



Kobre & Kim's International Private Client Team

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Managing Risks in the New Era of U.S. Sanctions



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The new U.S. administration will likely continue to embrace economic sanctions as a tool for pressuring political adversaries abroad. Recent moves include pressure on historically aligned nations such as Canada, Mexico, and Colombia and sanctions on the International Criminal Court (ICC). Should relations between the U.S. and other governments or organizations shift from the status quo, at-risk entities and individuals may take proactive steps to mitigate potential risks.

The new U.S. administration will likely continue to embrace economic sanctions as a tool for pressuring political adversaries abroad. Less than a month into the Trump Administration, we have already seen the deployment of a broad range of economic tools to exert pressure on allies and adversaries alike. As a result, companies, organizations, and individuals with even tenuous connections to these targets face the risk of sanctions.

Recent moves include pressure on historically aligned nations such as Canada, Mexico, and Colombia and sanctions on the International Criminal Court (ICC). These early policy actions reflect the administration's strategy to exert pressure to progress its economic agenda. This may affect how the U.S. approaches its existing sanctions programs, including Russia, Venezuela, and Iran, as it shifts to new targets.

Such targeting by the Trump Administration is likely to have unintended consequences for third parties linked to sanctioned entities, potentially affecting trusts and other asset structures. Should relations between the U.S. and other governments or organizations shift from the status quo, at-risk entities and individuals may be able to mitigate potential risks they face, provided they act early and decisively:

1. **Execute a Sanctions Stress Test.** Those at risk should proactively identify where a potential sanctions designation might come from and the likely impact, including by understanding the agencies, legislators, and other officials that have a hand in the

designation process. The stress test should consider competitors and private individuals who may be motivated to deploy or use misleading information to increase the likelihood that a particular designation decision is made to achieve a commercial advantage.

2. **Compile Evidence to Establish the Independence of Key Entities.** Governments often rely on public-source information and media reporting 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 in order to proactively correct the factual record with the appropriate authorities or media outlets.
3. **Closely monitor media coverage and online conversation.** It is common for partisan actors to seek to spread disinformation about a competitor to increase the risks of sanctions and or/negative media attention. It is critical to closely monitor media coverage and online conversation for any articles or posts highlighting the business, its partners, or its suppliers, as governments could ultimately use them as a justification to open an investigation, take enforcement action, or even impose sanctions. Those at risk can proactively take steps to correct the factual record through counter-offensive strategies designed to discredit false information and highlight the truth.
4. **Potential Litigation Strategies.** Launching targeted legal actions in specific scenarios in key jurisdictions can also support key objectives. For example, proceedings can be brought to confirm a trustee's independence, and any claims of de facto asset ownership on the part of the settlor can be discounted.

In the rapidly evolving world of international sanctions regimes, individuals, multilateral organizations, and businesses may quickly become engulfed in the conflict through the U.S. government's aggressive use of sanctions. These risks could come not just from sanctions authorities but also from commercial counterparties or business rivals who seek to take advantage through the spread of disinformation. At-risk parties should strongly consider taking affirmative steps to ensure that disinformation does not lead to adverse 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 and out of court.
- Brings together roughly 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; regularly interfaces with regulatory agencies that impose these controls.