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## DOJ's National Security Division Issues First Declination under Its New M&A Policy Intended to Incentivize Timely Voluntary Self-Disclosures by Acquirers

On June 16, 2025, the National Security Division (“NSD”) of the Department of Justice (“DOJ”) and the U.S. Attorney’s Office for the Southern District of Texas announced that they had declined to prosecute a private equity firm and its affiliates after the private equity firm discovered and voluntarily self-disclosed criminal violations of U.S. sanctions and export laws committed by a petrochemical company that the private equity firm acquired in late 2020.<sup>1</sup> This is the first time the NSD—which enforces criminal violations of export controls and sanctions—has issued a declination pursuant to its March 2024 Mergers & Acquisition Policy (the “M&A Policy”).<sup>2</sup>

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### Background

From 2014 to 2021, Texas-based Unicat Catalyst Technologies LLC (“Unicat”) and its former CEO made 23 unlawful sales to customers in Iran, Venezuela, and Cuba, in violation of U.S. economic sanctions. In total, Unicat received approximately \$3.33 million in revenue from these unlawful sales, which included falsifying invoices to reduce the tariffs assessed and false statements in export documents and financial records about the identities and geographic locations of the purchasers, costing the government approximately \$1.66 million in underpaid duties, taxes, and fees.

In 2021, soon after acquiring Unicat, private equity firm White Deer Management LLC (“White Deer”) uncovered this scheme when Unicat’s new CEO discovered a pending sale transaction to an Iranian customer, which was ultimately cancelled. White Deer and Unicat then promptly retained counsel to investigate the matter and discovered Unicat’s history of engaging in transactions in violation of U.S. sanctions laws. Within one month of discovering the misconduct and while the internal investigation was still ongoing, White Deer and Unicat submitted a voluntary self-disclosure to the NSD.

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<sup>1</sup> Letter from Department of Justice, National Security Division, to Counsel for White Deer Management LLC (Dec. 19, 2024) <https://www.justice.gov/opa/media/1403771/dl?inline>.

<sup>2</sup> Department of Justice, National Security Division, *Enforcement Policy for Business Organizations*, updated Mar. 7, 2024, available at <https://www.justice.gov/nsd/media/1285121/dl?inline>.

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## What Does This Mean for Acquirers?

As noted, this case is the first time the NSD declined to prosecute an acquirer under its [M&A Policy](#), which aligns with the DOJ-wide “safe harbor policy” for M&A-related voluntary self-disclosures announced in late 2023,<sup>3</sup> providing for a presumption of declination from prosecution when an acquirer “[i] Completes a lawful, bona fide acquisition of another company; [ii] Voluntarily and timely self-discloses to NSD potentially criminal violations of laws affecting U.S. national security committed by the acquired entity; [iii] Fully cooperates with NSD’s investigation; and [iv] Timely and appropriately remediates the misconduct.”<sup>4</sup>

The M&A Policy, and its stated commitment to “rewarding responsible corporate leadership” by declining to prosecute acquirers who quickly and voluntarily self-disclose violations committed by acquired entities,<sup>5</sup> should be welcome news to potential acquirers, including those in the private equity space. However, potential acquirers should be aware that the benefits of this policy come with potential costs, and the White Deer declination provides a window into how the NSD interprets these requirements and the circumstances under which an acquirer may qualify for this benefit. Notably, “timely” self-disclosure in this case included disclosure only three months after the final stage of the acquisition closed while post-acquisition integration activity was underway and within just one month of the acquirer identifying the potential misconduct. The NSD recognized the strength of both White Deer’s and Unicat’s (i) cooperation, including by disclosing all known relevant facts and identifying relevant records both within and outside the U.S., and (ii) timely remediation, including by implementing an enhanced export control and sanctions compliance program and by terminating and disciplining culpable employees. Finally, the NSD also credited both parties for helping to mitigate further risk of national security harm when the new CEO of Unicat immediately canceled a pending transaction with Iran upon discovering the misconduct.

Moreover, though Unicat received voluntary self-disclosure credit and full cooperation credit, the full benefits of the M&A Policy, i.e., a declination, apply only to acquirers. Unicat, the acquired entity, entered into a non-prosecution agreement with the DOJ resulting in forfeiture of over \$3.3 million. Furthermore, in parallel resolutions coordinated by the DOJ, Unicat agreed to pay the Treasury Department over \$3.8 million to resolve investigations into its violations of U.S. sanctions laws and to pay the Commerce Department over \$390,000 to resolve its investigation into violations of U.S. export control laws. Additionally, in a separate resolution with the Department of Homeland Security’s Customs and Border Protection, Unicat agreed to pay over \$1.6 million for its underpaid duties, taxes, and fees. In other words, even though it was not directly liable, White Deer, as the now-owner, bore the indirect cost of these penalties, undercutting some of the touted benefits of the M&A Policy.

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<sup>3</sup> See our Client Alert, “DOJ Announces Safe Harbor for Self-Disclosures in M&A Context,” dated October 12, 2023 <https://www.cahill.com/publications/client-alerts/2023-10-12-doj-announces-safe-harbor-for-self-disclosures-in-ma-context/?res/id=Attachments/index=0/CGR%20Memo%20-%20DOJ%20Announces%20Safe%20Harbor%20for%20Self-Disclosures%20in%20M&A%20Context.pdf>.

<sup>4</sup> Department of Justice, National Security Division, *Enforcement Policy for Business Organizations*, 9, updated Mar. 7, 2024, available at <https://www.justice.gov/nsd/media/1285121/dl?inline>.

<sup>5</sup> Press Release, *Justice Department Declines Prosecution of Private Equity Firm Following Voluntary Disclosure of Sanctions Violations and Related Offenses Committed by Acquired Company*, DOJ, June 16, 2025, <https://www.justice.gov/opa/pr/justice-department-declines-prosecution-private-equity-firm-following-voluntary-disclosure>.

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## Conclusion

The White Deer declination offers an early glimpse into how the current administration may seek to leverage prior DOJ policies—so long as they continue to align with the administration’s own priorities, which have also included increasing the incentives for voluntary self-disclosure. This declination also demonstrates some consistency in outcomes for companies that choose to voluntarily self-disclose misconduct. Furthermore, this declination illustrates the potential benefits of the NSD’s voluntary self-disclosure policy and reinforces the importance of robust pre- and post-acquisition diligence, as described in our October 2023 [client alert](#) about the DOJ-wide policy announcement. Still, acquirers should continue to be mindful of the indirect costs when considering whether to make a voluntary self-disclosure, including potentially lengthy and time-consuming investigations and potential legal consequences for the acquired entities.

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If you have any questions about the issues addressed in this alert, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to call or email authors Brian Markley (partner) at 212.701.3230 or [bmarkley@cahill.com](mailto:bmarkley@cahill.com); Kiersten Fletcher (partner) at 212.701.3365 or [kfletcher@cahill.com](mailto:kfletcher@cahill.com); Jennifer Potts (counsel) at 212.701.3390 or [jpotts@cahill.com](mailto:jpotts@cahill.com); MarcAnthony Parrino (associate) at 212.701.3158 or [mparrino@cahill.com](mailto:mparrino@cahill.com); or email [publicationscommittee@cahill.com](mailto:publicationscommittee@cahill.com).

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