

The 50% Rule Is Dead; Long Live the 50% Rule

Client Alerts

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On March 31, 2026, the Treasury Department's Office of Foreign Assets Control ("OFAC") issued new guidance ("Guidance") on "Sham Transactions and Sanctions Evasion." This Guidance confirms and formalizes what a series of recent enforcement actions has made clear: while OFAC's long-standing 50% Rule is still in place, it is a floor, not a ceiling, to corporate diligence. According to the Guidance, it is important to look "beyond legal formalities to underlying practical and economic realities." This article explains the 50% Rule, OFAC's evolving enforcement posture, and what the new Guidance means at a practical level for compliance.

I. The 50% Rule

According to OFAC's 50% Rule, "any entity owned in the aggregate, directly or indirectly, 50 percent or more by one or more blocked persons is itself considered to be a blocked person." This is the case even if that entity does not appear on OFAC's List of Specially Designated Nationals and Blocked Persons ("SDN LIST"). Due diligence into an entity's corporate structure may be necessary to determine whether it is 50% or more owned, directly or indirectly, in the aggregate, by blocked persons, which is not always a straightforward exercise. That said, the 50% Rule is a brightline rule, which OFAC has historically applied strictly in terms of nominal ownership, and not control. Ultimately, the 50% Rule is a concrete rule that businesses can rely on to identify whether or not an entity is per se sanctioned, but it frequently requires investment in diligence-screening tools to effectively apply it.

II. Enforcement Beyond the 50% Rule

In recent years, however, as sanctioned actors have become more sophisticated at moving their wealth beyond obviously sanctioned ownership structures, OFAC has signaled that enforcement actions will turn on factors that extend beyond the formal ownership requirement of the 50% Rule. The first signal came in June 2022, when OFAC issued a Notification of Blocked Property to Heritage Trust, a Delaware-based trust holding over \$1 billion in assets on behalf of Russian oligarch Suleiman Kerimov, who OFAC designated in April 2018. OFAC determined that Kerimov retained a property interest in Heritage Trust, using "a complex series of legal structures and front persons to obscure his interest."

Since its announcement of the Heritage Trust blocking notice, OFAC has taken enforcement actions against companies and individuals for activities in which sanctioned parties have some involvement outside the scope of a formal legal structure or ownership interest. The following three OFAC enforcement actions from 2025 underscore OFAC's position that the 50% Rule is only one element of the due diligence process.

- **GVA Capital Ltd.** On June 12, 2025, OFAC announced a \$215,988,868 penalty against GVA Capital, Ltd., a San Francisco-based venture capital firm, for knowingly managing investments for Kerimov after his designation. GVA Capital had obtained a legal opinion stating that the entity making the investment was not blocked because it was not 50% or more owned by a blocked person, but OFAC opined that this legal opinion was incorrect because “GVA Capital knew that Kerimov retained a property interest in the shares of the US company, as evidenced, among other things, by GVA Capital senior management’s personal dealings with Kerimov and [his nephew] before and after Kerimov was designated.” Overall, OFAC emphasized “the risk that US persons face when relying on formalistic ownership arrangements that obscure the true parties in interest behind an entity or investment, without sufficiently considering factors such as control or influence over that investment.”
- **An Individual.** On December 9, 2025, OFAC announced a \$1,092,000 settlement with an attorney and former US government official who had served as the fiduciary for a US-based trust connected to a sanctioned Russian oligarch between 2018 and 2022. Although this individual had obtained legal advice that “the Trust did not appear to be blocked property,” OFAC found that the individual “should have known, based on their personal knowledge of working with [the SDN] and their network, that the [SDN’s proxy] continued involvement following [the SDN’s] designation allowed [the SDN] to retain control over decisions made related to the Trust, indicating that [the SDN] maintained a property interest in the Trust.” This enforcement action underscores that, although the 50% Rule speaks “only to ownership and not to control,” in fact retaining control over decisions is a factor that matters in assessing property interest.
- **IPI Partners, LLC.** On December 2, 2025, OFAC announced an \$11,485,352 settlement with IPI Partners, LLC, a Chicago-based private equity firm, for soliciting and receiving investments on behalf of Kerimov following his designation. IPI, too, had received legal advice that it was not required to block the investment account because Kerimov did not have a 50% or more interest in it. Additionally, IPI had received written representations attesting that the investing entity was not sanctioned or acting for sanctioned persons. Nevertheless, OFAC determined that “IPI employees, including senior executives, knew that Kerimov was the source of funds” and should have known, based on their past dealings with him and his representatives, that he ultimately made the investment decisions. Kerimov’s past involvement in business decision-making and the continuing involvement of his representatives demonstrated his continuing interest in the property, despite no formal ownership interest.

These three enforcement actions indicate that the 50% Rule, though still in place, is only a first line of inquiry. Beyond formal ownership, a variety of factors can matter as well, such as degree of control, practice of actual dealings, and whether there are proxies or legal structures being used to conceal a de facto interest in property.

III. Practical Takeaways for Compliance

The new Guidance pulls together the strands of these enforcement actions, along with the following red flags to guide compliance:

- **Commercially unreasonable transactions.** Where the transfer of property from a blocked person is done on terms “that are not commercially reasonable, lacking adequate consideration, or otherwise not suggestive of an arm’s length transaction.”
- **Transfer to family members or close associates.** Transfers from a blocked person to a family member or close associates “can be evidence of a sham transaction.”
- **Unclear purpose of transfer.** Transfers “lacking apparent business purpose” can also be evidence that a blocked person is seeking to obfuscate a continued interest in property.
- **Unduly complex corporate structures involving higher-risk jurisdictions.** “[U]nnecessarily complex legal structures without a discernible legitimate purpose” can indicate an effort to conceal an ownership interest.
- **Continued involvement of a blocked person.** Facts or circumstances suggesting a blocked person is still “involved in the use, management, or disposition of property” can be a sign of a continuing property interest.
- **Transfer near the time of designation.** Property transfers completed “close in time” to a person’s designation warrant further analysis.
- **Evasive responses regarding a blocked person’s involvement.** Evasive or vague responses, as well as “failures to respond to questions from counterparties, key intermediaries, or gatekeepers,” may be evidence of an intent to conceal a continuing interest.

Apart from these factors, the Guidance also warns that trusts and similar arrangements, which may “obscure links between blocked persons and their interests in property,” merit caution.

The new Guidance and the recent enforcement actions counsel towards a reassessment of diligence processes to ensure they account for OFAC’s expansive views on sanctioned property interests.

- **50% Rule Is a Start.** If an entity is 50% or more owned, directly or indirectly, in the aggregate by sanctioned persons, the entity is blocked per the 50% Rule.

- **Look Behind Legal Proxies and Corporate Structures.** Assess the role of any sanctioned actors behind the scenes, even when they have no formal, legal role in a corporate structure.
- **Consider Red Flags.** If any of the above-listed red flags are present in a transaction, only proceed with scrutiny and significant caution.
- **Control and Influence Can Matter.** As the recent enforcement actions demonstrate, some element of sanctioned person control can be significant for OFAC enforcement, even if not reflected in formal ownership.
- **Legal Opinions Are Not Always Enough.** Reliance on legal advice will not always be enough to stop an OFAC enforcement action, especially if a person had reason to know more about the underlying situation and facts than was relayed to the legal advisor.

OFAC has made clear that compliance is not just a check-the-box exercise, especially where there are any indicia of past sanctioned party involvement. Beyond the 50% Rule, the context of a transaction and pattern and practice of dealings are essential elements in effectively assessing and addressing sanctions risk.

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