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Settlements in brief: Société Générale, extension of Moneygram's 2012 DPA and Cobham

Every month we highlight settlements with criminal and supervisory authorities around the globe. In this article, we discuss the USD 1.34 billion settlement between Société Générale and US federal and New York State authorities relating to the circumvention of US economic sanction laws. We also discuss the extension of the 2012 DPA that MoneyGram entered into for wilfully failing to maintain an effective AML program and aiding and abetting wire fraud and the settlement between Cobham and OFAC for violation of US sanctions.

Société Générale

On 18 November 2018, Société Générale (SG), headquartered in Paris, agreed to pay USD 1.34 billion to US federal and New York state authorities. This resolved the authorities' investigations into SG's violation and circumvention of US sanction laws between 2003 and 2013.

SG has acknowledged that it knowingly and wilfully violated US sanctions against Cuba by structuring, conducting and concealing US dollar transactions using the US financial system. According to the Department of Justice (DOJ), SG accomplished this in part by making inaccurate or incomplete SWIFT messages to these transactions. Separately, according to the DOJ, SG engaged in a broader practice of processing US transfers on behalf of sanctioned entities, while omitting information about the sanctioned entities from the accompanying payment messages to US financial institutions. This caused both affiliated and unaffiliated US financial institutions to process transactions that otherwise should have been rejected, blocked or stopped pursuant to relevant US sanction regulations.

Although it was aware of these practices, SG's group compliance and senior management did not disclose anything to the Office of Foreign Assets Control (OFAC) or to any other US regulator or law enforcement agency before the investigations that ultimately led to the settlement.

In reaching the settlement, the authorities attached importance to the fact that SG (i) undertook a thorough internal investigation, (ii) collected and produced voluminous evidence located in other countries to the full extent permitted under applicable laws and regulations, (iii) provided frequent and regular updates to the authorities, and (iv) enhanced its compliance program and sanctions-related internal controls, not only after it became the subject of law enforcement investigations, but also before that time. For example, SG

increased its Group Compliance personnel between 2009 and 2017 from 169 to 785 employees and its Group Financial Crime personnel from 16 to 106. SG's overall Compliance budget increased from EUR 53.8 million in 2010 to EUR 186 million in 2016. These factors and others weighed in favour of deferral of prosecution and outweighed SG's failure to self-report in a timely manner.

Besides the payment of USD 1.34 billion, SG must pay a civil fine of USD 9.5 million to the New York State Department of Financial Services for its anti-money laundering shortcomings.

Also, SG has committed itself to enhancing its global anti-money laundering and sanctions compliance mechanisms and to engage independent consultants to evaluate the progress in this respect.

The SG settlement is the second-largest ever agreed with a financial institution for violation of US sanctions laws. In 2014, BNP Paribas reached a settlement (see also [In context September 2014](#)) in relation to facilitating transactions with Iran, Cuba and Sudan in violation of US sanctions law, and it paid USD 8.97 billion to US federal and New York State authorities.

Extension of MoneyGram's 2012 DPA

In 2012, MoneyGram, a global money services business headquartered in Texas, agreed to a [USD 100 million Deferred Prosecution Agreement \(DPA\)](#) with the DOJ and the U.S. Attorney's Office for the Middle District of Pennsylvania in relation to the claim of wilfully failing to maintain an effective AML program and aiding and abetting wire fraud. The fraud allegedly included falsely promising victims large cash prizes and various high-ticket items for sale over the internet at greatly discounted prices. MoneyGram agents were allegedly involved in the fraud.

As part of the DPA, MoneyGram agreed to enhanced compliance obligations. Among these obligations were (i) requiring all MoneyGram agents around the world to adhere to a worldwide anti-fraud and anti-money laundering standard and to audit compliance with this standard, (ii) restructuring the company's executive review and bonus system so that each executive is evaluated on what they have done to ensure that their department adheres to international compliance-related policies and procedures, (iii) providing the DOJ with a report every 90 days, including a list of fraud complaints received worldwide, and (iv) creating an independent Compliance and Ethics Committee of the Board of Directors for ensuring compliance with the DPA.

The 2012 DPA gave MoneyGram five years to reach these goals. In 2017, authorities allowed the extension of the DPA to November 2018. In November 2018, according to the DOJ, MoneyGram was still in breach of the 2012 DPA as MoneyGram experienced significant weaknesses in its AML and anti-fraud programs. According to the DOJ, MoneyGram's implementation of a new fraud interdiction system proved to be ineffective. Moreover, according to the DOJ, MoneyGram knew that the newly implemented fraud interdiction system was ineffective and failed to adequately remedy this defect on time and to disclose this to the DOJ.

The terms of the 2012 DPA have now again been [extended and amended](#) and will last until 10 May 2021. MoneyGram has agreed to forfeit USD 125 million. The DOJ intends to return the USD 125 million to victims of fraud through the Justice Department's Victim

Compensation Program. In the extended DPA, MoneyGram has agreed to additional enhanced compliance obligations. Among other things, MoneyGram must create specific policies and procedures: to monitor all money transfers originating in the United States in its anti-fraud programme, to require individuals worldwide to provide government-issued identification to send or receive money transfers, and to terminate, discipline, or restrict agents processing a high volume of transactions related to reported fraud receivers and senders.

Settlement OFAC and Cobham holdings for violations of Ukraine sanctions

On 27 November 2018, Cobham Holdings Inc. (Cobham), a global provider of technology and services in aviation based in Virginia, on behalf of its former subsidiary Aeroflex/Metelics (Metelics) agreed to pay USD 87,507 to settle three violations of Ukraine related sanctions. Specifically, Metelics violated relevant sanctions regulations by selling certain equipment in three different shipments through distributors in Canada and Russia to Almaz Antey Telecommunications (AAT) in 2014 and 2015. AAT was not explicitly identified on OFAC's list of Specially Designated Nationals and Blocked Persons (SDN list). However, it was 51 per cent owned by Joint-Stock Company Concern Almaz Antey, which OFAC had added to the SDN list.

Before the relevant shipments took place, Metelics performed a denied party screening on "Almaz Antey Telecom" by using screening software. The screening software failed to generate an alert because the screening software used an all-word match criteria that would only return matches containing all of the searched words, even though the search criteria had been set at "fuzzy" to detect partial matches. The software failed to match "Almaz Antey" when searching for "Almaz Antey Telecom". This procedure was followed with respect to three shipments, causing Metelics to violate US sanctions violations three times.

During negotiations to sell Metelics, the purchaser identified the first shipment for end-use by AAT in Russia. Consequently, Cobham investigated the shipments and self-reported the three violations to OFAC.

According to OFAC, the settlement amount of USD 87,507 reflects the facts and circumstances of the situation, including the fact that (i) Metelics failed to recognise warning signs when exporting goods on multiple occasions through distributors to the subsidiary of a blocked person with nearly the same name as the blocked person, (ii) the compliance directors reviewed and approved the transactions, (iii) Metelics and Cobham are large and sophisticated entities operating in a sensitive industry, and (iv) Cobham and its compliance personnel were involved in prior apparent violations of Iranian sanctions and compliance violations.

As mitigating factors, OFAC mentioned the fact that Metelics has not received a penalty notice or finding of violation from OFAC in the preceding five years, Cobham cooperated with OFAC by submitting detailed disclosures, and Cobham implemented remedial measures, including the acquisition of new and enhanced sanctions screening software and a screening and business intelligence tool.

