



July 22, 2019

Comment Intake
Office of Foreign Assets Control
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Via Electronic Submission

Re: Docket Number OFAC-2019-0003, Amendments to OFAC's Reporting, Procedures and Penalties Regulations

To Whom It May Concern:

The Clearing House Association LLC (TCH)¹ appreciates the opportunity to provide comments to the Office of Foreign Assets Control (OFAC) regarding its interim final rule that amends certain reporting, procedures, and penalty provisions of OFAC regulations. TCH's comments are limited to (i) the amendments to OFAC's reporting regulations and (ii) OFAC's stated preference to receive reports regarding blocked property and rejected transactions by email.

With respect to the changes to the reporting regulation, TCH requests that the interim final rule be revised to provide additional clarity regarding the expanded scope of rejected transactions that must be reported under 31 CFR § 501.604. The new definition of "transaction" includes a number of transaction types ("wire transfers, trade finance, securities, checks, foreign exchange and goods or services"). The specific identification of transactions related to "goods or services" creates an extremely broad category that may result in a dramatic increase in reporting of situations in which there are no funds, documents, or other instruments to report but a financial institution (or other U.S. person) refrained from taking an action on the basis that doing so could be prohibited by OFAC regulations. Hence, OFAC should provide examples of the types of goods and services contemplated and the threshold for reporting (e.g., formal presentation of documents vs. preliminary discussions of a contemplated transaction) under the revised regulation. Additionally, examples related to trade finance

¹ Since its founding in 1853, The Clearing House has delivered safe and reliable payments systems, facilitated bank-led payments innovation, and provided thought leadership on strategic payments issues. Today, The Clearing House is the only private-sector ACH and wire operator in the United States, clearing and settling nearly \$2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume. It continues to leverage its unique capabilities to support bank-led innovation, including launching RTP®, a real-time payment system that modernizes core payments capabilities for all U.S. financial institutions. As the country's oldest banking trade association, The Clearing House also provides informed advocacy and thought leadership on critical payments-related issues facing financial institutions today. The Clearing House is owned by 25 financial institutions and supports hundreds of banks and credit unions through its core systems and related services.

together with guidance on whether the reporting obligation depends on the reporting institution's role in a trade transaction (e.g., advising, confirming, negotiating bank, etc.) would be helpful.² TCH also requests that the final rule clarify that if one party to a rejected transaction has reported it, the other party is relieved from the obligation to report the transaction.

With respect to OFAC's stated preference that blocked property and rejected transaction reports be submitted via email, we note that email submission is problematic for some member institutions because (i) financial institutions receive no proof of receipt of delivery, which creates challenges for internal documentation and audit purposes and (ii) email transmission to the OFAC address is not encrypted. Hence, we encourage OFAC to develop other electronic reporting methods that address these issues.³

Thank you for your consideration of these comments.

Sincerely,

/s/

Alaina M. Gimbert
Senior Vice President and Associate General Counsel

² The interim rule removed a number of examples of "rejected transfers" that were previously found under 31 CFR § 501.604(b). These examples included a clarification, previously found under § 501.604(b)(1), that reporting institutions may reject, rather than block, transactions that reference a blocked vessel provided there are no other blocked persons involved in the transaction. The re-inclusion of this and other relevant reject scenarios and the addition of new reject scenarios will assist reporting institutions in determining appropriate items to reject and report to OFAC.

³ While the interim final rule references "any other official electronic reporting option, as specified by OFAC on its website," no options other than the OFAC email address are currently provided on the "OFAC Reporting and License Application Forms" web page.