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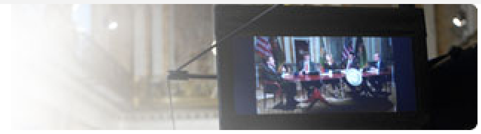

Treasury Department Reaches Landmark $152 Million Settlement with Clearstream Banking, S.A.

1/23/2014

Addresses Clearstream's Holding of Securities in the United States
on behalf of the Central Bank of Iran

WASHINGTON – The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) today announced a $152 million agreement with Clearstream Banking, S.A. (Clearstream), of Luxembourg, to settle its potential civil liability for apparent violations surrounding Clearstream's use of its omnibus account with a U.S. financial institution as a conduit to hold securities on behalf of the Central Bank of Iran (CBI).

"Clearstream provided the Government of Iran with substantial and unauthorized access to the U.S. financial system," said OFAC Director Adam J. Szubin. "Today's action should serve as a clear alert to firms operating in the securities industry that they need to be vigilant with respect to dealings with sanctioned parties, and that omnibus and custody accounts require scrutiny to ensure compliance with relevant sanctions laws."

From at least December 2007 through June 2008, Clearstream held an account at a U.S. financial institution in New York through which the CBI maintained a beneficial ownership interest in 26 securities, with a nominal value of $2.813 billion, and exported certain associated securities-related services to the CBI. Clearstream, as intermediary, served as the channel through which the CBI held interests in these securities and transferred those interests at a later date, thereby exporting custody and related services from the United States to the CBI in apparent violation of the Iranian Transactions and Sanctions Regulations (ITSR), 31 C.F.R. part 560.

Following meetings with OFAC officials in late 2007 and early 2008, in which Clearstream conveyed its decision to terminate its business with Iranian clients, Clearstream transferred the above-mentioned securities entitlements free-of-payment (FOP) from the CBI's account at Clearstream to a European bank's newly-opened custody account at Clearstream. This new custody account allowed the CBI to continue holding its interests in the securities through Clearstream's omnibus account in the United States. Given the totality of facts and circumstances surrounding the transfers, Clearstream had reason to know that the CBI was retaining beneficial ownership of the securities following the FOP transfers. As a result of the FOP transfers, the record ownership of the securities entitlements on Clearstream's books changed, but the beneficial ownership did not, resulting in the CBI's interest being buried one layer deeper in the custodial chain. Clearstream's exportation of services from the United States to the CBI then continued after the securities entitlements were moved to the European bank's custody account.

The activity in question highlights the need for vigilance in the securities industry, where vehicles such as omnibus accounts—as well as the intermediated nature of the securities custody industry itself—can serve to obscure the beneficial ownership interests of sanctioned parties.

Clearstream's strong remedial response to subsequently enhance its sanctions compliance policies and procedures was a major factor in OFAC's mitigation of the size of the settlement amount. OFAC encourages firms operating as securities intermediaries and custodians to implement measures to mitigate the risk of indirectly providing custody-related services to parties subject to U.S. sanctions, or dealing in property owned by parties subject to U.S. sanctions. Such measures can include:

- Making customers aware of the firm's U.S. sanctions compliance obligations and having customers agree in writing not to use their account(s) with the firm in a manner that could cause a violation of OFAC sanctions. Sanctions may be implicated when the United States is the jurisdiction of issuance or custody of an underlying security or when a U.S. person acts as a custodian or other service provider.

- Conducting due diligence, including through the use of questionnaires and certifications, to identify customers who do business in or with countries or persons subject to U.S. sanctions. Such customers may warrant enhanced due diligence because of an increased risk that they will use their accounts to hold assets for third parties subject to sanctions.

- Imposing restrictions and heightened due diligence requirements on the use of certain products or services by customers who are judged to present a high risk from an OFAC sanctions perspective. Restrictions might include limitations on the use of omnibus accounts, where a lack of transparency can be exploited in order to circumvent OFAC regulations.

- Making efforts to understand the nature and purpose of non-proprietary accounts, including requiring information regarding third parties whose assets may be held in the accounts. Red flags may arise relating to geographic areas or the nesting of third-party assets.

- Monitoring accounts to detect unusual or suspicious activity – for example, unexplained significant changes in the value, volume, and types of assets within an account. These types of changes may indicate that a customer is facilitating new business for third parties that have not been vetted for possible sanctions implications.

Under the settlement agreement, Clearstream is required to maintain policies and procedures that prohibit, and are designed to prevent the recurrence of, similar conduct in the future.

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