Denied & Restricted Party Screening

WHITE PAPER

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INTREDEX

Trade Compliance Solutions

1   Denied & Restricted Parties

U.S. government agencies as well as International organizations and foreign government agencies publish lists of entities and companies that are denied or restricted from doing business with. In the event a company, entity or person on one of such lists appears to match a potential party in an export transaction, additional due diligence is required before proceeding. Typically, depending on which list the match was found, a match would indicate the either of the following situations:

- **A strict export prohibition,**
- **A specific license requirement for exporting to or making a business with the sanctioned entity, or**
- **The presence of a "red flag" in this transaction with the sanctioned entity.**

According to agencies which publish the denied and/or sanctioned party lists, prior to taking any further actions, companies and organizations are to consult the requirements of the specific list on which the company, entity or person is identified by reviewing the webpage of the agency responsible for the list. Violation of the regulations would cause criminal and administrative penalties against the companies and organizations. Moreover, violators may be subject to denial of their export privileges, which essentially means the company is prohibited from participating in any future transaction. It is also noteworthy that the company business reputation would be severely damaged resulting from a bad publicity of a non-compliance.

In the U.S., government agencies generally add the entities, individuals and companies to the restricted party lists for several reasons. They commonly define such reasons as in the following:

- A foreign party, such as an individual, business, research institution, or government organization, for engaging in activities contrary to U.S. national security and/or foreign policy interests.
- A list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order are prohibited.
- Some foreign entities are prohibited from receiving some or all items subject to the U.S. Export Administration Regulations (EAR) unless the exporter secures a license. Those persons/entities present a greater risk of diversion to weapons of mass destruction (WMD) programs, terrorism, narcotic trafficking, financial criminal activities, or other activities contrary to U.S. national security or foreign policy interests.
- In certain cases, a government agency has been unable to verify the end-user in prior transactions. Typically, the presence of a party on this list in a transaction is a "Red Flag" that should be resolved before proceeding with the transaction.

Companies and organizations enjoy using applicable license exceptions in their transactions when the export license requirement exists. However, in most instances, license exceptions that are otherwise available for the export, re-export or transfer (in-country) to a party cannot be used if the party is listed in the denied party lists. Rather, such transactions require an export license and are usually subject to a policy of denial.

2   Screening Process

Ensuring the end-user or recipient of the exported products, software and technical data is not listed in the denied and sanctioned party lists further increases the difficulty of doing business worldwide or disclosing a technical data or software source code to foreign persons. Companies and organizations can diminish the risk of violation of the export control regulations by running the name of persons and entities against the above mentioned lists and identifying the possible name matches prior to an export or a business activity. This practice is commonly called as the "Denied/restricted party screening" process.

2.1   What Lists to be Used for Screening?

Organizations generally assume that U.S. Department of Commerce issued lists are the only lists that need to be used to screen a trade partner. The truth is that those are only some of the lists that require attention. It is recommended that a risk analysis should be done to determine which lists are needed to be used. Type of the business transactions and geographical factors would impose consideration of several other lists. For instance, an organization exporting to or doing business in another country should likely include the denied party lists that are issued by that country's respective agencies. Companies that are involved in specific business activities, such as government contracts, healthcare or financial activities, should also use the lists that are issued by the agency regulating those transactions.

2.2   Who Needs to be Screened?

Based on the best practices, organizations should at minimum screen the following entities. It is also recommended to periodically revise this list to add other business partners;

- Countries where buyer, intermediate consignee, ultimate consignee and end-user are located. Country screening helps to identify potential warnings, restrictions and/or embargoes.
- Customers
- Intermediate and Ultimate Consignees, if different than customers
- End-users, if different than customers
- Pay-to and Pay-from parties in transactions
- Suppliers and vendors
- Service providers
- New hires & Employees
- Contractors & Subcontractors
- Consultants
- Representatives & agents
- Visitors and their employers
- Recipients of software & technical data
- Freight forwarders
- Customs Brokers
- Banks and other financial institutions

3

2.3   Best Practices in Screening Process

Screening activity typically involves searching for name and/or address match between the trade partners and restricted parties. Since the watch lists are subject to frequent changes that are often effective immediately, screening is essentially a repetitive task. The best practices in the industry today recommend three basic approaches in regards to the timing and nature of the screening:

1- **Party-based screening:** Screening of all business partners every time the restricted party lists are updated.
2- **Transaction-based screening:** Screening of only the relevant business partner(s) prior to each business opportunity and/or transaction.
3- **Hybrid screening:** Screening of all business partners periodically in addition to screening of only relevant business partner(s) prior to each transaction.

Considering the fact that most up-to-date restricted party lists should be used for either approach, screening can be manually intensive work. In case of an existence of large amount of trade partners using a software solution is inevitable. Companies should look for the automated screening software which promptly updates all applicable watch lists when they are updated by the source authorities.

Automated software generally seeks an exact match between the trade partners and the restricted entities. However, due to differences between the Latin and native alphabets many of the foreign restricted entities have name and address variances. As such, the software should not only look for the exact match, it should also have the search function employing "fuzzy logic" algorithm, also known as finding the similar sounded names or phonetic matches.

In order to decrease the redundancy and workload among different business teams, it is suggested that screening activity to be centralized. In many cases, Shipping and Trade Compliance (if exists) personnel perform the most of the screening. Other functions, such as Human Resources, Customer Service, Sales, Security and Engineering teams as well as remotely located offices can also own the parts of the process when the need arises.

Organizations may consider keeping certain entities exempt from a periodical screening process. Those that are exempt would include the entities that are owned or controlled by the organization itself (i.e., subsidiaries, Joint-Ventures, etc.) and the U.S. Government agencies.

The following diagram would be a useful guide on the timing and responsible party for the activity.

Quadrant 1 (top-left):
- Suppliers
- Vendors
- Service Providers
- Subcontractors

- Purchasing
- Procurement
- Trade Compliance

Quadrant 2 (top-right):
- Potential and existing Customers
- Recipients of software and technology
- Brokers
- Financial institutions

- Customer Service
- Sales/Marketing
- Trade Compliance

Center: Automated Screening Software

Quadrant 3 (bottom-left):
- New hires
- Employees
- Visitors
- Contractors
- Consultants
- Representatives and Agents

- Human Resources
- Security
- Engineering
- Trade Compliance

Quadrant 4 (bottom-right):
- Shipping
- Receiving
- Traffic/Logistics
- Trade Compliance

- Intermediate and Ultimate Consignees
- End Users
- Pay-to and Pay-from parties
- Freight Forwarders

Best Practices in Timing and Responsible Functions:

1 Suppliers, Service Providers, Vendors and Subcontractors

Time for Screening:
- Prior to considering new suppliers, vendors, service providers, and subcontractors,
- Prior to submission of new request for quote and/or Purchase Orders

Responsible Function: Purchasing, Procurement and/or Trade Compliance

2 Customers, Recipients of Software and Technology, Financial Institutions and Brokers

Time for Screening:
- Prior to considering new customers and recipients
- Upon receipt of quote requests and Purchase Orders (for existing customers)
- Prior to shipping/export
- Prior to disclosing software and technology

Responsible Function: Customer Service, Sales/Marketing and/or Trade Compliance

3 New Hires, Employees, Visitors, Contractors, Consultants, Representatives and Agents

Time for Screening:
- Prior to hiring decision for the new employees, contractors, consultants and agents.
- Prior to giving a facility/office/site access to newly hired employees, contractors, consultants and

5

agents.

- Prior to giving a facility/office/site access to a visitor.
- Periodically, for existing employees, contractors, consultants, representatives and agents.

Responsible Function: Human Resources, Security, Engineering and/or Trade Compliance

(4) **Intermediate and Ultimate Consignees, End Users, Pay-to and Pay-from parties, Freight**

Forwarders

Time for Screening:

- Prior to invoicing and shipping process all parties (i.e., consignees, end-users, pay-to and pay-from parties, freight forwarders).
- Prior to making, transferring or accepting funds.
- Prior to getting into agreements with new brokers and freight forwarders.

Responsible Function: Shipping, Receiving, Traffic/Logistics and/or Trade Compliance

2.4   What to Do in Case of a Match?

The screening process can bring either one of the following results:

- *No match is found:* Depending on the screening method selected, no match to the screened entity is found. Typically if the screening criteria is "exact name or address match" and if no match is found then it is advisable to repeat the screening with a different selection criteria, such as "sounds similar" or "phonetic match". Alternatively, words found in the name of the entity can be separately searched.

- *Partial matches are found:* It should be ensured that screened entity is not the same entity as any of those partial matches. This can be verified by reviewing name and/or address variances between the screened entity and found matches. In cases where entities are located in countries using different alphabets, screening person must pay special attention to names taking different formats. Many times it will be necessary to further review the other information listed, such as other names (e.g. aka), addresses, date of birth and identity information of the partially matched entities.

> *It is important that the denied/restricted screening process must stop handling the transaction until the screened entity is cleared. Only the authorized persons should be allowed to approve the clearance if partial matches are found.*

- ***Exact matches are found:*** Similar to partial match, screening person and authorized individuals must review the matching fields and additional information on listed entities and confirm the match. Once confirmed, organization must stop processing the transaction and execute further analysis of the nature of the business transaction. Entities might be sanctioned for all types of or for certain type of transactions by the listing agency. Depending on the restriction type and legal jurisdiction, the listing agency must be consulted and if required an export authorization/license must be secured prior to initiation of the transaction.

In all above cases, record retention must be in place. Accordingly, it is highly recommended that results of all screening activities along with the clearance approvals by the authorized persons are documented.

About Intredex®

Intredex is a leading export compliance software service provider for the corporations and organizations, offering the following web-based software solutions:

- Restricted and Denied Party Screening
- Trade Party Management
- Automated Export Classification
- Export License determination
- Up-to-date export control regulations,

Intredex also provides an array of consulting and training services to ensure the organizations are compliant with the U.S. export control regulations including EAR, ITAR, Foreign Assets Control and NRC regulations. The wealth of expertise and knowledge of a great deal about the common attributes of the trade compliance and high-tech industries help us to better understand the clients' specific needs.

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7

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