

OFAC Continues Focus on Virtual Currency Industry with Announced Settlement with Payward, Inc.

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Yesterday, on November 28, 2022, the Office of Foreign Assets Control (OFAC) [announced](#) a \$362,158.70 settlement agreement with Payward, Inc. (Kraken), an online virtual currency exchange, in connection with 826 apparent violations of the Iranian Transactions and Sanctions Regulations. This enforcement action highlights the OFAC compliance risks for virtual currency platforms and comes on the heels of the Bittrex settlement which we discussed [here](#). Again, it is critical to assess your risks and take steps to make sure you're addressing them with smart compliance and screening measures.

Background

Kraken began offering its virtual currency services in 2013. The virtual currency exchange maintained an anti-money laundering and sanctions compliance program which prevented users from *initially opening* an account while in a jurisdiction subject to sanctions. However, the program's screening did not flag and prevent users from accessing and transacting their accounts from a sanctioned jurisdiction.

After identifying the problem, Kraken implemented automated blocking for IP addresses linked to sanctioned jurisdictions and other blockchain analytics tools to assist with sanctions monitoring. Kraken also expanded its screening capabilities to comply with OFAC's "50 Percent Rule" and blocked accounts associated with the Crimea region and in the so-called Donetsk and Luhansk People's Republics of Ukraine. We have discussed related OFAC guidance and compliance recommendations [here](#).

Key Takeaways

It's Not Just Screening and Blocking From the Start: As the above settlement discloses, a good compliance program for virtual currency companies not only screens during the onboarding process but also ensures that users are unable to access those accounts in sanctioned jurisdictions. Kraken's program screened customers and their IP address information when they were opening an account but did not prevent its users from accessing and using their accounts later on in sanctioned

jurisdictions.

Global Presence, Global Sanctions Screening: Kraken's addition of blocking accounts associated with the Crimea region and the so-called Donetsk and Luhansk People's Republics of Ukraine highlight the potential pitfalls of having a global presence. It is critical to keep up to date on sanctions regulations and ensure that your compliance program is screening for all sanctioned jurisdictions.

Don't Forget About the 50 Percent Rule: OFAC's list of blocked entities (otherwise known as Specially Designated Nationals) does not include those directly or indirectly owned 50 percent or more in the aggregate by one or more blocked persons. However, in those situations, the entity is still considered to be blocked. A good compliance program will ensure compliance with this rule including reports on beneficial ownership.

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