

The Process of Removal from the SDN List

OFAC

Individuals and organizations listed by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury in the Specially Designated Nationals and Blocked Persons List (*SDN List*) face serious economic and reputational consequences. However, there is an administrative process that allows for a request to be made for removal from this list. This material summarizes key information about this procedure, intended for the creation of an informational PDF file.

Fundamental Principles and Regulatory Framework

The procedure for removal from the SDN List is regulated, in particular, by Section 31 of the Code of Federal Regulations of the USA, Part 501.807 (31 C.F.R. § 501.807). OFAC reviews each request on an individual basis, carefully examining the submitted facts and circumstances.

Key Stages of the Delisting Process

1. **Definition of Grounds for Exclusion:** First of all, it is necessary to clearly understand on what grounds an individual or organization was included in the SDN List. After that, it is necessary to determine the presence of sufficient grounds for requesting exclusion.
2. **Preparation and Submission of a Petition (Request for Reconsideration):** The individual or organization (hereinafter referred to as the applicant) must submit a written request for reconsideration (petition for removal or request for reconsideration) to OFAC.
 - **Address for submission:** Requests are sent by email to OFAC.Reconsideration@treasury.gov. OFAC does not accept requests by phone.
 - **Main information to include in the petition:**
 - **Full name/designation of the applicant and contact information** (including email address).
 - **If the petition is submitted by an authorized representative** – their name and contact information.
 - **Date of inclusion in the SDN List.**
 - **A detailed description of the reasons why the applicant should be excluded from the list.** This includes arguments and evidence that the grounds for inclusion in the list are insufficient, or that the circumstances leading to inclusion are no longer relevant.
 - **Accompanying documentation:** All relevant evidence supporting the applicant's position should be attached to the petition. These may include legal arguments, financial documents, corporate changes, evidence of behavior change, etc.

3. Consideration of the OFAC Petition:
 - Confirmation of receipt: OFAC usually sends confirmation of receipt of a petition submitted via email within seven business days.
 - Request for additional information: During the review process, OFAC may send the applicant one or more questionnaires to obtain additional information or clarifications. OFAC strives to send the first questionnaire within 90 days from the date of receiving the petition, if such a need arises.
 - The possibility of hearings/interviews: The applicant has the right to request a meeting or interview with OFAC representatives. Although this is not a mandatory step, and OFAC may, at its discretion, refuse to hold a meeting before making a preliminary decision, such an opportunity exists.
4. Decision-Making: After a thorough review of the petition, accompanying documents, and any additional information, OFAC makes a written decision. This decision is based on an analysis of all submitted evidence and legal arguments.

Grounds for Removal from the SDN List

OFAC may decide to remove an individual or organization from the SDN List if there is sufficient evidence based on one or more of the following grounds:

- Mistaken Identity: If the applicant can prove that they are not the person or organization that OFAC intended to list.
- Change in Circumstances
- Positive change in behavior: The applicant has demonstrated a significant change in behavior that eliminates the initial causes for OFAC's concern.
- Loss of relevance of the grounds for inclusion in the list: The circumstances that served as the reason for inclusion in the list no longer exist. For example, cessation of activities that caused the sanctions, sale or disposal of assets related to sanctioned activities, withdrawal from the management of a sanctioned company.
- Organizational changes: In the case of legal entities, this may include a change of controlling shareholders to unauthorized persons, restructuring, the implementation of reliable compliance programs to prevent violations in the future.
- The death of an individual listed.
- Cooperation with authorities: In some cases, active cooperation with OFAC or other U.S. government agencies may be considered a factor in favor of exclusion.
- Court decision: In rare cases, a court decision may serve as a basis for exclusion from the list.

The Role of Legal Representatives

The process of removal from the SDN List is complex and requires a deep understanding of U.S. sanctions law and OFAC procedures. Engaging experienced lawyers specializing in sanctions issues is strongly recommended. Legal representatives can assist with:

- Analysis of the grounds for inclusion in the list and determination of the exclusion strategy.
- Collection of necessary evidence.
- Professional preparation of the petition and accompanying documents.
- Conducting communication with OFAC.
- Representation of the applicant's interests at possible hearings or interviews.

Deadlines for Consideration

The process of reviewing an exclusion request can be lengthy. There are no official strict deadlines, and the duration depends on numerous factors, including the complexity of the case, the completeness of the submitted information, the need for interagency consultations, and OFAC's workload. In practice, the review may take from several months to a year and a half or more.

Important Aspects and Possible Difficulties

- The burden of proof: The burden of proving that the grounds for being on the list are absent or no longer relevant lies with the applicant.
- Thoroughness of preparation: Incomplete or poorly prepared petitions can significantly slow down the process or result in rejection.
- Lack of guarantees: Submitting a petition does not guarantee automatic removal from the list. Each case is reviewed individually.
- The possibility of judicial appeal: In the case of OFAC's refusal to remove from the list, theoretically, there is a possibility to appeal this decision in court; however, it is a complex and costly process.

Statistics and Public Information on Exceptions

OFAC periodically publishes information about changes in the SDN List, including removals. However, detailed official statistics on the number of submitted petitions and the percentage of approved requests are not always easily accessible. OFAC states that each decision on removal is made after thorough and comprehensive consideration. Examples of successful removals are often associated with demonstrable changes in behavior, ownership structure, or the cessation of activities that led to the sanctions.

Conclusion

The process of removal from the OFAC SDN List is a complex legal procedure requiring thorough preparation, presentation of compelling evidence, and, as a rule, the involvement of qualified legal assistance. Applicants must demonstrate to OFAC that either the initial inclusion in the list was erroneous or that significant changes have occurred, eliminating the concerns that served as the basis for the sanctions. This information is for informational purposes only and does not constitute legal advice.