

RIISING TIDE: US AUTHORITIES GUIDANCE INCREASES EXPECTATIONS FOR OFAC SANCTIONS RISK ASSESSMENTS AND COMPLIANCE DUE DILIGENCE RELATED TO MARITIME INDUSTRY

On May 14, 2020, the US Treasury Department Office of Foreign Assets Control ("**OFAC**"), the US State Department and the US Coast Guard jointly published a *Sanctions Advisory for the Maritime Industry, Energy and Metals Sectors, and Related Communities* (the "**Guidance**"), [an advisory](#) regarding illicit shipping and sanctions evasion practices focused on Iran, Syria and North Korea. The Guidance updates prior sanctions-related shipping advisories and offers best practices for those involved in the maritime industry for trade or transportation as well as for financial institutions serving those industry sectors.

The Guidance discusses seven recent trends in deceptive shipping practices in trade connected to Iran, Syria, and North Korea and suggests way to enhance and adapt due diligence and sanctions compliance policies and procedures to better identify those trends and to manage associated sanctions risks.

The Guidance significantly "raises the bar" for what the US authorities will consider adequate sanctions risk controls for the industries discussed, and companies are well advised to check their current controls and practices against the Guidance.

What are the deceptive shipping practices?

- Disabling or Manipulating the Automatic Identification System ("**AIS**") on Vessels
- Physically Altering Vessel Identification
- Falsifying Cargo and Vessel Documents
- Ship-to-Ship ("**STS**") Transfers
- Voyage Irregularities

- False Flags and Flag Hopping
- Complex Ownership or Management

Group specific due diligence and risk assessment guidance

The Guidance also provides targeted sanctions compliance advice for seven specific groups involved in the maritime industry, including financial institutions, maritime insurance companies and international commodity traders. This targeted guidance highlights specific risk factors that should be considered in risk assessments and due diligence practices.

For example, the Guidance describes relevant risk factors for financial institutions when assessing risks of maritime industry customers, including, on a risk basis (i) identifying trade corridors and commodities susceptible to transshipment and STS transfers and whether/to what extent a customer uses them, and; (ii) examining a client's buying/selling of a vessel to determine whether a client's assets include blocked property. For maritime insurance companies, the Guidance suggests several due diligence practices, including several focused at monitoring AIS transmissions and conducting appropriate review of a vessel's AIS history for activities that might indicate involvement in illicit activity as well as incorporating contractual language around broadcast requirements and proper use of the AIS. In addition, the Guidance suggests that regional and global commodity traders adopt contractual requirements that allows for contract termination if charterers disable or manipulate AIS or transfer cargo to vessels that are not broadcasting AIS, in a manner inconsistent with the International Convention for the Safety of Life at Sea.

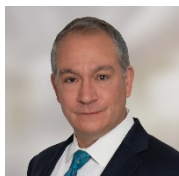
Supplemental Information on Iran, Syria, and North Korea-related Sanctions

The Guidance concludes with a summary of US and UN sanctions relevant to Iran, Syria, and North Korea sanctions programs and provides additional information on deceptive shipping practices specific to each of these three regions. For example, the Guidance identifies known North Korea STS transfer areas. This information highlights additional risks and factors that should be considered when assessing and managing Iran, Syria, and North Korea-related sanctions risks arising in the maritime industry.

I engage in the maritime industry, what does this mean for me?

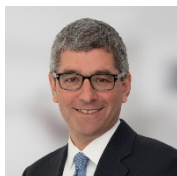
Those operating in the maritime industry, utilizing it for trade or providing financial services to that sector should consider these best practices and examine whether changes should be made to their current risk assessment and sanctions compliance programs. We would be happy to address any questions or to assist in assessing your sanctions compliance and due diligence policies and procedures.

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