

# Global Business Club of Mid-Michigan Export 201: Export Controls—The Updates Government Regulations You Need to Know

Office of Foreign Assets Control (OFAC) Updates

MSU Henry Center for Executive Development

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- Appointed to Michigan District Export Council-West by U.S. Secretary of Commerce (Chair)
- Advisory Board of Michigan State University's Center for International Business Education and Research
- Co-Chair of the Global Business Club of Mid-Michigan
- Best Lawyer's in America (International Trade and Finance Law)
- Executive-in-Residence, Michigan State University – The Eli Broad College of Business, International Business Center
- *Michigan Lawyers Weekly Women in the Law 2013*

# U.S. Department of Treasury Overview

- Office of Foreign Assets Control (OFAC)
- Administers, and currently enforces in conjunction with the Office of Export Enforcement, economic and trade sanctions based on U.S.: (a) foreign policy; (b) national security goals; and (c) economic objectives
- Office of Foreign Assets Control Regulations (31 CFR Chapter V)

# U.S. Department of Treasury

- These economic and trade sanctions operate against:
  - Countries
  - Certain groups
  - Regimes
  - Entities, and
  - Persons

# Country and Subject Matter Controls

- OFAC acts under Presidential emergency powers, as well as other legislative authority
- OFAC regulations impose economic and trade controls on transactions and freeze foreign assets under U.S. jurisdiction
- You must always check the OFAC list of countries and restrictions before you export, even if no export license is required

# Types of Sanctions

## ■ Countries with:

- **Broad Sanctions:** Cuba, Iran, Sudan, Syria
- **Limited Sanctions:** Burma, North Korea (nearly comprehensive)
- **Regime Based Sanctions Examples:** Western Balkans, Belarus, Cote D'Ivoire, Dem. Republic of Congo, Lebanon, Liberia, Libya, Somalia, Ukraine, Zimbabwe

Note: The list of embargoed countries changes from time to time.

# List Based Sanctions

- List Based Sanctions Examples:
  - Counter Terrorism Sanctions
  - Counter Narcotics Trafficking Sanctions
  - Non Proliferation (WMD) Sanctions
  - Transnational Criminal Organizations
- For a list of OFAC Sanctions Programs see U.S. Department of Treasury website.

# Resource Center – Sanctions Programs and Information

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### Office of Foreign Assets Control - Sanctions Programs and Information

The Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury administers and enforces economic and trade sanctions based on US 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 United States.

#### Specially Designated Nationals and Blocked Persons List

- [Specially Designated Nationals List Page](#)
- [Foreign Sanctions Evaders List](#)
- [Search the SDN List](#)

#### News and Frequently Updated Content

OFAC updates its website on a regular basis. Information on the latest changes to OFAC's site can be found below.

- [OFAC Recent Actions](#)
- [Press Center](#)

#### Sanctions Programs and Country Information

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.

#### OFAC QUICK LINKS

- [Specially Designated Nationals \(SDN\) and Blocked Persons List](#)
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# Comprehensive Sanctions

## ■ Sanctions:

### ■ Generally Comprehensive:

- Applies to most goods, technology and services and generally prohibits exports (direct or indirect), imports (direct or indirect), brokering, financing or facilitating trade and attempts to evade/avoid the sanctions
- Cuba
- Iran
- Sudan
- Syria

# Partial or Limited Sanctions

## II Sanctions:

### ■ Examples of Limited:

- Burma
  - jade or rubies mined or extracted from Burma and jewelry containing them
- North Korea (nearly comprehensive)
  - restricts import of North Korean origin goods (exports licensed by BIS)
- Diamond Trading
  - import and export of rough diamonds without proper certification

# Regime Based Sanctions

## II Sanctions:

### ■ Regime Based Examples

- Balkans
  - blocks property and persons who threaten international stabilization efforts in Western Balkans
- Belarus
  - blocks property or persons undermining democratic processes or in institutions aimed at corrupt members of the Belarus government
- Cote D'Ivoire
  - among other things, blocks property of those who threaten peace and national reconciliation efforts and contribute to the conflict there
- Dem. Republic of Congo
  - blocks property of persons contributing to the conflict there
- Ukraine
  - blocks property of those who undermine democratic processes and institutions in Ukraine

# SDN and Blocked Persons List

- Specifically Designated Nationals and Blocked Persons List:
  - Full trade embargo of all goods and services, and requires U.S. persons to block property in their possession or under their control
  - Over six thousand individuals and companies have been identified by OFAC
  - Includes people and entities all over the world
  - Owned, controlled or acting on behalf of governments or groups targeted by the U.S.
  - \*Prohibits dealing with SDN's and all SDN assets are blocked\*
  - \*Full trade embargo of all goods and services and requires U.S. persons to block SDN property in their possession or under their control\*
  - <http://www.treasury.gov/resource-center/sanctions/SDN-list/pages/default.aspx>
  - [www.treasury.gov/ofac/downloads/t11sdn.pdf](http://www.treasury.gov/ofac/downloads/t11sdn.pdf)

# Specially Designated Nationals List (SDN)

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### Specially Designated Nationals List (SDN)

2/27/2014

 [Sign up for Specially Designated Nationals List \(SDN\) e-mail updates.](#)

As part of its enforcement efforts, OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called "Specially Designated Nationals" or "SDNs." Their assets are blocked and U.S. persons are generally prohibited from dealing with them. [Click here](#) for more information on Treasury's Sanctions Programs.


#### SDN Search

Online application that allows users to search the SDN list and have close or approximate matches returned.

#### Full Lists:

[Complete Specially Designated Nationals List \(in PDF format\)](#) 

Having trouble opening the PDF version of the SDN list?

[Complete Specially Designated Nationals List \(in TEXT format\)](#) 

#### Lists by Program and Country:

[SDN List Sorted by OFAC Sanctions Program](#) 

[SDN List Sorted by Country](#) 



# Specially Designated Nationals and Blocked Persons



## OFFICE OF FOREIGN ASSETS CONTROL Specially Designated Nationals and Blocked Persons List

February 27, 2014

### ALPHABETICAL LISTING OF SPECIALLY DESIGNATED NATIONALS AND BLOCKED PERSONS ("SDN List"):

This publication of Treasury's Office of Foreign Assets Control ("OFAC") is designed as a reference tool providing actual notice of actions by OFAC with respect to Specially Designated Nationals and other persons (which term includes both individuals and entities) whose property is blocked, to assist the public in complying with the various sanctions programs administered by OFAC. The latest changes to the SDN List may appear here prior to their publication in the Federal Register, and it is intended that users rely on changes indicated in this document. Such changes reflect official actions of OFAC, and will be reflected as soon as practicable in the Federal Register under the index heading "Foreign Assets Control." New Federal Register notices with regard to Specially Designated Nationals or blocked persons may

a.k.a. MOJTAMAE SANATE HAFTOME TIR; a.k.a. SANAYE HAFTOME TIR; a.k.a. SEVENTH OF TIR), Mobarakeh Road Km 45, Isfahan, Iran; P.O. Box 81465-478, Isfahan, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [NPWMD] [IFSR].

7TH OF TIR INDUSTRIES OF ISFAHAN/ESFAHAN (a.k.a. 7TH OF TIR; a.k.a. 7TH OF TIR COMPLEX; a.k.a. 7TH OF TIR INDUSTRIAL COMPLEX; a.k.a. 7TH OF TIR INDUSTRIES; a.k.a. MOJTAMAE SANATE HAFTOME TIR; a.k.a. SANAYE HAFTOME TIR; a.k.a. SEVENTH OF TIR), Mobarakeh Road Km 45, Isfahan, Iran; P.O. Box 81465-478, Isfahan, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [NPWMD] [IFSR].

8TH IMAM INDUSTRIES GROUP (a.k.a. CRUISE MISSILE INDUSTRY GROUP; a.k.a. CRUISE SYSTEMS INDUSTRY GROUP; a.k.a. NAVAL DEFENCE MISSILE INDUSTRY GROUP; a.k.a. SAMEN AL-A'EMMEH INDUSTRIES GROUP), Tehran, Iran; Additional

III, Blok C 106-107, Pamulang, Tangerang, Indonesia; DOB 17 Aug 1957; alt. DOB 17 Aug 1958; POB Korleko-Lombok Timur, Indonesia; alt. POB Tirpas-Selong Village, East Lombok, Indonesia; nationality Indonesia; National ID No. 3603251708570001 (individual) [SDGT].

A Y A LA CASCAJERA S.A. (a.k.a. COMERCIALIZADORA INTERNACIONAL ASFALTOS Y AGREGADOS LAS CASCAJERA S.A.), Calle 100 No. 8A-49, Tr. B, Oficina 505, Bogota, Colombia; NIT # 900155202-1 (Colombia) [SDNT].

A.A. ABDUSSALAM, Ahmid (a.k.a. 'ABD-AL-SALAM, Hmeid; a.k.a. 'ABD-AL-SALAM, Humayd; a.k.a. ABDUL HADI ABDUL SALAM, Ahmid Abdussalam; a.k.a. ABDUSSALAM, Abdulhadi; a.k.a. ABDUSSALAM, Ahmid; a.k.a. "ABDULHAD1"; a.k.a. "HUMAYD"); DOB 30 Dec 1965; Passport 55555 (Libya) (individual) [LIBYA2].

A.I.C. COMPREHENSIVE RESEARCH INSTITUTE (a.k.a. A.I.C. SOGO KENKYUSHO; a.k.a. ALEPH; a.k.a. AUM SHINRIKYO; a.k.a.

# Exceptions – TSRA Licensing

## ■ Licensing:

- General Licenses – OFAC publishes blanket authority to permit certain activities without the need to apply for specific approval
- Specific Licenses – Specific case by case approval
- TSRA (Trade Sanctions Reform and Export Enhancement Act) for (Iran and Sudan) – limited ability to apply to get license (certain agricultural goods, food, medicine, medical devices)

# OFAC Compliance

## II Common Sense Precautions:

- Risk assessment of region (example, trading with countries with known ties to sanctioned countries, re-exports, etc.)
- Internal controls and processes (screening processes using current lists, recordkeeping, audits, getting full legal names and understanding ownership)
- Designating an internal compliance officer (experienced dealing with U.S. sanctions and high risk countries, open door policy to encourage inquiry, written compliance program, processes, and policies)
- Training (employees involved in trade activities understand OFAC sanctions and receive ongoing training), document review and screening
- Red Flag recognition
- Know Your Customer (and your customer's customer's customer)



# OFAC Examples of Problems

- Most frequent trade related violations:
  - U.S. origin goods re-exported or transshipped to a broadly sanctioned country
  - Underlying trade is prohibited or lacks a license
  - Failure to screen (for example, SDN directly or indirectly involved at some stage of deal)
  - Bills of Lading issued by SDN shipper
  - Goods shipped on an SDN transporter or ship
  - Incomplete transaction information (unknown end users or end uses)
  - Ignoring Red Flags or self-blinding
  - Failing to comply with license conditions if license was granted
  - Incorrect product classification
  - Failure to do periodic classification reviews
  - Poor communication with sales staff and foreign distributors (you cannot do indirectly what you cannot do directly)

# OFAC Civil Penalties

## ■ Civil Penalties

- up to \$250,000 per violation or twice the value of the transaction and denial of export privileges (IEEPA)
- \$1,075,000 per violation Foreign Narcotics Kingpin Designation Act
- \$65,000 Trading With the Enemy Act

# OFAC Criminal Penalties

## ■ Criminal Penalties:

- up to \$20,000,000 and jail time up to 30 years for willful violations
- Mitigating factors:
  - voluntary disclosure
  - first time offense
  - compliance policy in place

# Penalties and Enforcement Information

## ENFORCEMENT INFORMATION FOR JANUARY 27, 2014

Information concerning the civil penalties process is discussed in OFAC regulations governing the various sanctions programs and in 31 CFR part 501. On November 9, 2009, OFAC published as Appendix A to part 501 Economic Sanctions Enforcement Guidelines. See 31 C.F.R. part 501, app. A. The Economic Sanctions Enforcement Guidelines, as well as recent final civil penalties and enforcement information, can be found on OFAC's Web site at <http://www.treasury.gov/ofac/enforcement>.

## ENTITIES – 31 CFR 501.805(d)(1)(i)

**Joint-Stock Commercial Bank “Bank of Moscow” Settles Potential Civil Liability for Alleged Violations of Executive Order 13382 of June 28, 2005, and the Weapons of Mass Destruction Proliferators Sanctions Regulations:** Joint-Stock Commercial Bank “Bank of Moscow” (“Bank of Moscow”), of Moscow, Russian Federation, has agreed to remit \$9,492,525 to settle potential civil liability for 69 alleged violations of Executive Order 13382 of June 28, 2005 (“E.O. 13382”), and the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 C.F.R. part 544. Bank of Moscow did not voluntarily self-disclose the alleged violations and the alleged violations constitute a non-egregious case. The total base penalty amount for the alleged violations was \$14,063,000.

# OFAC List Checking Example

- Which ones look suspicious?
  - Abdul Rahman Yasin – Bloomington, Indiana
  - Victor Yanukovych – Ukraine
  - Tigris Trading Inc. – London, UK
  - Tienda Marina Abaroa – La Paz, Mexico
  - Havantur Canada Inc – Montreal, Québec
  - Ali Atwa – Lebanon
  - Advance Electrical and Industrial Technologies SL – Barcelona, Spain

# General Rules on Export Controls

## \*IMPORTANT TAKE-AWAYS\*

- Acting through a forwarding or other agent or delegating authority (for example, to a shipper or distributor) does not relieve anyone of responsibility for complying with export laws.
- All parties that participate in transactions covered by export laws must comply with export laws.
- For all licensed items (CCL items): "These products were (or technology was) exported from the U.S. in accordance with U.S. export laws. Diversion contrary to U.S. law is prohibited."  
(include in invoice, Bill of Lading, sales contract, etc.)
- No self-blinding (deliberate ignorance)

# Lists to Check

## || Consolidated Screening List

- With respect to parties involved in an export transaction including brokers, agents, shippers, freight forwarders, intermediaries, customers, end users, you must check certain lists to be sure the companies or persons you are dealing with are not designated or blocked with respect to export transactions.
- Lists to Check and Consolidated Screening List is located on the BIS website ([export.gov](http://export.gov))

# Consolidated Screening List

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- ▶ Export Control List
- ▶ Licensing Policy
- ▶ IT System Modernization
- ▶ Export Control Enforcement

**For Exporters**

- ▶ Consolidated Screening List
- ▶ Export Licensing
- ▶ Decision Tree Tools
- ▶ Export Enforcement Coordination Center (E2C2)
- ▶ Weekly Teleconference

**Provide Input**

- ▶ Website Feedback



## Consolidated Screening List

Below is a link to a downloadable file that consolidates export screening lists of the Departments of Commerce, State and the Treasury into one spreadsheet as an aide to industry in conducting electronic screens of potential parties to regulated transactions. In the event that a company, entity or person on the list appears to match a party potentially involved in your export transaction, additional due diligence should be conducted before proceeding. There may be a strict export prohibition, requirement for seeking a license application, evaluation of the end-use or user to ensure it does not result in an activity prohibited by any U.S. export regulations, or other restriction.

Prior to taking any further actions, users are to consult the requirements of the specific list on which the company, entity or person is identified by reviewing the webpage of the agency responsible for such list. The links below will connect you to the specific webpage where additional information about how to use each specific list is contained. These links are also embedded into the file for each listed entity to direct you to the proper website for information about how to resolve the issue. Note that the column on the attached file, which is titled "Source List", indicates which specific consolidated screening list is the source for each entry on the spreadsheet. Blank data fields in the file are not applicable to the consolidated screening list in the "Source List" column.

**Department of Commerce – Bureau of Industry and Security**

- **Denied Persons List** - Individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order are prohibited.



# U.S. Department of Treasury

## NOTE and CAUTION:

- There are several different lists to check. You should not print the lists as they change on a regular basis and are very lengthy. There are thousands of persons and entities on the lists. If you find a match the proper procedure is to seek legal counsel or contact the applicable Department for further information depending on the circumstance. There are software programs you can purchase that handle list checking.
- Persons and entities on the list might be found in other countries.

## **NOTE and CAUTION:**

This presentation is a general overview. It is not legal advice. Seek legal counsel for specific factual situations. Materials may quickly become outdated.

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