



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

Enforcement Release: August 26, 2021

**OFAC Enters Into a \$2,329,991 Settlement with Bank of China (UK) Limited
for Apparent Violations of the Sudan Sanctions Regulations**

Bank of China (UK) Limited (“BOC UK”), located in London, the United Kingdom, has agreed to remit \$2,329,991 to settle its potential civil liability for processing transactions in apparent violation of OFAC’s now-repealed Sudan sanctions program, which prohibited the exportation, directly or indirectly, to Sudan of any goods, technology, or services from the United States. Specifically, between September 4, 2014 and February 24, 2016, BOC UK exported financial services from the U.S. by processing 111 commercial transactions totaling \$40,599,184 through the U.S. financial system on behalf of parties in Sudan. This settlement amount reflects OFAC’s determination that BOC UK’s self-identified apparent violations were voluntarily self-disclosed and constitute a non-egregious case.

Description of the Conduct Leading to the Apparent Violations

As a result of an internal investigation triggered by a Sudanese customer’s request to process a payment, BOC UK conducted a lookback review to identify potential Sudan-related transactions. That review identified two customers of BOC UK who had engaged in Sudan-related transactions that BOC UK processed through the U.S. financial system.

One of the customers was an entity incorporated outside of Sudan that maintained a branch in Sudan that, in 2014, became the instructing party and account signatory to transactions processed by BOC UK on behalf of the entity. Written communications from that customer contained references to the location of the branch in Sudan. BOC UK also processed certain transactions to recipients which appeared to be in Sudan at the time. The other customer was a Sudanese subsidiary of an entity also incorporated outside of Sudan. The information provided by the subsidiary to BOC UK as part of the bank’s know-your-customer documentation identified the subsidiary as being registered in Sudan.

In relation to both customers, BOC UK’s internal customer database did not include reference to Sudan in the name or address fields of either customer. Accordingly, SWIFT messages processed for those customers by BOC UK through U.S. banks did not include any references to Sudan.

These compliance deficiencies resulted from BOC UK’s staff’s failure to appropriately evaluate and escalate potential transactions with underlying account and transactional documentation indicating ties to Sudan. Consequently, BOC UK processed 111 payments via U.S. correspondent banks between September 4, 2014 and February 24, 2016 totaling \$40,599,184 in apparent violation of the Sudanese Sanctions Regulations (SSR), 31 C.F.R. § 538.205 (“Apparent Violations”).¹

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.

Penalty Calculation and General Factors Analysis

The statutory maximum civil monetary penalty applicable in this matter is \$99,411,550. OFAC determined that BOC UK voluntarily self-disclosed the Apparent Violations and 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 \$4,314,799 in this case. The settlement amount of \$2,329,991 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

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

- (1) BOC UK demonstrated a reckless disregard for U.S. sanctions requirements by processing transactions through the U.S. financial system for entities in Sudan despite having account and transactional information indicating the Sudanese connection to the accounts and in contravention of the bank's existing policies and procedures.
- (2) Certain personnel processing the transactions at BOC UK were aware that the payments were related to the entities in Sudan.
- (3) For at least one and a half years, BOC UK conferred economic benefit to a then comprehensively sanctioned country by processing 111 outgoing payments totaling approximately \$40.6 million.
- (4) BOC UK is a commercially sophisticated financial institution that processes transactions internationally.

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

- (1) BOC UK has no prior sanctions history, including having 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.
- (2) BOC UK self-identified, and then cooperated with OFAC's investigation into, the Apparent Violations by conducting a lookback and by entering into a statute of limitations tolling agreement.
- (3) BOC UK represented to OFAC it has undertaken several remedial measures since the identification of the Apparent Violations, including:
 - establishing an executive level committee responsible for implementation of compliance policies and procedures, which ultimately reports to the Board of Directors;
 - conducting an annual enterprise-wide sanctions risk assessment by business line, which incorporates monitoring of risks and internal audit testing and integrates input from external consultants;

- applying a centralized customer due diligence function firm-wide to strengthen internal controls;
- customizing firm-wide staff training on sanctions compliance based on the employee's tenure and business line; and
- enhancing policies and procedures to better address U.S. sanctions regulations applicable in processing payments through the United States.

Compliance Considerations

This case against BOC UK highlights the importance of ensuring that know-your-customer information is integrated holistically throughout internal databases that inform compliance decisions and that potential sanctions concerns are appropriately flagged and escalated when a sanctions nexus may be present.

OFAC Enforcement and Compliance Resources

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.

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 <https://home.treasury.gov/policy-issues/financial-sanctions/civil-penalties-and-enforcement-information>.

For more information regarding OFAC regulations, please go to: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>.