

Transparency
Ethics
Responsibility
Risk
OFAC
Response



OFAC
Office of Foreign Assets Control

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Terminology of High Risk



Specially Designated Nationals and Blocked Persons (SDN)

any person, organization, corporation or other legal entity that is owned, controlled by or acting on behalf of targeted governments or groups; designated narcotics traffickers [SDNT, SDNTK], terrorists [SDT, SDGT], terrorist organizations [FTO], nuclear weapons proliferators and their support networks [NPMWD], etc.

Fundamentals - *Terminology*



Blocking

“freezing” assets under U.S. jurisdiction; imposes across the board prohibition against any transfers or transactions of any kind involving the property

Rejecting

the act of refusing to effect a transaction that would violate OFAC sanctions; done when there is no blockable interest

Blocked Account

an account in which any designated national has an interest; no transfers or withdrawals allowed without OFAC authorization; must bear reasonably commercial interest rate

Fundamentals - *Terminology*



AL SA'IDI, Faraj Faraj Hussein (a.k.a. AL SAADI, Faraj Faraj Hassan; a.k.a. IMAD MOUHAMED ABDELLAH; a.k.a. MOHAMDED ABDULLA IMAD; a.k.a. MUHAMAD ABDULLAH IMAD; a.k.a. "HAMZA AL LIBI"), Viale Bligny 42, Milan, Italy; DOB 28 Nov 1980; POB Libya; alt. POB Palestine; alt. POB Jordan; alt. POB Gaza; nationality Libya; alt. nationality Jordan; alt. nationality Palestinian; arrested United Kingdom (individual) **[SDGT]**



Blocking/Rejection Report

official report(s) submitted to OFAC within 10 days of a blocked or rejected transaction or account; *Annual Report of Blocked Property* is the report of all blocked property as of June 30th (required to be filed with OFAC by September 30th annually)

Interdiction Filter

computer software filter used to automate means of screening accounts or transactions against the SDN or sanctioned country list; ***scrubbing*** is a term used to describe the process of automatically screening names in an account database against the OFAC SDN list

False Positive or False Hit

an account or transaction that is flagged as being potential match, but upon review are determined not to be true matches

Fundamentals - *Terminology*



CFR 500.311 Property; property interest (essentially all bank products & services)

“... money, checks, drafts, bullion, bank deposits, savings accounts ... stocks, bonds, any other financial securities ... mortgages ... bills of lading ... merchandise, inventory, goods on ships, real estate mortgages ... negotiable instruments ... safe deposit boxes ... contracts of any nature whatsoever, services, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.”

CFR 500.312 Likewise, “*property interest*” is defined as any interest whatsoever, direct or indirect.

OFAC Issue Directed Program - *Risk Appraisal*



Products and Services

Personal Checking/Savings Accounts, Certificates of Deposit, Domestic Wire Transfers, International Wire Transfers, Domestic and Cross-Border ACH Transactions, International Trade Finance, Electronic Banking, Credit Cards/Instant Credit Lines, Foreign Correspondent Banking, Payable Through Accounts, Private Banking, etc.

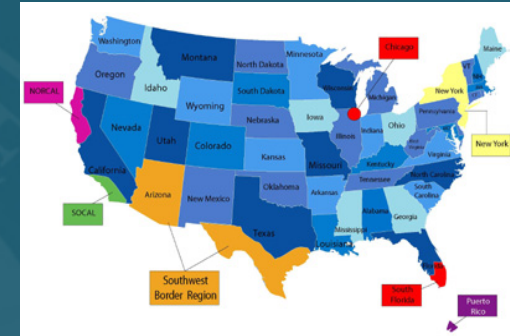
OFAC Issue Directed Program - *Risk Appraisal*



Customer Account Base

Individuals (Domestic/International), Small to Medium Size Businesses, Corporations, Senior Foreign Political Figures (PEPs), NGOs/Charities, Banks, Non-Bank Financial Entities, Professional Service Providers, Third Party Service Providers, etc.

OFAC Issue Directed Program - *Risk Appraisal*



Transactions

Parties Involved, Volume, Activity Levels/Frequency, Dollar Amount, etc.

Geographic Locations

Overseas Offices, Branches, Subsidiaries, High Intensity Drug Trafficking Areas (HIDTA see Office of National Drug Control Policy website) and High Intensity Financial Crime Areas (HIFCA see Financial Crimes Enforcement Network website)

OFAC Issue Directed Program - *Risk Appraisal*

LOW	MODERATE	HIGH
Stable, well-known customer base in a localized environment.	Customer base changing due to branching, merger or acquisition in the domestic market.	A large, fluctuating client base in an international environment.
Few high-risk customers; these may include nonresident aliens, foreign individual and commercial customers.	A moderate number of high-risk customers.	A large number of high-risk customers.
No overseas branches and no correspondent accounts with foreign banks.	Overseas branches or correspondent accounts with foreign banks.	Overseas branches or multiple correspondent accounts with foreign banks.
No electronic banking services offered, or products available are purely informational or non-transactional.	The bank offers limited e-banking products and services.	The bank offers a wide array of e-banking products and services (i.e., account transfers, bill payment, or accounts opened via the Internet).
Limited number of funds transfers for customers and non-customers, limited third-party transactions, and no international funds transfers.	A moderate number of funds transfers, mostly for customers. Possibly, a few international funds transfers from personal or business accounts.	A high number of customer and non-customer funds transfers, including international funds transfers.
No other types of international transactions, such as trade finance, cross-border ACH and management of sovereign debt.	Limited other types of international transactions.	A high number of other types of international transactions.
No history of OFAC actions. No evidence of apparent violation or circumstances that might lead to a violation.	A small number of recent actions by OFAC, including notice letters, or civil money penalties, with the evidence that the bank addressed the issues.	Multiple recent actions by OFAC, where the bank has not addressed the issues, thus leading to an increased risk of the bank having similar future violations.



OFAC Issue Directed Program



Designate an OFAC Responsible Officer

- Often the BSA/AML Officer but Does Not Have To Be!

Evaluate the Risk Appraisal

- Establish written policies and procedures that address the bank's high risk customers and product/service areas
- Does my firm have a Code of Business Ethics?

OFAC Issue Directed Program



Internal Controls

- Establish processes for screening transactions and accounts.
Manual or automated? Combination of both? Real time (On site)?
In-Batch (Back Office)?
- Make sure policy, procedure, and process address how the bank will determine
whether an initial OFAC “hit” is a valid match or false positive
- Adjust and tune to your interdiction filter to account for a high volume of
false hit flags

OFAC Issue Directed Program



Internal Controls (cont.)

- Create “exceptions” for recurring common name matches that have already been reviewed and cleared
- Add name derivations of an OFAC target if one is identified (don’t rely on your software vendor for 100% accuracy)
- Consider first and second level reviews or approval processes respective to the risk level in certain product/service areas (ex. international wire transfers)

OFAC Issue Directed Program



Internal Controls (cont.)

- Establish procedures that document the vetting and resolutions of all potential hits – if a transaction must be rejected, return funds to the client or originator
- Train and empower business lines to use deductive reasoning when reviewing possible matches
- If your bank screens manually, make sure to update your SDN list (be mindful of trade restrictions for the country sanctions programs)

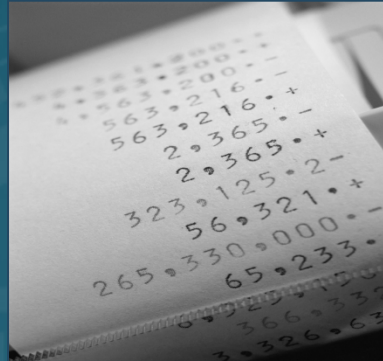
OFAC Issue Directed Program

Reporting

- When a transaction must be blocked, establish an interest bearing blocked account and flag the account for “NO WITHDRAWALS” (deposits are generally OK)
- For both BLOCKED and REJECTED items, notify OFAC within 10 days (the clock starts ticking once you’ve made your decision on a transaction or upon discovery of accounts that should have been blocked)



OFAC Issue Directed Program



Reporting (cont.)

- Maintain accurate records for the amount of funds blocked respective to the sanctions programs and the amount of interest paid on blocked funds
- Don't "escheat" blocked funds - the state must apply for a specific license from OFAC to begin the process
- For cases related to narcotics trafficking or terrorism, PLEASE NOTIFY US ASAP by phone or e-hotline!

OFAC Issue Directed Program

Licensing

- Your client may claim to have an OFAC specific license to conduct transactions that are prohibited – request a copy and retain for your records for five years following the most recent transaction conducted in accordance with the license
- Call OFAC to determine a license's validity and specific authorizations



Best Practices for Screening

Due Diligence Steps



- 1) Determine if the “hit” is against OFAC’s SDN list or targeted countries, or is it “hitting” for some other reason (i.e., “Commerce Control List”, “PEP”)?
- 2) Now that you’ve established that the hit is against OFAC’s SDN list or targeted countries, you must evaluate the quality of the hit. Compare the name in your transactions with the name on the SDN list. Is the name in your transaction an individual while the name on the SDN list is a vessel, organization or company (or vice-versa)?

Best Practices for Screening

Due Diligence Steps (cont.)



- 3) How much of the SDN's name is matching against the name of your account holder? Is just one of two or more names matching (i.e., just the last name)?
- 4) Compare the complete SDN entry with all of the information you have on the matching name of your accountholder. An SDN entry often will have, for example, a full name, address, nationality, passport, country location (last known whereabouts), tax ID or cedula number, place of birth, date of birth, former names and aliases. Are you missing a lot of this information for the name of your accountholder?
- 5) Are there a number of similarities or exact matches?

Best Practices for Screening

Other Helpful Tips



- 1) The SDN list is updated on an undetermined time schedule so conduct periodic reviews of your account database. Determine the scrubbing frequency based on your bank's risk profile (daily, weekly, monthly, quarterly, semi-annually?). Sign up for electronic OFAC alerts.
- 2) Don't forget to screen other parties tied to an account such as principals, beneficiaries, beneficial owners, authorized signers, etc.
- 3) For credit cards/mortgages/loans, ensure that parties are screened prior to actual funding, credit approvals or cash advances.

Best Practices for Screening

Other Helpful Tips (cont.)



- 4) Does the client conduct business or have a physical address in any OFAC sanctioned country? Do they carry an OFAC sanctioned country passport (for individuals)? Are they a non-resident alien from an OFAC sanctioned country?
- 5) If you've performed your own review, vetted the issue internally following the bank's policies and procedures, and still can't make a clear determination concerning the account parties, it's perfectly fine to contact OFAC Compliance for further assistance.

Best Practices for Screening – *Wires*

Due Diligence Steps

- 1) Obtain all counterparty information (full names, addresses, etc.). If business, obtain country of incorporation and business/tax ID for review purposes against the SDN entities. Obtain full names, addresses and SWIFT codes for intermediary banks or correspondent banks involved.
- 2) Screen all fields on a wire (ex. “originator to beneficiary” and “bank to bank” information fields).

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Sender: BOFAFRPA
Receiver: DBXPAEAD
:20: 494934/DEV
:23B: CRED
:32A: 980527USD110,854
:33B: USD110,854
:50K: FRANZ HOLZAPFEL PARIS
:52A: BOFAFRPA
:53A: BOFAUS33
:59: /125-00698 DUBAI TRADING CO.
      DUBAI, UAE
:72: INVOICE 340GP4 FOR ELEC. GPS
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Best Practices for Screening – *Wires*

Due Diligence Steps (cont.)



- 3) Request purpose of payment (personal, commercial, humanitarian, OFAC licensed or exemption, etc.)
- 4) Monitor transaction activity levels and dollar amounts. Is it consistent with the KYC or CIP profile? There could be suspicious OFAC activity if you know your client deals with other high-risk countries.

Don't rely on your intermediary or correspondent bank to conduct OFAC screening for your bank's transactions. If they block or reject an item, you might be questioned by OFAC and/or your Regulator for processing the transaction.

Guidelines on Enforcement

General Factors Affecting Administrative Action

- A. Willful or reckless violation of OFAC regulations
- B. Awareness of conduct at issue
- C. Harm to sanctions program objective
- D. Individual characteristics
- E. Compliance Program
- F. Remedial response
- G. Cooperation with OFAC
- H. Timing of apparent violation in relation to imposition of sanctions
- I. Other enforcement action
- J. Future compliance/deterrence effect
- K. Other relevant factors on a case-by-case basis

Sanctions violators are published monthly on the OFAC website:

<http://www.treas.gov/offices/enforcement/ofac/civpen/index.shtml>



Key Resources and Info

OFAC Homepage

www.treas.gov/ofac

Frequently Asked Questions (Financial Institutions)

<http://www.ustreas.gov/offices/enforcement/ofac/faq/index.shtml#finance>

OFAC Brochure for the Financial Community

<http://www.treas.gov/offices/enforcement/ofac/regulations/facbk.pdf>

NEW Economic Sanctions Enforcement Guidelines

http://www.treas.gov/offices/enforcement/ofac/legal/regs/fr71_1971.pdf

OFAC Electronic Notification Services (SDN List Update & Recent Actions)

http://www.treas.gov/offices/enforcement/ofac/abarrs/e_notice.shtml

Application for Release of Blocked Wire Transfers

<http://www.treas.gov/offices/enforcement/ofac/forms/license.pdf>

Contact us for additional guidance...

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