



OFAC Compliance: A Perspective for Small Credit Unions

“Hello. You’ve reached the Office of Foreign Assets Control, may I help you?”

“Yes. I’m the BSA/AML/Compliance Officer at a Main Street Federal Credit Union. We just received notice that OFAC froze the funds of one of our members because of a possible violation of OFAC regulations. Our member is very angry and is threatening to terminate their relationship with us. How can we get this money back to our member so that we can process his payment now?”

“It sounds like your corporate credit union froze, or ‘blocked’ the funds due to a possible interest in the funds of a person subject OFAC sanctions. We don’t hold funds here at OFAC, but if we can discuss the details of the transaction, perhaps we can figure out what the sanctions issue is and the best way to resolve the matter. Can you tell me the payment details?”

“Well, it looks like my member’s business, Small Business U.S.A., was paying for widgets from Worldwide Foreign Company. Our member’s business is located in our town, but the beneficiary, Worldwide Foreign Company, is located in Damascus, Syria.”

“Okay. It sounds like this may be a commercial transaction involving Syria. OFAC sanctions significantly restrict trade, including the provision of banking services, involving Syria. This doesn’t explain everything, however, because transactions involving Syria generally would have simply required your corporate credit union to reject the transaction back to you. The fact that the funds were blocked or “frozen,” rather than rejected, would appear to indicate that the Government of Syria or some other specifically sanctioned person was involved. Did they say anything else in their response?”

“Yes. They mentioned something about the ownership of Worldwide Foreign Company. But nothing about that was listed on the wire! I was just sending the money for our member, he told our teller it was business he has done before!”

“Well, OFAC programs change frequently, and we update our Specially Designated Nationals (SDN) List often. Therefore, it’s possible that even if he conducted this business in the past, he might not be able to continue now because of changes to the Syria Program or the SDN List. It sounds like your corporate credit union conducted additional research into the Syrian entity and determined that it was 50% or more owned by a person on the SDN list. Therefore, the payment appears to have been blocked due to the underlying interest.”

“Well I didn’t know that! How would we have known? This member has been with us for years and nothing like this has ever happened before! We don’t get many international transactions, but this member has customers abroad and we have never had a problem with them.”

“Well in the future, there are a few things you can do to reduce the risk of this happening again. First, Syria is a high-risk country subject to a fairly extensive set of sanctions. So, when you have a member conducting business there, you want to make sure that the transaction falls under an exception to those sanctions. Otherwise, it should be rejected or blocked as appropriate, and your credit union should file a Report of a Rejected or Blocked Transaction with OFAC. Second, as in this case, the ownership of the foreign entity may be important. In the future, particularly in a high risk country like Syria, you should ask your member about the ownership of their business partners, or try to conduct due diligence yourself, online or in partnership with your member. From Worldwide Foreign Company’s website, it looks like its

majority owner is an individual on our SDN list. That's likely why the corporate credit union blocked the transaction."

"We certainly don't want to do business with any organization like that! But, what now? How can our member get his money back?"

"Your member can apply to OFAC for a license to have the blocked funds released from the corporate credit union and returned to your member. The application is available on [OFAC's website](#), and should include all relevant information, including a complete explanation for the underlying transaction. We also recommend including the original payment instructions. These applications take a while to process, so your member should send the application as soon as possible. I can't speak to the likelihood that OFAC would grant such a license given that the funds were intended for a blocked entity majority owned by an SDN, but the member should include any information it believes is relevant to this determination in the application."

"That sounds like a big deal! How can I make sure this is not an issue in the future? I can't have these issues taking up my whole day — I've got a lot on my plate."

"First, educate yourself about a credit union's responsibilities regarding OFAC sanctions and begin to think about what sort of OFAC compliance procedures your credit union can put into place. Our SDN List is available on our website at www.treasury.gov/OFAC. Second, after you have reviewed the OFAC information on our website, particularly the country-specific program pages, begin to implement a compliance program. Call our OFAC Compliance Hotline at (800) 540-6322 if you have questions or email us at OFAC_Feedback@treasury.gov. We're available to assist your institution both with developing compliance strategies and with specific transactions. Finally, once you know the basics, it should be a matter of staying up-to-date on our programs and reaching out to OFAC when you have a payment that causes concern."

Does this situation sound familiar to you, or are you concerned that your institution could end up in the situation like the one described above? Read on for more details about U.S. sanctions programs and information on protecting your members and preventing violations.

Who is OFAC?

OFAC stands for the Office of Foreign Assets Control within the U.S. Department of the Treasury. It administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign 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 U.S. OFAC is sometimes better known to smaller institutions by the dreaded "OFAC alert," when a transaction trips in the institution's filter due to a potential match to an OFAC sanctioned country, individual or entity. Economic sanctions are powerful weapons in the fight to safeguard our economy and security, but their success requires the active participation and support of every financial institution. OFAC issues general licenses, either in its regulations or via its Web site, authorizing the performance of certain categories of transactions. OFAC also issues specific licenses on a case-by-case basis under certain limited situations and conditions. Applications for the release of blocked funds are accessible through OFAC's website at www.treasury.gov/OFAC.

Can individuals be targeted, too?

Yes, the Specially Designated Nationals (SDN) List published by OFAC includes individuals and entities. It is a list of individuals and entities that are blocked pursuant to various sanctions programs implemented by OFAC. The list can be accessed online at www.treasury.gov/ofac or sdnsearch.ofac.treas.gov/. Persons whose property and interests in property are blocked pursuant to an Executive Order, statute or regulations administered by OFAC are considered to have an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50% or greater interest. The property and interests in property of such an entity are blocked regardless of whether the entity itself is named on OFAC's list of SDNs.

What happened to the funds in the above example? Why were they held by the corporate credit union?

The funds blocked by the corporate credit union are likely placed in a “blocked account” maintained by that institution. A blocked account is a separate interest-bearing account that is established by a U.S. financial institution whenever property is blocked under a U.S. sanctions program. Interest is supposed to be paid at a “commercially reasonable” rate. Blocked transactions must be reported to OFAC within 10 days. In addition, all blocked property, including blocked accounts, must be reported to OFAC on an annual basis, by September 30 of each year.

When do I need to worry about OFAC? What obligations does OFAC impose on small credit unions?

For a small credit union, every transaction is technically subject to OFAC, even when it is unlikely to contain an OFAC issue. In general, all U.S. citizens and permanent resident aliens regardless of where they are located, all individuals and entities located within the U.S., and all U.S. incorporated entities and their foreign branches, are subject to the prohibitions in OFAC sanctions programs. Foreign individuals and entities must also comply with OFAC sanctions under certain circumstances, including when they are routing transactions to or through the United States. In the cases of certain programs, the foreign subsidiaries of U.S. companies also must comply. Certain programs also require foreign persons dealing in U.S. origin goods to comply.

OFAC regulations do not require your credit union to establish any particular set of internal compliance procedures. However, there are potentially serious consequences for financial institutions that violate an OFAC sanctions program. So, institutions should manage their risk when developing an OFAC compliance program. An institution may determine that certain member groups or business lines are low risk or high risk, and adjust its compliance program accordingly.

What happens if my credit union violates an OFAC program or conducts a transaction with a blocked entity?

Depending on the program, criminal penalties administered by the Department of Justice for willful violations can include fines ranging up to \$20 million and imprisonment of up to 30 years for each count. OFAC can also impose civil monetary penalties for violations, even where the violations are inadvertent. OFAC considers a number of factors prior to assessing a penalty, laid out in its [Enforcement Guidelines](#).

- Trading With the Enemy Act: up to \$65,000 for each violation
- International Emergency Economic Powers Act: up to \$250,000 or twice the amount of the underlying transaction for each violation
- Foreign Narcotics Kingpin Designation Act: up to \$1,075,000 for each violation.

This is just one of my many responsibilities and I'm not sure where to go for help. Does OFAC have training or resources?

Articles like this are a great place to start and following are additional resources:

- Compliance Hotline: 1-800-540-6322 or 202-622-2492, or via email at OFAC_Feedback@treasury.gov - is staffed weekdays. Compliance officers are available to provide informal guidance regarding compliance matters and license applications.
- Licensing Office: 202-622-2480 or OFACLicensing@treasury.gov.
- Training: OFAC conducts training and outreach nationwide (see dates on the OFAC website).
- Website: www.treasury.gov/OFAC – the site contains Frequently Asked Questions that address many concerns and includes guidance for exporters seeking assistance with a potential line of business.