



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

**Enforcement Release: March 30, 2023**

**OFAC Settles with Wells Fargo Bank, N.A. for \$30,000,000 Related to Apparent Violations of Three Sanctions Programs**

Wells Fargo Bank, N.A. (“Wells Fargo”) has agreed to remit \$30,000,000 to settle its potential civil liability for 124 apparent violations of three sanctions programs. For about seven years beginning in 2008 and ending in 2015, Wells Fargo, and its predecessor, Wachovia Bank (“Wachovia”), provided a foreign bank located in Europe with software that the foreign bank then used to process trade finance transactions with U.S.-sanctioned jurisdictions and persons. Wachovia, at the direction of a mid-level manager, customized a trade insourcing software platform for general use by the European bank that Wachovia knew or should have known would include engaging in trade-finance transactions with sanctioned jurisdictions and persons. The European bank then used the platform to manage such transactions.

Wells Fargo did not identify or stop the European bank’s use of the software platform for trade-finance transactions involving sanctioned jurisdictions and persons for seven years despite potential concerns raised internally within Wells Fargo on multiple occasions following Wells Fargo’s acquisition of Wachovia.

The settlement amount reflects OFAC’s determination that Wells Fargo’s 124 apparent violations, which occurred between approximately December 27, 2010 and December 7, 2015, were voluntarily self-disclosed. Moreover, while OFAC determined that the apparent violations were egregious, the failure by Wells Fargo to identify and prevent the apparent violations was not a result of a systemic compliance breakdown within the broader Wells Fargo organization, which OFAC acknowledges had a historically strong overall sanctions compliance program.

**Description of the Apparent Violations**

*Wells Fargo Inherits Wachovia’s Trade Insourcing Relationships, Including the “Eximibills” Platform*

When Wells Fargo acquired Wachovia in 2008, it inherited Wachovia’s trade insourcing relationships, including a relationship with a particular European bank (“Bank A”). The trade insourcing platform included two versions — one where Wells Fargo (previously Wachovia) processed trade transactions on behalf of the customer (“Comprehensive”) and one where it provided the software to the customer and the customer managed the transaction itself (“Hosted”). The trade insourcing software solutions operated on a software platform called “Eximibills.” Wachovia provided both types of platforms to Bank A. The Hosted version of the software enabled Bank A to manage certain of its own trade finance instruments (such as letters of credit) on behalf of its clients, as opposed to Wells Fargo processing the trade transactions on its behalf with the Comprehensive platform. In May 2006, after consulting with outside counsel, Wachovia and Bank A clarified in an agreement that Bank A had the primary responsibility to screen for OFAC sanctions issues related to transactions processed on its Hosted versions of the Eximibills platform. Wachovia and Bank A also agreed that Bank A would refrain from processing transactions with OFAC-sanctioned jurisdictions or entities (e.g., a trade finance transaction involving Iran) through its Hosted versions of Eximibills, and instead Bank A would use its own, separate systems, not provided by Wachovia, to manage such transactions.

Around May 2007, Bank A sought to switch to a single platform for all of its trade finance services, including those involving sanctioned jurisdictions and persons. A mid-level manager (and a small

number of other employees) within Wachovia's legacy Global Trade Services ("GTS") business unit — a relatively small unit that managed the trade services relationship with Bank A — believed that accommodating Bank A's desire for a single platform was important to preserve and expand the relationship between Wachovia and Bank A.

#### *Wachovia Customizes a Hosted Version of Eximibills for Bank A*

Accordingly, Wachovia, at the direction of this mid-level manager, specially designed a customized version of Eximibills for Bank A to "host" on Bank A's own systems, in part so that Bank A could use Eximibills to handle international trade finance instruments involving OFAC-sanctioned jurisdictions and persons. Around July 2008, Wachovia and Bank A modified the relevant agreements to reflect this development, and Bank A began using this modified Hosted version of Eximibills to handle such transactions.

As part of Wachovia's development of this Hosted Eximibills platform, Wachovia sought to eliminate the involvement of Wachovia personnel in non-OFAC-compliant transactions. For example, Wachovia created a mechanism in the software program such that if Bank A inadvertently sent a transaction involving a sanctioned jurisdiction or person to Wachovia's Comprehensive version of Eximibills, the program would redirect the transaction to Bank A to process through the Hosted version of Eximibills. Seven of the apparent violations arose through this process. Nonetheless, Bank A's use of the Hosted Eximibills platform continued to rely on Wachovia's (and then Wells Fargo's) technology infrastructure at the bank's branch in Hong Kong and data facility in North Carolina to manage the 124 non-OFAC-compliant transactions.

#### *Potential Sanctions Compliance Concerns Raised Internally within Wells Fargo*

There is no indication that Wachovia's or Wells Fargo's senior management either directed or had actual knowledge of Bank A's use of the Hosted Eximibills platform to engage in transactions with OFAC-sanctioned jurisdictions and persons. A lack of clear communications within Wachovia resulted in different interpretations about whether OFAC prohibitions would be implicated by Wachovia's provision of the Hosted Eximibills platform to Bank A. Regardless, Wells Fargo's senior management should reasonably have known that Bank A was using the Hosted Eximibills platform to engage in transactions with OFAC-sanctioned jurisdictions and persons.

For example, after Wells Fargo acquired Wachovia in 2008, Wells Fargo personnel raised on multiple occasions, including to senior management, the potential sanctions-related risks arising from the trade insourcing relationships it inherited from Wachovia. Nonetheless, there was no regular or systematic process in place at Wells Fargo to periodically review Bank A's use of Eximibills to confirm that it was appropriately screening Hosted trade instruments for OFAC compliance. Accordingly, it was not until December 2015 — nearly seven years after Bank A began using the specially designed Hosted version of Eximibills to process transactions involving sanctioned jurisdictions and persons — that senior management at Wells Fargo stopped Bank A from using Eximibills for such transactions.

Although a 2009 risk assessment of the trade insourcing business did not identify particular sanctions risks associated with the Hosted insourcing model, emails between the legacy Wachovia GTS business unit's personnel and the relevant Wells Fargo compliance and legal teams raised questions about Wells Fargo's compliance obligations related to Bank A's Hosted Eximibills platform. Around 2010–2011, as Wells Fargo began integrating the legacy Wachovia trade services businesses, Wells Fargo compliance

and legal personnel reviewed the trade insourcing business, including by retaining a third-party consultant to review certain relevant anti-money laundering and sanctions controls. This review did not identify any sanctions compliance risks specific to the Hosted insourcing business, but one of the consultant's main conclusions was that contracts with insourcing clients contained inconsistent anti-money laundering and sanctions compliance clauses, a finding that prompted Wells Fargo to begin the process of reviewing and standardizing its insourcing contracts. In 2012, in connection with the effort to address some of these concerns, Wells Fargo's legal personnel recognized potential parallels between transactions underlying a major OFAC sanctions enforcement action issued that year<sup>1</sup> and how Hosted insourcing customers could potentially use Eximills. Accordingly, Wells Fargo's legal personnel wanted to ensure those customers had agreements requiring them to comply with U.S. sanctions laws and regulations.

By December 2012, different personnel within Wells Fargo independently had concluded that it would be appropriate to review the potential sanctions risks associated with the trade insourcing business more thoroughly. Around 2013, following another major OFAC sanctions enforcement case,<sup>2</sup> potential sanctions compliance risks associated with Hosted insourcing began receiving attention from senior management, including, for example, the new head of Wells Fargo's International Trade Services group (the business that merged with Wachovia's GTS business line), who raised compliance questions about Hosted insourcing on the Eximills platform. These discussions resulted in an internal working group comprising compliance, legal, and business representatives, including some legacy Wachovia personnel previously involved in developing the Hosted Eximills platform for Bank A who understood the purpose of its customized functionality.

These personnel did not inform other members of the group that the original contract with Bank A had been amended in 2008 in order to address Bank A's request that the functionality include, in part, the ability to manage non-OFAC-compliant trade instruments. The working group recognized potential facilitation-related concerns under OFAC regulations but assessed the Hosted product to be relatively low-risk given that it was offered to only three foreign banks in non-sanctioned jurisdictions. Recognizing that some risk existed, however, the working group developed a plan to (i) strengthen sanctions compliance language in the relevant contracts, (ii) obtain periodic certifications that the foreign banks were not placing potentially non-OFAC-compliant items on Eximills, and (iii) periodically audit the foreign banks' Eximills data.

The business line representatives of the working group kept relevant senior management personnel, including the head of the unit that oversaw the relationships with foreign financial institutions, informed of these developments. However, the working group's plan was never implemented because the recommendations were rolled into a larger project that was reviewing the trade outsourcing/insourcing business at a more holistic level. This resulted in Bank A continuing to process non-OFAC-compliant transactions on the Hosted Eximills platform for at least two more years as the holistic review of the overall trade finance technology business was being conducted.

In July 2014, an internal audit report found that the insourcing business line needed corrective action because the agreements with various clients were negotiated individually, which resulted in inconsistencies. However, Wells Fargo's internal audit team did not specifically review the Hosted Eximills platform business because the audit team relied on the relevant business line's self-assessment that the software platform was not high risk.

---

<sup>1</sup> [https://home.treasury.gov/system/files/126/06122012\\_ing.pdf](https://home.treasury.gov/system/files/126/06122012_ing.pdf).

<sup>2</sup> [https://home.treasury.gov/system/files/126/121211\\_HSBC\\_posting.pdf](https://home.treasury.gov/system/files/126/121211_HSBC_posting.pdf).

## *Wells Fargo Suspends Bank A's Access to Eximills*

Finally, in late 2015, during a business review of the Bank A insourcing relationship conducted as part of the broader review of the trade insourcing business, which included the implementation of the three-point plan, it was discovered that Bank A may have been processing trade instruments on the Hosted version of Eximills involving sanctioned jurisdictions and persons since 2008. The issue was immediately escalated to senior management, and Wells Fargo promptly suspended Bank A's access to Eximills, voluntarily disclosed the matter to OFAC, and commenced a comprehensive investigation.

As a result of the conduct described above, between approximately December 27, 2010 and December 7, 2015, Wells Fargo facilitated 124 transactions processed by Bank A involving sanctioned parties or jurisdictions, totaling approximately \$532,068,794, that would have been prohibited if performed by Wells Fargo or another U.S. person or within the United States. Accordingly, Wells Fargo engaged in apparent violations of the Iranian Transactions and Sanctions Regulations, 31 C.F.R. § 560.208, the now-repealed Sudanese Sanctions Regulations (SSR), 31 C.F.R. § 538.206,<sup>3</sup> and the Syrian Sanctions Regulations, 31 C.F.R. § 542.210 (the "Apparent Violations").

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

The statutory maximum civil monetary penalty applicable in this matter is \$1,066,738,422.22. OFAC determined that the Apparent Violations were voluntarily self-disclosed and that the Apparent Violations were egregious. 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 is one-half of the statutory maximum, which is \$533,369,211. The settlement amount of \$30,000,000 reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

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

- (1) The legacy GTS business unit demonstrated reckless disregard for U.S. sanctions requirements when it specially designed and provided the Hosted Eximills platform for Bank A to engage in transactions, using Wachovia's underlying technological infrastructure, that both the business unit and Bank A knew or should have known would include transactions involving sanctioned jurisdictions or persons in violation of OFAC regulations. Moreover, Wells Fargo failed to exercise a minimal degree of caution or care in failing to identify and prevent such transactions for seven years after it acquired Wachovia, despite potential sanctions concerns (including specifically with respect to possible facilitation issues) raised internally at senior-management levels on multiple occasions.
- (2) The development of the specially designed Hosted Eximills platform for Bank A was led by a mid-level manager within the legacy GTS business unit at Wachovia. Moreover, Wells Fargo's senior management should reasonably have known that Bank A was using the Hosted version of Eximills to engage in transactions with sanctioned jurisdictions and persons in light of the

---

<sup>3</sup> 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.

potential sanctions concerns raised internally to senior managers in Wells Fargo on multiple occasions, including after major sanctions enforcement cases prompted a renewed focus within Wells Fargo on assessing the risks associated with the bank's international trade-related services.

- (3) By providing Bank A with a software platform specially designed to make it easier for Bank A to engage in trade finance transactions with persons located in Iran, Sudan, on one occasion Syria, and, on six occasions, sanctioned entities, Wells Fargo undermined the policy objectives of three U.S. sanctions programs.
- (4) Wachovia, and its successor, Wells Fargo, are large and commercially sophisticated international financial institutions with sophisticated understandings of applicable sanctions requirements.

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

- (1) The legacy GTS was a relatively small business unit within Wachovia, and there is no indication that senior management either directed or had actual knowledge that Wachovia provided the Eximbills platform to Bank A for the purpose, at least in part, of engaging in transactions with OFAC-sanctioned jurisdictions. Moreover, OFAC acknowledges that, more broadly, Wells Fargo had a strong sanctions compliance program at the time of the Apparent Violations, including in the trade finance line of business, and that the failure by Wells Fargo and its senior management to identify and prevent the Apparent Violations was not a result of any systemic compliance breakdown within the broader Wells Fargo organization.
- (2) The true magnitude of the sanctions harm of the underlying conduct is more limited than the total value of transactions conducted by Bank A using the Hosted Eximbills platform, which totaled the USD equivalent of approximately \$532,068,794. Moreover, the majority of the 124 apparent violations related to agriculture, medicine, and telecommunications and therefore may have been eligible for a general or specific license, thus mitigating the harm to sanctions policy objectives.
- (3) Wells Fargo 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.
- (4) Promptly after Wells Fargo identified the Apparent Violations, the bank terminated Bank A's access to the Hosted version of Eximbills, voluntarily disclosed the matter to OFAC, conducted an extensive internal investigation and produced the results to OFAC, and otherwise provided substantial cooperation with OFAC's investigation, including by agreeing to toll the statute of limitations.
- (5) Wells Fargo remediated the compliance issue by immediately suspending the Hosted version of the Eximbills platform for Bank A. As part of an overall shift away from insourcing, the successor platform to Eximbills is now managed by Wells Fargo personnel and uses Wells Fargo's sanctions screening system for all trade instruments. In September 2018, Wells Fargo instituted a more robust risk management policy for new or revised product or service offerings. This policy seeks to identify and control any areas of risk, including sanctions-related risk, associated with new business initiatives prior to, during, and after implementation.

## **Compliance Considerations**

This action highlights the risks that companies may face when employees pursue new business opportunities or the preservation of existing business relationships without proper oversight. Such oversight is important across all business units within an organization, including lines of business that may be small relative to the larger organization or that involve products or services falling outside the larger organization's core business. Moreover, when sanctions compliance risks are raised internally — including concerns arising from smaller, non-core business lines — companies should promptly seek to thoroughly investigate and address those risks. Finally, this action emphasizes the necessity for comprehensive due diligence regarding potential sanctions risk when one entity acquires another through merger or acquisition.

## **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: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).