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Russian Sanctions - Vessel Designations & OFAC Guidance Issued



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A new client alert bulletin has been issued by Freehills relating to the OFAC designation of two oil tankers, and their respective registered owners for transporting Russian-origin crude oil sold above the G78 Coalition price cap of US\$60. The bulletin can be viewed [here](#).

This coincides with news from other sources attesting to the emergence and growth of the “dark” or “shadow” fleet carrying Russian crude in a manner which potentially violates the terms and conditions of the international sanction regulations imposed on the sale of Russian crude oil. Members should be alert to the risks of carrying cargoes which break the price cap imposed by the Price Cap Coalition and be aware of the risks and recommendations associated with carriage of Russian crude generally. A list of highlighted risks and recommendations was issued by OFAC to address this situation in October 2023 and a summary of these is detailed below:

Increased risks:

- **Potential danger to the Maritime environment** resulting from shadow fleet vessels being typically old and poorly maintained.
- **Economic and insurance risks** arising from reliance by the shadow trade on fraudulent P&I certificates or certificates provided by P&I providers operating in opaque jurisdictions with questionable capital levels and reinsurance arrangements.
- **Reputational, logistical and financial risks** enabled by opaque fleet ownership structures concealing the identity of the actors involved and the origin of the cargoes their vessels carry. This may cause industry stakeholders to become unwitting participants in transactions that may breach industry compliance policies.
- **Legal and Sanctions risks** caused by bad actors using deceptive practices to gain access to Price Cap Coalition services in order to sell above the price cap or engage in other activities which violate the Coalition’s sanction regulations.

To counter these risks, OFAC has provided several recommendations to help reduce the possibility of owners falling prey to the unscrupulous shadow trade:

- **Require appropriately capitalised P&I insurance** – The Price Cap Coalition encourages industry stakeholders to require vessels to be insured by legitimate insurance providers with sufficient CLC liability coverage.
- **Receive classification from the International Association of Classification Societies (IACS)** – Extra care should be taken when engaging with any vessel not classed by an IACS Classification Society.
- **Best-practice use of Automatic Identification Systems (AIS)** – Industry stakeholders should encourage continuous use of the on-board AIS system for the duration of a voyage and in accordance with SOLAS. Any discontinuance of AIS should be documented and inconsistent use of AIS should be carefully monitored.
- **Monitor high risk ship-to-ship transfers (STS)** – While often legitimate, STS can also be used for illicit purposes such as circumventing sanctions. Relevant stakeholders are therefore advised to conduct enhanced due diligence such as notification of STS transfers and verification of vessels' oil record logs to check cargo movements aboard vessels.
- **Request associated shipping and ancillary costs** – Shipping costs may be inflated or bundled together to conceal how Russian oil may have been purchased above the price cap. Since shipping, freight, customs and insurance costs are not included in the price cap, they should all be itemised separately and at commercially reasonable rates, so a full breakdown of costs should be demanded by any parties involved in "Cost, Insurance, Freight" contracts to ensure that oil price caps are not being violated.
- **Undertake appropriate due diligence** – Due diligence is especially important for vessels that have undergone numerous administrative changes such as re-flagging. Careful examination of intermediaries such as management companies, traders and brokers may also be desirable in case they conceal beneficial ownerships which engage in opaque practices.
- **Report ships that trigger concerns** – If any industry stakeholder becomes aware of potentially illicit or unsafe maritime oil trading, including breaches of the oil price cap, these should be reported to the relevant authorities.