



New Item for Diligence Review Process: OFAC's Foreign Sanctions Evaders List

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By: Wynn H. Segall

The following is a basic overview of the FSE List and important points to understand in incorporating the FSE List into regular diligence practices.

- **Who is on the FSE List?** OFAC will add individuals or entities to the FSE List when the U.S. government determines that they: (1) have violated, attempted to violate, conspired to violate or caused a violation of U.S. sanctions against Syria or Iran; (2) have facilitated deceptive transactions for or on behalf of persons subject to U.S. sanctions against Syria or Iran; and/or (3) are owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, such entities or persons.
- **What is prohibited?** Broad sanctions prohibitions preclude U.S. persons from engaging in activities involving parties included on the FSE List. General prohibitions bar U.S. persons from providing or procuring goods or services, including financial services, or technology to or from a listed person without specific prior authorization from OFAC, unless the transaction is otherwise exempt from regulation. Although an FSE's property is not "blocked" as a matter of law under this OFAC regime (except where such parties are also listed as Specially Designated Nationals or otherwise subject to blocking under other OFAC sanctions programs), OFAC advises that U.S. persons must obtain OFAC authorization to provide, procure or receive property, or services related to that property, to or from an FSE. See also the OFAC FAQs: Question Index. U.S. financial institutions are required to obtain OFAC authorization before allowing the operation of a listed person's bank account and before allowing the receipt or provision of related wire transfers to such accounts.
- **What are the implications for U.S. Entities?** As with other OFAC restricted-party lists, U.S. persons and their subsidiaries or controlled entities outside the United States are

effectively prohibited from engaging in “transactions” or activities with FSEs on a strict liability basis. U.S. parties that engage in transactions with an FSE are subject to potential OFAC enforcement and penalties under the International Emergency Economic Powers Act.

- **What does this mean for you?** U.S. entities and individuals must take actions necessary to ensure that they screen effectively against, and do not engage in activities involving, parties included on the FSE List. In particular, the following steps should be incorporated into regular diligence practices to ensure compliance:
 - **Use of Vendors for Screening.** It is important for entities relying on third-party vendor screening services to check with their providers to ensure that the FSE List is incorporated into automated screening procedures for restricted-party screening. Entities should run test screenings against parties included in the FSE List to verify and document confirmation that their screening safeguards cover this list effectively.
 - **Manual Screening.** Entities and persons relying on manual screening, including those that use the Consolidated Screening List at www.export.gov, should separately consult the FSE List on OFAC’s website as part of going-forward practices, as long as the FSE List is not incorporated into the Consolidated Screening List.
 - **Screening Previously Initiated Transactions.** OFAC guidance on the FSE List clearly indicates that there is no “grandfathering” allowance for transactions initiated prior to the listing of an FSE. Where a potential transaction is in process at the time of a listing, U.S. persons are required to terminate and/or cease dealings with the FSE-listed party immediately unless and until otherwise exempted or specifically licensed by OFAC. Accordingly, you may need to review activities screened and initiated prior to February 6, 2014, that have not yet been completed to the extent that FSEs might be involved.

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