



DEPARTMENT OF THE TREASURY
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OFAC Enters \$653,347 Settlement with the National Commercial Bank for Apparent Violations of U.S. Sanctions Programs Targeting Sudan and Syria

The National Commercial Bank (NCB), a bank headquartered in Jeddah, Saudi Arabia, has agreed to remit \$653,347 to settle its potential civil liability for 13 apparent violations of Sudan- and Syria-related sanctions (the “Apparent Violations”). The Apparent Violations, which related to transactions involving Sudan or Syria that transited through the U.S. financial system, were processed between November 7, 2011 and August 28, 2014. This settlement amount reflects OFAC’s determination that NCB’s Apparent Violations were non-egregious.

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

Between November 7, 2011 and August 28, 2014, NCB processed, directly or indirectly, 13 U.S. dollar (USD) transactions totaling \$5,918,560 to or through the United States in circumstances where a benefit of NCB’s service was received by Sudanese or Syrian counterparties, or that involved goods originating in or transiting through Sudan or Syria. None of the Sudanese or Syrian parties was a customer of NCB. These transactions were in apparent violation of the Sudanese Sanctions Regulations (“SSR”), 31 C.F.R. § 538.205,¹ and section 2(b) of Executive Order (E.O.) 13582 of August 17, 2011,² respectively. The Apparent Violations began in late 2011, after the bank had started to implement more robust compliance measures intended to modernize and upgrade its compliance controls, including those relating to sanctions screening and OFAC sanctions compliance.

Penalty Calculation and General Factors Analysis

The statutory maximum civil monetary penalty applicable in this matter is \$12,111,632. OFAC determined, however, that the Apparent Violations constitute a non-egregious case and that NCB voluntarily self-disclosed the eight Syria-related Apparent Violations, but did not voluntarily self-disclose the five Sudan-related Apparent Violations. Accordingly, under OFAC’s Economic Sanctions Enforcement Guidelines (“Enforcement Guidelines”), the base civil monetary penalty amount applicable in this matter is \$1,814,854. The settlement amount of \$653,347 reflects OFAC’s consideration of the General Factors under the Enforcement Guidelines.

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

- (1) NCB conferred substantial economic benefit to U.S.-sanctioned parties and caused significant harm to the integrity of U.S. sanctions programs and their associated policy objectives by

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.

² On May 2, 2014, OFAC amended the Syrian Sanctions Regulations, 31 C.F.R. Part 542 (the “SySR”), and reissued them in their entirety in order to implement various Executive orders, including Executive Order 13582 of August 17, 2011, “Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria.” *See* 79 Fed. Reg. 25,414 (May 2, 2014). Prior to that date, the sanctions and related prohibitions established in Executive Order 13582 were not implemented in the SySR.

allowing sanctioned parties to conduct business in or through the United States for a number of years; and

(2) NCB is a large and commercially sophisticated financial institution.

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

- (1) NCB did not act with willful intent to violate U.S. sanctions law or with a reckless disregard for its U.S. sanctions obligations;
- (2) NCB has no prior sanctions history, including having not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the earliest transaction giving rise to the apparent violations;
- (3) NCB cooperated with OFAC's investigation into the Apparent Violations, including by conducting an extensive transaction review and entering into a statute of limitations tolling agreement with multiple extensions;
- (4) Most of the Syria-related Apparent Violations occurred shortly after the imposition of relevant prohibitions; and
- (5) NCB enhanced compliance controls in response to past weaknesses and the subsequent Apparent Violations, including the following:
 - Replaced its Board of Directors and senior executives and enhanced its compliance program by implementing new sanctions screening software and new training procedures for bank personnel;
 - Implemented internal policies that require payment and non-payment messages to be transparent, in line with Basel requirements and FATF recommendations, and that prohibit the omission, deletion or alteration of information in the payment messages or orders;
 - Required screening of all payments against international sanctions lists, including OFAC lists;
 - Implemented an Anti-Money Laundering Department that is tasked with sanctions compliance and countering illicit finance, including money laundering and terrorist financing;
 - Required prospective customer account openings to be subjected to substantial due diligence, including Compliance Department approval of any account opening, and restricted account openings to only residents of Saudi Arabia; and
 - Prohibited the opening of USD accounts for any Sudanese customers or financial institutions.

Compliance Considerations

This enforcement action highlights the importance of ensuring that sanctions compliance policies and procedures address both direct and indirect sanctions compliance risks, and in particular, highlights the importance of implementing strong remedial measures in response to sanctions program lapses.

OFAC Enforcement and Compliance Resources

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

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 the 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>.

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.