

MEMORANDUM OF UNDERSTANDING
Between the
U.S. Department of the Treasury, Internal Revenue Service
and
U.S. Department of the Treasury, Office of Foreign Assets Control

I. Purpose

This Memorandum of Understanding (“MOU”) sets forth the understanding between the Internal Revenue Service (“IRS”), which is a bureau of the Department of the Treasury (“Treasury”), and the Office of Foreign Assets Control (“OFAC”), which is a unit of Treasury, with respect to reviews conducted by the IRS for compliance with U.S. economic sanctions. The sharing of information under this MOU is intended to help OFAC in administering U.S. economic sanctions and to assist the IRS in exercising its delegated examination authority under Treasury Directive 15-43 (May 3, 2007). The purpose of this MOU is to promote the sharing of certain U.S. economic sanctions related information between OFAC and the IRS, and to promote cooperative efforts between OFAC and the IRS to heighten awareness of U.S. economic sanctions.

II. Definitions

“BSA-examined person” means a person the IRS has the delegated authority, under 31 C.F.R. § 103.56(b)(8), to examine for compliance with the Title 31 provisions of the Bank Secrecy Act (BSA), as amended, codified at 31 U.S.C. §§ 5311-5332.

“Economic Sanctions Compliance Review” means a compliance review by the IRS to determine compliance with the requirements of OFAC-administered economic sanctions programs.

“U.S. economic sanctions” means the economic sanctions programs that OFAC has the delegated authority to administer and enforce, including but not limited to, sanctions established under: section 5(b) of the Trading with the Enemy Act of 1917, as amended (“TWEA,” codified at 50 U.S.C. App. §§ 1-44), the International Emergency Economic Powers Act, as amended (“IEEPA,” codified at 50 U.S.C. §§ 1701-1706), the National Emergencies Act, as amended (“NEA,” codified at 50 U.S.C. §§ 1601-1651), section 5 of the United Nations Participation Act, as amended (“UNPA,” codified at 22 U.S.C. § 287c), and the Foreign Narcotics Kingpin Act (“Kingpin Act,” codified at 21 U.S.C. §§ 1901-1908).

“Primary points of contact” means the employees of both the IRS and OFAC who are identified for purposes of implementing this MOU, as the primary points of contact in accordance with section VIII. D. of this MOU.

III. Information to be Provided by the IRS

- A.** If the IRS discovers an apparent violation of U.S. economic sanctions or an apparent compliance risk with respect to such sanctions during the course of an economic sanctions compliance review, the IRS will provide information concerning the apparent violation or compliance risk to OFAC as mutually agreed between the points of contact. In certain particularly sensitive matters, information that could significantly impact an IRS criminal investigation will be communicated directly to the Director of the Office of Foreign Assets Control by the Chief, IRS Criminal Investigation, and will not be transmitted through the points of contact.
- B.** Notwithstanding the foregoing, the IRS may limit the provision of information to OFAC if the IRS determines there is a legal restriction that prevents the IRS from disclosing information, including but not limited to, disclosures of information that are restricted by section 6103 of the Internal Revenue Code.
- C.** The IRS will only provide information to OFAC that was obtained by the IRS under its delegated authority to conduct economic sanctions compliance reviews pursuant to Treasury Directive 15-43. Nothing in this MOU restricts OFAC's ability to request information directly from Financial Crimes Enforcement Network (FinCEN) that the IRS obtains under authority of the Bank Secrecy Act provisions of Title 31.

IV. Information to be Provided by OFAC

The OFAC will provide the IRS with information OFAC obtains during its economic sanctions compliance reviews of BSA-examined persons as mutually agreed between the points of contact. OFAC will also provide the IRS with information OFAC obtains about apparent violations of U.S. economic sanctions by BSA-examined persons as mutually agreed between the points of contact.

V. Coordination of Activities

- A.** The OFAC will coordinate with the IRS on a timely basis all agreements or discussions between or among OFAC and other federal or state agencies, and with nongovernmental organizations, concerning examinations of BSA-examined persons for compliance with U.S. economic sanctions.
- B.** In cases in which OFAC initiates an investigation or audit of a BSA-examined person, OFAC will inform the IRS of such investigation or audit prior to the start of such investigation or audit and notify the IRS of any enforcement action against the BSA-examined person prior to publicizing the enforcement action.

VI. Advice, Assistance and Training

Upon request, OFAC will provide an orientation to the IRS on the U.S. economic sanctions for which the IRS will be conducting compliance examinations. Upon request, OFAC will also provide other training or assistance to the IRS for the purpose of supporting the IRS's compliance program with respect to U.S. economic sanctions. The time, place, and frequency of such training or other assistance will be as mutually agreed between the points of contact.

VII. Disclosure of Information

Each party retains ownership of all documents provided to the other party under this MOU. Each party agrees to notify the other party if it receives a valid request under 5 U.S.C. § 552 (Freedom of Information Act, or FOIA) or a legally enforceable demand for documents owned by the other party. The party receiving such demand for documents will refer the party making the demand to the party who owns the documents. At its discretion, the owner of the documents shall assert any applicable FOIA exemptions or legal defenses to the release of such documents unless otherwise agreed by the parties. Neither party shall release documents owned by the other party unless subject to a court order, unless otherwise required by law, or the parties mutually consent to such release. The parties agree to establish and maintain such safeguards as are necessary and appropriate to protect the unauthorized disclosure of information received under this MOU. Neither party will disclose to the public any documents owned by the other party without its prior written approval. Neither party will be required to disclose information under the terms of this MOU if such disclosure will violate section 6103 of the Internal Revenue Code, or any other legal restriction that prohibits such disclosure, or interfere with a criminal investigation. This MOU is not intended to restrict the disclosure of information by either party when the disclosure is necessary to fulfill official duties, to the extent otherwise permitted by law.

VIII. Additional Understandings

- A. Costs.** Unless otherwise agreed, the IRS and OFAC will be responsible for their respective costs of implementing this MOU. The IRS will not be required to take any actions under the terms of this MOU that will result in costs to the IRS if the IRS determines that there is inadequate funding for such actions. In addition, the IRS will not be required to take any action under the terms of this MOU if the IRS determines that such actions are either inconsistent with or not likely to support IRS's Title 26 or Title 31 compliance efforts.
- B. Assessment of MOU Operation.** Either OFAC or the IRS may request a meeting, to be held within one year from the date of this MOU and as mutually agreed to thereafter by the points of contact, to discuss the operation

of this MOU and any related issues encountered, and to suggest any changes to the terms of this MOU as needed.

C. Third Party Rights. This MOU does not confer any rights or benefits on any third party.

D. Primary Points of Contact. OFAC's primary point of contact for purposes of implementing this MOU is the Assistant Director, Compliance Outreach & Implementation. IRS's primary point of contact for purposes of implementing this MOU is Director, Fraud-BSA or his or her delegate.

E. Authority of the Parties. Nothing in this MOU should be read to diminish or to otherwise alter any authority previously provided to the Commissioner of the IRS or to the Director of OFAC.

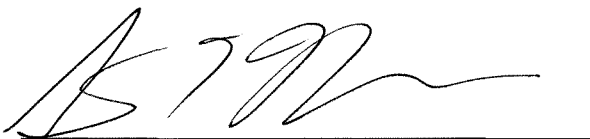
F. Amendment of MOU. This MOU may be amended provided that any such amendment is agreed to in writing by the IRS and OFAC.

G. Effective Date and Termination. This MOU shall become effective as of the date on which it is signed on behalf of the IRS and OFAC and may be terminated by either party upon 30 days written notice.

IN WITNESS WHEREOF, each of the parties hereto has caused this MOU to be executed on the date indicated below.

INTERNAL REVENUE SERVICE

OFFICE OF FOREIGN ASSETS CONTROL



By: Steven T. Miller
Deputy Commissioner for
Services and Enforcement

By: Adam J. Szubin
Director, Office of Foreign Assets
Control

Date: 11/16/09

Date: 11/23/09