



world compliance

OFAC



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OFAC Definition

OFAC is the acronym for the Office of Foreign Assets Control of the U.S. Department of the Treasury. It is responsible for administering and enforcing economic and trade sanctions against targeted foreign countries, terrorism sponsoring organizations, and international narcotics traffickers, following U.S. foreign policy and national security objectives. OFAC acts under Presidential wartime and national emergency powers, as well as the authority granted through specific legislation to impose controls on transactions and freeze foreign assets under U.S. jurisdiction. Many of the sanctions are based on United Nations and other international mandates, which are multilateral in scope and involve close cooperation with allied governments.

The OFAC administers and oversees a series of laws that impose economic sanctions against hostile targets to further U.S. foreign policy and national security objectives. It is responsible for promulgating, developing and administering the sanctions for the Treasury Department under eight federal statutes. All of the financial institution regulatory agencies cooperate in ensuring financial institution compliance with the OFAC Regulations.

OFAC laws and regulations promote national and international security by requiring asset freezing of oppressive governments, international terrorists, narcotic traffickers, and other specially designated persons. However, it is the OCC, FED, FDIC, and OTS that examine a financial institution's compliance with OFAC.

OFAC compliance for Non Financial Institutions

Who must comply with OFAC regulations?

All U.S. persons must comply with OFAC regulations, including all U.S. citizens and permanent resident aliens regardless of where they are located, all persons and entities within the United States, all U.S. incorporated entities and their foreign branches. In the cases of certain programs, such as those regarding Cuba and North Korea, all foreign subsidiaries owned or controlled by U.S. companies also must comply. Certain programs also require foreign persons in possession of U.S. origin goods to comply. [09-10-02]



OFAC Regulations for Financial Institutions

Financial institutions are required to monitor all transactions executed by or via them to identify those that involve any entity or person subject to OFAC regulations. In most situations, the institution should accept deposits and funds subject to OFAC regulations and freeze them so that the funds can't be withdrawn. However, instances exist where institutions are required to reject a transaction rather than to accept and block them. Regulations vary according to the requirements imposed by the 8 federal statutes and the specific sanctions.

Complying with OFAC regulations

All institutions conducting business in and with the United States or fall under U.S. jurisdiction are subject to OFAC regulations.

Timeframe for being Compliant with OFAC Regulations

OFAC regulations have been in place for several years, however, since the 2001 tragedies enforcement has increased requiring all related individuals, organizations, and businesses to immediately comply with federal law.

Requirement for Financial Institutions to be Considered Compliant

OFAC generates an updated list that identifies individuals as well as organizations involved in the funding of terrorism. This list is updated weekly by the U.S. Department of Treasury OFAC division. All financial institutions are required to run the list of names against their customer database for potential matches.



Requirement to Check Current and New Customers

Institutions must check all the names in their customer database as well as each new customer. This process should be done every time OFAC releases new data. Each transaction that involves a person or entity that is not a current customer should be individually checked against the OFAC SDN list. If there is no match, then the transaction may proceed. If there is a potential match then the institution should perform additional due diligence to confirm an actual or false positive match to the name on OFAC's list. If the name is determined to be a true match, appropriate action must be taken to block or reject the transaction and to file the appropriate report with OFAC. The report should include the customer's name, the account, and transaction details. All of the accounts linked to the matched name should be frozen and placed in a locked account, in order for funds not to be withdrawn. In all cases, a company officer should be notified immediately.

Transaction Handling

If the transaction in question is a deposit, the institution should accept the funds and place them in a blocked account so that they cannot be withdrawn. This is applicable unless the transaction is in the group of those to be rejected. In that case, the institution should refuse to proceed with the transaction.

If the transaction is a transfer of funds (by, through, or to the institution,) then the institution is to accept them. However, instead of transferring them, the institution should put them into a blocked account so that the funds cannot be withdrawn. This is applicable unless the transaction is in the group of those to be rejected. In that case, the institution should refuse to proceed with the transaction. The customer should be notified immediately of the account blocking. The institution should consider applying for a "specific license" that includes names on the OFAC list if it wants to facilitate the possible release of the blocked funds.



Transactions that are Subject to OFAC

All types of financial transactions should be reviewed for OFAC compliance including the following:

- Deposit (checking & savings) accounts
- Loans
- Credit Cards
- Wire transfers
- ACH transfers
- Lines of credit
- Trust accounts
- Loan payments
- Letters of credit
- Currency exchanges
- Safety deposit boxes
- Depositing or cashing checks
- Guarantors and collateral owners
- Money orders or cashier's checks

The names of all persons in a transaction must be verified against the list of individuals, entities, and the geographical locations identified by OFAC. This includes the following:

- Beneficiaries
- Collateral Owners
- Guarantors / Cosigners
- Receiving Parties
- Sending Parties



Reporting process

OFAC requires that when a match has been made and a payment or transaction has been blocked, a report must be provided to OFAC including the following:

- Actions taken
- Match information
- Financial institution contact information
- Copy of the transactions and blocks

Submitting Reports

Any transaction that has been blocked or rejected must be reported to OFAC within ten business days.

Blocked transaction required reporting information:

- A. The financial institution's name and address
- B. The name, title, and phone number of the person that OFAC should contact for regarding the transaction or account.
- C. Full information about the transaction including:
 - Name of the owner or account party
 - Description of the property
 - Location of the property
 - Type of transaction or account
 - Amount (actual or estimated)
 - Date of transaction
 - Date of report filing
 - Status and location of the account
- D. Confirmation that the property has been placed into a clearly identifiable, new, or existing blocked account containing the name of the entity subject to blocking.
- E. Contact the Compliance Officer's name and telephone number.
- F. Photocopies of all written instructions received concerning the transaction.



Rejected Transaction Reporting Information

- A. All of the information about the transaction including:
- Name and address of the transferee institution
 - Transfer Date
 - Transfer amount
 - Reason for rejection
- B. Photocopy of the payment and/or transfer instructions received.
- C. Name and phone number of the Contact Compliance Officer at the Transferee institution.
- D. In addition to a submission report, the institution must also submit photocopies of any applicable transfer / payment instructions and confirmation that the funds are placed in a clearly identified account containing the name / interests of the entity subject to blocking.

OFAC Violations

If a financial institution believes it may have violated OFAC laws or regulations, they must contact their OFAC Counsel immediately. OFAC may take the following factors into consideration when determining whether to levy civil or criminal penalties for an OFAC violation:

1. The extent of the financial institution's compliance efforts.
2. The comprehensiveness of the OFAC compliance policies and procedures.
3. How the financial institution monitors transactions for compliance with the OFAC regulation and laws (whether it uses interdiction software.)



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Alternatively call (+1 877 258 1877) in the U.S., or visit worldcompliance.com for further details.

Europe	+49 951 3020 688
Germany	+49 951 3020 688
Latin America	+571 211 9601
Mexico	+52 722 477 3985
Middle East	+971 4 312 4043