



Protecting Our National Security: The Critical Nature of OFAC Compliance for Money Service Businesses

A few months ago, an individual walked into a large Money Service Business (MSB) and paid cash to send a wire overseas. Because the amount was small, the MSB did not obtain additional identifying information from the remitter. When the remitter's name was run against OFAC's Specially Designated Nationals and Blocked Persons list, it was an exact match to that of a Specially Designated Global Terrorist. In addition, the beneficiary was located in the country where the terrorist was last known to be. By the time the MSB ran its OFAC scan on the name, the remitter was no longer in the office. The MSB attempted several times to contact the remitter to obtain additional information which would have either definitively identified him as the terrorist or cleared him, but the MSB waited several months before contacting OFAC. As it turns out, the remitter was in fact a terrorist target and his funds should have been blocked immediately. The MSB now faces possible civil penalties for its negligence, and an important lead in the fight against terrorism was lost.

The Importance of OFAC Compliance

The above scenario illustrates a number of key points for MSBs to keep in mind:

1) MSBs cannot ignore their OFAC compliance responsibilities.

MSBs are an important alternative to traditional banking institutions and may be used by terrorists and narcotics traffickers to transfer money for nefarious purposes. If MSBs neglect to adopt procedures for screening transactions, this creates an available means for criminals to move money and threatens U.S. national security.

2) It is illegal to facilitate a money transfer to an SDN, regardless of the amount of the transfer.

Contrary to a common misconception, the OFAC regulations do not contain an exception for de minimis transactions. An MSB may be penalized for processing a transaction of any amount if a Specially Designated National or Blocked Person (SDN) is a party to the transaction. By interdicting and reporting all transactions involving sanctions targets, regardless of the amount, you may well prevent a terrorist act or other activity that threatens to undermine U.S. national security and foreign policy objectives.

3) OFAC recommends that MSBs collect all information on the remitter and the beneficiary before the remitter leaves the office.

To determine if a party to a transaction is on OFAC's SDN list, the MSB should collect all necessary information from the remitter *before* he or she leaves the office. This "know your customer" principle entails asking for documentation proving the identity of your customer in order to compare it to the individuals and entities on the SDN list. If the MSB does not validate the identity and contact information of the remitter before he or she leaves the office, it may be unable to obtain the information at a later time. This will make it impossible to determine whether or not there is a true match to the list and delay notification of law enforcement when a criminal is involved.

4) When an MSB discovers that an SDN is involved in a funds transfer, OFAC should be notified immediately.

It is absolutely critical that an MSB call OFAC if it determines that an SDN is originating or receiving a funds transfer. Knowing the exact location of a known terrorist or narcotics trafficker is valuable information for law enforcement. MSBs have a responsibility not to let the information become outdated!

What is OFAC?

The Office of Foreign Assets Control (OFAC) is an office of the U.S. Department of the Treasury. OFAC is empowered by the President to administer and enforce the U.S. government's sanctions programs. These programs include both country sanctions, such as Cuba, Iran, and Sudan, as well as sanctions placed on individuals and entities whose names are placed on the Specially Designated Nationals and Blocked Persons (SDN) list. See www.treas.gov/ofac for the most recent version of the SDN list and country sanctions program brochures.

Economic sanctions are used by the U.S. government to prevent targeted countries, entities, and individuals from, among other things, accessing the U.S. financial system for purposes that are contrary to U.S. foreign policy and national security objectives.

Specially Designated Nationals and Blocked Persons List

OFAC and the Department of State have officially "designated" numerous foreign agents and front organizations, as well as terrorists, terrorist organizations, and narcotics traffickers. The designated persons and entities are identified on OFAC's SDN list, which contains over 5,000 variations on names of individuals, governmental entities, companies, and merchant vessels located around the world. To ensure that illicit transactions involving targeted countries and SDNs are not processed, many U.S. banks and corporations are using sophisticated "interdiction" software, developed by the private sector, to flag questionable transactions for review. If such software flags an item as a potential match to OFAC's SDN list, certain "due diligence" steps outlined in the next section of this brochure should be taken to verify whether it is an actual match before contacting OFAC or taking action with regard to the match.

How to Determine if You Have an Exact Match to the SDN List

Interdiction software is a tool to help identify potential matches with OFAC's SDN list. Inevitably, there will be many "false positives" with the use of this software. Therefore, certain "due diligence" steps should be taken to ensure that a "hit" is a "good hit," i.e., to determine whether an individual or entity on your payment instructions is on the SDN list. The following is a guide on how to determine if you have a "good hit" when evaluating potential matches against the SDN list:

1. Is the "hit" or "match" listed on the payment instructions against OFAC's SDN list or targeted countries, or is it "hitting" for some other reason (i.e., Commerce 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 tell what the hit is?

- If the name is hitting against OFAC's SDN list or targeted countries, continue to Step 2 below.
- If it is hitting for some other reason, you should contact the "keeper" of whichever other list the match is hitting against. For questions about: (1) 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, (2) The FBI's Most Wanted List or any other FBI-issued watch list, please see the Federal Bureau of Investigation's website at www.fbi.gov/contact/fo/fo.htm, (3) The Debarred Parties List, please contact the Office of Defense Trade Controls at the U.S. Department of State, 202-663-2700, or (4) The Bank Secrecy Act and the USA PATRIOT Act, please contact the Financial Crimes Enforcement Network (FinCEN) at 1-800-949-2732.
- If you are unsure whom to contact, please contact the provider of the interdiction software that told you there was a hit.
- If you cannot tell what the hit is, you should contact the provider of the interdiction software which told

you there was a hit.

2. Now that you have established that the hit is against OFAC's SDN list or targeted countries, you must evaluate the quality of the hit. Compare the name of the individual or entity on your payment instructions with the name on the SDN list. Is the name on the SDN list a vessel or a company rather than an individual (or vice-versa)? Is the name on the SDN list a male's name whereas the person on your payment instructions is a female?

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

3. How much of the SDN's name is matching against the name on your payment instructions? Is only one of two or more names matching (i.e., just the last name or just the first name)?

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

4. Compare the complete SDN entry with all of the information you have on the matching name on your payment instructions. 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 on your payment instructions?

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

5. Are there important similarities or exact matches between the information provided by the remitter and OFAC's SDN entry?

- 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 allowing this person to do business in the United States would violate any of the Regulations, you should call the hotline and explain this knowledge or belief.**

Putting "Due Diligence" into Practice

Determining whether or not an individual or entity is on the SDN list requires collecting as much information as possible and performing a comparison between the parties on your payment instructions and the individuals and entities on the SDN list. The following is an example of how an MSB might approach "due diligence."

An individual enters an MSB office intending to send a \$200.00 funds transfer to an individual in Colombia. He promptly prepares the following payment instructions:

Payment Order	
<u>Originator/By-Order Party:</u>	
Francisco Perdomo; 12345 Main Street, Anywhere Town, US 11111; Phone Number: (122) 456-7890	
<u>Account-With Institution:</u>	
Banco Agrario de Colombia; Bogota, Colombia	
<u>Beneficiary:</u>	
Eugenio Menezes; Carrera 0, 12-34, Bogota, Colombia	

When the above transaction data is run through the MSB's interdiction software, the employee sees the following alerts:

- ✓ The by-order party, Francisco Perdomo, is a potential match to Eugenio Vargas Perdomo.
- ✓ The beneficiary, Eugenio Menezes, is a potential match to Francisco Dorneles de Menezes.

With this information flagged, your staff must now determine whether the individuals involved in this transaction are actually the individuals on the SDN list. Have you complied with the requirement to "know your customer?" Did you obtain valid identification on Francisco Perdomo when he walked into your office? Did he furnish a valid driver's license, passport, visa or other form of I.D.? If you did not ask these questions, then you may have "missed the boat" in exercising your due diligence with respect to OFAC compliance.

What if the actual person who came into your office was Eugenio Vargas Perdomo. On the SDN list, Mr. Perdomo is a Specially Designated Narcotics Trafficker Kingpin (SDNTK) located in Colombia. The U.S. Government has identified his date of birth to be November 19, 1969, his place of birth to be in Colombia, and his cedula number as 17344616. (A cedula number is the Colombian equivalent of a U.S. social security number.) Additionally, Mr. Perdomo uses the alias Francisco Dorneles De Menezes. There are enough similarities between the names on your payment instructions, which are a combination of the SDN's name and alias, and the individual on the SDN list to merit collecting much more information from your customer and calling the OFAC Hotline. You should compare dates of birth, places of birth, and other identifier information to be sure that your customer and any other individuals on the payment instructions are not on the OFAC list.

Contacting OFAC

If you have any questions regarding OFAC compliance, please visit our website:

<http://www.treas.gov/ofac>

Or contact us via one of the following:

Compliance Hotline: 800.540.6322

Facsimile: 202.622.2426

e-Hotline (for wire transfers only): ofachotline@do.treas.gov

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