



DEPARTMENT OF THE TREASURY
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Comtech Telecommunications Corp. and Comtech EF Data Corp. Settle Potential Civil Liability for Apparent Violations of the Sudanese Sanctions Regulations

Comtech Telecommunications Corp. (“Comtech”), based in Melville, New York, and its wholly owned subsidiary, Comtech EF Data Corp. (“EF Data”), headquartered in Tempe, Arizona, which sell advanced communications systems, software, and services, have agreed to pay \$894,111 to settle their potential civil liability for their sales and services to Sudan. These companies indirectly exported warranted satellite equipment and facilitated services and training to a government-owned entity in Sudan, despite OFAC’s Sudan sanctions program that prohibited such transactions at the time.

Description of the Apparent Violations and the Conduct Leading to the Apparent Violations

From on or about June 25, 2014 to on or about October 19, 2015, Comtech and EF Data appear to have violated the Sudanese Sanctions Regulations, 31 C.F.R. part 538 (SSR),¹ four times when they indirectly exported satellite equipment under warranty, facilitated ongoing telephone support for the equipment, and facilitated training with respect to the equipment, all despite knowing that the end-user for the equipment and services was the Sudan Civil Aviation Authority (SCAA) (these actions are referred to hereafter as the “Apparent Violations”).

On or about February 12, 2014, EF Data and Memotec, Inc. (“Memotec”), a wholly owned subsidiary of EF Data located in Montreal, Canada, prepared a price quote for satellite equipment under warranty, ongoing telephone support, and technical training for a Canadian satellite communications equipment manufacturer (the “Canadian Company”). The sales agreement later listed the ultimate destination of the equipment as Sudan. EF Data’s sales agreement also included the provision that Memotec would provide telephone support and technical training services in connection with the equipment.

One month prior to shipping the equipment to the Canadian Company, EF Data’s Credit Manager alerted other senior EF Data managers that they might encounter export issues because the end-user of the equipment was located in Sudan. Shortly thereafter, EF Data’s former Director of Logistics and Export Compliance Official received a document from the Canadian Company indicating the shipment’s ultimate consignee was SCAA. Immediately prior to shipping the equipment to Canada, EF Data received yet another warning from its third-party screening software alerting EF Data to OFAC export restrictions for Sudan. After learning SCAA was the equipment’s ultimate end-user

¹ Effective October 12, 2017, pursuant to Executive Order 13761 (as amended by Executive Order 13804), U.S. persons are no longer prohibited from engaging in transactions that were previously prohibited solely under the SSR. Consistent with the revocation of these sanctions, OFAC removed the SSR from the Code of Federal Regulations on June 29, 2018. However, the revocation of these sanctions does not affect past, present, or future OFAC enforcement investigations or actions related to any apparent violations of the SSR arising from activities that occurred prior to October 12, 2017.

in Sudan, EF Data's former Director of Logistics and Export Compliance Official attempted to transfer OFAC compliance obligations from EF Data to the Canadian Company.

Despite these multiple warning signs, EF Data shipped the satellite equipment to the Canadian Company in two shipments, one on June 25, 2014, and a second on June 27, 2014. The Canadian Company then integrated the satellite equipment into an Aeronautical V-SAT Network (the "V-SAT Network"), a system of satellite-enabled earth-based telecommunications stations. On July 31, 2014, the Canadian Company shipped the V-SAT Network to SCAA at the Khartoum Airport for use at 14 locations in Sudan. From September 29, 2014, to October 2, 2014, Memotec trained seven SCAA employees on the equipment's use in Montreal, Canada. Taken together, the volume of business and total amount of payments underlying the Apparent Violations was not significant compared to the total volume of transactions undertaken by Comtech or EF Data on an annual basis.

After sending a disclosure of the Apparent Violations to OFAC on October 24, 2014, following a self-assessment of export transactions and the collection of information related to this matter, the Senior Vice President of Comtech and President of EF Data sent an email to EF Data's former Director of Logistics and Export Compliance Official with instructions to inform Memotec that an OFAC license was required to perform warranty services on the equipment shipped to SCAA. On November 18, 2014, EF Data applied for an OFAC license to provide SCAA services for the setup, support, operation, and any troubleshooting that was required pursuant to the purchase order, and refiled the license application on February 23, 2015 after its initial application was voided by OFAC.

Despite the lack of authorization to proceed with any activities while EF Data's OFAC license application was pending, Memotec continued to provide telephone support until October 19, 2015 for the equipment shipped to SCAA as obligated by EF Data's sales agreement with the Canadian Company. Separately, in March 2015, EF Data's former Director of Logistics and Export Compliance Official approved a warranty request to loan (and export from the United States) four hardware units to the Canadian Company to fix a problem SCAA was experiencing with its hardware. OFAC denied EF Data's license application to provide such warranty services on March 13, 2016.

Comtech entered into two tolling agreements with OFAC to extend the statute of limitations during the investigation of the apparent violations and committed to a number of personnel changes prior to the resolution of the Apparent Violations, including: (1) adding a Vice President tasked with trade compliance at EF Data's Arizona facility, (2) committing to hire an additional trade compliance position to support that Vice President, and (3) committing to create a new position of Senior Trade Compliance Officer and/or Chief Trade Compliance Officer at Comtech's New York headquarters.

For more information regarding this matter, please see the [Settlement Agreement between OFAC and Comtech](#).

Penalty Calculation and General Factors Analysis

The statutory maximum civil monetary penalty amount in this matter was \$1,168,772. OFAC determined that Comtech and EF Data voluntarily self-disclosed the Apparent Violations and that

the Apparent Violations constitute an egregious case. Accordingly, under OFAC's Economic Sanctions Enforcement Guidelines ("Enforcement Guidelines"), the base civil monetary penalty amount applicable in this matter was \$584,386.

The settlement amount of \$894,111 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

OFAC determined the following to be **aggravating factors**:

- (1) EF Data demonstrated reckless disregard for U.S. sanctions requirements and failed to exercise a minimal degree of caution or care by approving warranty services for equipment provided to SCAA while an OFAC license application was pending (and ultimately denied);
- (2) EF Data failed to heed warning signs, such as an alert from its compliance screening software indicating that the sale of the satellite equipment could have led to the Apparent Violations, and proceeded with the transactions;
- (3) EF Data managers, including export compliance personnel, proceeded with the indirect exportation of goods and the facilitation of services despite having actual knowledge that the ultimate destination of the equipment was Sudan and that the final customer was SCAA;
- (4) EF Data's Apparent Violations allowed SCAA to access and utilize U.S.-origin satellite equipment and facilitated SCAA's access to training, warranty, and telephone support services, resulting in an economic benefit to the Government of Sudan;
- (5) Comtech, which operates through its subsidiary EF Data, is a sophisticated supplier with significant international operations, has multiple foreign subsidiaries, and has experience applying OFAC regulations to its business; and
- (6) EF Data provided shifting explanations in response to OFAC subpoenas and a request for information, and its subpoena response included an internal email to Comtech and Memotec personnel that was manipulated by EF Data's former Director of Logistics and Export Compliance Official to omit certain relevant language, requiring OFAC to expend significant additional time and resources to build an accurate administrative record of the Apparent Violations.

OFAC found the following to be a **mitigating factor** in this case:

- (1) Comtech and EF Data have not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the transaction giving rise to the Apparent Violations.

Compliance Considerations

This case highlights the importance not only of investing in adequate internal controls to identify, interdict, and escalate prohibited transactions, but also of developing internal checks and balances

so individual employees are not able to override those controls and approve otherwise prohibited transactions. This case also demonstrates the risks of proceeding with transactions while a license application is pending with OFAC with respect to those transactions. Additionally, companies engaging in high-risk international transactions should understand their obligations under OFAC regulations and recognize that they cannot shift those obligations onto their foreign customers or counterparties.

OFAC Enforcement and Compliance Resources

Information concerning the civil penalties process can be found in the OFAC regulations governing each sanctions program; the Reporting, Procedures, and Penalties Regulations, 31 C.F.R. part 501, and the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. These references, as well as recent final civil penalties and enforcement information, can be found on OFAC's website at www.treasury.gov/ofac/enforcement.

On May 2, 2019, OFAC published [A Framework for OFAC Compliance Commitments](#) in order to provide organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States or U.S. persons, or that use U.S.-origin goods or services, with OFAC's perspective on the essential components of a sanctions compliance program. The *Framework* also outlines how OFAC may incorporate these components into its evaluation of apparent violations and resolution of investigations resulting in settlements. The *Framework* includes an appendix that offers a brief analysis of some of the root causes of apparent violations of U.S. economic and trade sanctions programs OFAC has identified during its investigative process.

For more information regarding OFAC regulations, please go to: www.treasury.gov/ofac.