

**Kobre & Kim's Cross-Border
Disputes Team**

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Companies and Individuals in Greater China Can Protect Themselves from U.S. Sanctions Overreach

The United States and its allies continue to use sanctions to attack adversarial governments and their perceived allies, putting companies and individuals with tenuous or merely alleged ties at risk. Recent sanctions have mainly targeted Russia, but PRC companies were most recently designated in February 2024, signaling increasing risk to PRC individuals and businesses if China-U.S. relations deteriorate. At-risk individuals and business should take proactive steps to prepare.

The United States and its allies continue to use sanctions as an aggressive political strategy to attack adversarial governments and their perceived allies. As a result, companies and individuals with tenuous or even merely alleged ties to those powers are at risk of being sanctioned.

While Russian entities have borne the focus of these efforts in recent years, on February 23, 2024, the United States designated nine People Republic of China (PRC) companies for alleged connections to Russia. Should relations between the U.S. and China break down further, the West will likely respond by enacting additional sanctions against individuals and businesses with ties to China, its government, and Chinese nationals.

Moreover, jurisdictions where many Chinese companies and individuals base corporate and trust structures to hold non-PRC-domiciled assets – including the Cayman Islands and the British Virgin Islands – apply sanctions designations by the United Kingdom. This compounds the associated risks, as sanctioning governments tend to sanction a wide range of targets in an effort to exert maximum pressure.

At-risk individuals, businesses and their advisors may be able to mitigate potential risks they face provided they act early and decisively:

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1. **Perform a Sanctions Risk Assessment and Identify Bad Actors.** Those at risk should proactively identify where a potential sanctions designation might come from. This includes authorities in jurisdictions most likely to deploy sanctions against Chinese parties – including the United States, the United Kingdom and the European Union. These authorities can designate individuals and entities in a process lacking transparency and the protections found in normal judicial proceedings. Certain officials, advocacy groups, or private individuals may also use misleading information to increase the likelihood that a particular

designation decision is made for commercial or political purposes. Those at risk can respond by correcting the factual record to the appropriate authorities.

2. **Compile Evidence to Establish the Independence of Key Entities.** Governments often only have access to incomplete public-source information when making sanctions decisions. At-risk entities, individuals and their advisors can proactively prepare a factual narrative explaining that certain business entities or activities are not connected to individuals or entities otherwise targeted or designated by governments.
3. **Potential Litigation Strategies.** In certain scenarios, launching targeted legal proceedings in key jurisdictions can also support key objectives, for example, by asking a court to affirm the legitimacy of offshore trusts or other asset structures where ties to a sanctioned entity are alleged.

In the rapidly evolving world of international sanctions regimes, individuals and businesses with ties to China may quickly become engulfed in the conflict through Western governments' aggressive use of sanctions. These risks could come not just from sanctioning authorities but also from commercial counterparties or business rivals who seek to take advantage through the spread of misinformation. It may be prudent for these individuals and businesses to explore taking affirmative steps now to ensure that misinformation does not lead to negative outcomes.

About Kobre & Kim

Kobre & Kim is a global law firm focusing on cross-border disputes and investigations, often involving fraud and misconduct.

To preserve the assets, liberty and reputation of ultra-high-net-worth individuals with global business interests, our team:

- Provides offensive and defensive cross-border litigation and crisis management strategies in court and out-of-court;
- Brings together over a dozen former U.S. and UK government lawyers across Asia, EMEA, Latin America and the U.S., including former prosecutors from the U.S. Department of Justice (DOJ) and UK Serious Fraud Office (SFO);
- Has deep experience with global foreign policy, national security and economic controls and regularly interfaces with regulatory agencies that impose these controls.