ENFORCEMENT INFORMATION FOR November 4, 2015

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.


On June 7, 2010, BBNY manually added Isfahan Internacional Importadora Ltda (“Isfahan”), a customer of Banco do Brasil, S.A., Brazil (“BB-Brazil”), to its “Good Guy Exception List” after its Office of Foreign Assets Control (OFAC) interdiction software generated alerts on a recurring basis due to the word “Isfahan”—a location in Iran—in the company’s name. Although Isfahan’s line-of-business included the importation of carpets from various countries to Brazil, BBNY relied on verbal representations made to BB-Brazil by Isfahan that Isfahan did not export products to or import products from Iran when it decided to place Isfahan on its “Good Guy Exception List.” Between October 22, 2010 and February 11, 2011, BBNY processed three funds transfers totaling $70,244.61 originated by Isfahan’s account at BB-Brazil and destined for a third-country beneficiary’s account at multiple third-country financial institutions. Although BBNY later determined that these funds transfers, in part, constituted payments for Iranian-origin goods, BBNY did not stop the funds transfers for manual review because its payment system cleared the alert against the phrase “Isfahan” due to the originator’s inclusion on the Good Guy Exception List.

On October 24, 2011, BBNY processed a $27,364.14 funds transfer originated by Isfahan’s account with BB-Brazil and destined for a third-country beneficiary’s account at a third-country financial institution. Although BBNY processed the funds transfer in the same manner as the above-referenced transactions, later that same day a separate U.S. intermediary financial institution requested detailed information – including copies of any related invoices associated with the payment – from BBNY. On or about November 9, 2011, BBNY received the requested supporting documentation from BB-Brazil, including a copy of the invoice and bill of lading related to the payment. Although BBNY stated that the copy of the invoice its Compliance Department obtained “was of poor quality,” BBNY’s Compliance Department determined that

¹ On October 22, 2012, OFAC changed the heading of 31 C.F.R. part 560 from the Iranian Transactions Regulations to the ITSR, amended the renamed ITSR, and reissued them in their entirety. See 77 Fed. Reg. 64,664 (Oct. 22, 2012). For the sake of clarity, all references herein to the ITSR shall mean the regulations in 31 C.F.R. part 560 in effect at the time of the activity, regardless of whether such activity occurred before or after the regulations were renamed.
the invoice did not reference Iran and relayed this information and copies of the supporting
documentation to the U.S. intermediary financial institution. In doing so, BBNY relied on the
previous verbal representations made by Isfahan to BB-Brazil and did not request a more legible
copy of the associated invoice or additional information or clarity from BB-Brazil regarding the
funds transfer. Nevertheless, on November 10, 2011, the U.S. intermediary financial institution
identified references to Iran on the invoice provided by BBNY and rejected the transaction and
returned the funds to BBNY “due to Iran involvement.”

Despite receiving information from the U.S. intermediary financial institution that it had rejected
the October 24, 2011 funds transfer because it involved Iran, BBNY processed an additional
three funds transfers totaling $94,714.28 between November 14, 2011 and June 4, 2012 that
involved Isfahan and payments for Iranian-origin goods. Although BBNY’s interdiction filter
automatically cleared one of the payments due to Isfahan’s inclusion on the Good Guy Exception
List, it stopped two of the funds transfers for manual review since the customer’s address was
different than the address included on the Good Guy Exception List. In one instance, BBNY
stated that two of its OFAC analysts and a Senior Compliance Officer relied on the investigation
the bank conducted in connection with the October 24, 2011 funds transfer (including their
interpretation that the invoice did not reference Iran despite its poor quality) and released the
funds transfer without requesting any additional information. In another instance, two BBNY
Compliance Department employees released the funds transfer after determining it had been
stopped solely due to the word “Isfahan” and likewise did not request any additional information.

OFAC has determined that BBNY did not voluntarily self-disclose the apparent violations and
that the apparent violations constitute a non-egregious case. The total base penalty amount for
the apparent violations was $310,000.

The settlement amount reflects OFAC’s assessment that the bank may have been unaware of the
risks associated with a false hit list that was not reviewed and updated regularly, as well as
OFAC’s consideration of the following facts and circumstances, pursuant to the General Factors
found the following to be aggravating factors in this case: several BBNY employees failed to
exercise a minimal degree of caution or care with regard to the conduct that led to the apparent
violations, including reliance on a partially illegible invoice to assess sanctions compliance;
staff-level BBNY personnel and/or a BBNY Senior Compliance Officer knew of the conduct that
led to two of the apparent violations, and had reason to know that the BB-Brazil’s customer
might process additional transactions in apparent violation of the ITSR; and four of the seven
transactions resulted in harm to the sanctions program objectives of the ITSR by providing
economic benefit to Iran. OFAC considered the following to be mitigating factors: BBNY has
not previously received a penalty notice or Finding of Violation from OFAC; BBNY took
appropriate remedial action in response to the apparent violations; and BBNY substantially
cooperated with OFAC during the course of the investigation, including by identifying four of
the apparent violations.

This enforcement action highlights the risks associated with failing to review multiple OFAC
warnings signs with respect to a particular customer – including transactions blocked or rejected
by other financial institutions specifically due to OFAC sanctions – as well as the risks posed by relying on incomplete or inaccurate information when assessing a potential OFAC alert or match.

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