
OFFICE OF FOREIGN ASSETS CONTROL – FREQUENTLY ASKED QUESTIONS

Office of Foreign Assets Control

Frequently Asked Questions

The Office of Foreign Assets Control (OFAC) has undertaken an initiative to post on its website answers to questions of general applicability frequently asked by the public. The initiative is intended to be part of OFAC's commitment to regulatory transparency and customer service. OFAC is continuing to prepare answers to additional questions that are often asked and additional questions and answers will be posted periodically. Comments are welcome via the "[E-mail OFAC](#)" link on OFAC's homepage. It should be noted, however, that OFAC is unable to treat any information submitted concerning FAQs as confidential or proprietary to the submitter and no information submitted concerning FAQs will be treated as such.

The questions and answers highlight key issues and topics relating to economic sanctions and the procedures and practices of OFAC. They are intended only as general information to assist persons subject to United States jurisdiction to comply with legal requirements and to facilitate an understanding of the scope and purposes of sanctions programs. It is very important to note that U.S. businesses, individuals, and others subject to OFAC jurisdiction must comply with the full legal requirements of OFAC's programs which are set forth in the applicable statutes, Executive Orders, and implementing regulations found in Title 31 Chapter V of the Code of Federal Regulations and in Federal Register documents that update the regulations. The reader is further cautioned that specific facts may alter an analysis and, because each program reflects unique foreign policy and national security contexts, a particular answer will not always be applicable to all programs or at all times. For further assistance, call OFAC's Compliance Programs Division at 202/622-2490 or OFAC's Licensing Division at 202/622-2480 or write to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Questions Listed By Subject

General Questions:

What is OFAC and what does it do?

The Office of Foreign Assets Control administers and enforces economic sanctions programs primarily against countries and groups of individuals, such as terrorists and narcotics traffickers. The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals. [09-10-02]

How long has OFAC been around?

The Treasury Department has a long history of dealing with sanctions. Prior to the War of 1812, Secretary of the Treasury Gallatin administered sanctions imposed against Great Britain for the harassment of American sailors. In 1861, during the Civil War, Congress passed a "Trading With the Enemy Act," which prohibited transactions with the Confederacy, called for the forfeiture of goods involved in such trade, and provided a licensing regime under rules and regulations administered by Treasury. The Trading With the Enemy Act of 1917 ("TWEA") made that Civil War legislation "modern" for World War I. OFAC is the successor organization to the Office of Foreign Funds Control (the "OFFC"), which was established at the advent of World War II following the German invasion of Norway in 1940. The OFFC's initial objective in acting under TWEA was to prevent Nazi use of occupied countries' holdings of foreign exchange and to prevent forced repatriation of funds belonging to nationals of those countries. These controls were later extended to protect assets of other invaded countries. After the United States formally entered World War II, the OFFC became the major American program of economic warfare against the Axis powers, blocking enemy assets and prohibiting foreign trade and financial transactions. Those assets would also serve as a future source of war reparations. The OFFC program was administered by the Secretary of the Treasury throughout the war. After the cessation of hostilities, most foreign property subject to protective blocking was gradually released by licenses under the Foreign Funds Control Regulations. Most enemy property was vested by the U.S. Government during and immediately after the war. Responsibility for administering the FFC Regulations was transferred to the Attorney General (Office of Alien Property), effective October 1, 1948. All matters relating to the World War II vesting program remain at the Justice Department under the supervision of the Office of Alien Property Custodian. OFAC itself was formally created in December 1950, following the entry of China into the Korean War, when President Truman declared a national emergency under TWEA and blocked all Chinese and North Korean assets subject to U.S. jurisdiction. [09-10-02]

What does one mean by the term "prohibited transactions" ?

Prohibited transactions are trade or financial transactions and other dealings in which U.S. persons may not engage unless authorized by OFAC or expressly exempted by statute. Because each program is based on different foreign policy and national security goals, prohibitions may vary between programs. [09-10-02]

Are there exceptions to the prohibitions?

Yes. OFAC regulations often provide general licenses authorizing the performance of certain categories of transactions. In addition, in some circumstances, U.S. law exempts certain transactions from embargoes. OFAC also issues specific licenses on a case-by-case basis under certain limited situations and conditions. Guidance on how to request a specific license is found at 31 C.F.R. 501.802. [09-10-02]

Where can I find the specific details about the embargoes?

A summary description of each particular embargo or sanctions program may be found in the [Sanctions Program and Country Summaries](#) area and in the [Regulations by Industry](#) area on OFAC's website. The text of Legal documents may be found in the [Legal Documents](#) area of

OFAC's website which contains the text of 31 C.F.R. Chapter V and appropriate amendments to that Chapter which have appeared in the Federal Register. [09-10-02]

Can I get permission from OFAC to transact or trade with an embargoed country?

OFAC usually has the authority by means of a specific license to permit a person or entity to engage in a transaction which otherwise would be prohibited. In some cases, however, legislation may restrict that authority. [09-10-02]

What must I do to get permission to trade with an embargoed country?

In some situations, authority to engage in certain transactions is provided by means of a general license. In instances where a general license does not exist, a written request for a specific license must be filed with OFAC. The request must conform to the procedures set out in the regulations pertaining to the particular sanctions program. Generally, application guidelines and requirements must be strictly followed, and all necessary information must be included in the application in order for OFAC to consider an application. For an explanation about the difference between a general and a specific license as well as answers to other licensing questions, see the [licensing questions](#) link. [09-10-02]

What do you mean by "blocking?"

Another word for it is "freezing." It is simply a way of controlling targeted property. Title to the blocked property remains with the target, but the exercise of powers and privileges normally associated with ownership is prohibited without authorization from OFAC. Blocking immediately imposes an across-the-board prohibition against transfers or dealings of any kind with regard to the property. [09-10-02]

What countries do I need to worry about in terms of U.S. sanctions?

OFAC administers a number of U.S. economic sanctions and embargoes that target geographic regions and governments (such as Cuba, Iran, Iraq, Libya, North Korea, Sudan, Liberia, Sierra Leone, the UNITA faction in Angola, Syria and Burma [Myanmar]) as well as other programs targeting individuals or entities that could be anywhere (such as narcotics traffickers, named terrorists, Foreign Terrorist Organizations, designated foreign persons associated with Slobodan Milosevic or who threaten international stabilization efforts in the Western Balkans, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction). In addition to targeted countries, it is very important to note that OFAC publishes a list of Specially Designated Nationals and Blocked Persons ("SDN list") which includes over 3,500 names of companies and individuals who are connected with the sanctions targets and are located throughout the world (with addresses listed in 112 countries as of 09/2002). A number of the named individuals and entities are known to move from country to country and may end up in locations where they would be least expected. U.S. persons are prohibited from dealing with SDNs wherever they are located and all SDN assets are blocked. Because OFAC's programs are dynamic and constantly changing, it is very important to check OFAC's website on a regular basis to ensure that your SDN list is current and you have complete

information regarding current restrictions affecting countries and parties with which you plan to do business. [09-10-02]

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]

How much are the fines for violating these regulations?

The fines for violations can be substantial. Depending on the program, criminal penalties can include fines ranging from \$50,000 to \$10,000,000 and imprisonment ranging from 10 to 30 years for willful violations. Depending on the program, civil penalties range from \$11,000 to \$1,000,000 for each violation. [09-10-02]

Is there a mechanism for a company to report its past undetected violations of OFAC regulations for completed transactions? Is any type of "amnesty" available for inadvertent failure to comply prior to the company becoming aware of the OFAC regulations?

Yes, a company can and is encouraged to voluntarily disclose a past violation. Self-disclosure is considered a mitigating factor by OFAC in Civil Penalty proceedings. A self-disclosure should be in the form of a detailed letter, with any supporting documentation, to R. Richard Newcomb, Director, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, DC 20220. OFAC does not have an "amnesty" program. The ramifications of non-compliance, inadvertent or otherwise, can jeopardize critical foreign policy and national security goals. OFAC does, however, review the totality of the circumstances surrounding any violation, including the quality of a company's OFAC compliance program. [09-10-02]

Can I regard previously issued and published opinion letters, regulatory interpretations, or other statements as guidance for my transactions?

Great care should be taken when placing reliance on such materials to ensure that the transactions in question fully conform to the letter and spirit of the published materials and that the materials have not been superceded. [09-10-02]

Can OFAC change its previously stated, non-published interpretation or opinion without first giving public notice?

Yes. OFAC, therefore, strongly encourages parties to exercise due diligence when their business activities may touch on an OFAC-administered program and to contact OFAC if they have any questions about their transactions. [09-10-02]

Why are there two separate subscription services on OFAC's website, one called a "[Financial Operations Bulletin](#)" and the other a "[What's New](#)" notice?

The explanation is at the link "[Automating OFAC Compliance](#)". Financial operations bulletins are geared toward the financial operations community, while "What's New" notices are geared toward the general public (including exporters and importers, practicing attorneys, and researchers). Generally speaking, those in the operations areas of banks, brokerage houses, and other financial service providers do not require the level of detail and wealth of information provided in notices to the general public. Instead, they are primarily interested in changes directly impacting their day-to-day operations, such as updates to OFAC's listing Specially Designated Nationals and Blocked Persons. All "What's New" notices to the general public also contain information from OFAC's financial operations bulletins. It is not unusual for the date listed for a What's New notice to be later than the date listed for the latest Financial Operations Bulletin. [09-10-02]

How do I do a search of "What's New" notices for information on a specific topic?

Individual "What's New" notices are date-specific. There is, however, at the bottom of each calendar page following the [Recent OFAC Actions](#) link a separate cumulative file for each year-- 2002, 2001, and 2000. [09-10-02]

Questions about Specially Designated Nationals (SDNs):

What is an SDN?

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. [09-10-02]

How do I get a copy of this list?

The best way to get the list is from [OFAC's website](#). The list is disseminated in a number of different formats, including fixed field/delimited files that can be integrated into databases. [09-10-02]

How often is the SDN list updated?

The SDN list is frequently updated. There is no predetermined timetable, but rather names are added or removed as necessary and appropriate. Please see the Resources link titled "[Automating OFAC Compliance](#)" for suggestions on how to keep constantly up-to-date. [09-10-02]

How do I know what specific changes have been made to OFAC's SDN list?

All changes for the current calendar year are cumulatively available in a [.PDF file](#) and in an [ASCII version](#). Cumulative changes for prior years back to 1994 are also available in ASCII format by following this [link](#). The same link will take you to a *.PDF version of the file for calendar year 2001. The calendar year 2002 *.PDF file and future calendar year *.PDF files will be archived at that link. [09-10-02]

Does OFAC maintain or can it create a country-by-country list of SDNs?

OFAC has long maintained such a list. The file is available for downloading by clicking on the [DOS](#) or [Windows Delimited](#) SDN List links on OFAC's Website. The file is contained within those self-extracting archives and is called ctry_list.txt. It is important to understand that many SDN individuals and entities may operate in countries other than those in which they are based. The relevant regulations prohibit transactions with and/or block the property of SDNs wherever they are located. [09-10-02]

What do I do if I have a match to the SDN list?

If you have checked a name manually or by using software and find a match, you should do a little more research. Is it an exact name match, or very close? Is your customer located in the same general area as the SDN? If not, it may be a "false hit." If there are many similarities, contact OFAC's "hotline" at 1-800-540-6322 for verification. Unless a transaction involves an exact match, it is recommended that you contact OFAC Compliance before actually blocking assets. [09-10-02]

What is the Control list? Who do I call about the Control list? What is the difference between the Control list and OFAC's SDN list?

The Control List was developed by the law enforcement community in response to the events of September 11. It is separate from the OFAC's SDN list and is not disseminated by OFAC. If you have received a copy of this list, you should follow the instructions received with it. [09-10-02]

Questions from Financial Institutions:

Does OFAC itself require that banks set up a certain type of compliance program?

No. There is no single compliance program suitable for every financial institution. OFAC is not itself a bank regulator; its basic requirement is that financial institutions not violate the laws that it administers. Financial institutions should check with their regulators regarding the suitability of specific programs to their unique situations. [09-10-02]

How do I get the OFAC Starter Kit?

The Starter Kit is comprised of the [SDN list](#), the brochure for the industry you represent ([financial, travel/tourism, insurance, export/import, or securities](#)), and any [articles](#) that appear to be of interest based on your specific needs or interest. These documents can be obtained from OFAC's website or from OFAC's fax-on-demand service (202/622-0077). [09-18-02]

What do I need to do to comply? Do I have to buy expensive software?

This is primarily a question for your regulator. What constitutes an adequate compliance program depends in large part on who your customers are and what kinds of business you do. Certain areas of bank operations, such as international wire transfers and trade finance, are at a higher risk than others. There are numerous interdiction software packages that are commercially available. They vary considerably in cost and capabilities. If your bank feels it needs to invest in software in its attempt to comply with OFAC regulations, OFAC recommends that you talk to your counterparts in other banks about the systems they have in place and contact vendors for an assessment of your needs. It should be noted that *.TXT and *.PDF versions of OFAC's SDN list can be manually scanned; OFAC's *.TXT list can also be queried using standard word processing software such as Microsoft Word or Corel's WordPerfect. [09-10-02]

How often do I need to scan my customer database for SDNs?

The frequency of running an OFAC scan must be guided by your internal bank policy and procedures. Keep in mind, however, that if your bank fails to identify and block a target account (of a terrorist, for example), there could be "real world" consequences such as a transfer of funds or other valuable property to an SDN, an enforcement action against your bank, and negative publicity. [09-10-02]

How do I setup a compliance program for my bank?

There is no prepackaged compliance program that fits the needs of every bank. Banks, obviously, range in size from small to some of the largest institutions in the world. A good starting point is to go to the OFAC website and look under "[Regulations by Industry](#)." Then read the [brochure for the Financial Community](#). This brochure provides insight as to how your particular bank could set up a compliance program. There are also a number of articles written for banking industry publications available on OFAC's website. See, for example, [OFAC Primer](#) or [Community Banks](#). It may be helpful to contact your counterparts in other banks to see what they are doing and talk to your regulator. [09-10-02]

What are the features and benefits that banks should be looking for when selecting an OFAC compliance software package?

There are a wide variety of software packages available to the financial community. The size and needs of each institution help to determine what to look for in a package. Some packages are used to interdict sanctioned countries and SDN names in wire transfers, while others are used to check the names of new customers; other packages also filter the names of all accountholders. One suggestion for finding the right software for your bank is to research what your peer banks are using and determine if the software package is working for them. Your bank also could talk to a variety of software vendors who can easily be located by doing an Internet search. [09-10-02]

How do I block an account or a funds transfer?

Once it has been determined that funds need to be blocked, they must be placed into an interest-bearing account on your books from which only OFAC-authorized debits may be made. The blocking also must be reported to OFAC Compliance within 10 business days. Some banks have opted to open separate accounts for each blocked transaction, while others have opted for omnibus accounts titled, for example, "Blocked Libyan Funds." Either method is satisfactory, so long as there is an audit trail which will allow specific funds to be unblocked with interest at any point in the future. [09-10-02]

How much interest do I have to pay on the blocked funds?

OFAC regulations require that funds earn interest at a commercially reasonable rate, i.e., at a rate currently offered to other depositors on deposits or instruments of comparable size and maturity. [09-10-02]

Can my bank deduct service charges from the account?

Generally yes. In most cases (excluding Iraq, for instance) OFAC regulations contain provisions to allow a bank to debit blocked accounts for normal service charges, which are described in each set of regulations. The charges must be in accordance with a published rate schedule for the type of account in which the funds are maintained. [09-10-02]

Do all OFAC programs involve blocking transactions?

No. OFAC regulations are tailored to further the requirements and purposes of specific Executive Orders or statutes which provide the basic outline of each program. In some cases, the President has determined that a comprehensive asset freeze is appropriate, and in others the President has determined that more limited restrictions (for example, import bans) are in order. The individual program brochures outline the restrictions for each program. [09-10-02]

I understand blocking a transaction, but what is meant by rejecting a transaction? When should a transaction be rejected rather than blocked?

In some cases, an underlying transaction may be prohibited, but there is no blockable interest in the transaction. In these cases, the transaction is simply rejected, or not processed. For example, a U.S. bank would have to reject a wire transfer between two third-country companies (non-SDNs) involving an export to a non-SDN company in Sudan. Since there is no interest of the Government of Sudan or an SDN, there is no blockable interest in the funds. The U.S. bank cannot process the transaction because that would constitute a transaction in support of a commercial activity in Sudan, which is prohibited by the Sudanese Sanctions Regulations. Similarly, a U.S. bank could not be involved in the financing of a prohibited transaction. A U.S. bank cannot so much as advise a letter of credit if the underlying transaction is in violation of OFAC regulations. Please note that rejected funds transfers must be reported to OFAC within 10 days. Questions about whether a transaction should be blocked or rejected should be directed to OFAC Compliance. [09-10-02]

I've heard that U-Turn payments are allowed for Iran. What exactly is a U-Turn payment?

A "U-Turn" payment involving Iran is where U.S. dollar transactions involving Iran are cleared through a U.S. bank. Generally speaking, there must be a third-country bank on both sides of a transaction to qualify as a "U-Turn." For example, Bank Melli Iran can send funds from its account at a German bank through the German bank's correspondent in New York to an Italian bank to pay for goods purchased from Italy. The originating and beneficiary banks may not be U.S. banks. [09-10-02]

What do I do if I have a blocked account that needs to be escheated to the state?

You need to discuss this with your state authorities and with OFAC. For instance, the states of New York and Florida each have licenses to escheat blocked funds, pending OFAC approval of each transfer. Banks in New York or Florida should contact their State Banking Departments for instructions on how to proceed. Banks in other states should contact OFAC directly for instructions on how to proceed. [09-10-02]

Should an institution tell its customer that it blocked their funds, and, if so, how does the institution explain it to them?

An institution may notify its customer that it has blocked funds in accordance with OFAC's instructions. The customer has the right to apply for the unblocking and release of the funds. Information on OFAC's licensing procedures is available on the website. For a copy of the *.PDF application form for the unblocking of funds transfers (TD F 90-22.54), please direct your customer to this [link](#). [09-10-02]

What do I do if a person tries to open an account and the person's name is on OFAC's SDN list? Do I open the account and then block the funds?

A U.S. bank cannot open an account for a person named on the SDN list. This is a prohibited service. However, you should pay careful attention to be sure the person trying to open the account is the same person as the one named on OFAC's list. In many cases you may get a "false positive," where the name is similar to a target's name, but the rest of the information provided by the applicant does not match the descriptor information on OFAC's SDN list. If the bank does come into the possession or control of any property in which a blocked person has an interest, it is obligated to block that property. In other words, if you receive an application to open an account from a person who matches the information on the SDN list, together with an opening deposit, you are obligated to block the funds. The same is true for other banking transactions. If, for example, a customer asks if he or she is allowed to send money to a relative's account with Rafidain Bank in Iraq, the bank can say "no, that's illegal." If, on the other hand, a bank receives instructions from its customer to debit his or her account and send the funds to Rafidain Bank, the bank must act on the instructions by blocking the funds which contain a future interest of the Iraqi SDN bank. You might think of the analogy of a bouncing ball. Once the ball starts moving, you must stop it if it comes into your possession. [09-10-02]

Does a financial institution need to scan names against OFAC's list of targets upon account opening or can it wait for 24 hours to receive a report from its software vendor on whether or not there is a hit?

There is no legal or regulatory requirement to use software or to scan. There is a requirement, however, not to violate the law by doing business with a target or failing to block property. OFAC realizes that financial institutions use software that does not always provide an instantaneous response and may require some analysis to determine if a customer is indeed an SDN. The important thing is not to conclude transactions before the analysis is completed. [09-10-02]

Is there a dollar limit on which transactions are subject to OFAC regulations?

There is no minimum or maximum amount subject to the regulations. [09-10-02]

Does my bank need to check the OFAC list when selling cashier's checks and money orders? In the case of cashier's checks, do I need to check both the purchaser and the payee? As a mortgage lender, do I need to check both the purchaser and the seller's name against the SDN list?

Every transaction that a U.S. financial institution engages in is subject to OFAC regulations. If a bank knows or has reason to know that a target is party to a transaction, the bank's processing of the transaction would be unlawful. [09-10-02]

If a loan meets underwriting standards but is a true "hit" on the OFAC list, what do we use as a denial reason on the adverse action notice?

If you have confirmed with OFAC that you have a "good hit," there is no reason not to explain that to the customer. The customer can contact OFAC directly for further information. [09-10-02]

Through corporate giving programs, many banks contribute toward charities and other non-profits. To what extent does a bank need to review the recipients of these gifts or the principals of the charities?

Donations to charitable institutions must be handled as any other financial transaction. The donating bank or institution should crosscheck the recipient names against OFAC's SDN list and assure that the donations are in compliance with OFAC sanctions programs. [09-10-02]

I just received an interdiction "alert." What do I do?

When your interdiction software or accountholder checking service shows a potential match, OFAC recommends that you do an initial analysis prior to contacting OFAC. If you have a reasonably close match to a name on the SDN list and your customer is located in the same vicinity as the SDN, feel free to contact OFAC Compliance. Computer software can only deal with letters and numbers. It will inevitably flag some transactions that are not actually OFAC targets. This is where human intervention becomes critical and some hands-on research may be necessary. Questions that ought be asked by a Compliance Officer before calling OFAC include: Is it an exact name match, or very close? Is the suspect party located in the same general area as the SDN? If there are many similarities, then contact OFAC for verification. Unless you have an exact match or are otherwise privy to information indicating that the hit is a target, it is

recommended that you not actually block a transaction without discussing the matter with OFAC. [09-10-02]

When a transaction is rejected or blocked, I have ten days to report it. Do I have to do it in writing or can I call OFAC Compliance and report it that way?

At the moment, OFAC requires that all blocking and reject reports be submitted in writing. Optional reporting forms are available at this [link](#). Reports may be mailed in or faxed to OFAC Compliance at 202-622-2426. Blocking and reject reports must contain a copy of the original transfer instructions. OFAC is currently working with the financial community on a pilot project to permit the filing of such reports electronically. If you wish to participate in the pilot project, please contact OFAC Compliance. [09-10-02]

Is there a requirement for annual reporting of blocked property? Is there a required format?

Yes. A report of blocked property is to be submitted annually by September 30 to OFAC Compliance, Department of the Treasury, Washington, D.C., 20220. The standardized form can be accessed by visiting this [link](#). If you wish to use a different format, please contact OFAC's Blocked Assets Division at 202-622-2440. [09-10-02]

How do I apply for a license to get my money unblocked?

With respect to blocked funds transfers, you will need to submit an [application for the release of blocked funds form](#) which is available on OFAC's website under "Forms." You should print this form, complete the required information, attach payment instructions, and mail it to:

Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Attn: Licensing Division

OFAC requests that the application form be submitted in triplicate. The form must be sent by hard copy - fax copies will not be accepted. It is extremely important that the underlying transaction be described in detail and copies of supporting documentation be included in the package.

[09-10-02]