

## MEMORANDUM OF UNDERSTANDING

**Board of Governors of the Federal Reserve System**  
**Federal Deposit Insurance Corporation**  
**National Credit Union Administration**  
**U.S. Department of the Treasury, Office of Foreign Assets Control**  
**U.S. Department of the Treasury, Office of the Comptroller of the Currency**  
**U.S. Department of the Treasury, Office of Thrift Supervision**

### I. Background

#### A. Purpose

This Memorandum of Understanding (“MOU”) sets forth procedures for the exchange of certain information among the Board of Governors of the Federal Reserve System (the “Board”), the Federal Deposit Insurance Corporation (the “FDIC”), the National Credit Union Administration (the “NCUA”), the Office of the Comptroller of the Currency (the “OCC”), the Office of Thrift Supervision (the “OTS”) (collectively, the Federal Banking Agencies (“FBAs”)), and the Office of Foreign Assets Control (“OFAC”), an office within the U.S. Department of the Treasury (collectively, the “Agencies”).

Each FBA 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.<sup>1</sup>

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 FBAs, and to the extent permitted by law, including the Right to Financial Privacy Act (12 U.S.C. 3401, *et seq.*) information about particular violations of OFAC sanctions by banking organizations supervised by the FBAs.

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 FBAs in fulfilling their roles as banking organization supervisors.

#### B. Assessment of MOU Operation

The Agencies shall meet, no less often than annually, 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 FBAs under this MOU

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<sup>1</sup> See 31 C.F.R. Part 501.

has been used or applied by OFAC. The Agencies will also evaluate the effectiveness of the information sharing in meeting the goals outlined above.

## **II. Provision of Information to OFAC by the FBAs**

### **A. Unreported Violations of Sanctions.**

Each FBA 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. Each FBA will direct banking organizations it supervises to provide information directly to OFAC as required by OFAC regulations.

### **B. Other Examination Findings.**

- 1) When an FBA discovers significant deficiencies in a banking organization's policies, procedures, and processes for ensuring compliance with OFAC regulations, the FBA 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, each FBA will provide to OFAC, upon OFAC's written request, information relating to the FBA'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 FBAs 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 an FBA(s), OFAC will provide the FBA(s) that supervises the banking organization 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 appropriate FBA(s) 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, each FBA may obtain further or additional information (if available) relating to the above information.

#### **IV. Restrictions on Disclosure and Use of Information**

- A. 1) Each FBA retains ownership of all information provided to OFAC under this MOU. OFAC retains ownership of all information provided to any FBA under this MOU. All information the FBAs provide to OFAC under this MOU is confidential supervisory information and is subject to that FBA's regulations governing the disclosure of such information. OFAC will use information provided by each FBA under this MOU only in accordance with the restrictions applicable to information shared by each FBA under that FBA's regulation.<sup>2</sup> The information provided to the FBAs by OFAC is intended for their use in the supervision of the institutions that they regulate and is not for further disclosure outside the course of supervisory activities. Neither OFAC nor any FBA 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 each FBA 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.
- 3) OFAC will notify the applicable FBA in writing of any legally enforceable demand for information provided by the FBA under this MOU, prior to complying with the demand. OFAC will assert all such legal exemptions or privileges on the FBA's behalf as the FBA may request. Unless subject to a

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<sup>2</sup> The applicable regulations are found at: 12 C.F.R. Part 261 (Board); 12 C.F.R. Part 4 (OCC); 12 C.F.R. Part 309 (FDIC); 12 C.F.R. § 510.5 (OTS); and 12 C.F.R. Part 792 (NCUA).

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 FBA.

- 4) Each FBA 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 FBA will assert all such legal exemptions or privileges on the OFAC's behalf as OFAC may request. Unless subject to a court order or other compulsory process, the FBA may not grant any demand or request for the information without prior written notice to, and approval of, OFAC.
- 5) OFAC and each FBA expressly reserve all evidentiary privileges and immunities applicable to any information provided to one another under this MOU.

- B. Disclosure to OFAC of confidential supervisory information that is jointly held by a FBA and a state financial institution supervisory agency shall be subject to the state financial institution supervisory agency's approval.

## **V. Civil Enforcement**

No provision of this MOU is intended to affect the respective enforcement authorities of the FBAs, OFAC, or the State Financial Institution Supervisory Agencies.

## **VI. Term of MOU**

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

This MOU may be terminated by any FBA 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.

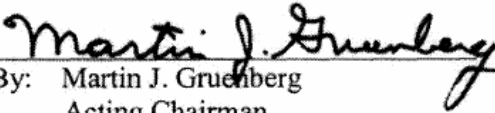
BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM

  
By: Susan Schmidt Bies

Governor

Dated: 4/11/06

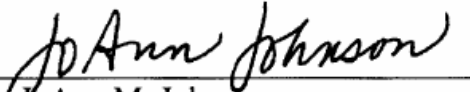
FEDERAL DEPOSIT INSURANCE  
CORPORATION

  
By: Martin J. Gruenberg

Acting Chairman

Dated:

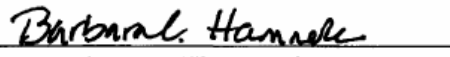
NATIONAL CREDIT UNION  
ADMINISTRATION

  
By: JoAnn M. Johnson

Chairman

Dated: April 12, 2006

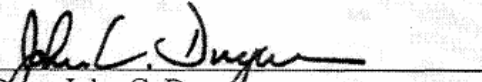
OFFICE OF FOREIGN ASSETS  
CONTROL

  
By: Barbara C. Hammerle

Acting Director

Dated: April 12, 2006

OFFICE OF THE COMPTROLLER OF  
THE CURRENCY

  
By: John C. Dugan

Comptroller of the Currency

Dated:

OFFICE OF THRIFT SUPERVISION

  
By: John M. Reich

Director

Dated: 4/11/2006