

## Get Serious About OFAC Checking

By ADR Staff

All U.S. persons, including U.S. banks, vehicle dealers, and finance companies, must comply with the Office of Foreign Assets Control's (OFAC) regulations. In the past, dealers have not experienced significant oversight with respect to OFAC compliance. That situation may be changing. The federal banking agencies evaluate OFAC compliance systems to ensure that all banks subject to their supervision comply with the sanctions. In the current supervisory environment, banks are being required to ensure that accounts opened indirectly by third parties, such as vehicle dealers, meet similar compliance standards. As with Equal Credit Opportunity Act (ECOA) dealer markup compliance and Bank Secrecy Act (BSA) Anti-Money Laundering (AML) compliance, regulators are pressuring banks to strengthen OFAC compliance requirements in indirect lending agreements.

OFAC is an office of the U.S. Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against entities such as targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. The regulations administered by OFAC are therefore broader in scope than banking regulations and certain consumer protection regulations that target the financial system.

Dealers should develop and implement a written plan outlining policies, procedures, and processes based on a risk assessment of their business to ensure compliance with OFAC laws and regulations. If a dealership has a written BSA Customer Identification Plan (CIP), the OFAC compliance procedures may be incorporated into it or it may be a stand-alone document that is referenced by the CIP. At the heart of OFAC compliance is the requirement to ensure that a dealership does not engage in a transaction with an entity included on the Specially Designated Nationals (SDN) list. Entities included on the SDN list are suspected of being involved in terrorism, drug trafficking, or other activities impacting national security. An OFAC compliance plan will typically include:

- a. Procedures to review the SDN list to determine the presence or absence of a customer's name on the list;
- b. Procedures to document the results of the SDN search, such as printing and retaining the search result;
- c. Actions to take in the event a potential match is found;
- d. Procedures to train employees on OFAC compliance;
- e. Procedures to periodically test, review, and update the OFAC compliance process;
- f. Naming an individual in the organization as the primary OFAC compliance officer.

Even without bank "oversight," Oklahoma dealers are encouraged to take OFAC compliance seriously. Besides terrorist organizations and individuals, the SDN includes

international drug traffickers and Oklahoma's central location makes the state a natural crossroads for movement of illicit material. Dealerships located in the following Oklahoma counties – which are designated “High Intensity Drug Trafficking Areas” (HIDTAs) – may be at especially high risk for encountering foreign nationals involved in illegal drug activities:

- Cleveland
- Comanche
- Muskogee
- Oklahoma
- Sequoyah
- Tulsa

Additional information about OFAC compliance, including a link to the OFAC SDN search page, is available on the OIADA website at [www.e-oiada.com/compliancereference.html](http://www.e-oiada.com/compliancereference.html).