



As part of NCUA's responsibility to ensure federally insured credit unions comply with applicable laws and regulations, we have developed the attached checklist which an examiner may use in documenting the review of the credit union's compliance with the OFAC regulations. I am providing this checklist to you for your information.

Sincerely,

*/s/*

Dennis Dollar  
Chairman

Type "X" when complete



## OFFICE OF FOREIGN ASSETS CONTROL REGULATORY COMPLIANCE

OFFICE OF FOREIGN ASSETS CONTROL REGULATORY COMPLIANCE		
INTRODUCTION AND PURPOSE		
APPLICABILITY		
PENALTIES		
RECORD RETENTION REQUIREMENTS		
Yes/No		COMMENTS
1. Does the credit union have policies and procedures for complying with OFAC regulations and the various laws OFAC is responsible for administering.		
2. Has the credit union designated a person to be responsible for overseeing compliance with the OFAC regulations and any blocked funds.		
3. Does the credit union have a current listing of prohibited countries, organizations, and individuals?		
4. Does the credit union have a person who is responsible for maintaining a current list of prohibited countries, organizations, and individuals?		
5. Does the credit union compare new accounts with the OFAC prohibited listing ?		
6. Does the credit union regularly compare established accounts and member transactions with the prohibited OFAC listing ?		
7. Does the credit union block or freeze the accounts and transactions that are found to match the prohibited OFAC listing?		
8. Did the credit union report the blocked or rejected accounts to OFAC within 10 days?		
9. Did the credit union submit an annual report of the blocked property by September 30?		
10. Does the credit union have an OFAC compliance audit at least annually?		

**Cell: A5**

**Comment:** The Office of Foreign Asset Control, within the Department of Treasury, is responsible for administering a series of laws that impose economic sanctions against hostile targeted foreign countries and their agents, terrorism sponsoring organizations, international narcotics traffickers and specially designated nationals. The economic sanctions are necessary to further U.S. foreign policy and national security. NCUA is responsible for determining that credit unions comply with the OFAC regulations.

**Cell: A6**

**Comment:** Credit Unions are required to block or "freeze" the assets, funds transfers, and all transactions of all designated countries and their agents, specially designated terrorists, foreign terrorist organizations, specially designated narcotics traffickers and blocked persons. Incoming transfers may be rejected or returned.

The credit union must report all blockings and or rejections to the Office of Foreign Asset Control within 10 days of the occurrence.

The credit union must file a comprehensive report on blocked property held as of June 30, by September 30, each year. (Form TDF 90-22.50)

A credit union involved in litigation, arbitration, or other binding alternative dispute resolution proceedings regarding blocked property must provide notice and submit copies of all documentation to the OFAC Chief Counsel within 10 days of their filing.

**Cell: A7**

**Comment:** Penalties vary depending on the specific law which is violated. However, OFAC has the authority to impose corporate or personal penalties up to \$1 million and 12 years in jail, civil penalties up to \$250,000 per incident, and forfeiture of funds involved in the violation.

OFAC will consider mitigating factors.

Criminal penalties may also be applicable.

**Cell: A8**

**Comment:** OFAC requires the retention of all reports and blocked or rejected transaction records for five years.

**Cell: A10**

**Comment:** Part 748 of NCUA's Rules and Regulations requires a credit union to have a Bank Secrecy Act compliance program and procedures. Although there is no specific requirement for a policy for compliance with OFAC regulations, the credit union must comply with the regulations. These requirements may be a part of the Bank Secrecy Act compliance policy.

The OFAC laws include:

- Trading with the Enemy Act
- International Emergency Economic Powers Act
- Iraqi Sanctions Act
- United Nations Participation Act
- International Security and Development Cooperation Act
- The Cuban Democracy Act

The Cuban Liberty and Democratic Solidarity Act  
The Antiterrorism and Effective Death Penalty Act  
The Foreign Narcotics Kingpin Designation Act

Provision of these laws can be found at [www.treas.gov/ofac](http://www.treas.gov/ofac)

**Cell:** A11

**Comment:** NCUA:

The credit union should have a compliance officer or someone appointed to be responsible for development of policy and oversight of its implementation. This person should be held accountable for an effective program.

**Cell:** A12

**Comment:** The credit union should frequently update the list of prohibited sources. Regulatory Alert 01-RA-12 advised them to check the OFAC website ([www.treas.gov/ofac](http://www.treas.gov/ofac)) or phone 1-800-540-6322.

**Cell:** A13

**Comment:** Is someone specifically assigned the responsibility for checking the listing from OFAC on a daily basis and are they documenting their checks?

**Cell:** A14

**Comment:** The credit union should compare new accounts with the prohibited listing. The credit union may open the account, but the funds should immediately be blocked so that no withdrawals can be made. In some cases, it is appropriate to reject the funds. Those circumstances can be found for each law on the ofac website.

The Names of all parties to a transaction should be checked, including:

- Beneficiaries
- Collateral Owners
- Guarantors/Cosigners
- Receiving Parties
- Sending Parties

**Cell:** A15

**Comment:** Every type of transaction should be reviewed for compliance including, without limitation, the following:

- share draft accounts and share accounts of all types:
- Loans
- Lines of credit
- Letters of credit
- Safety deposit boxes
- Wire transfers
- ACH transfers
- Currency exchanges
- Depositing and cashing checks
- Purchase of money orders or traveler's checks
- Loan payments
- Guarantors and collateral owners
- Trust accounts
- Credit Cards

Large credit unions should have special software which can interdict prohibited transactions.

**Cell:** A16

**Comment:** Has the credit union identified any accounts or transactions which match the prohibited listing? If so did the credit

union immediately block or reject the transaction as required?

**Cell:** A17

**Comment:** NCUA:

The credit union is required to report the following information to OFAC as soon as possible but no later than 10 days after the occurrence. The information required is: owner or account party, the property or amount of funds, the location, any existing or new account number or similar reference necessary to identify the property, actual value, the date it was blocked, a photocopy of the payment or transfer instructions, the name and address of the holder, the name, address and phone number of the contact person.

Reports on rejected funds also must be filed in 10 days and include: the name and address of the transferee financial institution, the date and amount of the transfer, a photocopy of the payment or transfer instructions received, the basis for the rejection, and the name and telephone number of a contact person.

**Cell:** A18

**Comment:** NCUA:

The annual report for the period ending June 30 should be submitted by Sept. 30. OFAC form TDF 90-22.50 may be used.

**Cell:** A19

**Comment:** NCUA:

Does the credit union internal audit staff or an outside auditor conduct an OFAC compliance audit annually?