

# International sanctions monitoring and marine insurance



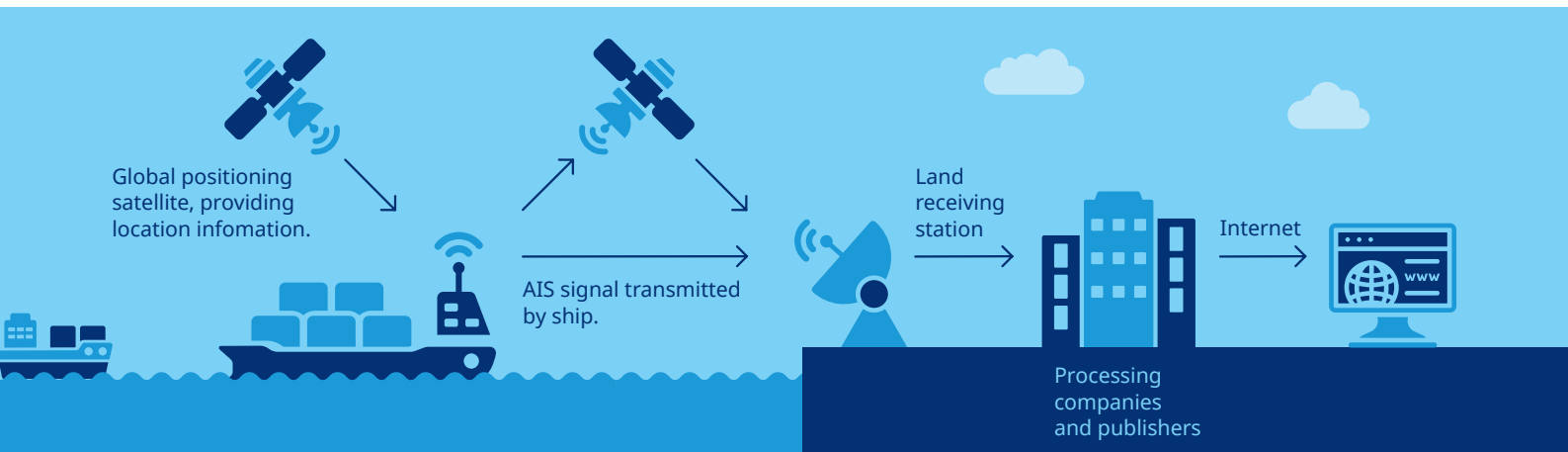
The terms of marine hull and marine hull war and strikes insurance policies typically include clauses aimed at ensuring compliance with international sanctions, including vessel tracking using automatic identification systems (AIS).

## Limited safety and security exceptions to AIS use

The International Convention for the Safety of Life at Sea (SOLAS) sets minimum safety standards for many aspects of marine ships and was initially designed to aid navigation, avoid collisions, and guide rescue services to a vessel in distress. Under SOLAS Chapter 5, Regulation 19 2.4, an AIS must be fitted on all ships of 300 gross tonnage and more that are engaged on international voyages; cargo ships of 500 gross tonnage and upwards that are not engaged on international voyages; and passenger ships, irrespective of size.

Alongside safety considerations, the transmission of AIS signals by ships is also an aid to authorities that are trying to ensure compliance with international sanctions.

The AIS must be in operation at all times, whether the ship is at sea, in port or at anchor. The only exception is if the ship master believes the continued operation of AIS might compromise the ship's safety or security, or where security incidents are imminent, whereupon the AIS may be switched off. For example, this might occur if a ship is sailing through areas of the world that are known to be at high risk of piracy as the AIS automatically transmits information — via satellites or via land-based receiving stations — including the ship's identity, type, position, course, speed, navigational status, and other safety-related information. Such information can be used to monitor ship movements.



## International sanctions

Compliance with international sanctions is something everyone in the maritime industry would be expected to support and abide by as the imposition of sanctions, whether targeted on particular commodities or named individuals, aims to help reduce international conflict, and/or reduce criminal activity. For some countries, sanctions are designed to help change the behaviour of their regimes, and may target their commercial interests and financial institutions.

To this end, the London insurance market introduced a new clause in 2010 — the Sanctions Limitation and Exclusion Clause (JH2010/009, JC2010/014 and LMA 3100) — that today is included in the conditions of most marine insurance policies that are placed there. The clause says that insurers will not provide coverage and will not be liable to pay any claim or provide any benefit in the insurance cover if payment of such claim would expose insurers to any sanction, prohibition, or restriction under UN resolutions. The clause goes further than just sanctions imposed by the UN to include sanctions imposed by the EU, UK, and/or the US — a wider scope than only sanctions imposed by the UN.

Increasingly, sanctions authorities in those and other countries have requested the assistance of the marine insurance industry to monitor the vessels and goods they insure to maintain compliance with international sanctions.

In April 2019, Lloyds issued a circular (Y5246) to its insurers, asking them to review and, where deemed necessary, to strengthen their monitoring of their exposure to North Korean, Syrian, and Iranian risks related to marine hull and cargo business, where such business might include trade in the East China Sea, Yellow Sea, Sea of Japan, Mediterranean, Red Sea, Gulf of Tonkin, Persian Gulf, and Hormuz Straits.

Special attention is to be paid when the goods being carried include coal, refined petroleum, iron, steel, zinc products, military goods, and dual use goods subject to The Export Control Order 2008 (or export control legislation).

This request was further enhanced by the US government notice to marine insurers in May 2020, which requested their assistance to monitor marine traffic in or near the waters of sanctioned countries that, among other things, fail to transmit an AIS for an extended period, or which may be engaged in ship-to-ship (STS) transfers of goods while in or near those waters. A second circular by Lloyds (Y5358) to the London insurance market, in December 2021, identified the types of activity that should give rise to concern. Such activities included locations, types of vessels, types of goods that required monitoring, and some of the known techniques of those intent on breaching international sanctions, which include:

- Illegally changing vessel names and/or IMO numbers.
- Turning off or manipulating AIS signals.
- Illegally changing the vessel's flag.
- Falsifying bills of lading.
- Transferring goods to smaller vessels at sea, in STS operations.
- Using shell companies to disguise the identity of the real participants.

This request by insurance authorities has been made to all London market insurance brokers and insurers; Marsh is duty bound to review its sanctions compliance monitoring procedures.



## Combatting vessels “going dark”

Deliberately turning off a ship’s AIS signal in an attempt to mask the activities and location of the ship is known as going dark. To combat this, in January 2021, the London marine insurance market issued a new AIS Operation Clause, JH2021-008, for use in marine policies, as follows:

1. As required by Chapter 5, Regulation 19 of SOLAS 1974 as amended and any modification thereof, the vessel’s AIS shall, in so far as the assured can control the matter:
  - a. Always be in operation when the vessel is underway or at anchor.
  - b. Be in operation in accordance with the requirements of the port, when in port.
2. In the event of breach of clause (1), underwriters shall not be liable for any loss, damage, liability, or expense arising out of or resulting from an accident or occurrence during the period of breach, unless the assured satisfies underwriters that the AIS was switched off because the master believed that the continual operation of AIS might have compromised the safety or security of the vessel, or that the AIS was not in operation for reasons beyond the control of the assured.
3. The assured shall, if requested by underwriters, permit the inspection of the vessel’s AIS installation, maintenance, and operational records, as well as the vessel’s log book.

Where this clause is included in the policy conditions, it becomes necessary for AIS to remain in operation at all times; however, there may be occasions, for safety, where insurers will permit AIS switch-off, but the insured will have to satisfy insurers as to the reason for doing so in order for coverage to continue.

## AIS switch-off clause

The Baltic and International Maritime Council (BIMCO) sought to combat vessels going dark by introducing its own AIS switch-off clause in 2021. It can be included in the terms of a charter-party agreement and allows:

1. Charterers to terminate the charter-party agreement if the vessel owner/operator deliberately turns off the AIS transmissions from the chartered vessel for anything other than legitimate reasons.
2. The vessel owner to terminate the charter-party agreement if the charterer requests the AIS transmissions to be switched off.



## Marsh vessel monitoring procedures

In order to identify any vessel that may be engaged in activities that are contrary to international sanctions, Marsh has partnered with companies that specialize in vessel tracking and monitoring to be able to monitor all oceangoing cargo vessels that we are asked to obtain terms on and/or to arrange insurance for. Monitoring of the AIS transmissions from the vessel — or the failure to transmit an AIS signal for a significant period of time — enables us to ensure that the vessels we handle are compliant with international sanctions at all times. Before implementing such use of AIS data, we established protocols to ensure that monitoring procedures are done in a way that causes minimum disruption to our clients.

It is important for the maritime and shipping community to realize that this market-wide requirement for enhanced vessel monitoring by the insurance industry to adhere to compliance with international sanctions also applies to all London market insurers we work with. These insurers expect brokers to apply due diligence to vessel monitoring before submitting business to them, and continuously throughout the policy period.

For most in the maritime and shipping community that do not trade to, or near, sanctioned countries or with named, sanctioned individuals, such monitoring should simply prove compliance with UN, EU, UK, and US sanctions. However, in order to ensure that the business Marsh handles complies with international sanctions, we may need to ask further questions of those who seek our services regarding activities that may raise potential concerns. This could include vessels going dark for a significant period of time, or being identified as engaging in STS transfer operations in, or near, the waters of sanctioned countries.

Continual vessel location monitoring is something that the entire London insurance market is being asked to perform. Even if Marsh did not ask questions or seek further information — such as IMO numbers — about the vessels, the insurers we work with would.

Assisted by our partners, Marsh will track the movements of those oceangoing cargo vessels we place coverage for to ensure compliance with the reporting requirements. This is a task that the entire London insurance market, insurers and brokers alike, is required to do.

Tracking the AIS signals of vessels is not the only factor that will determine whether there are potential sanctions compliance concerns that we will need to raise additional questions. In some regions, the type of goods being carried may also raise concerns. Should any vessel that we handle raise a concern at any point during the period of the insurance, Marsh will contact you to discuss the issue(s). The majority of our clients will not be further inconvenienced by the monitoring activity.

We believe that the procedures and systems that Marsh has put in place to monitor vessels will be among the best in the marine insurance market. We expect them to cause minimum disruption while complying with the market-wide requirement to employ vessel tracking and monitoring to ensure international sanctions compliance.

## Contact us



For more information, please contact your Marsh Specialty Marine advisor.



## About Marsh

[Marsh](#) is the world's leading insurance broker and risk advisor. With around 45,000 colleagues operating in 130 countries, Marsh serves commercial and individual clients with data-driven risk solutions and advisory services. Marsh is a business of Marsh McLennan (NYSE: MMC), the world's leading professional services firm in the areas of risk, strategy and people. With annual revenue nearly \$20 billion, [Marsh McLennan](#) helps clients navigate an increasingly dynamic and complex environment through four market-leading businesses: [Marsh](#), [Guy Carpenter](#), [Mercer](#) and [Oliver Wyman](#). For more information, visit [marsh.com](#), follow us on [LinkedIn](#) and [Twitter](#) or subscribe to [BRINK](#).