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U.S. Government Designates an International Payments Processing Network as Specially Designated Nationals, Continuing its Aggressive Use of Targeted Sanctions Against Non-U.S. Financial Firms that Allegedly Facilitate Unlawful Business Activities

On Sept. 22, 2016, the U.S. Department of the Treasury through its Office of Foreign Assets Control (OFAC) imposed sanctions against the PacNet Group (PacNet), a Canada-based international payments processor and money services business, and the entire PacNet operation, including a global network of 12 individuals and 24 entities across 18 countries. Because U.S. persons are prohibited from engaging in transactions, directly or indirectly, with the sanctioned entities, the sanctions create significant compliance risks for U.S. and non-U.S. persons. The full list of individuals and entities targeted under the sanctions is available on the [U.S. Department of Treasury website](#).

OFAC designated PacNet as a Transnational Criminal Organization (TCO) for its alleged facilitation of money laundering activities by third parties that purportedly engaged in mail fraud schemes. OFAC designated PacNet and certain of its affiliates, executives, and owners to the List of Specially Designated Nationals (SDNs) maintained by OFAC. OFAC's action is significant for several reasons. First, the TCO designation has historically been applied and limited to entities such as drug cartels and organized crime syndicates that serve as the principal actors in an alleged money laundering scheme or organized crime ring. Second, the TCO designation is rarely used, as PacNet is only the seventh organization targeted by the Executive Order since its issuance in 2011. Third, the action against PacNet and certain of its related parties is the latest in the relatively recent trend of OFAC combating transnational money laundering creatively by designating non-U.S. financial firms as SDNs for allegedly facilitating, through the international financial system, the unlawful activities of their customers or other third parties – not just designating as SDNs the customers and third parties only.

In an [OFAC release](#), John E. Smith, OFAC's Acting Director, addressed the use of the TCO designation by stating, "PacNet has knowingly facilitated the fraudulent activities of its customers for many years, and today's designations are aimed at shielding Americans and the nation's financial system from the large-scale, illicit money flows that are generated by these scams against vulnerable individuals." Smith further indicated that the "Treasury will continue to use its authorities to respond to the evolving nature of transnational organized crime."

Background on the PacNet Group

PacNet is a Canada-based company with operations and subsidiaries in Ireland, the United Kingdom, the United States, Brazil, Chile, France, Hong Kong, India, Israel, Italy, Japan, Malta, Peru, Slovenia, South Africa, Switzerland, and Thailand. PacNet is a third-party payments processor for organizations that mail fraudulent lottery and other solicitations to U.S. and foreign consumers. Victims of the scammers would make their payments to PacNet's processing operations and, after taking fees and commissions, PacNet would transfer the money to the scammers. PacNet's involvement helped disguise the origins of the transactions and prevent the schemes from being detected. Numerous PacNet affiliates and executives were involved in this business or knowingly permitted it. Accordingly, OFAC designated 12 PacNet executives or directors and 24 entities worldwide that are owned or controlled by PacNet executives or other PacNet-affiliated companies. In addition, the PacNet aircraft, which was used to courier illicit bulk cash within Europe, was designated. A list of the designated individuals, affiliates, and subsidiaries can be found in the [OFAC release](#).

Compliance with the Targeted Sanctions

A violation of the Transnational Criminal Organization Sanctions can result in both criminal and civil enforcement in the United States. U.S. persons are prohibited from engaging in any transactions with PacNet or the related designated individuals and entities, and all property or interests in property of the designated parties that are located in the United States or in the possession or control of U.S. person, or come within the United States (such as inbound funds transfers), are "blocked." As a practical matter, such property is frozen in place and generally cannot be sold, disposed of, or transferred without prior approval from OFAC.

Individuals and entities that have business dealings with PacNet or any of its designated affiliates or executives should consult with counsel to carefully review their relationships in order to assess the potential risk for future interactions or transactions. New sanctions such as these highlight the importance of compliance programs for both U.S. and non-U.S. companies, particularly those that avail themselves of U.S. mail or financial systems, or engage in U.S. dollar transactions that clear through the U.S. banking system. Screening programs will continue to be particularly important, as SDN designations can reach individuals and entities in any country, even seemingly low-risk countries like Canada. Companies should continue to screen all parties to international transactions against all of the most up-to-date U.S. government lists of designated and sanctioned individuals, entities, and prohibited transactions. Just as challenging from a compliance standpoint, U.S. persons are likewise prohibited from dealings with entities owned 50 percent or more by any designated entities or individuals (in the aggregate), who are not necessarily enumerated in OFAC's SDN List.

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