

Sanctions Compliance Guidance for Instant Payment Systems

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In recent years, the financial sector has introduced payment systems that allow users to send and receive funds almost instantly, at any time of the day, on any day of the year. These systems—which allow a payment’s transmission and the availability of funds to payees to occur almost in real-time (referred to herein as “instant payment systems”)¹—are being developed both in the United States and abroad. The high velocity of instant payments, along with increasing values and volumes of such payments, have led to questions across the financial



sector, particularly from participating banks, about how best to implement sanctions compliance measures in this context.

Each instant payment system has its own unique characteristics; for example, some allow for domestic payments only, while others permit cross-border payments. Accordingly, as the financial system innovates to improve efficiency, OFAC continues to encourage financial institutions to adopt a risk-based approach to ensure their sanctions compliance controls and related technology solutions remain commensurate with the sanctions risks presented by instant payment systems.

To that end, in the context of instant payment systems, OFAC is issuing this guidance to: (i) reaffirm that financial institutions should take a risk-based approach to managing sanctions risks; (ii) highlight key factors that may be relevant in determining that risk-based approach; (iii) encourage the development and deployment

of innovative sanctions compliance approaches and technologies to address identified risks; and (iv) encourage developers of instant payment systems to incorporate sanctions compliance considerations as they develop new payment technologies. This guidance should aid financial institutions in determining how best to allocate their compliance resources consistent with their particular sanctions risks.

Risk Factors and Considerations for Instant Payment Systems

All U.S. persons are required to comply with OFAC regulations. To mitigate the risk of violating OFAC regulations, OFAC recommends that U.S. persons, including U.S. banks, employ a risk-based approach to sanctions compliance by developing, implementing, and routinely updating a sanctions compliance program that is predicated on and incorporates at least five essential components of compliance: (1) management commitment; (2) risk assessment; (3) internal controls; (4) testing and auditing; and (5) training.²



¹ While payment transmission and availability of funds to payees occurs in almost real-time in instant payment systems, settlement of payments may occur instantly or on a deferred basis.

² A Framework for OFAC Compliance Commitments, U.S. Department of the Treasury, Office of Foreign Assets Control (2019), available at: https://home.treasury.gov/system/files/126/framework_ofac_cc.pdf.

OFAC recognizes that not all U.S. financial institutions are similarly situated, nor do all financial products or instant payment systems present the same sanctions risks. Accordingly, there is no one-size-fits-all approach to managing sanctions risks with regard to instant payment systems. Each financial institution's sanctions compliance controls, including decisions on whether and how to screen transactions conducted using instant payment systems, should be based on that institution's assessment of its own risk.

A financial institution may consider a variety of factors in assessing and mitigating the sanctions risks associated with participating in an instant payment system. For example, an institution may consider its geographic locations and the extent of its international presence; the location, nature, and transactional history of its customers and their counterparties; the specific products and financial services it offers; and its size and sophistication.³ Other risk factors particularly relevant in assessing risk associated with an institution's participation in instant payment systems are discussed below.

Domestic vs. Cross-Border Payment Systems

Domestic instant payment systems—i.e., those in which all transactions involve only accounts maintained at U.S. banks, excluding foreign correspondent accounts—generally pose a lower risk of sanctions exposure than instant payment systems that permit cross-border transactions. OFAC expects that U.S. banks, which are subject to stringent U.S. regulatory requirements and supervisory examinations, are already performing risk-based due diligence on their customers at onboarding and at regular intervals thereafter, including



screening their customers to identify a potential sanctions nexus. Accordingly, solely domestic instant payment transactions generally pose a lower sanctions risk than those involving accounts maintained at non-U.S. banks, which may not be subject to similar regulatory requirements and examinations.

Nature and Value of Payment

While a payment of any amount could result in a violation of OFAC regulations, the nature and value of a payment may be relevant in assessing the relative sanctions risks of payments made via an instant payment system. For example, payments consistent with past customer behavior that a financial institution has previously vetted and cleared for potential sanctions implications⁴ generally pose lower sanctions risk than payments that appear inconsistent with a customer's prior history, such as significantly higher value payments or payments made to foreign persons with whom the customer has not previously dealt.



Availability of Emerging Sanctions Compliance Technologies and Solutions

Technology solutions for sanctions compliance, which have advanced significantly in recent years and become more scalable and accessible, can be leveraged to help mitigate a financial institution's sanctions risks, including with respect to instant payment systems.



³ For additional risk factors to consider, see, e.g., OFAC's Economic Sanctions Enforcement Guidelines OFAC Risk Matrix in the Annex to Appendix A to 31 C.F.R. Part 501. OFAC notes, however, that not all factors listed therein may necessarily be relevant for evaluating sanctions risk specific to instant payment systems.

⁴ These may include transactions that a financial institution already determined were exempt from OFAC sanctions or authorized by a specific or general license, such as OFAC general licenses authorizing remittances or humanitarian activity that involves sanctioned jurisdictions. For more information about specific authorizations and exemptions, please visit OFAC's website.

For example, OFAC is aware of artificial intelligence tools and other innovative compliance solutions, such as those that leverage information sharing mechanisms across financial institutions, which may enhance sanctions screening functions and reduce false positives. Where appropriate, based on an institution's assessment of risk, OFAC encourages the use of such tools and other emerging technologies and solutions to manage sanctions risks that could arise in the context of instant payments.

OFAC Encourages Key Compliance Features for Instant Payment Systems

The expectation in instant payment systems that funds be made available to the payee in real time may pose challenges for members seeking to comply with sanctions regulations and prevent violations. To facilitate such compliance, OFAC encourages developers of instant payment systems to incorporate sanctions compliance during the design and development process so that sanctions compliance controls are accounted for as new payment technologies are being developed. OFAC also encourages such developers to incorporate sanctions compliance features, tools, and contractual clauses that allow system participants to maintain a sanctions compliance program commensurate with the risks presented by the particular instant payment system.

For example, instant payment systems can facilitate sanctions compliance by enabling communication among participating financial institutions involved in processing payments, as such communication is often necessary to gather information related to potential sanctions alerts. Without such a messaging system, financial institutions may be unable to effectively adjudicate alerts of potential sanctions concerns, causing them to process payments without sufficient information or to block or reject large volumes of transactions that may not necessarily involve a sanctions nexus.

Similarly, instant payment systems that allow for exception processing—i.e., allowing a transaction to be removed from the automated process to provide sufficient time for a financial institution to investigate potential sanctions concerns—also help their participants mitigate sanctions risks. Exception processing can help enable screening and review of payments that may involve a sanctions nexus. OFAC recognizes that a key feature of instant payment systems is the near real-time nature of transaction settlement, but the speed necessitated by this commercial feature should not discourage financial institutions from implementing risk-based sanctions compliance controls.

Moreover, establishing minimum sanctions compliance expectations for members in instant payment systems may also help to mitigate sanctions risks. Such minimum standards could include, for example, setting expectations for members regarding customer onboarding and ongoing due diligence or norms for screening transaction parties or details, as appropriate based on risk. Establishing such minimum expectations helps all members understand how other members are complying with sanctions requirements, which could be a relevant factor to consider in determining one's own risk.

OFAC Engagement and Resources

As instant payments continue to evolve, OFAC is committed to continuing its engagement with users, developers, and others involved in this industry to promote understanding of, and compliance with, sanctions requirements. For more information about OFAC sanctions, please visit [OFAC's website](#) where you can find answers to frequently asked questions; information about recent designation actions and sanctions list updates; and publications of general licenses, advisories, or other guidance.

We encourage those operating in the instant payment space to contact OFAC's Compliance Hotline with any questions about this guidance or about complying with OFAC sanctions.



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