



**Informing Progress** - Shaping the Future

## **FOIL UPDATE 16<sup>th</sup> May 2022**



## Sanctions have repercussions for the shipping industry

### **Background**

For many years now, sanctions have been used as a tool to seek to influence the behaviour of states deemed to be acting in ways unacceptable to the international community. These sanctions are directed at preventing or limiting trading, importing and/or exporting goods (including technology) and freezing assets. The major instigators of sanctions have been the UN, the USA and the EU (including the UK prior to Brexit).

In anticipation of the UK's departure from the EU, the Sanctions and Anti-Money Laundering Act 2018 (SAMLA) was passed. Although this came into effect on 22<sup>nd</sup> November 2018, its real impact was felt after 1<sup>st</sup> January 2021, when, while adopting existing EU law into domestic law, the UK became free to implement its own laws and regulations. Although the UK is now working to align its sanctions policy with both the EU and the US, those involved in compliance need to be aware of any technical differences.

SAMLA provides for a wide range of sanctions covering England and Wales, Scotland and Northern Ireland but also allowing for extra-territorial application. The Act already applies to a large number of British Overseas Territories and covers conduct within the UK and the actions of UK citizens and bodies elsewhere in the world.

As the list of regimes subject to sanctions grows, the shipping industry inevitably bears a high level of responsibility for ensuring that it does not, either directly or inadvertently facilitate 'sanctions

busting'. The obligations imposed by SAMLA relate to the ownership, registration and movement of shipping that is subject to sanctions. SAMLA also provides wide powers to stop, search and seize shipping.

## **In the year 2022**

Although Russia had been subject to a number of sanctions prior to the invasion of Ukraine, April 2022 saw these increased substantially. The US focused some of its new restrictions specifically on Russia's shipping industry, preventing Russian owned, operated or registered vessels from entering US ports. Other restrictions focused on Russian corporate entities and individuals.

The UK [has](#) now announced a raft of sanctions against Russia including:

- A ban on investment in Russia
- A ban on professional services to Russia
- Import and export bans
- The freezing of the assets of corporate entities and named individuals
- A ban on all Russia-owned or operated aircraft from UK airspace and landings, and on all Russia-owned or operated ships from UK ports.

There are also a number of similar EU sanctions.

## **The problems for the shipping industry**

Whenever sanctions are put in place, someone will see the opportunity to profit by evading them. The industry is now faced with sanctions regimes imposed by a number of sources and while they have a common aim, they are not necessarily the same. There is then the added complication that any sanctions must be considered from both a territorial and extra-territorial point of view. Worse still, the sanctions being imposed (particularly on Russia) are frequently changing.

The shipping industry, more than ever before, must ensure that its policies and systems for compliance are sufficiently robust and are applied in practice. Similarly, the provisions of contracts need to be reviewed, to ensure that they reflect the changed environment created by the current situation.

## **Other forms of risk**

The London insurance market has also reacted to the increase risk to shipping within the conflict area. From 4<sup>th</sup> April 2022, all Russian waters (primarily the Black Sea and the Baltic) were designated as high risk, with an immediate impact on underwriting decisions and premiums.

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