

ENFORCEMENT INFORMATION FOR March 12, 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>.

ENTITIES – 31 C.F.R. 501.805(d)(1)(i)

Commerzbank AG Settles Potential Civil Liability for Apparent Violations of Multiple Sanctions Programs: Commerzbank AG (Commerzbank) has agreed to settle potential civil liability for 1,596 apparent violations of: the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR);¹ the Sudanese Sanctions Regulations, 31 C.F.R. part 538 (SSR); Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters" (E.O. 13382) and the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 C.F.R. part 544 (WMDPSR); the Burmese Sanctions Regulations, 31 C.F.R. part 537 (BSR); and the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR). Commerzbank's settlement with the Office of Foreign Assets Control (OFAC) is part of a global settlement among Commerzbank, OFAC, the U.S. Department of Justice, the New York County District Attorney's Office, the Federal Reserve Board of Governors, and the Department of Financial Services of the State of New York. Commerzbank agreed to settle with OFAC the apparent violations of OFAC regulations for \$258,660,796, with the obligation deemed satisfied by payment of an equal or greater amount in satisfaction of penalties by the Department of Justice and the New York County District Attorney's Office arising out of the same pattern of conduct.

OFAC determined that Commerzbank did not voluntarily self-disclose these apparent violations, and that the apparent violations constitute an egregious case. Both the statutory maximum and base civil monetary penalties in this case were \$574,801,770.

For several years, up to and including January 2010, Commerzbank processed thousands of transactions through U.S. financial institutions that involved countries, entities, or individuals subject to the sanctions programs administered by OFAC. Commerzbank engaged in payment practices that removed, omitted, obscured, or otherwise failed to include references to U.S.-sanctioned persons in Society for Worldwide Interbank Financial Telecommunication payment messages sent to U.S. financial institutions. As early as 2002, bank employees deleted or omitted references to Iranian financial institutions, replaced the originating bank information with Commerzbank's name, and later created a process to route payments involving Iranian counterparties to a payment queue requiring manual processing by bank employees rather than routine, automated processing. Commerzbank utilized similar practices to process U.S. Dollar

¹ Please note that on October 22, 2012, OFAC changed the title of 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.

transactions involving other sanctioned countries, including Sudan, Burma, and Cuba, as well as other persons listed on OFAC's List of Specially Designated Nationals and Blocked Persons (the "SDN List"). For more information regarding the conduct that led to the apparent violations, please see the Settlement Agreement between OFAC and Commerzbank [here](#).

Commerzbank processed 959 wire transfers or other transactions totaling approximately \$22,033,133 between September 14, 2005 and August 29, 2008, involving Iran in apparent violation of the ITSR. The total base penalty for this set of apparent violations was \$242,032,865. Commerzbank processed 375 wire transfers totaling approximately \$78,289,519.83 between September 12, 2005 and December 19, 2007, involving Sudan in apparent violation of the SSR. The total base penalty for this set of apparent violations was \$209,480,056. Commerzbank processed 142 wire transfers totaling approximately \$39,567,720 between April 6, 2006 and January 8, 2010, involving property or interests in property of persons on OFAC's SDN List in apparent violation of E.O. 13382 or the WMDPSR. The total base penalty for this set of apparent violations was \$99,813,658. Commerzbank processed 64 wire transfers and other transactions totaling approximately \$5,110,267.57 between September 14, 2005 and December 14, 2007, involving Burma in apparent violation of the BSR. The total base penalty for this set of apparent violations was \$19,835,191. Commerzbank processed 56 wire transfers totaling approximately \$2,283,456.26 between September 23, 2005 and December 20, 2007, involving Cuba in apparent violation of the CACR. The total base penalty for this set of apparent violations was \$3,640,000.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. The following were found to be aggravating factors: at a minimum, Commerzbank acted with reckless disregard for U.S. sanctions requirements in processing transactions in apparent violation of OFAC sanctions regulations; management at Commerzbank knew or had reason to know of the conduct leading to certain of the apparent violations; the conduct described above conferred significant economic benefit to persons subject to U.S. sanctions and undermined the integrity of multiple U.S. sanctions programs; Commerzbank is a large, commercially sophisticated financial institution; and Commerzbank did not maintain adequate policies or procedures to ensure compliance with the sanctions programs administered by OFAC. Mitigation was extended because Commerzbank has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the earliest transaction giving rise to the apparent violations; Commerzbank cooperated with OFAC's investigation of the apparent violations by engaging in an extensive internal investigation, by responding for requests for information, and by executing a statute of limitations tolling agreement with multiple extensions; and Commerzbank took remedial action in response to the apparent violations described above.

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