

## White Collar Defense & Investigations



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### Key Takeaways from OFAC's New Standards for Document Submissions

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*The U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") recently issued updated guidance on standards and requirements for document production submissions. This [guidance](#) is a significant step forward in ensuring that investigations into economic and trade sanctions are as efficient and transparent as possible but also underscores the intricate and burdensome process of engaging with OFAC. Though these guidelines are procedural in nature, they highlight the need for companies and individuals to have a comprehensive strategy in place before engaging with OFAC as well as the importance of corporate compliance programs and record retention policies and practices.*

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OFAC's new guidelines provide a comprehensive framework and lay out best practices for organizing and submitting documents during investigations or other inquiries. They emphasize the importance of a logical structure that mirrors the order of requests in subpoenas or requests for information, the inclusion of organizational charts, and detailed custodian descriptions. The guidelines also specify preferred file structures and formats and requirements for larger submissions. Bates numbering, narrative documents, and clear explanations for any withheld information are mandatory. These standards are designed to streamline the review process, reduce the potential for errors, and ensure that all relevant information is easily accessible for OFAC review.

#### OVERVIEW

OFAC administers and enforces U.S. economic and trade sanctions. Companies and individuals typically must submit documents and other materials to OFAC, voluntarily or in response to a request or administrative subpoena. OFAC's

guidance aims to facilitate the submission of information generally but is focused primarily on submissions provided in response to administrative subpoenas, requests for information ("RFI"), and submissions provided during the course of voluntary self-disclosures. We have summarized some of these guidelines and standards below.

#### ORGANIZING DOCUMENT PRODUCTIONS

- 1. Logical Organization:** Submissions should be organized logically, typically following the order of questions or requests in the subpoena or RFI. Include organizational charts and descriptions of custodians' titles and responsibilities.
- 2. File Structure and Passwords:** Clearly explain the file organization and provide a single document or email with the password for all files in the submission.

**3. Bates Numbering:** Use sequential pagination for documentary submissions, continuing from previous submissions if applicable.

**4. Narrative Document:** Include a description of the documents, necessary contextual information, custodian details, Bates numbers, and a summary of the records.

**5. Exhibits:** Number exhibits in the order they appear in the narrative document and avoid duplicative copies. Explain the relationship between each exhibit and the information provided.

**6. Information Being Withheld:** Clearly note the legal basis for withholding any information and use consistent pseudonyms for redacted names. This information should be clearly noted and explained in a cover letter or narrative document.

**7. Translations:** Provide certified English translations of non-English documents, along with the original documents. This means that translations done by Google Translate or similar programs are not acceptable. A certified translation means a translation in which a translator produces a word-for-word literal translation of the original document, and includes an accompanying signed statement, attesting that the translation is complete and accurate.

**8. Transaction Reporting:** Submit transaction data in a separate computer file (*e.g.*, Excel or an Excel-compatible format), detailing all relevant information (currency, amounts, intermediaries and correspondent banks, etc.) and including all underlying and supporting documents (*e.g.*, invoices and SWIFT messages) as exhibits.

## GENERAL CONVENTIONS FOR ELECTRONIC PRODUCTIONS

**1. File Types:** Produce documents in their native software format with all metadata. Text and scanned documents should be in PDF format with embedded text and OCR. Transactional data should be in Excel-compatible files. Email collections should be in PST or PDF files. Images should be in JPG, PDF, or PNG format. Audio and video recordings should be in MP3 and MP4 formats, respectively.

**2. Attachments:** Use consistent root names for all attachments related to a single submission.

**3. Labeling:** Label all documents with the OFAC-provided case number, submission date, and Bates numbers.

**4. Document Family Groups:** Produce document family groups together, with children files following parent files sequentially in the Bates numbering.

**5. Compression and Encryption:** Compress large files or high numbers of documents using the Zip format compatible with WinZip. Encrypt files when appropriate.

## SUBMITTING ELECTRONIC PRODUCTIONS

**1. Submissions Under 150 Megabytes:** Email submissions under 150 megabytes to the OFAC representative handling the case or to [OFACDisclosures@treasury.gov](mailto:OFACDisclosures@treasury.gov) for initial voluntary disclosures. Limit to three emails of 50 megabytes each.

**2. Submissions Over 150 Megabytes:** Use the OFAC Secure File Transfer Portal (“OSFTP”) for submissions over 150 megabytes.

## IMPORTANCE OF GUIDELINES

The guidelines serve multiple purposes. Firstly, they standardize the submission process, making it easier for both OFAC and the entities providing the information. Secondly, they ensure that the information is presented in a way that is conducive to a thorough and swift review. This is particularly important given the often time-sensitive nature of OFAC investigations and reviews.

The new OFAC guidance and standards reflect the evolving nature of regulatory compliance in the economic sanctions space. As transactions become increasingly complex and globalized, the need for clear, concise, and efficient information submission becomes paramount. These guidelines not only facilitate the work of OFAC but also support the entities that must navigate the intricate landscape of U.S. sanctions.

OFAC’s Guidance document can be found [here](#).

For more information and assistance regarding OFAC investigations, RFIs, subpoenas, self-disclosures, or delisting requests, contact [Bradley L. Henry](#), [Kathleen H. Shannon](#), or another member of Blank Rome's [White Collar Defense & Investigations](#) group.

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