

OFAC Penalties and Settlements, Q4 2021

During the fourth quarter of 2021, the US Treasury's Office of Foreign Assets Control (OFAC) entered into three settlements—two with financial institutions and one with an individual—for apparent violations of US sanctions. One of the financial institutions—Mashreqbank—did not face a monetary penalty from OFAC, but did pay \$100 million in a multi-agency resolution with New York State Department of Financial Services and the Federal Reserve Board of Governors. The other two settlements show the importance of not only voluntary self-disclosure, which we flagged in our [last infographic](#), but also the risk of recklessly ignoring US sanctions.

- Between 2005 and 2009, Mashreq's London branch [processed](#) 1,760 outgoing payments totaling \$4.1 billion through the US financial system violating the now-repealed Sudan sanctions regulations (SSR). OFAC issued a Finding of Violation (FOV), which did not include a fine, partly because Mashreqbank retroactively waived OFAC's five-year statute of limitations, which would have prevented Treasury from charging the violation. OFAC also credited the bank for its cooperation with the investigation, waiver of the statute of limitations, and improvements to its compliance program as mitigating factors.
- In 2016, a US person used his personal US bank account to receive four payments totaling \$133,860 on behalf of an Iranian cement company. The individual facilitated the sale of a cement precursor for a family member working at an Iranian cement company by relaying logistical and shipping information to the purchasing company in violation of the Iranian Transactions and Sanctions Regulations (ITSR). The penalty totals the exact amount funneled through his bank account, based partly on the fact that he derived little to no economic benefit from the transactions. But had he been a repeat offender or benefitted financially from the transactions, the penalty could have been as high as \$1.2 million. The individual did not self-disclose his apparent violations and harmed the objectives of the ITSR.
- OFAC's [settlement](#) with TD Bank for \$115,005 for violations of both programs reflects the fact that the bank violated both North Korea sanctions and violations of the Kingpin Act. However, the bank's action to terminate the conduct, efforts to enhance controls and training, and voluntary self-disclosure of the violations reduced the payment to a mere fraction of the statutory maximum civil penalty of nearly \$461 million for the North-Korea related violations and more than \$224 million for the Kingpin violations.

Voluntary self-disclosure continues to be a major consideration when OFAC assesses a settlement for apparent violations. Therefore, engaging with experts who can help write clear and concise violations reports, as well as research possible shortcomings that resulted in the violations is critical for an effective compliance program. Full cooperation with OFAC is almost certainly a vital measure every firm and financial institution should take to mitigate its regulatory penalties, and the importance of ensuring correct identifications of nationalities and locations of prospective clients and business partners cannot be understated.

OFAC SETTLEMENTS Q4- 2021

TD Bank

Settlement Penalty: \$115,005.41

Aggravating Factors:

- Failure to exercise due caution
- Had reason to know it was holding accounts for North Korean nationals
- Large and sophisticated financial institution

Mitigating Factors:

- No leaders had actual knowledge of violations
- All the North Korea transactions likely would have been eligible for a license
- Terminated the conduct
- Enhanced internal controls

Individual

Settlement Penalty: \$133,860

Aggravating Factors:

- Willful violation
- Recklessly ignored US sanctions
- Actively participated in sanctions violations
- Harmed the objectives of the ITSR

Mitigating Factors:

- Minimal, if any economic benefits from violations
- Has not received previous finding of violation or penalty notice

Mashreqbank

Settlement Penalty: \$0

Aggravating Factors:

- Caused harm to the integrity of a US sanctions program
- Acted recklessly regarding its US sanctions obligations
- Some senior-level employees had actual knowledge of violations
- Internal control failures

Mitigating Factors:

- Cooperated substantially with investigation and has not received penalty notice or finding of violation in the past 5 years
- Increased compliance staff and enhanced compliance program
- Closed all USD accounts of Sudanese banks and discontinued activity on its own
- Total harm caused to the SSR was less than total value of transactions

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