Lowenstein Sandler

Client Alert

Anti-Money Laundering

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OFAC Imposes Largest-Ever Penalty on Nonbank Financial Institution for Egregious and Sustained Sanctions Violations—a $216M Warning to U.S. Fund Managers: Know Your Investors

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The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) announced a historic $215,988,868 civil monetary penalty against GVA Capital Ltd. (GVA), a venture-capital firm registered in the Cayman Islands and headquartered in San Francisco, for egregious violations of OFAC's Ukraine/Russia-related sanctions program and for prolonged failures to comply with an OFAC subpoena.[1] This enforcement action represents the largest civil monetary penalty ever imposed on a nonbank financial institution (NBFI) and underscores the importance of developing and maintaining effective, risk-based sanctions compliance controls.

The Facts:

GVA's investment portfolio focuses on areas such as artificial intelligence, financial technology, robotics, and autonomous vehicle technology. In connection with fundraising efforts for an investment opportunity in 2016, GVA approached Suleiman Kerimov, a Russian oligarch with whom one of GVA's founders maintained a personal relationship. After a series of in-person meetings, GVA secured Kerimov's commitment to invest $20 million. Following this commitment, however, GVA was advised to coordinate all further negotiations through Kerimov's nephew, Nariman Gadzhiev. In September 2016, Gadzhiev facilitated the $20 million transfer through Prosperity Investments L.P. (Prosperity), a Guernsey-based entity in which Kerimov retained an interest, which entered into a subscription agreement with (and ultimately transferred the funds to) a Delaware-based special purpose vehicle established by GVA called Heritage Trust.

In April 2018, Kerimov was added to the List of Specially Designated Nationals and Blocked Persons (the SDN List) by OFAC, which requires all U.S. persons to block Kerimov's assets and prohibits any dealings with him by U.S. persons. Nevertheless, GVA continued managing Kerimov's assets through Gadzhiev. GVA sought legal counsel regarding Kerimov's status on the SDN List, and although the opinion incorrectly advised that Kerimov's interests did not exceed a 50 percent interest in Prosperity, GVA was expressly cautioned to ensure that any sale or transfer of the shares did not directly or indirectly involve Kerimov. Despite having direct knowledge that Kerimov did, in fact, maintain an indirect interest in the subject property, GVA ignored its counsel's warnings and knowingly engaged in one prohibited transaction as well as three prohibited attempted transactions with Kerimov between 2018 and 2022.

In 2021, OFAC was made aware of an upcoming transfer of funds to Kerimov and issued a subpoena to GVA for documentation relating to its dealings with Kerimov. It took GVA over two years to comply fully with the subpoena, resulting in additional and repeated OFAC violations. The significant penalties imposed on GVA were the statutory maximum amount that OFAC was able to impose pursuant to regulation and the facts of the case. OFAC viewed this matter to be "an egregious case" due to GVA's knowing and willful violations of U.S. sanctions, the extraordinary delay in complying with the subpoena, and the pervasive, repeated conduct that was in direct contravention of U.S. foreign policy interests. Additionally, at no point did GVA self-report its sanctions violations, which would have mitigated civil penalties imposed by OFAC.

Key Takeaways:

This enforcement action highlights how NBFIs like venture capital firms and registered investment advisers can be used to circumvent anti-money-laundering (AML) and sanctions laws in the U.S. While NBFIs are not subject to the same AML laws to which banks are subject (including but not limited to the Bank Secrecy Act of 1970) (BSA), all U.S. persons must comply with the sanctions programs administered by OFAC. To do so, NBFIs should, at a minimum,

have policies and procedures in place to identify an investor's ultimate beneficial owners and to monitor investors against sanctions watchlists, both at onboarding and on an ongoing basis, particularly given that civil violations of U.S. sanctions are strict liability offenses.[2] We recommend clients take this opportunity to review their existing policies and procedures, in particular the following:

- Adequate Recordkeeping. Maintain a robust investor profile that records transactions including redemption and transfer requests, and escalations by compliance, legal, or the fund administrator (including any sanctions analyses and external legal advice). If a red flag escalation occurs, there should be recordkeeping of the analysis undertaken and rationale for the ultimate decision made. Records related to AML compliance must be retained for at least five years, and records related to OFAC sanctions compliance must be retained for at least ten years. Accurate documentation can serve as critical evidence of good-faith compliance efforts in any subsequent inquiry.

  Note that GVA's reliance on external legal advice that contained a formalistic interpretation of ownership, while ignoring operational control and economic benefit, was found to be insufficient. Knowledge of a sanctioned party's continued economic interest in a company or investment vehicle, whether it be direct or indirect, triggers legal obligations regardless of nominal ownership percentages or external legal opinions because civil violations of OFAC sanctions are strict liability offenses.

- Ongoing Investor Due Diligence and Compliance Controls. Due diligence should be conducted on an investor both at the subscription stage and throughout the life cycle of the relationship. An investor that has no red flags during an initial AML and sanctions review can later be listed on the SDN List or be subject to AML violations. This due diligence must include the beneficial owners and control persons of the investor because U.S. sanctions prohibitions extend to all property owned or controlled by a sanctioned party. Therefore, transacting with a nominee, intermediary, trust, offshore company, or a shell company will not provide protection from liability if the ultimate beneficial owner or control person of the funds or property is a sanctioned party, as was the case here. If an investor (or the investor's beneficial owner(s) or control person(s)) is later designated as an SDN or otherwise found to be in violation of U.S. AML and sanctions laws, fund managers should have policies and procedures in place to identify this change in investor status and subsequently take appropriate action, including but not limited to informing law enforcement, blocking future transfer and redemption requests, and freezing the investor's funds. To the extent necessary, external counsel should be consulted as an escalation point, with all relevant facts and circumstances being disclosed to ensure that counsel can provide an informed analysis.

  While OFAC's guidance regarding the "50 Percent Ownership Rule" provides a helpful metric for measuring compliance,[3] real-world fact patterns may not neatly align with formal ownership thresholds. Therefore, additional diligence should be conducted to assess risks related to beneficial ownership, control, and source of funds, even in the absence of direct connections to designated persons or jurisdictions.

  Despite GVA not being subject to the BSA, all U.S. persons and entities are subject to the regulations promulgated by OFAC, and violating sanctions laws is a strict liability offense for the purposes of a civil enforcement proceeding—a lack of knowledge is not a defense. Additionally, all U.S. companies are subject to the Money Laundering Control Act of 1986, which broadly criminalizes knowingly engaging in financial transactions that involve illicitly derived funds.

It is particularly important for registered investment advisers and exempt reporting advisers to take this opportunity to review their existing policies and procedures because beginning January 2026, they will be subject to the BSA, which will impose heightened AML regulatory obligations, like those currently imposed on banks and broker dealers, on such advisers.[4] One can expect that future civil and potentially criminal penalties for sanctions violations will be harsher on entities with such enhanced regulatory obligations.

For more information on this Client Alert or sanctions implications, please contact your primary Lowenstein Sandler attorney or the authors of this Client Alert.

[1] Enforcement Release, U.S. Dept. of Treasury Office of Foreign Assets Control, "*OFAC Imposes $215,988,868 Penalty on GVA Capital Ltd. for Violating Ukraine/Russia Related Sanctions and Reporting Obligations,*" June 12, 2025.
[2] Arguably, the violations described in the GVA matter could have risen to criminal violations, which would have required showing that GVA knew or was willfully blind to knowing that the at-issue transactions violated the law.
[3] U.S. Department of the Treasury, Office of Foreign Assets Control, *Revised Guidance on Entities Owned by Persons Whose Property and Interests in Property Are Blocked* (Aug. 13, 2014), available here ("Persons whose property and interests in property are blocked pursuant to an Executive order or regulations administered by OFAC (blocked persons) are considered to have an interest in all property and interests in property of an entity in which such blocked persons own, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest.").
[4] For coverage on how the BSA will apply to investment advisers and exempt reporting advisers and how they can prepare for the new regulatory requirements, see our prior client alert here.

Contacts

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