Best Practices to Ensure Compliance

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Sanctions Compliance & Evaluation

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Overview

• OFAC Compliance Programs

• When do Violations Occur?

• Penalties

• Resources on Treasury’s Website
Notes on OFAC Compliance Programs

- Cost of compliance versus the cost of violating OFAC sanctions regulations
- OFAC is not a bank regulator
- Program should be specific to the unique needs of an individual company – no cookie cutter approach
Compliance Program

- Risk Assessment
- Internal Controls
- Testing/Audit
- Training
- Responsible Individual
Risk Analysis

Identifying High Risk Business Areas:

• Customer base - size, stability
• Customer profile - Know Your Customer (KYC)
• Products offered - secure, speculative
• Size and location of company
• Countries with ties to sanctioned countries or lax export controls
• Trans-shipments or re-exports
• Brokers/intermediaries
CUSTOMER RISK + PRODUCT RISK + GEOGRAPHIC RISK

[MINUS]

PROGRAM CONTROLS

= OVERALL RISK
Internal Controls

Screening is the foundation of an effective compliance policy

- Are you screening?
- How are you screening?
- What are you screening?

Updating compliance programs and using the most current SDN list

Reporting

Recordkeeping

- Customer account information
- End-user statements, or similar language
- Export licenses, if applicable
- Shipping / freight forwarder information

Due Diligence – Obtain full name, POB, DOB, nationality, physical address, national ID number, passport number
Internal Controls – Document Review

Transport Documents
(i.e. bills of lading, air waybills)

• shipping companies
• consignees
• notify parties
• forwarding agents
• ports of loading / discharge
• ports of transshipment
• final destinations
• shipping vessels
• air carriers
**Purpose** of internal testing of an OFAC program:

- **Evaluate** the effectiveness of the compliance program
- **Remediate** any deficiencies identified from internal audit.
- **Identify** what remedial steps have been taken to address the OFAC program’s weaknesses.
- **Assess** the effectiveness of remedial action taken in improving the overall level of OFAC compliance.
- **Understand** emerging risks and trends; respond to changing circumstances

**Characteristics** of effective internal testing and audits:

- **Independent,** either internal audit or third party.
- **Annual** at a minimum.
- **Comprehensive** commensurate with risk profile.
- **Full disclosure** to OFAC and the regulators.
Independent Testing and Audit, continued

Should Examine Entire Compliance Program, including but not limited to:

• Filtering program
• System performance
• Risk assessment and matrix
• Policies and procedures
• Escalation process
• Internal communication
• External communication
• Record-keeping
• OFAC licenses
• Training
• Plans for improvement
Designating a Compliance Officer:

• Should be knowledgeable about OFAC

• Should maintain strong lines of communication

• Must develop a written compliance program

• Should designate a back-up officer
Compliance Training

- All employees involved in high risk and trade-related activities.
- OFAC training for new hires.
- On-going basis (minimum annually).
Frequent Causes of OFAC Violations

• Misunderstanding the regulations
• Miscommunication within institutions
• Failure to escalate SDN/sanctions matches
  • Filter issues
  • Are you screening? How? What?
  • Do employees know how to use the filter?
• Failure to comply with the terms and conditions of an OFAC License / using an expired OFAC License
Frequent Causes, continued

Frequent OFAC Violations by Exporters:

Transactions involving sanctioned countries
  → Sudan, Cuba, Syria and Iran

Transactions involving SDN’s (directly or indirectly)
  → SDN banks, vessels and shipping companies

Unlicensed exports

Relying on an out-of-date SDN list

Relying on a freight forwarder
Penalties

Civil Penalties (Statutory Maximums) per Transaction:

Trading With the Enemy Act
$65,000

International Emergency Economic Powers Act
$250,000 (or twice the transaction value)

Foreign Narcotics Kingpin Designation Act
$1,075,000

Anti-Terrorism and Effective Death Penalty Act
$55,000

Criminal violations referred to the Department of Justice
OFAC’s Website:
www.treasury.gov/ofac
News and Frequently Updated Content

OFAC updates its website on a regular basis. Information on the latest changes to OFAC’s site can be found below.

- OFAC Recent Actions
- Press Center

Sanctions Programs and Country Information

OFAC administers a number of different sanctions programs. The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals.

- Iran Sanctions
- Non-proliferation Sanctions
- Syria Sanctions
- Counter Terrorism Sanctions
- Counter Narcotics Sanctions
- Cuba Sanctions
- Other Sanctions Programs and Country Information

General OFAC Information and Guidance

In addition to providing guidance on specific sanctions programs, OFAC provides information on a number of sanctions-related issues that span multiple programs or that may affect specific industries.

- Frequently Asked Questions
- OFAC Information for Industry Groups
- Interpretative Rulings on OFAC Policy
- Civil Penalties and Enforcement Information
- OFAC Reporting and License Application Forms
- OFAC Legal Library
- OFAC Training and Events
- Other non-Treasury sanctions-related resources
  - Memoranda of Understanding Between OFAC and Bank Regulators
SDN List:
www.treasury.gov/sdn

U.S. DEPARTMENT OF THE TREASURY

Resource Center

Specially Designated Nationals List (SDN)
4/3/2013

Get e-mail updates when this information changes.

As part of its enforcement efforts, OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called “Specially Designated Nationals” or “SDNs.” Their assets are blocked and U.S. persons are generally prohibited from dealing with them. Click here for more information on Treasury’s Sanctions Programs.

SDN Search
Online application that allows users to search the SDN list and have close or approximate matches returned.

Full Lists:
Complete Specially Designated Nationals List (in PDF format)
Having trouble opening the PDF version of the SDN list?
Complete Specially Designated Nationals List (in TEXT format)
This SDN Search application ("SDN Search") is designed to facilitate the use of the Specially Designated Nationals and Blocked Persons List ("SDN List"). The SDN Search tool was appropriate string matching to identify possible matches between word or character strings as entered into SDN Search, and any name or name component as it appears on the SDN List. SDN Search has a slider bar that may be used to set a threshold (i.e., a confidence rating) for the closeness of any potential match returned as a result of a user’s search. SDN Search will detect certain misspellings or other incorrectly entered text, and will return real or spurious matches, based on the confidence rating set by the user via the slider bar. OFAC does not provide recommendations with regard to the appropriateness of any specific confidence rating. SDN Search is one tool offered to assist users in utilizing the SDN List. Use of SDN Search is not a substitute for undertaking appropriate due diligence. The use of SDN Search does not limit any criminal or civil liability for any act undertaken as a result of, or in reliance on, such use.
OFAC Resources

**OFAC Compliance Hotline**

Phone: 202-622-2490  
Toll Free: 1-800-540-6322  
Fax: 202-622-2426  
Email: OFAC_Feedback@treasury.gov

**Mailing Address**

Office of Foreign Assets Control  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

**OFAC Licensing**

202-622-2480