

Client Alert

May 9, 2016

Tackling a Panamanian Money Laundering Organization: OFAC Sanctions the Waked Money Laundering Organization, Colombia Arrests the Leader and Panama Seizes Assets

OFAC Sanctions

On May 5, 2016, the [U.S. Department of Treasury, Office of Foreign Assets Control \(OFAC\)](#) announced [sanctions](#) against 77 entities and individuals associated with the Waked Money Laundering Organization (“Waked MLO,” collectively, the “Waked Sanctions”). OFAC stated that the designation was necessary to disrupt the organization’s alleged activities in laundering drug trafficking proceeds by using trade-based methods, duty-free retail, real estate development and financial services throughout the region.

In coordination with the Drug Enforcement Administration (DEA), Customs and Border Protection and the Miami Division of the Federal Bureau of Investigation, OFAC stated that it determined that the Waked MLO uses trade-based schemes such as false commercial invoicing and bulk cash smuggling to launder drug proceeds on behalf of multiple international drug traffickers. In response, OFAC has:

- designated the Waked MLO as a Specially Designated Narcotics Trafficker (SDNT) pursuant to the Foreign Narcotics Designation Act (“Kingpin Act”)
- designated Nidal Ahmed Waked Hatum (“Waked Hatum”) and Abdul Mohamed Waked Fares, the leaders of the Waked MLO, as SDNTs
- designated six Panama-based Waked MLO associates as SDNTs for providing material support and/or acting on behalf of the MLO, specifically:
 - Gazy Waked Hatum, Ali Waked Hatum and Jalal Waked Hatum, brothers of Waked Hatum who manage the import/export, retail and real estate businesses
 - Mohamed Abdo Waked Darwich, Waked Hatum’s son who manages duty-free retail and real estate development operations
 - Norman Douglas Castro Montoto and Lucia Touzard Romo, two attorneys who provide a variety of services to the Waked MLO, including incorporating shell companies
- designated 68 principal Panama-based companies as SDNTs for their ties to the Waked MLO.

The Waked Sanctions mean that U.S. Persons are generally prohibited in engaging in transactions with these entities and individuals. Further, U.S. Persons are required to block any assets of these individuals that are under their control.

The Waked Sanctions target a vast network of businesses and individuals, including in the retail, real estate, legal and finance industries. As indicated above, the designed businesses and assets include a chain of duty-free stores operating throughout Latin America, a luxury mall and real estate development in downtown Panama City, a bank, two newspapers and various financial services, real estate development, construction, hospitality and media companies.

In apparent recognition of the difficulty of immediately concluding any and all transactions with, and freezing the assets of, the sanctioned entities and individuals, **OFAC also issued three general licenses**. The first two general licenses are intended to assist with winding down transactions for a limited period of time with the Soho Panama, S.A. (aka Soho Mall Panama, the estimated \$360 million luxury mall development in downtown Panama City), Plaza Milenio, S.A. (aka Millennium Plaza) and Administracion Millenium Plaza, S.A. (related to a hotel complex in Colon). The third general license is intended to allow the two Panamanian newspapers, La Estrella and El Siglo, to maintain existing operations, such as printing, through July 6, 2016.

OFAC published Frequently Asked Questions about these licenses, confirming, for example, that: U.S. Persons may keep their upcoming hotel reservations at the Millennium Plaza only until May 26, 2016; U.S. Persons may engage in limited transactions such as salary payments associated with the Soho Mall Panama only through July 6, 2016, but they may not pay rent to the mall and may not initiate any new orders for the shipment of goods to the mall; and U.S. Persons who are providing services to the newspapers are authorized to continue providing certain services only until July 6, 2016.

Arrest of Waked Hatum

Colombian authorities arrested Waked Hatum, a Spanish, Lebanese and Colombian national, on May 4, 2016. He is currently in Colombia but is likely to be extradited to the United States. Waked Hatum is charged with money laundering and other bank fraud charges in Florida. **The DEA announced that Waked Hatum** “has a long history of money laundering on behalf of some of the world’s most ruthless and sophisticated drug trafficking and criminal networks.... This arrest illustrates DEA’s commitment to attacking the highest levels of drug trafficking organizations and all their criminal associates.”

Response in Panama

Both the DEA and OFAC issued announcements stating that U.S. and Panamanian authorities will coordinate as the investigation continues. Other media reports have indicated that Panamanian officials seized control of the sanctioned bank, Balboa Bank & Trust, and of the Balboa Securities Corp. brokerage house.

What Next?

Companies should carefully review the names of the sanctioned entities to determine if they have any connections or business with them, including consideration as to whether the sanctioned entities directly or indirectly own a 50 percent or greater interest in any of the companies’ customers, vendors and other business partners. The legality of any ongoing interactions or future business will need to be carefully scrutinized, as well as whether the U.S. Persons have control over any assets that must be blocked. The

OFAC general licenses allow for some limited continuing business, but only for a short period of time and with constraints.

The Waked Sanctions highlight continuing focus on the money laundering risks posed by Latin America, luxury real estate and corporation formation practices. OFAC's announcement specified that the attorneys were sanctioned because they provide a variety of services to the Waked MLO, including incorporating shell companies.

Additionally, separate and aside from the Waked Sanctions, the Financial Crimes Enforcement Network (FinCEN) has Geographic Targeting Orders (GTOs) in place related to high-end real estate transactions in Miami and to electronics exporters located near Miami because of the risks that these businesses are being used to launder money related to Latin American and other drug cartels. The GTOs may result in further money laundering charges, sanctions and criminal investigations.

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