

**QBE European Operations**

# **Considerations for a Global Market**

**Edition 5**



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# The Impact of Sanctions

**As the political world increasingly chooses sanctions over military action, it is more important than ever to consider the implications of those on current and future business activity.**

Used by countries against other countries for political reasons, sanctions are rarely out of the news. In recent months, the US and UN have issued them against Russia / Ukraine, Syria and Iran.

While these countries may seem far away, the impact of such sanctions can hit very close to home. Business activity undertaken by clients in these countries may be considered legal one day, but then illegal the next after application.

Sanctions are also enforceable retrospectively. So while a client's business activity may be legal at the time of undertaking, following sanctions, it can later be deemed illegal with recourse ranging from criminal proceedings to huge political and financial fall out.

The complexity doesn't stop there, however, with the application of sanctions varying from location to location. The EU and US may agree on the policy for sanctions, but the application of those will often differ in detail. So something that might be allowable in the US may not be allowed under another regulatory regime, or vice versa.

As a result, the contradictory and fast-changing regulatory framework surrounding sanctions presents huge challenges for companies who find themselves operating within it.

Insurance provision in this area is equally complex as a result. Providing insurance for entities in countries with sanctions is not itself always illegal, yet a benefit that arises from the provision of insurance due to sanction regulations could be.

Meanwhile, some sanctions do make the provision of insurance illegal. For this reason, sanctions relating to business activities (see below for Smart and Sectoral Sanctions) frequently include explicit references to it.

If this means insurers must be careful to avoid offering coverage where sanctions apply, businesses must be equally mindful of their activities. Interpretation is crucial as:

- regulations are often drafted quickly by politicians and regulators who are not expert in business, leading to unclear or imprecise regulatory language, resulting in varying application of regulations.
- breaches are considered years after the activity itself took place, with interpretation of the regulation subject often shifting with political stances. This results in revised levels of regulatory scrutiny and intervention.
- regulations are often based on previous versions of sanction regulations, with amendments sitting across them. This results in multi-layered sanction regulations, which can catch businesses out.



## How to take action?

### Understand insurance

Ask your insurer what business and client activity is uninsurable within sanctioned countries. There may be elements of insurance coverage that could not respond to claims, due to circumstances and timing of sanctions. Meanwhile, where there is an indication that sanction controls may apply, insurers may need to ask extra detailed questions on the nature of the risks, chain of activities and identification of parties to ensure insurance provision is not illegal, thereby avoiding penalties and operating in a compliant way.

### Who do the regulations affect?

No company is safe. Regulators are prepared to impose rules affecting their own companies or economy if necessary. As a result, companies can be caught in the crossfire of imposed regulations when dealing with countries and regimes that are considered unacceptable politically.

### Carefully consider clients

What are the implications of doing business with people or countries that may already have sanctions in place, especially in uncertain political situations? Risk assess your clients. Operations may be legal currently, but it is common to suffer escalating sanctions in response to a deteriorating political situation, which results in the most severe penalties and restrictions. Also consider the range of parties involved in their businesses. Undertaking proper due diligence is often recognised by regulators following sanctions, resulting in reduced penalties for breaches later on.

### Take a long-term view

Sanction penalties are often imposed years after the business was conducted, and viewed more harshly. Look at how business decisions could be viewed long-term, in a more hostile regulatory environment, and act accordingly.

### Introduce risk-based triggers

Taking a risk based approach to business and sanctions often helps apply due diligence appropriately. Banks, for example, have extensive control frameworks in place, which include various risk-based triggers for this purpose.

### Report a breach

If all efforts to avoid a breach of sanctions fail, then opening dialogue with regulators following a breach may help reduce penalties. Active concealment of a breach of sanctions is likely to be viewed harshly, resulting in enhanced penalties.

## Sanctions explained

### What are sanctions?

- International sanctions are actions taken by countries against other countries for political reasons, either unilaterally or multilaterally. They are the preferred action of politicians against countries / regimes as one of a range of responses to politically problematic situations.
- They range from embargoes to asset freezes, which may include the prevention of payment to, or receipt of, money from a sanctioned entity. Regulations often list specific entities who are sanctioned, but may also apply to those under the control, or direction, of them.
- There are various types of sanctions:
  - Primary Sanctions – the US consider these to apply to US citizens specifically.
  - Smart Sanctions – these target a wide range of business sectors / activities when they're perceived to have a disproportionate impact on countries or regime economies. Iranian oil or petrochemical sanctions, for example.
  - Secondary Sanctions – in the US, these relate to non-US citizens
  - Sectoral Sanctions – these target very specific business activities.

### Who can impose sanctions?

- They are generally issued by the UN, with countries who are part of the UN required to enforce them.
- Countries are also free to unilaterally impose their own sanctions along with UN sanctions.
- The most active country for issuing and policing sanctions is the US.



**Michelle Howe**  
Multinational client manager  
QBE European Operations

# The importance of considering multinational risks and exposures

**Twenty years ago, the world was a different place. Sprawling and separate back then, today it's an increasingly connected, global community.**

While individuals have benefitted with cheap airfares and easy access to foreign countries, businesses have done so by growing their global footprint and becoming multinational companies.

Multinationals appeal because they offer clients a consistent, joined-up service that spans the globe. For the businesses, meanwhile, it boosts growth, investment and professional standing worldwide.

However, their success doesn't just hinge on hard work. Complex risks must be constantly negotiated, particularly when undertaking projects in a variety of different territories where language, culture and regulatory frameworks need careful consideration.

Even the largest companies fall foul here. In 2004 one of the major banking groups targeted the Chinese market, buying £1.7bn of shares in Bank of China as part of a joint venture.

Five years later, the joint venture failed. While the plummeting economy was one reason for this, the language barrier, culture clash and China's complex regulatory framework all reportedly played their part.

In order to mitigate complex risks such as these, multinationals need a joined-up insurance solution. The best providers do this by thoroughly understanding each project, ensuring optimum cover, consistently monitoring operations locally and globally, and responding quickly and effectively to change.

With proper protection, multinationals are free to get back to the business of hard work.

## **Multinational insurance offering**

### **Complex compliance**

Every country has its own rules and regulations, which can be challenging to understand and adhere to. A good insurer will protect its client by first understanding each risk, and then negotiating cover that complies with each regulatory and tax environment.

### **Acting globally and locally**

A top insurance provider will have a central team of professionals to oversee the client's insurance needs, and a global network of local offices, partners and strategic links to ensure success on the ground. This boosts communication and limits the potential impact of language barriers and cultural clashes.

### **Coordinated approach**

A central software platform helps deliver coordinated management of each global insurance programme. Tracking key local activities and ensuring local policies have been issued gives companies peace of mind that consistent global coverage is in place. This takes into account any regional discrepancies and inconsistencies, while also generating cost savings.

## **QBE multinational approach**

QBE is a leading multinational insurance service provider. With operations, offices and local networks that reach right across the world, we provide clients with a robust, compliant and centrally coordinated global insurance solution. Our offering includes:

- A dedicated Multinational Client Centre (MCC) - a central service coordination and reporting service reaching across more than 100 countries, that communicates effectively and constantly develops and improves coverage of the client's global network
- Tailored solutions - provides wide ranging, bespoke solutions that are compliant in each territory, particularly in those where regulations and tax demands are complex
- Quality service - an ethos that anticipates issues and takes initiative by acting, rather than reacting to information and challenges
- Market leading claims experience - multinational clients are allocated a global team of claims experts located both centrally and locally who thoroughly understand the business structures, exposure, and clients' needs
- Specialist risk management expertise - our managers work with affiliates in various regions and use complex data evaluation to identify risks and mitigate exposures



**Questions?**

Contact your QBE representative today at [Solicitors.PI@uk.qbe.com](mailto:Solicitors.PI@uk.qbe.com)

QBE provides a unique quality assurance-based approach to risk management. It was developed for solicitors' practices of all sizes, democratising a service that has commonly been the preserve of larger organisations.

# Global Reach with Local Service

**It could be sunny in Australia, snowing in Canada, scorching in the Middle East or raining in the UK, yet when clients step inside QBE's local claims offices there, the service and expertise they receive is the same.**

This applies to the new Leeds office, which opened at the beginning of 2015. With a growing number of clients in the north, and previously serviced out of London, it now provides further support to clients based locally, nationally and across the world.

"Some insurers never meet their clients," says Elina Lusted, who hails from Yorkshire, and is leading the Leeds FSM claims team of six. "We put a lot of focus on building up strong relationships with ours. So, being located nearby enables us to offer a speedy service and the direct access QBE is known for."

In fact, the new office has wide-ranging benefits for all, as the expertise there reflects the wider business. "We're doing in Leeds what we do in London, and what our local claims teams do in Sydney, Toronto and Dubai," explains Elina. "We're one claims team, with offices around the globe."

Handling complex claims and empowered to take swift action locally, Leeds also benefits from the global QBE network. Claims colleagues regularly alert each other to unique exposures in the wider market, while also providing insights into local issues affecting multinational businesses. "It's about sharing intelligence and communication," sums up Elina.

It's certainly a good time to be going north. "There's a thriving economy here and it's great a place to do business," she says. "Our clients appreciate that we're close by."



**Elina Lusted**

Assistant Claims Manager  
QBE European Operations

Having trained and qualified at City law firm Freshfields, Elina began her career in private practise. Acting for insurers in various litigious matters at Freshfields, and later at Barlow Lyde & Gilbert, she went on to become Professional Indemnity Claims Manager at Hiscox for nine years. Today, Elina leads the Leeds FSM claims team, which has a broad remit that includes solicitors, accountants, employment practises liability claims and some directors and officers claims.

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