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OFAC Settles with Puerto Rico-Based Bank over Apparent Sanctions Compliance Lapse



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On May 27, OFAC announced a civil settlement with a Puerto Rico-based bank in connection with apparent violations of the Venezuela Sanctions Regulations. While the settlement amount of \$255,938 is a fraction of the blockbuster fines paid by some banks in recent years, the case nonetheless serves as an important reminder that sanctions requirements vary from program to program, and compliance procedures must be tailored accordingly.

As described in OFAC's [Enforcement Release](#), over the course of approximately 14 months from August 2019 through October 2020, the Puerto Rican bank processed 377 transactions totaling \$853,126 on behalf of two sanctioned bank customers who were "low level employees" of the Government of Venezuela. One individual "worked in a clerical level position" in a Government of Venezuela Diplomatic Representation Office, while the other individual "was a customer service representative of Compañía Anónima Nacional Teléfonos de Venezuela (CANTV), a Venezuelan state-owned entity."

Notably, the two customers – who held a total of four personal accounts at the bank – were not sanctioned by virtue of having been named on OFAC's Specially Designated Nationals and Blocked Persons List (the "SDN List"). Nor were the transactions prohibited due to the customers' residence in a sanctioned country such as Cuba or Iran (Venezuela is not subject to such comprehensive territorial sanctions). Instead, the individuals were sanctioned due to the identity of their employer. In particular, [Executive Order 13884](#) of August 5, 2019, requires the blocking of all property and interests in property of the "Government of Venezuela" – a term defined very broadly in the Order to include, among other things, "any person who has acted or purported to act directly or indirectly on behalf of" a Venezuelan governmental agency or instrumentality.

Documentation in the bank's possession identified the customers as employees of the Venezuelan government, but the bank nonetheless neglected to block their accounts for over a year. While the precise reasons for this delay are unclear, it appears that the link was not made between the customers' status as "Government of Venezuela" employees and the application of Venezuela-related sanctions. Indeed, the bank represented as part of the settlement with OFAC that since identifying and voluntarily self-reporting the apparent violations, it had created "more robust sanctions-related procedures and developed additional resources and guidance . . . including guidance on the [Venezuela Sanctions Regulations]." In consideration of this and other mitigating factors, including additional compliance enhancements and cooperation with OFAC's investigation, the bank's settlement payment of \$255,938 reflects a 40% reduction off the applicable base civil monetary penalty of \$426,563 (one-half of the transaction value).

For its part, OFAC reminded financial institutions of the agency's expectation that they "conduct due diligence on their own direct customers . . . to confirm that those customers are not persons whose property and interests in property are blocked." This case serves as a reminder that such diligence requires a nuanced understanding of how different sanctions programs operate, and that it is often not enough to rely on basic screening processes that merely screen for hits against the SDN and other sanctions lists.
