

PARTNERSHIP AGREEMENT

BETWEEN

**THE OFFICE OF FOREIGN ASSETS CONTROL
OF THE U.S. DEPARTMENT OF THE TREASURY**

AND

DELAWARE DEPARTMENT OF JUSTICE

The Office of Foreign Assets Control of the U.S. Department of the Treasury (hereinafter referred to as "OFAC" or "Department"), and the Delaware Department of Justice (hereinafter referred to as "Delaware DOJ") (collectively referred to as "the agencies" or "the parties") recognize the value of establishing a collaborative relationship to promote compliance with laws of common concern among the regulated community in the State of Delaware.

The agencies are forming this partnership to more effectively and efficiently communicate and cooperate on areas of common interest, including cross training staff, providing Delaware DOJ with compliance-related information towards the goal of protecting American national interests by supporting compliance with U.S. trade and economic sanctions laws, supporting litigation against entities placed on OFAC's List of Specially Designated Nationals and Blocked Persons ("SDN List"), and conducting joint investigations and sharing related information as appropriate. With the specific and mutual goals of providing clear, accurate, and easy-to-access outreach to businesses, sister agencies, and the general public, and of sharing resources and enhancing enforcement by conducting coordinated investigations and sharing information consistent with applicable law, the parties agree to enter into this partnership.

THEREFORE, IT IS MUTUALLY AGREED THAT:

The agencies recognize the value of establishing a collaborative relationship to promote compliance with laws of common concern in the State of Delaware. The agencies are forming this partnership to more effectively and efficiently communicate and cooperate on areas of common interest, including sharing training materials, providing compliance-related information, conducting coordinated investigations, and sharing information as appropriate.

This Memorandum of Understanding (MOU) is intended to memorialize this understanding between OFAC and Delaware DOJ. This MOU is a voluntary agreement that expresses the good-faith intentions of OFAC and Delaware DOJ; it is not intended to be legally binding, does not create any contractual obligations, and is not enforceable by any party. This MOU does not obligate and will not result in an exchange of funds, personnel, property, services, or any kind of financial commitment. This MOU outlines procedures to be followed by both OFAC and Delaware DOJ in working together to address the need for sharing information, conducting joint investigations, cross training staff, and conducting outreach between OFAC and Delaware DOJ.

Agency Responsibilities

OFAC administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or economy of the United States. OFAC acts under Presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under United States jurisdiction.

As relevant to this MOU, Delaware DOJ is responsible for providing legal advice, legal counsel, and legal services to State of Delaware administrative offices, agencies, departments, boards, commissions, and officers concerning any matter arising in connection with the exercising of their official powers or duties; investigating matters involving the public peace, safety, and justice; and having charge of all criminal proceedings within the State of Delaware. As a function of the State of Delaware Constitution and its organic statutes, Delaware DOJ also has the ability to exercise certain independent law enforcement functions.

With the specific and mutual goals of providing clear, accurate, and easy-to-access outreach to Delaware DOJ for investigations and litigation, of training Delaware DOJ and State of Delaware employees on the conduct of investigations, and of sharing resources and enhancing enforcement by conducting joint investigations and sharing information, the parties agree to enter into this partnership.

The parties agree as follows:

I. Purpose

The purpose of the MOU is to maximize and improve compliance with and enforcement of the laws administered by OFAC and by Delaware DOJ. This agreement will also encourage enhanced law enforcement and greater coordination between the agencies through sharing information and conducting joint investigations, training, and outreach.

II. Provisions

The parties to this MOU agree as follows:

A. Points of Contacts (POCs)

- The agencies will designate a POC responsible for coordinating the partnership activities. The agencies will notify each other in the event of the separation or long-term absence of their contact persons.
- The agencies will designate a representative to meet annually or as otherwise needed to review areas of mutual concern and the terms and conditions of the partnership.

- POC designees:

Deputy Attorney General, Delaware Department of Justice
Section Chief, Enforcement Division, Office of Foreign Assets Control
Section Chief, Global Targeting Division, Office of Foreign Assets Control
Attorney-Advisor, Chief Counsel-Foreign Assets Control

B. Enforcement

- The agencies may conduct joint investigations if appropriate, or if opportunity provides.
- The agencies may coordinate their respective enforcement activities and assist each other with enforcement, where appropriate and to the extent allowable under law. Training will be provided when appropriate to Delaware DOJ personnel or OFAC personnel
- The agencies will make referrals of potential violations of each other's statutes, where appropriate.

C. Information

- The agencies agree to exchange information on laws and regulations of common concern to the agencies, to the extent practicable.

The agencies will establish a methodology for exchanging investigative leads, complaints, information in support of investigations, and referrals of possible violations, to the extent allowable by law or policy. Where appropriate, the agencies will exchange investigative files. The decision to exchange investigative files in a specific matter will be the prerogative of the agency holding the files. The parties commit to open communications regarding any decision to deny access to an investigative file by providing the other agency the basis for this decision.

- The agencies will establish a methodology for the allocation of any assets belonging to limited liability entities in the State of Delaware whose certificates of incorporation or certificates of formation are revoked by Delaware courts. This methodology will include notice to OFAC and a system for establishing receiverships acceptable to both parties.

D. Training

- The agencies agree to cross train investigators and other staff no less than once per calendar year, subject to agency resources. Joint training will educate staff members of both agencies about the laws and regulations enforced by both, and to discuss issues of common concern.
- The agencies will exchange information related to policy or regulatory changes to State or Federal laws, to the extent permissible.

III. Effect of MOU Agreement

- This MOU agreement does not authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligations.
- By entering into this partnership, the agencies do not imply an endorsement or promotion by either agency of the policies, programs, or services of the other.
- Nothing in this MOU agreement is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory or regulatory functions.
- This MOU agreement is not intended to be legally binding and does not confer any rights on any private person.
- This MOU agreement is an internal government agreement and is not intended to confer any rights against the United States, its agencies, or its officers upon any private person.
- Nothing in this MOU agreement will be interpreted as limiting, superseding, or otherwise affecting the agencies' normal operations or decisions in carrying out their statutory or regulatory duties, or duties under any Executive Order. This MOU agreement also does not limit or restrict the parties from participating in similar activities or arrangements with other entities.
- This agreement will be executed in full compliance with the Privacy Act of 1974, the Freedom of Information Act, the Federal Records Act, the Trade Secrets Act, and any other applicable federal laws and state laws including Delaware's Freedom of Information Act.
- This MOU agreement contains all the terms and conditions agreed upon by the agencies concerning the subject matter of the agreement. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or be binding upon the agencies. This agreement is not intended to confer any right upon any private person or other third party.

IV. Exchange of Information

- To the extent permitted by law, the agencies understand that in order to effectuate the purposes and provisions of this MOU, it will be necessary, from time to time, to exchange information, some of which may be considered protected. It is the policy of each of the parties to cooperate with other government agencies to the fullest extent possible under the law, subject to the general limitation that any such cooperation must be consistent with its own statutory obligations and enforcement efforts. It is the view of the parties that an exchange of information in which both agencies are proceeding with a common legal interest is to their mutual benefit. The agencies to this MOU agreement recognize the importance of being able to provide information to other law enforcement

bodies without waiving the privilege of otherwise protected material or make a public disclosure.

- It is the policy of OFAC and Delaware DOJ to cooperate with other government agencies to the fullest extent possible under the law, subject to the general limitation that any such cooperation must be consistent with the OFAC's and Delaware DOJ's own statutory obligations and enforcement efforts. It is OFAC's and Delaware DOJ's view that an exchange of information in cases in which both entities are proceeding on basically the same matter is to our mutual benefit. There is a need for OFAC and Delaware DOJ to provide information to other law enforcement bodies without making a public disclosure.
- In consideration of these concerns, and subject to any applicable laws and regulations regarding the handling of such information, the agencies agree as follows:
 1. The agencies agree to exchange information on laws and regulations of common concern and interest, to the extent practicable and allowable by law and policy.
 2. The parties will be available to discuss and provide information to one another on topics of mutual interest, overlapping jurisdiction, or certain areas of expertise, when able.
 3. Exchange of information to one another pursuant to this MOU is not considered a public disclosure under the Freedom of Information Act, 5 U.S.C. § 552 or the Delaware Freedom of Information Act.
 4. Protected information means information that may be privileged or otherwise exempt from disclosure to the public or other unauthorized persons under federal and state laws. Protected information may include: the identity of persons who have given information to the agencies in confidence or under circumstances in which confidentiality can be implied; any employee statements in enforcement files that were obtained under these conditions; internal opinions, policy statements, memoranda, and recommendations of federal or state employees, including (but not limited to) investigators and supervisors; any records that would otherwise not be subject to disclosure under law as non-final, intra- or inter-agency documents; information or records covered by the attorney-client privilege and the attorney work-product privilege; personal information protected by any relevant law or regulation; individually identifiable health information; and confidential business information and trade secrets.
 5. When protected information is exchanged it will not be released to the public, or to any third party, without the express permission of the agency providing that information, except as required by law including, but not limited to, the Public Records Act, Chapter 239.001 NRS. Upon receipt of a public disclosure request, Delaware DOJ agrees to provide OFAC with notice of the request and an opportunity to pursue legal action to prevent the release of information.

6. When protected information is exchanged, it shall be used and accessed only for the limited purposes of carrying out activities pursuant to this agreement as described herein. The information shall not be duplicated or re-disclosed without the express written consent or authority of the agency providing the information (hereinafter the "donor agency"), a court order, or as required by law, including the Freedom of Information Act.
7. In the event that there is a public proceeding, such as a trial, in which certain records, such as protected information, may be used or testimony of OFAC's employees sought, OFAC requires that Delaware DOJ notify OFAC.
8. In the event that there is a public proceeding, such as a trial, in which certain records, such as protected information, may be used or testimony of Delaware DOJ employees sought, Delaware DOJ requires that OFAC notify Delaware DOJ.
9. Should either party receive a request or subpoena that would, fairly construed, seek production of privileged information that it received pursuant to this MOU agreement, the party receiving such a request or subpoena shall take reasonable measures, including but not limited to asserting the common interest privilege, to preclude or restrict the production of such information for ten (10) business days, and shall promptly notify the donor agency that such a request or subpoena has been received, so that the donor agency may file any appropriate objections or motions, or take any other appropriate steps, to preclude or condition the production of such information.
10. Neither party shall have authority to waive any applicable privilege or doctrine on behalf of the other party, nor shall any waiver of an applicable privilege or doctrine by the conduct of one party be construed to apply to the other party.
11. The agencies will notify one another, through the agency POC identified in this MOU, upon commencement of litigation, a hearing, or other proceeding that may involve the release, through subpoena, introduction of written evidence, or testimony, of information exchanged under this agreement.
12. For information security purposes, information (including paper-based documents and electronic information such as emails and CDs) exchanged pursuant to this MOU agreement remains the responsibility of the donor agency while in transit. The agencies agree to establish a communication protocol for notifying each agency's designated POC when information is sent to or received from that agency, including information on the form of the transfer and the media type and quantity (when appropriate). An agency expecting to receive information will notify the donor agency if the information is not received as of the next business date following the agreed upon delivery date.
13. For information security purposes, after an agency receives information from the donor agency, the donor agency retains no responsibility for any security incidents, inadvertent disclosure, or the physical and information technology safeguards in place for protecting that information by the agency that received it.

14. However, in the event that the agency receiving the information experiences a security incident or disaster that results in the suspected or confirmed inadvertent disclosure of the data exchanged pursuant to this MOU agreement, the agency experiencing the incident or disaster will send formal written electronic notification to the donor agency's designated contact person immediately within 3 days after detection of the incident or disaster. The written electronic notification will describe the security incident or disaster in detail including what data exchanged pursuant to this MOU agreement may have been inadvertently disclosed.

V. Dissemination of Factual Information

- The agencies agree to jointly disseminate outreach materials to the regulated community when appropriate. Any such dissemination may not be undertaken without prior notice of each party.
- All public materials bearing the U.S. Department of the Treasury or OFAC name, logo, or seal must be approved in advance by OFAC. Any such materials that include the opinions, results, findings, or interpretations of data arising from the results of activities carried out under the Agreement shall state that they are the responsibility of the party carrying out the activity and do not necessarily represent the opinions, interpretation, or policy of the other partner.

VI. Resolution of Disagreements

- Disputes arising under this Agreement will be resolved informally by discussions between Agency Points of Contact, or other officials designated by each agency.

VII. Period of Agreement

- This MOU agreement becomes effective upon the signing of both parties, and will continue unless terminated as hereafter provided. This agreement may be modified in writing by mutual consent of both agencies. The agreement may be cancelled by either party by giving thirty (30) days advance written notice prior to the date of termination. Renewal of the agreement may be accomplished by written agreement of the parties.

This agreement is effective as of the 2nd day of September __, 2020.

U.S. Department of the Treasury
Office of Foreign Assets Control

By: **Andrea M. Gacki**
Digitally signed by Andrea M. Gacki
Date: 2020.09.02 12:48:08 -04'00' 9/2/2020
Andrea Gacki Date
Director, Office of Foreign Assets Control

Delaware Department of
Justice

By: **Kathleen Jennings** 9/2/2020
Kathleen Jennings Date
Attorney General