

**Kobre & Kim's International
Private Client Contacts**

JUNE 22, 2023

**Daniel S. Lee**
Seoul
daniel.lee@kobrekim.com**Jason J. Kang**
Shanghai / Hong Kong
jason.kang@kobrekim.com**Jian Wu**
Shanghai
jian.wu@kobrekim.com**Michael R. Sherwin**
Washington DC
michael.sherwin@kobrekim.com**Nicholas Surmacz**
London
nicholas.surmacz@kobrekim.co.uk**Peter Tyers-Smith**
Cayman Islands
peter.tyers-smith@kobrekim.ky**Polly Wilkins**
London
polly.wilkins@kobrekim.co.uk

U.S. Sanctions Against Individuals in Greater China May Come Suddenly: How Overseas Advisors Can Protect Their Clients from Overreach

Businesspeople in Greater China with global business interests could be at risk of financial sanctions if diplomatic relations between China and the United States sour, especially as the U.S., UK and their allies continue to find tools to exert pressure on China. Below, we explore how financial and wealth advisors can mitigate the risks these clients face from sanctions and other enforcement actions.

As the United States, the United Kingdom, and their allies continue to find tools to exert pressure on China, businesspeople in Mainland China, Taiwan, or Hong Kong SAR with global business interests could become financial sanctions targets if diplomatic relations between China and United States sour.

Jurisdictions where many Chinese businesspeople base corporate and trust structures to hold their non-PRC-domiciled assets – including the Cayman Islands and the British Virgin Islands – regularly enforce sanctions designations created by the United Kingdom, compounding the risks especially when sanctioning governments have a tendency to sanction a wide range of targets to achieve maximum pressure.

Financial and wealth advisors to these businesspeople are often the first to sense if their clients may be vulnerable, and they can mitigate the risks their clients face from financial sanctions and other enforcement actions provided they act early and decisively:

1. **Get the Facts Straight.** Governments often make sanctions designation decisions based on incomplete public-source information, and there is a risk that they misinterpret facts and make faulty assumptions. At-risk businesspeople and their advisors should proactively prepare a factual narrative that can set the story straight: for example, copies of contracts and transaction records can help establish that certain business entities and activities are separate from any entity or individual at risk of sanction.

2. **Correct the Record.** This factual narrative can be most effective if used strategically. At-risk individuals can consider outreach to government bodies or the press to assist in correcting the factual record. Parallel legal proceedings in other jurisdictions to obtain court decisions affirming the legitimacy of offshore trusts and other asset structures can also be favorable additions to the record and further protect an individual.
3. **Identify Sources of Sanctions Risk.** Those at risk should proactively identify where a potential sanctions designation might come from. This includes sanctioning authorities in jurisdictions most likely to deploy sanctions against Chinese parties – including the United States, the United Kingdom, and the European Union – but also other agencies, officials, advocacy groups or private individuals with influence on those designation processes that may have an interest in seeing the businessperson in question on a sanctions list. The individual can respond with relevant counterstrategies depending on where the sanctions risk stems from.

If Sino-American relations deteriorate further, the United States and its allies will not hesitate to aggressively deploy sanctions against vulnerable individuals in Mainland China, Taiwan, or Hong Kong SAR with global business interests. As prospects of a confrontation between the two superpowers continue to rise, at-risk businesspeople and their advisors should act now to avoid the risks of sanctions overreach and protect their legitimate interests.

About Kobre & Kim

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

To preserve the assets, liberty and reputation of ultra-high-net-worth individuals (UHNWIs) 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.