



Audit Report



OIG-10-045

FOREIGN ASSETS CONTROL: OFAC Should Have Better and More Timely Documented its Review of Potential Sanctions Violations

September 1, 2010

This report was originally designated as sensitive but unclassified. Subsequently, it was determined that this designation is unnecessary, and it has been removed.

Office of Inspector General

Department of the Treasury

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Abbreviations

| | |
|--------|--|
| FRB-NY | Federal Reserve Bank of New York |
| OFAC | Office of Foreign Assets Control |
| OIG | Office of Inspector General |
| SBU | Sensitive But Unclassified |
| SDN | Specially Designated Nationals and Blocked Persons |

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*The Department of the Treasury
Office of Inspector General*

September 1, 2010

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Office of Foreign Assets Control

This report presents the results of our audit of the Office of Foreign Assets Control (OFAC) participation in the Federal Reserve Bank of New York's (FRB-NY) Fedwire Integrity Pilot Program.

From 2004 through early 2006, FRB-NY periodically compared a sample of names from OFAC's Specially Designated Nationals and Blocked Persons (SDN) list against a moving history of Fedwire transactions to determine whether depository institutions appropriately blocked transactions involving selected SDNs.¹ FRB-NY conducted searches for 8 samples of 10 SDNs each, selected from a subset of 198 SDNs provided by OFAC. OFAC selected this subset from the thousands of names on the SDN list.² FRB-NY's searches yielded 305 transactions containing a potential match with an entry on the SDN list, with a total value of more than \$11 million.³ Although FRB-NY believed its search results confirmed that the overwhelming majority of financial institutions were properly screening for names on the SDN list, it lacked the customer data to make a final determination. Accordingly, FRB-NY provided these results to OFAC through the first quarter of 2006, after which FRB-NY terminated the program. We were first

¹ Specially designated nationals are organizations and individuals, including terrorist organizations, individual terrorists, and state sponsors of terrorism, that are restricted from doing business with U.S. companies and individuals. The list is categorized by sanction programs for specific countries, such as Cuba, Burma, and the Balkans, or by sanction programs for specific activities, such as Global Terrorism Designation, Specially Designated Narcotics Traffickers, and Nonproliferation of Weapons of Mass Destruction

² As of January 2008, the SDN list totaled 7,363 names—3,731 primary names and 3,632 secondary, or "also known as," names.

³ FRB-NY referred to these potential matches as potential "suspicious activities." The transactions were sent to OFAC to determine whether they were positive matches.

informed by OFAC of this program in November 2005 during another audit, when OFAC stated that the program provided evidence of a high degree of compliance by financial institutions with OFAC sanctions.

Our objectives were to determine (1) how OFAC used the Fedwire Integrity Pilot Program results to broadly assess financial institutions' compliance with its sanction programs and (2) whether OFAC took enforcement action when a violation was identified from the FRB-NY referrals. To accomplish our objectives, we interviewed OFAC and FRB-NY officials and reviewed related documentation. During our audit, we also noted inconsistent markings of documents OFAC considered to be sensitive so we address that matter in this report as well. Appendix 1 contains a more detailed description of the audit objectives, scope, and methodology.

Issuance of this final report was delayed due to other priority work by our office. The other priority work principally relates to an unprecedented number of reviews of failed financial institutions that we are required to perform under the Federal Deposit Insurance Act.

Results in Brief

Limited OFAC Documentation

OFAC officials said its analysis of FRB-NY's potential matches confirmed the FRB-NY's initial conclusions, that the overwhelming majority of financial institutions using Fedwire properly screened their transactions for compliance with OFAC sanctions. OFAC did not, however, provide us with adequate documentation to support the activities or analysis it used to reach this conclusion.

Despite our repeated requests between November 2007 and March 2008, when we conducted our audit fieldwork, OFAC officials could not present to us the criteria used to select the subset of SDN names provided to FRB-NY, the analysis applied to the 305

potential suspicious transactions identified by FRB-NY, or the results of what was done with the potential suspicious transactions that were identified by the FRB-NY. Furthermore, we also requested but did not receive OFAC's written policies and procedures for reviewing the potential suspicious transactions, for documenting its analyses and conclusions, or for taking follow-up action when necessary. Given its limited scope, we believe that any broad conclusion about screening by financial institutions for OFAC compliance from just the results of this program is not prudent.

During our audit fieldwork, OFAC did not provide sufficient, appropriate evidence of its review of the FRB-NY referrals. At the exit conference in June 2009, OFAC presented two sets of documentation regarding its actions on the referrals that we had not previously been given. The difficulty we encountered in obtaining the evidence of OFAC's review earlier in the audit points to, among other things, a need for OFAC to do a better job of maintaining proper records of its programs and operations.

- The first set of documentation was to support an OFAC review of the FRB-NY referrals that OFAC officials said was conducted in November and December 2007. The evidence presented consisted of notes (i.e., sticky notes) dated November 29, November 30, and December 12, 2007, that OFAC staff attached to copies of the eight e-mail referrals from the FRB-NY. The notes indicated OFAC's determination that the hits did not match entities and addresses on the SDN, and thus were false hits. OFAC officials said we should have had the original notes at the time and could not explain why we did not have them.

The documentation contained handwritten notations that were not on the copies of these documents we were provided on November 28 and 29, 2007. We were unable to confirm the determinations with the author of the notes, who is no longer a federal employee, and thus we are unable to reach a conclusion about the nature of the review conducted. The former OFAC

staff member who made the determinations was unresponsive to our request for an interview.

- The second set of documentation consisted of an OFAC review of the FRB-NY referrals that was performed between May and June 2009 after we provided OFAC with a discussion draft of this report. In this regard, OFAC performed the analysis in response to our discussion draft report recommendation to investigate the potential suspicious transactions FRB-NY provided to OFAC in the years 2004, 2005, and 2006, and document the results. While this analysis provides a determination about the potential hits, it does not provide adequate documentation of OFAC's review. The author and date of the review are not identified. Also, the methodology used to perform the review is not described. In short, this documentation does not provide an audit trail to adequately support the review of the FRB-NY referrals. That said, based on the assertions by OFAC senior management and considering the documentation provided, although inadequate, we accept that a review of the potential hits was performed.

OFAC officials also provided at the exit conference a 2005 internal e-mail that referenced one of the potential hits. OFAC took enforcement action in November 2008 for this 2005 violation, about 3 years after the potential hit had been referred from FRB-NY and after our fieldwork was completed. The enforcement action taken was a cautionary letter to the financial institution warning that another violation would be dealt with more strongly.

Unclear Basis for Marking Documents Sensitive

OFAC officials told us that the Fedwire Integrity Pilot Program should be treated as sensitive and that public disclosure of the program would cause harm to the government. However, they were unable to explain or otherwise provide a defensible basis as to why they held this belief. FRB-NY considered the program to be sensitive, but from a business propriety standpoint. Additionally, we noted that OFAC marked certain related documents as

Sensitive But Unclassified (SBU) but did not mark other documents containing the very same information.

Recommendations

We are recommending that OFAC (1) establish policies and procedures for reviewing referrals of potential violations of OFAC sanctions, to include documenting the research and conclusions derived from its analyses, and actions to be taken based on the identification of potential matches to the SDN list; (2) inform our office of the report's sensitivity level and specific information that cannot be disclosed; (3) periodically re-assess with FRB-NY whether the Fedwire Integrity Pilot Program should be re-established; (4) determine, in consultation with Treasury's Office of Intelligence and Analysis, the appropriate sensitivity level of the program based on Treasury Security Manual criteria; and (5) based on that determination, appropriately mark and secure program documentation in accordance with the Treasury Security Manual.

Management Response

In its response, OFAC referenced, for the purpose of context, an April 2002 audit report issued by our office that emphasized the importance we attributed to the federal banking regulators' examination process in monitoring compliance with OFAC sanctions by financial institutions. In that report, we concluded that transaction testing was a critical component of the examination process.⁴ Following the publication of the 2002 audit report, FRB-NY decided to test the integrity of its Fedwire system, as well as compliance by its participants, by screening the details of billions of discrete transactions sent through the Fedwire system by U.S. banks against a sample of names from OFAC's SDN list.

⁴ Office of Inspector General, *FOREIGN ASSETS CONTROL: OFAC's Ability To Monitor Financial Institution Compliance Is Limited Due To Legislative Impairments* (Report OIG-02-082; issued April 26, 2002)

OFAC noted that in August 2004, FRB-NY tested four and a half years worth of archived transaction history, covering some 450,000 wire transfers each day totaling almost six billion discrete transactions, against a sampling of OFAC targets. In transmitting the results, FRB-NY told OFAC that it believed that its search results confirmed that the majority of financial institutions that use the Fedwire system were properly screening for names on the SDN list. In October 2004, FRB-NY conducted the same test using different SDN names. It reached exactly the same conclusion—that the majority of financial institutions that use Fedwire were properly screening for names on OFAC's SDN list. The exercise was repeated 8 times with substantially similar findings resulting in the same FRB-NY conclusion.

In 7 of the 8 tests that FRB-NY conducted, it identified a handful of potential hits which it referred to OFAC. OFAC was able to determine that all but one of those potential matches were either false hits or authorized by a general or specific license issued by OFAC. There was only one item that required an enforcement action against a bank in the form of a cautionary letter. While documentation of its actions could have been better, OFAC believes that its policies and procedures worked and all action that needed to be taken was taken. OFAC believes that the program was an effective tool in measuring compliance with U.S. sanctions regulations by the U.S. financial community and will assess with FRB-NY whether to re-establish Fedwire Integrity.

With respect to our first recommendation above, OFAC stated that assessing potential matches to the SDN list is a vital function for OFAC, both internally and in its outreach and compliance functions. OFAC has detailed procedures for reviewing inquiries about potential SDN matches which are on its Web site. Using these criteria, OFAC said it determined very quickly that the great majority of transactions transmitted by FRB-NY were either false positives or were authorized by OFAC. OFAC believes that it is of no value to log referred questions that are quickly resolved as false hits, but instead it carefully documents authenticated hits that are blocked or rejected. These are entered into OFAC's database of

blocked and rejected transactions and reviewed for involvement of any U.S. persons. Individual case files are created for potential violations of U.S. sanctions law and referred for enforcement action as appropriate.

The underlying program has been properly determined to be SBU pursuant to the Treasury Security Manual and staff involved in this project have been notified about the proper marking and handling of documents related to the program. Furthermore, OFAC stated that it will reassess with FRB-NY whether the Fedwire Integrity Program should be re-established.

OIG Comment

With respect to its response to our first recommendation, the process described by OFAC for reviewing inquiries and documenting its review is a reasonable approach, and meets the intent of our recommendation. That said, however, its response was less than complete as to what actions will be specifically taken to address the documentation weaknesses we found during our audit. This is an area that requires continued management attention in our opinion. In recognition of the fact that OFAC is the responsible office for program information, we accept OFAC's final determination that this report should be designated SBU. With respect to its response that it will reassess with FRB-NY whether the Fedwire Integrity Program should be re-established, OFAC will need to establish and record a planned date for the assessment in the Department's Joint Audit Management Enterprise System (JAMES).

OFAC's response is provided in appendix 2.

Background

OFAC Sanction Programs and the SDN List

OFAC administers laws that impose economic sanctions against hostile targets to further U.S. foreign policy and national security

objectives. In carrying out its functions, OFAC maintains a list of SDNs containing the names of individuals and entities owned or controlled by, or acting for or on behalf of, the governments of target countries or that are associated with international narcotics trafficking or terrorism or engaged in activities related to the proliferation of weapons of mass destruction. Unless authorized by OFAC, all U.S. persons, including U.S. banks, bank holding companies, and nonbank subsidiaries are prohibited from dealing with individuals and entities on the SDN list. Unless authorized by OFAC, banks must block all property and interest in property within their possession or control in which these individuals and entities have an interest.

The federal banking agencies examine financial institutions under their supervision to determine the adequacy of the financial institutions' OFAC compliance programs.⁵ It is a violation of law if the institution does business with a targeted entity or fails to block an unauthorized transaction involving an SDN.

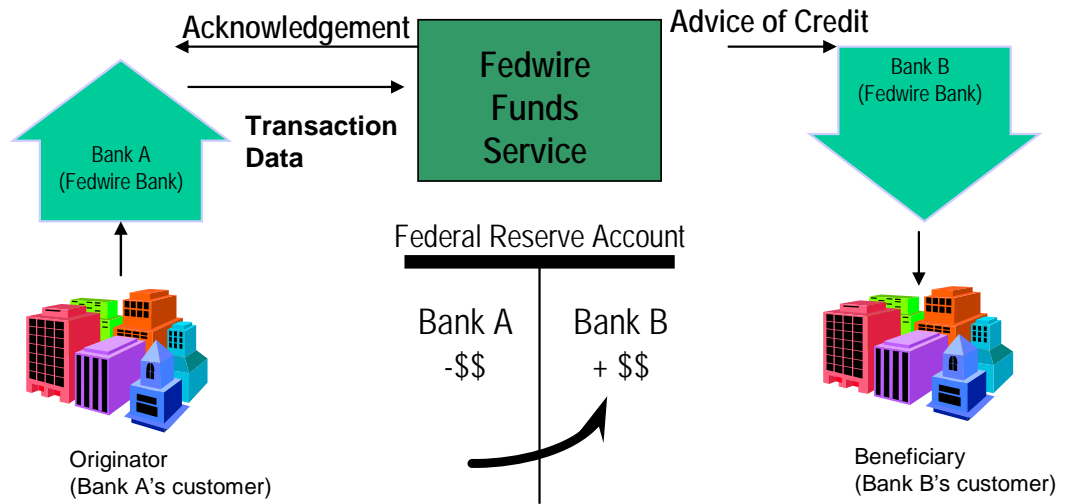
When it comes to OFAC's attention that an illicit transaction has been processed through a U.S. bank without being appropriately blocked or rejected, OFAC normally sends an administrative demand for information to the bank requesting an explanation of how the transaction was processed. OFAC has also imposed millions of dollars in civil penalties on U.S. banks and companies for failing to appropriately block or reject illicit transfers involving a targeted country or SDN. OFAC completed 99 penalties or settlements totaling a little over \$3.5 million in 2008 while completing 27 penalties or settlements totaling a little over \$772 million in 2009. The large dollar increase in 2009 was the result of substantial settlements with two institutions.

⁵ The federal banking agencies are the Office of the Comptroller of the Currency, Office of Thrift Supervision, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the National Credit Union Administration.

FRB-NY Fedwire System

The Federal Reserve System, among other things, serves as the banker for the U.S. government and operates the Fedwire system. Fedwire is an electronic funds transfer network operated by the FRB-NY. It is usually used to transfer large amounts of funds and U.S. government securities from one institution's account at a Federal Reserve Bank to another institution's account. It is also used by Treasury and other federal agencies to collect and disburse funds. FRB-NY's Fedwire system consists of a set of computer applications that route and settle payment orders and is supported by a national communications network. The following diagram depicts the process:

Figure 1: The Fedwire Process



Source: OIG adaptation of a chart provided by FRB-NY.

Note: Transaction data includes, among other things, information about the sender, dollar amount of the transaction, receiving bank, and recipient's account number and address.

Any institution that maintains an account with a Federal Reserve Bank generally can become a Fedwire participant. Participants use Fedwire to instruct a Federal Reserve Bank to debit funds from the participant's own Federal Reserve Bank account and credit the Federal Reserve Bank account of another participant. Fedwire processes and settles payment orders individually throughout the

operating day. Payment to the receiving participant over Fedwire is final and irrevocable when the amount of the payment order is credited to the receiving participant's account or when the payment order is sent to the receiving participant, whichever is earlier. Fedwire participants send payment orders to a Federal Reserve Bank online, by initiating an electronic message, or offline, via telephone.

Screening of Fedwire Transactions for OFAC Compliance

FRB-NY does not screen electronic Fedwire transactions for OFAC compliance as the transactions are processed. In a September 1995 letter, OFAC advised FRB-NY that FRB-NY did not need to institute a review of Fedwire electronic transactions between domestic banks. According to OFAC such a review was redundant because U.S. depository institutions that clear electronic domestic transactions through Fedwire were presumably already scanning transactions, both domestic and international, for interests of entities and individuals subject to the blocking provision of OFAC programs.

Fedwire Integrity Pilot Program

Beginning in June 2004 and continuing through March 2006, FRB-NY periodically compared a sample of 10 names from a subset of the SDN list provided by OFAC against a historical database of transactions that had been processed through Fedwire. The OFAC-provided subset consisted of 198 SDNs. In total 80 names were sampled. FRB-NY compared the sample of SDNs against a 4-year moving history of transactions in the Fedwire database. The comparison included checks of all aliases, related names, addresses, and all variations associated with the sampled SDNs. According to FRB-NY officials, after each search, the sampled SDNs were excluded from future searches.

For any matches that were identified, FRB-NY eliminated all apparent false positives⁶ and matches for transactions that occurred before the individual or entity was designated an SDN. FRB-NY then sent all remaining potential matches by e-mail to OFAC. OFAC was to determine whether any of the names appeared to be actual SDN matches. OFAC officials said that then they decide whether to perform additional testing on transactions that appear to be matches or to issue an administrative subpoena to the banks involved asking for additional information about the transaction and the parties involved.

FRB-NY provided OFAC with information about the transactions containing the potential matches to verify that parties involved were true matches and to determine if the transactions were in fact violations of OFAC regulations. FRB-NY officials explained that FRB-NY sent the list of potential matches to OFAC because, unlike OFAC, it did not have the authority to request the bank customer information that may have been necessary to verify whether it was a true match. In addition, according to OFAC officials FRB-NY did not have the expertise in OFAC regulations to determine, even if it was a true match, if the transaction was authorized under OFAC regulations.

Findings and Recommendations

Finding 1 OFAC Did Not Appropriately Document Its Participation in FRB-NY's Fedwire Integrity Pilot Program

OFAC was unable to provide certain key documentation or explain its actions in connection with the Fedwire Integrity Pilot Program. OFAC officials could not provide us with documentation as to the genesis of OFAC's participation in the program except for a draft program proposal that FRB-NY prepared to explain the program. That draft proposal bore little resemblance to what was actually

⁶ A false positive is a case in which the name in question is the same or similar to an SDN but other information on the person, such as geographical information, does not match the information on OFAC's SDN list.

done. OFAC also did not document nor could OFAC officials explain how OFAC developed the list of SDNs provided to FRB-NY for use in the pilot program. Throughout our field work and despite our periodic requests, OFAC could not provide documentation as to what it did to resolve the 305 potential “hits” referred to it by FRB-NY. When we asked OFAC officials what was done, they said that there had been high turnover of staff who may have worked on the potential hits. When we asked who the staff were, OFAC officials said they could not recall.

At the exit conference on June 5, 2009, OFAC provided (1) copies of documents to support its review and analysis of FRB-NY referrals, in the form of sticky notes written in 2007 on the search results provided by FRB-NY and (2) a 2005 e-mail between OFAC officials that described a transaction that resulted in an enforcement action issued almost 3 years later. These were documents that we had not previously been provided when we were given the documents with sticky notes in November 2007. The additional notations were dated November 29, November 30, and December 12, 2007, and were also not included on the original notes we were given on November 28 and November 29. While it is not clear why these documents with additional notations were given to us so late in the audit, we accept that the notes support that analysis was ultimately performed.⁷ Nonetheless, OFAC received the FRB-NY results nearly 3 years earlier beginning in 2004 and OFAC officials, who said review and analysis was done when the documents were first received, should have documented the review and analysis performed at that time.

⁷ The notes OFAC officials provided were initialed by a former employee, who is no longer a federal employee. We attempted to interview the individual and exchanged correspondence with the individual regarding our interview request. Ultimately, however, the individual was unresponsive to our request. It should be noted that when we asked OFAC officials during our audit fieldwork for the names of staff involved with activities, they could not recall their names. The first time we learned of the individual's name was from the notes provided at the exit conference in June 2009. The individual was still employed at OFAC at the time of our audit fieldwork.

OFAC Did Not Document Its Criteria for Selecting Names Provided to FRB-NY

In May 2004, OFAC provided FRB-NY with a list of 198 SDNs to search under the Fedwire Integrity Pilot Program. FRB-NY officials told us that they selected 10 names at random from OFAC's list for the 8 searches conducted under the program for a total of 80 names sampled.⁸ As noted earlier, the list provided by OFAC was a subset of names selected from the thousands of names on the SDN list.

We asked OFAC officials for documentation showing how the subset of names provided to FRB-NY was selected, but they provided no such documentation. An OFAC investigator involved in contributing to the list said that he recalled choosing 41 names that were put on the list. He said that these 41 names were chosen from over 1,500 names that were categorized as narcotics traffickers on the SDN list. None of the OFAC officials we interviewed could explain how the other 157 names were chosen. Two OFAC officials stated that OFAC wanted to make sure that the SDN names provided to FRB-NY officials were relevant and useful for enforcement purposes.

In 2006, OFAC provided FRB-NY with another list, this time of 12 names from the SDN list. According to an OFAC official, OFAC formulated the 12-name list by choosing names of interest and high-profile individuals from both the Specially Designated Narcotics Traffickers and the nonproliferation of weapons of mass destruction categories. OFAC wanted leads to parties that were dealing with persons or entities on the SDN list in order to identify additional names to add to the list. OFAC officials did not provide any further details about the origin of the 12-name list. According to FRB-NY, this second list was not used to test transactions.

⁸ FRB-NY conducted 8 searches. They were conducted in June, August, and October 2004; January 2005; the first, third, and fourth quarters of 2005; and the first quarter of 2006.

OFAC Did Not Document Its Activities Related to the Fedwire Integrity Pilot Program

We asked OFAC officials for documentation to describe the purpose, legal authority, and resolution of OFAC activities related to FRB-NY's Fedwire Integrity Pilot Program. The officials provided a document marked "draft-confidential" that was prepared by FRB-NY to describe the program. That document identified two goals for the program. One was to provide OFAC with historical information from transactions for SDNs prior to their designation dates and the second was to provide OFAC with possible violations by depository institutions that failed to properly filter and block their transactions.

For the first goal—providing OFAC with historical information from transactions involving SDNs prior to their designation dates—OFAC was to review these transactions and provide documentary evidence of how this was to be done or whether it was done. Though we were not provided with documentary evidence of OFAC's review, OFAC agreed with FRB-NY's initial conclusion that financial institutions were compliant with OFAC sanction programs and that there was a large drop in the number of transactions involving SDNs once their names were placed on the SDN list.

Regarding the second goal—identifying possible violators of OFAC sanctions—FRB-NY officials said that they filtered out transactions conducted prior to an SDN's designation date, identified the remaining transactions as potential matches, and provided OFAC with these potential matches to review. FRB-NY provided OFAC with these potential matches because FRB-NY officials did not maintain customer identification files to verify the names and related locations generated from their searches. OFAC had the authority to access depository institution information to verify whether the transactions did indeed involve sanctioned parties, and if so, whether or not the transactions were processed in violation of OFAC regulations. FRB-NY provided the results in eight separate e-mails addressed to an OFAC official, including copies of the system-generated matches. In all but one instance, OFAC officials

did not believe that these were bona fide violations, but had no evidence to show what review was conducted to reach their conclusions. When we asked for documentary support and the names of OFAC personnel who analyzed these data so we could ask the analysts what they did to scrutinize the data, OFAC officials stated that they had no related documentation and could not identify any other OFAC personnel who may have received and reviewed these transactions.

Overall, FRB-NY conducted searches for 8 samples, each consisting of 10 SDNs for a total of 80 SDNs, and provided OFAC with 305 transactions which contained potential matches to the SDN list. The value of all transaction records referred to OFAC totaled more than \$11 million. FRB-NY documentation showed that the transactions averaged approximately \$37,000, ranging from a low of about \$87 to a high of approximately \$459,000.

As shown in table 1, in total, FRB-NY's searches generated 305 transactions containing potential matches to the SDN list. These transactions involved potential matches to 16 SDN entities out of the total of 80 tested.

Table 1: Transactions Referred by FRB-NY to OFAC Containing Potential Matches to an SDN

| Timing of FRB-NY searches | Number of transactions identified | Exact name match | Partial name match | Different location | Unknown location | Location match |
|---------------------------|-----------------------------------|------------------|--------------------|--------------------|------------------|----------------|
| June 2004 | 11 | | 11 | | 11 | |
| August 2004 | 68 | | 68 | | 68 | |
| October 2004 | 46 | 4 | 42 | 44 | 2 | |
| First quarter 2005 | 55 | | 55 | 49 | | 6 |
| Third quarter 2005 | 12 | 1 | 11 | 10 | | 2 |
| Fourth quarter 2005 | 21 | | 21 | 9 | | 12 |
| First quarter 2006 | 92 | | 92 | 92 | | |
| Total | 305 | 5 | 300 | 204 | 81 | 20 |

Source: FRB-NY e-mails submitted to OFAC.

- Notes:
1. According to a FRB-NY official, a second-quarter 2005 search was not conducted.
 2. FRB-NY officials stated that 14 of the fourth-quarter 2005 matches were positive SDN hits and that 12 of these entities had exact location matches. In addition, for the entire period reviewed, 5 of the transactions had exact name matches, 1 of which also had an exact location match.

After a repeat request for additional information from OFAC as to its disposition of these potential hits, we were provided limited documentation. OFAC provided copies of the FRB-NY e-mails with the search results and copies of the system-generated matches FRB-NY provided to OFAC with the e-mails. Throughout our fieldwork, however, OFAC did not give us documentation to support its review and analysis of these results. At the June 5, 2009, exit conference, during which OFAC officials provided comments to the discussion draft report, OFAC officials provided limited documentation that showed OFAC had reviewed the potential hits and concluded that most of the hits were false.⁹ Only one transaction appeared to constitute a violation of OFAC

⁹ In the fourth quarter 2005 FRB-NY search results, 12 matches for one entity were positive hits but were legal payments licensed by OFAC.

regulations. The documentation was in the form of sticky notes attached to the FRB-NY documentation identifying the potential hits. The determinations of matches to the SDN were handwritten on the sticky notes and were dated November 29, November 30, and December 12, 2007. These comments which concluded that the hits did not match the SDN were not present on the sticky notes at the time of our field visit to OFAC headquarters on November 28, 2007, and were not provided when we again requested all program data near the conclusion of our field work in March 2008. It should also be noted that these notes do not support timely review of the potential hits, as they were dated almost 3 years after OFAC received its results from the FRB-NY's search of Fedwire transactions.

In addition, OFAC officials stated that as a direct result of our discussion draft, they had further prepared in June 2009 a detailed summary of their analysis of FRB-NY search results. This was also provided to us at the exit conference. Similar to the first set of documents provided to us, this was not adequate. We could not determine, from this documentation, the official who performed the review, the date the review was performed, or the methodology used to determine if the potential hits were positive. OFAC did not provide an audit trail for future reference to this program.

When questioned about the timeliness of their review, OFAC officials said they acted timely, but did not document their review and analysis in 2005. They cited as evidence of their review an enforcement action taken in 2008 for a transaction reviewed in 2005. OFAC officials presented a 2005 e-mail from an OFAC compliance officer that discussed a review of a transaction generated from the program. (This was also a document that we were not provided during our fieldwork.) OFAC officials emphasized that this was evidence that they reviewed the transactions when they were received. According to one OFAC official, in March 2006, OFAC received responses from the financial institutions

based on information OFAC requested in February 2006, and in November 2008, issued cautionary letters to the institutions.¹⁰

During our fieldwork, OFAC compliance officials stated that OFAC did not have an audit trail to show what was done with the results of the program. They said that OFAC had been experiencing heavy employee turnover and that certain officials who may have been able to discuss what was done with the results were no longer with OFAC. We asked for the names of these individuals so that we could follow up with them directly, but the OFAC officials could not recall specific names or the units in which they worked. This remained the case at our June 2009 exit conference.

When we asked OFAC officials what policies and procedures they would have followed when FRB-NY reported the potential matches to OFAC, they stated that OFAC did not have any written policies and procedures for performing and documenting its review of potential matches and taking appropriate action based on the results. At the exit conference in June 2009, OFAC provided us with a copy of an excerpt from "Frequently Asked Questions" that is available on the OFAC website. These procedures, however, are for financial institutions to determine the quality of the transactions with matches to OFAC's SDN list. These procedures do not represent procedures for OFAC officials to use to document the research and conclusions derived from its analyses, or the actions to be taken should actual matches be identified.

Additional Concern Regarding OFAC Documentation

At the audit exit conference, OFAC officials stated that they continuously and on a daily basis provide guidance to the public on

¹⁰ Cautionary letters are issued when OFAC determines that neither a formal finding of violation nor a civil penalty is warranted. These letters serve to place the institutions on notice that OFAC is concerned about the conduct and that any such similar conduct in the future may result in a finding of violation or imposition of a penalty. In this case, OFAC made its decision based on the institutions' OFAC violation history, the volume of transactions processed by the institutions, and other factors as defined in Economic Sanctions Enforcement Guidelines published in an interim final rule in Federal Register, Volume 73, Number 174, Monday, September 8, 2008.

potential matches to the SDN list. According to the officials, the information provided is assessed and a determination is made whether to pursue further inquiry. The officials also stated that they do not keep a log of the contacts indicating the disposition of each inquiry and cited resources as the reason for not maintaining such a log. We believe that OFAC should reconsider this practice and establish a log of all inquiries. Among other things, such a log provides for a historical record should OFAC later be challenged about actions taken on a particular matter referred to its office. It also provides an important source of information that might be useful to develop cases in the future.

Finding 2

OFAC Needs to Determine, in Consultation with Treasury's Office of Intelligence and Analysis, the Appropriate Sensitivity Level of the Program

From the outset of our audit, OFAC officials told us that the Fedwire Integrity Pilot Program was sensitive and that public disclosure of it would cause harm to the government because the program would be terminated and OFAC's relationship with the Federal Reserve damaged. FRB-NY officials also told us the program was sensitive from their perspective. When OFAC first informed our office about the program in a November 2005 memorandum, the memorandum and its attachments were marked "Treasury Sensitive But Unclassified." However, other related documentation provided by OFAC lacked any such markings.

We believe that the reasons cited by OFAC for treating the program as sensitive are not compelling. We therefore believe that OFAC needs to articulate and document why the SBU designation is appropriate.

When Information Is to Be Marked as SBU

At Treasury, the SBU designation is used to identify information whose release could adversely affect economic, industrial, or international financial institutions or compromise unclassified programs, Treasury essential operations, or critical infrastructures.

Information marked SBU is not meant for public release but is controlled or restricted in conducting official Treasury business. Access to SBU information is based on a determination that an employee or contractor requires access to perform or assist in lawful, authorized, Treasury governmental functions. Other aspects of SBU information include (1) individuals do not need a security clearance to access SBU information and (2) SBU information is not automatically exempt from the provisions of the Freedom of Information Act or the Privacy Act. Responsibilities and requirements related to the proper marking and handling of SBU information are prescribed in the Treasury Security Manual.¹¹

OFAC Marked Certain Fedwire Integrity Pilot Program-Related Records as SBU

The first time OFAC informed us about the Fedwire Integrity Pilot Program was in a November 30, 2005, memorandum from a former OFAC director to one of our auditors entitled "Fedwire Integrity Pilot Program." The memorandum included as attachments a series of e-mails from an FRB-NY official to OFAC summarizing the results of searches under the program. The earliest attached e-mail was dated August 10, 2004, and the latest attached e-mail was dated November 10, 2005. In that memorandum, which was marked along with the attachments as SBU, the former OFAC director stated the following:

"I would like to emphasize the exceptional sensitivity of this program, which is being conducted on a voluntary basis. If the existence of the program were to be disclosed, we are confident that the program will be terminated and we will receive no further information."

"In addition, disclosure of the program would likely cause irreparable damage to our productive relationship with the federal financial regulator at issue."

¹¹ TD P 15-71, Chapter III, "Information Security," sections 23 and 24, "Sensitive But Unclassified (SBU) Information."

The memorandum did not state why OFAC was providing the OIG auditor with the information. However, the reason given our auditor by OFAC staff was that the results of the searches performed by the FRB-NY evidenced a high degree of financial institution compliance with OFAC requirements.

Reasons Cited for Program's Sensitivity

We sought to determine the reasons why OFAC considered the Fedwire Integrity Pilot Program to be sensitive, and the basis for marking the November 2005 memorandum SBU. We asked several current and former OFAC officials about the need for secrecy about the program.

One OFAC official stated that FRB-NY officials requested that the program be treated as sensitive. Similarly, another OFAC official stated the FRB-NY officials were very concerned about any requirement that would weaken their primary mission of timely and accurate Fedwire data transfer.

The former OFAC Director, who signed the memorandum, said that a sensitive designation was needed to maintain the integrity of the financial sector. He also said that FRB-NY officials believed that the information was sensitive because depository institutions would question why FRB-NY officials were conducting searches.

We also inquired of FRB-NY officials about their perspective on the sensitivity of the Fedwire Integrity Pilot Program. The officials confirmed that they asked OFAC to treat this program as sensitive. They cited business and proprietary reasons as the basis of their concern.

Most Program Documents Not Marked SBU

Despite the sensitivity attributed to this program by OFAC, with the one exception of the November 2005 memorandum to our auditor, no other documents provided by OFAC during our audit were marked SBU or otherwise marked as sensitive in accordance

with Treasury policy. These included (1) the eight e-mails that were sent from the FRB-NY officials to OFAC officials with the potential suspicious transactions resulting from the program, (2) the computer-generated documents attached to these e-mails that listed the transactions resulting from the search of Fedwire transactions with the SDN listing, and (3) a draft document of the pilot program.¹²

Conclusion

After considering the comments of current and former OFAC officials, we do not see the adverse impact that could result from public disclosure of this program. That FRB-NY voluntarily selected a limited number of names from the SDN list provided by OFAC to identify transactions containing potential matches to the SDN list which were processed through Fedwire for review by OFAC would appear to be nothing more than one more layer of compliance testing of the financial system. In concept, we believe this to be a good idea. What OFAC did with the information provided by FRB-NY is a matter that should be part of the public record, barring any legal restrictions, of which we are aware of none. We also do not see the concerns raised in the former Director's November 2005 memorandum and expressed to us during our audit as compelling reasons for OFAC's position that the program was very sensitive.

However, we do believe it prudent for OFAC to consult with the Office of Intelligence and Analysis to determine whether the characteristics of the program meet the Treasury criteria for designating the program as SBU.¹³ In the interest of government accountability and transparency, we also believe it is essential that OFAC maintain a complete record of the basis and parties responsible for making a decision to treat the program as sensitive

¹² As stated earlier, this document was marked "draft-confidential," which is not a marking that accords with Treasury policy.

¹³ In accordance with Treasury Directive 105-19, the Assistant Secretary for Intelligence and Analysis is the senior agency official for the Department of the Treasury authorized to delegate original Secret or Confidential classification authority in conformance with the requirements of Executive Order 12958, as amended. This order prescribes a uniform system for classifying, safeguarding, and declassifying national security information, including information relating to defense against transnational terrorism.

or otherwise shielded from the public. We also feel that programs of this nature need to have strong controls in place that carefully document all activities and ensure that no abuses take place.

Recommendations

We recommend the OFAC Director do the following:

1. Establish policies, procedures, and controls for reviewing inquiries about potential matches to the SDN list, to include documenting the research and conclusions derived from its analyses and actions to be taken based on the identification of transactions with actual matches. The policies, procedures, and controls should provide for appropriate safeguards to ensure compliance with applicable U.S. laws.

Management Response

OFAC agreed that assessing potential matches to the SDN list is a vital function for OFAC, both internally and in its outreach and compliance functions. To that end, OFAC has detailed procedures for reviewing inquiries about potential SDN matches. These procedures, which are posted on its Website, set out two methods to be used in assessing potential matches, one for wire transfers and the other for customer accounts. These are the same procedures that OFAC uses for purposes of internal analysis and for responding to inquiries received each year from the private sector about potential matches to the SDN list. OFAC's employees are responsible for determining if potential matches are likely to be true hits and, in most cases, are able to make such determinations with very little time or effort.

Based on the criteria described above, according to OFAC, it was determined very quickly that the great majority of the transactions transmitted by FRB-NY were either false positives or were authorized by OFAC. The SDN match and OFAC's follow-on actions for the one "true hit" were well documented and resulted in a Cautionary Letter to the financial institution

that handled the payment. With respect to OFAC documentation procedures more generally, OFAC does not log referred questions that are quickly resolved as false hits, as such, because they generally do not provide value to the office. On the other hand, OFAC carefully documents authenticated hits that are blocked or rejected. These hits are entered into OFAC's database of blocked and rejected transactions and reviewed for the involvement of any U.S. persons. Individual case files are created for potential violations of U.S. sanctions law and are referred for enforcement action as appropriate.

OIG Comment

OFAC's description of its process for reviewing inquiries and documenting its review of those inquiries is a reasonable approach. Although published for use by the public, we agree that the procedures that OFAC has posted on its Website for its internal review of potential SDN matches provide sufficient guidance for OFAC employees to review these transactions. We also understand that documenting every single false hit may not be of value to OFAC if the transactions have been reviewed in accordance with these procedures and found not to be a violation of law. As OFAC officials described during our review, OFAC receives a number of inquiries from car dealers and the like concerning individuals who may have the same name as a person on the SDN list, but based on other information such as date of birth or address, it is clear to OFAC that the individual is not the same person on the SDN list. It is these types of inquiries that are not documented according to OFAC officials.

Although we consider OFAC's described approach as reasonable, OFAC's response is less than complete in that it does not specifically address the documentation weaknesses we found during our audit. In that regard, we want to emphasize the importance for OFAC to institutionalize in writing its internal policies, procedures, and controls to ensure the actions described in its response are in fact done, and appropriate documentation is maintained. Such documentation,

both of the procedures applied and the results, was solely lacking with respect to its activities with the Fedwire Integrity Pilot Program at the time of our review. OFAC's operating practices in this regard therefore remains an area of concern and is the subject of planned future audit work by our office.

2. Inform our office of this report's sensitivity level and specific information that cannot be disclosed and why. This recommendation should be given immediate attention.

Management Response

The underlying program has been properly determined to be SBU pursuant to the Treasury Security Manual. OFAC does not believe that the report, given its singular focus on a sensitive program at a unique institution, could be properly redacted to prevent the public disclosure of the identity of FRB-NY and the actions it took as part of the program.

OIG Comment

During our audit, we held extensive discussions with OFAC on the sensitivity level of the Fedwire Integrity Program and this report. In recognition of the fact that OFAC is the responsible office for program information, we accept OFAC's determination that this report should be designated SBU and have marked it accordingly.

3. Periodically reassess in conjunction with FRB-NY whether the Fedwire Integrity Pilot Program should be re-established.

Management Response

OFAC stated that it will reassess with FRB-NY whether the program should be re-established.

OIG Comment

We consider OFAC's planned action responsive to our recommendation. OFAC will need to establish a timeframe for the planned reassessment, and record the date for completing action on this recommendation in JAMES.

4. In consultation with the Office of Intelligence and Analysis, determine the proper sensitivity level of the Fedwire Integrity Pilot Program and maintain written documentation of that determination and the basis for it.

Management Response

OFAC met with Treasury's Office of Security Programs to determine the sensitivity level of the Fedwire Integrity Pilot Program. OFAC was advised that the Program is and had been properly deemed SBU pursuant to the Treasury Security Manual because the details of the program, if publicly disclosed, could have an adverse impact on the operations of FRB-NY and could compromise an unclassified program to monitor financial institution compliance with national security sanctions programs administered by OFAC.

OIG Comment

In recognition of the fact that OFAC is the responsible office for program information, we accept OFAC's determination that the sensitivity level of the Fedwire Integrity Pilot Program is SBU.

5. As appropriate to the sensitivity level determined in accordance with recommendation 4, ensure that all related program records at OFAC are marked and secured in accordance with the Treasury Security Manual. This applies not only to current records but also to records that may be created if the Fedwire Integrity Pilot Program is re-established at a future date.

Management Response

OFAC notified its staff involved in this project about the proper marking and handling of documents related to the program. SBU program documentation is and has been secured in accordance with the Treasury Security Manual and a September 2008 memorandum from Treasury's Office of Security Programs Director. This documentation is stored in areas that have physical access controls to afford adequate protection to prevent unauthorized access by visitors and others without a need for such access. Treasury and bureau e-mail systems also have sufficient safeguards to transmit SBU information.

OIG Comment

OFAC's notification to its staff is responsive to our recommendation. We recognize that OFAC offices are in secured facilities. That said, proper markings are essential as well to prevent unauthorized or inadvertent disclosure.

* * * * *

We would like to extend our appreciation to OFAC for the cooperation and courtesies extended to our staff during the audit. If you have any questions, please contact me at (617) 223-8640 or Sharon Torosian, Audit Manager, at (617) 223-8642. Major contributors to this report are listed in appendix 3.

/s/
Donald P. Benson
Audit Director

Appendix 1
Objectives, Scope, and Methodology

The objectives of our audit were to determine (1) how the Office of Foreign Assets Control (OFAC) used the results of the Fedwire Integrity Pilot Program to broadly assess financial institutions' compliance with its sanction programs and (2) whether OFAC took enforcement action when a violation was identified from the FRB-NY referrals. Our audit was initiated after we received information during a prior audit about information on transactions containing potential matches to Specially Designated Nationals and Blocked Persons (SDN) which were identified by the Fedwire Integrity Pilot Program.¹⁴ We wanted to determine why the Federal Reserve Bank of New York (FRB-NY) initiated the Fedwire Integrity Pilot Program, what the program's results showed, and what OFAC did with the results.

We reviewed laws, regulations, and guidance associated with OFAC's sanction programs, consumer privacy, and suspicious activity reporting. We asked OFAC for its policies and procedures related to the Fedwire Integrity Pilot Program and were told there were none. OFAC did provide a draft proposal for the program prepared by the FRB-NY, which we reviewed.

We requested documentation from both OFAC and FRB-NY relating to the program, which was conducted from June 2004 through January 2006. We reviewed FRB-NY documentation provided to OFAC for potential matches to the SDN list identified in the eight sets of results for searches that FRB-NY conducted during 2004, 2005, and 2006. We asked OFAC for any documentation of follow-up by OFAC; OFAC officials told us that such documentation did not exist.

During our fieldwork from November 2007 and March 2008, we did not receive evidence that OFAC reviewed the results of the program or documentation that enforcement actions were taken. It was at the June 2009 exit conference that OFAC officials provided

¹⁴ *Foreign Assets Control: Actions Have Been Taken to Better Ensure Financial Institution Compliance With OFAC Sanction Programs, But Their Effectiveness Cannot Yet Be Determined*, OIG-07-048 (Sep. 20, 2007).

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documentation in the form of sticky notes with handwritten comments dated November 29, November 30, and December 12, 2007, concluding that in all but one instance the hits either did not match the SDN list or were otherwise authorized by OFAC.

A second set of documentation was provided to us in response to a recommendation in our May 2009 discussion draft report to investigate the potential matches FRB-NY provided to OFAC in the years 2004, 2005, and 2006, and document the results. This was not deemed to be sufficient documentation to provide a historical record of the program.

We were also told at the exit conference that in 2008 OFAC had taken an enforcement action based on the results of a Fedwire Integrity Pilot Program hit that occurred in 2005. The enforcement action was in the form of cautionary letters to the institutions warning that another violation would be dealt with more strongly. OFAC officials provided us with an e-mail to document this action.

We interviewed OFAC officials at their headquarters in Washington, D.C. We also interviewed FRB-NY officials in New York City. These interviews were arranged through the Office of Inspector General of the Board of Governors of the Federal Reserve System. In addition, we interviewed two former directors of OFAC, other former OFAC officials, and a former Department of the Treasury official, all of whom were knowledgeable about the program. Further, we attempted to interview a former OFAC employee who OFAC officials told us had analyzed the referrals from FRB-NY in November and December 2007. We exchanged correspondence with the individual during July and August 2009 to arrange an interview but this individual was ultimately unresponsive to our interview request.

We performed our fieldwork from November 2007 to March 2008 in accordance with generally accepted government auditing standards.

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

MEMORANDUM FOR DONALD P. BENSON
AUDIT DIRECTOR
TREASURY OFFICE OF THE INSPECTOR GENERAL

FROM: ADAM J. SZUBIN *BH for AJS 7-26-10*
DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL

SUBJECT: OFAC Reply to OIG Audit Report entitled "OFAC Should Have Better and More Timely Documented Its Review of Potential Sanctions Violations"

General Management Response

In early 2010, Treasury's Office of the Inspector General (OIG) provided the Office of Foreign Assets Control (OFAC) with a draft audit report (the draft) regarding OFAC's participation in the Federal Reserve Bank of New York's (FRB-NY) Fedwire Integrity Pilot Program. The draft recommended that OFAC (1) establish policies and procedures for reviewing referrals of potential violations of OFAC sanctions, to include documenting the research and conclusions derived from its analyses, and actions to be taken based on the identification of potential matches to the SDN list; (2) inform the OIG of the report's sensitivity level and specific information that cannot be disclosed and why (this matter should be given immediate attention); (3) periodically re-assess with FRB-NY whether the Fedwire Integrity Pilot Program should be re-established; (4) determine, in consultation with Treasury's Office of Intelligence and Analysis, the appropriate sensitivity level of the program based on Treasury Security Manual criteria; and (5) based on that determination, appropriately mark and secure program documentation in accordance with the Treasury Security Manual. This memorandum presents OFAC's comments on the draft.

Context

In an earlier April 2002 Report (#02-082), Treasury's Office of the Inspector General had emphasized the importance it attributed to the federal banking regulators' examination process in monitoring compliance with OFAC sanctions by financial institutions. In that Report, the OIG concluded that transaction testing was a critical component of the examination process and stated that it was concerned that risk-based examinations obviated such transaction testing. The Report

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was available to the public and was widely circulated among the functional regulators. Following the publication of the 2002 Report, FRB-NY decided to test the integrity of its Fedwire system – as well as compliance by its participants – by screening the details of billions of discrete transactions sent through the Fedwire system by U.S. banks against a sample of names from OFAC’s List of Specially Designated Nationals and Blocked Persons (“SDN List”). In August 2004, FRB-NY tested four and a half years worth of archived transaction history, covering some 450,000 wire transfers each day totaling almost six billion discrete transactions, against a sampling of OFAC targets. The results of the testing were provided to OFAC. In transmitting the results, FRB-NY told OFAC that it believed that its search results “confirmed that the majority of financial institutions that use the Fedwire system were properly screening for names on the SDN list.” In October 2004, it conducted the same test using different SDN names. That test involved more than four and a half years of archived history covering some 74 million transactions (450,000 wire transfers each day) involving approximately 5.2 billion discrete OFAC filter screenings. It reached exactly the same conclusion – “that the majority of financial institutions that use Fedwire were properly screening for names on OFAC’s SDN list.” The exercise was repeated 8 times with substantially similar findings resulting in the same FRB-NY conclusion.

In seven of the eight testings that FRB-NY conducted, it identified a handful of “potential hits,” i.e., transactions that might have involved individuals or entities on the SDN List. Those potential matches were referred to OFAC for review. OFAC was able to determine that all but one of those potential matches were either false hits or authorized by a general or specific license issued by OFAC. There was only one item that required an enforcement action against a bank in the form of a cautionary letter. While documentation of its actions could have been better, OFAC believes that its policies and procedures worked and all action that needed to be taken was taken. OFAC believes that the program was an effective tool in measuring compliance with U.S. sanctions regulations by the U.S. financial community and will assess with FRB-NY whether to re-establish Fedwire Integrity.

Specific Comments on Recommendations

The following outlines OFAC’s comments on the report’s five recommendations:

1. Establish policies, procedures, and controls for reviewing inquiries about potential matches to the SDN list, to include documenting the research and conclusions derived from its analyses and actions to be taken based on the identification of transactions with actual matches. The policies, procedures, and controls should provide for appropriate safeguards to ensure compliance with applicable U.S. laws.

OFAC agrees that assessing potential matches to the SDN list is a vital function for OFAC, both internally and in its outreach and compliance functions. To that end, OFAC has detailed procedures in place for reviewing inquiries about potential SDN matches. These are detailed on OFAC’s website as “*due diligence*” steps in determining a valid OFAC match, at http://www.treas.gov/offices/enforcement/ofac/faq/one_page.shtml. The procedures set out two

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alternative five-step methods to be used in assessing potential matches, one for wire transfers and the other for customer accounts. The methods follow a flow-chart pattern and, at each step, provide instructions based on the outcome (e.g., Step 3: "How much of the SDN's name is matching against the name of your account holder? Is just one of two or more names matching (i.e., just the last name)? If yes, you do not have a valid match. If no, please continue to 4 below."). These are the same procedures that OFAC uses for internal analysis purposes and for responding to inquiries received each year from the private sector about potential matches to the SDN List through its "hotline" and "e-hotline." They are also the procedures that OFAC recommends to the public for doing SDN match analysis. OFAC's public-facing employees are responsible for determining if potential matches are likely to be true hits and, in most cases, are able to make such determinations with very little time or effort.

Using these criteria, it was determined very quickly that the great majority of the transactions transmitted by FRB-NY were either false positives or were authorized by OFAC. The one "true hit" identified by OFAC resulted in a Cautionary Letter to the financial institution that handled the payment. This SDN match and OFAC's follow-on actions were well-documented. With respect to OFAC documentation procedures more generally, OFAC does not log referred questions that are quickly resolved as false hits. OFAC believes that such false hit inquiries generally do not provide value for the office. On the other hand, OFAC carefully documents authenticated hits that are blocked or rejected. These hits are entered into OFAC's database of blocked and rejected transactions and reviewed for the involvement of any U.S. persons. Individual case files are created for potential violations of U.S. sanctions law and referred for enforcement action as appropriate.

2. Inform the OIG of the report's sensitivity level and specific information that cannot be disclosed and why. This recommendation should be given immediate attention.

As described in response to recommendation 4 below, the underlying program has been properly determined to be Sensitive But Unclassified (SBU) pursuant to the Treasury Security Manual. For that reason, this entire report should also be deemed SBU. OFAC does not believe that the report, given its singular focus on a sensitive program at a unique institution, could be properly redacted to prevent the public disclosure of FRB-NY's identity and the actions it took as part of the program.

3. Periodically reassess in conjunction with FRB-NY whether the Fedwire Integrity Pilot Program should be re-established.

The Fedwire Integrity Program was good government. The testing of FRB-NY's historical data provided an impressive indication that U.S. banks were, by and large, complying with OFAC sanctions. The Program also served a useful purpose in assuring that apparent violations did not fall through the cracks. OFAC will reassess, with FRB-NY whether the program should be re-established.

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4. In consultation with the Office of Intelligence and Analysis, determine the proper sensitivity level of the Fedwire Integrity Pilot Program and maintain written documentation of that determination and the basis for it.

OFAC met with Treasury's Office of Security Programs (OSP) to determine the sensitivity level of the Fedwire Integrity Pilot Program. The pertinent standard set forth in the Treasury Security Manual is as follows: "SBU shall identify information, the release of which could . . . adversely impact economic, industrial, or international financial institutions; or compromise unclassified programs . . ." T.D. P. 15-71, ch. III, § 24, at 1. OFAC was advised that the Program is and had been properly deemed SBU pursuant to the Treasury Security Manual because the details of the program, if publicly disclosed, could have an adverse impact on the operations of the FRB-NY (as that institution has advised both OFAC and OIG) and could compromise an unclassified program to monitor financial institution compliance with national security sanctions programs administered by OFAC. OSP also noted that it anticipates changes in SBU guidance within the Executive Branch in the months ahead, and treating the Program as SBU is consistent with the direction the government appears to be taking, particularly with respect to terrorism-related information. OSP noted that if there is a reasonable chance that the program could resume, the information should remain SBU despite the fact that the program is currently discontinued.

5. As appropriate to the sensitivity level determined in accordance with recommendation 4, ensure that all related program records at OFAC are marked and secured in accordance with the Treasury Security Manual. This applies not only to current records but also to records that may be created if the Fedwire Integrity Pilot Program is re-established at a future date.

OFAC has notified its staff involved in this project about the proper marking and handling of documents related to the program. SBU program documentation is and had been properly secured in accordance with the Manual and a September 2008 memorandum from Treasury's OSP Director because OFAC's offices – which are located in the Treasury Annex, protected by the U.S. Secret Service, and equipped with electronic card readers – have physical access controls to afford adequate protection to prevent unauthorized access by visitors or others without a need for such access. The Treasury Security Manual also provides that "Treasury/bureau internal e-mail systems provide sufficient safeguards to allow for the transmission of SBU information." T.D. P. 15-71, ch. III, § 24, at 7.

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Appendix 3
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Appendix 4
Report Distribution

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