



Client Alert:

USCG Addresses Industry Concerns Regarding the Forthcoming Implementation of the SOLAS Container Weight (“VGM”) Requirements

May 3, 2016

The recent SOLAS amendments requiring verification of container weights – referred to as the “Verified Gross Mass” (“VGM”) amendments – which are scheduled to come into effect as of July 1, 2016, have created considerable concern and confusion in the shipping industry, both with respect to carriers and shippers. In an effort to ameliorate those concerns, the U.S. Coast Guard (“USCG”) has declared an equivalency to the IMO and issued a Marine Safety Information Bulletin, No. 009/16, dated April 28, 2016, which seeks to clarify the USCG’s position in terms of implementation and enforcement of the forthcoming VGM requirements. In sum, the USCG’s position is “that existing U.S. laws and regulations for providing verified container weights are equivalent to the requirements in SOLAS Regulation VI/2.” The USCG’s position is premised on its determination that its current regulatory regime provides sufficient resources and flexibility for those “entities within the container export chain to work in combination with the shipper to determine and verify container weights,” and at the same time “provides ship’s masters with container weights in order to insure ships are loaded and operated safely.”

For purposes of satisfying the July 1, 2016 VGM requirements the USCG notes that interested parties in the industry, *i.e.*, such as shippers, carriers, terminals and maritime associations, have already identified a number of “acceptable methods for providing verified gross mass (“VGM”).” The USCG cites two examples of such methods for satisfying the VGM requirements as follows:

- (1) The terminal weighs the container and when duly authorized, verifies the VGM on behalf of the shipper; and
- (2) The shipper and carrier reach agreement whereby the shipper verifies the weight of the cargo, dunnage and other securing material, and the container’s tare weight is provided and verified by the carrier.

The USCG Marine Safety Information Bulletin, No. 009/16, further goes on to clarify that “[f]or the purposes of determining the VGM of a container, any equipment currently being used to comply with Federal or State laws . . . are acceptable for the purpose of complying with SOLAS.” This specifically includes any equipment used to comply with the Intermodal Safe Container Transportation Act or the container weight requirements set forth in 29 CFR 1918.85 (b).

Finally, the USCG states in conclusion that the USCG, as part of its normal vessel inspections under its flag state and port state control authorities “will continue to verify that ship’s masters receive the VGM of containers in order to ensure that ships are loaded safely and operate within their structural and stability safety limitations.”

This most recent guidance issued by the USCG on the July 1<sup>st</sup> implementation of the SOLAS VGM amendments appears to be largely consistent with prior advices provided by the USCG, although they have now definitively set forth their position that the current framework of U.S. laws and regulations are sufficient to allow industry stakeholders, *i.e.*, carriers, shippers, etc., to meet the necessary SOLAS requirements. The import of the USCG declaration, as set forth in the MSIB and the associated IMO equivalency, is essentially that the USCG will be looking to the industry to craft appropriate mechanisms and strategies to satisfy the VGM requirements. The USCG acknowledges this when it states that the declaration of equivalency to the IMO “provides flexibility for these [industry] entities to reach arrangements in order to ensure compliance with the SOLAS amendments that come into effect on July 1, 2016.” A link to the USCG Marine Safety Information Bulletin, No. 009/16, dated April 28, 2016, and the associated “U.S. Equivalency to SOLAS Regulation VI/2” may be found here: [Marine Safety Information Bulletin](#).

In the event you have any questions relating to the current USCG Marine Safety Information Bulletin, or the implementation of the SOLAS VGM requirements, please do not hesitate to contact William J. Pallas, Esq (pallas@freehill.com). Mr. Pallas is a Partner at Freehill, Hogan & Mahar LLP specializing in the handling of ocean and intermodal cargo loss/damage claims.

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