



INSURANCE AND REINSURANCE



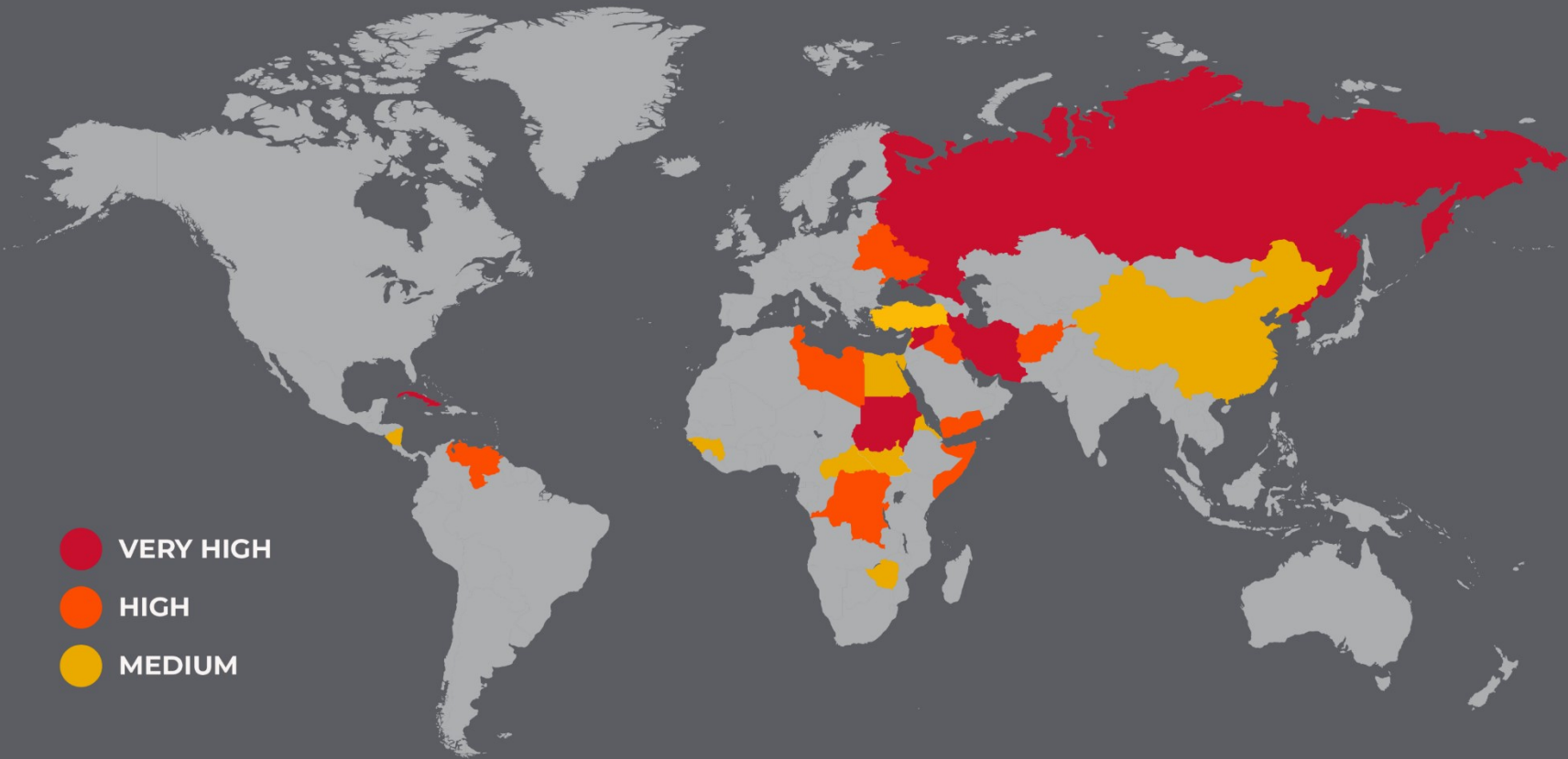


1. Update on latest sanctions imposed by US, EU and UK – focus on Belarus, Russia and Iran
 2. Focus on the specific impact of UK autonomous sanctions on insurers – analysis of the prohibitions and licences
 3. *m/v Pacific Pearl Co Ltd v Osios David Shipping* [2021] EWHC 2808 (Comm)
 4. overview of sanctions risks, including deceptive practices being employed
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GLOBAL SANCTIONS RISK

- VERY HIGH
- HIGH
- MEDIUM





UK Sanctions and Anti-Money Laundering Act 2018 (SAML A) s.61(1):

In this Act “financial services” means any service of a financial nature, including (but not limited to) —

- (a) insurance-related services consisting of—
 - (i) direct life assurance;
 - (ii) direct insurance other than life assurance;
 - (iii) reinsurance and retrocession;
 - (iv) insurance intermediation, such as brokerage and agency;
 - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
 - (b) banking and other financial services....
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PACIFIC PEARL V OSIOS DAVID
FACTS AND ISSUES

- 2018 collision between the Panamax Alexander, Sakizaya Kalon and the Osios David in the Suez Canal leading to claims of c. USD 18 million
 - Owners of the Osios David arrested Panamax Christina in South Africa
 - The Pacific Alexander's P&I club wrote to the Osios David's club stating that the Panamax Alexander was proceeding to Iran and security would need to include a sanctions clause
 - Owners of Panamax Alexander offered an LOU including a sanctions clause – rejected by the owners of the Osios David
 - Key Issue: Was the LOU in a form reasonably satisfactory to the owners of the Osios David?
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PACIFIC PEARL V OSIOS DAVID (CONT.)
PROPOSED SANCTIONS CLAUSE

We shall not be obliged to make payment under nor be deemed to be in default of, this Letter of Undertaking if

(i) doing so would be unlawful, prohibited or sanctionable under the United Nations resolution or the sanctions, laws, or regulations of the European Union, United Kingdom, United States of America or [the place of incorporation or domicile of your member] or the ship's flag state ("the Sanctions"), or

(ii) if any bank in the payment chain is unable or unwilling to make, receive or process any payment for any reason whatsoever connected with the Sanctions (including but not limited to a bank's internal policies).

*If any such circumstance arises as described in (i) or (ii) herein, then we shall use **reasonable endeavours** to obtain whatever Governmental or other regulatory permissions, licences or permits as are reasonably available in order to enable the payment to be made.*

Department of the Treasury Department of State United States Coast Guard

Sanctions Advisory for the Maritime Industry, Energy and Metals Sectors, and Related Communities

Issued: May 14, 2020

Title: **Guidance to Address Illicit Shipping and Sanctions Evasion Practices**

The U.S. Department of State, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), and the U.S. Coast Guard are issuing this advisory to provide those engaged or involved in trade in the maritime industry and energy and metals sectors with further information and tools to counter current and emerging trends related to illicit shipping and sanctions evasion. This advisory reflects the U.S. government's commitment to work with the private sector to prevent sanctions evasion, smuggling, criminal activity, facilitation of terrorist activities, and proliferation of weapons of mass destruction (WMD), with a focus on Iran, North Korea, and Syria. Combined with Annexes A and B, this advisory updates and expands on the North Korea-related shipping advisories OFAC issued on February 23, 2018, and March 21, 2019; the Iran-related shipping advisory OFAC issued on September 4, 2019; and the Syria-related shipping advisories OFAC issued on November 20, 2018, and March 25, 2019. At a later date, OFAC may issue further updates to this advisory, including with respect to the vessel lists that have appeared in previous shipping advisories.

This advisory discusses sanctions risks and contains information on common deceptive shipping practices and general approaches to aid in further tailoring due diligence and sanctions compliance policies and procedures. It is intended primarily to provide guidance to the following: ship owners, managers, operators, brokers, ship chandlers, flag registries, port operators, shipping companies, freight forwarders, classification service providers, commodity traders, insurance companies, and financial institutions.^{1,2} This advisory includes both updated information on the deceptive practices used to evade sanctions and policies and procedures that entities operating in the specific maritime sectors enumerated above may wish to consider adopting as part of a risk-based sanctions compliance program.

It is critical that private sector entities appropriately assess their sanctions risk and, as necessary, implement compliance controls to address any identified gaps in their compliance programs. This is especially important when operating near or in areas they determine to be high-risk, which may include areas frequently used for potentially sanctionable transportation-related activities. The United States also

¹ While this advisory primarily addresses sanctions risks, U.S. financial institutions should also be aware that, consistent with suspicious activity reporting requirements in 31 CFR Chapter X, if a financial institution knows, suspects, or has reason to suspect that a transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction, the financial institution should file a Suspicious Activity Report (SAR). See 31 CFR §§ 1020.220, 1021.220, 1022.220, 1023.220, 1024.220, 1025.220, 1026.220, 1029.220, and 1030.220.


² The guidance in this document is not intended to be, nor should it be interpreted as, comprehensive or as imposing requirements under U.S. law or otherwise addressing any particular requirements under applicable laws or regulations.

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US & UK FOCUS ON SHIPPING


Maritime Guidance

Financial sanctions guidance for entities and individuals operating within the maritime shipping sector



HM Treasury
Office of Financial
Sanctions Implementation

July 2020



The Maritime Sector

The UK is renowned across the globe for its leadership in the maritime shipping industry. Historically, shipping has been vital to the development of the UK, which continues to move 95% of all its imports and exports by sea.¹ The maritime sector contributes over £1.4bn to the UK economy each year, supporting an estimated 186,000 jobs.

The UK also operates the largest share of global maritime insurance, with around a third of the total market. This is more than the United States, Japan, Germany and France.

13 of the major international P&I Clubs, who insure around 90% of world merchant

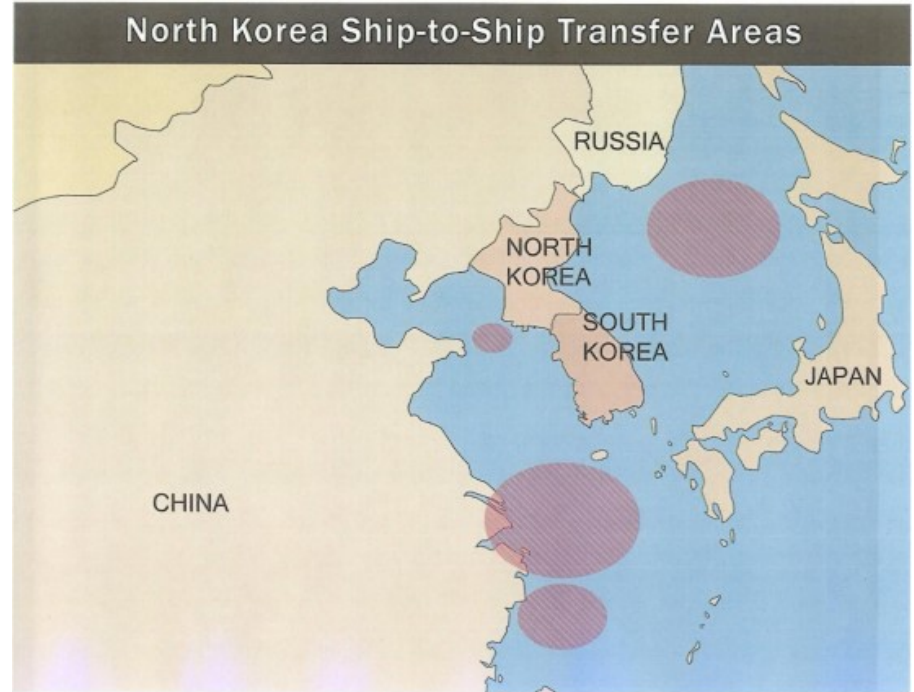
tonnage, operate from management offices in the UK. This includes the International Group of P&I Clubs, the trade association for the industry which is based in London.

This guidance is produced by the Office of Financial Sanctions Implementation (OFSI), part of HM Treasury, the authority for the implementation of financial sanctions in the UK.

It provides financial sanctions guidance for entities and individuals which operate in, or with, the maritime shipping sector, especially those involved in areas that may be subject to UK financial sanctions restrictions, including the handling of goods.

¹ Maritime Annual Report 2017-18
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/725560/maritime-annual-report-2017-2018.pdf
and ² "The economic contribution of the UK Maritime Sector - a report for Maritime UK" by CEBA <https://www.maritimeuk.org/media-centre/publications/state-of-maritime-economy-report-2019/>

- Disabling or Manipulating AIS
- Physically Altering Vessel Identification
- Falsifying Cargo and Vessel Documents
- Ship-to-Ship (STS) Transfers
- Voyage Irregularities
- False Flags and Flag Hopping
- Complex Ownership or Management



Source: OFAC (etc) Guidance to Address Illicit Shipping and Sanctions Evasion Practices



VENEZUELA DESIGNATIONS

- ATHENS VOYAGER (2 to 18 June 2020)
- CHIOS I (2 to 18 June 2020)
- SEAHERO (2 June to 2 July 2020)
- VOYAGER I (2 June to 2 July 2020)

- EUROFORCE (18 June 2020 to 2 July 2020)
- DELOS VOYAGER (18 June 2020 to 2 July 2020)

- Masters of CLAVEL, PETUNIA, FORTUNE, FOREST and FAXON





THANK YOU FOR YOUR ATTENTION



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It should not be considered as legal advice.

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