



DEPARTMENT OF THE TREASURY
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**OFAC Settles with British American Tobacco p.l.c. for \$508,612,492
Related to Apparent Violations of the North Korea and Weapons of Mass Destruction
Proliferators Sanctions Regulations**

British American Tobacco p.l.c. (“BAT”), a tobacco and cigarette manufacturer headquartered in London, England, has agreed to pay \$508,612,492 to settle its potential civil liability for apparent violations of OFAC’s sanctions against the Democratic People’s Republic of Korea (DPRK or “North Korea”) and weapons of mass destruction proliferators. BAT’s apparent violations arose from its formation of a conspiracy to export tobacco and related products to North Korea and receive payment for those exports through the U.S. financial system and from its subsidiary’s use of U.S. financial institutions to receive or otherwise process U.S. dollar-denominated (USD) payments for its sale of cigarettes to the DPRK Embassy in Singapore. In doing so, BAT caused U.S. financial institutions to process wire transfers that contained the blocked property interests of sanctioned North Korean banks and to export financial services and facilitate the exportation of tobacco to North Korea. The settlement amount, which is equal to the statutory maximum civil monetary penalty, reflects OFAC’s determination that these apparent violations were egregious, and not voluntarily self-disclosed.

Description of the Apparent Violations

In 2001, BAT’s Singapore subsidiary, British-American Tobacco Marketing (Singapore) PTE Ltd. (“BATM”) and a North Korean company (the “North Korea Company”) established a joint venture company (the “Joint Venture”) located in North Korea for the purpose of manufacturing and distributing BAT cigarettes. BATM held a 60 percent stake in the Joint Venture and supplied it with machines, equipment, tobacco, and other material to produce cigarettes (“Kit Sets”). It also provided the Joint Venture with professional services.

In 2007, BAT’s Standing Committee—which included BAT’s top executives in London—approved a scheme whereby BAT’s subsidiary would sell its stake in the Joint Venture to a Singapore-based trading group (the “Singapore Company”) for one euro due to concerns over its public association with North Korea and difficulty remitting profits out of the country. The terms of the divestment, completed in August 2007, purposefully obscured BAT’s continued effective ownership and control over the Joint Venture. Indeed, the Singapore Company understood that it would act “as a vehicle for BAT to bring out [the Joint Venture’s] money and distribute [dividends] back to BAT.” BAT continued to exercise control over the Joint Venture through restrictions in the sales agreement, including a provision that allowed BAT, through a subsidiary, to reacquire its stake in the Joint Venture at its discretion for one euro. As part of the scheme, BATM also continued to sell and receive payment for Kit Sets and other goods and services to the Joint Venture through the Singapore Company.

Following the divestment, between 2009 and 2016, the North Korea Company remitted USD payments that the Joint Venture owed to BATM via the Singapore Company through a complex, multi-step process. This involved the North Korea Company remitting the funds from its account with OFAC-designated Foreign Trade Bank (FTB) in North Korea through various accounts in China that contained the interests of FTB and front companies for OFAC-designated Korea Kwangson Banking Corporation (KKBC), the Singapore Company's accounts in Singapore, and ultimately BATM's account at the foreign branch of a U.S. bank.¹ According to BAT, this process was meant to reduce the risk of the money being frozen "in any leg of the transaction" process. Altogether, this scheme caused twelve U.S. banks to process 228 USD payments from the North Korea Company to the Singapore Company, including payments that were ultimately remitted to BATM.

Multiple internal memoranda and emails indicated that BAT managers in Asia Pacific offices understood as early as 2005 that U.S. restrictions could prohibit banks from processing payments that involved North Korea. BAT and its subsidiaries did not, however, cease their conduct after KKBC and FTB were respectively designated, despite knowing both were involved in the remittance of funds from North Korea. BAT and its subsidiaries also sought to conceal their apparently violative conduct from banks, for example by letting a wire transfer expire rather than respond to a question from a bank that would have revealed the payment's connection to North Korea.

Amid increasing international sanctions against North Korea, BATM made its last Kit Set export to the Joint Venture in July 2016, and BAT's Standing Committee approved BATM to terminate its business with the Joint Venture in December 2016. BATM, the North Korea Company, and the Singapore Company finalized the conditions associated with terminating BAT's Joint Venture-related business in May 2017.

However, BATM, in partnership with the Singapore Company, continued to export cigarettes to the DPRK Embassy in Singapore between March 18, 2016 and September 14, 2017. BATM received approximately \$29,685.72 at its accounts at both the Singapore branch of a U.S. bank and a non-U.S. bank for these dealings. BATM and the Singapore Company worked in concert to remove any mention of the DPRK Embassy from transactional documents.

The apparent conspiracy formed by BAT and its subsidiaries, the North Korea Company, and the Singapore Company caused U.S. financial institutions to process 228 payments between the North Korea Company and the Singapore Company totaling approximately \$251,631,903—transactions in which two blocked entities, KKBC and FTB, had an interest. BATM's sale of cigarettes to the DPRK Embassy in Singapore further caused U.S. financial institutions to receive or otherwise process an additional 15 payments totaling \$29,685.72. This conduct resulted in one apparent violation of § 544.205(b) of the Weapons of Mass Destruction

¹ OFAC designated KKBC in 2009, and FTB in 2013 and again in 2017. "[Treasury Designates Financial Institution Tied to North Korea's WMD Proliferation](#)," U.S. Department of the Treasury, August 11, 2009; "[Treasury Sanctions Bank and Official Linked to North Korean Weapons of Mass Destruction Programs](#)," U.S. Department of the Treasury, March 11, 2013; and "[Treasury Sanctions Banks and Representatives Linked to North Korean Financial Networks](#)," U.S. Department of the Treasury, September 26, 2017.

Proliferators Sanctions Regulations, 31 C.F.R. part 544 (“WMDPSR”), and 15 apparent violations of § 510.212 of the North Korea Sanctions Regulations, 31 C.F.R. part 510 (“NKSR”) (collectively, the “Apparent Violations”). The settlement agreement for this action can be found [here](#).

Penalty Calculations and General Factors Analysis

The statutory maximum civil monetary penalty applicable in this matter is \$508,612,492, i.e., twice the value of the sum of each transaction associated with the apparent conspiracy between August 11, 2009 and October 11, 2016, and \$356,579 for each of the 15 wire transfers for the sales to the DPRK Embassy in Singapore that were processed by U.S. financial institutions. OFAC determined that the Apparent Violations were not voluntarily self-disclosed and constitute an egregious case. Accordingly, under OFAC’s Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501 (“Enforcement Guidelines”), the base civil monetary penalty amount applicable in this matter is the statutory maximum penalty of \$508,612,492.

OFAC is taking this action concurrently with the U.S. Department of Justice (DOJ). BAT’s obligation to pay a penalty of \$503,263,807 for its apparent conspiracy violation of § 544.205(b) of the WMDPSR shall be deemed satisfied by payment of a greater amount in satisfaction of penalties assessed by DOJ arising out of the same pattern of conduct during the same time period. BAT has agreed to separately remit the portion of the settlement amount totaling \$5,348,685 reflecting the apparent violations of § 510.212 of the NKSR.

The settlement amount for the statutory maximum reflects OFAC’s consideration of the General Factors under the Enforcement Guidelines.

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

- (1) BAT and its subsidiaries willfully conspired to transfer hundreds of millions of dollars through U.S. banks (including the foreign branch of a U.S. bank) in which sanctioned North Korean banks had an interest or that otherwise pertained to the exportation of goods to North Korea. BAT and its subsidiaries’ management were, at all relevant times, aware that U.S. sanctions regulations prohibited this conduct;
- (2) In furtherance of its apparently violative conduct, BAT and its subsidiaries concealed their North Korea-related business by purporting to exit the Joint Venture and receiving payments through a complex remittance structure that relied on an opaque series of front companies and intermediaries. BAT also ignored requests for information from banks, and asked its counterparty to remove any mention of North Korea from transactional documents;
- (3) BAT management had actual knowledge regarding the apparent conspiracy from its inception through its termination. This knowledge extended to BAT’s Standing Committee, which signed off on the ostensible divestment from the Joint Venture;

- (4) BAT's apparent violations helped North Korea establish and operate a cigarette manufacturing business—a sector that has reportedly netted over \$1 billion per year for the Government of the DPRK. The Government of the DPRK is known to use funds generated through international trade to support its nuclear and missile programs and weapons proliferation. The conspiracy, moreover, involved entities designated by OFAC for their proliferation activities and provided them with opportunities to evade U.S. sanctions; and
- (5) BAT is a large and sophisticated international company operating in approximately 180 markets around the world.

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

- (1) BAT has not been the subject of an OFAC investigation nor been issued a Finding of Violation or Penalty Notice in the past five years; and
- (2) BAT cooperated with OFAC, including by agreeing to toll the statute of limitations, providing detailed document productions, and giving prompt responses to additional requests for information.

Compliance Considerations

Foreign firms that form and participate in conspiracies that cause U.S. persons to engage in prohibited transactions, including dealing in property in which blocked persons have an interest, expose themselves to strict penalties. As this matter demonstrates, creating the illusion of distance between a firm and apparently violative conduct does not shield that firm from liability. Here, the parent company's apparent conspiracy caused payments to flow from North Korea, through accounts in which sanctioned North Korean banks had an interest, and then through the U.S. financial system and ultimately to the subsidiary located in Singapore. Even though the parent company and subsidiary did not deal directly with the two sanctioned banks, they exposed themselves to civil liability for sanctions violations when they formed and executed the broader scheme to use the U.S. financial system in furtherance of North Korea-related business.

This matter further demonstrates that, without a culture of compliance driven by senior management and attendant policies and controls, firms increase the risk that they may engage in apparently violative conduct. Senior management decisions to approve or otherwise support arrangements that obscure dealings with sanctioned countries and parties can be reflected throughout an organization, compounding sanctions risks and increasing the likelihood of committing potential violations.

Additionally, as appropriate, firms seeking to comply with sanctions regulations should reevaluate their sanctions risk exposure as regulatory developments occur. Particularly for multinational corporations, employing a risk assessment in a manner, and with a frequency, that adequately accounts for potential risks, may help identify and halt apparently violative conduct early, or before it happens. In this matter, although BAT knew in 2007 that changing sanctions

regulations could create liability in the future, it failed to cease its violative activity when KKBC and FTB were respectively designated in 2009 and 2013.

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 <https://ofac.treasury.gov/civil-penalties-and-enforcement-information>.

For more information regarding OFAC regulations, please go to: <https://ofac.treasury.gov>.