U.S. Government Issues Updated Sanctions Warning to Maritime Shipping Community; Recommends Best Practices to Mitigate Risk

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On May 14, 2020, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the Department of State, and the U.S. Coast Guard issued a Sanctions Advisory for the Maritime Industry, Energy and Metals Sectors, and Related Communities, reflecting increased scrutiny and enforcement attention by U.S. government agencies on curbing illicit shipping practices. The advisory complements earlier guidance, providing information regarding common deceptive shipping practices as well as compliance recommendations tailored to maritime shipping-related businesses; it also updates and expands on prior OFAC sanctions shipping advisories regarding North Korea, Iran, and Syria. As a whole, the advisory warns companies what compliance measures OFAC expects companies to implement to address this threat.

Who is this guidance for? The guidance is specifically addressed to entities engaged in the maritime industry, as well as the energy and metal sectors. The deceptive shipping practices discussed create significant sanctions risks for companies and individuals working in those sectors.

The advisory offers compliance recommendations to mitigate this sanctions risk, including guidance tailored to a variety of functions operating in these sectors, such as:

- Maritime insurance companies
- Flag registry managers
- Port state control authorities
- Regional and global commodity trading, supplier, and brokering companies
- Shipping industry associations
- Financial institutions

- Ship owners, operators, and charterers
- Classification societies
- Crewing companies
- Vessel captains

What are deceptive shipping practices? The advisory identifies several tactics used by illicit actors to evade sanctions, facilitate smuggling and terrorist activities, and engage in the proliferation of weapons of mass destruction:

- Disabling or manipulating the Automatic Identification System (AIS) on vessels
- Physically altering vessel identifiers
- Falsifying cargo and vessel documents
- Ship-to-ship transfers (STS) (especially at night or in high-risk areas)
- Voyage irregularities (e.g., indirect routing, unscheduled detours, transit/transshipment through third countries)
- False flags and flag hopping (frequently changing flag states)
- Corporate structures that disguise beneficial ownership

How these practices are used to evade sanctions. North Korea, Iran, and Syria use deceptive shipping practices in different ways to facilitate the illicit export and import of goods and to finance terrorist organizations.

- **North Korea.** North Korea uses deceptive shipping practices to facilitate export of its embargoed products as well as prohibited imports, including illicit STS transfers and barges that do not transmit AIS signals to transport goods to China.
- Iran maintains a global network that uses deceptive shipping techniques to facilitate illicit transactions, particularly in the

petroleum shipping industry. To evade U.S. sanctions, actors, including Iran's Islamic Revolutionary Guard Corps Quds Force (IRGC-QF), alter documents to obfuscate origin, destination, and recipient information related to oil shipments. Payment derived from illicit oil shipments is used to finance Hezbollah and IRGC-QF.

- Iran and Russia have used deceptive shipping techniques to provide the Syrian regime with goods, in violation of sanctions.

Recommendation to minimize risk. The advisory provides tailored guidance relevant to certain businesses associated with maritime shipping. It also offers the following general practices to help identify these deceptive practices and minimize risk of sanctions violations by:

- Institutionalizing sanctions compliance programs
  - Conduct due diligence and know customers and counterparties (including document identifying information on beneficial owners)
- Establish best practices across the community, including
  - Developing requirements to minimize opportunities to manipulate or disrupt AIS data
- Continuous monitoring of ships throughout their lifecycle, including
  - Periodic identification and tracking and
  - Verification of ship identifying information and flag
- Supply chain due diligence
  - Review details of the voyage, request export licenses, and verify origin and recipient
- Incorporate best practices into contractual requirements
- Share information within the industry, where possible

Notably, while these recommendations emphasize increased due diligence, they go further by encouraging the industry to work together to develop consistent standards and share information to develop enhanced awareness and more effective mitigation techniques. In the event of a violation, OFAC likely will consider the extent to which a company incorporated these recommendations when it conducts its penalty assessment.

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