

Leveraging Data and Technology for Sanctions Compliance

OFAC's "50 Percent Rule"



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RISK &
COMPLIANCE

Foreword

These days, complying with the U.S. Treasury's Office of Foreign Assets Control (OFAC) regulations on sanctions against foreign entities requires much more than just checking a list of restricted companies and individuals.

That's because the latest rules require digging deeper, for example, by considering a company's "combined ownership of more than 50% by sanctioned parties." Additional non-list based requirements may also present potential compliance pitfalls.

Fortunately up-to-date data on sanctions rules and associated entities, coupled with the right screening technology, can help your organization avoid both the risk of fines and of devoting too many resources to compliance.

This paper will show you how.

It draws on the expertise of Eric A. Sohn, CAMS, Compliance Director of Business Product at Dow Jones Risk and Compliance, and Rosalie Griebel, Director of Product Management at CSI Regulatory Compliance.

In this paper, we will:

- Detail the requirements of the OFAC 50% Rule.
- Give examples of firms that have been fined for not knowing that sanctioned parties owned significant parts of companies.
- Help you connect your organization's risk policy to screening processes in order to reduce false positives when searching for potentially risky customers and other partners.
- Show how to leverage metadata, segmentation and algorithms for improved results.

A Maze of Sanctions

A basic level of compliance with OFAC regulations requires knowledge of nine lists of sanctioned entities.

These include two asset-freezing lists. If you hold assets from entities on these two lists, OFAC requires you to put them in a segregated, interest-bearing account and report on them on a yearly basis. These lists are:

1. Specially Designated Nationals [SDN] List

The SDN list is the one most people know about. It contains everything that OFAC designates as requiring sanctions.

2. Executive Order 13599 List

Set to expire in November 2018, this list includes Iranian sanctions program designees that are not subject to other sanctions. Then there are five non-asset-freezing lists from OFAC, compiled into a Consolidated Sanctions list.

3. Part 561 List

Part 561 corresponds to a section of U.S. law calling for sanctions against Iran.

4. The Iran Sanctions Act [ISA] List

This list is currently empty.

5. Foreign Sanctions Evaders List

This list includes people who help other people evade sanctions against Iran and Syria.

6. Palestinian Legislative Council List

This list includes members of the Palestinian Legislative Council.

7. Sectoral Sanctions Identification [SSI] List

Unlike the other four non-asset-freezing lists, this list is subject to the OFAC 50% Rule. Finally, OFAC guidance requires you to follow two additional lists published by the Department of State.

8. Cuba Restricted List

This is a prohibition list, comprising the vendors you may not do business with in Cuba because of their ties to the defense, intelligence, or security arms of the Cuban government.

9. CAATSA Part 231 List

This list includes entities tied to the Russian government. It, too, is a prohibition list.

Risks of Non-Compliance

OFAC's guidance on companies owned by sanctioned parties certainly increases the burden on compliance teams, who are tasked with balancing efforts to manage compliance risks with the operational costs of doing so.

While compliance teams must remain mindful of the legal, monetary, and reputational consequences associated with falling out of compliance, a heightened sense of risk can result in an overly aggressive approach to screening and due diligence.

This, in turn, may produce more alerts that need to be investigated and resolved. This adds time and money to compliance efforts as operations personnel manage the limited staffing of compliance analysis teams, customer service staff, and other personnel and technology resources.

But, lest you consider that paying a fine might be easier than trying to remain in compliance, consider the lessons of two major financial institutions as examples of the risk of failing to comply with sanctions. Barclays was fined \$2.5 million in 2016 for not identifying 50%-Rule entities in Zimbabwe. And a year later, TD Bank was fined \$516,000 for not identifying US operations payments involving Cuba.

Simply put, the 50% Rule imposes sanctions on companies with combined ownership by sanctioned parties of 50% or greater.

The 50% Rule

Unfortunately, simply following the lists is not enough for compliance. Additional requirements hidden or implied within regulations and legislation also demand attention. For example, the OFAC 50% rule and its EU equivalent are actually guidance notes and do not appear in any regulation or explicit requirement.

Simply put, the 50% Rule imposes sanctions on companies with combined ownership by sanctioned parties of 50% or greater.

However, compliance with the 50% Rule isn't as simple as it might first appear. For example, the Cuba Restricted list and the CAATSA list are not subject to the 50% Rule—even though, out of an abundance of caution, many people assume everything is.

At the same time, state-owned companies of blocked governments may be subject to the 50% Rule, which means you have to know what those companies are, even though they themselves don't appear on any lists.

Finally, OFAC also recommends "caution" in dealing with companies in which sanctioned entities hold large stakes that are nevertheless smaller than 50%. For example, we've identified one company that is 49.98% owned by a sanctioned Russian company, just below that magic 50%.



Breaking Out of the Maze With Data

Given all these complications, how can organizations avoid major compliance missteps and the risk of fines as well as the corresponding operational risks associated with an overabundance of caution?

The answer lies in good data along with the technology to easily and quickly surface any compliance issues from that data, while at the same reducing or eliminating false positives.

Dow Jones Risk & Compliance approaches the data component with a specialized research unit that consolidates all information about a person, organization, or country subject to sanctions into a single record, referred to as a **profile**.

This database of profiles, called Sanctions Ownership Research, includes companies and individuals subject to one or both of the OFAC and the EU 50% rule restrictions, as well as those owned by sanctioned governments. For exact figures on the number of profiles in the database, contact Dow Jones.

Making those kinds of broad distinctions is just the start for identifying sanction subjects, however. Our data also reveals many additional data points, including the following.

- **Companies that show 10% or larger ownership by sanction subjects**

We include this data because, in order to adhere to OFAC's requirement for 50% or larger aggregated ownership, we need to research ownership stakes significantly smaller than 50%. Additionally, OFAC's guidance advises exercising caution for ownership stakes below 50%.

- **State-owned companies of comprehensively sanctioned governments**

We include these because the 50 Percent Rule applies to entities mentioned in executive orders, including Syria, Iran, North Korea, Cuba and Crimea.

- **Companies with a sanctioned party in senior management or on the boards of directors**

We track this because EU guidance includes control by sanctioned parties, in addition to ownership.

- **Subsidiaries—and the subsidiaries of subsidiaries—of affected companies.**

Russia firms, in particular, have many levels of subsidiaries.

- **Exact ownership stake numbers**

While we provide alerts on majority or minority stakes, we also return precise ownership figures. That way we can see, for example, if someone recently reduced their ownership stake in an effort to avoid sanctions.

Enhanced details from Dow Jones can also provide context such as industry data, stakeholder details, and analyst notes.

Of course, surfacing potential compliance issues only works if the underlying data is kept up to date and therefore remains accurate. That's why news items related to any of the entities we cover trigger immediate updates. For entities not in the news, we refresh data on a regular cycle.

All in all, Dow Jones covers about 15,000 active profiles across all OFAC and EU programs in 174 affected countries.

Bringing It All Together With Technology

One way to align the often-opposing interests of operations and compliance is to gain clarity on how you plan to score profiles you're screening and what options you have available to tune those results. Technology for screening your data can help.

For example, Computer Services, Inc. (CSI) has integrated the Dow Jones Sanctions Ownership Research data into its WatchDOG® Elite watch list screening tool. This enables CSI customers to screen for politically exposed persons as part of their overall compliance efforts.

A major concern for many organizations is the number of false positives and the noise that they represent. Search algorithms can reduce the visibility of those false positives based on criteria your organization sets. It does so with the help of configurable penalties and disqualification options. These can help isolate the higher-confidence, higher-risk alerts from those that fall below your established baseline, and therefore don't warrant attention.

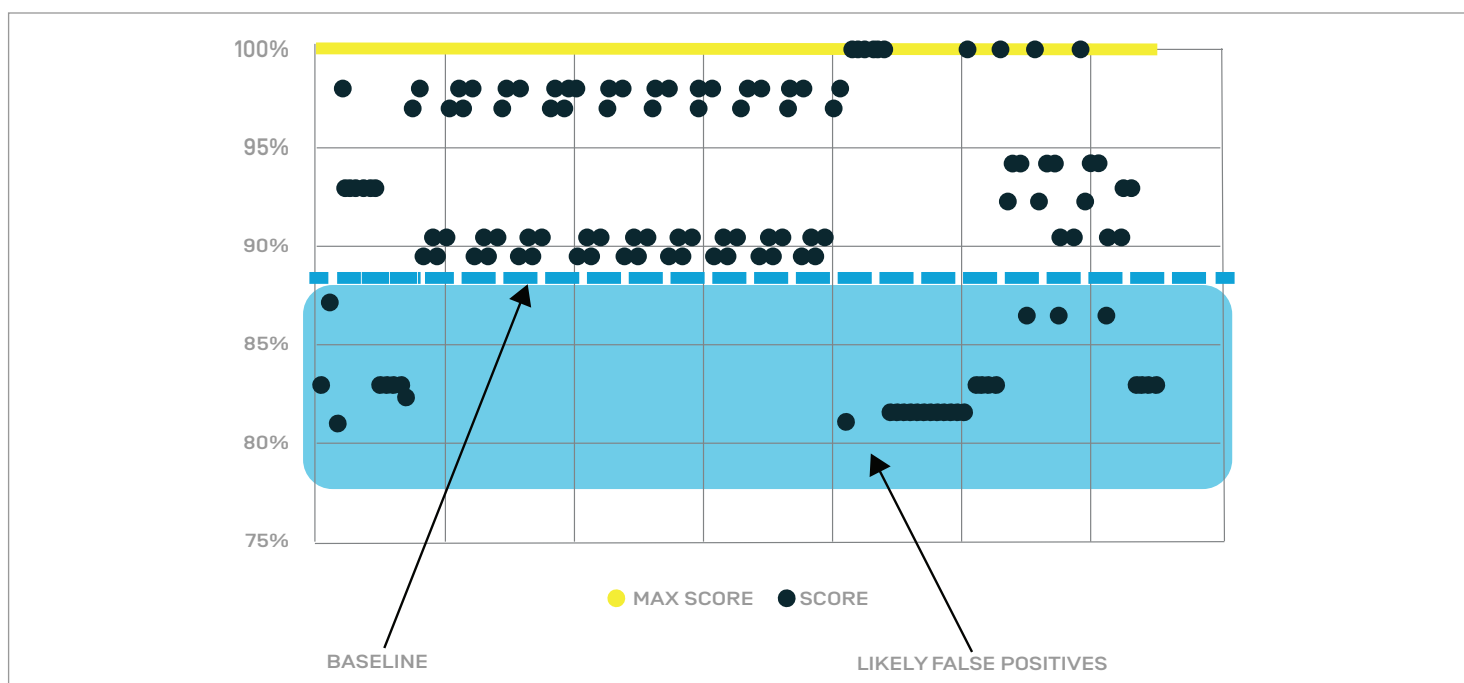
The ability to search across multiple datasets at the same time and configure what that data looks like on the

screen is another way to save time and effort versus doing multiple searches and having to review the results of each independently.

For example, industry data can appear alongside profiles of individuals and companies. The CSI platform can also display results for a company around both the anti-corruption state-owned companies dataset and the main sanctions ownership list.

In addition, the platform displays not only a company that's sanctioned or identified for risk, but all of the companies and individuals associated with that entity. The platform surfaces shareholders, other asset holders, and assets related to the specific entity, putting more information at your fingertips and saving you more time that's better spent on analysis.

All of this detail provides important context for assessing the level of risk that you may undertake by doing business with a given entity. But sometimes large amounts of data can represent too much of a good thing. That's where metadata comes in to help you further cut through the noise.



Reducing Noise With Metadata

Metadata, that is, data about the companies and people in the databases you search, helps you further narrow down the number of irrelevant hits returned in a given search, which in turn helps you save time. Here again, good, up-to-date data coupled with robust screening technology can put you on the path to success.

Examples of Metadata for Filtering Searches

Country
Mailing Address
Associated Countries
Birthdates
Products Produced
Services Performed
Transaction Volume
Transaction Types

Metadata you can use to filter out profiles you don't need includes information related to geography such as the country associated with a profile and even the mailing address. It can even include information about countries with which a given entity does business.

When searching individuals rather than companies, you can also filter searches based on birthdates, allowing you to ignore individuals who happen to share the same names as people you actually want to reference.

And you can filter searches of customers or others you are considering doing business with based on metadata such as the types of products and services they produce and the volume and types of transactions they execute as part of doing business.

For example, you can screen profiles with higher transaction volumes and higher dollar amounts doing business in areas with geopolitical unrest such as in Russia, Crimea, or Syria in order to analyze them more closely. At the same time, you may want to screen lower-risk customers simply against general sanctions.

All of which can help you navigate the maze of OFAC rules and regulations, reducing both compliance and operations risks for doing business with companies around the world.

Learn more about Sanctions Ownership Research: risk@dowjones.com

About Eric A. Sohn, CAMS

Eric is Compliance Director of Business Product at Dow Jones Risk and Compliance. He is responsible for Dow Jones' data feeds, online tools and due diligence reporting services, as well as thought leadership and managing the direction of the product and service portfolio. He's also Dow Jones's subject matter expert on economic sanctions and anti money laundering.

About Rosalie Griebel

Rosalie is Director of Product Management at Computer Services, Inc. (CSI) Regulatory Compliance. She is a PMC Level VI certified Product Manager with over 17 years of experience delivering compliance management software solutions for a variety of industries. She has managed the product team at Regulatory Compliance since 2014.

About Dow Jones Risk & Compliance

Dow Jones Risk & Compliance is a global provider of third-party risk management and regulatory compliance solutions covering anti-money laundering, anti-bribery and corruption, sanctions compliance and trade compliance.

About CSI

CSI Regulatory Compliance simplifies managing sanctions compliance in a global economy. Our industry-leading solution connects disparate sanction screening and identity verification systems, creating a centralized system of record. Through our software and consulting services, CSI provides a suite of compliance solutions for the requirements of GLBA, USA PATRIOT Act, OFAC, BSA and BIS.