

MEMORANDUM OF UNDERSTANDING

U.S. Department of the Treasury, Office of Foreign Assets Control New York State Banking Department

I. Background

A. Purpose

This Memorandum of Understanding (“MOU”) sets forth procedures for the exchange of specified information between the New York State Banking Department (“State Agency”) and the Office of Foreign Assets Control (“OFAC”), an office within the U.S. Department of the Treasury (collectively, the “Agencies”).

The State Agency has examination and enforcement authority for the financial condition, safe and sound operation, and compliance with laws and regulations of the banking organizations it supervises. Under delegated authority from the Secretary of the Treasury, OFAC furthers U.S. foreign policy and national security goals by administering and enforcing economic and trade sanctions against targeted foreign countries, groups, and persons subject to 31 C.F.R. Ch. V, Office of Foreign Assets Control Regulations.¹

Information to be shared under this MOU includes information about OFAC’s administration and enforcement of economic sanctions, information about compliance with OFAC requirements by banking organizations supervised by the State Agency, and to the extent permitted by law, including the Right to Financial Privacy Act (12 U.S.C. 3401, *et seq.*), information about possible violations of OFAC sanctions by banking organizations supervised by the State Agency.

The sharing of information under this MOU is intended to help OFAC in fulfilling its role as administrator and enforcer of economic sanctions and to assist the State Agency in fulfilling its role as a banking organization supervisor.

B. Assessment of MOU Operation

The Agencies shall meet, as necessary, to discuss the operation of the MOU and to identify any issues or adjustments that may be required. During such meetings, OFAC will provide an update on how the information provided by the State Agency under this MOU has been used or applied by OFAC. The Agencies will also evaluate the effectiveness of the information sharing in meeting the goals outlined above.

¹ See 31 C.F.R. Part 501.

C. Resource

OFAC maintains a toll-free telephone hotline to address issues relating to interdicted items and general compliance questions and will make that resource available to State Agency examiners as well as to the institutions that they regulate.

II. Provision of Information to OFAC by the State Agency

A. Unreported Violations of Sanctions.

The State Agency will notify OFAC promptly of any apparent, unreported sanctions violations discovered in the course of an examination to the extent permitted by law, including the Right to Financial Privacy Act. The State Agency will direct banking organizations it supervises to provide information directly to OFAC as required by OFAC regulations.

B. Other Examination Findings.

- 1) When the State Agency discovers significant deficiencies in a banking organization's policies, procedures, and processes for ensuring compliance with OFAC regulations, the State Agency will notify OFAC of such deficiencies to the extent permitted by law, including the Right to Financial Privacy Act. For purposes of this MOU, a significant deficiency means: a systemic or pervasive compliance deficiency or reporting and recordkeeping violation, including a situation where a banking organization fails to respond to supervisory warnings concerning OFAC compliance deficiencies or systemic violations.
- 2) In cases where OFAC has initiated a review of a banking organization based on deficiencies identified in section II.B.1., or other evidence within OFAC's investigative purview, the State Agency will provide to OFAC, upon OFAC's written request, information relating to the State Agency's examination or supervisory findings regarding a banking organization's policies, procedures, and processes for ensuring compliance with OFAC regulations, to the extent permitted by law, including the Right to Financial Privacy Act. Upon written request, OFAC may obtain further or additional supervisory information (if available) relating to the above information.

III. Provision of Information to the State Agency by OFAC

To the extent provided by law, including the Right to Financial Privacy Act:

A. After OFAC becomes aware of an apparent sanctions violation by a banking organization supervised by the State Agency, OFAC will promptly provide the State Agency with information about the apparent violation. OFAC will also provide a copy of any

