

# MARKET BULLETIN

<b>From</b>	Director, Worldwide Markets (extn 6677)
<b>Date</b>	30 May 2006
<b>Reference</b>	Y3820
<b>Subject</b>	<b>Economic, trade or financial Sanctions</b>
<b>Subject areas</b>	Sanctions imposed by the US government and the European Union.
<b>Attachments</b>	None
<b>Action points</b>	<b>Underwriters and managing agents to note revised guidance issued by External US Counsel detailing alterations to US sanctions requirements.</b>
<b>Deadlines</b>	<b>The provisions come into force at dates as detailed. Some provisions are already in force.</b>

## Purpose of bulletin

To inform the market that Lloyd's has updated and extended its information about global sanctions on [www.lloyds.com](http://www.lloyds.com). It now includes updated guidance on US sanctions provided by external US Counsel.

## Background

Economic, trade or financial sanctions are imposed by governments, the European Union or the United Nations in order to put pressure on individuals or foreign governments and to further foreign policy aims. For Lloyd's underwriters, the most important sanctions are those imposed by the European Union ("EU") and the US government.

Sanctions imposed by the EU apply to nationals of EU Member States, to entities incorporated or constituted under the laws of one of the Member States and to persons and entities doing business in the EU. Sanctions imposed by the US government generally apply to "US persons" (companies and individuals), although sanctions against Cuba and North Korea are intended to have wider application. The meaning of "US persons" and its significance for the Lloyd's market is discussed in detail in external US Counsel's updated guidance.

Lloyd's Worldwide Markets maintains a page on [loyds.com](https://www.loyds.com) summarising details of sanctions in force, which may be accessed by clicking [here](#). The page lists countries targeted by sanctions and provides links to the websites of the US Treasury Department's Office of Foreign Assets Control and the Bank of England, from which further information can be obtained.

There have been recent changes to US government and EU sanctions. These are detailed in the attached appendix.

- The changes to US sanctions concern Weapons of Mass Destruction ("WMD") and North Korean flagged vessels. The updated external US Counsel's US sanctions survey provides guidance on these issues and has also been updated more generally. It is accessible on Lloyd's sanctions webpage and by clicking [here](#). Access to this survey requires a password, available to the Lloyd's market from Worldwide Market Services. Please note that the external US Counsel's advice is subject to the attorney-client privilege and all persons accessing it agree not to distribute it outside the Lloyd's market.
- The changes to EU sanctions relate to Belarus and Sudan.
  - Financial sanctions have been imposed against President Lukashenko and certain other officials of Belarus. Further information on this matter can be accessed on the Lloyd's sanctions web page and by [clicking here](#).
  - Financial sanctions have been imposed against certain persons, designated by the United Nations Security Council as impeding the peace process, constituting a threat to stability and breaking international law in Sudan. Further information on this matter can be accessed on the Lloyd's sanctions web page and by [clicking here](#).

### **Further information**

If you have any queries about this market bulletin, please contact Lloyd's Worldwide Market Services:

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This market bulletin has been sent to active underwriters and to the compliance officers of managing agents and Lloyd's brokers.

Julian James  
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Appendix

## Sanctions: recent changes

### 1. Changes to US sanctions

There have been two recent alterations to US sanction requirements concerning Weapons of Mass Destruction (“WMD”) and North Korean flagged vessels. The updated external US Counsel’s US sanctions survey provides guidance on these issues and has also been updated more generally. It is accessible [here](#). Access to this survey requires a password, available to the Lloyd’s market from Worldwide Market Services.

#### **Weapons of Mass Destruction (“WMD”) - US Sanctions Requirements**

On 28 June 2005, President Bush issued Executive Order 13382 (“The Order”) which blocks property of persons and entities deemed to be engaged in or supporting the proliferation of WMD. The Order also prohibits “United States persons” from participating in transactions or dealings with such persons or entities. The Order includes an annex that lists certain persons and entities that have been deemed to be proliferators of WMD and which in turn have been placed on the Specially Designated National (“SDN”) list maintained by the Treasury Department’s Office of Foreign Assets Control (“OFAC”).

#### **Highlights in external US Counsel’s Guidance**

A section entitled “**Supporters of SDNs**” (page 10-12) has been added to Part 1 of the Paper. It provides that supporters of activities subject to sanctions regimes such as narcotics traffickers, weapons proliferators and terrorists, are potentially subject to placement on the SDN list and explores the potential implications of the “supporters” prohibition on the insurance industry, particularly in relation to the WMD regime.

It states that future listings under the regime will fall into 3 categories and that it is the second category which imposes sanctions against “supporters” of WMD proliferation where the insurance industry could be implicated. The paper describes two examples of how insurers may fall under this category:

- If an insurer were to provide direct insurance to a person and or entity on the SDN list as a WMD supporter or even to persons not on the SDN list but found to be materially contributing to or posing a risk of materially contributing to WMD proliferation, OFAC may deem that insurance to be “services in support” of the WMD regime and add the insurer to the SDN list;
- Reinsurers of direct insurers who are said to facilitate WMD proliferation may also be considered as providing “services of support” under the Order. The OFAC guidance is silent on this point but in the general application of US Sanctions regimes to reinsurance, OFAC indicates that reinsurance transactions will be closely scrutinized.

The Paper states how the OFAC insurance guidance (appendix 3 of the Paper) does not categorically indicate whether insurers and or reinsurers of entities on the SDN list or entities found to be materially contributing to or posing a risk of materially contributing to

WMD proliferation would be designated as supporters of WMD proliferators. The Paper informs that OFAC is also silent on whether a foreign insurer providing direct insurance would be considered a “supporter” but that OFAC does consider it illegal for US Insurers to provide insurance that would “facilitate” sanctioned transactions. The Paper opines however that OFAC may interpret the Order broadly enough to include direct insurers as supporters.

Similarly, OFAC is silent on whether reinsurance of direct insurers said to facilitate WMD proliferation could be considered as “services in support”. The paper points out however that in the general application of US Sanctions regimes to reinsurance, OFAC has indicated that reinsurance transactions will be closely scrutinized.

The section also describes the consequences of placement on the SDN list, namely:

- All property or interests in property that are “in the United States...come within the United States or that...come within the possession or control of United States persons” will be blocked;
- External US Counsel advise that potentially premium payments and other funds in or passing through US banks might be frozen. Further, US persons are prohibited from engaging in transactions or dealings with the blocked person and or entity meaning it would be illegal for any US person to do business with non US insurers who are on the SDN list.

## **North Korean Flagged Vessels – US Sanctions Requirements**

In April 2006, OFAC prohibited United States persons from “owning, leasing, operating or insuring any vessel flagged by North Korea”.

### **Highlights in external US Counsel’s Guidance**

US Sanctions requirements concerning North Korean flagged vessels have been added to the section of the paper on **North Korea** (Part 2, Pages 18 - 21).

A new section entitled “**Vessel Prohibition**” (3.0, pages 19-20) defines a United States person and informs that the prohibition will be applied equally to direct insurance and reinsurance. OFAC indicate that for facultative reinsurance, slips and proposals should be scrutinised in the same way as a direct insurance would and that “even greater caution” should be exercised for reinsurance treaties which should contain exclusions so as not to violate US sanctions law.

Attention is drawn to the updated section entitled “**Impact on Lloyd’s**” (7.0, pages 20- 21).

## **2. Changes to EU sanctions**

### **Belarus**

Financial sanctions have come into force against President Lukashenko and certain other officials of Belarus who are responsible for violations of international electoral standards in the Presidential elections in Belarus on 19 March 2006 and a crackdown on civil society and democratic opposition. The sanctions are imposed by Council Regulation (EC) No

765/2006, published in the Official Journal of the European Union (O.J. L134, p.1) on 20 May 2006.

The Bank of England has therefore announced that, with effect from 20 May 2006, all funds or economic resources belonging to the persons listed in Annex I to Council Regulation (EC) No 765/2006 must be frozen. No funds or economic resources are to be made available, directly or indirectly, to or for the benefit of the listed persons.

Full details of these sanctions are available from the Bank of England website, which can either be accessed via Lloyd's [sanctions website](#) or by clicking [here](#).

## **Sudan**

In March 2005, financial sanctions were introduced against those persons designated by the competent United Nations Sanctions Committee as persons who impede the peace process, constitute a threat to stability and break international law in the Darfur region of Sudan. The regime came into force on 12 May 2005 under the Sudan (United Nations Measures) Order 2005 (S.I. 2005/1259) and Resolution 1591 (2005). In July 2005, the Council of the European Union implemented Resolution 1591 (2005) under Council Regulation (EC) No 1184/2005, which was published in the Official Journal of the European Union (O.J. L193, p9) on 23 July 2005.

On 26 April 2006, the United Nations Security Council introduced the financial sanctions on 4 persons and on 18 May 2006 the Commission of the European Communities amended Annex 1 to Council Regulation (EC) No 1884/2005 to include the 4 persons designated by the United Nations Security Council.

The Bank of England has therefore announced that with effect from 19 May 2006, all funds or economic resources belonging to persons listed in Annex 1 to Council Regulation (EC) No 1884/2005 must be frozen. No funds or economic resources are to be made available, directly or indirectly to or for the benefit of the listed persons.

Full details of these sanctions are available from the Bank of England website, which can either be accessed via the Lloyd's sanctions web page or by [clicking here](#).