

# **OFAC**

## **POLICY AND PROCEDURE MANUAL**



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**Office of Foreign Assets Control**  
**Phone: +1.800.540.6322**  
**Fax: +1.202.622.0077**  
**Web: [www.treas.gov/ofac](http://www.treas.gov/ofac)**

**Patriot Techcorp, Inc.**  
**Phone: +1.310.306.7300 (PTZ)**  
**Fax: +1.866.442.3319**  
**Web: [www.patriottechcorp.com](http://www.patriottechcorp.com)**

## **Important Notice to All Financial Institutions**

**OFAC violations have serious consequences. Institutions are hereby informed that those who fail to comply with the regulations:**

- 1. May be subject to severe disciplinary actions.**
- 2. May individually face civil and criminal penalties or fines and/or prison sentences.**

**All institutions and employees are to read and be familiar with all policies and procedures. Additional pages have been made available in order for each institution to input their specific information and guidelines.**

**Any statements in this policy and procedure manual are not intended as legal advice.**

**The information contained here within is intended to provide you with a baseline to aid in the development of an OFAC policy and procedure manual. Moreover, financial institutions may use any or all of this information to provide information to its employees and to establish a guideline for procedures in order to be in compliance.**



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## **SUMMARY OF POLICY AND PROCEDURE MANUAL**

This policy and procedure manual has been setup in an easy to use and understand format. It provides explanations of what OFAC is, what purpose it serves, and how to contact them.

It provides information on regulations for financial institutions, penalties, risks and OFAC violations for non-compliance and what is recommended for demonstrating OFAC compliance.

There is a section to input individual institution information in order to utilize this policy and procedure manual for in-house policy compliance requirements.

There are explanations of what an SDN is, an example of an SDN entry and how to determine if it is a match, and also a sample of an SDN list as well as where to obtain lists.

It also defines what transactions are subject to OFAC, what is necessary for compliance procedures and what special licensing requirements are necessary to unblock blocked funds.

At the end of the policy and procedure manual there are sample submission reports, sample reporting documents, sample transaction reports and a sample application for the release of blocked funds. These reports can be copied and used for the specific purposes pertaining to what they are intended for.

## **OFAC 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 national 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.

## **OFAC FREQUENTLY ASKED QUESTIONS**

The following pages list the most frequently asked questions regarding OFAC. All of these questions and answers can be reviewed on the OFAC website at:

<http://www.treas.gov/offices/enforcement/ofac/faq/>

### **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.

### **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' 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.

## **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.

## **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.

## **When should I call OFAC' compliance “hotline”?**

Call the compliance hotline only after you've performed the following "due diligence" steps.

If you are calling about a wire transfer or other "live" transaction:

1. Is the "hit" or "match" against OFAC' SDN list or targeted countries, or is it "hitting" for some other reason (i.e., "Control List" or "PEP," "CIA," "Non-Cooperative Countries and Territories," "Canadian Consolidated List (OSFI)," "World Bank Debarred Parties," "Blocked Officials File," or "government official of a designated country"), or can you not tell what the "hit" is?

- If it's hitting against OFAC' SDN list or targeted countries, continue to 2 below.
- If it's hitting for some other reason, you should contact the "keeper" of whichever other list the match is hitting against. For questions about:
  - The Denied Persons List and the Entities List, please contact the Bureau of Industry and Security at the U.S. Department of Commerce at 202-482-4811.
  - The FBI's Most Wanted List or any other FBI-issued watch list please contact the Federal Bureau of Investigation (<http://www.fbi.gov/contact/fo/fo.htm>).
  - The Debarred Parties list, please contact the Office of Defense Trade Controls at the U.S. Department of State, 202-663-2700.
  - The Bank Secrecy Act and the USA PATRIOT Act, please contact the Financial Crimes Enforcement Network (FinCEN), 1-800-949-2732.
  - If you are unsure whom to contact, please contact your interdict software provider that told you there was a "hit."
  - If you can't tell what the "hit" is, you should contact your interdict software provider that told you there was a "hit."

2. Now that you've established that the hit is against OFAC' 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)?

- If yes, you do not have a valid match.\*
- If no, please continue to 3 below.

3. How much of the SDN' name is matching against the name in your transaction? Is just one of two or more names matching (i.e., just the last name)?

- If yes, you do not have a valid match.\*
- If no, please continue to 4 below.

4. Compare the complete SDN entry with all of the information you have on the matching name in your transaction. An SDN entry often will have, for example, a full name, address, nationality, passport, 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 in your transaction?

- If yes, go back and get more information and then compare your complete information against the SDN entry.
- If no, please continue to 5 below.

5. Are there a number of similarities or exact matches?

- If yes, please call the hotline at 1-800-540-6322.
- If no, you do not have a valid match.\*

If you are calling about an account:

1. Is the “hit” or “match” against OFAC’ SDN list or targeted countries, or is it “hitting” for some other reason (i.e., “Control List” or “PEP,” “CIA,” “Non-Cooperative Countries and Territories,” “Canadian Consolidated List (OSFI),” “World Bank Debarred Parties,” or “government official of a designated country”), or can you not tell what the “hit” is?

- If it’s hitting against OFAC’ SDN list or targeted countries, continue to 2 below.
- If it’s hitting for some other reason, you should contact the “keeper” of whichever other list the match is hitting against. For questions about:
  - The Denied Persons List and the Entities List, please contact the Bureau of Industry and Security at the U.S. Department of Commerce at 202-482-4811.
  - The FBI’s Most Wanted List or any other FBI-issued watch list, please contact the Federal Bureau of Investigation (<http://www.fbi.gov/contact/fo/fo.htm>).
  - The Debarred Parties list, please contact the Office of Defense Trade Controls at the U.S. Department of State, 202-663-2700.
  - The Bank Secrecy Act and the USA PATRIOT Act, please contact the Financial Crimes Enforcement Network (FinCEN), 1-800-949-2732.

- If you are unsure whom to contact, you should contact your interdict software provider that told you there was a “hit.”
- If you can’t tell what the “hit” is, you should contact your interdict software provider that told you there was a “hit.”

2. Now that you’ve established that the hit is against OFAC’ SDN list or targeted countries, you must evaluate the quality of the hit. Compare the name of your accountholder with the name on the SDN list. Is the name of your accountholder an individual while the name on the SDN list is a vessel, organization or company (or vice-versa)?

- If yes, you do not have a valid match.\*
- If no, please continue to 3 below.

3. How much of the SDN’ name is matching against the name of your accountholder? Is just one of two or more names matching (i.e., just the last name)?

- If yes, you do not have a valid match.\*
- If no, please continue to 4 below.

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, 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?

- If yes, go back and get more information and then compare your complete information against the SDN entry.
- If no, please continue to 5 below.

5. Are there a number of similarities or exact matches?

- If yes, please call the hotline at 1-800-540-6322.
- If no, you do not have a valid match.\*

\* If you have reason to know or believe that processing this transfer or operating this account would violate any of the Regulations, you must call the hotline and explain this knowledge or belief.

### **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' website. The text of Legal documents may be found in the Legal Documents area of OFAC' 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.

## **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.

## **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.

## **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.

## **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") that 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 SDN' wherever they are located and all SDN' assets are blocked. Because OFAC' programs are dynamic and constantly changing, it is very important to check OFAC' 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.

## **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.

## **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.

## **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.

## **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.

## **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.

**Why are there two separate subscription services on OFAC' 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' listing Specially Designated Nationals and Blocked Persons. All "What's New" notices to the general public also contain information from OFAC' 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.

**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.

**Questions about Specially Designated Nationals (SDN)**

**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 "SDN". Their assets are blocked and U.S. persons are generally prohibited from dealing with them.

**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.

**How do I know what specific changes have been made to OFAC' 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.

## **Does OFAC maintain or can it create a country-by-country list of SDN?**

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' 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 SDN wherever they are located.

## **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' "hotline" at 1-800-540-6322 for verification. If your "hit" concerns an in-process wire transfer, you may prefer to e-mail your question to OFAC. Unless a transaction involves an exact match, it is recommended that you contact OFAC Compliance before actually blocking assets.

## **What is the Control list? Who do I call about the Control list? What is the difference between the Control list and OFAC' 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' 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.

## **How often do I need to scan my customer database for SDN?**

The frequency of running an OFAC scan must be guided by your internal policy and procedures. Keep in mind, however, that if you fail 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 you will be taken along with the resulting negative publicity.

## **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 that will allow specific funds to be unblocked with interest at any point in the future.

### **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.

### **Can we deduct service charges from the account?**

Generally yes. In most cases (excluding Iraq, for instance) OFAC regulations contain provisions to allow you 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.

### **Do all OFAC programs involve blocking transactions?**

No. OFAC regulations are tailored to further the requirements and purposes of specific Executive Orders or statutes that 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.

### **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-SDN') 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 the Iranian Transactions Regulations contain no blocking provisions. The following examples may help illustrate which transactions should be blocked and which should be rejected.

- A U.S. bank interdicts a commercial payment destined for the account of XYZ Import-Export Co. at the Bank of Khartoum in Khartoum, Sudan. The Bank of Khartoum is wholly owned by the Government of Sudan and, accordingly, is a Specially Designated National of Sudan. This payment must be blocked.

- A U.S. bank interdicts a commercial payment destined for the account of ABC Import-Export at Sudanese French Bank, Khartoum, Sudan. Unlike the Bank of Khartoum, Sudanese French Bank, Khartoum is a private sector entity so there is no blockable interest in this payment. However, processing the payment would mean facilitating trade with Sudan and providing a service in support of a commercial transaction in Sudan, therefore the U.S. bank must reject the payment.
- A U.S. bank interdicts a commercial payment originating from a commercial account on its books and destined for the account of the Tehran Computer Corporation at a French bank in Paris. The beneficiary's address confirms that it's a company in Iran. This payment must be rejected by the U.S. bank because of the prohibitions against facilitating trade with Iran. The payment is not a "U-Turn" because a foreign bank did not initiate it.
- A U.S. bank interdicts a commercial payment from a corporate account on its books destined for the account of the French Computer Corporation at Bank Melli, in Paris through a correspondent account of Bank Melli on the books of a British bank. The beneficiary's address confirms that it's a company in France. However, this payment must be rejected by the U.S. bank because Bank Melli is owned by the Iranian government, and processing the payment would be facilitating trade with Iran.
- A U.S. bank interdicts a commercial payment destined for the account of the French Computer Corporation at Bank Melli, in Paris on the books of a U.S. bank. The beneficiary's address confirms that it's a company in France. However, this payment must be rejected by the U.S. bank because the account of Bank Melli is an "Iranian account" on the books of a U.S. bank and cannot be operated.
- A U.S. bank interdicts an unlicensed commercial payment going to a private-sector entity in Cuba. Under the Cuban Assets Control Regulations, all property and property interests of Cuban nationals – defined to include any person or entity in Cuba - are blocked. As a result, this payment must be blocked.  
Rejected and blocked 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.

**My institution operates accounts for individuals living in Iran. OFAC has told us that these accounts cannot be operated. Does this mean that the accounts are blocked?**

No, the accounts are restricted. The Iranian sanctions prohibit the export of goods or services to Iran. By operating an account for an individual or company in Iran, the bank would be exporting services to that person or entity in violation of the Iranian Transactions Regulations. The accounts, however, are not blocked. The account holder can close the account and have the funds transferred to his or her account outside the United States.

**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. institution. 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 institution to pay for goods purchased from Italy. The originating and beneficiary institution may not be U.S. institutions.

**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 state of New York has a license to escheat blocked funds, pending OFAC approval of each transfer. Institutions in New York should contact the State Banking Department for instructions on how to proceed. Institutions in other states should contact OFAC directly for instructions on how to proceed.

**If my financial institution receives a wire going to an embassy in a sanctioned country, can we process the transaction?**

This depends on the program. If you have a payment involving an embassy in a targeted country, please contact OFAC Compliance for directions (1-800-540-6322).

**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' instructions. The customer has the right to apply for the unblocking and release of the funds. Information on OFAC' 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 url:

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

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

A U.S. institution 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' 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' 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 institution 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, an institution receives instructions from its customer to debit his or her account and send the funds to Rafidain Bank, the institution must act on the instructions by blocking the funds that 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.

**Does a financial institution need to scan names against OFAC' 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.

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

There is no minimum or maximum amount subject to the regulations.

**Does my institution 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 an institution knows or has reason to know that a target is party to a transaction, the institution's processing of the transaction would be unlawful.

**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.

**Through corporate giving programs, many institution' 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' SDN list and assure that the donations are in compliance with OFAC sanctions programs.

**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.

**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. 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.

**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. If you wish to use a different format than provided here within, please contact OFAC' Blocked Assets Division at 202-622-2440.

**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. This form is to be found in the Sample Reporting Documents section of this guide. You should copy 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.

**Can U.S. financial institutions open correspondent accounts for Iraqi financial institutions, or process funds transfers to and from Iraqi financial institutions?**

Yes, U.S. financial institutions are authorized to open correspondent accounts for, and process funds transfer to or on behalf of Iraqi financial institutions.

## **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 funds 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](http://www.treas.gov/ofac).

In general, OFAC rules prohibit financial institutions from engaging in transactions with the governments of, or individuals or entities associated with, foreign countries against which federal law imposes economic sanctions. Federal law also imposes sanctions against certain countries associated with terrorists and narcotics traffickers and their front organizations. OFAC rules prohibit transactions with these entities as well. OFAC maintains a list of entities and individuals against whom these restrictions apply. You will need this list, known as the “SDN list” (Specially Designated Nationals) in order to comply.

## PENALTIES, RISKS AND OFAC VIOLATIONS

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.

If you fail to comply with OFAC requirements, you can be subject to both criminal and civil penalties. The nature of the criminal penalty depends on which federal statute you violate but all of the penalties are severe. For example, the Trading With the Enemy Act provides for ten years imprisonment, a \$1 million fine for corporations, and a \$100,000 fine for individuals, as well as forfeiture of funds or other property involved in violations. [50 USC App. Sections 1 – 44] The Iraqi Sanctions Act provides for 12 years imprisonment and a \$1 million corporate or personal fine. A number of the sanctions statutes authorize OFAC to impose civil penalties as well. For example, the Trading With the Enemy Act authorizes a civil penalty of \$55,000; the Iraqi Sanctions Act authorizes a penalty of \$275,000.

In short, the law provides plenty of motivation for you to comply as best you can. After learning how severe the criminal and civil penalties are, you might be inclined to block any account or reject any transaction that appears the least bit suspicious. There are risks under that approach also. For example, blocking a checking account is likely to result in the depositor bouncing checks. Bounced checks can cause the depositor lots of trouble, such as a damaged business reputation, bounced-check fees, and even criminal liability. On the lending side, refusing to allow advances against a contracted for line of credit, for example, could cause a business to go under. Either of these, or similar scenarios, could trigger litigation against your institution, and you would not be in a good position if your actions turn out to be not required by the OFAC regulations. These risks provide further motivation for you to take advantage of the OFAC hot line mentioned earlier in the chapter. It seems likely (though we are not familiar with cases holding this way) that if your actions were approved or directed by OFAC, your position in the litigation would improve. If you are involved in litigation or other dispute-resolution proceedings involving blocked property or rejected transactions, you must report that to OFAC.

## 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.**

## 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.

## INTERDICT SOFTWARE AND WHY OFAC FAVORS ITS USE

Interdict software searches transactions for names that match names on the SDN list and alerts you of any matches so you can reexamine the transaction and decide what action, if any, you need to take. Some software will even prepare documents needed for meeting the reporting and record-keeping requirements. Interdict software is not mandatory, however, it seems that you will need it in order to comply with OFAC rules on anything more than a haphazard basis. Furthermore, OFAC says, “While OFAC does not treat even completely automated processing of violative transactions as a full defense in civil penalty proceedings, it does favorably consider a bank’s business decision to use interdict software as well as other good faith manual and electronic compliance efforts in determining mitigation.” (*Foreign Assets Control Regulations for the Financial Community*, p. 3, OFAC, December 3, 2001.) The SDN list changes routinely so you will need to make sure you are dealing with the current list, regardless of whether you are using interdict software.

**PATRIOT TECHCORP, INC.** provides the OFAC Patriot™ a software application designed for this purpose. You can learn more about it at:  
<http://www.patriottechcorp.com/software.htm>

## INSTITUTION INFORMATION SECTION

Institution/Organization establishing this Policy: \_\_\_\_\_

Date this Policy has last been updated: \_\_\_\_\_

Name(s) and title(s) of person(s) responsible for distribution and implementation of this Policy:

Person(s) assigned to performing single entry searches for compliance:

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Person(s) assigned to performing batch file searches for compliance:

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Single entry searches are performed (frequency): \_\_\_\_\_

Batch file searches are performed (frequency): \_\_\_\_\_

Negative search results reports are saved electronically and positive results reports are hard copied and processed.

Due diligence is performed to ensure matches found are positive and if so necessary actions are taken to block and report transaction attempts.

Positive match results are immediately reported to program manager(s) and are submitted to the OFAC division via fax.

## **ADDITIONAL NOTES:**



## **EXPLANATION OF SDN ENTRIES & DETERMINING MATCHES**

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 "SDN". Their assets are blocked and U.S. persons are generally prohibited from dealing with them. You will find that after each entry in the SDN list there is a bracketed reference indicating why the entry is there.

**Example:** one of the entries in the November 4, 1997, list reads as follows: A.T.E. INTERNATIONAL LTD. (f.k.a. RWR INTERNATIONAL COMMODITIES), 3 Mandeville Place, London, England [IRAQ] The "[IRAQ]" at the end of the entry means that this entity's association with the government of Iraq is why the entity is on the SDN list. If you were considering a transaction with this entity, or if you held property in which this entity had an ownership interest, you would need to determine what the OFAC rules are with respect to Iraqi entities. (OFAC rules vary depending on the country with which the entity is associated.) There are a number of ways to do this.

First, you could read the OFAC regulations on the sanctions against Iraq. Be warned, however, that reading these regulations is no small trick—they're lengthy, complex, and obscure. You can find the Iraq regulations at 31 CFR 575. [Cuba—31 CFR 515; Iran—31 CFR 535 and 31 CFR 560; Libya—31 CFR 550; Yugoslavia (Serbia and Montenegro)—31 CFR 585; UNITA (Angola)—31 CFR 590; North Korea, Vietnam, and residual authority with regard to blocked Cambodian assets—31 CFR 500; Terrorism—31 CFR 595, 31 CFR 596, and 31 CFR 597; Narcotics—31 CFR 536.]

Second, you could refer to any one of a number of OFAC publications that are more user friendly than its regulations. One is a booklet entitled *Foreign Assets Control Regulations for the Financial Community*. OFAC also has separate brochures dealing with the rules for each country. The booklet and the brochures are available through the Internet at OFAC' home page: <http://www.ustreas.gov/ofac> (This website also enables you to access all of the OFAC regulations cited in the previous paragraph.) The OFAC booklet also lists a number of other electronic sources for information on OFAC and its rules.

Third, you could call OFAC at its special toll-free telephone number for financial institution compliance inquiries. The number is 1-800-540-OFAC (6322). OFAC also has a Miami branch office with a special bilingual hotline relating to information about the Cuban embargo. That number is (305) 536-6769. The complexity of the OFAC regulations and even OFAC' booklet and brochures, suggests to us that these hotlines might be the most useful of the compliance resources available to you. Even OFAC says, "Your bank's main compliance responsibility is to ensure that suspect items are interdicted. OFAC will help you determine whether an interdicted transaction ought to be processed, blocked, or rejected."

## SAMPLE OF SDN LIST AND WHERE TO LOCATE LIST

17 NOVEMBER (a.k.a. EPANASTATIKI ORGANOSI 17 NOEMVRI; a.k.a. REVOLUTIONARY ORGANIZATION 17 NOVEMBER) [FTO] [SDGT]  
32 COUNTY SOVEREIGNTY COMMITTEE (a.k.a. 32 COUNTY SOVEREIGNTY MOVEMENT; a.k.a. IRISH REPUBLICAN PRISONERS WELFARE ASSOCIATION; a.k.a. REAL IRA; a.k.a. REAL IRISH REPUBLICAN ARMY; a.k.a. REAL OGLAIGH NA HEIREANN; a.k.a. RIRA) [FTO] [SDGT] 32 COUNTY SOVEREIGNTY MOVEMENT (a.k.a. 32 COUNTY SOVEREIGNTY COMMITTEE; a.k.a. IRISH REPUBLICAN PRISONERS WELFARE ASSOCIATION; a.k.a. REAL IRA; a.k.a. REAL IRISH REPUBLICAN ARMY; a.k.a. REAL OGLAIGH NA HEIREANN; a.k.a. RIRA) [FTO] [SDGT] 2000 DOSE E.U. (a.k.a. DOMA E M), Calle 31 No. 1-34, Cali, Colombia; NIT # 805015749-3 (Colombia) [SDNT] 2000-DODGE S.L., Calle Gran Via 80, Madrid, Madrid, Spain; C.I.F. B83149955 (Spain) [SDNT] 2904977 CANADA, INC. (a.k.a. CARIBE SOL; a.k.a. HAVANTUR CANADA INC.), 818 rue Sherbrooke East, Montreal, Quebec H2L 1K3, Canada [CUBA] A RAHMAN, Mohamad Iqbal (a.k.a. ABDURRAHMAN, Abu Jibril; a.k.a. ABDURRAHMAN, Mohamad Iqbal; a.k.a. ABU JIBRIL; a.k.a. MUQTI, Fihiruddin; a.k.a. MUQTI, Fikiruddin; a.k.a. RAHMAN, Mohamad Iqbal); POB Tirpas-Selong Village, East Lombok, Indonesia; nationality Indonesia (individual) [SDGT] A.I.C. COMPREHENSIVE RESEARCH INSTITUTE (a.k.a. A.I.C. SOGO KENKYUSHO; ABBAS, Kassim, Lerchesbergring 23A, D-60598, Frankfurt, Germany; DOB 7 Aug 1956; POB Baghdad, Iraq (individual) [IRAQ2] ABBES, Moustafa, Via Padova, 82, Milan, Italy; DOB 5 Feb 1962; POB Osniers, Algeria (individual) [SDGT] ABBES, Youcef (a.k.a. "GIUSEPPE"), Via Padova 82, Milan, Italy; Via Manzoni, 33, Cinisello Balsamo, Milan, Italy; DOB 5 Jan 1965; POB Bab El Aoued, Algeria (individual) [SDGT] ABD AL HADI (a.k.a. BENDEBK, L'Hadi; a.k.a. HADI), Via Garibaldi, 70, San Zenone al Po, Pavia, Italy; Via Manzoni, 33, Cinisello Balsamo, Milan, Italy; DOB 17 Nov 1963; POB Algiers Algeria (individual) [SDGT] ABD AL HAFIZ, Abd Al Wahab (a.k.a. FERDJANI, Mouloud; a.k.a. "MOURAD"; a.k.a. "RABAH DI ROMA"), Via Lungotevere Dante, Rome, Italy; DOB 7 Sep 1967; POB Algiers, Algeria (individual) [SDGT] ABD AL-GHAFAR, Sundus, Iraq; DOB c. 1967; POB Kirkuk, Iraq; nationality Iraq; wife of Izzat Ibrahim Al-Duri (individual) [IRAQ2] ABD AL-GHAFUR, Humam Abd al-Khalil (a.k.a. 'ABD AL-RAHMAN, Humam 'abd al-Khalil; a.k.a. ABD-AL-GHAFUR, Humam abd-al-Khalil; a.k.a. GHAFUR, Humam Abdel Khaleq Abdel; a.k.a. RASHID, Humam 'abd al-Khalil); DOB 1945; POB ar-Ramadi, Iraq; nationality Iraq; Former Minister of Higher Education and Research; M0018061/104, issued 12 September 1993 (individual) [IRAQ2] 'ABD AL-KARIM (a.k.a. ABU AL-MUTAZ; a.k.a. AL-HABIB; a.k.a. AL-KHALAYLAH, Ahmad Fadil Nazzal; a.k.a. AL-MUHAJIR; a.k.a. ALZARQAWI, Abu Mus'Ab; a.k.a. GHARIB; a.k.a. KHALAILAH, Ahmed Fadeel; a.k.a. Hai Ahmad; a.k.a. ABU YASIR; a.k.a. ALKAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 54; POB Egypt; Passport 83860 (Sudan); alt. Passport 30455 (Egypt); alt. Passport 1046403 (Egypt) (individual) [SDT] ABDALLA, Fazul (a.k.a. ADBALLAH, Fazul; a.k.a. AISHA, Abu; a.k.a. AL SUDANI, Abu Seif; a.k.a. ALI, Fadel Abdallah Mohammed; a.k.a. FAZUL, Abdalla; a.k.a. FAZUL, Abdallah; a.k.a. FAZUL, Abdallah Mohammed; a.k.a. FAZUL,

Haroon; a.k.a. FAZUL, Harun; a.k.a. HAROON; a.k.a. HAROUN, Fadhil; a.k.a. ARUN; a.k.a. LUQMAN, Abu; a.k.a. MOHAMMED, Fazul; a.k.a. MOHAMMED, Fazul Abdilahi; a.k.a. MOHAMMED, Fazul Abdullah; a.k.a. MOHAMMED, Fouad; a.k.a. MUHAMAD, Fadil Abdallah); DOB 25 Aug 1972; alt. DOB 25 Dec 1974; alt. DOB 25 Feb 1974; POB Moroni, Comoros Islands; citizen Comoros alt. Kenya (individual) [SDGT] ABDALLAH, Kamal Mustafa (a.k.a. AL-TIKRITI, Kamal Mustafa Abdallah Sultan; a.k.a. ALTIKRITI, Kamal Mustafa Sultan Abdallah); DOB 1952; alt. DOB 4 May 1955; POB Tikrit, Iraq; nationality Iraq; Republican Guard Secretary; led Special Republican Guard and commanded both Republican Guard corps (individual) [IRAQ2] ABDALLAH, Ramadan (a.k.a. ABDULLAH, Dr. Ramadan; a.k.a. SHALLAH, Dr. Ramadan Abdullah; a.k.a. SHALLAH, Ramadan Abdalla Mohamed), Secretary General of the PALESTINIAN ISLAMIC JIHAD; Damascus, Syria; DOB 01 Jan 1958; POB Gaza City, Gaza Strip; Passport 265 216 (Egypt); SSN 589-17- 6824 (United States) (individual) [SDT]

**If you are not using a software application that provides the ability to use a “Live Update” function to automatically retrieve the updated SDN list you will need to go to the following OFAC url and follow the instructions listed under the url to manually retrieve the SDN list: <http://www.ustreas.gov/offices/enforcement/ofac/>**

**Scroll down to idle of page under Contents and go to “SDN & Blocked Persons” and check the latest date that the file was updated. Then click on the “SDN & Blocked Persons” link and choose the file from the following according to what format your client list is in to search against:**

**Specially Designated Nationals (SDN) List** - Alphabetical master list of Specially Designated Nationals and Blocked Persons

**SDN Changes** - Recent changes to master list of Specially Designated Nationals and Blocked Persons

**SDN Changes (1994 - 2003)**

**DOS Delimited SDN Lists** - Delimited, and fixed-field versions of the master list of Specially Designated Nationals & Blocked Persons, contains 20 ASCII files stored in a 16-bit executable archive. This archive is intended for use with operating systems including DOS, and Windows 3.1-95.

**Windows Delimited SDN Lists** - Delimited, and fixed-field versions of the master list of Specially Designated Nationals & Blocked Persons, contains 20 ASCII files stored in a 32-bit executable archive. This archive is intended for use with operating systems including Windows 98, ME, NT, 2000, and XP.

**UNIX-Ready Delimited SDN Lists** - Delimited, and fixed-field versions of the master list of Specially Designated Nationals & Blocked Persons, contains 20 ASCII files stored in a 16-bit archive with a “zip” file extension. This archive is intended for use with command-line, archiving software.

(**VIEW ASCII VERSIONS OF SDN FILES**)

## **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 that is referred to as the *OFAC' SDN' list*.

*The OFAC' SDN' list contains the names of individuals and entities that are owned or controlled by, or acting for or on behalf of, the Government of target countries or are associated with international narcotics trafficking or terrorism. These individuals and entities are listed on the Treasury Department's Specially Designated Nationals and Blocked Persons list so that persons subject to the jurisdiction of the United States will know that they are prohibited from dealing with them and that they must block all property within their possession or control in which these individuals and entities have an interest.*

Moreover, 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 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 that

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. **PATRIOT TECHCORP, INC.** monitors OFAC changes and provides a free data change notification service, available to any institution via email. Contact [info@patriottechcorp.com](mailto:info@patriottechcorp.com)

## 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 (10) 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.**

## **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: Center Bank  
Address: 456 Main Street  
City State: Anytown, US  
Zipcode: 77777

Contact: John Smith  
Phone: 323-456-7890 (ext 333)  
Fax: 323-456-0916  
Email: email@bank.com

### **THE FOLLOWING TRANSACTION HAS BEEN BLOCKED**

#### **Transaction**

Name of Entity: ABC Express  
Name of Account Holder: Jon Ackers  
Type of Transaction: Checking Account  
Transaction ID: 188273644  
Date: 3-12-2002

#### **Status**

Status: Account Blocked  
Date: 3-19-2002

#### **OFAC Listing**

SDN File Date: 03/06/2002  
OFAC Listing: ABC Express  
Address: Chicago, Illinois, 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](http://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 that 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.

Property is defined as anything of value. Examples of property include: money, checks, drafts, debts, obligations, notes, warehouse receipts, bills of sale, evidences of title, negotiable instruments, trade acceptance, contracts, and anything else real, personal, or mixed, tangible or intangible, "or interest or interests therein, present, future, or contingent". Practically everything that banks do every day involves "property" within the meaning of the regulations. Likewise, "property interest" is defined as any interest whatsoever, direct or indirect.

## **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.

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Signature

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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
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## **APPENDIX**

### **(Blocked Transaction Report)**

UNITED STATES DEPARTMENT OF THE TREASURY  
OFFICE OF FOREIGN ASSETS CONTROL  
REPORT OF BLOCKED TRANSACTIONS

INSTITUTION INFORMATION

INSTITUTION		TYPE OF INSTITUTION	ADDRESS
CITY	STATE	CONTACT PERSON	TELEPHONE NUMBER
POSTAL CODE	COUNTRY	E-MAIL ADDRESS	FAX NUMBER

TRANSACTION INFORMATION

AMOUNT BLOCKED	DATE OF TRANSACTION	DATE OF BLOCKING	PROGRAM OR REASON FOR BLOCKING FUNDS
ORIGINATOR NAME & ADDRESS		ORIGINATING FINANCIAL INSTITUTION NAME & ADDRESS	
INTERMEDIARY FINANCIAL INSTITUTION(S) NAME & ADDRESS		BENEFICIARY FINANCIAL INSTITUTION NAME & ADDRESS	
BENEFICIARY NAME & ADDRESS		ADDITIONAL RELEVANT INFORMATION (USE PAGE 2 IF MORE SPACE IS NEEDED)	
ADDITIONAL DATA FOUND IN ORIGINATOR TO BENEFICIARY INFORMATION OR BANK TO BANK INFORMATION			

PLEASE ATTACH A COPY OF PAYMENT INSTRUCTIONS AS PAGE 3 OF THIS FORM

PREPARER INFORMATION

SIGNATURE	NAME OF SIGNER	TITLE OF SIGNER	DATE PREPARED
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**ADDITIONAL INFORMATION  
(PLEASE INCLUDE PAYMENT INSTRUCTIONS AS A SEPARATE ATTACHMENT TO THIS DOCUMENT)**

## **APPENDIX**

### **(Rejected Transaction Report)**

UNITED STATES DEPARTMENT OF THE TREASURY  
OFFICE OF FOREIGN ASSETS CONTROL  
REPORT OF REJECTED TRANSACTIONS

**INSTITUTION INFORMATION**

INSTITUTION		TYPE OF INSTITUTION	ADDRESS
CITY	STATE	CONTACT PERSON	TELEPHONE NUMBER
POSTAL CODE	COUNTRY	E-MAIL ADDRESS	FAX NUMBER

**TRANSACTION INFORMATION**

AMOUNT REJECTED	DATE OF TRANSACTION	DATE OF REJECTION	PROGRAM OR REASON FOR REJECTING FUNDS
ORIGINATOR NAME & ADDRESS		ORIGINATING FINANCIAL INSTITUTION NAME & ADDRESS	
INTERMEDIARY FINANCIAL INSTITUTION(S) NAME & ADDRESS		BENEFICIARY FINANCIAL INSTITUTION NAME & ADDRESS	
BENEFICIARY NAME & ADDRESS		ADDITIONAL RELEVANT INFORMATION (USE PAGE 2 IF MORE SPACE IS NEEDED)	
ADDITIONAL DATA FOUND IN ORIGINATOR TO BENEFICIARY INFORMATION OR BANK TO BANK INFORMATION			

**PLEASE ATTACH A COPY OF PAYMENT INSTRUCTIONS AS PAGE 3 OF THIS FORM**

**PREPARER INFORMATION**

SIGNATURE	NAME OF SIGNER	TITLE OF SIGNER	DATE PREPARED
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**ADDITIONAL INFORMATION  
(PLEASE INCLUDE PAYMENT INSTRUCTIONS AS A SEPARATE ATTACHMENT TO THIS DOCUMENT)**

## **APPENDIX**

### **(Application for Release of Blocked Funds)**

## U.S. DEPARTMENT OF THE TREASURY

## OFFICE OF FOREIGN ASSETS CONTROL

## APPLICATION FOR THE RELEASE OF BLOCKED FUNDS

(WHEN APPROVED, THIS DOCUMENT BECOMES A  
SPECIFIC LICENSE AUTHORIZING THE UNBLOCKING  
OF THE SUBJECT FUNDS AND THEIR RELEASE  
ACCORDING TO THE TERMS HEREOF)

DO NOT WRITE IN THIS BOX – LICENSE APPROVAL ONLY VALID WITH OFAC SEAL

THIS APPLICATION IS HEREBY: \_\_\_\_\_ FAC/LICENSE NO. \_\_\_\_\_

- G APPROVED, AND FUNDS MAY BE UNBLOCKED AND RELEASED, WITH VALUE:  
 G TO ORIGINATOR OR ORIGINATING BANK  
 G IN ACCORDANCE WITH ORIGINAL PAYMENT INSTRUCTIONS
- G DENIED (SEE ATTACHED EXPLANATION)
- G RETURNED WITHOUT ACTION (SEE ATTACHED CHECKLIST)

## TYPE OF REQUEST [CHECK APPROPRIATE BOX]

LICENSE APPLICATION

REQUEST FOR RECONSIDERATION [PROVIDE

FAC NO. OF PREVIOUS AGENCY ACTION (IF KNOWN): \_\_\_\_\_

## APPLICANT INFORMATION

APPLICANT		ADDRESS LINE 1	ADDRESS LINE 2	
CITY	STATE	CONTACT PERSON	TELEPHONE	FAX NUMBER
POSTAL CODE	COUNTRY	SOCIAL SECURITY/TAXPAYER I.D. NO. (Required for US Persons)	E-MAIL ADDRESS	

## CORPORATIONS AND OTHER ENTITIES

PRINCIPAL PLACE OF BUSINESS	STATE OF INCORPORATION OR ORGANIZATION	EMPLOYER IDENTIFICATION NUMBER
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## THE FOLLOWING INFORMATION, IF KNOWN, SHOULD BE PROVIDED CONCERNING THE BLOCKED FUNDS (USE PAGE 2 AS NEEDED)

NAME & ADDRESS OF FINANCIAL INSTITUTION WHICH BLOCKED FUNDS	AMOUNT BLOCKED	DATE OF THE BLOCKING
REMITTER NAME & ADDRESS	REMITTING FINANCIAL INSTITUTION NAME & ADDRESS	
INTERMEDIARY FINANCIAL INSTITUTION(S) NAME & ADDRESS	BENEFICIARY FINANCIAL INSTITUTION NAME & ADDRESS	
BENEFICIARY NAME & ADDRESS	DESCRIPTION OF UNDERLYING TRANSACTION (ATTACH SEPARATE SHEET AS NEEDED)	

APPLICATION CERTIFICATION: I, THE UNDERSIGNED, HEREBY DECLARE THAT, TO THE BEST OF MY KNOWLEDGE, THE INFORMATION PROVIDED ON THIS APPLICATION AND ANY ACCOMPANYING DOCUMENTATION IS TRUTHFUL AND COMPLETE.

SIGNATURE	NAME OF SIGNER	TITLE OF SIGNER	DATE PREPARED
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ADDITIONAL COPIES OF THIS FORM MAY BE OBTAINED FROM OFAC'S WEBSITE AT NO CHARGE: <<http://www.treas.gov/ofac>>

ADDITIONAL INFORMATON

**INSTRUCTIONS:**

WHERE FUNDS HAVE BEEN BLOCKED AT A U.S. FINANCIAL INSTITUTION DUE TO U.S. GOVERNMENT SANCTIONS, A PARTY WITH AN INTEREST IN THE FUNDS MAY SUBMIT THIS APPLICATION TO THE OFFICE OF FOREIGN ASSETS CONTROL FOR A SPECIFIC LICENSE TO REQUEST THEIR RELEASE.

- C TYPE OR PRINT CLEARLY, COMPLETING ALL APPLICABLE SECTIONS.
- C ATTACH COPIES OF ANY DOCUMENTS RELATED TO THE UNDERLYING TRANSACTION (E.G., INVOICES, BILLS OF LADING, PHOTOCOPY OF THE ORIGINAL PAYMENT OR TRANSFER INSTRUCTIONS, ETC.).
- C ALL DOCUMENTS MUST BE IN ENGLISH OR INCLUDE AN ENGLISH TRANSLATION.
- C FAILURE TO PROVIDE ADEQUATE INFORMATION MAY RESULT IN YOUR APPLICATION BEING RETURNED WITHOUT ACTION.
- C MAIL THE COMPLETED AND SIGNED APPLICATION, TOGETHER WITH ACCOMPANYING DOCUMENTATION AND TWO COPIES OF THE ENTIRE SUBMISSION, TO THE OFFICE OF FOREIGN ASSETS CONTROL, 1500 PENNSYLVANIA AVENUE, NW-ANNEX, WASHINGTON, D.C. 20220, ATTN: BLOCKED FUNDS APPLICATION
- C APPLICATIONS WILL NOT BE ACCEPTED BY FAX.
- C UNLESS OTHERWISE PROVIDED, A COPY OF THIS APPLICATION AND ALL RELATED DOCUMENTATION MUST BE RETAINED BY THE APPLICANT FOR AT LEAST FIVE YEARS AFTER THE DATE OF THE UNDERLYING TRANSACTION.
- C UNLESS AUTHORIZED BY OFAC, APPLICATIONS MADE BY ANY OTHER METHOD WILL NOT BE CONSIDERED.

**TERMS AND CONDITIONS:**

- C GRANTED UNDER THE AUTHORITY OF 50 U.S.C. APP. § 5(B), 22 U.S.C § 2370(A), 22 U.S.C. § 6001, AND 31CFR. PARTS 501, AND THE RELEVANT PART OF 31 CFR PERTAINING TO THE LICENSE
- C AN APPLICATION THAT HAS BEEN APPROVED, SIGNED BY THE AUTHORIZING OFAC OFFICIAL, AND IMPRESSED WITH AN OFFICIAL OFAC SEAL IS A SPECIFIC LICENSE.
- C LICENSEES SHALL FURNISH AND MAKE AVAILABLE FOR INSPECTION ANY RELEVANT INFORMATION, RECORDS OR REPORTS REQUESTED BY THE SECRETARY OF THE TREASURY OR ANY DULY AUTHORIZED OFFICER OR AGENCY OF THE SECRETARY.
- C A SPECIFIC LICENSE IS NOT TRANSFERABLE, IS NON-PRECEDENTIAL AND IS SUBJECT TO THE PROVISIONS OF 31CFR PART 501, THE RELEVANT PART OF 31CFR (PART 500, 515, 535, 536, 538, 550, 575, 585, 586, 595, 597) PERTAINING TO THE SANCTIONS PROGRAM UNDER WHICH THE TRANSFER WAS BLOCKED AND ANY REGULATIONS OR RULINGS ISSUED PURSUANT THERETO; A LICENSE MAY BE REVOKED OR MODIFIED AT ANY TIME AT THE DISCRETION OF THE SECRETARY OF THE TREASURY ACTING DIRECTLY OR THROUGH THE AGENCY THROUGH WHICH THE LICENSE WAS ISSUED, OR ANY OTHER AGENCY DESIGNATED BY THE SECRETARY OF THE TREASURY. IF A SPECIFIC LICENSE WAS ISSUED AS A RESULT OF WILLFUL MISREPRESENTATION ON THE PART OF THE APPLICANT OR HIS AGENT, IT MAY, AT THE DISCRETION OF THE SECRETARY OF THE TREASURY, BE DECLARED VOID FROM THE DATE OF ITS ISSUANCE, OR FROM ANY OTHER DATE.
- C A SPECIFIC LICENSE DOES NOT EXCUSE COMPLIANCE WITH ANY LAW OR REGULATION ADMINISTERED BY THE OFFICE OF FOREIGN ASSETS CONTROL OR ANOTHER AGENCY (INCLUDING REPORTING REQUIREMENTS) APPLICABLE TO THE TRANSACTIONS AND ACTIVITIES THEREIN LICENSED, NOR DOES IT RELEASE THE LICENSEES OR THIRD PARTIES FROM CIVIL OR CRIMINAL LIABILITY FOR VIOLATION OF ANY LAW OR REGULATION.
- C A SPECIFIC LICENSE IS ISSUED BY DIRECTION AND ON BEHALF OF THE SECRETARY OF THE TREASURY.
- C ATTENTION IS DIRECTED TO 19 U.S.C. §§ 1592 AND 1595A, 18 U.S.C. § 545, 18 U.S.C. § 1001, 50 U.S.C. APP. § 16, AND SECTION 701 ET SEQ (PENALTIES) OF THE RELEVANT PART OF 31CFR. PERTAINING TO THE ATTACHED LICENSE.

**WARNING!**

**MAKING FALSE OR MISLEADING STATEMENTS ON OR IN CONNECTION WITH THIS APPLICATION, ALTERING THE DETERMINATION, OR FORGING THE SIGNATURE OF THE AUTHORIZING OFFICIAL OR THE OFAC SEAL MAY CONSTITUTE SERIOUS CRIMINAL AND/OR CIVIL VIOLATIONS OF FEDERAL LAW AND MAY RESULT IN SUBSTANTIAL FINES**

**PAPERWORK REDUCTION ACT STATEMENT:** The paperwork requirement has been cleared under the Paperwork Reduction Act of 1985. The Office of Foreign Assets Control (OFAC) of the Department of the Treasury requires this information to be furnished pursuant to 31 CFR Part 501. The information collected will be used for U.S. Government to evaluate and process license applications submitted by applicants whose money has been blocked pursuant to OFAC sanctions. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act. The estimated burden associated with this collection of information is 30 minutes per respondent. 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, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220 and the Office of Management and Budget, Paperwork Reduction Project (OMB NUMBER WILL BE INSERTED HERE), 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.