

IUMI Policy Agenda

16. Sanctions

Brief description

International sanctions are front and centre to the major economic powers' political strategies and objectives but their efficacy is debateable. Shipping as a key cog to the global economy is an obvious sector to be adversely impacted by rises in geopolitical tensions. While sanctions are nothing new, the targeting of financial services have demonstrated the need for marine insurers to keep up to date with new sanction regimes and how to comply with them.

In recent years the application of unilateral sanctions, i.e. without broad, international consensus, has escalated significantly, as has the potential over-reach by governments to try and control the actions of entities trading in their country or using their currency but not directly sanctioned by them – the 'secondary sanctions' phenomenon. The increasing use of 'tit-for-tat' sanctions between the major trading nations further raises the political temperature and difficulties for internationally focused industries such as shipping.

There has been an increasing focus by sanctions authorities on the maritime sector, with pressure on owners, operators and insurers to adopt ever more extensive due diligence and compliance checks in order to manage evolving and complex risks. The May 2020 guidance Sanctions Advisory by OFAC, the Department of State and the U.S. Coast Guard was intended to reshape all aspects of maritime industry behaviour and touches upon fundamental issues for our community – for instance, AIS manipulation, know your customer, supply chain risk, information sharing with counterparties and the recommended use of insurance policy provisions. In July 2020, the UK sanctions regulator, OFSI, followed suit.

Since then we have seen the implementation of a sanctions regime against Russia on a scale never previously seen. These measures include the Oil Price Cap (OPC) which was intended to reduce oil revenue to Russia and simultaneously keep oil flowing to non-G20 countries. The effect has been to produce an independent Russian tanker fleet and to largely remove G20 participation in Russian oil of any kind. It has also raised unanswered legal questions around oil spills involving sanctioned vessels or cargo. The International Group and others have drawn attention to the risks from the aging tankers employed by Russia, particularly when transiting narrow straits. The implementation and compliance difficulties for insurers impacted by the OPC have increased given the divergence in the quantum of the OPC between the UK and EU, and the US.

Following the release of the EU's 19th Package, and a change in political stance, it is likely that the Oil Price Cap will become redundant as a mechanism as more overarching measures take precedence. Underwriters have additionally been challenged by the temporary derogations given by the US on Iranian and Russian oil, but the rising oil price has rendered the OPC less useful than before.

It is beyond the scope of this document to analyse specific sanctions measures or regimes except to make the wider point that sanctions measures are updated on an almost daily basis across multiple jurisdictions, which require continued due diligence by those in the shipping sector. Moreover, in some cases, sanctions requirements are either ambiguous or conflict across jurisdictions.

Insurers maintain exhaustive checks and systems to avoid insuring sanctioned entities in the first place, or paying claims where sanctions are introduced mid-policy term. Insurance policies will generally include as standard a sanctions exclusion clause, in addition to provisions, both implied and expressed, around illegal activity by the insured. But the speed of sanctions developments and differences in approaches and legislation across jurisdictions is a challenge. Furthermore, secondary sanctions can leave both insurers and their clients in the difficult situation of having competing sanctions measures in place, particularly so where there is the 'threat' of potential sanctions should the parties pursue what may be an otherwise valid commercial contract. Moreover, as the sanctions threat evolves so does the increasing technology employed by bad actors to circumvent measures – AIS manipulation being the best example but also including physical manipulation of the vessel, GNSS spoofing and falsification of documents.

The list below, while not exhaustive, indicates where information can be found from four key sanction regimes.

Key sanction regimes – information links

- **United Nations:**
 - [Security Council - General Information about Sanctions](#)

- **United States of America:**
 - [U.S. Office of Foreign Assets Control \(OFAC\) Sanctions List Search](#)
 - [U.S. Treasury OFAC Sanctions Programs](#)
 - [U.S. Treasury OFAC Recent Actions](#)
 - [OFAC Specially Designated Nationals \(SDN\) List](#)
 - [OFAC Guidance to address illicit shipping and sanctions evasion practices \(14 May 2020\)](#)



- **European Union:**
 - EU Consolidated list of sanctions
 - EU Sanctions Map
- **United Kingdom:**
 - HM Treasury – Financial sanctions targets by regime
 - UK Office of Financial Sanctions Implementation
 - OFSI Financial sanctions guidance for entities and individuals operating within the maritime shipping sector (December 2020)
 - Lloyd's Marine sanctions guidance – Enhanced Due Diligence measures
- **IUMI:**
 - OFAC webinar, 10 June 2020
 - Sanctions update webinar (HFW and Windward), 8 December 2021
 - OFAC webinar, 24 January 2024
- **BIMCO:** Sanctions clause for container vessel time charter parties 2021.
- **China:** Anti-foreign sanctions law necessary to fight hegemonism, power politics: official.