



Client Alert

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National Bank of Abu Dhabi Settles With Office of Foreign Assets Control Over Apparent Violations

On June 14, 2012, the Office of Foreign Assets Control (OFAC) announced that the National Bank of Abu Dhabi (NBAD) agreed to remit \$855,000 to settle potential civil liability for 45 transactions that may have violated the Sudanese Sanctions Regulations. The apparent violations occurred between November 2004 and December 2005. NBAD provided information to OFAC revealing that certain of its clerical staff removed or omitted Sudan-related references in payment instructions processed on behalf of its Sudan branch for payments routed through financial institutions located in the United States. Such routing was in violation of the prohibition against the “exportation or re-exportation, directly or indirectly, to Sudan... of services from the United States,” as set forth in the Sudan Sanctions Regulations. The combined value of the 45 electronic funds transfers was \$4,389,235.

OFAC determined that the apparent violations constituted a non-egregious case. The base penalty amount for the apparent violations was \$4,276,000. The settlement amount reflects OFAC’s consideration of the following General Factors under OFAC’s Economic Sanctions Enforcement Guidelines: (i) NBAD took prompt and appropriate remedial action; (ii) NBAD provided substantial cooperation; and (iii) NBAD has not received a penalty notice or finding of violation in the five years preceding the transactions at issue.

The routing of payments through U.S. financial institutions made the payments, and the entities involved in such payments, subject to the restrictions and prohibitions contained in the sanctions programs (specifically the Sudan sanctions programs) administered by OFAC. The settlement should be a reminder to foreign companies that any operations or transactions involving any U.S. person or entity—even if the U.S. person is just assisting or aiding in the transaction—could be subject to relevant U.S. law and regulation, including the sanctions programs maintained by OFAC. Companies operating in the U.S. should carefully review their operations to determine exposure to U.S. regulation, and should design, implement, and update operational programs to ensure compliance.

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