

POLICY & PROCEDURE GUIDE

OFAC

Important Notice to All Employees

OFAC violations have serious consequences.

Employees are hereby informed that those who fail to comply with the regulations:

1. May be subject to strong disciplinary action by the employer.
2. May individually face civil and criminal penalties or fines and/or prison sentences.

All employees are to read and be familiar with the following policies and procedures.

The information contained in this document and the additional materials provided are for general information purposes only and should not be considered as legal advice.

This Guide is intended to provide automobile dealers, banks and finance companies with a baseline sample, to aid them in the development of an OFAC policy and procedure manual.

Moreover, financial institutions may freely use any or all of this information

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INTRODUCTION

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

The 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.

SUMMARY OF OFAC REGULATIONS FOR FINANCIAL INSTITUTIONS

Financial institutions must monitor all financial transactions performed by or through them to detect those that involve any entity or person subject to the OFAC laws and regulations.

For most situations, a financial institution should accept deposits and funds subject to OFAC regulations, but freeze the funds and accounts, so that absolutely no fund can be withdrawn (this is called "blocking"). However, there are a few situations that require the financial institution to reject the transaction or funds instead of accepting and blocking them. Exact regulations vary, in accordance with requirements imposed by the eight federal statutes and the specific sanctions. A detailed description of specific regulations for each program is available on the official OFAC web site: www.treas.gov/ofac.

TRANSACTIONS SUBJECT TO OFAC

Every type of financial transaction should be reviewed for OFAC compliance including, **without limitation**, the following:

- Deposit accounts (checking, savings, etc.)
- **Loans**
- Lines of credit
- Letters of credit
- Safety deposit boxes
- Wire transfers
- ACH transfers
- **Currency exchanges**
- **Depositing or cashing checks**
- Purchase of money orders or cashiers checks
- **Loan payments**
- **Guarantors and collateral owners**
- Trust accounts
- Credit Cards

Moreover, the names of all parties to a transaction should be checked against the list of names of individuals, entities, geographical locations or countries that have been identified by OFAC. This includes, but is not limited to the following (as applicable):

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

COMPLIANCE PROCEDURES

Check Current and New Customers

Financial institutions should check all of the names in its customer database as well as each new customer. Furthermore, they should re-check their database every time OFAC releases new data. Moreover, each transaction that involves a person or entity who 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 financial institution should perform additional due diligence to determine an actual or false positive match to the name on the OFAC list. If the name is determined to be a true match, appropriate action must be taken to block (or reject, if applicable) the transaction, and then file the appropriate report with OFAC. All accounts for the matched name should immediately be frozen and placed in a locked account, so that no funds can be withdrawn from these open accounts. In all cases an appropriate company officer, usually the compliance officer, should be notified immediately. The name of the customer, the transaction and account details will be needed to file the appropriate report.

Specific Transaction Handling

If the transaction is a deposit, the financial institution is to accept the funds and immediately place the funds in a blocked account so that no funds can be withdrawn. This applies unless it is one of the few transactions that are to be rejected, in which case the financial institution should refuse to take and proceed with the transaction.

If the transaction is a transfer of funds (by, through or to the financial institution), then the financial institution is to accept the funds, but instead of transferring them put them into a blocked account so that no funds can be withdrawn. Again, this applies unless it is one of the few transactions that are to be rejected, in which case the financial institution should refuse to take and proceed with the transaction. In general, the customer should be advised immediately of the blocking of the account or funds. The financial institution may wish to consider applying for a Specific License which is filed with OFAC, if it wishes to try to facilitate the possible release of the blocked funds.

Maintaining Current OFAC Lists

A financial institution should monitor on an ongoing basis, new announcements and changes to the entity listings as posted by OFAC. This will allow the financial institution to then make the appropriate changes to their compliance system. www.ofacompliance.com monitors OFAC changes and provides a free data change notification service, available to any institution.

SPECIAL LICENSING

If a financial institution wishes OFAC to consider releasing funds that have been blocked, it is possible to apply for a specific license. The financial institution must provide certain information including, **without limitation**, the following:

- Name of the blocked entity/account holder
- Amount of blocked funds
- Date of blocking
- Copies of documentation related to the underlying transaction
- Documentation of the transaction
- Justification for the release of funds

IMPORTANT OFAC REPORTS

There are a number of important reporting requirements for OFAC. However, the three that are the most important are:

1. Any transaction that has been blocked or rejected **must be reported to OFAC within ten business days**, from the date the property became blocked (see the OFAC Submission Report).
2. An annual report of all property blocked as of June 30 is due by September 30 of each year. (see the Annual Report of Blocked Property).
3. **OFAC requires the retention of all reports and blocked or rejected transaction records for five years.**

Please refer to the Appendix for a sample OFAC Submission report as well as for the Department of the Treasury's OFAC reporting documentation.

OFAC SUBMISSION REPORTS

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

Blocked Transaction Reporting Information

1. The financial institution's name and address (as holder of the account).
2. The name, title and phone number of the person that OFAC should contact for further information regarding the transaction or account.
3. Full information about the transaction including:
 - Full name of the owner or account party
 - A description of the property
 - The location of the property
 - Type of transaction, account or description of the property
 - Amount (actual or estimated)
 - Date of transaction
 - Date of report filing
 - Status and location of the account
 - Any information necessary to identify the property
4. Confirmation that the property has been placed into a clearly identifiable, new or existing blocked account containing the name of (or interests of) the entity subject to blocking.
5. Name and phone number of the Contact Compliance Officer.
6. A photocopy of any written instruction received concerning the transaction.

Rejected Transaction Reporting Information

1. Full information about the transaction including:
 - Name & address of the Transferee financial institution
 - Date of the transfer
 - Amount of the transfer
 - Basis for rejection
2. A photocopy of the payment and/or any transfer instructions received.
3. Name and phone number of the Contact Compliance Officer at the Transferee institution. In addition to a submission report, a financial institution must also submit photocopies of any applicable transfer/payment instructions, and confirmation that the funds are placed in a clearly marked account upholding the name/interests of the entity subject to blocking.

DEMONSTRATING OFAC COMPLIANCE

To ensure compliance, a financial institution should have a clear and thorough policy and procedure manual, educate and train their employees accordingly, and possess an efficient, in depth compliance system that allows for the proper handling of all transactions and customers.

In further demonstration of OFAC compliance, a financial institution may want to maintain a list of all the false positive matches to help to identify other false positive matches in the future, and to help demonstrate that it is checking its current customer lists and transactions for potential OFAC matches.

OFAC VIOLATIONS

If a financial institution believes it may have violated OFAC laws or regulations **we recommend it contact its 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 (e.g., whether it uses interdiction software, etc.).

This is not intended as legal advice and does not cover all aspects of OFAC compliance.

APPENDIX

Sample OFAC Report and OFAC Reporting Documents

SAMPLE SUBMISSION REPORT

Fax to: 1-202-622-1657

-or-

Mail to:

Office of Foreign Assets Control
Annex Building
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Attention: Compliance Office

Institution:

XYZ Loan Company

Contact: John Doe

Address: 123 Main Street

City State, Zip

Phone: 123-456-7890 (ext 123)

US Fax: 123-456-0987

11111 Email: email@bank.com

THE FOLLOWING TRANSACTION HAS BEEN BLOCKED

Transaction:

Name of Entity: Tigar America

Name of Account Holder: Marie A. Willson

Type of Transaction: Checking Account

Transaction ID: 123331231

Date: 8-15-1999

Status

Status: Account Blocked

Date: 8-15-2000

OFAC Listing

SDN File Date: 07/06/1999

OFAC Listing: TIGAR AMERICA FRYK

Address: Jacksonville, Florida, U.S.A.

The information needed in a submission report can vary depending on the program listing of the blocked entity. More reporting information is available at: www.treas.gov/ofac.

SAMPLE REPORTING DOCUMENTS

Annual Report of Blocked Property

TD F 90-22.50
Office of Foreign Assets Control
Department of the Treasury
Washington, D.C. 20220

The Office of Foreign Assets Control (OFAC) requires an annual report of all property blocked or funds retained under OFAC Regulations found in Title 31 of the Code of Federal Regulations, Parts 500 through 599. This information is needed by the United States Government for planning purposes and to verify compliance with OFAC Regulations. The report is to be submitted annually by September 30 to the Compliance Programs Division, OFAC, Department of the Treasury, Washington, D.C. 20220.

General Instructions

Any person holding property blocked or funds retained under OFAC Regulations is required to submit a report on this form concerning such property. Reports filed in accordance with OFAC Regulations are regarded as containing commercial and financial information, which is privileged and confidential. Requests to submit reports in alternative formats will be considered on a case-by-case basis. For additional copies of the form, as well as other information of interest to holders of blocked property, call OFAC's fax-on-demand service at (202) 622-0077.

Part A - U.S. Person Holding Property.

State reporter's corporate name and address and the name and telephone number of an individual corporate official to contact regarding this report.

Name: _____

Address: _____

Individual to contact regarding this report:

Name: _____

Title: _____

Telephone: _____

Total number of accounts or items reported on Part B: _____

Complete the certification where applicable. The report is not valid without the certification.

I, _____ (name), certify that I am the _____ (title) of the _____ (corporate name), that I am authorized to make this certification, and that, to the best of my knowledge and belief, the statements set forth in this report, including any papers attached hereto or filed herewith, are true and accurate, and that all material facts in connection with said report have been set forth herein.

Signature

date

Paperwork Reduction Act Statement

The paperwork requirement has been cleared under the Paperwork Reduction Act of 1980. The Office of Foreign Assets Control of the Department of the Treasury requires this information be furnished pursuant to 50 U.S.C. 1701, and CFR Parts 500 to 600. The information collected will be used for U.S. Government planning purposes and to verify compliance with OFAC Regulations. The information will be held confidential. The estimated burden associated with this collection of information is 4 hours per respondent or record keeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Compliance Programs Division, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 and the Office of Management and Budget, paperwork Reduction Project (1505-0164), Washington, D.C. 20503.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Part B - Property Reported

Identify each account or item of property separately in the spaces provided below. Use additional photocopies of Part B as needed. Use supplemental attachments if the space provided is inadequate. Be sure to indicate the number of accounts or items reported on Part B in the appropriate space on Part A.

Owner: Identify the owner of the property.

Description: Provide a brief but comprehensive description of the property.

- Include account type, number, and currency (if other than U.S. Dollars) where applicable.

Value: Provide the value (or an estimate) of the property as of June 30.

- If a value date other than June 30 is reported, so indicate.

Location: List the location or branch where the property is held, if different than the address shown in Part A.

Regulations: Identify the Part of Title 31 of the Code of Federal Regulations under which this property is blocked.

Owner Description Value Location Regulations

(Copyright © Department of the U.S. Treasury)
OFAC Regulatory Office
Tel 800 540 6322
Fax 202 622 0077
Web www.treas.gov/offices/eotffc/ofac/