

Wire Stripping: What is Old is New Again

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Recently, Standard Chartered Bank (SCB) was in the news again for stripping original wire details so that payments would go undetected by the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC).

A wire-stripping or U-Turn payment starts with a foreign entity such as an Iranian oil company which needs to purchase goods from the United States. The transaction originates with the oil company using an Iranian bank to send funds to an intermediary bank, such as in the United Kingdom, which in turn transfers the funds to the United States. When the UK bank transfers the money to the US bank the "scrub" occurs, i.e. the wire details are removed from the transfer to the US bank so as to avoid OFAC filter detection. The US bank then forwards the currency to the US based goods supplier, and the U-Turn is complete.

In the case involving SCB, the bank would allegedly remove evidence of any Iranian connection from within the Society for Worldwide Interbank Financial Telecommunications (SWIFT) messages, inserting false details or returning it to the customer to resubmit. The initial investigation was conducted by the New York Department of Financial Services (DFS), which provides additional oversight of the financial and insurance industries by monitoring regulatory compliance. DFS investigated SCB and brought a charging Order alleging seven violations of law against the bank. Ultimately, DFS and SCB entered into a settlement, with the bank agreeing to pay a civil monetary payment to DFS in the amount of \$340,000,000 USD on September 21, 2012.

SCB's troubles, however, were not over, as on December 7, 2012 it entered into an additional Settlement Agreement with OFAC. These alleged violations include routing incoming SWIFT messages from Bank Markazi Jomhouri Islami (Markazi) to a queue in London which was under repair, requiring a manual review by bank operators. During this manual review, the bank operators would ensure that SCB London's Bank Identifier Code (BIC) was placed in the payment instructions, disguising Markazi's involvement. The behavior was not limited to one branch, as SCB Dubai was alleged to have consistently sent messages through the United States without reference to locations or entities so as to avoid US sanctions.

In addition to violating US country based sanctions with Iran, Burma, Libya and Sudan, OFAC also alleged that SCB's conduct violated the International Emergency Economic Powers Act (IEEPA) and the Foreign Narcotics Kingpin Designation Act (FNKDA), by releasing payments to a designated blocked entity; these payments to a blocked entity were initially caught in SCB's interdiction software, but released ultimately through human error. Under the Settlement Agreement, SCB agreed to pay \$132,000,000 USD to OFAC. The gross fine, however, exceeds \$327,000,000 USD when the payments to the U.S. Department of Justice, the Manhattan District Attorney's Office, and the \$100,000,000 USD to the Federal Reserve Board are included. These payments are in addition to the settlement with DFS.

SCB is neither the first, nor will it be the last bank to be prosecuted for wire scrubbing. Specifically, in 2009 OFAC reached a settlement with Lloyds TSB Bank, a financial institution registered and organized under the laws of England and Wales. Lloyds came to the attention of OFAC after the New York County District Attorney questioned Iran payments involving Lloyds. Lloyds had a history of providing banking services to Iranian customers since the early 1980s, and the internal investigation showed a policy of intentionally manipulating and deleting information in wire transfer instructions on behalf of its Iranian bank customers so as to omit or abbreviate any reference to Iran before forwarding the payments to the US. Without admitting violations, Lloyds agreed to a settlement of \$217,000,000 USD.

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To avoid the problems, potential fines and penalties, we recommend that all banks within the jurisdiction of OFAC adopt procedures and safeguards to help ensure compliance. One suggestion is to use the best available interdiction software to execute screening for wire transfers and new accounts. Additionally, bank employees must be properly trained to identify and appropriately handle transactions with OFAC risk.

>> For more details please review the DFS Consent Order with SCB, the OFAC Settlement Agreement with SCB, and the Settlement Agreement between the Department of Treasury's Office of Foreign Assets Control and Lloyds of TSB Bank. For further information, we invite you to contact Miller Canfield. Visit the firm's Export Control Team's webpage for other articles and alerts, as well as updates on U.S. Export Control Reform and other export control articles.

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