



The Shipowners' Protection Limited
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Managers of
**The Shipowners' Mutual Protection and
Indemnity Association (Luxembourg)**

TO ALL MEMBERS

August 2010

FINANCIAL SANCTIONS - IRAN

A) Introduction

The purpose of this notice is to:

- Provide a brief synopsis of the different financial sanctions legislation with which we are required to comply;
- Make our Members and their brokers aware how the Club can be liable for a breach of financial sanctions legislation as result of their action; and
- Highlight the types of actions that if undertaken by our Members or their brokers can result in penalties, and the potential consequences.

B) Sanctions Legislation

The Club is subject to financial sanctions regimes in several jurisdictions. Some of the financial sanctions apply generally, but the particular focus of the current notice is those sanctions applying in relation to Iran. Even though we do not have an establishment in the United States the extra-territorial nature of the US sanctions exposes the Club to them.

There are two ways in which the Club can be exposed to sanctions:

1. Directly as a result of an action by the Club

The sanctions legislation requires that we do not enter into any business or financial relationship with a sanctioned person or entity. For the Club this means that we cannot provide cover to anyone who is named on the lists of such persons or entities or make payments to them. The provision of insurance or reinsurance cover or handling claims on behalf of a sanctioned person or entity can result in criminal sanctions or financial penalties against the Club.

In the United Kingdom, the law has broadened the scope of these sanctions by extending the definition of the sanctioned entity to include:

- Any person or entity owned or controlled, directly or indirectly, by a designated person or entity;
or
- Any person or entity acting on behalf of, or at the direction of, a designated person or entity.

Collectively this group of sanctioned entities and persons is known as "restricted persons".

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This law prohibits the Club from:

- Dealing with the funds or economic resources owned, held or controlled by a restricted person; or
- Making available of funds, financial services or economic resources, directly or indirectly, to a restricted person; or
- Making available funds, financial services or economic resources to any person for the benefit of a restricted person.

The sanction lists issued by the United Kingdom authorities can be found on the HM Treasury website http://www.hm-treasury.gov.uk/fin_sanctions_index.htm. This list combines all UK, Luxembourg & EU and UN sanctions lists as well as current UK financial sanction legislation.

Financial Services in this context includes the provision of insurance or reinsurance. To comply with this law, we have to carry out adequate due diligence to ensure that we are not dealing with a restricted person. We advise our Members and their brokers that, as part of our due diligence we will, when appropriate, make relevant enquiries regarding the identity of the ultimate beneficiary under the insurance contract and of any claims payment. In addition to providing answers to our specific questions we require our Members' ongoing disclosure of any circumstances which they consider material. We appreciate your co-operation in providing us with the information needed.

This law applies to the worldwide business of the Club and we are required to carry out these checks for all our membership. The sanctions list contains entities from all parts of the world and not just Iran.

The latest legal measures in the UK and Luxembourg restrict the ability of the Club to enter into a contractual or financial relationship with entities which are associated with the Iranian government or the Iranian oil and nuclear interests.

The EU regulations (No. 668/2010) issued in July 2010, (for more information click on the following link) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:195:0025:0036:EN:PDF> prohibit us from knowingly insuring or reinsuring any vessel ultimately owned or under the control of the Iranian government. This particularly applies to vessels where the ownership has changed from Iranian to non-Iranian companies. We are obliged to consider whether a change in vessel ownership has been carried out to circumvent prevailing sanctions when we underwrite a vessel. We will be in breach of this regulation if we insure a vessel without carrying out reasonable due diligence.

A breach of sanctions by the Club would have very serious consequences for the Club and its whole membership and cannot therefore be contemplated.

2. Indirectly as a result of actions by our Members or their brokers

There are two potential ways in which a Member can crystallise a sanctions liability against the Club and for this purpose it is appropriate to make a distinction between a sanctioned entity and a sanctioned activity:

- (a) If a Member contracts with a *sanctioned entity* we may not be able to assist the Member in any claims in relation to that contract. We have previously advised our Members and brokers in our Circular issued in January 2010 that we are unable to make any payments into Iran. Members and their brokers are advised that as part of our due diligence procedures we will make enquiries to satisfy ourselves as to the destination of the funds. We will not be able to provide Club security or indemnify you in relation to a payment made to a sanctioned entity.

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- (b) If our Member carries out a *sanctioned activity* it will prejudice their insurance cover in relation to that activity or in certain cases result in cessation of cover. The provision of insurance or reinsurance to any one carrying out a sanctioned activity is prohibited. At present such legislation has only been issued in respect of Iran and the legislation broadly defines sanctioned activity.

On 1st July 2010 the US government passed the Comprehensive Iran Sanctions, Accountability, and Divestment Act 2010 (CISADA). This has shifted the focus of the sanctions from a sanctioned entity to the provision of a sanctioned activity.

CISADA defines the sanctioned activities as sale or lease to Iran of “*goods, services, technologies, information or support that could directly and significantly facilitate the maintenance or expansion of Iran’s domestic production of refined petroleum product*”. There is no clarity on what is meant by “directly and significantly”. It is down to the US State Department to decide what constitutes a sanctioned activity under this definition.

This law has extra-territorial reach and makes it an offence for an insurer or reinsurer to knowingly provide any form of cover in relation to that activity. ‘Knowingly’ has been defined in the Act as actual knowledge or imputed knowledge. These sanctions are far-reaching. They can be imposed against the Member for engaging in the sanctioned activity but also against his broker and the Club for providing insurance cover in respect of the sanctioned activity.

C) Conclusion

It is our duty to protect the interests of all our membership against the threat of sanctions being imposed on the Club. Our current policy is to mitigate the risk of sanctions by excluding cover for any activity that we consider will fall within the definition of the sanctions legislation. In cases where the Member’s business falls within sanctioned activity we may have no option but to terminate cover.

While we will endeavour to assist our Members as much as possible within the confines of the various sanctions legislation, we advise our Members and their brokers that we will carry out due diligence to ascertain whether there is any risk to the Club of providing cover for a sanctioned activity. We will expect your broker to provide us with the information required about you, your business and trading patterns at the time they place your business with us and we will expect them to advise us in a timely manner if there is, or is expected to be, a material change in your circumstances which could expose the Club to potential breach of financial sanctions legislation.

While this notice does not purport to give any advice to our Members or their brokers on how they should manage their own exposure to financial sanctions or how to comply with their local or US law, we strongly recommend that they should seek legal and professional advice in relation to their own business operations. We strongly advise that our Members should also consider the sanctions list issued by their own regulatory body when entering into any business relationship. There may be sanctions imposed against your business and your funds destined for the sanctioned entity may be blocked.

EU regulations (No. 668/2010) require that vessels flagged in EU States or vessels flagged outside the EU but owned by companies within the EU or EU state territories are prohibited from transporting key equipment and technology for refining, LNG, exploration or production of oil and natural gas to/from Iran. We strongly recommend to all our EU based Members to consider the provisions of this EU regulation and to seek legal advice if necessary.



If you have any doubts about whether your operations in Iranian waters or a voyage to Iran or a charterparty agreement with an Iranian entity might be considered a sanctioned activity then we strongly advise that you seek legal advice. We will be able to tell you if your insurance cover is affected by the activity you are carrying out or proposing to carry out based on the information you provide us.

We will update this notice as developments occur.

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