



DEPARTMENT OF THE TREASURY  
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**OFAC Settles with Godfrey Phillips India Limited for \$332,500 Related to Apparent Violations of the North Korea Sanctions Regulations**

Godfrey Phillips India Limited (“GPI”), a tobacco manufacturer registered in Mumbai, India, has agreed to pay \$332,500 to settle its potential civil liability for five apparent violations of the North Korea Sanctions Regulations (NKSr). These apparent violations resulted from GPI’s use of the U.S. financial system to receive payments for tobacco it indirectly exported to the Democratic People’s Republic of Korea (DPRK or “North Korea”) in 2017. In doing so, GPI relied on several third-country intermediary parties to receive payment, which obscured the nexus to the DPRK and caused U.S. financial institutions to process these transactions. This settlement amount reflects OFAC’s determination that GPI’s conduct was non-egregious and not voluntarily disclosed.

**Conduct Leading to the Apparent Violations**

On November 27, 2015, a vice president of GPI made contact with a representative for a Thailand-based company (the “Thai Intermediary”), which served as an intermediary for a DPRK tobacco company (the “DPRK Customer”). In their introductory email, the vice president represented that GPI could provide the Thai Intermediary with “the most competitive rates” should they provide GPI with the “grades and type of leaf required.” At the Thai Intermediary’s request, GPI then exported free samples of tobacco and cigarettes to the DPRK Customer in the DPRK via courier on at least five occasions between 2015 and 2017.

In late 2016, a GPI assistant manager and the representative from the Thai Intermediary began emailing about a prospective order of tobacco from the DPRK Customer. A different vice president, a manager, and an assistant manager then proceeded to discuss the logistics of exporting a shipping container full of tobacco (rather than a small package) to the DPRK, including whether they could export the tobacco directly to the DPRK. In the course of this exchange, the GPI assistant manager wrote:

*As I informed to [sic] you yesterday, right now the question is whether GPI as a company is willing to write DPR Korea on the BL [bill of lading], like other companies are doing or not. If we can write DPR Korea consignee on the BL then it is easy otherwise we will need to take the help of [the Thai Intermediary] to help us make the shipment from Dalian, China....*

The manager informed the other parties in copy that they would confer with GPI’s finance department on how to proceed. Ultimately, the team decided not to include the DPRK Customer or the DPRK in the trade documentation for the order—it instead listed the Thai Intermediary as the customer and China as the destination.

Several months after these internal discussions, the Thai Intermediary, acting on behalf of the DPRK Customer, placed orders of tobacco with GPI totaling 79,200 kg (approximately 174,600 lb). GPI issued three corresponding invoices to the Thai Intermediary, and requested payment in USD either to GPI's bank account at a non-U.S. bank in India or the India-based branch of a U.S. bank. The Thai Intermediary informed GPI that four Hong Kong-organized intermediaries (the "Hong Kong Intermediaries") would remit funds to GPI for these shipments. The Hong Kong Intermediaries subsequently made five payments for the tobacco totaling roughly \$369,228 to GPI in July and August 2017. The Hong Kong Intermediaries sent four of these USD payments to the non-U.S. bank, causing three U.S. financial institutions to clear the payments, and the final payment to the India-based branch of a U.S. bank. GPI then shipped the tobacco from India to Dalian, China in September and October 2017; the tobacco was then shipped onward to the DPRK by the Thai Intermediary.

By directing the Hong Kong Intermediaries to remit payments in USD, GPI caused U.S. correspondent banks that processed payments, as well as the foreign branch of a U.S. bank, to export financial services to or otherwise facilitate the exportation of tobacco to the DPRK. Accordingly, GPI appears to have violated § 510.212 of the NKSR, 31 C.F.R. part 510, when it caused U.S. banks to apparently violate §§ 510.206 and 510.211 of the NKSR (the "Apparent Violations").

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

The statutory maximum civil monetary penalty applicable in this matter is \$1,782,895. OFAC determined that GPI did not voluntarily self-disclose 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 \$475,000.

The settlement amount of \$332,500 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

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

- (1) GPI acted recklessly when it failed to exercise a minimal degree of caution or care for U.S. sanctions laws and regulations and caused U.S. financial institutions to export financial services or otherwise facilitate the exportation of tobacco to the DPRK;
- (2) Several GPI managers had actual knowledge that the conduct at issue concerned the exportation of tobacco to the DPRK; and
- (3) GPI harmed U.S. foreign policy objectives by involving U.S. persons in its indirect exportation of tobacco to the DPRK and by providing a sought-after, revenue-generating good to the North Korean regime.

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

- (1) GPI has 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;
- (2) GPI's remedial response upon learning of the Apparent Violations, namely implementing its Sanctions Compliance Policy, Procedures, and Framework in January 2022, which includes screening, know your customer measures, and recordkeeping requirements; and
- (3) GPI cooperated with OFAC throughout the course of the investigation by providing OFAC with the documentation in a timely and organized manner, and agreeing to toll the statute of limitations.

### **Compliance Considerations**

This action highlights how non-U.S. persons engaged in business with sanctioned actors and jurisdictions can violate U.S. sanctions regulations by causing U.S. persons to engage in prohibited transactions. These circumstances can arise when financial transactions that pertain to commercial activity with an OFAC-sanctioned country, region, or person are processed through or involve U.S. financial institutions, including foreign branches of U.S. financial institutions. Involving a U.S. financial institution in such commercial activity may violate OFAC regulations by causing U.S. persons to inadvertently export financial services, or facilitate the export of goods, to North Korea, or other comprehensively sanctioned jurisdiction.

The absence of a compliance program that accounts for potential U.S. sanctions risks, moreover, may increase the likelihood of such a violation. Utilizing the U.S. financial system while exporting valued goods such as tobacco to North Korea or other comprehensively sanctioned jurisdiction may increase a person's exposure to OFAC penalties given the harm such conduct causes to U.S. foreign policy and national security objectives.

This action further highlights the deceptive practices DPRK entities use to evade U.S. and international sanctions and acquire revenue-generating goods, such as by employing intermediaries in various countries to coordinate shipping and make payments.

### **OFAC Enforcement and Compliance Resources**

On May 2, 2019, OFAC published [A Framework for Compliance Commitments](#) (the "Framework") 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 Enforcement Guidelines. 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](http://www.treasury.gov/ofac/enforcement).

For more information regarding OFAC regulations, please go to: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).