

## **ENFORCEMENT INFORMATION FOR SEPTEMBER 17, 2019**

**Information concerning the civil penalties process is discussed in OFAC regulations governing the various sanctions programs and in 31 C.F.R. Part 501. On November 9, 2009, OFAC published as Appendix A to part 501 Economic Sanctions Enforcement Guidelines. See 74 Fed. Reg. 57,593 (Nov. 9, 2009). The Economic Sanctions Enforcement Guidelines, as well as recent final civil penalties and enforcement information, can be found on OFAC's website at <http://www.treasury.gov/ofac/enforcement>.**

### **ENTITIES – 31 C.F.R. 501.805(d)(1)(i)**

**British Arab Commercial Bank plc Settles Potential Liability for Apparent Violations of the Sudanese Sanctions Regulations:** British Arab Commercial Bank plc (BACB), a commercial bank located in London, the United Kingdom (UK), with no offices, business or presence under U.S. jurisdiction, processed 72 apparent violations of the Sudanese Sanctions Regulations (SSR) (previously found at 31 C.F.R. Part 538) totaling \$190,700,000. The U.S. Treasury Department's Office of Foreign Assets Control (OFAC) has determined that BACB did not make a voluntary self-disclosure of the apparent violations, and that these apparent violations constitute an egregious case. The total base penalty amount for the apparent violations was \$381,400,000. In consultation with BACB's domestic regulator, the United Kingdom's Prudential Regulation Authority, OFAC determined that the Bank's operating capacity was such that it would face disproportionate impact if required to pay the proposed penalty of \$228,840,000. As a result, and in view of BACB's operating capacity, the fact that it has represented that it ceased the conduct described below, its entering into a settlement agreement, and its maintenance of the compliance commitments articulated in the settlement agreement, BACB will remit \$4,000,000 to settle these potential violations and its obligations to pay OFAC the remainder of the proposed penalty amount shall be suspended.

Between September 21, 2010 and August 27, 2014, BACB processed 72 bulk funding payments totaling \$190,700,000 related to Sudan. During this time, BACB operated USD accounts on behalf of at least seven Sudanese financial institutions, including the Central Bank of Sudan. BACB actively solicited USD business from Sudanese banks, and processed these USD transactions via an internal book transfer process involving a nostro account maintained at a foreign bank (Bank A). These transactions were not processed to, or through the U.S. financial system. The process to fund its USD nostro account at Bank B, however, did involve transactions processed to or through U.S. financial institutions in apparent violation of U.S. economic sanctions administered and enforced by OFAC which prohibited U.S. persons, including U.S. financial institutions, from processing such transactions.

Specifically, BACB established a USD nostro account in 2006 with a non-U.S. financial institution located in a country that imports Sudanese-origin oil for the stated purpose of facilitating payments involving Sudan. BACB funded this nostro account by routing large, periodic, USD-denominated wire transfers into the account (i.e. bulk funding) from non-U.S. financial institutions in Europe. The non-U.S. financial institutions in Europe then passed the USD-denominated transfers through banks in the United States for further credit to the USD nostro at the non-U.S. financial institution. Once the funds arrived in BACB's USD nostro at this institution, BACB instructed the institution to process individual payments (i.e. third-party payments) involving a variety of Sudanese parties, including Sudanese financial institutions. OFAC's analysis of the transactional data confirmed a pattern of the bulk funding transactions, which were processed through the United States, corresponding to the third-party payments, which were not processed through the United States. Several BACB employees, including certain managers and a member of the compliance team, were aware of this funding arrangement. They

believed, however, all Sudanese transactions, including the inflow of USD to its nostro account at the non-U.S. financial institution would be processed outside the United States via funding from the BACB accounts in Europe, and understood how it would attempt to circumvent the U.S. sanctions regulations.

For more information regarding the conduct that led to the Apparent Violations, please see the Settlement Agreement between OFAC and the British Arab Commercial Bank plc [here](#).

The settlement amount reflects OFAC's consideration of the following 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: BACB appears to have demonstrated at least a reckless disregard for U.S. sanctions regulations when it employed a years-long practice of processing Sudan-related transactions through the United States in a manner that obfuscated the underlying purpose from U.S. financial institutions; BACB appears to have ignored warning signs that reasonably should have put the bank on notice that its conduct constituted a violation of U.S. law (for example, the bank's knowledge of U.S. authorities' sanctions-related enforcement actions involving other European banks engaging in similar conduct); several members of the bank's senior management were aware of and involved in the conduct giving rise to the apparent violations; BACB conferred substantial economic benefit to persons in Sudan and caused significant harm to the integrity of a U.S. sanctions program and its associated policy objectives by processing USD transactions to or through the United States in apparent violation of the SSR for a number of years; and BACB is a commercially sophisticated financial institution.

The following were considered mitigating factors: OFAC has not issued BACB a Penalty Notice or Finding of Violation in the five years preceding the earliest date of the transactions giving rise to the apparent violations; BACB provided significant investigative leads regarding the foreign financial institution that hosted the BACB nostro account; BACB fully cooperated with OFAC's investigation into these apparent violations, including by entering into a statute of limitations tolling agreement and agreeing to extend the agreement; and BACB has also represented to OFAC that it does not have a strong financial position to withstand a substantial civil money penalty. OFAC determined, in consultation with BACB's local regulator that BACB's operating capacity was such that the proposed penalty of \$228,840,000 was inappropriate, and that the proposed civil monetary penalty of \$4,000,000, while significant given the bank's operating capacity, was more appropriate. One additional mitigating factor included the fact that BACB represented to OFAC that it undertook several remedial measures in response to the apparent violations, including: exiting the Sudanese market in late 2014; hiring new senior management (including a new Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Risk Officer, Chief Controls Officer, Chief Compliance Officer, and in-house General Counsel); and implementing improvements to the compliance program, including by centralizing its team and updating its processes and procedures pertaining to Know Your Customer, anti-money laundering, and sanctions. BACB also agreed to undertake certain compliance commitments to ensure that its OFAC sanctions compliance program remains strong over the next several years.

This enforcement action draws attention to, and highlights the risks surrounding, the use of complex payment structures, including bulk funding arrangements, to process payments on behalf of, or otherwise involving, U.S. sanctions targets. OFAC remains committed to ensuring that such structures do not represent an avenue for U.S. sanctions targets to access indirectly the U.S. financial system, realizing that bulk funding is an important part of correspondent banking practice.

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