



**U.S. DEPARTMENT OF THE TREASURY
OFFICE OF FOREIGN ASSETS CONTROL**



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**Vietnam Beverage Company Limited settles with OFAC for \$860,000 for
Apparent Violations of the North Korea Sanctions Regulations**

Vietnam Beverage Company Limited (VBCL), a holding company based in Vietnam whose subsidiaries are involved in the production and sale of alcoholic drinks, has agreed to pay \$860,000 on behalf of two of its subsidiaries to settle its potential civil liability for apparent violations of OFAC sanctions on the Democratic People's Republic of Korea ("North Korea" or the "DRPK"). Between April 2016 and October 2018, VBCL's subsidiaries sought and received approximately \$1,141,547 in payments through U.S. financial institutions for the sale of alcoholic beverages to North Korea, causing these U.S. financial institutions to export financial services to North Korea.

The settlement amount reflects OFAC's determination that VBCL's subsidiaries' apparent violations were not voluntarily self-disclosed and non-egregious. It also accounts for VBCL's cooperation with OFAC's investigation, including its proactive notification to OFAC of its internal findings, and VBCL's remedial measures implemented after discovering the apparent violations.

Description of the Apparent Violations

In late 2017, VBCL acquired a majority ownership interest in several alcoholic beverage companies in Vietnam (collectively, the "Subsidiaries"). The Subsidiaries exported alcoholic beverages to customers globally, including certain legacy customers in or connected to North Korea. Since at least 2016, the Subsidiaries made export sales on terms requiring payment from the customer prior to delivery; the Subsidiaries issued invoices in U.S. dollars to the customer and then arranged for shipment. As a general practice, the Subsidiaries executed contracts with customers for specific types and quantities of alcohol, valued at a price specified in U.S. dollars, for delivery to the customer free on board at a port in Vietnam. From time to time, these goods were delivered in separate shipments pursuant to one contract, which sometimes resulted in multiple invoices issued under a single contract.

Between January 2016 and September 2018, the Subsidiaries executed 26 contracts for the sale and exportation of beer and spirits to North Korea. The contracts were approved by the Subsidiaries' senior managers and signed with two North Korean entities, Korea Samjin Trade Company ("Korea Samjin") and Korea Zo-Ming General Corporation ("Korea Zo-Ming"), and two third-party companies, Sunico Co. Ltd. in Singapore and Alttek Global Corporation in the Seychelles. The Subsidiaries then issued 47 invoices to the two North Korean entities and the two third-party companies pursuant to the 26 contracts. Nearly all of the associated business documents for these dealings made specific references to North Korea and the receipt of payment in U.S. dollars.

Following issuance of the invoices, the Subsidiaries received 43 wire transfers totaling approximately \$1,141,547 between April 2016 and October 2018 for these sales from 15 different third-party companies (seven in Hong Kong, four in China, and four in Turkey), as well as the two aforementioned in Singapore and the Seychelles, all of whom were making payment on behalf of either Korea Samjin, Korea Zo-Ming, or unknown entities located in North Korea. All 43 wire

transfers were processed by U.S. correspondent banks or, in one case, initiated by a foreign branch of a U.S. financial institution. Neither VBCL nor the Subsidiaries had sanctions compliance programs or policies concerned with U.S. sanctions in place at the time the conduct at issue occurred.

When the Subsidiaries' senior management underwent organizational changes in December 2019, the new management team learned of the Subsidiaries' past sales of alcoholic beverages to North Korea and ordered the termination of any further dealings with North Korea by the Subsidiaries. VBCL also proactively submitted a letter to OFAC providing additional information regarding the conduct at issue. In addition, the Subsidiaries' senior management issued a compliance directive prohibiting business with comprehensively sanctioned jurisdictions, including North Korea. This directive required due diligence on all prospective and renewing customers, including screening customers against sanctions lists. VBCL developed a sanctions compliance program modeled after OFAC's May 2019 Framework for Compliance Commitments. Furthermore, VBCL mandated the creation of sanctions compliance teams and engaged an independent third party to undertake background checks on all customers. VBCL also arranged sanctions compliance training for its Subsidiaries.

By issuing invoices in U.S. dollars and subsequently receiving approximately \$1,141,547 in payments that were processed by U.S. financial institutions for the sale of alcoholic beverages to North Korea, the Subsidiaries appear to have caused U.S. financial institutions to export financial services to the DPRK in apparent violation of § 510.206 of the North Korea Sanctions Regulations, 31 C.F.R. part 510 ("NKSR"). As a result, between April 2016 and October 2018, the Subsidiaries appear to have violated § 510.212 of the NKSR on 43 occasions when they caused U.S. financial institutions to export financial services to the DPRK (the "Apparent Violations").

Penalty Calculations and General Factors Analysis

The statutory maximum civil monetary penalty applicable in this matter is \$15,829,848. OFAC determined that VBCL 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"), 31 C.F.R. Part 501, app. A., the base civil monetary penalty applicable in this matter equals the sum of the applicable schedule amount for each violation, which is \$1,720,000.

The settlement amount of **\$860,000** reflects OFAC's consideration of the General Factors under the Enforcement Guidelines.

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

- (1) The Subsidiaries failed to exercise due caution or care when they invoiced customers in U.S. dollars and subsequently received payments processed by U.S. financial institutions for sales and exports of alcoholic beverages to the DPRK, which caused U.S. financial institutions to export financial services to the DPRK;
- (2) The Subsidiaries' then-senior management knew or had reason to know that they were doing business with DPRK entities and receiving payments made on behalf of DPRK entities

through intermediaries, remitted via correspondent accounts in the United States or accounts at a foreign branch of a U.S. financial institution; and

- (3) The Subsidiaries harmed the U.S. foreign policy objectives of OFAC's North Korea sanctions by involving U.S. financial institutions in its direct and indirect export of alcohol to the DPRK. The aim of the U.S. prohibition on alcohol to the DPRK, among other restrictions, has been to pressure the DPRK into obtaining sanctions relief by curtailing its nuclear and related missile programs. The Subsidiaries' conduct therefore provided sought-after goods to the North Korean regime in contravention of this objective.

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

- (1) Neither VBCL nor its Subsidiaries have received a penalty notice from OFAC in the five years preceding the earliest date of the transactions giving rise to the Apparent Violations;
- (2) VBCL provided substantial cooperation to OFAC's investigation by researching and providing OFAC with information about substantially similar violations, providing additional documents, promptly responding to requests for information, and executing multiple tolling agreements; and
- (3) VBCL, on its own initiative, undertook significant remedial measures to address its lack of compliance policies, including establishing sanctions compliance teams and programs at its Subsidiaries, providing sanctions compliance training to its Subsidiaries, and engaging an independent third party to perform compliance screening functions.

Compliance Considerations

This enforcement action demonstrates how non-U.S. persons in foreign jurisdictions may face sanctions liability, particularly when utilizing the U.S. financial system. Specific risks may arise when non-U.S. persons issue commercial or contractual documentation, or otherwise request payment, in U.S. dollars from other non-U.S. persons, which would likely involve U.S. financial institutions for routine clearing and routing purposes. Additionally, such risks may be heightened when operating in or engaging with comprehensively sanctioned jurisdictions, particularly with regard to valued goods and the DPRK. Foreign firms transacting in U.S. dollars should therefore carefully consider such risks when engaging in commercial activities involving the U.S. financial system and implement appropriate mitigation.¹

In light of the DPRK's efforts to evade U.S. and international sanctions, this matter further illustrates how the absence of a risk-based sanctions compliance program can increase the likelihood of committing a similar potential sanctions violation. An adequate sanctions compliance program should take into account the size and sophistication of a company's business operations, business partners, and consumer base especially when considering the scale and frequency of sanctions risk assessments, proper due diligence, and thorough compliance training. These compliance elements can not only help identify sanctions exposure associated with

¹ U.S. Department of the Treasury, [Tri-Seal Compliance Note: Obligations of foreign-based persons to comply with U.S. sanctions and export control laws](#), March 6, 2024, pp. 1-10.

comprehensively sanctioned jurisdictions and other sanctioned parties, but can also assist personnel in proactively recognizing indicators of potential sanctions violations and prevent such potential violations from occurring. This case also highlights the importance of conducting a sanctions risk assessment to identify potential areas in which it may, directly or indirectly, engage with OFAC-prohibited persons, parties, countries, or regions, including an assessment of the geographic location of customers, supply chain, intermediaries, and counter-parties.

OFAC Enforcement and Compliance Resources

On May 2, 2019, OFAC published [A Framework for OFAC 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 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://ofac.treasury.gov/civil-penalties-and-enforcement-information>.

Whistleblower Program

The U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) maintains a whistleblower incentive program for violations of OFAC-administered sanctions, in addition to violations of the Bank Secrecy Act. Individuals located in the United States or abroad who provide information may be eligible for awards, if the information they provide leads to a successful enforcement action that results in monetary penalties exceeding \$1,000,000. FinCEN is currently accepting whistleblower tips.

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