



**Enforcement Release: January 4, 2021**

**OFAC Enters Into \$8,572,500 Settlement with Union de Banques Arabes et Françaises for Apparent Violations of Syria-Related Sanctions Program**

Union de Banques Arabes et Françaises (“UBAF”), a bank based in France that facilitates trade finance between Europe and the Middle East, North Africa, sub-Saharan Africa, and Asia, has agreed to remit \$8,572,500 to settle its potential civil liability for 127 apparent violations of Syria-related sanctions (the “Apparent Violations”). Between August 2011 and April 2013, UBAF operated U.S. dollar (USD) accounts on behalf of sanctioned Syrian financial institutions and indirectly conducted USD business on behalf of these institutions through the U.S. financial system. In particular, the majority of the Apparent Violations involved UBAF’s processing of internal transfers on behalf of Syrian entities that were followed by corresponding funds transfers through a U.S. bank. The remaining Apparent Violations were either “back-to-back” letter of credit transactions or other trade finance transactions involving sanctioned parties, all of which were processed through a U.S. bank. This settlement amount reflects OFAC’s determination that UBAF’s Apparent Violations were non-egregious and voluntarily self-disclosed.

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

In total, UBAF engaged in 127 Apparent Violations. This includes UBAF’s processing of 114 internal transfers on behalf of Syrian entities totaling \$1,297,651,825.61 that were followed by approximately 114 corresponding funds transfers through a U.S. bank. For 45 of the 114 internal transfers, UBAF processed a USD transfer between two of its clients—one sanctioned Syrian entity and one non-sanctioned client—on UBAF’s own books. UBAF then processed one or more USD transfers on behalf of the non-sanctioned client that cleared through a U.S. bank and whose transaction dates and amounts correlated closely to the related internal transfers reflected on UBAF’s books. For the remaining 69 of 114 internal transfers, UBAF conducted a foreign exchange (FX) transaction with a sanctioned Syrian customer on UBAF’s books, debiting an account in one currency and crediting the same sanctioned customer’s account in another currency. UBAF then conducted a U.S.-cleared FX transaction with a non-sanctioned third party that correlated closely with the original FX transaction involving the sanctioned customer.

The remaining 13 Apparent Violations were either “back-to-back” letter of credit transactions or other trade finance transactions involving sanctioned Syrian parties, all of which were processed through a U.S. bank. For the back-to-back letter of credit transactions, a sanctioned Syrian entity was the beneficiary of export letters of credit or the applicant for import letters of credit that did not involve USD clearing, but the intermediary entered into or received one or more corresponding USD letters of credit to purchase or sell the same goods. For the other trade finance transactions, UBAF either issued a USD-denominated letter of credit on behalf of a sanctioned party or confirmed a USD-denominated letter of credit issued by a sanctioned bank and paid on the letter of credit through a U.S.-cleared transaction.

Accordingly, between August 2011 and April 2013, UBAF processed 127 transactions, totaling \$2,079,339,943.52, in apparent violation of Executive Order 13582 of August 17, 2011, “Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria” (“E.O. 13582”), and Executive Order 13382 of July 1, 2005, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters” (“E.O. 13382”). UBAF’s actions during this time period demonstrated knowledge of OFAC sanctions laws, but it incorrectly believed that avoiding direct USD clearing on behalf of sanctioned parties was sufficient; thus, the bank acted recklessly by failing to

exercise a minimal degree of caution or care in accounting for the risks associated with continuing to provide USD-based services to OFAC-sanctioned parties.

### **Penalty Calculation and General Factors Analysis**

The statutory maximum civil monetary penalty applicable in this matter is \$4,158,679,887.04. OFAC determined, however, that UBAF voluntarily self-disclosed the Apparent Violations and that the Apparent Violations constitute a non-egregious case. Accordingly, under OFAC's Economic Sanctions Enforcement Guidelines ("Enforcement Guidelines"), the base civil monetary penalty amount applicable in this matter is \$15,875,000. The settlement amount of \$8,527,500 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

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

- (1) UBAF demonstrated a reckless disregard for its U.S. sanctions compliance obligations when it continued to provide USD services to sanctioned Syrian parties after the August 2011 expansion of U.S. sanctions on Syria without properly identifying and managing the relevant sanctions compliance risks that providing those services posed to the bank;
- (2) UBAF management had actual knowledge of the conduct giving rise to the Apparent Violations; and
- (3) UBAF conferred significant economic benefit to U.S.-sanctioned parties and caused significant harm to the integrity of U.S. sanctions programs and their associated policy objectives.

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

- (1) The majority of the Apparent Violations occurred in late 2011, following the implementation of Executive Order 13582 on August 18, 2011, which significantly expanded U.S. sanctions against Syria;
- (2) UBAF had a compliance program in place at the time of the apparent violations;
- (3) UBAF voluntarily self-disclosed the Apparent Violations to OFAC and cooperated with OFAC's investigation of the Apparent Violations by entering into a tolling agreement and agreeing to extend the agreement multiple times;
- (4) UBAF has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the earliest date of the transactions giving rise to the Apparent Violations; and
- (5) UBAF has represented to OFAC that it has invested substantial resources in improving its compliance program and undertook several remedial measures in response to the Apparent Violations. These measures include:

- UBAF adopted a new Financial Security Charter on September 12, 2013, based on the compliance policies of its largest shareholder, a large and sophisticated financial institution, at the invitation and with the support of the shareholder. UBAF automatically adopts all of this financial institution's sanctions policies, and also utilizes its filtering software and supplemental lists to screen transactions. This includes screening the client database, an anti-stripping module, negative news research, risk database research, vessel screening, and country screening.
- UBAF provides both in-person and e-learning training for all employees, both at onboarding and on a continuing basis. The e-learning program was developed with the above-mentioned financial institution and includes several yearly trainings.
- UBAF completed a review of its own business lines, which resulted in the termination of certain services that were deemed high compliance risks. UBAF exited its relationships with certain high-risk banks, exited business with Sudan and Syria in all currencies, and closed a foreign subsidiary for risk-related reasons.
- UBAF set up a Compliance Committee, composed of senior managers, which meets regularly to monitor follow-up on promised actions by member departments.

## **Compliance Considerations**

Financial institutions that maintain accounts for entities domiciled in jurisdictions that become subject to comprehensive sanctions should assess the risk that may arise by continuing to provide services to those entities, particularly with respect to USD-denominated transactions that directly or indirectly clear through the U.S. financial system.

## **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.