



# OFAC: This Means You

OFAC is a four-letter acronym for the Office of Foreign Assets Control, a powerful department of the US Treasury that administers and enforces economic and trade sanctions. These can be based on US foreign policy and national security goals but can also be based on United Nations' and other international mandates. They are directed towards targeted countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction and other threats to the national security, foreign policy or economy of the United States. OFAC can act under Presidential national emergency powers and legislation to impose controls on transactions and freeze assets under US jurisdiction.

Mission and authorities aside, understanding OFAC is important because of its power to levy significant criminal and civil penalties. Depending on the program, criminal fines range from \$50,000 to \$10,000,000 and imprisonment from 10 to 30 years. Civil penalties range from \$11,000 to \$1,000,000 for each violation. There is the perception among some that OFAC compliance is a matter for the ever-growing compliance departments of banks. This is most definitely not the case.

OFAC has jurisdiction over all US persons, a very broad definition including citizens and resident aliens located anywhere in the world and individuals and entities located in the United States. OFAC also covers corporations organized under US law along with foreign corporations and companies physically located in the United States. Foreign entities that do business in the US must comply with OFAC sanctions and rules including those governing transactions such as a wire transfer through New York.

Given OFAC's power and scope it is important for those in the treasury and payments community to be aware of OFAC requirements. In particular, corporate treasuries should have clear policies and procedures for OFAC compliance.



Following are four steps that treasurers can take towards this goal:

1. All corporate treasury staff and others involved in payments or trade activities should be made aware of OFAC requirements. Companies should encourage their people to question transactions that could appear to be in violation of OFAC rulings.
2. Make sure that your banks are doing proper OFAC screening on all transactions, not just international wires. This may not get you off the hook if a violation does occur, but it will certainly help to avoid a potential violation and may help minimize liability if OFAC determines that there has been a problem.
  - a. Confirm that the bank has an OFAC screening program in place to ensure that transactions involving entities on the Specially Designated Nationals (SDN) list are identified and suspended.
  - b. What search parameters does the bank, or its compliance vendor, use to check against the SDN list? Given the international variances in spelling, exact matches are not enough. Usama and Osama are the same name so some form of phonetic matching is desirable.
  - c. How does the bank check prospective name matches? Are there written rules and procedures for determining that a potential match is a true hit and how often are the rules and procedures reviewed and updated?
  - d. How often does the bank review and update their SDN list? OFAC typically updates at least monthly.
  - e. Has your bank ever been involved in an OFAC investigation? If so, what was the outcome?
3. Perform your own due diligence on any business transaction or M&A activity that your company is engaged in with new counterparties or those located in risky areas. Check the names of potential business partners against the OFAC list of SDNs, which is available without charge at [treasury.gov](https://www.treasury.gov).
4. Review your counterparties periodically. Sanctions have become increasingly popular and businesses change. Missing the list of SDNs last year does not guarantee missing the list this year.



As businesses globalize and sanctions expand the opportunity for OFAC violations will increase. Most banks do a good job of keeping themselves and their clients out of trouble. But good business practice suggests that given the impact of an OFAC violation, good corporate diligence is a must.

## ABOUT TREASURY ALLIANCE GROUP LLC

Treasury Alliance Group consults with clients globally in the areas of treasury operations, banking, payments, technology and risk. With decades of experience our consultants deliver practical, realistic solutions that meet each client's unique requirements. We welcome the opportunity to discuss how our consulting can help meet your challenges. Contact us by email at [contact@treasuryalliance.com](mailto:contact@treasuryalliance.com) or call +1 630-717-9732.