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September 12, 2024

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BUREAU OF INDUSTRY AND SECURITY

Office of Congressional and Public Affairs

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Commerce Implements Regulatory Changes to Voluntary Self-Disclosure Process and Penalty Guidelines; Names Raj Parekh as First-Ever Chief of Corporate Enforcement

Washington, D.C. – Today, the U.S. Commerce Department’s Bureau of Industry and Security (BIS) issued a [final rule](#) making changes to the provisions in the Export Administration Regulations (EAR) related to BIS’s policies and practices regarding voluntary self-disclosures (VSDs) and to the Guidance on Charging and Penalty Determinations in Settlement of Administrative Enforcement Cases (BIS Penalty Guidelines).

This rule provides BIS with increased flexibility to determine fair and appropriate penalty amounts while also making it less burdensome for companies to submit certain VSDs. The rule revises the BIS Penalty Guidelines to change how the Office of Export Enforcement (OEE) calculates the base penalty in administrative cases and how OEE applies various factors to the base penalty to determine the final penalty.

As part of these efforts, BIS is also announcing the appointment of Raj Parekh as its first-ever Chief of Corporate Enforcement. He will serve as the primary interface between BIS’s special agents, the Department of Commerce’s Office of Chief Counsel for Industry and Security, and the Department of Justice to advance significant corporate investigations. This is the first time BIS has appointed a Chief of Corporate Enforcement, further reflecting BIS’s commitment to this effort.

“Today’s rule changes and appointment of Raj Parekh as Chief of Corporate Enforcement are important steps in institutionalizing the progress we’ve made over the past three years to strengthen our administrative enforcement program,” said **Assistant Secretary of Commerce for Export Enforcement Matthew S. Axelrod**. “The stakes of ensuring that we have the proper tools to deter export violations and – when that deterrence fails – to hold violators accountable could not be higher.”

Breakdown of Updates:

Beginning in 2022, BIS issued a series of publicly available [memoranda](#) describing policy changes to strengthen its administrative enforcement program and to encourage anyone who

thinks they may have violated the EAR to submit VSDs. In the twelve months since these policies were announced compared with the twelve months prior, BIS has seen nearly a 30 percent increase in significant VSDs and nearly a 20 percent increase in industry tips that resulted in actionable leads. These increases highlight not only the positive impact of the policies but also the important role industry plays in protecting national security. With today's rule, these policies are now enshrined in federal regulations.

In today's final rule, the significant revisions to § 764.5 of the Export Administration Regulations (EAR) (regarding the voluntary self-disclosure process) include:

- Detailing how OEE will process VSDs in a dual-track manner, with VSDs involving minor or technical violations being resolved within 60 days either by no-action letter or warning letter, and the assignment of an OEE agent and BIS Office of Chief Counsel enforcement attorney for potentially significant violations.
- Adding a streamlined submission process for VSDs involving minor or technical violations, including an abbreviated narrative and the recommendation to bundle multiple minor or technical violations into one overarching quarterly submission.
- Making clear that an entity's deliberate decision not to disclose a significant violation will be considered an aggravating factor when OEE determines what administrative penalties, if any, will be sought.
- Clarifying that any person, not just a party submitting a VSD, may notify the Director of OEE that a violation has occurred and then request permission from the Office of Exporter Services to return previously unlawful exports to the United States.

Additionally, BIS revised the BIS Penalty Guidelines so that potential penalties more appropriately reflect the seriousness of the offense by linking that determination directly to the individual circumstances of each violation. The significant revisions to Supplement No. 1 to Part 766 (regarding the BIS Penalty Guidelines) include:

- Revising the BIS Penalty Guidelines to give OEE increased discretion to determine penalties that appropriately reflect the individual circumstances of violations, while maintaining OEE's ability to adjust penalties (up or down) within the statutory limits to reflect the applicable factors for administrative action set forth in the BIS Penalty Guidelines.
- Formalizing non-monetary resolutions as an enforcement response for cases that involve non-egregious conduct but rise above the level of cases warranting a warning letter or no-action letter.
- Amending Aggravating Factor C to include the enabling of human rights abuses as a specific consideration when BIS assesses the potential impact of a violation on U.S. foreign policy objectives.
- Amending General Factor H to make clear that disclosures of conduct by others that lead to an enforcement remedy count as exceptional cooperation.

Background about Raj Parekh

Mr. Parekh joins BIS from the United States Attorney's Office for the Eastern District of Virginia (EDVA), where he served as Acting United States Attorney and for four years as First Assistant United States Attorney. Mr. Parekh was the highest-ranking career (non-political) official in EDVA and led a staff of more than 300 federal prosecutors, civil litigators, and support personnel in a district that serves more than six million residents.

Mr. Parekh is an experienced litigator, having tried more than 40 cases to verdict throughout his career and having previously worked at EDVA, the Department of Justice's National Security Division, a major technology company, the United States Attorney's Office for the District of Columbia, the Central Intelligence Agency, and an international law firm.

Additional Information:

The text of the final rule is available on the Federal Register's [website](#).

For more information on BIS, visit <https://www.bis.gov>.