



Audit Report



OIG-16-001

Libyan Sanctions Case Study

October 26, 2015

Office of
Inspector General

Department of the Treasury

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Abbreviations

ABaRRS	Automated Blocking and Reject Report System
EO	Executive Order

GAO	Government Accountability Office
IEEPA	International Emergency Economic Powers Act
JAMES	Joint Audit Management Enterprise System
NEA	National Emergencies Act
OASIS	OFAC Administrative System for Investigations and Sanctions
OFAC	Office of Foreign Assets Control
OIG	Office of Inspector General

*The Department of the Treasury
Office of Inspector General*

October 26, 2015

John E. Smith, Acting Director
Office of Foreign Assets Control

This report presents the results of our audit of the Office of Foreign Assets Control's (OFAC) implementation and administration of sanctions against Libya. Our report also discusses the implications that OFAC's processes and practices identified in the Libyan program have on other OFAC sanctions programs.

OFAC administers and enforces economic and trade sanctions based on U.S. national security and foreign policy goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or the economy of the United States.

Our objectives for this audit were to (1) determine the legal authorities for the Libyan sanctions program; (2) determine how blocked assets were identified, maintained, and accounted for; and (3) assess OFAC's subsequent and gradual release of blocked Libyan assets, including how OFAC planned to identify and release all remaining blocked assets to their rightful owners upon termination of the sanctions program.

To accomplish these objectives, we interviewed OFAC officials responsible for the implementation and administration of the Libyan sanctions program. We also reviewed program documentation provided to us by OFAC. We performed our fieldwork from March 2012 to January 2013. We updated the status of the Libyan sanctions program and other information included in this report in December 2014. Appendix 1 provides a more detailed description of our audit objectives, scope, and methodology.

Results in Brief

On February 25, 2011, the President issued Executive Order (EO) 13566 blocking the property and interests in property of Colonel Muammar Qadhafi, his close associates, and the government of Libya. The EO was issued based on authority granted to the President under the National Emergencies Act (NEA) and the International Emergency Economic Powers Act (IEEPA).¹

The United States imposed sanctions because the continued violence in Libya posed an unusual and extraordinary threat to U.S. national security and foreign policy interests. Three (3) days after EO 13566 was issued and OFAC's sanction program was established, Treasury announced that at least \$30 billion in Libyan assets within U.S. jurisdiction were blocked as a result of the EO. In total, approximately \$38 billion in assets were blocked under this program.

By December 2011, most of the sanctions against Libya had been lifted with approximately \$3 billion in assets remaining blocked at that time. The President extended EO 13566 for 1 year in 2012, 2013, 2014, and again in 2015. In extending the EO, the President cited conditions in Libya that continued to pose unusual and extraordinary threats. According to OFAC, in December 2014 approximately \$3 billion in assets remained blocked under the Libyan program.

OFAC implemented and administered the Libyan sanctions program as it has with other sanctions programs by requiring U.S. persons, including financial institutions, to identify, and block the assets of

¹ Enacted on September 14, 1976, NEA (50 U.S.C.1601 *et seq.*, National Emergencies Act) established regulations for presidential declarations of national emergencies and wars, and for the termination of such declarations. The President is required to formally declare the existence of a national emergency and to specify the provisions of law under which the President or other officers propose to act. The President's actions must be pronounced either through the declaration of a national emergency or issuance of an EO. National emergencies declared under NEA terminate on the anniversary of the declaration. The President may, within the 90-day period prior to each anniversary date, notify the Congress of intent to continue the state of emergency and must publish such intent in the Federal Register. Enacted by Congress in 1977, IEEPA (50 U.S.C. 1701–1706, International Emergency Economic Powers Act) authorizes the President to declare national emergencies in the event of foreign threats to the United States. IEEPA provides the President with the authority to deal with unusual and extraordinary threats to the national security, foreign policy, or the economy of the United States, where the source of the threat in whole or substantial part is outside of the country.

targeted parties that come within their possession or control. Financial institutions were required to report these actions to OFAC within 10 business days. As with most sanctions programs, OFAC did not take possession of blocked assets under the Libyan sanctions program. While OFAC authorized the release of blocked assets through its licensing program, the financial institutions were responsible for returning funds to their rightful owners once authorized for release by OFAC.

Our audit identified the following control weaknesses impacting OFAC operations, some of which were similar to issues reported in prior Office of Inspector General (OIG) audits of OFAC:

- OFAC continued to rely on its collection of prior executive orders, regulations, memoranda, and the knowledge and experience of OFAC staff as policy and procedural guidance when implementing and administering new and ongoing sanctions programs. Written standard operating procedures for many day-to-day functions of OFAC's sanctions programs have not been developed, contrary to government-wide internal control standards.
- OFAC did not actively assess financial institutions' compliance with the 10-day reporting requirement for submitting reports of blocked transactions and rejected transactions.² In addition, our review of a sample of these reports found that, in many instances, OFAC's system and supporting documentation did not contain the information necessary to determine the date the reports were received or the timeliness of the filings. We believe the quality of reports of blocked and rejected transactions data could be improved by completing the development of OFAC's planned electronic filing system for high-volume filers and promoting the use of OFAC's electronic filing applications by all financial institutions.

² Blocking or freezing of assets imposes immediate, comprehensive prohibition against transfers or dealings of any kind with regard to the property. Financial institutions must retain the assets and block them from further use. Rejected transactions are activities prohibited under a sanctions program that may not involve a blockable interest. Rejected transactions do not involve funds blocked and retained by financial institutions.

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- OFAC can only estimate the total amount of assets that remain blocked under its sanctions program at any point in time. To determine the total assets blocked, OFAC adjusted the amounts provided in annual financial institution reports with blocking and licensing data posted to internal OFAC systems after the annual report cut-off dates. OFAC, however, did not fully assess its blocked asset and licensing data to ensure that all financial institutions submitted annual reports of blocked assets or that the reports it received were accurate.

Our review also found that OFAC has not implemented a formal lessons-learned process to communicate knowledge gained from past sanctions for the benefit of future sanctions programs. OFAC instead relies on staff experience and the range of Executive Orders, regulations, and guidance documents issued for all of its current or former sanctions programs as guidance for implementing new programs. We believe OFAC would benefit from a formal lessons-learned process to identify best practices for use in future programs and to aid in the development and maintenance of documented standard operating policies and procedures for administering sanctions programs.

We are recommending in this report that OFAC (1) identify the actions required to implement and administer its sanctions programs and document those actions in written standard operating procedures; (2) implement procedures and any necessary system modifications to allow for tracking and periodic analysis of financial institutions' compliance with the 10-day reporting requirement and to take appropriate action against late-filers; (3) implement a methodology to identify blocked assets that have been released by type of license (general or directive) and update information in OFAC's system; (4) continue to pursue development and implementation of electronic filing for high-volume filers; and (5) develop a lessons-learned process, to capture and communicate acquired knowledge from past sanctions programs at a time appropriate for each sanctions program.

In its management response, OFAC did not address our recommendation to document actions required to implement and administer its sanctions programs in written standard operating procedures. OFAC stated that it already has a wealth of documents available for staff to implement and administer sanctions programs,

along with a body of case work developed through its licensing decisions and letters of interpretive guidance to assist staff. We believe the documents and information cited by OFAC, while valuable resource materials, do not represent what we would consider standard operating procedures to be used by OFAC staff for implementation and the day-to-day administration of its sanctions programs. Many of the resources cited by OFAC are materials developed for use by filing institutions and the public in complying with sanctions programs and do not constitute a set of operational policies and procedures. Accordingly, we consider the management response insufficient and the recommendation to be unresolved. Pursuant to Treasury Directive 40-03, we plan to refer this recommendation to the Treasury Assistant Secretary for Management for further action.³

With respect to the recommendation that a lessons-learned process be developed, OFAC agreed this could further assist its mission but disagreed that the creation and implementation of such processes were the best use of its limited assets at this time. It also stated that the recent successes of several of OFAC's sanctions programs underscored the fact that OFAC's existing feedback and lessons-learned mechanisms are working well. We continue to believe a formalized lessons-learned process would benefit OFAC and are disappointed that it does not plan to implement a formalized process at this time. That said, we consider the recommendation to have a management decision and encourage OFAC to adopt a formalized lessons-learned process in the future.

Other than the issues discussed above, OFAC's provided planned corrective actions are responsive to the other recommendations in this report. OFAC will, however, still need to develop and record in the Joint Audit Management Enterprise System (JAMES), the

³ Treasury Directive 40-03, "Treasury Audit Resolution, Follow-Up, and Closure" (February 2, 2001). In accordance with this directive, the Treasury Deputy Secretary is responsible for making a final management decision on an Office of Inspector General audit recommendation when disagreement exists and resolution could not be reached between the Department and our office. Before the actual referral of a disagreed recommendation to the Deputy Secretary, the directive calls for the Assistant Secretary for Management to assist in resolving the disagreement.

Department's audit recommendation tracking system, anticipated completion dates for those corrective actions.

OFAC's management response is provided in Appendix 3.

Background

OFAC Mission

Part of Treasury's Office of Terrorism and Financial Intelligence, OFAC's mission is to administer and enforce economic and trade sanctions established under presidential directives or legislative actions. OFAC promulgates regulations to implement sanctions programs that target foreign countries, regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or the U.S. economy. OFAC acts under legislative authority and presidential wartime and national emergency powers to impose controls on transactions and to block assets under U.S. jurisdiction from use by designated parities. Assets blocked under OFAC sanctions programs remain unavailable for use until OFAC authorizes the release under those programs or when a state of emergency is terminated by the President.

All U.S. persons, as defined by OFAC's regulations, must comply with OFAC regulations requiring the blocking of assets and other property and prohibiting financial transactions with or for specified countries, entities, and individuals targeted by sanctions programs. The success of OFAC's sanctions programs requires the participation and support of financial institutions, which, more than any other sector of the economy, are affected by OFAC regulations. OFAC is supported by examinations conducted by the Federal banking agencies and other cognizant Federal and State agencies to help ensure compliance with OFAC regulations.⁴

⁴ The Federal banking agencies are the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, and the National Credit Union Administration. Other Federal financial regulators include the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the Internal Revenue Service.

Libyan Sanctions Program

The President signed EO 13566 on February 25, 2011, declaring a national emergency to deal with the unusual and extraordinary threat to national security and foreign policy posed by Colonel Muammar Qadhafi, his government, and his close associates. The EO was issued based on authority granted to the President under NEA and IEEPA. Using this authority, property and interests in property of the Government of Libya, its agencies, instrumentalities, and controlled entities were required to be blocked, including the Libyan Investment Authority, and the Central Bank of Libya. Also blocked were properties in which Qadhafi, members of his family, senior members of his regime, and others responsible for the political repression in Libya had an interest. Three (3) days after EO 13566 was signed, Treasury announced that at least \$30 billion in Libyan assets under U.S. jurisdiction had been blocked. By November 25, 2011, approximately \$38 billion in Libyan assets were blocked under the program.

Financial Institutions Identified, Blocked, and Maintained Libyan Assets

Financial institutions were responsible for identifying, blocking, and maintaining assets targeted under the Libyan sanctions program and reporting these actions to OFAC through reports of blocked transactions. OFAC used these reports to account for blocked assets when preparing semiannual reports to Congress on the status of the Libyan program. The semiannual reports on the Libyan sanctions program included information on licenses issued to release blocked assets, Specially Designated Nationals designations and removals,⁵ new assets blocked during the reporting period, as well as actions taken by the President or those granted authority by

⁵ OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries; as well as individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, these individuals and entities are called "Specially Designated Nationals."

the President to carry out the provisions of EO 13566.⁶ Financial institutions maintained control over blocked Libyan assets and placed them in interest-bearing accounts until authorized for release.⁷

OFAC has the authority to release blocked assets and authorize transactions that would otherwise be prohibited. OFAC used general, specific, and directive licenses to release blocked assets or to allow prohibited transactions under the Libyan program.

- General licenses are regulatory provisions authorizing certain types of transactions or to release classes of blocked assets.⁸ Although general licenses are not usually associated with specific license applications, general licenses can be issued when a high volume of license applications received by OFAC relate to similar types of transactions.
- Specific licenses are used by OFAC to release assets blocked by financial institutions identified in reports of blocked transactions submitted to OFAC. Specific licenses are also used by OFAC to authorize transactions usually involving goods or services that would otherwise be prohibited. These specific licenses frequently would not involve blocked assets and therefore would not be linked to reports of blocked transactions. OFAC's Licensing Division reviews applications, often in consultation with the State Department, and issues specific licenses determined to be consistent with U.S. foreign policy.
- Directive licenses are used by OFAC to instruct, direct, or compel financial institutions to release certain assets in-line with U.S. foreign policy decisions. Directive licenses are generally not associated with license applications submitted to OFAC.

⁶ The Secretary of the Treasury, in consultation with the Secretary of State, was authorized to take all necessary actions and employ all powers granted to the President by IEEPA to carry out the purposes of EO 13566. The Secretary of the Treasury re-delegated authority pursuant to EO 13566 to the Director of OFAC.

⁷ 31 C.F.R. § 501.601, Records and Record Keeping Requirements, and 31 C.F.R. § 501.603, Reports on Blocked Property, provide instructions for maintaining blocked assets as well as reporting, recordkeeping, and records retention.

⁸ One general license issued under the Libyan program allowed transactions involving banks-owned or controlled by the Government of Libya that were organized under the laws of a country other than Libya. Another general license allowed for goods or services for diplomatic missions of the Government of Libya to the United States and United Nations under certain conditions.

According to OFAC, directive licenses are used in rare circumstances.

Through January 30, 2015, OFAC issued 251 specific licenses that released Libyan assets identified in license applications or authorized transactions otherwise prohibited under the Libyan Sanctions program. Information on specific licenses issued by OFAC was recorded in the OFAC Administrative System for Investigations and Sanctions (OASIS). The specific licenses issued to release blocked assets were linked in OASIS to reports of blocked assets in OFAC's Automated Blocking and Reject Report System (ABaRRS).⁹ OFAC also issued 11 general licenses under the Libyan program to allow certain types of transactions to be completed and categories of blocked assets to be released. The general licenses expanded the ability of U.S. entities and individuals to engage in transactions and dealings with Libyan entities deemed to be unaffiliated with the Qadhafi regime. OFAC issued four directive licenses under the Libyan program requiring that financial institutions release funds authorized by the United Nations for humanitarian purposes in Libya.

Once OFAC authorizes the release of assets, OFAC's interest in those assets is concluded.¹⁰ Financial institutions engaging in transactions pursuant to any OFAC licenses are required to ensure that all conditions of the licenses are strictly observed and that assets not associated with the licenses are not released. As a general rule, OFAC does not follow up with the financial institutions to confirm that the assets have been released, the conditions of the licenses observed, or to whom the assets were released. As it deems necessary, OFAC will follow up on cases where it has information that assets may not have been released. OFAC officials were unaware of any such issues involving the Libyan program.

⁹ In September 2013, OFAC replaced ABaRRS with a new compliance module housed within the OASIS system. Like ABaRRS, the new compliance module was designed to record information included in blocked and rejected transaction reports filed by financial institutions under OFAC's sanctions programs.

¹⁰ OFAC can include reporting requirements in certain licenses but does not use these reports to track the release of blocked assets.

OFAC Eased Sanctions on Libya and Released the Majority of Blocked Assets

In July 2011, the United States officially recognized the Transitional National Council as the new, legitimate governing authority for Libya. In September 2011, the United Nations authorized the release of \$1.5 billion in assets by the United States to support humanitarian needs in Libya. In response, OFAC began easing sanctions on Libya by authorizing the release of certain assets through directive licenses. By December 2011, in conjunction with the actions taken by the United Nations, OFAC had lifted most of the remaining sanctions against Libya, by authorizing the release of more than \$30 billion in blocked assets, including assets of the Libyan government and the Central Bank of Libya.¹¹ Approximately \$3 billion in assets primarily owned or controlled by the Libyan Investment Authority remained blocked. See Appendix 2 for a chronology of significant events in the Libyan sanctions program.

In February 2012, the President extended EO 13566 for 1 year, citing conditions in Libya that continued to pose an unusual and extraordinary threat to U.S. national security and foreign policy. The President again extended EO 13566 for 1 year in February 2013, February 2014, and February 2015.

Findings

Finding 1 Weaknesses Identified in OFAC's Internal Controls

Our review of OFAC's Libyan sanctions program identified several internal control weaknesses in OFAC's administration of sanctions programs, which were similar to those that we had previously reported. OIG audit reports dating back to 1993 found that OFAC lacked written standard operating policies and procedures for implementing sanctions programs and that OFAC's record-keeping, data-management, and processing procedures could be strengthened.

¹¹ OFAC's General License 11, issued December 16, 2011, exempted from release the assets of the Libyan Investment Authority and entities owned or controlled by this organization blocked as of September 19, 2011.

OFAC Relies on Prior EOs and Regulations as Policies and Procedures

OFAC continued to rely on its collection of prior EOs, regulations, published memoranda, and the knowledge and experience of existing OFAC staff to serve as policy and procedural guidance when implementing and administering new and ongoing sanctions programs. OFAC has not reduced to writing standard operating procedures for the day-to-day administration of sanctions programs. The lack of written standard operating procedures does not meet required government-wide internal control standards and does not serve the agency well.

The Government Accountability Office's (GAO) "Standards for Internal Controls in the Federal Government" call for managers to clearly document internal controls and all transactions and other significant events in a manner that allows for ready examination. The documentation may appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. Documentation and records should be properly managed and maintained.¹² Treasury Directive 80-05 also requires all Treasury bureaus and offices establish adequate and proper documentation of their functions, policy decisions, procedures, and essential transactions in a manner that promotes accountability and establishes a historical record.¹³ Documented procedures would provide OFAC staff with the necessary fundamental steps to ensure effective implementation of sanctions, minimize differences in staff experience and knowledge, and contribute to staff development.

OFAC officials stated that it was impractical and unnecessary to create standardized policies and procedures because each sanctions program is based on a unique set of foreign policy imperatives, with no two programs being exactly alike. According to the officials, developing rudimentary policies and procedures would not be helpful to the office's efforts. Additionally, changes in the administration's foreign policy pose additional challenges to implementation. Furthermore, the EOs signed by the President lay

¹² GAO, "Standards for Internal Control in the Federal Government" (November 1999). GAO's September 2014 revision, which becomes effective in 2016, includes similar requirements.

¹³ Treasury Directive 80-05, "Records and Information Management Program" (June 26, 2002).

out the actions that can and cannot be taken under each sanctions program. OFAC did provide us with a PowerPoint document that had been prepared for staff and titled "An Introduction to OFAC," that outlined the history of OFAC, the office's sanctions programs, and many of OFAC's functional areas of responsibility. The OFAC officials maintained that this document supplemented the EOs, promulgated regulations, and other guidance issued to provide sufficient information to OFAC staff to implement and administer sanctions programs.

We recognize the value of past EOs, regulations, and other memoranda as resources to use in administering new and ongoing sanctions programs. However, we believe that common steps and practices in implementing and administering sanctions programs should be documented. Without such standard operating procedures, it is difficult to assess OFACs effectiveness in administering its sanctions programs.

OFAC's resistance to documenting a set of standard operating procedures is contrary to government-wide internal control standards and Treasury policy. It is also hard to understand OFAC's position given the importance of its mission to U.S. foreign policy.

OFAC Did Not Actively Assess Financial Institution Compliance with the 10-Day Reporting Requirement

OFAC regulations require financial institutions to file a report no later than 10 business days from the date the property is blocked or the transaction(s) rejected. Reports of blocked and rejected transactions submitted by financial institutions were processed by OFAC compliance officials and loaded into ABarRS. OFAC, however, did not record the date each report was received. We found that OFAC did not, as a standard practice, assess the timeliness of institution filings to determine compliance with the 10-day reporting requirement. OFAC officials stated that late filing of reports of blocked and rejected transactions had not been a concern, and tracking of report receipt dates in ABarRS was unnecessary. OFAC relied on a culture of compliance by financial institutions and its ability to assess civil money penalties for late filings of these reports that come to its attention.

To assess financial institutions' compliance with the 10-day reporting requirement, we reviewed a sample of 284 reports of

blocked and rejected transactions for the Libyan program posted to ABAARRS as of July 16, 2012. We found that OFAC did not record the report receipt date in ABAARRS, which limited our ability to assess the timeliness of the filings.¹⁴ We attempted to determine the report receipt date using other ABAARRS information. For 175 of 284 reports reviewed (62 percent), we still could not determine through this alternative procedure, the date of receipt. Of the 109 reports for which we were able to determine the receipt date using ABAARRS information, our analysis revealed that 25 reports, or 23 percent, were received 16 or more days after the action was taken by the institutions, and in one case, 273 days after the institution took action.¹⁵

Following our exit conference, OFAC provided additional clarifications with respect to information previously provided for the 25 reports of blocked transactions cited by the OIG as filed late. OFAC noted that the 25 entries in ABAARRS were comprised of 9 reports filed by institutions.¹⁶ OFAC concluded that 13 of the 25 transactions were reported within the timeframes established by OFAC regulations as follows:

- For 10 of the 13 transactions, the financial institution attempted to file the reports timely but used an incorrect e-mail address. The reports were not received by OFAC until the institutions refiled the information, more than 250 days after the assets were blocked.
- In one case, the filing institution placed the assets in a suspense account and later determined that the assets were a blockable interest. The institution incorrectly reported the initial suspension date as the date blocked.
- OFAC requested follow-up information from one of the filers to determine the correct date filed. The information provided

¹⁴ Similarly, OFAC did not record the date blocking reports were received in the OASIS compliance module.

¹⁵ We defined compliance with the 10-day reporting requirement as receipt by OFAC within 15 days of the action taken by financial institutions to allow for non-business days during the reporting period.

¹⁶ Filers can include multiple transactions on reports of blocked transactions. Each transaction is entered separately into OFAC's database since they represent independent blocking actions.

by the institution indicated the transaction was reported timely.

- For another transaction, OFAC noted that date of the blocking recorded in ABarRS was incorrect and that the report was filed timely.

OFAC acknowledged that the remaining 12 transactions cited by the OIG were late filings, reducing the overall percentage of late filing identified in our sample to 11 percent.

The fact that OFAC had to research this information after our audit, demonstrates the need for written procedures that would require, among other things, capturing the date each report is received at OFAC. The report receipt date would allow OFAC to timely assess filer compliance with the 10-day reporting requirement and to identify reports filed timely but delayed from reaching OFAC or being entered into OFAC's database. It would also give OFAC the ability to timely identify late filers and assess civil money penalties, when appropriate.

OFAC Data Management and Processing Procedures Could Be Strengthened

OFAC could improve its processes to load reports of blocked and rejected transactions, as well as the quality of OASIS compliance module data, by developing and implementing a planned electronic filing system for high-volume filers and emphasizing electronic filing of all reports of blocked and rejected transactions. In addition, OFAC's ability to accurately determine the amount of assets that remain blocked under sanctions programs, in a timely manner, could be enhanced by identifying assets released by type of license (general or directive) on records of blocked assets posted in the OASIS compliance module.

OFAC Could Improve Data Quality by Promoting Electronic Filing of All Reports of Blocked and Rejected Transactions

Treasury Directive 40-04 identifies standards for acceptable levels of quality for internal controls. At a minimum, controls should be established and maintained over information processing to include edit checks of data entered; accounting for transactions in numerical sequences; comparison of file totals with control

accounts; and control of access to data, files, and programs. Monitoring activities should be performed to include routine management and supervisory activities, transaction comparisons and reconciliations, and other actions to assess the quality of performance over time. In June 2012, the Office of Management and Budget issued guidance stating that the use of electronic communication methods can substantially reduce burdens on respondents and simultaneously increase efficiency in data collection and processing.¹⁷

Financial institutions file reports of blocked and rejected transactions with OFAC by email; facsimile; U.S. mail; or for small volume filers, through OFAC's "ABaRRS Lite" electronic filing system. Although OFAC developed a standardized reporting format for hard-copy report submissions, its use by financial institutions is voluntary because OFAC has been reluctant to require the use of the standardized report format. OFAC compliance staff analyzed hard-copy report submissions, interpreted the information provided by the financial institutions, and manually keyed data into ABaRRS.¹⁸

We reviewed the 284 reports used to assess the timeliness of institutions' filings under the Libyan program to also assess the accuracy of data from blocked and rejected transactions recorded in ABaRRS. Approximately 10 percent of the records in our sample contained one or more entries that were not consistent with supporting documentation for certain critical data fields, such as the date of the blocking or reject action and the amount of assets blocked by the financial institutions.

We also tested all 1,160 blocked and rejected transaction records in ABaRRS for the Libyan program to determine if duplicate records had been posted by OFAC. Our analyses identified 27 duplicate report postings, including seven (7) that had not been identified by OFAC compliance staff. The remaining 20 duplicate postings had been identified by OFAC and removed from ABaRRS. OFAC officials told us that most duplicate report postings were

¹⁷ Office of Management and Budget Memorandum, "Reducing Reporting and Paperwork Burdens" (June 22, 2012).

¹⁸ Similar procedures are used by OFAC to load blocking and reject report data into the OASIS compliance module.

attributable to filers submitting reports by both facsimile and U.S. mail. So, unless the compliance staff person entering a duplicate submission was the same individual who entered the original record and took note of the issue, the duplicate would be posted.

OFAC reported that it had initiated work on developing the "ABaRRS High Volume" electronic filing system. This system would allow high-volume filers to submit, track, and retrieve previously filed reports of blocked and rejected transactions to facilitate future institution filings. ABaRRS High Volume would provide filers with standardized forms for data entry, as well as OFAC Compliance staff with the ability to review report data entered by financial institutions. However, due to technical problems related to the Treasury's Public Key Infrastructure authentication system, OFAC has been unable to implement ABaRRS High Volume.

OFAC's Ability to Report on Assets Blocked Was Limited

OFAC's accounting for and reporting of assets blocked was limited because assets released by general licenses were not recorded in OASIS, and could not be linked to reports of blocked transactions in ABaRRS or the OASIS compliance module that replaced ABaRRS. Additionally, directive licenses issued by OFAC, while recorded in OASIS, were also not linked to the reports of blocked transactions they were intended to release. As a result, determining the amount of assets blocked under any sanctions program at any given time required research and analysis by OFAC staff, and limited OFAC's responsiveness.

OFAC officials stated that to determine the amount of assets blocked under any sanctions program, they use information provided in financial institution annual reports of blocked assets. OFAC then adds assets blocked subsequent to the annual report cutoff dates and subtracts assets released by licenses issued subsequent to the cutoff.

We believe that this approach is susceptible to error because OFAC does not perform full reconciliations of information included in annual reports filed by institutions to its blocked asset and licensing data from its internal systems, nor does it ensure that all institutions file annual reports as required.

Finding 2

OFAC Would Benefit from a Formal Lessons-learned Process

OFAC did not have a formal lessons-learned process to communicate knowledge gained from past sanctions programs for the benefit of future programs. OFAC officials told us that the uniqueness of each sanctions program would limit the value of any lessons learned and that OFAC does not have the resources to conduct such reviews. Nevertheless, we believe OFAC would benefit from this process.

OFAC Relies on Staff Experience and Prior Program Documentation as Guidance for New Sanctions Programs

At the time of the Libyan sanctions program (or any new sanctions program for that matter), OFAC draws on staff experiences and documentation generated from previous sanctions programs to work on the new program. Through these resources, OFAC determined what practices might be considered for use in implementing new sanctions programs. However, OFAC officials told us that they did not conduct reviews at or near the conclusion of sanctions programs to identify lessons learned and best practices. Officials said that OFAC did not have the resources available to write the history of every sanctions program and that OFAC's limited resources were better spent on meeting the needs of existing and new sanctions programs. Furthermore, the uniqueness of each sanctions program limited the value to be gained by any such reviews. We believe that a lessons-learned process would assist OFAC in preparing for future sanctions programs, as demonstrated by what OFAC currently does when faced with a new sanctions program.

OFAC officials characterized the Libyan program as an extraordinary success story that involved working with numerous foreign and domestic government agencies as well as the international community. We agree. The rapid deployment of the program resulted in an unprecedented \$30 billion in assets blocked within 3 days.

In 2012, GAO issued a report regarding the implementation and use of lessons-learned processes to benefit an organization's future

actions.¹⁹ According to the GAO study, the low occurrence of instances or activities serves to increase the need to share the lessons learned from those instances. For rare events, the experiences and lessons learned by others may be the closest many new staff comes to direct experience when similar events occur. As time passes, implementing best practices from prior experiences becomes more difficult because of employee turnover and general lapses in memory.

OFAC's perspective on lessons-learned reviews also differed from the conclusions reached by GAO in a 2004 audit report on the U.S. government's efforts to recover foreign regimes' assets.²⁰ In that report, GAO concluded that little evidence was available to document the government's efforts to recover blocked Iraqi assets that would help to guide future asset recovery efforts. GAO commented that OFAC officials were unable to respond in a timely manner when asked for documentation regarding regulations previously issued on the freezing and transferring of assets and the results of these efforts. GAO recommended the Departments of the Treasury and State develop and document a compilation of lessons learned from more recent efforts to recover Iraq's assets that could assist in institutionalizing and leveraging all mechanisms available for future efforts.

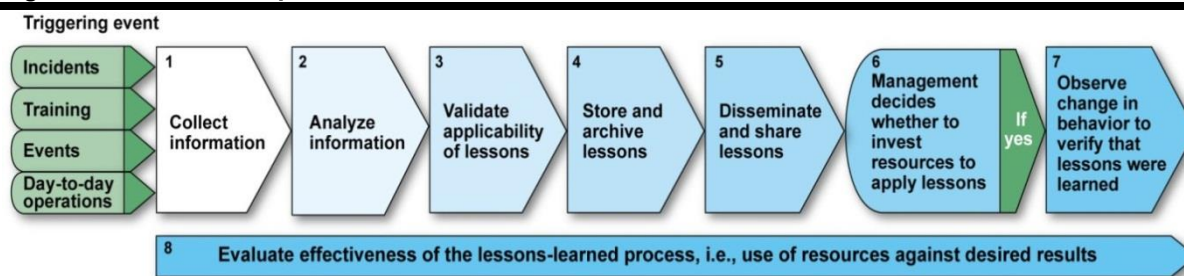
A Lessons-learned Process Would Aid OFAC in the Development and Maintenance of Policies and Procedures

OFAC's sanctions program experiences could be used to develop and maintain standard operating policies and procedures for the administration of sanctions programs. The acquisition of this information from OFAC's programs, however, constitutes only the first of eight steps advocated by GAO in its lessons-learned process, shown in Figure 2.

¹⁹ GAO, *Federal Real Property Security: Interagency Security Committee Should Implement a Lessons-Learned Process* (GAO-12-901; issued September 10, 2012).

²⁰ GAO, *Foreign Regimes' Assets: The United States Faces Challenges in Recovering Assets, but Has Mechanisms That Could Guide Future Efforts* (GAO-04-1006; issued September 14, 2004).

Figure 2: GAO's 8-Step Lessons-learned Process



Source: GAO

We believe that the unique nature of the Libyan program, and other OFAC sanctions programs, increases the need to evaluate the results of each program, document actions that worked well or failed to work, and use the results for the benefit of future sanctions programs. Unless OFAC makes a specific effort to retain the knowledge and experience learned from past sanctions programs, we believe that much of the value from those experiences could be lost.

As stated above, officials told us that OFAC did not have the resources necessary to write the history of what occurred under each sanctions program and that the agency's limited resources were better spent on meeting the needs of existing and new sanctions programs. OFAC officials stated that, as a small office within Office of Terrorism and Financial Intelligence, OFAC had a continual backlog of work. The officials also stated that although documenting the success stories of sanctions programs would be beneficial, such efforts would require significant resources that were not available. GAO's 2012 study, however, concluded that resource limitations should not prevent an organization from implementing a lessons-learned process. While such a process can take years to fully develop, organizations should start small, do what is possible with available resources, build gradually, and leverage existing structures and practices. GAO also concluded that senior leadership of the organizations need to actively engage in lessons-learned efforts and prioritize resources to ensure that these lessons are disseminated and reflected in policies and procedures. Another study conducted by GAO in 2001 concluded

that lessons learned from mishaps or operational events could be captured in policy and procedure documents and distributed to staff through periodic updates.²¹

We believe that a lessons-learned process, conducted at an appropriate time for each sanctions program, would enable OFAC to capture and convert knowledge acquired from sanctions programs and aid in the development and maintenance of up-to-date standard operating policy and procedures. Without conducting lessons-learned reviews, OFAC lacks a viable way of identifying strengths and weaknesses in the administration of sanctions programs and could miss valuable opportunities to improve its effectiveness and efficiency.

Recommendations

We recommend that the Director of OFAC:

1. Identify the actions required to implement and administer its sanctions programs and document these in written standard operating procedures. The standard operating procedures should provide sufficient information to key staff members to enable them to complete the fundamental steps necessary in implementing and administering sanctions programs.

Management Response

OFAC already has a wealth of existing documents that provide the information necessary for staff to implement and administer sanctions programs. These documents include executive orders, statutes, Federal Register Notices, the Code of Federal Regulations, general licenses, published guidance, interpretative guidance, advisories, directives, frequently asked questions, power point presentations, and division-specific protocols. In addition, through the issuance of specific licenses and individual letters of interpretive guidance, the Licensing Division has created a body of case work that OFAC staff may access through the OASIS electronic databased to assist in sanctions implementation and administration.

²¹ GAO, *Survey of NASA's Lessons Learned Process*, (GAO-01-1015R; issued September 5, 2001).

OIG Comment

We believe the documents cited by OFAC do not constitute a set of standard operating procedures for the implementation and day-to-day administration of OFAC's sanction's programs. While the documents and information cited by OFAC serve as valuable reference materials for staff, much of this documentation is directed towards filing institutions and the public.

We consider the management response insufficient and the recommendation to be unresolved. In accordance with Treasury Directive 40-03, we plan to refer this matter to Treasury's Assistant Secretary for Management for further action.

2. As part of the standard operating procedures developed in response to Recommendation 1, implement procedures and any necessary system modifications to allow for tracking and periodic analysis of financial institutions' compliance with the 10-day reporting requirement and to take appropriate action against late-filers.

Management Response

In an upcoming maintenance release, OFAC is adding a field in the Compliance module in OASIS to include the date on which an institution filed an initial report of blocked property. This will enable OFAC to run reports and identify filers reporting outside the required 10-day timeframe.

OIG Comment

We believe the planned corrective action to add the date field to OASIS and thus allowing for reports that identify late-filers meets the intent of the recommendation. However, it is important that OFAC develop the requisite policies and procedures to assign responsibilities, timeframes, and the like for running the reports and acting on instances of noncompliance with filing requirements. OFAC will also need to develop and record in the JAMES the anticipated completion date for its corrective action.

-
3. Implement a methodology to identify blocked assets that have been released by license type (general or directive).

Management Response

OFAC is considering requiring an additional report to be filed when property is unblocked pursuant to a general license. This would supplement the Annual Report of Blocked Property, which provides a yearly census of blocked property held at a given institution as of June 30 of the reporting year.

OIG Comment

OFAC's proposed action meets the intent of our recommendation. OFAC will need to develop and record in the JAMES the anticipated completion date for this corrective action.

4. Continue to pursue development and implementation of electronic filing for high-volume filers.

Management Response

OFAC has continued to explore mechanisms for electronic filing of blocking and reject reports, and remains committed to providing an electronic filing solution that meets the needs of the majority of filers. OFAC intends to continue this development work in fiscal year 2016.

OIG Comment

OFAC's commitment as stated meets the intent of our recommendation. OFAC will need to develop and record in the JAMES the anticipated completion date for this corrective action.

5. Develop a lessons-learned process to capture and communicate acquired knowledge from past sanctions programs at a time appropriate for each sanctions program.

Management Response

Although OFAC agrees that additional lessons-learned processes could further assist its mission, OFAC disagrees that the creation and implementation of these additional processes are the best uses of its limited resources at this time given the significant demands of current national emergencies requiring major sanctions-related activity. The recent successes of several of OFAC's sanctions programs underscore that OFAC's existing feedback and lessons-learned mechanisms are working well.

OIG Comment

We consider the recommendation to have a management decision. However, we continue to believe that OFAC would benefit from a formalized lessons-learned process and encourage OFAC to adopt such a process in the future as its sanctions activity levels off.

* * * * *

We appreciate the cooperation and courtesies extended to our staff during the audit. If you wish to discuss the report, you may contact me at (617) 223-8638 or Kenneth Dion, Audit Manager, at (617) 223-8641. Major contributors to this report are listed in Appendix 4.

/s/
Sharon Torosian
Director

The objectives of our audit of the Office of Foreign Assets Control's (OFAC) implementation and administration of the Libyan sanctions program were to (1) determine the legal authorities for the Libyan sanctions program; (2) determine how blocked assets were identified, maintained, and accounted for; and (3) assess OFAC's subsequent and gradual release of blocked Libyan assets. We also inquired about how OFAC planned to identify and release all remaining blocked assets to their rightful owners upon termination of the sanctions program.

To accomplish our objectives, we identified the legal authorities used by the President to declare a national emergency, issue Executive Order 13566 blocking Libyan assets, and provide the framework for the Libyan sanctions program. We reviewed laws, regulations, and guidance associated with the Libyan program as well as OFAC information and documentation related to the implementation and administration of this program.

We interviewed OFAC officials responsible for implementing and administering the Libyan program, including officials from OFAC's Office of Resource Management, Office of Global Targeting, and Office of Program Policy and Implementation at its Washington, D.C., headquarters. During these interviews, we obtained an understanding of OFAC's processes in implementing and administering the Libyan program as well as OFAC's general practices and procedures used for all sanctions programs.

We obtained data extracts from OFAC's Automated Blocking and Reject Report System (ABaRRS) and the OFAC Administrative System for Investigations and Sanctions (OASIS). The extract files included 1,160 reports of blocked and rejected transactions posted to ABaRRS as of July 16, 2012, and 932 applications for specific licenses and license amendments associated with the Libyan program posted to OASIS as of June 11, 2012. We assessed the reliability of the data provided by OFAC by reconciling this information to internal reports generated from the OFAC systems and other supporting documentation.

We reviewed 284 blocking and reject reports entered into ABaRRS more than 30 days from the bank action date to assess financial

institution compliance with the 10-day reporting requirement.²² As part of this analysis, we reviewed online ABAARRS information and financial institution source documents loaded into ABAARRS.

The sample of 284 blocking reports was also used to assess the accuracy of critical data fields in ABAARRS and assess OFAC's procedures to process and load data from reports of blocked and rejected transactions to ABAARRS. To test for duplicate ABAARRS postings, we evaluated data from all 1,160 reports of blocked and rejected transactions for the Libyan sanctions program provided by OFAC. We defined duplicate ABAARRS postings as records that contained the same values in critical data fields, which indicated the information was entered more than once by OFAC staff.

We performed our fieldwork from March 2012 to January 2013. We updated information included in this report in December 2014.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²² The ABAARRS bank action date reflects the date on which a financial institution took action to block assets or reject transactions. The institutions report these dates to OFAC on blocking and reject reports.

The following chronology describes significant events in the history of Libyan sanctions program administered by the Office of Foreign Assets Control (OFAC).

February 25, 2011 The President signs Executive Order (EO) 13566, imposing sanctions on Colonel Muammar Qadhafi, his close associates, and the Libyan government. OFAC establishes the Libyan sanctions program and issues General License No. 1, authorizing transactions involving financial institutions owned or controlled by the Government of Libya organized under the laws of countries other than Libya.

February 26, 2011 The United Nations imposes sanctions on Qadhafi and his inner circle of advisors.

March 1, 2011 OFAC issues General License No. 2, authorizing goods or services for Libyan diplomatic missions in the United States.

March 2, 2011 EO 13566 is published in the Federal Register.

March 4, 2011: OFAC issues General License No. 1A, superseding General License No. 1 and clarifying the scope of the authorized transactions to third-country, Libyan-owned or controlled financial institutions.

March 9, 2011 OFAC issues General License No. 3, authorizing certain legal services on behalf of the Government of Libya or any other persons whose property and interests in property are blocked.

April 8, 2011 OFAC issues General License No. 4, providing guidance and authorizing investment of assets in which there is a blocked, non-controlling, minority interest of the Government of Libya.

April 26, 2011 OFAC issues General License No. 5, authorizing U.S. persons to engage in transactions with Qatar Petroleum or the Vitol group related to oil, gas, or petroleum products exported from Libya.

July 1, 2011 OFAC issues interim regulations under 31 C.F.R. 570, Libyan Sanctions Regulations, to implement EO 13566 and provide general guidance to the public.

July 15, 2011 The United States formally recognizes the Transitional National Council as Libya's legitimate government.

August 19, 2011 OFAC issues General License No. 6, authorizing transactions with the Transitional National Council.

September 1, 2011 OFAC directs the release of \$1.5 billion in assets to help the Transitional National Council restore vital services and initiate rebuilding efforts.

September 9, 2011 OFAC issues General License No. 7, authorizing U.S. persons to engage in transactions involving entities owned or controlled by the Libyan National Oil Corporation.

September 19, 2011 OFAC issues General License No. 8, authorizing U.S. persons to engage in transactions involving the Government of Libya and Central Bank of Libya, provided that all property and interests of these parties blocked as of September 19, 2011, remain blocked.

OFAC issues General License No. 7a, superseding General License No. 7, to unblock all property and interests in property of the Libyan National Oil Corporation.

September 23, 2011 OFAC issues General License No. 8A, superseding General License No. 8, authorizing transactions involving the Government of Libya and Central Bank of Libya. All assets, including cash, securities, bank accounts, investment accounts, and precious metals remain blocked.

November 18, 2011 OFAC issues General License No. 9, unblocking all assets of the General National Maritime Transport Company.

November 25, 2011 Approximately \$38 billion in Libyan assets had been blocked as of this date.

December 1, 2011 OFAC issues General License No. 10, unblocking all property and interests in property of the Arab Turkish Bank and North African International Bank.

December 16, 2011 OFAC issues General License No. 11, unblocking all property and interests in property of the Government of Libya, its agencies, instrumentalities, and controlled entities, as well as and the Central Bank of Libya. Approximately \$3 billion in

funds owned and controlled by the Libyan Investment Authority blocked as of September 19, 2011, remain blocked.

February 23, 2012 The President continues the national emergency declared in EO 13566 with respect to Libya for 1 year.

February 13, 2013 The President continues the national emergency declared in EO 13566 with respect to Libya for 1 year.

February 20, 2014 The President continues the national emergency declared in EO 13566 with respect to Libya for 1 year.

February 23, 2015 The President continues the national emergency declared in EO 13566 with respect to Libya for 1 year.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

MEMORANDUM

TO: Marla Freedman
Assistant Inspector General
Office of the Inspector General
Department of the Treasury

FROM: /s/
John E. Smith
Acting Director
Office of Foreign Assets Control

DATE: September 21, 2015

SUBJECT: Management Response to the Office of the Inspector General's Libyan Sanctions Report

Thank you for sharing the draft report of the Office of the Inspector General (OIG), sent on August 14, 2015, summarizing the results of its audit of the Office of Foreign Assets Control's (OFAC) implementation and administration of sanctions against Libya. OFAC's management response to the OIG's recommendations are listed below:

1. Identify the actions required to implement and administer its sanctions programs and document these in written standard operating procedures. The standard operating procedures should provide sufficient information to key staff members to enable them to complete the fundamental steps necessary in implementing and administering sanctions programs.

Management Response

OFAC already has a wealth of existing documents that provide the information necessary for staff members to implement and administer sanctions programs. These documents include executive orders, statutes, Federal Register Notices, the Code of Federal Regulations, general licenses, published guidance on OFAC licensing policy, interpretive guidance, FAQs, advisories, directives, power point presentations, and various division-specific protocols. In addition, through the issuance of specific licenses and individual letters of interpretive guidance, the Licensing Division has created a body of case work that OFAC staff may access through the OASIS electronic database to assist in sanctions implementation and administration.

2. As part of the standard operating procedures developed in response to Recommendation 1, implement procedures and any necessary system modifications to allow for tracking

and periodic analysis of financial institutions' compliance with the 10-day reporting requirement and to take appropriate action against late-filers.

Management Response

In an upcoming maintenance release, OFAC is adding an additional field in the Compliance module in OASIS to include the date an institution filed an initial report of blocked property. This will enable the agency to run reports and identify filers reporting outside the required 10-business day timeframe.

3. Implement a methodology to identify blocked assets that have been released by license type (general or directive).

Management Response

OFAC is considering an update to the blocked property reporting requirements in the Reporting, Procedures and Penalties Regulations, 31 C.F.R. Part 501. Specifically, OFAC is considering requiring an additional report to be filed when property is unblocked pursuant to a general license. This would supplement the current Annual Report of Blocked Property, which provides a yearly census of blocked property held at a given institution as of June 30 of the reporting year.

4. Continue to pursue development and implementation of electronic filing for high-volume filers.

Management Response

OFAC has continued to explore mechanisms for the electronic filing of blocking and reject reports. In fact, the office remains committed to providing electronic filing solutions that meet the needs of the majority of filers (not just the high-volume filers). OFAC intends to continue this development work in fiscal year 2016.

5. Develop a lessons-learned process to capture and communicate acquired knowledge from past sanctions programs at a time appropriate for each sanctions program.

Management Response

Although OFAC agrees that additional "lessons learned" processes could further assist its mission, OFAC respectfully disagrees that the creation and implementation of such additional processes are the best uses of its limited assets at this point in time given the significant demands of several current national emergencies requiring major sanctions-related activity. The recent successes of several of OFAC's sanctions programs underscore the fact that OFAC's existing feedback and lessons learned mechanisms are working well.

Appendix 4: Major Contributors to This Report

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Lisa Ginn, Audit Manager
Jeanne DiFruscia, Auditor-in-Charge
Jason Madden, Auditor
Patrick Arnold, Auditor
Fawntrella Thompson, Referencer

The Department of the Treasury

Deputy Secretary

Under Secretary for Terrorism and Financial Intelligence

Office of Strategic Planning and Performance Management

Office of the Deputy Chief Financial Officer, Risk and Control
Group

Office of Foreign Assets Control

Director

Senior Advisor for Legislative Affairs

Office of Management and Budget

OIG Budget Examiner