

Client Update

U.S. and EU Sanctions: How Are Insurers Affected?

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WHY DO SANCTIONS MATTER?

The international community increasingly uses sanctions as a tool of international relations. The recent imposition of sanctions against Russia has had a significant impact on dealings with one of the world's largest economies.

Today, the U.S. maintains sanctions regimes of varying scope against over 20 countries, while the EU operates over 30.

These sanctions regimes can have very wide jurisdictional reach, affecting U.S. and EU companies operating anywhere in the world and, in the case of the U.S., their subsidiaries, wherever located.

Breaches of the sanctions regimes often constitute criminal offences and can lead to substantial fines, imprisonment and negative publicity. U.S. regulators in particular have been levying fines reaching into the hundreds of millions of dollars (and, in one significant case, over \$8 billion).

WHY SHOULD YOU WORRY ABOUT SANCTIONS?

Financial companies, including insurers and brokers, tend to be the chief targets of prosecutors and regulators.

In the U.S., the Office of Foreign Assets Control ("OFAC") has recently pursued an insurance company for breaches of sanctions by its subsidiaries, resulting in a multi-million dollar settlement.

In the UK, Lloyd's of London has undertaken a broad sanctions compliance audit, and expects all insurers to have state-of-the-art compliance systems. Regulators likewise expect regulated entities, including insurers, to have robust compliance programmes.

Different but overlapping U.S. and EU sanctions regimes mean knowledge, prudence and experience are required to avoid violations and satisfy regulators.

WHEN MIGHT SANCTIONS AFFECT INSURERS?

Insurers and brokers are perhaps uniquely vulnerable to sanctions, since so many transactions subject to sanctions can affect their business.

Several types of sanctions can directly affect the insurance industry, including:

- Asset freezes against individuals and entities

These may prohibit the payment of insurance claims or return-premiums, or even writing policies;

- Bans on insurance

These may prohibit the provision of some or all insurance to broad categories of persons (Iranian companies) or sectors (major Russian banks), types of exports (arms to Russia), or even entire countries (Cuba); and

- Fund transfer restrictions

These prevent or restrict insurers from receiving payments from, or paying out to, persons in certain countries, like Iran.

The prohibitions and restrictions hit particularly hard in these areas:

- Cargo;
- Aviation;
- Oil- or gas-related risks (construction, transport or D&O).

IS REINSURANCE AFFECTED?

Yes. EU and U.S. sanctions legislation that affects insurance usually states expressly that it also applies to reinsurance.

WHAT SHOULD YOU DO?

- Implement and update compliance systems.
- Know your client.
- Know your client's business.
- Know the law.

HOW ARE INSURERS AND BROKERS REACTING?

Properly advised insurers, reinsurers and brokers are taking the following steps to ensure compliance with U.S. and EU sanctions legislation:

- Implementing and reviewing sanctions compliance policies;
- Providing compliance training for employees;
- Seeking advice on specific transactions;
- Ensuring that potential sanctions breaches are investigated; and
- Acting proactively with respect to their regulators, including through self-reporting.

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Please do not hesitate to contact us with any questions.