



DEPARTMENT OF THE TREASURY  
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**OFAC Settles with Sojitz (Hong Kong) Limited for \$5,228,298 Related to Apparent Violations of the Iranian Transactions and Sanctions Regulations**

Sojitz (Hong Kong) Limited (“Sojitz HK”), a Hong Kong, China-based company that engages in offshore trading and cross-border trade financing, has agreed to pay \$5,228,298 to settle its potential civil liability for apparent violations of the Iranian Transactions and Sanctions Regulations (ITSR). The apparent violations occurred when Sojitz HK made U.S. dollar payments through U.S. financial institutions for Iranian-origin high density polyethylene resin (HDPE) from its bank in Hong Kong to the HDPE supplier’s banks in Thailand. In doing so, Sojitz HK caused the U.S. financial institutions that processed the funds to engage in and facilitate prohibited financial transactions related to goods of Iranian origin. The settlement amount reflects OFAC’s determination that Sojitz HK’s apparent violations were non-egregious and voluntarily self-disclosed, and accounts for Sojitz HK’s remedial response and cooperation with OFAC.

**Description of the Apparent Violations**

From August 2016 through May 2018, certain Sojitz HK employees acting contrary to company-wide policies and procedures (“noncompliant employees”) caused Sojitz HK to purchase approximately 64,000 tons of Iranian-origin HDPE from a supplier in Thailand for resale to buyers in China (the “HDPE Trading”). Under the terms of the HDPE Trading arrangement, Sojitz HK paid the purchase price by wire transfer to the Thai supplier upon the supplier’s shipment of the HDPE to the Chinese buyers. Throughout the course of the HDPE Trading relationship, Sojitz HK made 60 separate U.S. dollar payments from its Hong Kong bank to the Thai supplier’s banks in Thailand, transferring a total of \$75,603,411. Each of these U.S. dollar payments were processed and settled through multiple U.S. financial institutions, including the U.S. correspondent banks of the Hong Kong and Thai banks.

As a result of the misconduct by the noncompliant employees, who directly handled the HDPE Trading, Sojitz HK’s funds transfer instructions omitted references to Iran. Thus, the U.S. financial institutions did not identify these funds transfers as violative of sanctions prohibitions, which should have caused them to reject and report each of these U.S. dollar denominated funds transfers.

Immediately prior to the HDPE Trading, these noncompliant employees were explicitly and repeatedly advised that they could not make U.S. dollar payments in connection with Iran-related business transactions. Nevertheless, to circumvent company policy, the noncompliant employees omitted the HDPE’s Iranian country of origin information from relevant transactional documents, including by requesting that the Thai supplier make no reference to Iran on the bills of lading. Furthermore, during Sojitz HK’s internal business approval processes, the noncompliant employees

concealed the HDPE's country of origin from Sojitz HK's senior management and compliance personnel by stating that the HDPE was produced by the supplier in Thailand. Accordingly, neither the executive management, nor the compliance personnel of Sojitz HK and Sojitz HK's parent company, were aware of the Iranian origin of the goods or of the noncompliant employees' misconduct and concealment.

Since Sojitz HK was not aware of the Iranian origin of the goods due to the non-compliant employees' misconduct, Sojitz HK did not reference Iran in its funds transfer instructions. This resulted in apparent violations of § 560.203 of the ITSR by causing multiple U.S. financial institutions to (i) engage in unauthorized financial transactions related to goods of Iranian origin in violation of § 560.206 of the ITSR and (ii) facilitate Sojitz HK's Iran-related financial transactions that would have been prohibited if performed by a U.S. person in violation of § 560.208 of the ITSR (the "Apparent Violations").

### **Penalty Calculations and General Factors Analysis**

The statutory maximum civil monetary penalty applicable in this matter is \$151,545,831. OFAC determined that Sojitz HK 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"), 31 C.F.R. Part 501, app. A, the base civil monetary penalty applicable in this matter equals the sum of one-half of the transaction value for each apparent violation, capped at the lesser of \$155,781 or one-half of the statutory maximum per each apparent violation, which is \$8,713,831.

The settlement amount of \$5,228,298 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

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

- (1) Sojitz HK's noncompliant employees omitted the HDPE's Iranian country of origin information from all relevant transactional documents over a period of two years, despite having been told explicitly and repeatedly by the company's compliance personnel that such conduct violated U.S. sanctions and company policy.
- (2) Sojitz HK's noncompliant employees, one of whom held a mid-level managerial position in the company, had actual knowledge about the HDPE Trading's relation to Iran.
- (3) Sojitz HK's HDPE Trading appears to have conferred significant economic benefits to Iran and undermined broad U.S. sanctions specifically targeting Iran's petrochemical sector, a major source of revenue generation for the Government of Iran.
- (4) Sojitz HK is a sophisticated offshore trading and cross-border trade financing company with ready access to experience and expertise in international trade, investment, financing, and sanctions compliance.

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

- (1) Sojitz HK's compliance personnel and the trade compliance team in Sojitz HK's parent company in Japan explicitly and repeatedly instructed the noncompliant employees that they could not make U.S. dollar payments that transit through the United States in connection with Iran-related business transactions.
- (2) Throughout the HDPE Trading, Sojitz HK's senior management and compliance personnel were not aware of the HDPE's Iranian origin due to the noncompliant employees' concealment of this information in transactional documents and throughout Sojitz HK's internal business-approval processes.
- (3) Sojitz HK has no prior OFAC sanctions history, including no Penalty Notice or Finding of Violation in the five years preceding the earliest date of the transactions giving rise to the Apparent Violations.
- (4) Sojitz HK voluntarily self-disclosed the Apparent Violations to OFAC and cooperated with OFAC's investigation by providing detailed information in a well-organized manner in response to OFAC's requests for information.
- (5) Sojitz HK, together with its parent company, Sojitz Corporation, undertook significant remedial measures by conducting a thorough internal look-back investigation to identify the root causes of the compliance failures and significantly enhanced its compliance program to address deficiencies and minimize the risk of recurrence. The list of remedial measures and sanctions compliance program enhancements includes the following steps:
  - Termination of the noncompliant employees who engaged in the HDPE Trading-related misconduct;
  - Revision of sanctions screening procedures to require that the counterparties in all business transactions be subject to mandatory compliance screening to ensure that business is carried out in compliance with company-wide sanctions compliance policies and applicable laws and regulations; and
  - Enhancement of the independence and capability of its sanctions compliance unit by housing the unit inside the Legal Department and hiring additional compliance expertise.

### **Compliance Considerations**

This case demonstrates the importance of effective risk-based internal controls to identify, interdict, escalate, and prevent activity prohibited by the sanctions programs administered by OFAC. Even where elements of a reasonable compliance program are in place, employees may act on their own initiative to pursue profit over compliance and find ways to circumvent their organization's policies and procedures. In such cases, their actions can result in violations attributable to their organizations. This case also highlights the risks and potential costs that non-U.S. companies are

exposed to when the U.S. financial system is used for transactions that may involve sanctioned persons or jurisdictions.

To prevent such misconduct, U.S. and foreign companies should conduct robust risk assessments to identify activities that pose greater sanctions risks, including of their supply chains, products, and services, and institute appropriately tailored risk-based procedures designed to minimize violations, including the ability of “rogue” employees to circumvent internal controls. Testing and auditing to assess the effectiveness of a firm’s compliance program may help guard against such conduct. This case further illustrates the importance for parent companies to ensure that appropriate compliance programs and procedures are implemented at their overseas subsidiaries and to exercise appropriate oversight over activities that may pose sanctions risks.

### **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 goods or services exported from the United States, 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 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>.