

ENFORCEMENT INFORMATION FOR July 24, 2014

Information concerning the civil penalties process is discussed in OFAC regulations governing the various sanctions programs and in 31 C.F.R. part 501. On November 9, 2009, OFAC published as Appendix A to part 501 Economic Sanctions Enforcement Guidelines. See 74 Fed. Reg. 57,593 (Nov. 9, 2009). The Economic Sanctions Enforcement Guidelines, as well as recent final civil penalties and enforcement information, can be found on OFAC's Web site at <http://www.treasury.gov/ofac/enforcement>.

ENTITIES – 31 CFR 501.805(d)(1)(i)

Bank of America, N.A. Settles Potential Civil Liability for Apparent Violations of Multiple Sanctions Programs: Bank of America, N.A. (Bank of America) has agreed to remit \$16,562,700 to settle potential civil liability for 213 apparent violations of the Foreign Narcotics Kingpin Sanctions Regulations (FNKSR), 31 C.F.R. part 598; the Narcotics Trafficking Sanctions Regulations (NTSR), 31 C.F.R. part 536; and the Reporting, Procedures and Penalties Regulations (RPPR), 31 C.F.R. part 501. Between September 10, 2005 and March 31, 2009, Bank of America processed 208 transactions totaling approximately \$91,192 on behalf of, and failed to properly block five accounts owned by, 10 individuals whom OFAC had previously added to its List of Specially Designated Nationals and Blocked Persons (SDN List).

Between September 10, 2005 and March 31, 2009, Bank of America processed 116 transactions totaling approximately \$28,596, for three Specially Designated Narcotics Traffickers (SDNTs) in apparent violation of the FNKSR. The total base penalty for this set of apparent violations was \$82,832,000. Between September 11, 2005 and August 17, 2007, Bank of America processed 92 transactions totaling approximately \$62,596, involving three SDNTs in apparent violation of the NTSR. The total base penalty for this set of apparent violations was \$701,000. Between October 31, 2006 and March 3, 2009, Bank of America failed to file timely blocked property reports regarding five accounts owned by four SDNTs, in apparent violation of the FNKSR, NTSR, and RPPR. The total base penalty for this set of apparent violations was \$117,000.

The Office of Foreign Assets Control (OFAC) has determined that although Bank of America identified most of the apparent violations, the disclosures are not voluntary self-disclosures within the scope of OFAC's definition under the *Economic Sanctions Enforcement Guidelines*, 31 C.F.R. part 501, app. A, because they were substantially similar to other apparent violations of which OFAC was already aware. In addition, OFAC has determined that the 79 transactions Bank of America processed on or after October 6, 2006, constitute an egregious case. The total base penalty amount for all of the apparent violations was \$83,650,000.

In reaching its determination that the apparent violations that occurred on or after October 6, 2006, were egregious, OFAC considered the following: Bank of America demonstrated reckless disregard for U.S. sanctions requirements by failing for more than two years to adequately address a known deficiency in its OFAC screening tool that prevented the bank from identifying potential matches to individuals with multiple or multi-part last names on the SDN List; as early as October 2006, at least one official in Bank of America's office responsible for OFAC compliance was aware of the deficiency, but the bank did not resolve the deficiency until

February 2009; the potential harm to the U.S. sanctions program objectives was significant, given the number of transactions, the benefit conferred to the SDNTs, and the length of time over which the apparent violations occurred; Bank of America is a highly sophisticated U.S. financial institution; Bank of America failed to take adequate remedial action for more than two years after first identifying the deficiency in one of the bank's screening tools; Bank of America processed additional apparent violations after it reported taking remedial actions to OFAC in 2006 and 2008; and Bank of America's sanctions history during the five years preceding the dates of the apparent violations includes a settlement involving the operation of an account on behalf of an SDNT. OFAC has no information showing that any member of Bank of America's staff or management had actual knowledge of the filter deficiency prior to October 6, 2006.

Mitigation was extended because Bank of America has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the earliest date of the apparent violations; some of the apparent violations might have been eligible for a specific license under OFAC's existing licensing policy at the time the transactions occurred; Bank of America has taken substantial remedial action by correcting the deficiency that led to the apparent violations, voluntarily rescreening its customer database to identify additional accounts it was operating or had operated for persons named on the SDN List and disclosing the results to OFAC, providing additional training to its OFAC compliance personnel, upgrading the OFAC screening tool, and investing in additional sanctions compliance personnel; and Bank of America substantially cooperated with OFAC's investigation, including by conducting an internal investigation into the conduct giving rise to the apparent violations and providing the relevant information to OFAC, agreeing to toll the statute of limitations, and subsequently extending the tolling agreement. A further reduction was extended for agreeing to enter into this settlement regarding the apparent violations.

For more information regarding OFAC regulations, please visit: <http://www.treasury.gov/ofac>.