

CML Seminar Series:
Mitigating Maritime Sanctions Risk
23 November 2023 | The Executive Centre, Capital Square



Associate Professor Richard Kilpatrick Jr, CML's Visiting Senior Research Fellow and Associate Professor of Business Law from the College of Charleston, South Carolina (USA), was the speaker for the CML Seminar, 'Mitigating Maritime Sanctions Risk' held on 23 November 2023 at The Executive Centre, Capital Square.

Recent events and court judgments have highlighted the risk of sanctions affecting commercial transactions of a maritime nature. Practitioners, in-house counsel, and academics attended his seminar, which was held in downtown Singapore. They were introduced to a variety of sanctions imposed around the world, such as those relating to the Russian oil price cap. This included an explanation of the two different categories of sanctions under the law of the USA – primary and secondary sanctions – and the list of individuals and entities designated by the USA's Office of Foreign Assets Control (OFAC). Professor Kilpatrick pointed out that courts in the USA give broad deference to OFAC. He discussed OFAC's Guidance to Address Illicit Shipping and Sanctions Evasion Practices, which recommended the adoption of sanctions exclusion clauses and AIS switch-off clauses. Sanctions clauses in standard form charterparties and marine insurance contracts were compared for their differences in flexibility and objectivity. Turning to the maritime-related case law on sanctions, he pointed out the risk of using objective sanctions clauses in Singapore due to the recent decision of *Kuvera Resources Pte Ltd v JP Morgan Chase Bank* [2023] SGCA 28. He shared his observations on how sanctions clauses might be drafted. The seminar concluded with a Q&A session, which included a discussion on how sanctions can become intertwined with *force majeure* clauses in contracts.