

The OFAC LIST & The PATRIOT ACT ***“Compliance is Easier Than It Sounds!”***

Many consultants and vendors are targeting the retail automotive industry with promotions for services designed to assist with Patriot Act compliance. This is slightly misleading because dealerships are not covered by the security program requirements of the Patriot Act. The Patriot Act contains a provision requiring financial institutions to implement customer identification and anti-money laundering programs. However, the Department of Treasury has publicly announced that it has chosen not to extend these requirements to automotive retailers. *Formal Patriot Act compliance may become necessary in the future, if the Treasury decides to adopt regulations, but, as of now, there are no Patriot Act compliance requirements specifically applicable to auto dealers.*

This may just be a case of confusion over two related sets of government regulations. While dealerships are not required to implement formal Patriot Act compliance programs, they are required, along with every other business in America, to comply with the set of laws, treaties and executive orders commonly called the “OFAC List.” Many people seem to use the term “Patriot Act compliance” when they really mean “OFAC compliance.” The good news is that OFAC compliance is simple and easy, and most dealerships probably won’t need any expensive products or consultants to do it.

Just what is OFAC? There are a number of different laws and treaties, which forbid U.S. citizens from dealing with terrorists, drug traffickers, and enemies of the United States. These various laws and treaties are all administered by the Office of Foreign Assets Control, or “OFAC,” a division within the U.S. Treasury Department. The general rule that U.S. citizens are forbidden from doing business with individuals or entities on the OFAC list is an old rule dating from long before 9-11. It arises from a number of different federal laws, as well as several international treaties, and, most recently, Executive Order No. 13224, signed by President George W. Bush.

*There is no formal requirement that businesses develop written procedures or policies regarding the OFAC list. **The rule is very simple: Do not do business with people or entities on the list.*** The rule is not limited to financial institutions or auto dealers. It applies to every business and every individual in the U.S.

Of course, the only way to ensure that you are not doing business with someone on the list is to check the list. You may find that your lenders and lease companies are checking the list before they approve financing. The major credit reporting services all offer an OFAC check as part of the credit report, for a small additional fee. However, if you work with a lender that does not check the list, or if you have a cash purchase, you must check the list yourself.

What to do if your customer’s name is on the list?

First of all, DON’T PANIC. There are many common names on the list and it is highly unlikely anyone who is on the list would use their real name.

If you have what appears to be a match, you should look a little further. Does the name match in full, or is it just a partial match for a common name? Make sure the matching name is not the name of a ship, a company, or some other entity which is not a person. Finally, check the address and the biographical information which is available on the OFAC list against your customer’s information. Obviously, if the person on the list is a 70-year old man from Zanzibar, and your customer is a 20-year old woman from Kearney, you do not have to worry.

If you still believe you may have a valid match, contact OFAC at 800-540-6322.