

**FEBRUARY 7, 2019**

For more information,  
contact:

Christine Savage  
+1 202 626 5541  
[csavage@kslaw.com](mailto:csavage@kslaw.com)

John C. Richter  
+1 202 626 5617  
[jrichter@kslaw.com](mailto:jrichter@kslaw.com)

J. Michael Taylor  
+1 202 626 2385  
[jmtaylor@kslaw.com](mailto:jmtaylor@kslaw.com)

Shaswat K. Das  
+1 202 626 9258  
[sdas@kslaw.com](mailto:sdas@kslaw.com)

Patrick J. Togni  
+1 202 626 2958  
[ptogni@kslaw.com](mailto:ptogni@kslaw.com)

Clinton R. Long  
+1 202 626 2622  
[clong@kslaw.com](mailto:clong@kslaw.com)

---

**King & Spalding**

Washington, D.C.  
1700 Pennsylvania Avenue,  
NW  
Washington, D.C. 20006-  
4707  
Tel: +1 202 737 0500

## e.l.f. Cosmetics Agrees to Pay Nearly \$1 Million To Settle Apparent Violations Of U.S. Sanctions Against North Korea

---

### This Enforcement Action Underscores The Risks Of Sourcing Products Without Comprehensive Supply Chain Due Diligence

On January 31, 2019, the Office of Foreign Assets Control (“OFAC”) of the U.S. Department of the Treasury **announced** that e.l.f. Cosmetics, Inc. (“ELF”) agreed to pay a \$996,080 settlement arising from 156 apparent violations of OFAC’s North Korea Sanctions Regulations (“NKSr”). According to OFAC, between 2012 and 2017, ELF imported 156 shipments of false eyelash kits worth a combined total of over \$4.4 million into the United States from two Chinese suppliers – importantly, however, those Chinese suppliers sourced materials for the kits from North Korea. Upon discovering the apparent violations, ELF voluntarily disclosed them to OFAC. The statutory maximum civil penalty amount for the apparent violations was \$40,833,633, but OFAC agreed to settle with ELF for \$996,080 as a result of ELF’s immediate disclosure and cooperation, among other mitigating factors.

OFAC’s summary of the settlement agreement indicates that the actual country of origin of the materials remained undiscovered by ELF for over four years because ELF’s “production review efforts focused on quality assurance issues pertaining to the production process, raw materials, and end-products of the goods it purchased and/or imported.” OFAC **explained that**, during the time period of the alleged violations, “ELF’s OFAC compliance program was either non-existent or inadequate.” This finding provides other companies with opportunities to ensure that supply chain due diligence extends beyond solely commercial considerations. OFAC also stated that, while ELF’s personnel did not appear to have had “actual knowledge of the conduct that led to the apparent violations in this



investigation,” the company “failed to discover that approximately 80 percent of the false eyelash kits” imported from the two Chinese suppliers contained North Korean inputs until January 2017.

ELF’s settlement serves as a warning to companies sourcing products from China, and other countries, of the risks of violating the NKSR, and other U.S. sanctions regulations, as a result of insufficient due diligence and management of suppliers and supply chains. As OFAC explained, ELF sourced the products at issue “in a region in which [North Korea], as well as other comprehensively sanctioned countries or regions, is known to export goods.” In addition, given that the production of cosmetic and personal care products in North Korea (including false eyelashes) is growing, companies in these and other sectors, e.g., extractive industries such as mining, must be aware of the increased risks presented by Chinese suppliers, some of which will use products and inputs from North Korea. To mitigate these risks, OFAC suggests conducting “full-spectrum supply chain due diligence.”

Companies sourcing cosmetic, personal care, and other products from suppliers in China also could benefit from implementing the steps that ELF took after discovering the apparent violations of the NKSR. According to OFAC, the company affirmatively took the following steps to ensure that it does not repeat the apparent violations:

- “Implemented supply chain audits that verify the country of origin of goods and services used in ELF’s products;”
- “Adopted new procedures to require suppliers to sign certificates of compliance stating that they will comply with all U.S. export controls and trade sanctions;”
- “Conducted an enhanced supplier audit that included verification of payment information related to production materials and the review of supplier bank statements;”
- “Engaged outside counsel to provide additional training for key employees in the United States and in China regarding U.S. sanctions regulations and other relevant U.S. laws and regulations;” and
- “Held mandatory training on U.S. sanctions regulations for employees and suppliers in China and implemented additional mandatory trainings for new employees, as well as, regular refresher training for current employees and suppliers based in China.”

In sum, this enforcement action demonstrates the importance that companies sourcing products from China, and other countries, should place on understanding and vetting their supply chains. The lack of an adequate system for auditing suppliers and verifying the country of origin of materials that companies use in their products, particularly from high-risk regions, creates undue exposure to potential sanctions violations.

**ABOUT KING & SPALDING**

Celebrating more than 130 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 1,000 lawyers in 20 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice. In some jurisdictions, this may be considered “Attorney Advertising.”

ABU DHABI	CHICAGO	HOUSTON	NEW YORK	SILICON VALLEY
ATLANTA	DUBAI	LONDON	PARIS	SINGAPORE
AUSTIN	FRANKFURT	LOS ANGELES	RIYADH	TOKYO
CHARLOTTE	GENEVA	MOSCOW	SAN FRANCISCO	WASHINGTON, D.C.