

OFAC Compliance

OFAC Compliance is a set of measures and procedures aimed at ensuring compliance with economic and trade sanctions administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury. OFAC operates within the framework of implementing the foreign policy and national security objectives of the United States of America.

Office of Foreign Assets Control (OFAC)

OFAC is a key body of the U.S. government responsible for the development, implementation, and enforcement of economic sanctions against targeted foreign states and regimes, organizations, individuals, and sectors of the economy. The objectives of such sanctions may include countering terrorism, the proliferation of weapons of mass destruction, drug trafficking, human rights violations, as well as achieving other foreign policy goals. OFAC publishes and regularly updates various sanctions lists, the most well-known of which is the Specially Designated Nationals and Blocked Persons List (SDN List).

Key aspects of OFAC compliance

Compliance with OFAC requirements is mandatory for a wide range of individuals and organizations and includes the following key elements:

1. **Risk identification:** Companies and financial institutions must assess the risks of interacting with individuals, organizations, or jurisdictions under OFAC sanctions. This includes analyzing the client base, geography of operations, products, and services.
2. **Sanctions programs:** OFAC implements numerous different sanctions programs. They can be directed against specific countries (for example, Iran, North Korea, Cuba), as well as thematic (for example, combating terrorism, cybercrime, drug trafficking). Some programs provide for comprehensive embargoes, while others impose targeted restrictions on certain types of activities or sectors of the economy.
3. **Prohibition on transactions:** The main requirement of OFAC is the prohibition on conducting or participating in transactions with individuals, organizations, or countries from the sanctions lists, unless otherwise permitted by an OFAC license.
4. **Asset blocking:** Assets and property interests of persons included in the SDN List or other relevant lists, located under U.S. jurisdiction (or owned/controlled by U.S. persons), must be blocked. Such blockings must be reported to OFAC.
5. **Maintaining records and documentation:** Organizations are required to keep a

record of all actions taken within the framework of compliance with OFAC requirements and retain the relevant documentation for the established period (usually five years).

6. Development and implementation of a compliance program (Sanctions Compliance Program, SCP): OFAC strongly recommends organizations to develop and implement risk-based compliance programs. The key components of such a program are:
 - Support from management.
 - Regular risk assessment.
 - The presence of internal control (including client and transaction screening).
 - Conducting independent audits and program testing.
 - Staff training.

Subjects of OFAC regulation

OFAC requirements primarily apply to:

- U.S. persons: Including U.S. citizens (wherever they are located), U.S. permanent residents, legal entities registered in the U.S. (including their foreign branches), as well as any person physically located in the territory of the U.S.
- Foreign persons in certain cases: Through the mechanism of so-called "secondary sanctions," OFAC may impose restrictions on foreign persons (not U.S. persons) who engage in certain types of transactions with individuals or sectors of the economy under primary U.S. sanctions, even if these transactions have no direct connection to U.S. jurisdiction. Additionally, foreign financial institutions supporting significant transactions for certain sanctioned persons may face restrictions.

Consequences of violations

Violations of the OFAC sanctions regime may entail serious consequences, including:

- Large monetary fines: The amounts of fines can reach several million dollars for each violation.
- Criminal prosecution: In cases of intentional violations, criminal cases may be initiated, which could result in prison terms for individuals and even more significant fines for organizations.
- Reputational damage: Information about violations and OFAC fines often becomes public, which can cause significant harm to the company's reputation.
- Restrictions on conducting business: Including a ban on access to the U.S. financial system.

The significance in the international context



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In the context of the globalization of the economy and the strengthening role of the USA in the global financial system, OFAC compliance has become an integral part of the risk management system for most international companies and financial institutions. The complexity and frequency of changes in sanction programs require organizations to constantly monitor and adapt their compliance systems.

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