



ECONOMIC SANCTIONS – COMPLIANCE GUIDANCE

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Economic Sanctions - Compliance Guidance

Introduction

In recent years, sanctions legislation has become increasingly more complex and has had a significant effect upon the shipping industry. Sanctions have had a major impact not only on shipping operations but also through financial institutions and insurance companies serving the shipping industry, including on P&I clubs worldwide.

This **Economic Sanctions - Compliance Guidance** document provides guidance on certain sanctions related resources which can be utilized by the American Club's Membership to not only foster and encourage general awareness of sanctions issues, but also to enable Members to develop their own internal compliance policies and procedures and to appreciate the interplay between such sanctions laws and their potential effect on a Member's P&I and/or FD&D coverage.

The American Club has issued and disseminated considerable information in the form of Circulars, Alerts and seminars on sanctions related issues and the Membership is encouraged to not only consult these existing resources and to seek legal advice from counsel, but also to reach out to the Managers of the American Club ("the Managers") to obtain preliminary information on the existing sanctions regimes. When used in conjunction with a Member's internal compliance program and, as discussed below, this guidance should assist Members with minimizing their own risks and exposures to potential sanctions violations which may carry serious civil or criminal penalties, entail loss of business privileges and cause reputational harm.

With respect to their own activity, Members are urged to consult legal counsel when their compliance program and due diligence investigation into a particular transaction or contemplated voyage raises any sanctions related concern. Then, after completing such due diligence, with respect to whether cover is available from the American Club for the transaction or voyage in question, Members should contact the Managers to confirm whether the performance of the contemplated transaction or voyage may or may not prejudice their P&I cover.

It is hoped that, through such internal compliance and due diligence investigation by the Member, when combined with its consulting legal counsel and maintaining close communication with the American Club to address any issues regarding cover, this resource will assist the American Club's Membership to better navigate these complex issues and reduce overall exposure to sanctions related problems and risks.

I. Compliance by American Club Members

The American Club as well as its Members must comply with all economic sanctions laws and regulations applicable to them.

As Members know, the P&I and FD&D insurances provided by the American Club exclude coverage for unlawful trade. Additionally, under the American Club's rules, whenever coverage under an American

Club policy would be in violation of any US economic or trade sanctions including, but not limited to, those sanctions administered and enforced by the U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”), such coverage shall be null, void and of no effect. In sum, there is no coverage where coverage would be prohibited. Consequently, although, in certain cases, economic sanctions may not prohibit a Member from engaging in the activity of transportation in question (for example the Member is not a US person), US sanctions may nevertheless impact and affect the scope and/or extent of insurance coverage afforded to the Member (by the American Club, a US person) for such transportation.

Members must comply with the various sanctions laws applicable to them which, if violated, may subject them to both criminal and/or civil penalties and other adverse action.

Generally, both the sanctions laws of the US and EU (or other countries), to one degree or another, prohibit:

- trade and transactions with or involving **certain countries** or **designated persons** (*i.e.*, blacklisted individuals and entities);
- the **supply, exportation of certain goods**, services and technology to certain countries or persons;
- certain imports or **imports from certain countries or persons**; and/or
- **support for certain activity** in the country or for the person that is a target of economic sanctions.

II. Sanctions Indicators/Information Elements

Sanctions prohibitions may be implicated based on the main elements of information related to maritime transportation and a particular cargo shipment transaction. These elements traditionally include the following:

- The **country(ies)** involved in the trade of vessels/**origin and destination of cargo**;
- The nature of or **type of cargo** being transported;
- The identity and domicile of the **cargo shippers and receivers** (end-user);
- The identity and domicile of **the charterer and/or any subcharterers**;
- The identity and domicile of **other parties** involved in the transportation;
- The **load port(s) and/or the discharge port(s)**, involved, including the identities of terminal operators there;
- The **identity and domicile of any banks** involved in connection with any relevant bank guaranties, letters of credit for the cargo in question, etc.; and
- The **purpose for which the cargo will be used** once delivered.

As part of their internal sanctions compliance program, Members should investigate all of these elements when considering or contemplating a proposed transaction or voyage to better assess any potential sanctions issues.

III. Awareness of Applicable Prohibitions and Screening Information

Sanctions laws apply to the transportation activities of Members, as well as, but separately to, the insurance activities of the American Club. Members should be aware of the sanctions laws and regulations that are generally applicable to them such as EU sanctions laws or the laws of the state in which they are domiciled, and what these laws prohibit (prohibited countries, prohibited persons, prohibited exports or supply, prohibited support), and screen the above-mentioned information elements of their voyages and other transactions to ensure that they do not engage in sanctions violations. **See Section IX below for relevant links to EU, UK and IG resources.**

Members also need to be aware of the US sanctions laws applicable to the American Club and to other US persons. The United States currently maintains economic sanctions against **Iran, Syria, Sudan, Cuba, the Crimea region of Ukraine** and, to a lesser extent, **North Korea and Myanmar**. **See Section VIII and IX below.**

The United States also maintains sanctions against certain persons or entities whose names appear on OFAC's list of Blocked Persons and Specially Designated Nationals ("SDNs") on OFAC's SDN List, including but not limited to, **SDNs** in Cuba, Iran, Syria, Sudan, North Korea and other countries (such as the Russian Federation, Yemen), certain **designated vessels**, certain persons designated as terrorists or drug traffickers, and, as it relates to the Russian Federation only certain Russian entities.

<http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>

The American Club and all other US persons, and transactions with a US nexus (such as payments through the US banking system) must comply with the prohibitions of US sanctions.

Economic sanctions programs administered by states are different and no two sanctions programs are alike, and different states (countries) have different sanctions programs. For example, US sanctions may prohibit the American Club from providing cover even though the trade or voyage by the Member is not prohibited by sanctions laws applicable to that Member. The various laws apply differently to various persons, activities, and transactions.

IV. Screening by Members – Two, Three or Sometimes Four Step Due Diligence

In light of the fact that Members and the American Club may be simultaneously subject to the sanctions laws of different states, **Members need to conduct a two-pronged and sometimes three or even four-pronged due diligence inquiry/test to ensure that they do not engage in sanctions violations, and that they have permissible American Club coverage for their vessels.**

First, if, for example, a Member is generally or primarily subject to EU sanctions laws, the Member must determine whether EU sanctions laws prohibit the transportation or trade in question. Members should screen the information elements above against the list of countries against which the EU maintains sanctions, the list of EU-prohibited activities and persons (**see Section IX below**), and the array of EU-prohibited cargoes, trade and activities. Most potential sanctions violations can be detected and prevented by country or transaction party screening. A comprehensive transaction party screening should be performed against the EU sanctioned parties listing (**see Section IX**).

Second, if, for example, EU laws do not prohibit the transportation or trade in question but the trade has elements which may implicate US sanctions prohibitions applicable to the American Club, the Member will need to know whether cover for the voyage in question is available from the American Club. The Member should disclose the above sanctions indicators/information elements to the American Club and seek confirmation, on a case-by-case basis, as to whether coverage is available. See Section V below.

Third, if, for example, EU laws do not prohibit the transportation in question but the trade has elements or related transactions which may implicate US prohibitions applicable to US persons other than the American Club such as, in the payment context, US banks, the Member must ensure that the payments through the US financial system do not implicate US prohibitions or that they do not cause violations.

Fourth, as was in the case of the past US nuclear-related sanctions against Iran, US as well as, for example, EU laws could have impacted the underlying transportation in question, in which case, Members should have conducted and in similar cases should conduct screening of information under EU as well as US law (US sanctions) applicable to them. If neither US nor EU law prohibits the Member's underlying trade, to confirm the availability of cover from the American Club for Iran voyages, the Member should disclose the above sanctions indicators/information elements to the American Club and seek confirmation, on a case-by-case basis, as to whether coverage is available under US law applicable to the American Club.

Again, the American Club is prohibited and precluded from providing insurance for any underlying voyage that is prohibited by laws applicable to the Member or to its entered vessel.

V. Consult Legal Counsel

In concert with an internal sanctions compliance program, Members are encouraged to consult legal counsel whenever a potential transaction indicates elements that might implicate sanctions related concerns or issues. Should Members need any references to legal counsel to assist with questions regarding US, EU or other sanctions, they should contact the American Club's Compliance Center.

VI. Contact the American Club's Compliance Center

After conducting the due diligence screening described in Section IV, the Member should contact the American Club's Compliance Center (scbcompliance@american-club.com) to address any sanctions related insurance coverage issues.

When making such an inquiry to the Compliance Center, the Member should provide the following required information as far in advance as possible to allow for sufficient time for consideration of and response to the inquiry:

- List the contract parties: charterer(s), sub-charterer(s), shipper, receiver(s), and end-user(s);
- Whether any parties are SDNs;
- Identify the specific type(s) of cargo (es) and describe their end-use
- Identify the port(s) of loading and discharge;
- Identify the types of B/Ls and/or C/Ps to be used;

- Identify the terminal operator(s) (such as Tidewater in Iran);
- Vessel names, flag state, and IMO nos.; and
- Vessel type and operation (FSO, STS, etc.)

Members should give ample advance notice to the American Club when seeking confirmation of coverage in the sanctions context. Once reviewed, the American Club's managers will assess the inquiry and may consult with its OFAC/EU counsel for advice and guidance. The American Club will endeavor to respond as promptly as possible under the circumstances and its response will be limited to the specific question of whether coverage is available and the interplay between the American Club's Rules and the contemplated transaction/voyage. It should be noted that the American Club's reply does not constitute and should not be construed as legal advice with respect to the Member's contemplated activity. It will be limited as to the permissibility and availability of cover from the American Club. The Compliance Center's response should not be used, viewed or otherwise considered as a substitute for the Member's own due diligence investigation.

VII. Recap

In summary, Members should:

- 1) Know what sanctions laws apply. Have awareness.
- 2) Know what the sanctions laws and regulations that govern applicable sanctions provide.
- 3) Screen and conduct an appropriate due diligence investigation of the proposed transaction and its participants. Members' screening of transportation and transaction information (Section II. above) should be made against the relevant applicable sanctions laws and the array of or lists of:
 - Prohibited countries;
 - Prohibited shippers, receivers, charterers, and other parties/persons (transaction counterparties);
 - Prohibited ports;
 - Prohibited purposes for which the cargo will be used;
 - Prohibited imports, exports and cargoes; and
 - Prohibited activities.
- 4) Consult legal counsel.
- 5) Seek confirmation from the American Club as to whether coverage is available for the proposed transaction or voyage in question.

VIII. Country specific links to relevant American Club Circulars, and related documents

1. Iran

Coverage by IG Clubs of Incidents Involving Countries Subject to US Economic Sanctions:

Trading to and from Iran: February 19, 2016 [Club Circular No. 09/16](#)

US Removes Restriction on American Club's Ability to Provide Cover for Shipments of Crude Oil & Petroleum from Iran: February 09, 2016 [Club Circular No. 07/16](#)

The US Lifts Secondary Sanctions on Iran and Takes Steps to Implement Certain Other Limited Sanctions Relief: January 18, 2016 [Club Circular No. 04/16](#)

US Office of Foreign Assets Control Imposes Sanctions on Iranian Port Operator, Tidewater Middle East Co.: [Member Alert](#) – 07/05/11

2. Syria

Continuing EU and US Sanctions – Syria: May 13, 2016 - [Club Circular No. 19/16](#)

Additional EU Economic Sanctions – Iran and Syria: October 22, 2012 [Club Circular No. 8/12](#)

Additional US Economic Sanctions - Iran and Syria: May 07, 2012 [Club Circular No. 12/12](#)

Developments: (1) EU Ban on the Importation and Transport of Iranian Oil, Petroleum and Petrochemical Products: (2) Proposed US 180 Day Ban of Vessels Trading to Iran, North Korea and Syria: January 26, 2012 [Club Circular No. 07/12](#)

US Economic Sanctions in Regard to Syria: December 13, 2011 [Club Circular No. 37/11](#)

EU Economic Sanctions in Regard to Syria: September 12, 2011 [Club Circular No. 25/11](#)

3. Cuba

The US Embargo in Regard to Cuba - Further Guidance: January 08, 2016 [Club Circular No. 02/16](#)

4. Sudan

OFAC Guidance:

<https://www.treasury.gov/resource-center/sanctions/Programs/Documents/sudan.pdf>

5. Ukraine (Crimea) & Russia

Additional Individuals and Entities Targeted in Relation to Ukraine/Russia: August 04, 2015 [Club Circular No. 34/15](#)

Ukraine/Russia Related Economic Sanctions: Crimea Region of Ukraine: February 11, 2015 [Club Circular No. 11/15](#)

PEME Program Update: Effect of Sanctions on PEME Clinics in the Crimea – Sevastopol and Kerch: February 10, 2015 [Club Circular No. 10/15](#)

Additional US Economic Sanctions Against Russia/Russian Entities: December 23, 2014 [Club Circular No. 38/14](#)

Additional US Sanctions – Russian Entities: September 17, 2014 [Club Circular No. 26/14](#)

Imports of Goods from Crimea and Sevastopol: August 12, 2014 [Club Circular No. 24/14](#)

Additional US Sanctions – Russian Entities: July 30, 2014 [Club Circular No. 22/14](#)

New US Sectoral Sanctions Against Certain Russian Entities: July 17, 2014 [Club Circular No. 20/14](#)

EU Sanctions in Respect of Crimea and Sevastopol: July 16, 2014 [Club Circular No. 19/14](#)

The Ukraine and Crimea: US Sanctions Against Russian Individuals and Entities: [Member Alert](#) – 03/24/14

6. North Korea

Generally, current U.S. sanctions against North Korea do not prohibit the American Club from providing cover for our members and their non-North Korean registered and non-North Korean flagged vessels carrying civilian/non-military cargoes to and from North Korea and cargoes not excluded by American Club rules as long as no SDNs are involved in such voyages and such activity is not considered sanctionable activity.

United States Imposes Additional Sanctions with Respect to North Korea: March 18, 2016: [Club Circular No. 13/16](#)

United Nations intensify economic sanctions against North Korea: [Member Alert – 03/04/2016](#)

United States Imposes Additional Sanctions with Respect to North Korea: February 26, 2016 [Club Circular No. 11/16](#)

US Economic Sanctions – North Korea: January 06, 2015 [Club Circular No. 03/15](#)

Developments: (1) EU Ban on the Importation and Transport of Iranian Oil, Petroleum and Petrochemical Products: (2) Proposed US 180 Day Ban of Vessels Trading to Iran, North Korea and Syria: January 26, 2012 [Club Circular No. 07/12](#)

7. Libya

Economic Sanctions Update: UN and US expansion of limited sanctions: [Club Circular No. 15/16](#)

Economic Sanctions Update: US Libya Sanctions Lifted: [Member Alert – 12/21/11](#)

8. Other (Burma/Myanmar, Ivory Coast, etc.)

US Economic Sanctions: Certain Persons (Individuals) in Venezuela: March 12, 2015 [Club Circular No. 14/15](#)

United States Sanctions Against Certain Persons (Entities and Individuals) in Yemen: November 16, 2012 [Club Circular No. 30/12](#)

Relaxation of US Sanctions Against Burma (Myanmar): October 03, 2012 [Club Circular No. 25/12](#)

Economic Sanctions Update: US Libya Sanctions Lifted: [Member Alert – 12/21/11](#)

Circulars and Member Alerts are published by the American Club as a service to Members. While the information is believed to be correct, it is not complete and the American Club does not assume responsibility for completeness or accuracy.

IX. Useful Sanctions Related Web Links

United States

The United States Office of Foreign Assets Control (OFAC):

<https://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>

<https://sdnsearch.ofac.treas.gov/> is a US government search engine in respect of certain (but not all) entities subject to or that are targets of sanctions

Office of Foreign Assets Control / US Department of the Treasury (Information on US sanctions)

<http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>

Overview of US sanctions <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

OFAC Specially Designated Nationals and Blocked Persons List Search

<http://sdnsearch.ofac.treas.gov/Default.aspx>

European Union

The United Kingdom Treasury (HMT): <http://hmt-sanctions.s3.amazonaws.com/sanctionsconlist.pdf>

<https://www.gov.uk/government/publications/financial-sanctions-iran-nuclear-proliferation> is the UK government website dealing with EU and UK sanctions in respect of Iran.

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets> is the list of sanctioned targets held by the UK and includes individuals and entities listed as targets by the European Union.

United Kingdom (UK) Department for Business, Innovation and Skills (Information on UK, EU and UN sanctions) <https://www.gov.uk/sanctions-embargoes-and-restrictions/>

European Union / Restrictive measures (sanctions):

http://eeas.europa.eu/cfsp/sanctions/index_en.htm

http://eeas.europa.eu/cfsp/sanctions/docs/ectl-fsd_howto-v04_en.pdf

http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf

International Group

The International Group's website [IGP&I News](#) provides access to various useful links including to the European Union Foreign Affairs Council regulations on US sanctions.

FAQs on legislation published by the International Group of P&I Clubs, June 2013 [Iran Sanctions - U.S Legislation - Updated FAQs](#)

Disclaimer

This brief economic sanctions compliance guidance has been prepared by the American Club to assist Members in complying with sanctions laws applicable to them and to the American Club. This guidance does not constitute and should not be construed as legal advice or a determination by the American Club as to the availability of cover for any specific case. The American Club urges Members to obtain independent legal advice regarding the applicability of sanctions laws to them and with respect to their compliance obligations under such laws.