



## → Fatema K. Merchant

### **Partner**

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Fatema Merchant is Co-Managing Partner of Sheppard Mullin's Washington, D.C. office and a partner in the Governmental and Corporate Investigations Practice Groups. Fatema leads the Sanctions Team at Sheppard Mullin.

### **Areas of Practice**

Fatema focuses on supporting clients in their international business and global transactions to mitigate risk and address trade, regulatory and national security issues. Her practice includes compliance counseling, investigations and cross-border transactional work related to anti-corruption, export controls, economic sanctions, anti-money laundering, foreign investment (CFIUS) and tariff and import regulations.

At Sheppard Mullin, Fatema is chair of the Washington, D.C. office's Diversity Working Group and former co-leader of the firm-wide attorneys of color group, known as the Diversity and Inclusion Attorney Network (DIAN).

Fatema is a leader in many broader DEI efforts and in the legal community. She was a 2019 Fellow for the Leadership Council on Legal Diversity (LCLD). She is currently serving on the Board of Governors for the District of Columbia Bar. She has also previously served as President of the Capital Area Muslim Bar Association (CAMBA). She has been recognized by Super Lawyers as a Washington, D.C. "Rising Star" in 2015-2018., and was featured by Washington Lawyer for being the first hijab-wearing partner at an Am Law 100 firm in Washington, D.C.

Prior to joining the firm, Fatema seconded as a Special Assistant Attorney General with the District of Columbia Office of the Attorney General.

### ***White Collar Defense and Corporate Investigations***

Fatema represents companies and individuals across industries in criminal matters and corporate investigations involving the U.S. Department of Justice, the Securities and Exchange Commission and the Treasury Department's Office of Foreign Assets Control (OFAC). Her recent matters included allegations of violations of the Foreign Corrupt Practices Act, anti-money laundering, the International Traffic in Arms Regulations (ITAR) and economic sanctions on Iran. Fatema has conducted numerous internal investigations and handled matters around the world, including in Asia, Africa and the Middle East.

### ***Export Controls, Economic Sanctions, Trade & Anti-Corruption Counseling***

Fatema counsels technology, energy, healthcare, defense and consumer-product companies in day-to-day matters involving export controls, economic sanctions and anti-corruption compliance. She has prepared disclosures to the OFAC, the Directorate of Defense Trade Controls (DDTC) and the Bureau of Industry and

Security (BIS) on behalf of clients. She has deep experience in classifying technologies and emerging technologies under the highly complex U.S. export control regimes. Fatema also counsels importers on trade issues such as tariffs, HTS classification, U.S. Customs and Border Protection (CBP) enforcement and prior disclosures with CBP.

Fatema regularly assists clients with developing, implementing and evaluating effective compliance programs across a broad spectrum of legal risk areas. With an understanding of business, clients' values, and the spectrum of legal risks, she has supported clients with implementing tailored policies and procedures that protect companies in a practical way.

### ***CFIUS and Cross-Border Transactions***

Fatema regularly advises clients in M&A deals on international trade regulatory matters through the life cycle of a transaction. She counsels clients across industries on regulatory filings stemming from cross-border transactions, including filings with DDTC. Fatema represents buyers and sellers in transactions before the Committee on Foreign Investment in the U.S. (CFIUS) and advises clients on transactions subject to the Foreign Investment Risk Review Modernization Act (FIRRMA) and the FIRRMA Pilot Program.

### ***ESG and Sustainability***

Fatema is a leader in the firm's ESG and Sustainability team. Fatema has over a decade of experience advising global organizations on social and governance issues, including designing codes of business conduct that reflect a company's core values and incorporate those values into specific, practical, and auditable standards; conducting internal reviews of ethics programs and ethics issues; counseling multinational enterprises on complying with sanctions targeting human rights violators; and advising companies regarding potential liability for human rights violations, including the use of forced labor in the supply chain.

## Honors

International Trade Editorial Advisory Board, *Law360*, 2023

Top Author, *JD Supra* Readers' Choice Awards, 2023

Washington, D.C. Rising Star, *Super Lawyers*, 2015-2018

Lawyers of Color's 2014 Hot List

## Experience

### **White Collar Defense and Corporate Investigations:**

#### ***Companies***

- Represented multi-national energy companies in criminal and civil investigations involving the DOJ, SEC and OFAC of potential violations of the FCPA and economic sanctions.
- Represented global security company in an ethics investigation with presentation to Board of Directors.
- Represented non-U.S. banks in criminal investigations involving OFAC and New York States authorities of potential violations of Iran sanctions regulations.

#### ***Individuals***

- Represented executive in connection with criminal investigation of company employer involving potential FCPA violations.
- Represented named individual in criminal matter involving DOJ regarding potential violations of Iran sanctions regulations.
- Represented employee in connection with investigation by DOJ of potential violations of export controls.

## **Counseling on International Regulatory Issues:**

### ***General***

- Represented clients across industries to provide day-to-day advice on compliance with U.S. economic sanctions, export controls, anti-corruption laws, customs regulations and anti-money laundering regulations.
- Designed, developed and monitored global anti-corruption, economic sanctions, and anti-money laundering compliance programs for companies in the technology, defense, financial and consumer-product sectors.

### ***Export Controls***

- Advised multiple technology companies on jurisdiction and classification of products and technology under the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR).
- Represented multiple defense and technology companies in obtaining licenses from the U.S. State Department's DDTTC and the U.S. Department of Commerce's Bureau of Industry and Security (BIS).
- Represented software companies in classification of encryption technologies and utilizing License Exception ENC to export software and technology.

### ***FCPA & Anti-Corruption***

- Led FCPA training for automotive company's global regulatory affairs team.
- Conducted audit of technology company's global anti-corruption compliance program and developed practice enhancements to program.
- Led global FCPA due diligence review of third parties, including leading Arabic-language due diligence, advising on FCPA compliance and design of FCPA compliance policies and training programs.

### ***Sanctions***

- Represented hospitality company in obtaining licenses from OFAC involving Cuba sanctions program.
- Advised multiple universities regarding compliance with sanctions regulations involving Iran, Cuba, Syria and Russia.
- Advised multiple non-U.S. businesses and financial institutions regarding compliance with sanctions connected to the Iran Nuclear Deal.

### ***Customs***

- Represented home appliance and furniture companies in internal audits to review compliance with customs regulations and submitting prior disclosures to Customs and Border Protection (CBP).
- Advised consumer product companies regarding HTSUS classification of products being imported into the U.S.
- Represented compliance across industries in responding to requests for information and notices of action from CBP.

- Represented semiconductor chip manufacturer in releasing goods seized by CBP.
- Helped secure exclusions from Section 301 and 232 tariffs for multiple clients.

## Transactional Diligence, CFIUS and Regulatory Filings:

- Led international trade due diligence and developed risk mitigation strategies in mergers and acquisitions to identify risks in transactions related to export controls, FCPA, sanctions and customs regulations, working closely with M&A team on behalf of buyers and targets.
- Represented technology company in sale of Indian computing equipment manufacturer and obtained CFIUS clearance.
- Represented defense contractor in obtaining CFIUS clearance in sale of company to UK security company.
- Advised multiple clients on impact of FIRRMA and Pilot Program regulations on transactions.
- Represented defense, security and satellite companies in regulatory filings to the Directorate of Defense Trade Controls (DDTC).

## Articles

- Legal Corner: What You Need to Know About the President's September 22 "Divisive Ideology" Executive Order  
*The Coalition for Government Procurement*, 11.06.2020
- Another COVID-19 Enforcement Tool: Money Laundering Law  
*Law360*, 06.09.2020
- New Rule Expands FCC Jurisdiction Related To Foreign Media  
*Law360*, 09.27.2018
- Movements Without Motion In Russian Sanctions Policy  
*Law360*, 02.09.2018
- Close, but no cigar? Trump, Cuba and the way forward...  
*WorldECR*, 03.06.2017
- The Future of Russia Sanctions: It's Getting Murkier and Murkier  
*Bloomberg BNA*, 02.2017
- "Compliance Takeaways From PayPal's OFAC Settlement," *Law360*, April 2, 2015
- "Accounts and Accountability: Arab Bank Found Liable for Transactions Under the Anti-Terrorism Act," *WorldECR, Issue 35*, October 2014
- "China Outbound Newsletter," *Sheppard Mullin*, September 2014
- "Russia Sanctions: Iran Déjà Vu Or Jamais Vu?" *The Metropolitan Corporate Counsel*, May 2014
- "FCPA Overreach? Courts Address Personal Jurisdiction In Cases Against Foreign Defendants," *The Metropolitan Corporate Counsel*, May 2013
- "New Challenges For Compliance Programs," *Law360*, June 30, 2011
- "The FCPA's Increasingly Global Reach," *Law360*, May 19, 2011
- "The Effect of Sentencing Guidelines Amendments," *Law360*, December 2010

- "Amendments to Organisational Sentencing Guidelines Take Effect," *International Law Office*, November 15, 2010
- "DOJ Issues Guidance on Government-Compelled Grants," *International Law Office*, August 16, 2010

## Consumer Finance and Fintech Blog

- "Treasury's Study Discusses Financial Crimes and NFTs," February 23, 2022

## FCC Law Blog

- "UPDATE: National Security Meets Teenage Dance Battles: U.S. Increases Pressure on ByteDance Sale of TikTok," August 17, 2020

## Global Trade Law Blog Posts

- "Technology Protection is a Core National Security Priority: BIS Strengthens Its Policy on Disclosures," April 25, 2023
- "OFAC Finds Digital Assets Trading Platform in Violation of Sanctions," April 4, 2023
- "'Sanctions Are The New FCPA': DOJ Increases Focus on Sanctions and Export Control Enforcement," March 13, 2023
- "Friday Development: New Sanctions and Export Controls to Address Russia's Ongoing Aggression in Ukraine (Including the use of Iranian UAVs)," February 27, 2023
- "Will We Ring in the New Year with Outbound Investment Restrictions?," December 21, 2022
- "OFAC Continues Focus on Virtual Currency Industry with Announced Settlement with Payward, Inc.," November 29, 2022
- "Bribes, Bitcoin and Obstruction: DOJ Announces Charges Against Chinese Agents for Trying to Impede Investigation of Huawei," October 27, 2022
- "OFAC Announces Hefty Settlement with Virtual Currency Exchange / Hosted Wallet Services Provider," October 11, 2022
- "OFAC Issues Sanctions Compliance Guidance for Instant Payment Systems," October 11, 2022
- "Technology to Iran: OFAC Lifts Certain Iran Sanctions In Response to Protests in Iran," September 27, 2022
- "Commerce Department Adds Guardrails Against Stockpiling of Certain Solar Cells and Modules During Temporary Waiver of AD/CVD Duties," September 27, 2022
- "DOJ Issues Report on Efforts to Combat Digital Asset Criminal Activity and Announces Designated Prosecutors to Support," September 27, 2022
- "First-Ever Executive Order on CFIUS Highlights Biden's National Security Priorities," September 20, 2022
- "President Biden Suspends AD/CVD Duties on Solar Cells and Modules from Cambodia, Malaysia, Thailand, and Vietnam," June 9, 2022
- "Introduction of internet-related Russia trade sanctions in the UK," June 9, 2022
- "The Crypto Enthusiast and The Regulator: What OFAC is, Could Be, and Should Be Doing to Regulate Cryptocurrencies," June 3, 2022

- "Novel Sanctions Against Business-Related Services Connected to Russia and Additional Export Restrictions," May 11, 2022
- "Additional Import and Export Restrictions in Response to Russia's Aggression in Ukraine," April 13, 2022
- "U.S. and Allies Impose Additional Severe Costs on Russia for Atrocities in Ukraine," April 6, 2022
- "Crypto and Russia Sanctions: A Primer and Survival Guide For Crypto Companies," March 17, 2022
- "U.S., UK and EU Sanctions Over the Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR) Regions of Ukraine," February 25, 2022
- "Russian Risk: Transactions with Russian Banks and Exports to Russia Create Greatest Exposure Under New EU and UK Ukraine-Related Sanctions," February 25, 2022
- "Russian Risk: Transactions with Russian Banks and Exports to Russia Create Greatest Exposure Under New U.S. Ukraine-Related Sanctions," February 25, 2022
- "U.S., UK and EU Sanctions Over Putin's Recognition of Breakaway Ukraine Regions," February 22, 2022
- "The Uyghur Forced Labor Prevention Act: Congress Finally Takes Action," December 16, 2021
- "The Intersection of Export Controls and Human Rights: Combating the Misuse of Technologies to Curb Human Rights Abuses," December 14, 2021
- "OFAC Enforcement Impacts NFTs: As Crypto Enforcement Ramps Up to Combat Ransomware, Robust Compliance is Key," November 16, 2021
- "Sanctions Compliance for Crypto: OFAC Issues Guidance Targeting Virtual Currency Industry," October 21, 2021
- "Does Your Trade Policy Support Your Company's Values?," October 8, 2021
- "Exclusions 2.0. The USTR Announces a New Section 301 Exclusion Process for Chinese Products," October 8, 2021
- "ESG, Global Trade, and Forced Labor: Aligning Compliance with Company Values," September 22, 2021
- "First OFAC Sanctions Against a Cryptocurrency Exchange: Could the Designation of SUEX Signal an Enforcement Trend to Combat Cybercrime?," September 22, 2021
- "Beyond TikTok and WeChat: How Biden's New EO Could Impact Foreign-Owned Apps," June 11, 2021
- "Looking Ahead on China: Engaging in Strategic Compliance through Geopolitical Analysis," June 10, 2021
- "President Biden Issues a New...ish Ban on Certain Chinese Investments," June 10, 2021
- "Russia Russia Russia! The Biden Administration Imposes Tough Sanctions on Russia," April 15, 2021
- "JCPO-Wait-A-Minute: How New Talks Between the U.S. and Iran Could Revive the Iran Nuclear Deal," March 11 2021
- "Friend or Foe? The DOC Issues New Interim Rule on Transactions Involving Information and Communication Technology or Services ("ICTS") and Foreign Adversaries," January 27, 2021
- "CBP Stops More Imports Under Forced Labor Rules (Cotton a Jam, Part II)," January 27, 2021
- "National Security Meets Teenage Dance Battles: Trump Issues Executive Orders Impacting TikTok and WeChat Business in the U.S.," August 7, 2020
- "The Emerging Landscape for Export Controls on Autonomous Vehicle Technology," April 8, 2020

- "Clear for More Takeoffs: Now is the Time to Have Your Voice Heard on New Satellite and Launch Regulations," March 19, 2019
- "New Year Sanctions Roundup: Where Do We Stand?" January 15, 2019
- "Comment Deadline Extended: Export Controls on Emerging Technologies," December 11, 2018
- "FCC's Foreign Media Reporting Requirements: Extension of FARA or New Domain?" September 20, 2018
- "Digital Cops and Cyber Robbers: OFAC Guidance on Crypto Currency," April 12, 2018
- "Lurches, Leaps, Feints, and Flops: Movements Without Motion in Russian Sanctions Policy," February 8, 2017
- "Could the Crypto-Rouble Spell Crypto-Trouble for Sanctions?," January 10, 2018
- "FARA and the First Amendment: How will the United States Calibrate its Response to Foreign Propaganda?" November 17, 2017
- "Today, President Trump Decertified the Iran Deal and Announced Tougher Sanctions on Iran," October 13, 2017
- "Our Armchair Santería on Cuba Policy: What Will President Trump do on Cuba?" May 31, 2017
- "Still Following the Money: FinCEN, Money Laundering, and the Bank Secrecy Act," May 24, 2017
- "The Foreign Agents Registration Act: Rising Out of Obscurity," April 6, 2017
- "The Future of Russia Sanctions: The Awkward Edition," January 13, 2017
- "Negotiation By Tweet: The Uncertain Future of U.S.-Cuba Relations," December 7, 2016
- "Obama's Not Slowing Down On Cuba: New Steps Forward Open Doors (and Humidors!) for Collaboration," October 17, 2016
- "Espionage and Export Controls: The iPhone Hack Highlights The New World of Warfare," September 1, 2016
- "Buying Russian Bonds: Risky Business or Safe Bet?," June 9, 2016
- "Hotels and Hospitality in Cuba: OFAC and Obama Paving the Way," April 20, 2016
- "Implementation Day: Do the Rules Let You Play in the New Ballgame for Business in Iran?" July 16, 2015
- "A Break From the Past: Historic Deal with Iran Marks A New Day in U.S.-Iran Relations," July 14, 2015
- "Government Contracting Abroad: Beware Compliance Risks," June 24, 2015
- "Paying the Piper: PayPal Inc. Settles Sanctions Violations with OFAC for \$7.7 Million," April 1, 2015
- "Havana Hold Your Hand: Reaching Out to Cuban Entrepreneurs," January 16, 2015
- "New Year, New Orleans, Old Tricks," January 15, 2015
- "A New Latitude: Charting a Course for Cuba," December 17, 2014
- "DOJ Issues Opinion, Provides (Some) Comfort on Successor Liability," December 4, 2014
- "Take the Mansion, But Leave the Thriller Jacket: DOJ Settles with Equatorial Guinea Veep for \$30 Million in Assets Bought With Corrupt Proceeds," November 6, 2014
- "Accounts and Accountability: Arab Bank Found Liable for Transactions Under the Anti-Terrorism Act," October 9, 2014
- "Who's a "Foreign Official"? Supreme Court Could Clarify Key FCPA Term," September 18, 2014, also published on *JD Supra*

- "Don't try this at Home or Abroad: Export Controls and Sanctions Violations Lead to \$21 Million in Penalties for Dutch Company Fokker Services B.V.," July 15, 2014
- "Where Two Worlds Collide: The Impact of Sanctions in Space," June 12, 2014
- "Beach Houses and Bribes: DOJ Seeks Over \$700,000 From Former South Korean President," May 1, 2014
- "Spacing Out: BIS Issues Report on Export Controls and the Space Industrial Base," April 3, 2014
- "It Doesn't Pay to Steal: In Largest Ever Kleptocracy Forfeiture Action, DOJ Seizes \$458 Million," March 10, 2014
- "Export Control Reform Series Episode III: Harmonizing EAR Exceptions and ITAR Exemptions," August 5, 2013

## **Government Contracts, Investigations & International Trade Blog Posts**

- "What's New Out There? Highlights from the Federal Register," September 29, 2014

## **Organizational Integrity Group Blog Posts**

- "Leading with Values in Times of Crisis," April 15, 2020

## **Video Game Law Blog Posts**

- "Laundering the Loot: Videogame Developer Valve Ends In-game Key Sales Because of Financial Criminal Activity," November 13, 2019

## **Real Estate, Land Use and Environmental Law Blog Posts**

- "Bifacial Solar Modules Now Exempt from Section 201 Tariff," July 2, 2019

## **Books**

The CFIUS Book: Second Edition  
05.2020

## **Media Mentions**

Breaking the Glass Ceiling for Muslim Women in Private Practice  
*Great Women in Compliance*, 03.11.2020

Fatema Merchant Breaking Barriers for Muslim Women in the Law  
*Washington Lawyer*, 05.2019

FLIR Fires Up More M&A  
*The Deal*, 02.12.2019

US Tees Up Final Duties On S. Korean Steel Component  
*Law360*, 03.20.2017

Multiple Identities: Intersectional Challenges in the Legal Profession  
12.2016



Why a Big Law Associate Chooses to Wear Muslim Hijab  
*ALM Media*, 06.29.2016

A 'Good Deal' For Son of Equatorial Guinea Leader Accused of Kleptocracy  
*Main Justice: Politics, Policy And The Law*, 10.16.2014

Sheppard Mullin Chases the Cool Quotient in D.C.  
*The National Law Journal*, 09.08.2014

Russia Sanctions: The View from Space  
*World ECR*, 05.2014

## Speaking Engagements

Keynote Speaker, Capital Area Muslim Bar Association (CAMBA) Annual Meeting and Dinner, December 9, 2022

Panelist, "Proposed 'Reverse CFIUS' Outbound Investment Review Process," Association of Women in International Trade, October 20, 2022

Panelist, "Navigating Big Law as a Muslim and the Power of Pro Bono," American Muslim Bar Association Webinar, February 11, 2021

Panelist, "International Contract Law: Key Issues to Consider When Conducting Business Overseas," ABA Center for Professional Development, October 11, 2017

Panelist, "100 Days of Trump: A Cuban Legal Perspective," ABA Teleconference, co-hosted by ABA Young Lawyer's Division International and Litigation Sections," May 3, 2017

Panelist, "ABA YLD Midyear Program Doing Business with Cuba," Miami FL, February 3, 2017

Panelist, "Pathways to International Law," ABA International Section's Spring Meeting, New York, April 12, 2016

Panelist, "Pathways to International Law," ABA International Section's Spring Meeting, April 28, 2015

Panelist, "Women and Minorities: Willing Partners or Reluctant Allies?" July 15, 2014

Panelist, "Export Control Reform Level Set: Where Are We Now and Where Are We Headed?" Momentum Webinar, July 8, 2014

Panelist, "Doing Business in India: Anti-Corruption Best Practices," Momentum Webinar, May 29, 2014

## Law of the Ledger: Blockchain Law Blog Posts

- "Money Laundering and High-Value Art: Treasury's Study Discusses Financial Crimes and NFTs," March 2, 2022

## Events

Advanced Venture Capital 2019  
Practising Law Institute  
10.29.2019

Women and Minorities: Willing Partners or Reluctant Allies?  
07.15.2014

Doing Business in India: Anti-Corruption Best Practices  
05.29.2014

## Memberships

Member, International Section, American Bar Association (ABA)

Member, International Anti-Corruption Committee, ABA

Member, India Committee, ABA

## Podcasts & Webinars

Nota Bene Podcast Episode 131: U.S. Sanctions Against Russia: Valid or Ineffective Economic Policy? with Fatema Merchant and Mario Torrico  
06.23.2021

Third Thursday Emerging Company Webinar Series: What the Next Four Years of Trade Regulation will Bring for Emerging Companies  
12.17.2020

Nota Bene Episode 7: India's Emergence in the Global Market with Fatema Merchant  
10.17.2018

## Practices

White Collar Defense and Corporate Investigations

Governmental Practice

CFIUS: Foreign Investment in the U.S.

Foreign Corrupt Practices Act (FCPA)

International Trade and Investment

Organizational Integrity Group

International Reach

South Asia

Litigation

Securities Enforcement

ESG and Sustainability  
Exports and Export-Related Controls  
Government Contracts  
Sanctions and Anti-Money Laundering  
Supply Chain Management

## Industries

Blockchain  
Blockchain and Fintech  
Cannabis  
CFIUS: Foreign Investment in the U.S.  
Education  
ESG and Sustainability  
Fintech  
Life Sciences  
Space & Satellite

## Education

J.D., American University Washington College of Law, 2008  
B.A., Al-Jamea-Tus-Saifiyah Arabic Academy, 2003

## Admissions

District of Columbia  
Texas

## Languages

Arabic  
Gujarati  
Urdu