

ENFORCEMENT INFORMATION FOR February 8, 2016

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 Web site at <http://www.treasury.gov/ofac/enforcement>.

ENTITIES – 31 C.F.R. 501.805(d)(1)(i)

Barclays Bank Plc Settles Potential Civil Liability for Apparent Violations of the Zimbabwe Sanctions Regulations: Barclays Bank Plc (“Barclays”), a financial institution headquartered in London, United Kingdom, has agreed to remit \$2,485,890 to settle its potential civil liability for 159 apparent violations of § 541.201 of the Zimbabwe Sanctions Regulations, 31 C.F.R. part 541 (ZSR). From July 2008 to September 2013, Barclays processed 159 transactions totaling approximately \$3,375,617 to or through financial institutions located in the United States – including Barclays’ New York branch (“Barclays NY”) – for or on behalf of corporate customers of Barclays Bank of Zimbabwe Limited (“BBZ”) that were owned 50 percent or more, directly or indirectly, by a person identified on the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) List of Specially Designated Nationals and Blocked Persons (the “SDN List”).

OFAC has determined that Barclays did not voluntarily self-disclose the apparent violations to OFAC, and that the apparent violations constitute a non-egregious case. The total base penalty amount for the apparent violations was \$5,029,000.

Beginning in or around 2005, local restrictions precluded Barclays from implementing measures for complying with economic sanctions, including sanctions screening, in Zimbabwe. Consequently, beginning in 2006, the bank’s operations in the United Kingdom (“Barclays UK”) began screening cross-border transactions involving BBZ and/or BBZ’s customers. Under the new procedure, Barclays UK relied on BBZ’s electronic customer records and documentation to perform sanctions-related customer screening and transaction screening involving BBZ.

In 2006, BBZ implemented an electronic customer system that allowed the bank to input and maintain customer information in an electronic format. The system had several limitations, however, that prevented BBZ from accurately capturing and/or screening beneficial ownership information for its corporate customers. For example, when BBZ introduced the system, it was capable of capturing information related to a single primary account party (*i.e.*, BBZ’s customer) but was initially unable to include data for a related party – such as the ultimate beneficial owner of the customer – in the electronic system even if the information appeared in the paper file for a customer. Barclays identified this shortcoming in 2007 and attempted to address the issue, but the changes did not allow BBZ to effectively capture or otherwise identify all of its customers’ beneficial owners in the bank’s electronic system. In 2009, Barclays again attempted to correct the shortcoming by building a “work-around” that the bank stated was ultimately cumbersome to implement and little used.

Barclays' Group Anti-Money Laundering (AML) policies in place during the period in which the apparent violations occurred required the bank's operations – including BBZ – to identify the ultimate beneficial owners of corporate customers. BBZ's Know Your Customer (KYC) procedures were ambiguous and difficult to follow with respect to the requirement to identify related parties and/or beneficial owners of corporate customers. As a result, the bank failed to obtain information on ultimate beneficial owners for a portion of BBZ's corporate customers in its paper files and/or failed to upload this information into BBZ's electronic customer system. Due to BBZ's failure to include updated beneficial ownership information in its electronic customer files (which, as noted above, was utilized by Barclays UK for OFAC sanctions compliance screening), Barclays UK was unaware of, and incapable of screening, this information for certain BBZ customers.

On July 25, 2008, OFAC designated Industrial Development Corporation of Zimbabwe (IDCZ) pursuant to Executive Order 13469 of July 25, 2008, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe." At the time of OFAC's designation, BBZ maintained U.S. Dollar ("USD")-denominated customer relationships for three corporate customers that were owned, 50 percent or more, directly or indirectly, by IDCZ and were also therefore blocked persons pursuant to OFAC's Guidance on Entities Owned by Persons Whose Property and Interests in Property are Blocked. Neither BBZ nor Barclays UK identified these customers as blocked persons at that time due to the aforementioned issues, however, and continued to process USD transactions for or on their behalf to or through the United States in apparent violation of the ZSR.

By no later than 2011, Barclays became aware of weaknesses and shortcomings in relation to certain of BBZ's KYC practices, including the bank's inability to capture data for related parties (*i.e.*, beneficial owners) in its customer files. As part of a remediation effort in 2011, Barclays targeted a number of bank operation centers in Africa, including BBZ, in order to determine whether those locations were fully implementing the bank's Group AML policies. As part of these efforts, BBZ updated the paper files for one of the customer accounts to reflect IDCZ's beneficial ownership of the company, but the bank failed to include this information in the electronic customer system (which Barclays UK utilized and relied upon to conduct sanctions-related screening).

Beginning in October 2012, U.S. financial institutions blocked four funds transfers that Barclays NY processed on behalf of one of the three corporate entities beneficially owned by IDCZ located in Harare, Zimbabwe. Three of the funds transfers were originated by the aforementioned company's account with BBZ, whereas the fourth was destined for an account maintained by the company at a third-country financial institution unaffiliated with Barclays. Upon receiving notification that a transaction it processed had been blocked by another U.S. financial institution, Barclays NY conducted an internal investigation and determined that BBZ's customer was owned, indirectly, 50 percent or more by IDCZ, an entity on OFAC's SDN List. Although Barclays NY conducted an investigation that confirmed this information, the bank failed to properly upload identifying information for the blocked person into its sanctions screening filter in a timely or accurate manner and subsequently processed three additional transactions involving the same party between November 2012 and September 2013 – all of which were blocked by other U.S. financial institutions.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors Affecting Administrative Action under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. OFAC found the following to be aggravating factors in this case: although Barclays attempted to comply with OFAC sanctions despite various constraints imposed by the local Zimbabwean authorities, Barclays failed to implement adequate controls to prevent the apparent violations from occurring despite numerous warning signs that its conduct could lead to a violation of U.S. sanctions laws; multiple business lines and personnel within Barclays, including supervisory and management staff in the bank's Compliance and Audit functions, had actual knowledge or reason to know of the conduct that led to the apparent violations (including the bank's awareness of the limitations of the systems used by BBZ with respect to capturing full information concerning the beneficial ownership of certain of its corporate customers); Barclays processed 159 funds transfers totaling approximately \$3,375,617 that conferred economic benefit to, and provided indirect access to the U.S. financial system for, blocked persons, causing harm to the Zimbabwe sanctions program and its associated policy objectives; Barclays is a large and commercially sophisticated international financial institution; and Barclays' compliance program was inadequate to identify BBZ's customers as blocked persons and/or prevent the apparent violations from occurring.

OFAC considered the following to be mitigating factors: Barclays has not received a penalty notice or Finding of Violation in the five years preceding the earliest date of the transactions giving rise to the apparent violations; Barclays took remedial action in response to the apparent violations; and Barclays substantially cooperated with OFAC's investigation by submitting detailed and organized information, and by executing a statute of limitations tolling agreement and an extension to the agreement. OFAC also considered the fact that the prohibited entities were not publicly identified or designated and included on the SDN List at the time that Barclays processed transactions for or on their behalf.

This settlement demonstrates that an enforcement response may be particularly appropriate, even when an individual or entity is not included on the SDN List, in response to apparent violations in which: (a) the apparent violator is an institution that maintains direct customer relationships for entities that are beneficially owned, directly or indirectly, 50 percent or more by one or more SDNs, and is processing or routing transactions to or through the United States on behalf of such customers; (b) the institution's own records clearly demonstrate or otherwise clarify the SDN ownership of the customer, but the institution failed to act on the information; and/or (c) information concerning the SDN ownership of the customer is publicly available and allows intermediary banks to identify and block such transactions.

This enforcement action highlights the importance for institutions with operations in countries with a significant presence of persons (individuals and entities) on the SDN List to take appropriate measures to ensure compliance with U.S. economic sanctions when processing transactions for or on behalf of their customers to, through, or within the United States.

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