

New York-Based Marine Insurer Settles Potential U.S. Sanctions Violations

August 18, 2015



As if to provide a not-too-subtle reminder to insurers of the applicability of U.S. trade sanctions to their businesses, the Treasury Department's Office of Foreign Asset Control (OFAC) announced on August 6, that a New York-based marine insurer agreed to remit \$271,815 to settle potential civil liability for apparent violations of multiple sanctions programs, including Foreign Assets Control Regulations. The announcement, and the alleged shortcomings of the insurer's OFAC compliance scheme, demonstrate that insurers required to comply with OFAC sanctions must create, implement, and monitor effective OFAC compliance programs and, on a corporate level between offices located all over the world, develop a keen, uniform understanding of how U.S. sanctions law applies to their lines of business. According to OFAC, the insurer issued global protection and indemnity insurance policies providing coverage to North Korean vessels and covered incidents that occurred in or involved Iran, Sudan, or Cuba between May 8, 2008 and April 1, 2011. Some of this coverage resulted in the payment of claims. At the time, the insurer lacked a formal OFAC compliance program and its London branch personnel were not fully aware of the applicability of OFAC sanctions regulations. The total base penalty amount for 48 apparent violations was \$755,042. OFAC determined the settlement amount under its Economic Sanctions Enforcement Guidelines, weighing mitigating and

aggravating factors. Mitigating factors were that (1) The insurer had not received a penalty notice or a violation finding from OFAC in the five years before the first apparent violation; (2) The insurer appropriately reacted to the apparent violations, in part by creating and implementing a comprehensive OFAC compliance program; and (3) The insurer cooperated with OFAC's investigation by providing information in an organized, responsive fashion. OFAC also cited aggravating factors, including (1) The insurer's supervisors and managers knew or should have known that most of the insurance policies and claims payments at issue involved OFAC-sanctioned countries; (2) The insurer is a sophisticated financial institution; and (3) The insurer lacked a formal OFAC compliance program at the time of the apparent violations.

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