



IFSA EDUCATIONAL SERIES TODAY'S TOPIC

OFAC Hot Issues/IAT Compliance

Presented by:



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About John Soffronoff

John C. Soffronoff, Jr. is founder and President of ICS Compliance. He oversees a staff of nearly 100 compliance professionals that service more than 500 financial institutions throughout the U.S.

Mr. Soffronoff has established a consultative approach to compliance and has developed a staff of professionals with an expertise capable of serving any type of financial institution, ranging from De Novo banks to large billion dollar bank holding companies.

Prior to founding ICS Compliance, Mr. Soffronoff served as a Review Examiner with the FDIC for more than 10 years. While with the FDIC, he also held the role of electronic banking expert for the New York Region and participated in the development of the compliance examiner curriculum for the FDIC's national training program.

Agenda

- Summary of Changes
- ACH Basics
- OFAC Basics
- New IAT Rules
- ODFI Responsibilities
- RDFI Responsibilities
- Action Plan
- Penalties



Summary of Changes

- International ACH Transactions (IAT) will impact:
 - **every** financial institution in the U.S.
 - any foreign organization sending payments into or receiving payments from the U.S. – *if the payments were processed through the U.S. ACH*
- Most significant change to the U.S. ACH Network in recent history



Primary Purpose of New Rules

- Respond to OFAC's request to align the *Rules* with OFAC compliance obligations
- Identify international ACH transactions
- Make it easier for RDFIs to comply with OFAC obligations



ACH Basics

- The ACH Network facilitates commerce electronically by serving as an efficient, reliable and secure payment system.
- NACHA, led by member depository financial institutions and payments associations, manages the development, administration, and governance of the ACH Network.



ACH Abbreviations:

- ACH = Automated Clearing House
- IATs = International ACH Transaction
- NACHA = [The Electronic Payments Association](#)
(National Automated Clearing House Association)
- ODFIs = Originating Depository Financial Institution
- RFDIs = Receiving Depository Financial Institution
- SEC code = Standard Entry Class (SEC) code
- DFI = Depository Financial Institution



OFAC Basics

- OFAC administers & enforces economic & trade sanctions based on US foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, & those engaged in activities related to the proliferation of weapons of mass destruction
- OFAC imposes restrictions on certain transactions & requirements to freeze certain foreign assets



OFAC Abbreviations:

- OFAC – Office of Foreign Assets Control
- SDN – Specially Designated Nationals
- SDT – Specially Designated Terrorists
- SDGT – Specially Designated Global Terrorists
- SDNT – Specially Designated Narcotics Traffickers
- SDN List – Alphabetical list of SDN, SDT, SDGT & SDNT



Two types of OFAC Sanctions:

- Country Sanctions
 - Entire country or a specific regime within the government is sanctioned
- List-Based Sanctions
 - Persons identified within:
 - Terrorism
 - Narcotics
 - Non-Proliferation of WMD



General Country Sanctions

- Balkans
- Belarus
- Burma
- Congo
- Ivory Coast
- Cuba
- Iran
- Iraq
- Liberia
- North Korea
- Sudan
- Syria
- Zimbabwe



OFAC Screening

- Although there is no regulatory requirement for financial institutions to purchase or utilize filtering software to comply with OFAC, the sheer volume of names contained on OFAC lists effectively renders manual monitoring ineffective to adequately comply with OFAC requirements.



New IAT Rule

- On September 18, 2009, NACHA implemented a new Standard Entry Class (SEC) code – IAT (International ACH Transactions) – to identify **ALL** international payments transmitted through the ACH network.



Compliance with the New IAT Rule

- This new rule...
 - Aligns the OFAC compliance obligations with NACHA Operating rules
 - Assists RDFIs with OFAC compliance obligations and to identify international transactions
 - Requires compliance with the BSA “Travel Rule” when executing IATs (inbound and outbound)



Noteworthy Definitions

- *International ACH Transactions:* An ACH entry that is part of a payment transaction involving a financial agency's office that is not located in the territorial jurisdiction of the U.S.
- *Financial Agency:* An entity that is authorized by applicable law to accept deposits or is in the business of issuing money orders or transferring funds.
- *Territorial Jurisdiction:* All 50 states, US Territories, US military bases and US embassies in foreign countries.
- *Foreign Correspondent Bank:* a Participating DFI in a foreign country that holds deposits owned by other financial institutions.



- *Payment Transaction:* An instruction of a sender to a bank to pay, or to obtain payment of, or to cause another bank to pay or to obtain payment of, a fixed or determinate amount of money that is to be paid to, or obtained from a Receiver, and any and all settlements, accounting entries, or disbursements that are necessary or appropriate to carry out the instruction.
- *Gateway Operator:* An ACH Operator or ODFI that acts as an entry or exit point to or from the US. *ACH Gateway Operators* may send credits and debits outbound, but are limited to inbound IAT entries that are credits or reversals. *ODFI Gateway Operators* may send credits and debits outbound and transmit credits and debits inbound.



ODFI Responsibilities

- ODFIs are subject to the *NACHA Operating Rules* and US laws when transmitting ACH entries as well as when conducting such transactions for Originators.
- ODFIs should have agreements with their Originators that make clear the Originator's obligation to comply with laws of the US & to only originate lawful ACH transactions.



- ODFIs must review IAT transactions for OFAC compliance prior to releasing an item to the ACH Operator. All parties to the transaction should be reviewed including the:
 - Name of the Originator
 - Physical address of the Originator
 - Name of the Receiver
 - Physical address of the Receiver
 - Receiving bank name
 - Identification and branch country code
 - Remittance information in the Payment Related Information contained in the optional Remittance Information addenda record



- Any suspect transaction should be investigated & cleared prior to release to the ACH Operator.
- Any transaction found to violate OFAC-enforced sanctions transmitted by an Originator requires the ODFI to comply with OFAC by either freezing or rejecting the unlawful ACH transaction.



RDFI Responsibilities

- RDFIs are subject to the *NACHA Operating Rules* & US laws when processing ACH entries. Prior to September 18, 2009, RDFIs may not have been aware that they were accepting international ACH transactions.
- An IAT is not an optional transaction and must be accepted by an RDFI. It can be in the form of a debit or a credit.



- Staff will need to understand the new IAT SEC code requirements & all parties to the transaction should be reviewed against the OFAC SDN list, including the:
 - Name of the Receiver
 - Physical address of the Receiver
 - Name of the Originator
 - Physical address of the Originator
 - Originating bank name
 - Identification and branch country code
 - Remittance information in the Payment Related Information contained in the optional Remittance Information addenda record



RDFIs and OFAC

- RDFI handling inbound international ACH entries:
 - If the unlawful inbound IAT credit entry is for a Receiver that is subject to OFAC sanction, the RDFI is to post the credit entry to the account, ensure that the account & funds are frozen, & report the transaction to OFAC.
 - If the unlawful inbound IAT credit entry is from an Originator subject to OFAC sanction, the transaction should not be posted, the funds should be suspended, & the transaction reported to OFAC.



RDFIs and OFAC

- RDFI handling inbound entries (cont'd):
 - If the unlawful inbound IAT is a debit entry, the RDFI should investigate the transaction, & if found to be in violation of an OFAC sanction, the RDFI should contact OFAC for guidance, as OFAC will handle unlawful debit transactions on a case-by-case basis.



Contacting OFAC

- ODFIs must report rejected IAT debits to OFAC within 10 days pursuant to OFAC's Regulation. OFAC offers a voluntary form for the reporting of rejected transactions on its website <http://www.treas.gov/offices/enforcement/ofac>
- OFAC requests that ODFIs contact relevant personnel at RDFIs to make them aware of rejected transactions & provide them with copies of rejected transactions. This will assist RDFIs on conducting due diligence on their account holders.



- If an ODFI mistakenly processes forward an IAT debit to an RDFI, & the RDFI becomes aware of a potential OFAC violation, the RDFI should contact OFAC's hotline (1-800-540-6322 or 202-622-2490) in order to resolve the issue on a case-by-case basis.



Action Plan

- Review or develop OFAC compliance policy with procedures to cover origination & receipt of IAT transaction processing & handling, including:
 - Assignment of responsibility for OFAC compliance;
 - Updated OFAC risk assessment to include IATs;
 - How revisions to the OFAC list are obtained and retained;
 - How specific types of transactions are handled;
 - What information within a transaction is checked against the SDN list;
 - How on-us transactions are reviewed;
 - How to contact and comply with OFAC reporting procedures;
 - Record retention; and
 - Audit and monitoring of OFAC compliance.



Penalties

- Penalties for non-compliance with OFAC's regulations can be severe.
- Penalties can include both criminal and civil fines.
- FIs can contract with other parties for ACH processing services, but cannot contract away their liabilities related to OFAC compliance!



IAT Information Resources

- FedACH IAT Resource Center -
www.frbservices.org/eventseducation/education/fedach_iat_resource_center.html
- NACHA IAT Industry Information -
www.nacha.org/IAT_Industry_Information/
- IAT scenarios document –
http://gpf.nacha.org/docs/IAT_Scenarios_-_Domestic_or_International.pdf
- *2009 Rules Changes and New Formats for International ACH Transaction (IAT) Entries* sections in 2008 ACH Rules Book



Questions?

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About ICS Compliance

As an absolute specialist, ICS Compliance focuses only on the issues of regulatory compliance. Their seasoned professionals, with previous experience as compliance officers and/or regulatory examiners, provide invaluable experience and expertise. That competency, coupled with the proven ICS Compliance best practices and processes, provide clients with the confidence that comes from hiring the experts in compliance.

Trusted by hundreds of financial institutions each year, ICS Compliance provides advisement in the form of compliance administration programs, remediation projects and consultation.

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About the IFSA

The International Financial Services Association (IFSA) is a not-for-profit trade association whose members are the world's largest international financial services organizations. At the current time the IFSA has over 165 Members and over 600 participating organizations headquartered around the world. The IFSA's focus is on international financial services, which includes trade services products such as documentary credits, funds transfer, treasury operations, compliance, regulatory reporting, etc. The IFSA membership represents over 98 percent of the letters of credit issued in the US as well as over 98 percent of the US funds transfer volume. In the 1920's, the IFSA created the first rules for the processing of letters of credit between banks. These rules were the model for the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits.

The organization was founded in 1924 and has been in continuous existence since that time. The IFSA provides a forum for members to meet and discuss the various issues related to the financial services industry. The IFSA's primary functions are education, representing the membership to international bodies such as SWIFT and the ICC as well as the US regulatory bodies, and provide a community through which members can network. Much of the work of the organization is carried out by volunteers who participate on the organization's thirteen (13) technical committees. These committees represent the major disciplines of international financial services operations. Through these committees the organization establishes operating rules and procedures for financial services institutions and work with the global regulating bodies to provide input on laws and regulatory procedures/practices. For additional information log on to our website www.IFSAonline.org or contact the IFSA at Support@Intlbanking.org.