

PRACTICE HIGHLIGHTS



July 1, 2019

Economic Sanctions Due Diligence

International Maritime Shipping & Insurance

Due Diligence

Compliance with US and other economic sanctions increasingly demand the conduct of due diligence regarding the international shipment of goods by sea and the insurance of cargoes and vessels, especially under the secondary US sanctions against Iran. The secondary US sanctions against Iran define various activities as constituting sanctionable activity. While many sea voyages are prohibited by the secondary sanctions, there are many that are not. The situation becomes more complex as the sanctions laws that vessel owners are subject to may, in certain cases, be different from sanctions laws that P&I and other insurers are subject to.

Potential Penalties

Vessel owners, vessels, charterers, exporters and other relevant persons could face severe penalties or have sanctions imposed against them for violations of sanctions laws. The most severe penalty in this regard would be listing on the US Treasury Department's SDN List. Listing on the SDN List prohibits listed persons from doing business in the United States and with US persons. Financial institutions as a matter of policy and whether subject to US law or not generally refuse to conduct transactions for persons on the US SDN List. The reputational harm that comes from listing cannot be overstated. Due diligence prevents sanctions violations.

Determinations

Determinations as to whether a particular routing, voyage, cargo, port, etc. is permissible, and whether insurance cover is legally available requires a two-pronged analysis, first with respect to the law applying to the underlying voyage and the persons involved, and second regarding the availability of insurance cover. In this regard, due diligence and definitive determinations require careful scrutiny of various indicia and elements of a sea voyage.

Upon the disclosure of required information, The Eren Law Firm conducts timely due diligence with respect to sea voyages, for example, between Iran and China, and provides determinations as to whether a voyage is permissible for the protection of vessel owners, charterers, brokers, insurers, and relevant other parties.

Due diligence is advisable

If sea voyages involve any countries that are subject to US sanctions, due diligence prior to voyages or commitments to voyages is advisable.

Questions/Guidance

Should you wish for us to conduct due diligence or to discuss any questions or need additional guidance regarding any aspect of the foregoing or other sanctions in general, or for confirmations as to the availability of cover for voyages involving countries (Iran, Syria, Cuba, North Korea, Russia, Crimea region of Ukraine, Venezuela, or entities or individuals subject to U.S. economic sanctions (designated entities and individuals appearing on the OFAC SDN List)), please contact:

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Who We Are

The Eren Law Firm is an economic sanctions boutique based in Washington, D.C. Its other core areas of concentration and practice include corporate transactions, and international dispute resolution, anti-money laundering, and international trade regulation. The Firm's clients from around the world include banks and financial institutions; insurance, reinsurance and other financial services companies; natural resource extraction companies, industrial companies, marine and air transportation companies, ship owners; sovereign governments; foreign state enterprises; and individuals.

Mr. Eren and Mr. Pinter of the Firm served in senior positions at the U.S. Treasury's Office of Foreign Assets Control (OFAC), the U.S. government agency that administers and enforces U.S. economic sanctions, for a combined 25 years prior to entering private law practice, respectively 18 and 16 years ago, and since this time, they have devoted and continue to devote most of their time in private practice to economic sanctions issues and matters, particularly those involving Iran. Mr. Pinter was OFAC's Chief of Licensing for 17 years during which time he was one of the chief arbiters of OFAC decisions. Mr. Eren's portfolio at Treasury mainly involved issues and matters involving Iran and the former Yugoslavia. His current practice concentrates primarily on the sanctions against Iran.

With Mr. Eren, Mr. Ng, who is fluent in Cantonese as well as Mandarin, advises and maintains relations with the firm's clients in China, Hong Kong, Taiwan, South Korea, Malaysia, and Singapore.

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