

MEMORANDUM OF UNDERSTANDING

U.S. Department of the Treasury, Office of Foreign Assets Control Michigan Office of Financial and Insurance Services

I. Background

A. Purpose

This Memorandum of Understanding (“MOU”) sets forth procedures for the exchange of specified information between the Michigan Office of Financial and Insurance Services (“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 roles as banking organization supervisors.

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. 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 correspondence between OFAC and the banking organization relating to apparent sanctions

violations by the banking organization or to a pending or possible enforcement action against the banking organization.

B. OFAC will also provide to the State Agency notice of and appropriate documentation relating to the following:

- 1) Notice prior to any on-site investigation or audit of a banking organization and the results of such investigation or audit, *e.g.*, an investigation or audit report, as soon as practicable after completion of the investigation or audit;
- 2) Notice that a banking organization is undergoing an OFAC evaluation;
- 3) OFAC's evaluation of an apparent violation by a banking organization;
- 4) OFAC's enforcement determinations, including any decision to close an investigation without taking enforcement action, the issuance of a prepenalty notice, or the issuance of a penalty notice;
- 5) Notice prior to making public any enforcement action;
- 6) Upon written request, the State Agency may obtain further or additional information (if available) relating to the above information.

IV. Restrictions on Disclosure and Use of Information

- A. 1) The State Agency retains ownership of all information provided to OFAC under this MOU. OFAC retains ownership of all information provided to the State Agency under this MOU. All information the State Agency provides to OFAC under this MOU shall be deemed confidential supervisory information and is subject to that State Agency's laws, regulations and agreements governing the disclosure of such information. OFAC will use information provided by the State Agency under this MOU only in accordance with the restrictions applicable to information shared by the State Agency under those laws, regulations and agreements.² OFAC will rely on the State Agency to specifically identify any disclosures or privacy restrictions applicable to information it shares with OFAC. The information provided by OFAC to the State Agency is intended for the State Agency's use in the supervision of the institutions that it regulates and is not for further disclosure outside the course of its supervisory activities. Neither OFAC nor the State Agency will make public use of any confidential information provided by the other under this MOU without the prior written approval of the other.
- 2) OFAC and the State Agency will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of the information received under this MOU and information derived therefrom.

² MCL 487.12109, MCL 490.205

- 3) OFAC will notify the State Agency in writing of any legally enforceable demand for information provided by the State Agency under this MOU, prior to complying with the demand. OFAC will assert all such legal exemptions, protections or privileges on the State Agency's behalf as the State Agency may request. Unless subject to a court order or other compulsory process, OFAC may not grant any demand or request for the information without prior written notice to, and approval of, the State Agency.
- 4) The State Agency will notify OFAC in writing of any legally enforceable demand for information provided by OFAC under this MOU, prior to complying with the demand. The State Agency will assert all such legal exemptions, protections or privileges on OFAC's behalf as OFAC may request. Unless subject to a court order or other compulsory process, the State Agency may not grant any demand or request for the information without prior written notice to, and approval of, OFAC.
- 5) OFAC and the State Agency expressly reserve all evidentiary privileges and protections applicable to any information provided to one another under this MOU.

- B. Disclosure to OFAC of confidential supervisory information that is jointly held by the State Agency and a Federal Banking Agency ("FBA") shall be subject to the FBA's approval.

V. Civil Enforcement

No provision of this MOU is intended to affect the respective enforcement authorities of the State Agency, OFAC, or the FBAs.

VI. Term of MOU

This MOU is effective upon signature by both the State Agency and OFAC and will remain in effect until amended or replaced by signed, mutual agreement of both parties.

This MOU may be terminated by the State Agency or OFAC upon 30 days written notice.

This MOU may be executed in counterparts.

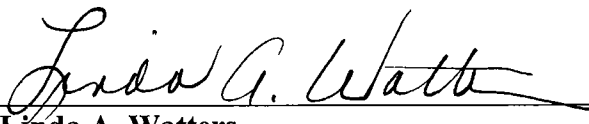
IN WITNESS WHEREOF, each of the parties hereto has caused this MOU to be executed by its duly authorized officer on the date indicated below.

OFFICE OF FOREIGN ASSETS CONTROL


By: Adam J. Szubin, Director

Dated: 2/28/07

[STATE AGENCY]


By: Linda A. Watters

Dated: 2/9/2007