It's your duty, and the law, to comply with OFAC regulations

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HANOVER, Md. — After recent events in Kabul and the continued loss of life due to terrorism, many are left wondering what they can do and how they can help. Many have given money and other support to organizations helping the families of fallen servicemembers. Others support the refugees coming in by the thousands from Afghanistan.

But can we stop terrorism? Unfortunately, the answer is no. We can't completely stop terrorism, but we can follow the law to ensure that we don't do business with terrorists. Now seems like an appropriate time to remind dealers of their responsibilities to check the Specially Designated Nationals and Blocked Persons List before selling or leasing a car, hiring an employee, taking payments from customers, servicing vehicles, or otherwise doing business with suspected terrorists.

The Office of Foreign Assets Control, a division of the U.S. Department of the Treasury, administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against foreign countries and groups of individuals involved in terrorism, narcotics trafficking, and other illegal activities. OFAC administers the SDN List. SDNs are individuals, companies, or other entities identified as being owned or controlled by, or acting for or on behalf of, the governments of certain target countries or associated with international drug trafficking, terrorism, or other illegal activity.

After Sept. 11, 2001, by executive order, President George W. Bush significantly expanded OFAC's powers and the list of SDNs. That order expressly mandated that "all property and interest in property of the [SDNs] that are in the United States, or that hereafter come within the United States, or hereafter come within the possession or control of United States persons, are blocked." According to the order, businesses and individuals are prohibited from dealing with, or transacting business with, any SDN. OFAC determines who appears on the SDN List.

All U.S. persons (not just dealers) must comply with OFAC regulations, including all U.S. citizens and permanent resident aliens regardless of where they are located, all persons and entities within the United States, and all U.S.-incorporated entities and their foreign branches. For a dealership, OFAC compliance means that dealers must check the SDN List before "doing business." Types of business include:

- New and used car sales and leasing
- Car parts sales
- Sales of services
- Car rentals
- Hiring
- Contracting with third parties for services like cleaning, construction and data disposal

OFAC compliance is required for all transactions regardless of the amount of the transaction.

Violations of OFAC are based on strict liability — if you do business with an SDN, you can be held liable regardless of intent or whether your dealership has practices and policies to mitigate risk of violation. Having practices and policies that mitigate risk of violation will be considered when determining any penalties.

Practically speaking, what does that mean for dealers? It means that dealers should determine the best way to avoid doing business with an SDN and establish a policy and procedures accordingly. Procedures should include checking the SDN List before any sale or lease of a vehicle. The list is updated regularly and should be checked as it appears on the date of the transaction. For date of transaction scrubs, dealers typically check the SDN List at the same time, and in conjunction with, the credit pull on a potential buyer/lessee. Dealers who have a continuing business relationship with a person, such as an employee or a vendor, must check that person against the SDN List every time the SDN List changes.

At a minimum, buy-here, pay-here dealers holding and collecting contracts should check the list when collecting payments. Because these checks on continuing relationships are impractical to do manually, dealers often employ a mechanism to "scrub" the names of employees and others they do business with or deal with on a regular basis against the SDN List.

So, in the wake of recent acts of terrorism, we can each do our part to support our military, defend our country, and prevent future acts of terrorism by not giving terrorists transportation/mobility to commit acts of violence.

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Auto defaults climb for the first time in 2021 — barely

For the first time this year, S&P Dow Jones Indices and Experian spotted a rise in auto defaults.

But the uptick analysts noticed was the smallest amount possible.

According to the S&P/Experian Consumer Credit Default Indices, data through July showed the auto financing default rate came in at 0.31%, marking just a 1 basis point upward move from the all-time low reading set a month earlier.

A year ago, as the pandemic took hold, the default reading declined for seven consecutive months, falling from 1.02% in December 2019 to what at the time created the all-time low reading of 0.40% by June. Then, the rate rose five months in a row to come in at 0.64% in both November and December.

With the industry looking for defaults to return what experts might consider normal, the latest reading is only about a third of what the level was in July 2018 when analysts pegged it at 0.97%.

Elsewhere in the July data, S&P Dow Jones Indices and Experian reported the composite rate — a comprehensive measure of changes in consumer credit defaults — declined 1 basis point to 0.40%.

Like in auto financing, analysts the first mortgage default rate in July also increased 1 basis point from its all-time low to come in at 0.27%.

Meanwhile, the update mentioned the bank card default rate fell 32 basis points to 2.51%.

Looking at the five major metropolitan areas analysts track for this monthly update, they discovered three cities posted lower default rates in July versus the previous month.

S&P Dow Jones Indices and Experian said Dallas dipped 2 basis points to 0.40%, while New York and Los Angeles each dropped 1 basis point to 0.42% and 0.36%, respectively.

Miami jumped 9 basis points higher to 0.51%, while Chicago ticked up 1 basis point to 0.39%.

Jointly developed by S&P Indices and Experian, analysts noted the S&P/Experian Consumer Credit Default Indices are published monthly with the intent to accurately track the default experience of consumer balances in four key loan categories: auto, bankcard, first mortgage lien and second mortgage lien.

The indices are calculated based on data extracted from Experian's consumer credit database. This database is populated with individual consumer loan and payment data submitted by lenders to Experian every month.

Experian's base of data contributors includes leading banks and mortgage companies and covers approximately $11 trillion in outstanding loans sourced from 11,500 lenders.