



Enforcement Release: April 30, 2020

**OFAC Issues a Finding of Violation to
American Express Travel Related Services Company for Violations of
the Weapons of Mass Destruction Proliferators Sanctions Regulations**

Between approximately March 26, 2015 and May 19, 2015, American Express Travel Related Services Company (“Amex”) issued a prepaid card to, and processed 41 transactions totaling \$35,246.82 on behalf of, Gerhard Wisser, a Specially Designated National (SDN). These violations were the result of human error and screening system defects. Amex remediated and disclosed the violations to OFAC, which has issued a Finding of Violation to Amex for these violations. There is no monetary penalty associated with a Finding of Violation.

Description of the Violations and the Conduct Leading to the Violations

On January 12, 2009, OFAC added Wisser to the List of Specially Designated Nationals and Blocked Persons (“SDN List”). On March 26, 2015, Wisser applied for an American Express GlobalTravel Card at a non-U.S. bank, which at the time was an authorized GlobalTravel Card issuer. When the non-U.S. bank entered Wisser’s information into the screening system, the Amex system utilized for OFAC compliance purposes, which uses a “risk engine” designed by Acertify Inc., a wholly-owned subsidiary of Amex, identified Wisser as a potential SDN match and automatically generated multiple “declined” messages to the non-U.S. bank indicating that the application could not be processed. The non-U.S. bank, however, made several additional approval attempts which eventually led the risk engine to time out. The timing out of the risk engine then triggered the application to be automatically approved.

After generating an approval message following a system time-out, the risk engine separately routed the application into a manual review queue for investigation of potential sanctions-related issues. The Amex compliance analyst incorrectly determined that the individual applying for the GlobalTravel Card was not the SDN. On March 26, 2015, after clearing Wisser as a potential match to the SDN List, the compliance analyst placed him on the company’s “Accept List.” In addition to making two initial deposit transactions or “card loads” totaling approximately \$17,655.17 on March 26, 2015, Wisser was able to engage in approximately 39 withdrawal transactions totaling approximately \$17,591.65 (nearly the entire balance on the card) between March 26, 2015, and May 19, 2015, by using his GlobalTravel Card at various ATMs in Germany and the United Arab Emirates. This activity was in violation of the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 C.F.R. Part 544 (WMDPSR).

General Factors Analysis

OFAC has considered the General Factors Affecting Administrative Action (the “General Factors”) set forth in OFAC’s Economic Sanctions Enforcement Guidelines (the “Guidelines”), 31 C.F.R. Part 501, app. A.

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

- (1) There was sanctions harm because Amex conferred economic benefit to an SDN, allowing 41 transactions totaling \$35,246.82;



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- (2) Amex is a large, commercially sophisticated financial institution; and
- (3) Amex's automatic approval of applications in instances where the risk engine led to a system timeout was a critical shortcoming of its compliance program.

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

- (1) There was no willful or reckless behavior;
- (2) OFAC has no information to indicate that Amex knew it maintained a card for an SDN, or that its system could be overridden;
- (3) Amex remediated, making it less likely similar violations will recur;
- (4) Amex cooperated with OFAC's investigation, including by voluntarily disclosing the violations to OFAC; and
- (5) Amex has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the earliest date of the transactions giving rise to the violations.

Compliance Considerations

This case highlights the importance of taking the steps necessary to ensure that automated sanctions compliance controls measures cannot be overridden without appropriate review.

OFAC Enforcement and Compliance Resources

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

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 website at <http://www.treasury.gov/ofac/enforcement>.

On May 2, 2019, OFAC published *A Framework for OFAC Compliance Commitments* 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.