

OFAC Root Causes of Sanctions Violations	What should my company do to avoid this? What does this mean for my compliance program?
<b>Lack of a Formal OFAC SCP</b>	<ul style="list-style-type: none"> <li>• Maintain written SCP policy and procedures</li> <li>• Regularly review and update SCP and related procedures.</li> <li>• Allocate resources to compliance</li> </ul>
<b>Misinterpreting, or Failing to Understand the Applicability, of OFAC's Regulations</b>	<ul style="list-style-type: none"> <li>• Understand U.S. touchpoints (e.g., status as a U.S. person, a U.S.-owned or controlled subsidiary, dealings in or with U.S. persons, the U.S. financial system, or U.S. origin goods and technology).</li> <li>• Note that applicability to foreign subsidiaries varies depending on the sanctions program and seek advice if there is uncertainty as to the applicability of OFAC's regulations to a foreign entity or person.</li> </ul>
<b>Facilitating Transactions by Non-U.S. Persons (Including Through or By Overseas Subsidiaries or Affiliates)</b>	<ul style="list-style-type: none"> <li>• Ensure that any entity or person with a nexus to the U.S. (e.g., U.S.-based headquarters, locations, or personnel, or U.S. persons wherever located) does not refer business opportunities or otherwise facilitate dealings involving non-U.S. locations and sanctioned territories and persons, unless specifically reviewed and determined to be compliant with OFAC regulations.</li> </ul>
<b>Exporting or Re-exporting U.S.-origin, Goods, Technology, or Services to OFAC-Sanctioned Persons or Countries</b>	<ul style="list-style-type: none"> <li>• Evaluate transactions for warning signs that the Goods, Technology, or Services may be re-exported, transferred or sold to a person, country or region subject to OFAC sanctions.</li> <li>• <i>Note: Enforcement activity in this area has been focused on large sophisticated companies as well as companies that have engaged in repeated conduct, ignored red flags, utilized non-routine business practices, and willfully/recklessly concealed their activity.</i></li> </ul>
<b>Utilizing the U.S. Financial System, or Processing Payments to or through U.S. Financial Institutions, for Commercial Transactions Involving OFAC-Sanctioned Persons or Countries</b>	<ul style="list-style-type: none"> <li>• Ensure transactions involving U.S. financial institutions are compliant with OFAC regulations.</li> <li>• <i>Note: Enforcement activity in this area has been focused on companies that have engaged in repeated conduct, ignored red flags, utilized non-routine business practices, and willfully/recklessly concealed their activity.</i></li> </ul>
<b>Sanctions Screening Software or Filter Faults</b>	<ul style="list-style-type: none"> <li>• Update sanctions screening software periodically</li> <li>• Ensure relevant data points are screened (e.g., SWIFT Business Identifier Codes)</li> <li>• Employ "fuzzy logic" to identify alternative spellings (e.g., Habana v. Havana)</li> </ul>
<b>Improper Due Diligence on Customers/Clients (e.g., Ownership, Business Dealings, etc.)</b>	<ul style="list-style-type: none"> <li>• Investigate: <ul style="list-style-type: none"> <li>• ultimate beneficial ownership of third parties</li> <li>• geographic locations, including locations of counter-parties</li> <li>• business transactions</li> </ul> </li> </ul>
<b>De-Centralized Compliance Functions and Inconsistent Application of an SCP</b>	<ul style="list-style-type: none"> <li>• Provide adequate and consistent oversight for employees with compliance responsibilities</li> </ul>

	<ul style="list-style-type: none"><li>• Establish formal escalation process to review high-risk customers and transactions</li><li>• Audit implementation of the SCP</li></ul>
<b><i>Utilizing Non-Standard Payment or Commercial Practices</i></b>	<ul style="list-style-type: none"><li>• Evaluate transactions to confirm payment and other terms conform with industry norms and practices</li></ul>
<b><i>Individual Liability</i></b>	<ul style="list-style-type: none"><li>• Educate employees on the SCP, their individual responsibilities, and potential penalties, including individual liability</li></ul>