



OFAC Compliance Series

Part I (of a five-part series)

Introduction: OFAC Compliance Obligations

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The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) administers and enforces sanctions based on U.S. foreign policy and national security goals against targeted individuals and entities. This includes entities and individuals such as foreign countries, regimes, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

OFAC acts under the President's wartime and national emergency authorities, along with powers granted by legislation, to impose controls on transactions and freeze assets. Many of the sanctions are based on international mandates and involve cooperation with allied governments.

Financial institutions are absolutely required to comply with the rules of OFAC and must scan their customer base and transactions for OFAC's lists of sanctioned countries, specially designated nationals, and blocked persons.

All U.S. persons, including U.S. banks, bank holding companies, and nonbank subsidiaries, must comply with OFAC's regulations. The regulations require banks to:

- Block accounts and other property of specified countries, entities, and individuals
- Prohibit or reject unlicensed trade and financial transactions with specified countries, entities, and individuals

The fundamental components to any compliance program include commitment from management, along with an understanding of the regulations, and understanding your risks so that you can implement adequate checks, balances, and controls.

It appears very simple; however, the large number of recent fines (recent fines are well over a billion dollars) prove that it isn't always as easy as it sounds. OFAC will assess penalties against financial institutions, private and public corporations, and even individuals. Recent victims of OFAC fines include Expedia (\$325,406), Stanley Black and Decker (\$1,869,144) and Standard Chartered Bank (\$657,040,033). All recent enforcement actions and penalties can be found on the [Treasury Department's website](#).

OFAC instructs organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States, U.S. persons, or using U.S.-origin goods or services, to utilize a risk-based methodology to compliance by developing, implementing, and regularly updating their OFAC compliance program. Each organization's program will vary depending on many components. The necessary components for a strong program are comprised of many moving and ever-changing parts, including the company's size and sophistication, products and services, customers and counterparties, and geographic locations. According to

recent Department of Justice (DOJ) and [OFAC guidance](#), each program should incorporate five essential components of compliance:

- Management Commitment
- Risk Assessment
- Internal Controls
- Testing and Auditing
- Training

Management Commitment

The commitment of senior management and the “tone at the top” is the most important factor in order to build a successful OFAC Compliance Program.

To demonstrate their commitment to the program senior management needs to:

- Review and approve the organization’s OFAC compliance program
- Designate and empower the OFAC Compliance Officer with sufficient authority to effectively control the organization’s risk
- Ensure there are direct reporting lines between the OFAC Compliance Officer and senior management
- Ensure the OFAC compliance officer has the proper experience based on the risk level of the institution
- Provide the OFAC Officer with sufficient staffing, tools (including technology software and systems), and training in order to fulfill their job obligations

Culture of Compliance: Senior Management must promote a “culture of compliance” throughout the organization that includes obvious empowered support of:

- A process for personnel to report sanctions-related misconduct without fear of reprisal
- Messages that action will be taken to discourage misconduct and prohibited activities, and highlighting the potential repercussions of non-compliance with OFAC sanctions
- The OFAC compliance program that will have oversight over the actions of the entire organization, including but not limited to senior management, for the purposes of compliance with OFAC sanctions

In our multi-part series that will follow, we will cover the other necessary components along with tips for an effective OFAC compliance program that will include risk assessment methodology, risk assessment structure, operational controls (updates and sensitivity testing), independent audits, model validations, and remediation. Stay tuned...