



Part four: OFAC Operational Controls

During Parts 1 through 3 of our OFAC series, we reviewed program basics, building your risk assessment methodology and tips and tricks for your risk assessment. Now, let's talk about internal controls.

Controls are what lower your inherent risk of an OFAC violation at your organization, so it is important to understand what additional tools you might have or need to mitigate that risk.

Controls might include infrastructure, detection tools and software, training, and independent audits. And of course, all of this needs to follow a risk-based approach. Your OFAC program and controls should also be tempered by the organization's risk appetite and available resources to avoid both regulatory and OFAC violations, and your program's policies and procedures must match or exceed the risk.

Management Commitment

In order for management to demonstrate their commitment to the program, they will need to designate and empower an OFAC Compliance Officer. They will need to ensure that the OFAC Compliance Officer has the proper experience based on the risk level of the organization. This OFAC Officer will need to maintain their knowledge level by keeping up with current OFAC events.

Management has to provide the OFAC Officer with sufficient tools (controls, staffing, and training) in order to fulfill their job obligations.

Evaluating Controls

As we mentioned in Part III, a fundamental element of a sound OFAC program is the organization's assessment of its specific product lines, customer base, and nature of transactions and identification of the higher-risk areas for potential OFAC sanctions risk.

Once the organization has identified its areas with higher OFAC risk, it can develop appropriate controls (policies, procedures, and processes) to address any associated risks. When risk is appropriately identified, it can be promptly mitigated, and you can protect your organization from being abused by criminals.

As OFAC sanctions can reach into virtually all areas of its operations, organizations should consider all types of transactions, products, and services when evaluating and developing their controls.

It is important when you are evaluating your controls to also remember what's covered by OFAC Country Sanctions Programs and IS *NOT* on the OFAC lists. OFAC administers a number of different sanctions programs. The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals. Country Sanctions are economic embargoes, and each country's sanction program is unique. Because OFAC's programs are dynamic, it is important to check OFAC's website regularly. Ensuring that your sanctions lists are current, and you have complete information regarding the latest relevant program restrictions, is both a best practice and a critical part of your due diligence responsibility.

Reviewing and understanding recent enforcement actions can also give you insight into OFAC's priorities and expectations and help identify best practices that you can incorporate into your processes and procedures.

In your evaluation of existing OFAC controls, an organization's task is to evaluate the effectiveness of the controls at mitigating the inherent risk. At a minimum, the results of the organization's most recent regulatory examination, audit/independent testing results, and compliance testing results should be assessed. You should always strive to remain cognizant of what potential deficiencies or inadequacies can be identified by independent examinations, so you can avoid regulatory penalties.

Other Considerations When Evaluating Controls:

- Has your organization created any new products and services or entered into any new markets?
- Do you have any new processing, core, or application systems that are scanned or should be scanned for OFAC?
- Do you have new OFAC scanning tools, or have current tools had any major changes?
- Identify all OFAC risk factors. Include all high-risk OFAC locations and departments transactions, and customers.

Procedures

Each department and/or area of your organization that is touched by OFAC should have procedures in place documenting the OFAC process.

Procedures should include:

- What is being scanned for OFAC?
- What tools are being used?
- How are updates to the systems being conducted?

- How are updates tested?
- What do they do if they get a false positive?
- What do they do if they get a match?
- How are escalations handled?

How often do you review and update your OFAC procedures?

- Is it once a year or some other scheduled periodic basis?
- Do you include it with your AML risk assessment and update them together?

Also, the organization should not be operating in silos. Even if each area is responsible for their own compliance, the OFAC Officer is ultimately responsible and should have the final approval on all OFAC procedures and processes. The OFAC Officer should maintain copies of all department OFAC procedures and processes.

Best Practice: Maintain an OFAC Risk Controls/Mitigation chart.

Create a chart/table that lists all the departments with their OFAC risk factors. For each department or area, incorporate separate columns that list inherent risk, types of activity conducted that is applicable to OFAC, any change factors, mitigation and controls, along with any tools used for mitigation.

OFAC Updates

A major OFAC program weakness that might lead to a regulatory investigation and then lead to an OFAC fine is the reliance on an old not updated OFAC list. The [SDN list](#) is frequently updated. There is no scheduled timetable, but rather names are added or removed by OFAC when deemed necessary and appropriate.

It is important to have procedures and processes in order to:

- Determine how updates are received.
- Determine how soon after OFAC makes the update is it received by the organization.
- Designate who is responsible for the update. (Vendor or an internal staff member?)
- Document how the OFAC tools are being updated by the new list.
- Document the testing process after the update is complete to ensure the update was successful.
- Document who conducts the testing. Are there conflicts? Meaning is the same person responsible for both the update and the testing to ensure the update was successful.

Training

If your staff is trained properly to understand the importance and relevance of OFAC and OFAC sanctions, and the organization's role, along with possible consequences – that goes a long way in assisting compliance at your organization.

Many organizations have automated or online compliance training classes that each employee at the organization has to take every year that usually include a session on OFAC. What is often missing are sessions or training on the practical applications surrounding the OFAC function.

For example:

- Sessions provided to the front-line staff that show them how to use their tools for OFAC scanning,
- Or sessions for the loan side that explains the when and how the OFAC scans need to be completed.
- Or sessions on what to do and how to report to the OFAC officer when you have a possible or positive match.
- For IT, back-shop, or sanctions staff, additional training might include how to run audit scans, how to conduct an update, or how to test that an update was successful.

These practical training sessions should be repeated as often as the online classes and are just as critical to the success of your OFAC program.

Documentation

You will also want to document what types of OFAC training is conducted at the organization. How frequent is the training, and what formats are used? Is this training internal or external, and what additional training is provided for key personnel?

We have often heard, "if it's not documented, you didn't do it."

Audit tracking

Audit tracking is very important, especially to auditors and examiners. If one of your listed controls is that a scan is conducted prior to a transaction being conducted and you don't have an audit trail, how do you prove that it was conducted? Audit tracking should be detailed, and historical records saved and easy to data mine if necessary.

Conclusion

Once your organization has identified its areas with higher OFAC risk, it can now develop appropriate policies, procedures, and processes to address any associated risks. Strong controls will absolutely help to lower your residual risk.

Independent evaluations are key to identifying systemic or unknown risks and also to ensure your controls can be relied on.

Our next installment in the OFAC Compliance Series will be OFAC Independent Audits and Evaluations. Stay tuned and [follow us](#) to get regular updates.

Arc-Serv can help you build both your OFAC Risk Assessment, Risk Assessment Methodology, and conduct OFAC Model Validations. [Contact us](#) to learn more.