

ENFORCEMENT INFORMATION FOR JANUARY 23, 2014

Information concerning the civil penalties process is discussed in OFAC regulations governing the various sanctions programs and in 31 CFR part 501. On November 9, 2009, OFAC published as Appendix A to part 501 new Economic Sanctions Enforcement Guidelines. See 31 C.F.R. part 501, app. A. The Economic Sanctions Enforcement Guidelines, as well as recent final civil penalties and enforcement information, can be found on OFAC's Web site at <http://www.treasury.gov/resource-center/sanctions/CivPen/Pages/civpen-index2.aspx>.

ENTITIES – 31 CFR 501.805(d)(1)(i)

Clearstream Banking, S.A. Settles Potential Liability for Apparent Violations of Iranian Sanctions: Clearstream Banking, S.A. (“Clearstream”), Luxembourg, has agreed to remit \$151,902,000 to settle potential civil liability for apparent violations of the Iranian Transactions and Sanctions Regulations (“ITSR”), 31 C.F.R. part 560.¹ From at least December 2007 through June 2008, Clearstream maintained an account at a U.S. financial institution in New York through which the Central Bank of Iran (“CBI”) maintained a beneficial ownership interest in 26 securities, with a nominal value of \$2.813 billion, held in custody at a central securities depository in the United States. Due to the omnibus nature of Clearstream’s account in New York, the CBI’s beneficial ownership interest in the 26 securities was not transparent to the U.S. financial institution. Clearstream, as intermediary, served as the channel through which the CBI held an interest in these securities. Clearstream exported custody and related services from the United States to the CBI in apparent violation of the ITSR.

OFAC officials met with Clearstream in late 2007 and early 2008 to discuss Clearstream’s business with Iranian clients, including implementing its decision to terminate this business. In February 2008, Clearstream, acting on instructions from the CBI, transferred the securities entitlements free-of-payment (“FOP”) from the CBI’s account with Clearstream to a European bank’s newly-opened custody account at Clearstream, an account which allowed the CBI to continue holding its interest in the securities through Clearstream. As a result of the FOP transfers, the record ownership of the securities entitlements on Clearstream’s books changed, but the beneficial ownership did not, resulting in the CBI’s interest being buried one layer deeper in the custodial chain. Following the FOP transfers, the ultimate place of custody for the securities remained the United States, and the CBI’s interest continued to be held through Clearstream’s omnibus account in New York. Given the totality of facts and circumstances surrounding the transfers, Clearstream had reason to know that the CBI was retaining beneficial ownership of the securities. Clearstream’s exportation of services from the United States to the CBI continued after the securities entitlements were moved to the European bank’s custody account.

¹ On October 22, 2012, OFAC changed the heading of 31 C.F.R. part 560 from the Iranian Transactions Regulations to the Iranian Transactions and Sanctions Regulations (“ITSR”), amended the renamed ITSR, and reissued them in their entirety. See 77 Fed. Reg. 64,664 (Oct. 22, 2012). For the sake of clarity, all references herein to the ITSR shall mean the regulations in 31 C.F.R. part 560 in effect at the time of the activity, regardless of whether such activity occurred before or after the regulations were renamed.

OFAC has determined that Clearstream did not voluntarily self-disclose the apparent violations, and that the apparent violations were reckless and constitute an egregious case. The total base penalty amount for the apparent violations was \$5.626 billion.

The settlement amount reflects OFAC's consideration of facts and circumstances pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. The following were considered aggravating factors: Clearstream acted recklessly in failing to perform sufficient due diligence transferring the securities entitlements FOP to another financial institution's custody account with Clearstream in February 2008; several Clearstream employees, including at least one supervisor and a senior executive, had reason to know that the CBI's beneficial ownership of the securities would not change following their transfer; and Clearstream's actions caused significant harm to U.S. sanctions program objectives. This enforcement action highlights the particular sanctions risks faced by intermediaries, custodians, and other firms operating in the international securities markets. The following were considered mitigating factors: Clearstream has undertaken significant remedial action by enhancing its controls to prevent a recurrence of the apparent violations and has adopted new best practices in an effort to position itself as an industry leader in sanctions compliance standards; Clearstream demonstrated substantial cooperation with OFAC during its investigation of the apparent violations, including by signing a statute of limitations tolling agreement; Clearstream has not been the subject of an OFAC enforcement action in the five years preceding the earliest date of the transactions giving rise to the apparent violations; and, OFAC considered the totality of the circumstances to ensure that the enforcement response was proportionate to the nature of the apparent violations.

For more information regarding OFAC regulations, please visit: <http://www.treasury.gov/ofac>.