

COVID-19 NEWS OF INTEREST

# OFAC Compliance in the Time of COVID-19

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## AUTHORS

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On April 20, 2020, the Office of Foreign Assets Control (“OFAC”) issued a [notice](#) providing guidance to companies on sanctions compliance in the wake of their response to the COVID-19 pandemic. Most notably, OFAC stated that it will evaluate, on a case-by-case basis, any technical and resource challenges faced by organizations and businesses due to the COVID-19 pandemic as a potential mitigating factor in determining an appropriate administrative response to an apparent violation that occurs within this period.

Maintenance of a compliance program consistent with [OFAC’s Framework for Compliance Commitments](#) will still be taken as a key mitigating factor when evaluating an administrative response to apparent violations. However, with this notice, OFAC has stated that it understands that businesses and organizations affected by the pandemic may choose to reallocate sanctions and compliance resources as part of that approach.

It is important to note that OFAC will be evaluating such changes on a case-by-case basis, meaning that resource shortages caused by the pandemic may not outweigh a weak compliance program or a disregard for sanctions compliance during the pandemic. Companies should still ensure that their compliance programs are up to date with OFAC’s Framework for Compliance Commitments and that they take whatever measures are reasonably available in light of resource shortages caused by the pandemic to implement those programs. Note also that OFAC has not suggested that compliance resource shortages under the current conditions will in any way reduce the likelihood of an enforcement action for violations that predated the pandemic.

The notice also encourages persons, financial institutions, and other businesses affected by the pandemic to contact OFAC as soon as possible if they believe that there will be delays in their ability to meet deadlines associated with OFAC’s regulatory requirements, including requirements related to the timely filing of blocking and reject reports,

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responses to administrative subpoenas, or reports required by general or specific licenses, as well as any other required reports or submissions.

Additionally, on April 16, 2020, OFAC issued a [factsheet](#) with a compiled list of authorizations and general licenses related to exports of medicine and medical devices to sanctioned jurisdictions, as well as licenses related to other humanitarian-related exports. However, the factsheet did not provide for any new authorizations or describe any changes in the relevant regulations or OFAC policies. Rather, OFAC highlighted the authorizations or policies already in place to support certain medical-related exports in response to need generated by COVID-19.

Willkie has multidisciplinary teams working with clients to address coronavirus-related matters, including, for example, contractual analysis, litigation, restructuring, financing, employee benefits, SEC and other corporate-related matters, and CFTC and bank regulation. Please click [here](#) to access our publications addressing issues raised by the coronavirus. For advice regarding the coronavirus, please do not hesitate to reach out to your primary Willkie contacts.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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