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M&A and Global Compliance Lessons From OFAC's Settlement With Key Holding

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On July 2, 2025, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) reached a settlement with Key Holding, LLC (Key Holding) concerning its non-U.S. subsidiary's violations of the Cuban Assets Control Regulations (CACR), 31 C.F.R. part 515. This settlement serves as a reminder not only that OFAC has broad reach under the CACR to charge U.S. entities for violations committed by their owned or controlled non-U.S. subsidiaries, but also about the risks of acquiring non-U.S. entities that may not have an adequate sanctions compliance approach.

This case additionally underscores that OFAC's sanctions can, in some cases, prohibit transactions that appear to be "humanitarian" in nature — here, food and safety equipment. Such transactions can often be conducted lawfully, but one must be mindful of the nuances of OFAC's regulations, and in some instances, licenses may be required.

Background

Key Holding is a privately held global logistics company based in Delaware. In December 2021, Key Holding expanded its global footprint by acquiring Key Logistics Colombia S.A.S. (Key Colombia), a Colombian company that specializes in international freight forwarding.

Between January 24, 2022, and July 31, 2023, Key Colombia facilitated logistics for 36 shipments to Cuba from various countries (*i.e.*, Colombia, Spain, China, and Panama). Of these shipments, 33 contained "foodstuffs" and three contained "safety-related oil well machinery components."

Key Holding discovered Key Colombia's 36 shipments to Cuba after conducting due diligence in anticipation of its pending sale to another U.S. company. Key Holding voluntarily disclosed these shipments to OFAC, which led to a significant reduction in the penalty amount. It also adopted new technology to screen shipments automatically and instituted a compliance program at both Key Holding and Key Colombia.

OFAC determined that the base civil penalty was $1,217,651 but agreed to settle the matter at $608,825 after balancing mitigating and aggravating factors. Mitigating factors included Key Holding's implementation of a compliance program and voluntary self-disclosure upon discovery, and the benign nature of the consumer products shipped. Aggravating factors included Key Holding's initial failure to implement a compliance program and OFAC's determination that Key Holding "had reason to know[] that the transactions were occurring" based on Key Colombia's knowledge that they were facilitating shipments to Cuba. OFAC also emphasized that Key Holding had a duty to observe "extra care and attention to U.S. sanctions" because it is the owner of an international freight forwarder.

Key Takeaways

Global companies, including acquiring companies, investment funds, and others, should take away the following key lessons from this case:

- The Trump administration is expanding the scope of the CACR. This settlement came two days after the White House released National Security Presidential Memorandum/NSPM-5 (NSPM 2025), which calls for tightening of sanctions on Cuba.
- The CACR applies to non-U.S. entities owned or controlled by U.S. persons, reinforcing the need for vigilance in international operations even among legally distinct entities. OFAC's Iran sanctions also directly apply to such non-U.S. entities.
- U.S. persons contemplating the acquisition of non-U.S. entities (or other U.S. persons with non-U.S. subsidiaries, JVs, etc.) should conduct thorough due diligence to assess compliance with OFAC's sanctions.
- U.S. persons already owning or controlling non-U.S. entities should assess the current state of the subsidiaries' compliance with the CACR and OFAC's sanctions more generally.
- Prompt voluntary self-disclosure to OFAC upon discovery of a violation, and cooperation throughout the investigation, may significantly reduce penalty amounts.
- Establishing comprehensive OFAC compliance programs at both the U.S. level and non-U.S. subsidiary level can mitigate exposure to sanctions and potentially soften OFAC's response in case of violations.

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