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Violations of US sanctions should not be taken lightly

ON DECEMBER 16, Credit Suisse AG agreed to pay \$536m in penalties in deferred prosecution agreements with the US federal and New York state governments to settle charges of violating laws restricting transactions with countries subject to US economic sanctions.

David Lorello, of Steptoe & Johnson, reports Credit Suisse is the latest non-US company in the financial sector to receive a substantial penalty for US sanctions violations. It follows a \$350m fine imposed against Lloyds TSB in January 2009 and a \$5.75m fine against Australia and New Zealand Bank Group Ltd, for conduct similar to that alleged against Credit Suisse.

Credit Suisse is alleged to have engaged in conduct beginning in 1995 that gave rise to apparent violations of US economic sanctions regulations involving Iran and other US-sanctioned countries and entities.

In particular, Credit Suisse's office in Zurich allegedly removed, omitted or falsified references from US dollar Society for Worldwide Interbank Financial Telecommunication (SWIFT) payment messages to US correspondent banks regarding US-sanctioned countries, persons or entities.

This conduct allegedly included manually deleting Iranian names and references from SWIFT messages, substituting abbreviations as codes for Iranian customers to obscure the real identities of sanctioned country entities and inserting the phrase "one of our customers" and "order of a customer" instead of the actual names of Iranian clients.



CREDIT SUISSE VIA BLOOMBERG

Credit Suisse's headquarters in Zurich: the company has agreed to pay \$536m in penalties for violating US sanctions

Credit Suisse allegedly provided written procedures to internal personnel regarding how to undertake the SWIFT message protocols and promoted the protocols to clients located in Iran by furnishing specific instructions about how to format SWIFT messages that would avoid detection by Office of Foreign Assets Control "screening" software used by US banks.

Furthermore, a Credit Suisse subsidiary in the UK allegedly used code words to signify sanctioned entities in Libya (which was subject to US sanctions before 2004) and Sudan; and restrict knowledge of the clients' identities internally and externally.

The subsidiary managed fixed-income and equity portfolios for sanctioned entities when executing trades involving US securities that were transmitted through the US.

Credit Suisse allegedly took these measures knowing without them, screening filters at US

financial institutions would have been likely to detect that these transactions involved US-embargoed countries and entities, thereby allowing the US financial institutions to reject or block the sanctions-related transactions and report them to the US Treasury Department as required by US law.

Credit Suisse admitted to one count of violating US federal sanctions laws. In addition to paying the fine, Credit Suisse also has agreed to a range of compliance commitments, including mandatory US sanctions training for relevant staff and ongoing reporting requirements to the US authorities.

The Credit Suisse enforcement action is notable in several respects. The \$536m penalty marks the largest fine ever imposed for violations of the US sanctions regulations.

Notably, this is notwithstand-

ing that it appears from the various settlement agreements Credit Suisse submitted evidence of at least some of its violations voluntary to the US government and the US government found Credit Suisse co-operated in the government's investigation.

Together with the Lloyds TSB and Australia and New Zealand Bank cases, the Credit Suisse settlement shows a focus of the US government in imposing very large penalties against non-US entities that use instrumentalities of US commerce to promote business with Iran and other US-sanctioned countries and persons.

These cases demonstrate financial institutions operating outside of the US, but with links to US commerce, need to be aware of US and state sanctions legislation, and those laws can apply broadly to international financial transactions and can lead to significant enforcement liability.

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