so U.S. financial institutions must intercept and sequester any SDN funds or other property that come into their possession.

The SDN[DARFUR] list designations currently include only foreign persons.

We would be pleased to answer any questions that you may have regarding the new OFAC regulations and their applicability to parties in the United States and abroad.