

**U.K. Bank Penalized for Violating U.S. Economic Sanctions;
U.S. Banks May Want to Consider Protective Actions**

Recent press reports detailing large penalties paid by a U.K. bank in connection with its violations of U.S. restrictions on financial dealings with Iran and Sudan underscore the cost of the violations - in both financial and public relations terms - to a financial institution caught in such circumstances. Similar, although apparently less egregious, actions by ABN AMRO were penalized in 2005. While these kinds of actions are presumably not common, U.S. banks that routinely clear offshore transactions through correspondent accounts held by other banks, or that have overseas branches or affiliates, may want to consider protective measures to guard against such violations.

Penalties against Lloyds Bank. The Justice Department announced January 9, 2009, that Lloyds TSB Bank PLC, a U.K. corporation, had agreed to forfeit \$350 million to the United States and to the New York County District Attorney's Office in connection with violations of the International Emergency Economic Powers Act (IEEPA). The violations related to transactions Lloyds illegally conducted on behalf of customers from Iran, Sudan and other countries sanctioned under programs administered by Treasury's Office of Foreign Assets Control (OFAC). Authorities suspect that some of the funds may have been used on behalf of Iran's nuclear and missile programs.

IEEPA prohibits the willful violation of, or attempts to violate, any regulation issued under it, including the sets of regulations prohibiting the exportation of services from the U.S. to Iran and Sudan. According to court documents, Lloyds Bank falsified outgoing U.S. wire transfers involving sanctioned countries or persons by deliberately removing material information - such as customer names or bank names and addresses - from payment messages so that the wire transfers would pass undetected through filters at U.S. financial institutions. This so-called "stripping" of the information allowed more than \$350 million in transactions to be processed by unrelated U.S. correspondent banks used by Lloyds that might otherwise have been blocked or rejected due to sanctions regulations or internal bank policy. The actions by Lloyds, which began as early as 1995 and continued until January 2007, resulted in the illegal transfer of more than \$300 million on behalf of Iranian banks and their customers, and more than \$20 million in connection with transactions linked to Sudan.

Under the settlement and deferred prosecution agreements with the U.S. and New York State, Lloyds Bank accepted and acknowledged responsibility for its criminal conduct and will avoid further penalties if it fully complies with the terms of the agreements. Lloyds reportedly has agreed to adhere to a set of best practices for international banking transparency, to cooperate with continuing law enforcement investigations, and to conduct an internal review of past transactions. In addition, two other foreign banks besides Lloyds

- Barclays and Credit Suisse - have disclosed in public filings that they were cooperating with U.S. and New York prosecutors in connection with the U.S. sanctions programs. News reports indicate that up to nine other banks are being investigated.

Earlier Penalty against ABN AMRO. The actions by Lloyds Bank appear similar to, but more serious than, those referred to in a 2005 agreement involving ABN AMRO and the Federal Reserve, OFAC, and New York and Illinois banking departments. In that case, which did not involve criminal penalties, ABN AMRO agreed to pay a civil penalty of \$80 million to the federal and state agencies. The penalty was imposed following the discovery of deficiencies with respect to the bank's anti-money laundering practices and evidence of certain actions by overseas ABN AMRO branches. These actions resulted in the removal of identification information, leading U.S. branches of ABN AMRO to engage in transactions relating to Iran and Libya in violation of OFAC regulations. In contrast to the Lloyds Bank situation, it does not appear that ABN AMRO was charged with causing unrelated U.S. banks to violate OFAC sanctions.

Protective Actions. Against the background of these cases, U.S. banks with overseas branches or affiliates, or that operate correspondent accounts for offshore banks, may want to consider protective measures to ensure compliance with OFAC regulations. In both the Lloyds Bank and ABN AMRO situations, the removal of information caused transactions that would otherwise have been flagged by U.S. banks' filters to go through the systems routinely. Detecting and avoiding such transactions is made more difficult because the filtering systems used by U.S. banks and other financial institutions typically are not set up to deal with omitted information but rather to flag transactions in which questionable parties are involved.

U.S. banks with overseas affiliates or correspondent accounts may want to review their procedures to ensure that:

- they maintain up-to-date, sophisticated screening systems;
- they have adequate and appropriate practices and procedures to ensure familiarity with, and adherence to, OFAC regulations; and
- they have effective training programs for all relevant personnel.

In addition, U.S. banks with correspondent accounts may want to review their correspondent relationships to ensure that information received with respect to offshore transactions is complete and adequate. Depending on the circumstances, it might also be helpful to ask for written confirmation from holders of correspondent accounts that:

- they are aware of the OFAC restrictions;
- they realize that these restrictions apply to transactions that are processed through correspondent accounts; and
- they have not altered or omitted information so that sanctioned transactions would escape the filtering systems of U.S. banks.

If you have any questions regarding the OFAC sanctions, or would like assistance in considering protective measures, please contact:

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