

## The FAQ's About OFAC

The recent news from the Department of Homeland Security about credible upcoming threats to America's wellbeing continues to emphasize a requirement that not all automobile dealers are in compliance with...OFAC.

### ***OFAC Background and Requirements***

Although its roots can be traced back to the War of 1812, OFAC was formally created in December of 1950 when China entered the Korean War and President Truman acted to block all Chinese and North Korean assets subject to United States jurisdiction. A department within the United States Treasury, OFAC is responsible for administering and enforcing economic sanctions against suspected terrorists, drug dealers and money launderers under 9 basic statutes:

1. Trading With the Enemy Act
2. International Emergency Economic Powers Act
3. Iraqi Sanctions Act
4. United Nations Participation Act
5. International Security and Development Corporation Act
6. The Cuban Democracy Act
7. The Cuban Liberty and Democratic Solidarity Act
8. The Antiterrorism and Effective Death Penalty Act
9. The Foreign Narcotics Kingpin Designation Act

Alison Cooper, an OFAC Senior Compliance Officer, responded to an email query regarding auto dealers' need to clear OFAC. *"All U.S. persons (including auto dealers) are subject to the regulations administered by the Office of Foreign Assets Control (OFAC). What this means in practical terms is that U.S. persons must not deal (any kind of transactions, including selling automobiles, servicing automobiles and selling automobile parts) with Specially Designated Nationals (SDNs)."*

The list of SDNs is available for viewing at [www.ustreas.gov/offices/eotffc/ofac](http://www.ustreas.gov/offices/eotffc/ofac). The last time I checked, the list was 127 pages long, with 3 columns using what appears to be 6 point font.

### ***Ways To Check The OFAC List***

There are a number of methods available to check the list prior to selling or servicing a vehicle.

Each of the 3 credit bureaus offers a search as part of their services. As with other latch-on services like HAWK Alerts, the bureaus charge for each request. Keep in mind that you are required to clear OFAC on both cash and credit customers.

An attractive alternative to the 3 bureaus is a web based service, [www.PatriotDealer.com](http://www.PatriotDealer.com). This service charges a flat annual fee for unlimited hits and takes about 5 seconds per request.

The least attractive way of checking the list is to actually print it from OFAC's website. Keep in mind that you are responsible to ensure you are checking the most recent list, which has been updated twice in the last month. Checking the list every day to see if an update has occurred, then printing and distributing the 127 pages can prove to be a cumbersome task.

### ***When To Clear OFAC***

The best time to clear OFAC is during the sales process, as soon as you get the driver's license, for a couple of reasons. First, it seems senseless to spend two hours trying to sell a car to someone that you can't actually sell to. Second, it may not be the safest move to send a sales person on a test drive with a suspected terrorist.

You should also include an OFAC clearance requirement for new hires as part of your Safeguards program. After all, potential money launderers may find identity theft at a car dealership a very enticing proposition.

### ***If You Get A Match***

If your search finds a potential match, do a little more research to verify whether the potential match is a false hit. Is your customer's name an exact name match, or does she just share the same common surname? Is your customer located in the same general area as the SDN or are the two continents apart?

In the event your search shows many similarities with the demographic information between your customer and the potential match, contact OFAC's "hotline" at 800.540.6322 for verification.

Finally, you must submit an annual report (available at OFAC's website) of blocked property by September 30 to:

OFAC Compliance  
Department of the Treasury  
Washington, D.C., 20220

### ***Potential Penalties***

For guilty offenders, there are potential criminal penalties of fines up to \$10,000,000, up to 30 years in a federal penitentiary of the judge's choosing and the forfeiture of all personal and business assets. For the small price to conduct a search and the relative ease with which a search can be inserted into your sales process, the risk appears to be too great *not* to comply.

Suspected terrorists, drug dealers and money launderers are continually arrested within our borders. Shame on you if you sell a vehicle to someone on the list.

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