

## MEMORANDUM OF UNDERSTANDING

### U.S. Department of the Treasury, Office of Foreign Assets Control Vermont Department of Banking, Insurance, Securities and Health Care Administration

#### I. Background

##### A. Purpose

This Memorandum of Understanding (“MOU”) sets forth procedures for the exchange of specified information between the Vermont Department of Banking, Insurance, Securities and Health Care Administration (“State Agency”) and the Office of Foreign Assets Control (“OFAC”), an office within the U.S. Department of the Treasury (collectively, the “Agencies”).

State Agency has examination and enforcement authority for the financial condition, safe and sound operation, and compliance with laws and regulations of the banking organizations, credit unions, and other financial organizations it supervises pursuant to Parts 2, 5 and 6 of Title 8, Vermont Statutes Annotated. Under delegated authority from the Secretary of the Treasury, OFAC furthers U.S. foreign policy and national security goals by administering and enforcing economic and trade sanctions against targeted foreign countries, groups, and persons subject to 31 C.F.R. Ch. V, Office of Foreign Assets Control Regulations.<sup>1</sup>

Information to be shared under this MOU includes information about OFAC’s administration and enforcement of economic sanctions, information about compliance with OFAC requirements by financial organizations supervised by State Agency, and to the extent permitted by law, including the Right to Financial Privacy Act (12 U.S.C. 3401, *et seq.*), information about possible violations of OFAC sanctions by financial organizations supervised by State Agency.

The sharing of information under this MOU is intended to help OFAC in fulfilling its role as administrator and enforcer of economic sanctions and to assist State Agency in fulfilling its roles as banking organization supervisors.

##### B. Assessment of MOU Operation

The Agencies shall meet, as necessary, to discuss the operation of the MOU and to identify any issues or adjustments that may be required. During such meetings, OFAC will provide an update on how the information provided by State Agency under this MOU has been used or applied by OFAC. The Agencies will also evaluate the effectiveness of the information sharing in meeting the goals outlined above.

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<sup>1</sup> See 31 C.F.R. Part 501.

C. OFAC maintains a toll-free telephone hotline to address issues relating to interdicted items and general compliance questions and will make that resource available to State Agency examiners as well as to the institutions that they regulate.

## **II. Provision of Information to OFAC by State Agency**

### **A. Unreported Violations of Sanctions.**

State Agency will notify OFAC promptly of any apparent, unreported sanctions violations discovered in the course of an examination to the extent permitted by law, including the Right to Financial Privacy Act. State Agency will direct financial organizations it supervises to provide information directly to OFAC as required by OFAC regulations.

### **B. Other Examination Findings.**

- 1) When State Agency discovers significant deficiencies in a financial organization's policies, procedures, and processes for ensuring compliance with OFAC regulations, State Agency will notify OFAC of such deficiencies to the extent permitted by law, including the Right to Financial Privacy Act. For purposes of this MOU, a significant deficiency means: a systemic or pervasive compliance deficiency or reporting and recordkeeping violation, including a situation where a financial organization fails to respond to supervisory warnings concerning OFAC compliance deficiencies or systemic violations.
- 2) In cases where OFAC has initiated a review of a financial organization based on deficiencies identified in section II.B.1., or other evidence within OFAC's investigative purview, State Agency will provide to OFAC, upon OFAC's written request, information relating to State Agency's examination or supervisory findings regarding a financial organization's policies, procedures, and processes for ensuring compliance with OFAC regulations, to the extent permitted by law, including the Right to Financial Privacy Act. Upon written request, OFAC may obtain further or additional supervisory information (if available) relating to the above information.

## **III. Provision of Information to State Agency by OFAC**

To the extent provided by law, including the Right to Financial Privacy Act:

A. After OFAC becomes aware of an apparent sanctions violation by a financial organization supervised by State Agency, OFAC will promptly provide State Agency with information about the apparent violation. OFAC will also provide a copy of any correspondence between OFAC and the organization relating to apparent sanctions violations by the organization or to a pending or possible enforcement action against the organization.

B. OFAC will also provide to State Agency notice of and appropriate documentation relating to the following:

- 1) Notice prior to any on-site investigation or audit of a financial organization and the results of such investigation or audit, *e.g.*, an investigation or audit report, as soon as practicable after completion of the investigation or audit;
- 2) Notice that a financial organization is undergoing an OFAC evaluation;
- 3) OFAC's evaluation of an apparent violation by a financial organization;
- 4) OFAC's enforcement determinations, including any decision to close an investigation without taking enforcement action, the issuance of a pre-penalty notice, or the issuance of a penalty notice;
- 5) Notice prior to making public any enforcement action;
- 6) Upon written request, State Agency may obtain further or additional information (if available) relating to the above information.

#### **IV. Restrictions on Disclosure and Use of Information**

- A. 1) State Agency retains ownership of all information provided to OFAC under this MOU. OFAC retains ownership of all information provided to State Agency under this MOU. All information State Agency provides to OFAC under this MOU shall be deemed confidential supervisory information and is subject to that State Agency's laws, regulations and agreements governing the disclosure of such information. OFAC will use information provided by State Agency under this MOU only in accordance with the restrictions applicable to information shared by State Agency under those laws, regulations and agreements.<sup>2</sup> OFAC will rely on State Agency to specifically identify any disclosures or privacy restrictions applicable to information it shares with OFAC. The information provided by OFAC to State Agency is intended for State Agency's use in the supervision of the institutions that it regulates and is not for further disclosure outside the course of its supervisory activities. Neither OFAC nor State Agency will make public use of any confidential information provided by the other under this MOU without the prior written approval of the other.
- 2) OFAC and State Agency will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of the information received under this MOU and information derived therefrom.

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2. See 8 V.S.A. § 23, 8 V.S.A. §11502, and 8 V.S.A. §30602.

- 3) OFAC will notify State Agency in writing of any legally enforceable demand for information provided by State Agency under this MOU, prior to complying with the demand. OFAC will assert all such legal exemptions, protections or privileges on State Agency's behalf as State Agency may request. Unless subject to a court order or other compulsory process, OFAC may not grant any demand or request for the information without prior written notice to, and approval of, State Agency.
- 4) State Agency will notify OFAC in writing of any legally enforceable demand for information provided by OFAC under this MOU, prior to complying with the demand. State Agency will assert all such legal exemptions, protections or privileges on OFAC's behalf as OFAC may request. Unless subject to a court order or other compulsory process, State Agency may not grant any demand or request for the information without prior written notice to, and approval of, OFAC.
- 5) OFAC and State Agency expressly reserve all evidentiary privileges and protections applicable to any information provided to one another under this MOU.

- B. Disclosure to OFAC of confidential supervisory information that is jointly held by State Agency and a Federal Banking Agency ("FBA") shall be subject to the FBA's approval.

## **V. Civil Enforcement**

No provision of this MOU is intended to affect the respective enforcement authorities of State Agency, OFAC, or the FBAs.

## **VI. Term of MOU**

This MOU is effective upon signature by both State Agency and OFAC and will remain in effect until amended or replaced by signed, mutual agreement of both parties.

This MOU may be terminated by State Agency or OFAC upon 30 days written notice.

This MOU may be executed in counterparts.

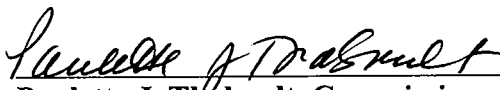
IN WITNESS WHEREOF, each of the parties hereto has caused this MOU to be executed by its duly authorized officer on the date indicated below.

**OFFICE OF FOREIGN ASSETS CONTROL**

By:  \_\_\_\_\_  
Adam J. Szubik, Director

Dated: 11/8/07

**DEPARTMENT OF BANKING, INSURANCE, SECURITIES AND HEALTH CARE  
ADMINISTRATION**

By:  \_\_\_\_\_  
Paulette J. Thabault, Commissioner

Dated: 10/16/07