

**Holland+Knight**

Screening For Terrorists  
and Money-Launderers:  
Yes, It's Your Job

*What Commercial and Multi-Housing Real Estate  
Professionals Need to Know to Comply with the  
Patriot Act and Executive Order 13224*

Presented by  
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# Real Estate Industry Targeted by Money Launderers and Terrorists

- “Oxon Hill Development Has Ties to Terror” (Washington Post April 19, 2004)
- “Real Estate Was a Laundering Vehicle for Florida Mobsters” (Money Laundering Alert May 2004)
- “Report Says Real Estate Among ‘Most Significant’ Laundering Tools” (Money Laundering Alert May 2004)
- “Comply with Executive Order on Terrorism to Avoid Stiff Penalties” (Commercial Lease Law Insider July 2004)

# THE THREE KEY LAWS

▶ **The MONEY LAUNDERING CONTROL ACT** ◀

▶ **THE BANK SECRECY ACT** ◀  
(USA PATRIOT Act)

▶ **EXECUTIVE ORDER 13224 &  
THE OFAC SDN LIST** ◀

# THE MONEY LAUNDERING CONTROL ACT

**Any** person or business that

→ **“knows”** money or property comes from

→ **“some”** criminal activity, and

→ **engages in a financial transaction** with that money or property

is a “Money Launderer” who can be

**X** fined the greater of \$500,000 or two times the value of the property involved

**X** put in jail for 20 years

if the money or property came from certain types of illegal activity

# THE BANK SECRECY ACT and THE USA PATRIOT ACT

**Requires the Treasury Department to issue anti-money laundering regulations to “Financial Institutions”**

24 types of “financial institutions,” including

- ▶ loan and finance companies
- ▶ investment companies
- ▶ **“persons involved in real estate closings and settlements”**

# THE BANK SECRECY ACT

## *The regulations can require*

- ▶ implementing formal **Anti-Money Laundering Programs**
- ▶ appointing a Compliance Officer
- ▶ educating employees on the Program
- ▶ periodic auditing of the Program
- ▶ reporting of “suspicious activity”
- ▶ verifying identity of customers

# THE OFAC SDN LIST

**A list of countries, persons, groups and businesses**

**considered to be terrorists (or their associates) or narcotics traffickers**

**whose property and interests in property**

**is “blocked” and may not be “transferred, paid, exported, withdrawn or otherwise dealt in”**

# THE OFAC SDN LIST

**“Property” and “Property Interest”** means money, checks, drafts, debts, **notes**, securities, **mortgages**, pledges, **liens**, **security interests**, **leases**, **rents**, **real estate**, insurance policies, annuities, contracts and “any other property, real or personal, tangible or intangible, or interests therein”

**In short, federal law prohibits any direct or indirect business, transaction, service or credit to or with anyone on the SDN List**

# THE OFAC SDN LIST

## **CIVIL ENFORCEMENT:**

These are “strict liability” statutes and regulations

Unintentional and inadvertent violations  
can be punished by civil penalties  
\$11,000 to \$275,000

## **CRIMINAL ENFORCEMENT:**

intentional violations can be criminally prosecuted  
10 years in jail  
\$50,000 to \$1 million fine

# THE OFAC SDN LIST

**You are responsible for not doing business with any person or business on the List**

- ▶ The SDN List is 140-plus pages long ◀
- ▶ The SDN List contains about 5,000 names ◀
  - ▶ The SDN List changes frequently ◀

(Since 9/11, names have been added and removed on an average of three times *a month*)

**The regulations provide little guidance except  
“YOU MAY NOT DO BUSINESS  
WITH THESE PEOPLE”**

# THE OFAC SDN LIST

## How Do I Check the OFAC SDN List?

- **Manual Searches – A practical impossibility**

- 140-plus pages, 3 columns, blindingly small font!

- updated frequently

- large number of aliases and “doing business as” designations

- difficult to track accurately

- **Software Programs: Many are available**

# THE OFAC SDN LIST

## **Which Software Program?**

- **Choose Wisely**
- **Important Features to Look For:**
  - Automatic Updates when List is changed
  - Electronic Searches
  - Process for Adjudicating Potential Matches
  - Documentation of Searches and Adjudication
  - Ease of Use and Compatibility with Your System

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