

OTC Reverse Merger Tradability Guide

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21 sections · 49 authorities

THE CORE RULE

A control person cannot supply an immediately saleable public float in an OTC reverse merger merely by calling the shares "free-trading," placing them in third-party names, or arranging delivery after the control change. Where the buyer privately acquires shares directly or indirectly from an affiliate, the shares ordinarily are restricted securities under Rule 144(a)(3)(i). A planned public distribution requires registration or an actual available exemption. Nominee holdings and contractual control must be included in that analysis. [1, 24, 25, 26, 27]

The principal focus of this guide is the illegality of an unregistered distribution accomplished by transferring purportedly free-trading shares as part of a shell sale or reverse merger. It explains seller, buyer and professional-participant exposure, common control through contracts, the SEC and DOJ cases, and the requirements for lawful registration or resale. A private transfer that validly qualifies for an exemption must be distinguished from an unlawful public distribution; an exemption for the private transfer does not make the acquired shares freely resellable.

SEC registration, Rule 144, shell-company reporting, OTC quotation, legend removal, DTC eligibility and broker acceptance are addressed as they affect this issue. None of the operational steps independently establishes a Securities Act exemption. Rule 144 is unavailable while the issuer is a shell and remains subject to additional conditions after shell status ends. [1, 12, 18]

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§1 When the transfer of a purported free-trading block violates Section 5

The legal question is not simply whether a certificate has a restrictive legend. It is whether the control-block sale, related share transfers and contemplated market resales constitute a distribution that must be registered, and whether the claimed exemption actually covers the participants and transactions. A share can have been lawfully issued and previously unrestricted yet become restricted when acquired privately from an affiliate. Prior registration of the original issuance does not permanently register every later control-person distribution. [1, 24]

The outgoing control person and the purported public float

An outgoing officer, director, controlling shareholder or other affiliate may agree to sell control and also arrange delivery of a block described as freely tradable. The affiliate may hold that block directly, obtain it from controlled third parties, direct nominee holders to transfer it, or cause the issuer to issue it. If the buyer acquires the stock privately from the affiliate, directly or indirectly, the restricted-security definition applies. If the seller is arranging an onward public distribution, Section 4(a)(1) cannot be assumed to protect the arrangement, because issuers, underwriters and dealers are excluded from that exemption. [1, 22, 24, 26]

A sale of restricted shares in a valid private transaction can be lawful. What the parties cannot do is use that private transfer as the basis for delivering an immediately saleable, unrestricted public float when the conditions for public resale are absent. The analysis must cover the offer, the initial transfer and the ensuing distribution. Section 5(c) can apply to unlawful offers before any market sale occurs. [24]

The incoming control person and its designees

The buyer does not avoid exposure because the seller warranted that the shares were free trading or a lawyer supplied an opinion. A buyer acquiring stock with a view to public distribution can be an underwriter, and a buyer that obtains control must also account for its affiliate status. Stock parked in buyer-designated names can remain beneficially owned or controlled by the buyer. A public sale through those names requires its own lawful registration or exemption basis. [1, 3, 25, 28]

A transfer after closing is not necessarily independent of the control sale. Contractual commitments, negotiated quantities, common consideration, escrow directions, stock powers, designation rights and the parties' intended public sales can demonstrate that nominally separate steps are part of the distribution. Delayed delivery or the seller's resignation does not by itself create an exemption. [24, 25]

Treasury issuances and purported exemption opinions

If new shares are issued as part of the arrangement, identify the issuer's registration or exemption basis and the resulting resale status. Conventional private-placement shares do not become unrestricted by omitting a legend. A false opinion, fabricated debt record or unsupported nonaffiliate certification cannot create an exemption. Misleading ownership and business disclosures can also support separate fraud charges, including where the securities previously passed through an effective registration statement or obtained quotation and DTC eligibility. [1, 29, 33, 34, 40]

ARRANGEMENT	PRINCIPAL LEGAL DEFECT	EVIDENCE THAT MATTERS
Control block plus a promised unrestricted block	A private affiliate acquisition and planned public distribution are treated as if they were ordinary independent public trades.	Full purchase terms, price allocation, beneficial ownership and intended resales.
Shares delivered by nominal third parties	Actual control and indirect acquisition from an affiliate are concealed.	Voting and disposition rights, stock powers, contracts, funding and proceeds.
Shares delivered to buyer designees after closing	A prearranged distribution is presented as an unrelated later transfer.	Side letters, recipient-designation rights, escrow conditions and communications.
New treasury shares issued without a legend	A private issuance is portrayed as an unrestricted distribution without a supporting basis.	Board approvals, consideration, offering exemption or registration, and opinion support.
Aged debt exchanged for purported unrestricted stock	Unsupported debt history or tacking is used to defeat holding-period or shell restrictions.	Original funding, assignments, amendments, affiliate transfers and shell history.
FINRA DTC or broker clearance used as proof of legality	Operational processing is substituted for Securities Act compliance.	Truthfulness of the submissions and the actual resale basis.

The SEC cases below repeatedly address this control-block-and-float structure. The DOJ cases show how concealment, false statements and willful participation can support criminal charges when the required elements are established. The central issue is the actual source and control of the shares and the intended distribution, including contractual arrangements.

How courts analyze a control block and free-trading share package

Cavanagh and M&A West: timing and separate agreements

In SEC v. Cavanagh, the Curbstone and WTS reverse acquisition was accompanied by sales connected with the transfer of control. The Second Circuit affirmed preliminary relief and rejected reliance on the shares' earlier registration as an answer to the later distribution. The case is particularly relevant when a seller contends that a resignation or post-closing delivery separates the purported free-trading block from the control transaction. Pre-closing offers also mattered. [24]

SEC v. M&A West involved Stanley Medley's resales following three reverse mergers. Shares moved under multiple agreements and through a nominee. The Ninth Circuit affirmed Section 5 liability and disgorgement while reversing or remanding certain remedies. The practical point is that documents and closing conditions must be examined together: separating the control purchase, stock compensation and share deliveries does not itself establish a separate exempt distribution. [25]

Kern and Sierra: actual control of nominal shareholders

In SEC v. Kern, the promoters' control of both the shells and the nominal owners made those owners affiliates under common-control principles. The court rejected the argument that only formal legal control mattered. The ability to gather the supposedly independent holders' shares for a bulk transaction supported the conclusion. A private reacquisition from those affiliates did not preserve the claimed historical holding period under former Rule 144(k). [26]

SEC v. Sierra Brokerage Services applied Kern to MAS Acquisition XI and the BluePoint Linux reverse merger. The promoter used stock powers signed by 33 nominal shareholders to move their shares. Their authorization did not negate his control. This is directly relevant to the contractual-control issue: consent to another person's direction does not make the holders independent. The court also addressed Section 5 liability for indirect participants. Neither case establishes that friendship or family status alone always proves control. [27]

Sargent: registered shares and a fresh distribution

The BMP and PixarBio transaction in SEC v. Sargent included stock portrayed as registered public float as well as control shares. The First Circuit's divided 2025 decision affirmed Section 5 liability and disgorgement, while remanding other remedial issues. The majority's common-control and underwriter analysis demonstrates why an earlier registered issuance does not end the inquiry into a later acquisition and market distribution. The dissent disputed whether the evidence established control over a particular holder; the case should not be presented as a unanimous presumption that all third-party sellers are affiliates. [28]

Sniffex: a promise to provide free-trading stock

The SEC's Homeland Safety International or Sniffex case is a close factual comparison to a term sheet promising a fixed free-trading block. The SEC alleged that Mark Lindberg sold the shell while agreeing to supply 15 million supposedly free-trading shares, using a sham Rule 504 offering. Lindberg settled without admitting or denying the allegations. The legal issue is the actual distribution, not the contractual description of the shares. A promise to deliver unrestricted stock requires a supporting registration or exemption basis that fits both the issuance and proposed resales. [32]

Gould and Morris: counsel receiving shares in the distribution

The SEC's 2001 settled Gould/Morris order concerns the ATSI and PSA reverse merger. The SEC found that outgoing CEO stock transferred through promoters, compensation transfers and ensuing resales formed an unregistered distribution. Jackson Morris, who prepared merger documents and received shares as compensation, was included in the cease-and-desist order. The matter settled without admission or denial and should not be characterized as a criminal conviction or an SEC practice bar. Payment of professional fees in stock did not independently exempt the ensuing sale. [29]

The other shell packaging and opinion cases

Blackout Media concerned nominal holders and purported spinoffs used to create public vehicles; a default judgment followed. Joiner, the related Lindberg shell-creation action, Shaber and 2DoTrade, and Husain/Jaclyn address ways shell stock was assembled or delivered for public distribution. Alternative Green Technologies and Luna address purported unrestricted stock supported by problematic exemption or debt documentation. Poirier addresses offshore ownership concealment. Harrison includes Section 5 charges against Harrison and separate fraud and reporting allegations. Their individual facts, charges and procedural posture appear in the case chart. They should not be collapsed into a claim that every case involved the same transaction or the same adjudicated violation. [30, 31, 32, 33, 34, 35, 36, 37, 38]

The DOJ cases: concealment and willful participation

The Lubin and Ahearn/Wilson matters involved conspiracy to sell unregistered securities, including stock held in straw names and opinions falsely portraying the holders as nonaffiliates. Delaney Equity illustrates a broker-dealer's exposure in the quotation process. Schneider's prosecution involved false opinion letters and fraud-related offenses. These cases make the source-of-shares, beneficial-ownership and contractual-control representations material transaction facts, not administrative details. [42, 43, 44, 45]

The related Sanders/Mirman, McKelvey/Lamson and Rose/Kass prosecutions concerned shell manufacture and concealed stock transfers. Ofsink's CodeSmart matter involved reverse-merger shares and market manipulation. Offill and Stocker concerned purported exemptions supplying stock

for distribution, and Coldicutt concerned fraudulent registration statements and opinion work. The criminal chart identifies the offenses and outcomes reported in the cited records; these matters do not all establish substantive Section 5 convictions. [46, 47, 48, 49]

§3 Common control through a contract

Control can arise through a contract. Rule 405's definition expressly includes the direct or indirect power to direct a person's management and policies through voting securities, contract or otherwise. Rule 144(a)(1) defines an affiliate to include a person that controls, is controlled by, or is under common control with the issuer. Accordingly, common control need not depend on the same person's name appearing on the issuer's and shareholder's ownership records. [1, 2]

For example, if Person A controls the issuer and has contractual power to direct the management and policies of Holder B, Holder B can be under common control with the issuer. Shares recorded in B's name cannot be assumed to be independent public float merely because A does not own them of record. The rights granted and the parties' conduct must support the control conclusion.

Examine voting agreements, irrevocable proxies, powers of attorney, stock powers, nominee and custodial agreements, management agreements, financing covenants, escrow instructions, side letters and oral understandings. Determine who can select or remove management, direct votes, require transfers, designate purchasers, instruct a broker, determine sale timing and receive or redirect sale proceeds. A contractual label such as "consultant," "independent shareholder" or "no agency" does not override the actual powers conferred.

Authority over particular shares also matters independently of issuer control. Rule 13d-3 includes voting or investment power held through a contract, arrangement, understanding or relationship, and contains an anti-evasion provision. A person can therefore beneficially own shares without being the record owner. This beneficial-ownership inquiry is related to, but not identical with, the affiliate inquiry. A voting group or a limited protective covenant does not automatically establish affiliate status; conversely, the absence of a formal voting group does not establish independence. [3]

In a shell-and-float transaction, review the arrangements before and after closing. The outgoing principal may control nominee-held stock before closing, while the incoming control person gains the power to direct those shares afterward. Moving certificates to new designees or assigning the relevant contract does not itself establish an independent public distribution or eliminate resale restrictions.

§4 Spartan and the integrity of the quotation process

U.S. SEC v. Spartan Securities Group, Ltd., No. 22-13129 (11th Cir. Jan. 16, 2026), concerns broker-dealer Spartan, transfer agent Island Capital Management, and principals Carl Dilley and Micah Eldred. The majority affirmed a jury verdict on Exchange Act Section 10(b) and Rule 10b-5(b) arising from false statements used to obtain FINRA clearance and DTC eligibility for shell companies. [40]

The decision describes nominal management and shareholders, promoter-directed applications, and steps making the companies marketable for bulk sale. It is useful authority on concealment and intermediary liability; it is not a holding adjudicating the defendants' liability under Securities Act Section 5. The majority affirmed the challenged remedies, including penny-stock bars, penalties and Island's disgorgement. Judge Tjoflat dissented. [40]

As of October 19, 2026, a petition for certiorari, No. 26-341, was pending and had been distributed for the November 6, 2026 conference. The guide therefore identifies the January appellate holding and pending review rather than treating Supreme Court review as concluded. [41]

The transaction lesson is that quotation clearance and DTC eligibility obtained through materially false ownership or business disclosures cannot be used as evidence that a shell-and-float structure is lawful. All parties should work from the same accurate record of beneficial ownership, contractual control and the intended distribution.

§5 Classifying the shares and the proposed seller

Restricted securities

Rule 144(a)(3)(i) includes securities acquired directly or indirectly from the issuer or an affiliate in a transaction or chain of transactions not involving a public offering. Shares privately issued to the operating company's owners as merger consideration ordinarily are restricted unless a different applicable legal basis establishes otherwise. Shares issued in a conventional Rule 506 financing are restricted. [1, 19]

Existing shares purchased privately from an issuer's control person ordinarily become restricted in the purchaser's hands even if the control person originally acquired them in a registered offering or the certificates lack a legend. The prior registration of an issuance does not necessarily register a subsequent distribution by that affiliate and its intermediaries. [1, 18, 24]

Control securities

Control securities are held by an affiliate. They may have been acquired in the public market or in a registered transaction and therefore need not also be restricted securities. An affiliate's public resale still needs registration or an exemption. Under Rule 144, the holding-period requirement applies to

restricted securities; the other applicable affiliate conditions can apply to unrestricted control securities. [1, 18]

There is no universal Rule 144 percentage below which a holder is automatically a nonaffiliate. Officers, directors, controlling shareholders and persons exercising control by agreement require factual analysis. The percentages used for Schedule 13D, Section 16 or a particular OTC market's public-float definition do not replace the Rule 144 control test. Resignation alone may not eliminate continuing control. [1, 2, 3]

Existing independent public shareholders

A reverse merger does not establish that every share owned by every unaffiliated public investor was illegally issued or must use Rule 144. Existing shares that were lawfully distributed and are held independently require their own analysis. For a reporting-shell transaction, consider Rule 145a's constructive sale and its registration or exemption basis before concluding what treatment the legacy shares receive. Also analyze whether the holder is a distribution participant or subject to Rule 145(c). [4, 8]

The important distinction is between genuinely independent public ownership and a purported public float supplied or directed by a control person as part of the acquisition. A roster of separate names does not establish independence.

§6

Classifying the issuer and its shell history

The shell company test

Rule 405 defines a shell company, other than the specified asset-backed issuer exception, by two elements: no or nominal operations, together with either no or nominal assets, assets consisting solely of cash and cash equivalents, or cash and cash equivalents plus nominal other assets. A company can have substantial cash and still be a shell if the other elements are met. Rule 144(i) uses its own substantially corresponding test and reaches both reporting and nonreporting issuers. [1, 2]

Shell status is factual. A business plan, website, nominal consulting agreement, proposed acquisition, signed letter of intent or management's description of the company as "operating" does not resolve the test. Review actual operations, personnel, contracts, financial statements and noncash assets. A startup with substantive operations is not automatically a shell merely because it is pre-revenue; the SEC specifically distinguished startups with limited operating histories from companies with no or nominal operations. [2, 20]

Current shells, former shells and business combination vehicles

A current shell cannot use the Rule 144 safe harbor for resales of its securities. An operating company that was a shell at any earlier time remains subject to Rule 144(i)(2). The analysis is not limited to shares issued during the shell period: the SEC staff applies the restriction to securities issued after the issuer became an operating company as well. Shares issued before the 2008 effective date are not generally grandfathered out. [1, 11]

The exception for a "business combination related shell company" is narrow. Rule 405 covers specified vehicles formed by an operating entity solely for a domestic domicile change or to complete a business combination among nonshell entities. It does not encompass every shell purchased for a reverse merger. A conventional merger subsidiary and a public shell bought from a promoter require different analysis. [2]

Review the issuer's entire history, including periods when a historical business ceased and before a replacement business began. A prior acquisition, name change, change of management, reverse split, recapitalization or change of CUSIP does not erase a shell period. Disposing of legacy operations as part of a plan to combine with a private business also requires scrutiny; the SEC's 2024 release addresses such arrangements regardless of whether the disposal precedes or follows the combination. [1, 5]

Shell and blank check are different classifications

Rule 419 imposes escrow, disclosure, reconfirmation and related protections on registered offerings by a "blank check company" within that rule's definition. Its definition includes a development-stage company with no specific business plan or purpose, or a plan to merge with or acquire an unidentified company, that is issuing penny stock. Rule 419 is not automatically applicable to every company that satisfies the broader shell test. Determine whether it applies before planning a registered offering by an acquisition vehicle. [21]

§7 Analyze every Securities Act transaction separately

An OTC reverse merger can contain several separate offers and sales: the purchase of the outgoing control block, the issuance of merger consideration to target shareholders, a constructive sale to legacy shareholders under Rule 145a, a concurrent financing, debt exchanges or conversions, compensation issuances and later public resales. A single exemption citation in the merger agreement does not necessarily cover all of these transactions.

Section 4(a)(2) and Regulation D concern qualifying issuer transactions. Section 4(a)(1) concerns transactions by persons other than an issuer, underwriter or dealer. Rule 144 is a nonexclusive safe harbor addressing underwriter status for qualifying resales; it is not an issuer capital-raising

exemption. An acquisition from a control person with a view to distribution can create statutory-underwriter issues under Section 2(a)(11). The control-person concept in that definition is broader than the issuer definition used for every other statutory purpose. [1, 22]

For a private merger issuance or PIPE, determine the actual exemption and satisfy its investor, solicitation, disclosure, integration, bad-actor and filing requirements. Rule 506(b) does not permit general solicitation. Rule 506(c) permits it only when all purchasers are accredited investors and the issuer takes reasonable steps to verify that status. Neither rule makes the purchased securities freely resellable. A Form D is a notice of an exempt offering, not a registration statement or resale authorization. [19, 22]

State securities laws also require transaction-specific treatment. Federal preemption applicable to a qualifying Rule 506 issuance does not establish blanket preemption for every later OTC resale. Review applicable state registration, exemption, notice and antifraud requirements for the actual transaction.

§8 Rule 145a and reporting shell business combinations

Rule 145a, adopted in 2024, treats a direct or indirect business combination between a reporting shell and a nonshell entity as involving a Securities Act offer or sale to the reporting shell's shareholders. It excludes the specified business combination related shell and asset-backed issuer categories.

"Reporting" for this purpose means an obligation to file under Exchange Act Section 13 or 15(d). [4]

The rule can apply even when the legacy shell shareholders keep the same certificates and no shares are physically exchanged. The constructive sale must be registered or exempt. Registering only the new shares delivered to the private target's owners does not necessarily resolve the constructive sale to legacy shell shareholders, and an exemption available for a small group of target owners may not be available for a dispersed legacy shareholder base. [4, 5]

The SEC's adopting release states that Section 3(a)(9) is unavailable for the Rule 145a constructive sale. Structure the transaction and select any registration form based on the actual offers and sales, the surviving issuer and the eligible form instructions. A Form S-4 or F-4 may be appropriate for a registered business combination; it is not interchangeable with a post-closing resale registration statement. [5, 8]

A nonreporting shell is not a "reporting shell company" under Rule 145a merely because its shares are quoted on OTC Markets. Its actual issuances and exchanges still require Securities Act compliance, and its current or former shell history remains relevant under Rule 144(i). [1, 4]

§9 SEC registration as a route to public resale

Form S-1 and registered selling-shareholder offerings

Form S-1 can register a primary offering, a qualifying selling-shareholder offering, or both. The registration statement must cover the correct securities, selling holders, amounts and plan of distribution. A former shell does not have to wait for Rule 144(i)'s one-year period merely to pursue an otherwise available registered resale. Rule 144(i) limits reliance on Rule 144, not sales made under an effective and properly used registration statement. [1, 7]

Filing a registration statement or submitting a confidential draft does not authorize public sales. The registration statement must become effective, and the proposed sales must comply with its prospectus, applicable delivery requirements, amendments and supplements. Effectiveness is not SEC approval of the investment or a determination that every earlier issuance was lawful.

Registration rights are contractual rights to require filing, effectiveness efforts or maintenance of a registration statement. They are not the registration statement itself. Do not promise immediate liquidity based on an agreement to register shares after closing. The initial private issuance also needs its own lawful basis; a later resale registration statement does not retroactively cure an unlawful earlier offer or sale.

An actual resale offering or an indirect primary distribution

The SEC staff examines whether a transaction labeled a secondary resale is actually an offering on behalf of the issuer. Relevant facts include the size of the position, how and when it was acquired, the seller's relationship with the issuer, the seller's business and the surrounding distribution arrangements. An intermediary holding a large block for rapid public distribution cannot establish secondary-offering treatment solely by being named a selling shareholder. Primary-offering treatment can affect the available form, pricing and required underwriter disclosure. [11]

Registered merger shares and affiliate resales

Registration of merger consideration does not eliminate every resale limitation. Review the recipient's affiliate status and Rule 145(c) and (d), particularly where a party to the transaction is a shell. Some transaction participants or affiliates may be deemed underwriters for public resales. A statement that "all S-4 shares are free trading at closing" is therefore too broad. [8]

Other forms and exemptions

Form S-3 requires the applicable registrant and transaction eligibility conditions. Do not assume that an acquired shell's reporting history automatically makes the combined company eligible. The former-shell conditions in General Instruction I.B.6, including the 12-calendar-month conditions, apply to that limited primary-offering pathway, which also requires exchange-listed common equity. OTC quotation alone does not satisfy its exchange-listing condition. Analyze other Form S-3 pathways separately. [9]

Form S-8 is for eligible compensatory offerings, not merger consideration, a shell purchase, investor-relations promotion or a capital-raising distribution. Its instructions exclude current shells and generally require a former shell to have ceased being a shell, and to have filed current Form 10 information, at least 60 calendar days earlier, together with the other applicable conditions. The 60-day S-8 condition is not the Rule 144(i) one-year condition. [10]

Regulation A is an exemption involving an SEC-qualified offering statement, not Securities Act registration. Its eligibility and offering requirements, including blank-check restrictions, require a separate review. Tier 2 reporting alone is not reporting under Exchange Act Section 13 or 15(d) for purposes of Rule 144(i)(2).

§ 10 Rule 144 restrictions for shells and former shells

The former-shell conditions

Rule 144 becomes available for a former shell only after the issuer satisfies Rule 144(i)(2), in addition to all other applicable Rule 144 conditions. The issuer must have ceased to be a shell; be subject to Exchange Act Section 13 or 15(d) reporting; have filed the reports and materials required during the preceding 12 months, or the shorter period for which reports were required, other than Form 8-K reports; and have filed current Form 10 information reflecting its nonshell status. At least one year must then have elapsed from the Form 10 information filing. [1]

The "shorter period" qualification means the text does not invariably require a full year of mandatory reporting before a sale. It does require the full one-year period after the qualifying Form 10 information filing. The required reports must have been filed as of the sale; Rule 144(i)(2) does not use the same timely-filing eligibility test as Form S-3.

The two clocks must both be satisfied

The former-shell waiting period runs from the filing of qualifying current Form 10 information. The separate restricted-security holding period runs under Rule 144(d), generally from the relevant acquisition from the issuer or affiliate after full consideration has been paid or given. Neither period automatically substitutes for the other. A permissible tacking conclusion under Rule 144(d) cannot shorten the Rule 144(i) waiting period.

SITUATION	RULE 144 RESULT
Old restricted founder stock held for several years; the issuer is still a shell	Rule 144 remains unavailable.

SITUATION	RULE 144 RESULT
Shell ceases shell status and files complete current Form 10 information at closing	The one-year former-shell clock starts with that filing, subject to its adequacy and all other conditions.
Nonaffiliate receives restricted merger shares when complete current Form 10 information is filed	Six months of ownership alone is insufficient; Rule 144(i)'s one-year period must also expire.
Restricted financing shares are issued nine months after the qualifying filing	Their own six-month holding period can extend beyond the one-year former-shell anniversary.
One year has passed but the former shell is only an OTC alternative reporter	Rule 144(i)(2)'s mandatory Exchange Act reporting condition remains unsatisfied.
Issuer completed the one-year period but later stops required reporting or has missing required periodic reports	Reassess Rule 144(i)(2) at the proposed sale; prior eligibility is not permanent clearance.

A continuing condition at each sale

Rule 144(i)(2) applies when the safe harbor is used, including after an investor has held the stock for more than one year and is not an affiliate. The ordinary nonaffiliate relief from Rule 144(c) after one year does not dispense with the former-shell conditions. Securities issued after the shell period remain subject to this analysis. [1, 11]

An OTCID or OTCQB disclosure package, attorney letter or management certification is not a substitute for legally mandated Section 13 or 15(d) reporting. A former shell planning Rule 144 liquidity must maintain the necessary reporting status and filing compliance. Suspension or termination of reporting can impair that route even if the security remains quoted.

§11 Rule 144 requirements for companies that have never been shells

The table below supplies the ordinary common-stock baseline needed to evaluate a claimed exemption for a reverse-merger share distribution. It assumes no shell history, no anti-evasion arrangement and no special transaction restriction. For a current or former shell, Section 10 must also be applied. [1, 18, 20]

SELLER AND ISSUER	HOLDING PERIOD AND INFORMATION	OTHER RULE 144 CONDITIONS
Nonaffiliate of a reporting issuer	Six months for restricted shares if the issuer has been subject to Section 13 or 15(d) for at least 90 days. Current public information is required until one year has elapsed.	No affiliate volume, manner-of-sale or Form 144 conditions if the seller is not an affiliate and has not been one during the preceding three months.
Nonaffiliate of a nonreporting issuer	One year for restricted shares.	No other ordinary Rule 144 conditions after that period if the seller satisfies the nonaffiliate test.
Affiliate of a reporting issuer	Six months for restricted shares, with the 90-day reporting-status condition. Current public information is required.	Applicable volume limits, manner of sale and Form 144 notice.
Affiliate of a nonreporting issuer	One year for restricted shares. Adequate current public information under Rule 144(c) (2) is required.	Applicable volume limits, manner of sale and Form 144 notice.

Reporting status and current information

The six-month period requires legally mandated reporting under Section 13 or 15(d), not voluntary EDGAR filings or OTC alternative reporting. For Rule 144(c)(1), review the required report and Interactive Data File conditions. The rule excludes Form 8-K reports from its specified report-completeness test; that exclusion does not eliminate Form 8-K filing duties or permit an incomplete Form 10 information package. [1, 11]

Affiliate volume and manner of sale in the OTC market

For common equity quoted only over the counter, the usual Rule 144 affiliate ceiling is 1% of the outstanding shares of the same class during a three-month period, with applicable aggregation. The exchange trading-volume alternative is not available merely because the shares trade on OTC Link or another OTC quotation system. SEC staff Question 133.02 specifically addresses the OTC systems. [1, 11]

For example, with 100,000,000 shares outstanding, the ordinary 1% ceiling is 1,000,000 shares over the applicable three-month period, subject to aggregation and other conditions. A spike in OTC trading volume does not enlarge that ceiling. Stock splits must be reflected consistently; a split does not create a larger permitted economic proportion.

Affiliate equity resales must also comply with Rule 144(f) and (g), including the applicable brokers' transaction, direct market-maker or qualifying riskless-principal requirements. Coordinated solicitation, promotional arrangements and payments connected with sales can raise issues beyond a numerical volume calculation.

Form 144

An affiliate must file Form 144 when the contemplated Rule 144 sales during any three-month period exceed 5,000 shares or units or have an aggregate sale price exceeding \$50,000. For qualifying reporting issuers, the filing is electronic. The notice is transmitted concurrently with placing the sale order or executing directly with a market maker. Filing is a notice, not SEC permission to sell, and it does not cure a failure of another condition. [1, 18]

§12 Form 10 information and the closing disclosure package

"Form 10 information" means the information required by Form 10 or Form 20-F, as applicable, to register the relevant class under the Exchange Act. Rule 144(i)(3) permits it to be provided in any issuer filing with the SEC and deems it filed when the initial filing is made. For a domestic reporting shell acquiring its operating predecessor, the customary vehicle is the comprehensive closing Form 8-K often called a Super 8-K. An OTC website posting is insufficient. [1, 6]

Prepare the complete information package before fixing a closing date. It ordinarily includes the operating business, risk factors, financial statements, management's discussion and analysis, ownership and control, management and compensation, related-party transactions, securities description, material agreements and applicable pro forma information. Required predecessor audits must satisfy the relevant SEC requirements. Financial statement periods depend on the issuer's applicable reporting category and the transaction.

For a domestic reporting shell, Item 2.01(f) requires the predecessor's Form 10 information upon the transaction; Item 5.06 reports the change in shell status; and Item 9.01(c) requires the transaction financial statements and pro forma information in the initial report. The ordinary 71-calendar-day extension is unavailable for the covered shell transaction. Form 8-K is generally due within four business days. Other items, including Items 1.01, 3.02, 4.01, 5.01 and 5.02, may also apply to the actual events. [6]

A reverse acquisition involving a nonshell reporting registrant has a different financial-reporting analysis. Do not import the shell-specific Item 9.01(c) rule into every reverse acquisition, or assume that the ordinary acquisition extension applies to a shell.

Maintain a dated record identifying the filing that first supplied current, complete Form 10 information reflecting nonshell status. Do not mechanically use the merger signing date, closing date, the shell checkbox change or an unrelated historical Form 10 filing as the Rule 144(i) starting date. If the original package was materially incomplete, determine whether a later filing first supplied the required information before issuing an opinion.

§13

Holding periods, debt conversions and corporate actions

Rule 144(d) measures the holding period from the later relevant acquisition from the issuer or an affiliate, subject to the rule's specific tacking provisions. A buyer ordinarily cannot add an affiliate seller's historical holding period after a private purchase from that affiliate. A permitted transfer between nonaffiliates may preserve an existing holding period, but the full chain must support it. [1]

Restricted shares exchanged for shares of a different issuer in a reverse merger do not automatically carry the private target investment date. Identify the applicable exchange, issuer continuity and any specific tacking rule. Accounting treatment as a reverse acquisition does not itself establish Rule 144 tacking.

For convertible debt, obtain the original executed instrument, evidence of funding, amendments, assignments, conversion terms and payment history. A qualifying exchange of securities of the same issuer solely for other securities can permit tacking under Rule 144(d)(3)(ii). Additional consideration, material changes, unfunded or manufactured debt, recent affiliate transfers and separate compensation claims require independent analysis. A recital that a note is "aged" does not establish a holding period. [1, 11]

Stock splits, reverse splits and qualifying stock dividends do not cleanse restrictions or convert an affiliate into a nonaffiliate. Under Rule 144(d)(3)(i), qualifying stock dividends, splits and recapitalizations generally trace to the underlying securities' holding period. They do not eliminate Rule 144(i), register a distribution or create additional independent beneficial owners merely by multiplying the share count.

Gifts, trusts, pledges, estate transfers and distributions have specific rules. A transfer to a family member or an entity controlled by the transferor is not a general way to create independent public float. Examine continuing control and the applicable aggregation requirements, not only the named recipient.

§14

Private resale alternatives and their limits

Rule 144 is nonexclusive, so its unavailability does not prove that every private transfer is prohibited. It does mean that counsel must establish another actual registration or exemption basis. A valid private transfer does not necessarily give the purchaser immediately resellable stock. [1, 22]

Section 4(a)(7) can permit qualifying private resales to accredited investors, subject to the statutory information and other conditions. It is unavailable for specified organizational-stage, bankrupt, blank-check, blind-pool and shell issuers described in the statute. Securities acquired in a Section 4(a)(7) transaction are restricted. The statute also excludes specified sellers and unsold underwriting allotments. [22]

Rule 144A concerns eligible private resales to qualified institutional buyers, not general retail OTC sales. Its security-eligibility, purchaser and information conditions require separate analysis. Regulation S requires an actual qualifying offshore transaction and satisfaction of applicable conditions; foreign citizenship, an offshore nominee or a foreign brokerage account alone does not establish an exemption. Domestic issuer equity sold under the specified Regulation S provisions is restricted under Rule 144(a)(3). [1, 11]

Other private-resale theories, including a properly supported Section 4(a)(1) transaction, require analysis of underwriter status and the whole distribution. Neither an investment-intent representation nor a single sophisticated buyer guarantees an exemption when the arrangement contemplates onward public sales.

§15 OTC quotation under Rule 15c2-11 and Form 211

Rule 15c2-11 governs publication and submission of OTC quotations. It generally requires the specified issuer information, its currency and public availability, and a reasonable basis for believing the information is materially accurate and its sources reliable, unless an exception applies. SEC reporting is one route to the required information; appropriate nonreporting issuer information can support another. [12]

FINRA Rule 6432 implements the information review and filing framework for members and qualified interdealer quotation systems. A broker-dealer following the standard Form 211 route must complete the applicable FINRA process before initiating quotations. A qualified interdealer quotation system can make an initial public determination under Rule 15c2-11 and submit the modified Form 211 afterward under the applicable FINRA timetable. Accordingly, not every permissible initial quotation requires the issuer to obtain a traditional broker-sponsored Form 211 clearance first. The issuer itself does not become a market maker by preparing the disclosure. [13]

Shells and the piggyback exception

The piggyback exception has special limitations for shells. Rule 15c2-11(f)(3) generally excludes a security of an issuer reasonably believed to be a shell unless the quotation falls within the 18 months following the security's initial priced quotation under the rule's specified conditions. This is an exception to quotation requirements, not an 18-month permission to resell restricted stock. [12]

Do not restart that 18-month period merely because a shell is purchased, changes its name or effects a reverse split. When a shell becomes an operating company, establish the actual nonshell status, the current information and the applicable quotation basis. A historic symbol or quotation does not establish current piggyback eligibility. Loss of eligibility, an interruption in quotations or a prior trading suspension may require further review before quotations resume.

Unsolicited quotation exceptions are limited and do not authorize manufactured customer orders or a disguised solicited market. Expert or restricted-market quotation also does not supply a Securities Act exemption. Any planned promotion or investor solicitation must be evaluated separately.

§16 OTCID, OTCQB and OTCQX qualification

OTC Markets Group operates quotation markets; inclusion is not national securities exchange listing or SEC endorsement. Qualification under its rules does not register a share issuance or resale. OTCID and OTCQB can accommodate eligible companies that use specified non-SEC reporting standards, so SEC reporting is not universally required for those markets. [16, 17]

MARKET	PRINCIPAL CONSIDERATIONS	REVERSE MERGER IMPLICATION
OTCID Basic Market	Baseline current information, the permitted reporting standard, verified company profile, applicable management or foreign-reporting certification, transfer-agent information and ongoing compliance.	A non-SEC reporter may qualify, but a former shell still cannot use Rule 144 without satisfying Rule 144(i)(2).
OTCQB Venture Market	Current reporting, audited financials, applicable governance requirements, bid price, public float, beneficial-holder distribution, transfer-agent participation and public-interest review.	Recalculate eligibility using the combined company's actual capitalization, ownership and restrictions.
OTCQX	Separate higher qualification, financial, governance and other standards under the applicable U.S., international or bank rules.	Evaluate the appropriate rulebook independently; OTCQB qualification does not establish OTCQX eligibility.

As of this guide's date, OTCQB Rules version 6.1, dated September 17, 2026, generally require an initial closing bid of at least \$0.05 for 30 consecutive calendar days, subject to the stated new-market provisions; at least 10% public float; and at least 50 beneficial shareholders owning at least 100 shares each. Its public-float definition excludes restricted shares and specified affiliate and family holdings. Audits and other requirements also apply. These are the current rules, rather than the older \$0.01 initial-admission standard. [17]

Neither OTCID nor OTCQB admission is conditioned on a general minimum revenue or profitability test in the cited rules. That does not mean there are no financial, price, audit, disclosure or distribution requirements. In particular, a restricted merger issuance can substantially dilute the qualifying float percentage even when the absolute number of legacy public shares stays the same.

Both OTCID and OTCQB require notification following a change in control and a new application and fee within the specified 20-calendar-day period after notification, together with profile updates and applicable certifications. Apply each rulebook's exact trigger and requirements. Market retention is not automatic at closing, and OTC Markets retains public-interest discretion. [16, 17]

§17 FINRA, corporate actions, transfer agents and brokers

Corporate action processing

FINRA Rule 6490 addresses relevant OTC company actions, including name and symbol changes, mergers, changes of control and actions covered by Exchange Act Rule 10b-17. Rule 6490 requires notice of "Other Company-Related Actions" at least 10 calendar days before the effective date. Rule 10b-17 generally requires notice of covered distributions and similar record-date actions at least 10 days before the record date, subject to the rule's provisions. Check any additional market-specific notice requirements and allow time for review. [14, 15]

FINRA can request further records and can decline to process deficient actions for the reasons specified in Rule 6490, including incomplete or unauthorized documents, reporting issues, regulatory matters, possible fraud or settlement uncertainty. Corporate-law effectiveness, FINRA processing and market implementation may therefore occur on different schedules. Processing an action is not a ruling that associated stock is freely resellable. [14]

Legend removal and legal opinions

A legend is notice of a restriction; its absence does not create an exemption. An opinion should identify the particular shares, acquisition and payment history, transfers and tacking, present and recent affiliate status, shell history, qualifying Form 10 information filing, reporting compliance and the actual proposed registration or exemption route. Generic representations that shares are "old," "DTC eligible" or "not control stock" are insufficient to establish those facts. [1, 18]

For affiliate stock and former-shell stock, determine whether the contemplated legend removal is linked to a specific sale and what ongoing conditions must still be met. A blanket statement that future sales are unrestricted can be misleading if reporting compliance or affiliate conditions must be reassessed at each sale.

The transfer agent generally requires issuer authorization and supporting documentation under its procedures. Its willingness to remove a legend is not a substitute for the legal basis for the transaction. Registered resales should be tied to an effective registration statement and an available, accurate prospectus covering the selling holder and sale.

DTC, clearing and brokerage acceptance

DTC eligibility concerns depository and settlement services under DTC's rules. It is not an SEC registration determination. Depository eligibility, a transfer agent's electronic capabilities and the executing broker's deposit approval are separate. DTC itself has eligibility policies for several categories of securities, including certain restricted securities; "DTC eligible" therefore should never be used as a synonym for "freely resellable." [23]

Obtain the receiving broker's and clearing firm's actual requirements early. They may request the full chain of title, original offering records, legal opinions, issuer financial information, source-of-shares documentation and evidence of beneficial ownership. They may decline microcap deposits or affiliate sales even when counsel identifies a legal resale route. Contractual lockups, insider-trading restrictions and applicable penny-stock broker rules can impose additional constraints.

§18 SEC civil cases and administrative proceedings

This chart identifies the legal point and procedural posture of the cited authority. Allegations and settlements are not trial findings. Older cases applying former Rule 144(k) remain instructive about control, tacking and distribution, but that former rule is not the current resale safe harbor. The chart reports the specified decisions and orders, rather than purporting to summarize every subsequent docket event.

CASE AND AUTHORITY	TRANSACTION AND LEGAL POINT	CITED OUTCOME OR POSTURE
SEC v. Cavanagh , 155 F.3d 129 (2d Cir. 1998) [24]	Curbstone and WTS reverse acquisition; sales connected with the control transaction and prior registered shares. Prior registration did not cover every later distribution.	Preliminary injunction affirmed. Pre-closing offers and the connected distribution defeated the claimed exemption.
SEC v. M&A West, Inc. , 538 F.3d 1043 (9th Cir. 2008) [25]	Stanley Medley's public resales following three reverse mergers, including shares moving under multiple agreements and through a nominee.	Section 5 liability and disgorgement affirmed; injunction and certain penalty determinations reversed or remanded.
SEC v. Kern , 425 F.3d 143 (2d Cir. 2005) [26]	Shell promoters controlled nominal shareholders and sold stock for onward public distribution.	Section 5 liability affirmed; claimed former Rule 144(k) and Section 4(1) exemptions rejected.
SEC v. Sierra Brokerage Services, Inc. , 712 F.3d 321 (6th Cir. 2013) [27]	MAS Acquisition XI and BluePoint Linux; nominal public holders were subject to promoter control.	Section 5 liability affirmed. The decision addresses common control and participation in the distribution.

CASE AND AUTHORITY	TRANSACTION AND LEGAL POINT	CITED OUTCOME OR POSTURE
SEC v. Sargent, No. 23-1669 (1st Cir. Feb. 13, 2025), as amended Mar. 3, 2025 [28]	BMP and PixarBio; restricted control shares and stock portrayed as registered public float were combined in the transaction.	Divided court affirmed Section 5 liability and disgorgement; other remedial rulings were vacated or remanded. The dissent disputed part of the control analysis.
In re Mark E. Gould and Jackson L. Morris, Securities Act Release 7966 (Apr. 3, 2001) [29]	Outgoing shell CEO's stock moved through promoters after a reverse merger; counsel received shares as fees and resold them.	Settled Section 5 cease-and-desist order, without admission or denial. The SEC treated connected transfers and resales as an unregistered distribution.
SEC v. Joiner, complaint and related proceedings (2002) [30]	Buffalo shells and reverse mergers; shares were supplied to designees and participants for public distribution.	The cited complaint alleges Section 5 violations. Use the allegations as a description of the charged structure, not an adjudicated finding.
SEC v. Blackout Media Corp. and Sandy Winick, No. 09-cv-05454 (S.D.N.Y.) [31]	Purported spinoffs and nominal shareholders used to create and sell shell-company stock.	September 14, 2012 default judgment. This is a judgment following default, not a contested trial finding.
SEC v. Homeland Safety International and related Lindberg action, LR 20645 (2008) [32]	Shell seller allegedly promised 15 million free-trading shares; sham Rule 504 arrangements supplied the buyer group's stock. Related shell-creation allegations involved other issuers.	SEC charged registration and fraud violations; Lindberg settled without admission or denial as described in the release.
SEC v. Alternative Green Technologies, No. 11-cv-09056 (S.D.N.Y.) [33]	SEC alleged fabricated or backdated debt documents and unrestricted-share opinions connected with a shell transaction and public distribution.	Complaint allegations; the SEC also records a qualifying judgment dated December 15, 2014. Do not describe every allegation as a finding against every defendant.
SEC v. Luna, No. 2:10-cv-02166 (D. Nev.), LR 23035 [34]	Purported Rule 504 transactions and legal opinions were used to distribute stock publicly.	February 26, 2014 summary judgment found Section 5 violations by the defendants and fraud by Luna; remedies followed.
SEC v. Husain and Jaclin, 70 F.4th 1173 (9th Cir. 2023) and SEC proceedings [35]	Shell factory used nominal CEOs, shareholders and misleading business plans to prepare public vehicles for sale.	Husain did not challenge Section 5 liability in the cited appeal; appellate relief concerned remedies. Jaclin separately settled and was suspended from SEC practice.

CASE AND AUTHORITY	TRANSACTION AND LEGAL POINT	CITED OUTCOME OR POSTURE
SEC v. Shaber and SEC v. 2DoTrade, LR 18381 (2003) [36]	SEC alleged manufactured shells, nominee management, a reverse merger and concealed ownership in an ensuing stock distribution; lawyer participation was alleged.	The cited release and complaints describe charged Section 5 and fraud conduct. They are not themselves trial holdings.
SEC v. Poirier, 140 F. Supp. 2d 1033 (D. Ariz. 2001), LR 17111 [37]	Questex and Garcis; offshore entities and ownership concealment accompanied stock offers and sales.	Summary judgment included Section 5(c) and fraud violations; later relief is described in the SEC release.
SEC v. Harrison, No. 8:18-cv-01003 (M.D. Fla.), LR 24122 [38]	SEC alleged shell manufacture, misleading disclosure, and false opinions concerning shares and affiliates.	Harrison was charged with Section 5 as well as fraud; the defendants' charges differ. Injunctions were entered by consent; distinguish them from trial findings.
U.S. SEC v. Spartan Securities Group, Ltd., No. 22-13129 (11th Cir. Jan. 16, 2026) [40, 41]	False FINRA and DTC statements concerning shell companies and their purported public ownership.	Section 10(b) and Rule 10b-5(b) jury verdict and remedies affirmed; certiorari petition pending as of the guide date. This is an antifraud authority.

The separate 2020 Mintz and Fraade settlements in the Sargent matter are relevant to lawyers' opinion-letter and transaction work. The SEC described false opinions and facilitation of the BMP and PixarBio combination and reported settlements of Section 5 and antifraud charges. Those settlements do not establish a contested trial finding against the lawyers. [39]

§19 DOJ prosecutions and related criminal cases

These matters demonstrate criminal exposure where the evidence supports the charged conspiracy, fraud or other offense. An indictment is an allegation. A guilty plea or conviction establishes a different procedural posture. The cases do not establish that every shell sale, opinion letter or reverse merger is criminal.

DEFENDANT OR MATTER	CONDUCT RELEVANT TO TRADEABILITY	CITED CRIMINAL POSTURE
David Lubin, S.D. Fla. No. 17-20508 [42]	Attorney's role in Entertainment Art and Biozoom, including hidden control and stock portrayed as unrestricted.	Guilty plea to conspiracy to sell unregistered securities. The SEC's 2018 order records a 36-month sentence.

DEFENDANT OR MATTER	CONDUCT RELEVANT TO TRADEABILITY	CITED CRIMINAL POSTURE
John Ahearn and Andrew H. Wilson, S.D. Fla. No. 17-20883 [43]	Transfer agent and lawyer assisted transfers and false nonaffiliate opinions for nominee-held stock.	DOJ reported January 25, 2018 guilty pleas to conspiracy to unlawfully sell unregistered securities.
Delaney Equity Group, S.D. Fla. No. 18-20336 [44]	Broker-dealer's role in obtaining quotation for shells while concealing control and the planned stock distribution.	Guilty plea and conviction relating to conspiracy to sell unregistered securities, reflected in the SEC order and related DOJ record.
James M. Schneider, S.D. Fla. [45]	Lawyer supplied false opinions in the shell-factory and pump-and-dump scheme.	Jury conviction for conspiracy, securities fraud, wire fraud and money laundering; DOJ reported a seven-year sentence in February 2019.
Steven Sanders and Alvin Mirman; Daniel McKelvey and Jeffrey Lamson; Sheldon Rose and Ian Kass, S.D. Fla. [46]	Nominal management and shareholders supported shell creation and hidden bulk delivery of the control block and purported public float.	DOJ's 2019 account identifies convictions in the related matters. Their fraud-conspiracy cases should not all be labeled substantive Section 5 convictions.
Darren Ofsink and the CodeSmart matter, E.D.N.Y. [47]	Attorney helped a reverse merger and scheme involving control of purportedly unrestricted shares and subsequent market manipulation.	DOJ reported a 2017 guilty plea to conspiracy to commit securities fraud.
Phillip Offill and David Stocker, E.D. Va. [48]	Lawyers used purported exemption transactions to supply stock represented as free trading for distribution and manipulation.	Offill convicted at trial; Stocker pleaded guilty and received a 33-month sentence in the cited DOJ releases.
Andrew Coldicutt, S.D. Cal. [49]	Attorney's involvement in fraudulent registration statements and pump-and-dump schemes involving public vehicles.	DOJ reported convictions and an 85-month sentence in July 2025. This is a fraud and false-registration-statement matter, not a general Rule 144 holding.

Transaction diligence and a practical work plan

Before signing a term sheet or definitive agreement

Determine whether the transaction is a control-block purchase, an operating-business combination, a financing, or a combination of these. Identify the issuer of every share promised, the record and beneficial owner, the actual recipient, the consideration, the source of any treasury shares, and all direct or contractual control arrangements. The term sheet should not promise an unrestricted float without a documented legal basis.

Obtain the complete transfer-agent ledger, issuance approvals, subscription and purchase agreements, original offering materials, registration statements and prospectuses, funding evidence, notes and assignments, legal opinions, stock powers, proxies, side letters and escrow instructions. Reconcile these records to beneficial ownership, the financial statements, SEC filings and OTC disclosure. Cede & Co. or another nominee entry is not a count of independent beneficial holders.

Review shell history, prior SEC and FINRA submissions, trading suspensions, corporate actions, depository restrictions and the regulatory history of the issuer and relevant participants. Where a previous filing portrayed independent ownership or an operating business, test the evidence supporting that portrayal. A new transaction should not rely on an unsupported historical characterization.

Before closing

Document the Securities Act basis for each offer and sale, including the Rule 145a constructive sale if applicable. Finalize the registration or exemption analysis, required investor information, beneficial-ownership disclosure and contractual-control analysis. Prepare the financial statements and closing reports, coordinate quotation and market qualification, submit corporate-action notices on the applicable timetable, and identify a receiving broker and clearing firm.

Use a separate written determination for every materially different block. The following record is a practical working format; it does not replace the supporting legal analysis.

INFORMATION TO RECORD	REQUIRED DETAIL
Share block	Class, number, original issue date, original holder and consideration.
Chain of title	Every material transfer, affiliate status at each step, payment evidence and proposed tacking.
Present control	Record owner, beneficial owner, voting and disposition authority, contractual powers and proceeds recipient.

INFORMATION TO RECORD	REQUIRED DETAIL
Issuer history	Shell periods, date shell status ended, mandatory reporting status and outstanding reports.
Resale route	Effective registration statement and prospectus coverage, or the particular exemption and conditions.
Earliest proposed sale	Later applicable holding-period and former-shell dates, plus any lockup and transaction conditions.
Execution requirements	Legend-removal authorization, quotation status, corporate actions, broker and clearing acceptance.

After closing and before each sale

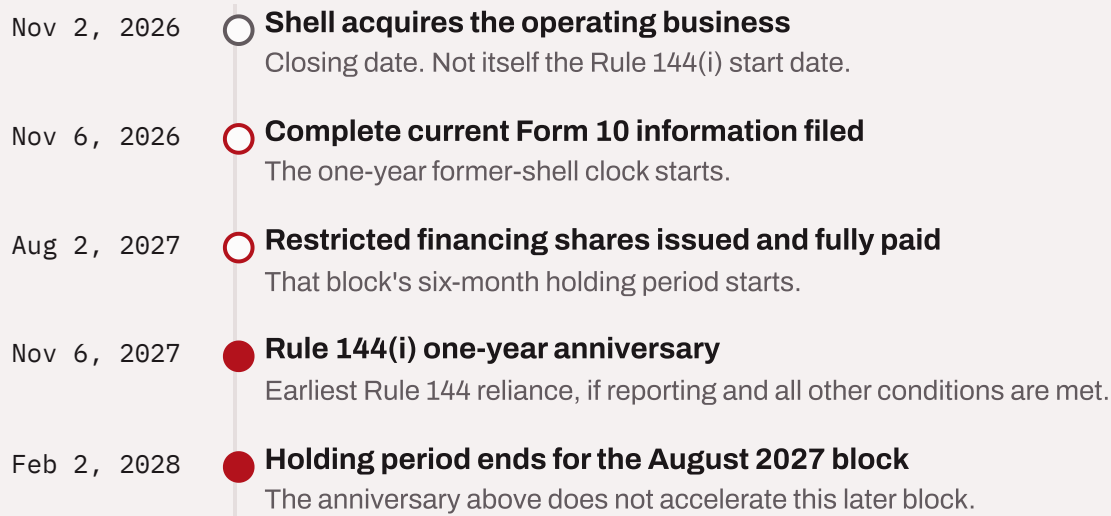
Maintain required reports and market disclosures. Update ownership and control records, including any change in voting or disposition rights. Complete the OTC change-in-control process and profile updates, track the qualifying Form 10 information anniversary, and confirm the particular holder's holding period and affiliate status. For each Rule 144 sale, retest applicable information, volume, manner-of-sale and notice requirements; for each registered sale, confirm effectiveness and prospectus availability and coverage.

Illustrative timing

Assume a shell acquires an operating business on November 2, 2026 and first files complete current Form 10 information reflecting nonshell status on November 6, 2026. Assume it remains legally subject to reporting and satisfies the required report-filing conditions. Rule 144(i) does not permit reliance before the November 6, 2027 one-year anniversary. Actual execution must occur when the market is open and every other condition is met.

If restricted shares are issued and fully paid on August 2, 2027, their ordinary six-month holding period, assuming the required reporting status, would extend to February 2, 2028. The November 2027 former-shell anniversary does not accelerate that later block. Conversely, a qualifying effective resale registration statement could supply a public-sale route before the Rule 144(i) anniversary, subject to its own conditions and the holder's other restrictions.

ILLUSTRATION USING THE ASSUMED DATES ABOVE



§21 Questions that commonly determine the answer

Q Can the shell seller deliver free-trading shares together with the control block?

Only if the actual issuance, transfer and contemplated resale have a valid registration or exemption basis. A private purchase from an affiliate ordinarily produces restricted securities, and nominal third-party ownership does not establish independent public float. Review the complete transaction and any contractual control.

Q Can common control exist without common record ownership?

Yes. Contractual power can establish control. Separate registered holders may be controlled by the same person, and voting or disposition rights can also establish beneficial ownership. Determine the actual powers and relationships rather than relying on names or a percentage alone.

Q Does every reverse merger impose a new one-year freeze on every public shareholder?

No. Rule 144(i) limits use of Rule 144 for current and former shells. Identify which holder and transaction require that safe harbor, the registration or exemption basis for the business combination, and any Rule 145 restriction. Genuine independent public shares and restricted merger or control-block shares require different analysis.

Q Can a former shell use Rule 144 after one year of OTC alternative reporting?

No, not on that basis alone. Rule 144(i)(2) requires legally mandated Section 13 or 15(d) reporting, the specified filings and qualifying SEC-filed Form 10 information, as well as expiration of the one-year period and the other applicable conditions.

Q Can a former shell register shares before the Rule 144 waiting period ends?

Yes, if the registration form and offering are otherwise available and the registration statement becomes effective. The sale must comply with that registration statement and prospectus. Registration does not cure unrelated quotation, broker, lockup or prior-violation issues.

Q Does changing the name, CUSIP or share count remove restrictions?

No. A corporate action does not itself register a distribution, eliminate affiliate control or erase shell history. Preserve the share provenance and restrictions through the action.

Q Is an opinion or a clean transfer-agent record enough?

No. The actual facts must support the legal basis for the sale. The transfer agent, broker, clearing firm, FINRA and DTC perform different functions, and none supplies an exemption merely by processing a document.

§ Authorities and source links

The numbered references identify the governing rules, SEC forms and guidance, court decisions, enforcement documents and DOJ accounts cited in the text. Rules and statutory provisions govern; SEC staff interpretations state staff views, and enforcement releases

should be read with their underlying orders, complaints or judgments. Dates and procedural descriptions in the case charts identify the particular cited record.

- 1 Rule 144, 17 C.F.R. 230.144, including paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i). [Rule text](#).
- 2 Rule 405, 17 C.F.R. 230.405, definitions of affiliate, control, shell company and business combination related shell company. [Rule text](#).
- 3 Exchange Act Rule 13d-3, 17 C.F.R. 240.13d-3, beneficial ownership and anti-evasion provisions. [Rule text](#).
- 4 Rule 145a, 17 C.F.R. 230.145a, business combinations with reporting shell companies. [Rule text](#).
- 5 SEC, Special Purpose Acquisition Companies, Shell Companies, and Projections, Securities Act Release 33-11265 (Jan. 24, 2024), particularly Section IV.A on Rule 145a; see also the SEC small entity compliance guide. [Adopting release](#); [SEC compliance guide](#).
- 6 Form 8-K, General Instructions and Items 2.01(f), 5.01, 5.06 and 9.01(c). [SEC form](#).
- 7 Form S-1, registration statement under the Securities Act of 1933. [SEC form](#).
- 8 Rule 145, 17 C.F.R. 230.145, including registered business combination forms and paragraphs (c) and (d). [Rule text](#).
- 9 Form S-3, General Instructions I.A and I.B, including I.B.6. [SEC form](#).
- 10 Form S-8, General Instruction A, including the former-shell and compensatory-offering limitations. [SEC form](#).
- 11 SEC Division of Corporation Finance, Securities Act Rules interpretations, including Questions 132.08, 132.09, 132.10, 133.02, 133.03, 137.01, 137.02 and Interpretation 612.09. [SEC staff interpretations](#).
- 12 Exchange Act Rule 15c2-11, 17 C.F.R. 240.15c2-11, including the shell-company limitation in paragraph (f) (3). [Rule text](#).
- 13 FINRA Regulatory Notice 21-33 (Sept. 17, 2021), amendments to Rule 6432 and the qualified interdealer quotation system framework. [FINRA notice](#).
- 14 FINRA Rule 6490, Processing of Company-Related Actions, including paragraphs (b)(2), (b)(3) and (d)(3). [FINRA rule](#).
- 15 Exchange Act Rule 10b-17, 17 C.F.R. 240.10b-17, untimely announcements of record dates. [Rule text reproduced by Cornell LII](#).
- 16 OTC Markets Group, OTCID Rules, version 1.0 (Jan. 2025), including Sections 1, 2 and 2(G). [OTCID rules](#).
- 17 OTC Markets Group, OTCQB Rules, version 6.1 (Sept. 17, 2026), including Sections 1.1, 1.2, 1.3, 2.1(M) and 7. [Current OTCQB rules](#).
- 18 SEC, Rule 144 Selling Restricted and Control Securities, investor publication. [SEC explanation](#).

19	SEC, General Solicitation under Rule 506(c); see also Rule 506 and Regulation D for applicable issuer-offering conditions. SEC explanation .
20	SEC, Revisions to Rules 144 and 145, Securities Act Release 33-8869 (Dec. 6, 2007), including shell companies, former shells and startup companies. Adopting release .
21	Rule 419, 17 C.F.R. 230.419, Offerings by Blank Check Companies. Rule text .
22	Securities Act Section 4, 15 U.S.C. 77d, including Sections 4(a)(1), 4(a)(2), 4(a)(7), 4(d) and 4(e). U.S. Code text .
23	Depository Trust Company, Rules, including eligibility policy statements. DTC rules .
24	SEC v. Cavanagh, 155 F.3d 129 (2d Cir. 1998), affirming preliminary relief following SEC v. Cavanagh, 1 F. Supp. 2d 337 (S.D.N.Y. 1998). Court opinion reproduced by OpenJurist .
25	SEC v. M&A West, Inc., 538 F.3d 1043 (9th Cir. 2008). Court opinion reproduced by Justia .
26	SEC v. Kern, 425 F.3d 143 (2d Cir. 2005), particularly pages 149 to 151 on common control and the former Rule 144(k). Court opinion reproduced by Justia .
27	SEC v. Sierra Brokerage Services, Inc., 712 F.3d 321 (6th Cir. 2013), particularly pages 328 to 332 on participation and control. Court opinion reproduced by Justia .
28	SEC v. Sargent, Nos. 23-1669 and 23-1812 (1st Cir. Feb. 13, 2025), with March 3, 2025 amendment. Appellate opinion ; Amendment .
29	In re Mark E. Gould and Jackson L. Morris, Securities Act Release 7966, Administrative Proceeding 3-10450 (Apr. 3, 2001). Settled SEC order .
30	SEC v. Gary Stephen Joiner et al., SEC complaint (2002). SEC complaint .
31	SEC v. Blackout Media Corp. and Sandy Winick, No. 09-cv-05454 (S.D.N.Y.), September 14, 2012 judgment. Court record reproduced by Justia ; SEC judgment notice .
32	SEC, Homeland Safety International and related Lindberg matter, Litigation Release 20645 (July 15, 2008). SEC release ; Homeland complaint .
33	SEC v. Alternative Green Technologies et al., No. 11-cv-09056 (S.D.N.Y.), complaint and judgment notice. SEC complaint ; SEC judgment notice .
34	SEC v. Marcus Luna et al., Litigation Release 23035 (2014), reporting summary judgment and remedies. SEC release .
35	SEC v. Husain, 70 F.4th 1173 (9th Cir. 2023); SEC proceedings concerning Gregg Jaclin. Appellate opinion ; Jaclin settlement .
36	SEC v. Shaber and SEC v. 2DoTrade, Litigation Release 18381 (2003). SEC release ; 2DoTrade complaint .
37	SEC v. Poirier, 140 F. Supp. 2d 1033 (D. Ariz. 2001); Litigation Release 17111. Court opinion reproduced by Justia ; SEC release .

- 38 SEC v. Harrison et al., Litigation Release 24122 (2018); June 16, 2020 consent-judgment order. [SEC release](#); [Court order reproduced by Justia](#).
- 39 SEC, Henry Sargent et al., Litigation Release 24900 (Sept. 16, 2020), Mintz and Fraade settlements. [SEC release](#).
- 40 U.S. SEC v. Spartan Securities Group, Ltd., No. 22-13129 (11th Cir. Jan. 16, 2026), particularly the majority opinion, pages 1 to 80. [Official appellate opinion](#); [SEC charging release](#).
- 41 Spartan Securities Group, Ltd. et al. v. SEC, Supreme Court No. 26-341, docket as of Oct. 19, 2026. [Supreme Court docket](#).
- 42 In re David Lubin, Exchange Act Release 83897 (Aug. 21, 2018), reporting guilty plea and sentence. [SEC order](#).
- 43 DOJ, Three Defendants Convicted in Securities Fraud Investigation (Jan. 26, 2018), including Ahearn and Wilson guilty pleas. [DOJ release](#).
- 44 In re Delaney Equity Group et al., Securities Act Release 10540 (2018); related DOJ prosecution. [SEC order](#); [DOJ charging account](#).
- 45 DOJ, South Florida Securities Lawyer Sentenced to Seven Years Imprisonment for Role in Pump-and-Dump Securities Fraud Scheme (Feb. 15, 2019). [DOJ Schneider sentencing account](#).
- 46 DOJ, related shell-factory prosecution accounts for Sanders/Mirman, McKelvey/Lamson and Rose/Kass; convictions identified in the February 15, 2019 Schneider sentencing account. [2016 charging account](#); [Related convictions](#).
- 47 DOJ, CodeSmart Holdings CEO and Attorney Plead Guilty to Participating in an 86 Million Dollar Market Manipulation Scheme (2017). [DOJ Ofsink plea account](#).
- 48 DOJ, Texas Attorney Convicted for Role in Pump-and-Dump Stock Manipulation Schemes (2010), and Securities Attorney Sentenced to 33 Months in Prison (2010). [Offill conviction](#); [Stocker sentencing](#).
- 49 DOJ, San Diego Securities Attorney Sentenced to Prison for Fraud (July 11, 2025), Andrew Coldicutt. [DOJ sentencing account](#).

This guide provides general information for evaluating OTC reverse merger transactions. Its application depends on the issuer, transaction structure, share history, control arrangements and proposed sale. It is not a transaction-specific legal opinion.