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OFAC sanctions lists and the AML Directive: can a bank refuse to open an account solely because a customer appears on a US blacklist?

> **In Jenec (C-81/24, 11 June 2026), the Court of Justice of the European Union (CJEU) has delivered an important preliminary ruling on the reach of third-country sanctions within the EU legal order. The central question was straightforward: can a bank in a Member State refuse to open a basic payment account for a consumer simply because that consumer appears on a list maintained by the US Office of Foreign Assets Control (OFAC)? The Court's answer is nuanced. An automatic refusal based solely on an OFAC listing is incompatible with the autonomy and regulatory sovereignty of EU law. However, an OFAC listing may be treated as a relevant factor in the individualised risk assessment that credit institutions are required to carry out, and in certain circumstances it may justify a refusal to open an account.**

1. BACKGROUND: THE SLOVENIAN REFERENCE

The case arose from a dispute in Slovenia. On 25 January 2024, the Regional Court of Maribor ("**Regional Court**") made a preliminary reference to the CJEU. The underlying facts were simple: a bank ("**Bank**") had refused to open a basic payment account for an individual who appeared on one of OFAC's sanctions lists.

The Bank relied on Directive 2014/92 on access to basic payment accounts ("**Directive 2014/92**"), read together with Directive 2015/849 on the prevention of money laundering and terrorist financing ("**Directive 2015/849**") and its national implementing legislation. The applicant argued that, having never been convicted of the offences underlying his OFAC listing, the refusal violated his right to the presumption of innocence. He sought an order requiring the Bank to open an account in his name.

Before deciding the dispute, the Regional Court referred four questions to the CJEU for a preliminary ruling on the interpretation and national application of the relevant secondary EU legislation.

The central question was whether EU law permits Member States to require their credit institutions to refuse a consumer's application to open a payment account solely because that consumer appears on an OFAC list, on the basis that providing the service could breach anti-money laundering and counter-terrorist financing rules.

The Regional Court also referred several alternative questions, but the CJEU did not address them. They had been framed on the assumption that the answer to the first question would be yes – which, as discussed below, it was not.

2. THE RULING: KEY PRINCIPLES

A) An OFAC listing alone cannot justify refusing access to the EU banking system

The CJEU holds that Directives 2014/92 and 2015/849 **do not allow Member States to require credit institutions to refuse, as a matter of course, applications to open** payment accounts simply because the applicant appears on an OFAC list (or any other third-country sanctions list).

The reasoning is straightforward. EU legislation does not treat an OFAC listing as an indicator of, or independent ground for suspecting, money laundering or terrorist financing. Giving it that effect would mean recognising, within the EU legal order, the unilateral sanctions power of a third state – **directly undermining the autonomy and primacy of EU law**.

B) Individualised risk assessment first, refusal only as a last resort

The CJEU confirms that Article 8 of Directive 2015/849 requires credit institutions to carry out an individualised risk assessment for each applicant. Crucially, where that assessment reveals a high risk, **the institution's response should not be to refuse to open the account** under Article 16(4) of Directive 2014/92. Instead, **it must apply enhanced due diligence measures** drawn from those set out in Directive 2015/849.

The Court points specifically to Article 13 of Directive 2015/849, which lists the enhanced due diligence measures for high-risk customers and transactions. These include, for example: reliably identifying and verifying the customer's identity using appropriate documentation; identifying the beneficial owner and verifying their identity through the ownership and control structure; obtaining information on the intended purpose and nature of the business relationship; and putting in place enhanced, ongoing monitoring of the relationship, including scrutinising transactions throughout its course.

The Court adds – echoing the recitals to Directive 2014/92 – that neither the cost nor the complexity of these assessments justifies cutting corners. Due diligence obligations are an inherent part of the regulatory framework designed by the EU legislature, and the burden of compliance falls squarely on credit institutions as a condition of their regulated status.

C) OFAC listings matter – but they are not determinative

The CJEU is careful, however, to qualify its position. Although an OFAC listing cannot trigger an automatic refusal, **it may be considered as a risk factor** within the individualised assessment described above. The institution must weigh it alongside all other circumstances relevant to the particular applicant.

Declining to give OFAC lists direct legal effect within the EU does not mean ignoring them entirely. That would run counter to the preventive objective of Directive 2015/849 itself. Importantly for banks with US operations or counterparties, the ruling provides a framework, consistent with EU law, for factoring in their exposure to the US market and the operational implications of OFAC compliance. The key condition is that any such consideration must remain integrated within, and subordinate to, the EU's own AML controls – not operate outside them.

The Court adds a further practical point: because a basic payment account has limited functionality, the money laundering and terrorist financing risks it presents are inherently lower – a factor that should temper any assessment triggered by an OFAC listing.

D) Conclusion: refusal is justified only where compliance is genuinely impossible

Drawing these threads together, the CJEU concludes that a credit institution may refuse to open a basic payment account under Article 16(4) of Directive 2014/92 in **only one scenario**. **After carrying out an individualised risk assessment** – which may take an OFAC listing into account alongside other factors – the institution must conclude that it **lacks the technical, organisational or control capacity** to monitor the origin, destination and use of the account's funds, or to carry out the ongoing monitoring required by Directive 2015/849. Only where it is genuinely impossible to discharge those due diligence obligations can the institution justify declining to enter into the relationship.

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