



**SEPTEMBER 11, 2019**

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**TO MEMBERS OF THE ASSOCIATION**

**Dear Member:**

**GUIDANCE ON OFAC: IRAN SANCTIONS AS THEY RELATE TO BUNKERING OPERATIONS**

On September 4, 2019, OFAC issued an “Advisory to the Maritime Petroleum Shipping Community” setting forth sanctions’ risks related to shipping petroleum and petroleum products from Iran. For a copy of the Advisory, see:

[https://www.treasury.gov/resource-center/sanctions/Programs/Documents/Iran\\_advisory\\_09032019.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/Iran_advisory_09032019.pdf)

OFAC has emphasized that shipowners, charterers, or traders must be aware of the significant sanctions risk for providing bunkering services to vessels transporting petroleum or petroleum products from Iran.

According to the Advisory, the US is “aggressively enforcing” sanctions against Iran and is targeting shipments of petroleum and petroleum products from Iran as a “critical element” of denying access to financial resources to support its activities.

OFAC’s Advisory warns that anyone who knowingly engages in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran or of Iranian origin, or who knowingly provides significant support to an Iranian person or entity on the SDN list is at “serious risk” of being targeted by the US for sanctions, “regardless of the location or nationality of those engaging in such activities.”

Importantly, the Advisory also warns that persons providing bunkering services to vessels transporting petroleum or petroleum products from Iran, risk being subject to sanctions themselves, unless an applicable waiver or exception applies.

FAQs # 296, 691, 692 on Bunkering dated September 5, 2019 provide guidance to shipowners, who are engaged in non-sanctionable conduct, with respect to Iran on their bunkering activities in trade to and from Iran. The relevant FAQs provide as follows:

**296. Will the provision of bunkering services to a non-Iranian vessel carrying non-sanctionable goods to or from Iran be subject to sanctions?**

If a non-Iranian vessel is transporting non-sanctionable goods to or from Iran, the bunkering of that non-Iranian vessel in a country other than Iran — and related payments for these bunkering services — will not be subject to sanctions, only if (1) the transaction either does not involve US persons (including US financial institutions) or

US-owned or -controlled foreign entities, or the transaction is exempt from OFAC regulation or authorized by OFAC if it does involve US persons ... or US-owned or -controlled foreign entities, and (2) the transaction does not involve persons on [the SDN list] that have been designated in connection with Iran's support for international terrorism or proliferation of weapons of mass destruction, including designated Iranian financial institutions or the Islamic Revolutionary Guard Corps (IRGC), or activity that is subject to other sanctions authorities.

**691. Will the provision of bunkering services to a non-Iranian vessel carrying sanctionable goods to or from Iran be subject to sanctions?**

If a non-Iranian vessel is transporting sanctionable goods to or from Iran ..., bunkering of that non-Iranian vessel in a country other than Iran — and related payments for these bunkering services — risk being subject to sanctions unless an applicable waiver or exception applies. For example, persons providing bunkering services to a non-Iranian vessel transporting petroleum or petroleum products from Iran could be designated under subsection 1(a)(ii) of E.O. 13846 if such activities involve the provision of material support for, or goods or services to or in support of, NIOC or NICO. Persons that knowingly provide bunkering services to a non-Iranian vessel carrying only petroleum or petroleum products from Iran could likewise be sanctioned under section 3(a)(ii) of E.O. 13846 if that transaction is determined to be a significant transaction for the purchase, acquisition, sale, transport, or marketing of those items.

**692. Will the provision of bunkering services for an Iranian vessel be subject to sanctions?**

Section 1244(d)(1) of IFCA makes sanctionable knowingly selling, supplying, or transferring to or from Iran significant goods or services used in connection with Iran's energy, shipping, or shipbuilding sectors. ... The provision of bunkering services to a vessel flying the flag of the Islamic Republic of Iran, or owned, controlled, chartered, or operated directly or indirectly by, for, or on behalf of the Government of Iran (GOI) or an Iranian person, could be sanctionable under this authority, regardless of whether the transaction involves persons that have been determined to be part of Iran's energy, shipping, or shipbuilding sectors pursuant to Section 1244(c) of IFCA. Likewise, pursuant to section 1244(d)(2) of IFCA, a foreign financial institution could be exposed to sanctions if it knowingly conducts or facilitates a significant financial transaction for the sale, supply, or transfer to or from Iran of goods or services used in connection with Iran's energy, shipping, or shipbuilding sectors. Payments for the provision of bunkering services to a vessel flying the flag of the Islamic Republic of Iran or owned, controlled, chartered, or operated directly or indirectly by, for, or on behalf of the GOI or an Iranian person could be sanctionable under this authority, regardless of whether the transaction involves persons that have been determined to be part of Iran's energy, shipping, or shipbuilding sectors pursuant to Section 1244(c) of IFCA. In addition, the bunkering by non-US persons of an Iranian vessel that has been identified as blocked property of an Iranian person on OFAC's List of Specially Designated Nationals and Blocked Persons — and the making of related payments for these bunkering services — risk being designated themselves. However, the provision of bunkering services for an Iranian vessel transporting goods subject to an exception, such as agricultural commodities, food, medicine, or medical devices, to Iran, or subject to an applicable waiver — and

the making of related payments for these bunkering services — will not be exposed to sanctions, unless the transactions involve persons on the SDN List that have been designated under E.O. 13224 or E.O. 13382 in connection with Iran's support for international terrorism or proliferation of weapons of mass destruction ...or activity that is subject to other sanctions authorities.

Finally, OFAC outlined certain suggestions for shipowners, operators, and charterers to consider in mitigation of the sanctions risk:

- verify cargo origin
- fortify anti-money laundering/countering the financing of terrorism compliance
- monitor for AIS manipulation
- review all applicable shipping documentation
- know one's customer
- implement clear communication with international partners
- leverage available resources

Should Members have any questions or need additional guidance regarding the above, sanctions in general, or for confirmations as to the availability of cover for voyages involving countries (Iran, Syria, Cuba, North Korea, Russia, the Crimea region of Ukraine, Venezuela), entities and individuals subject to US economic sanctions (designated entities and individuals appearing on the OFAC SDN List), please contact: Daniel A. Tadros, Chief Legal Officer, ph +1 212 847 4501, mob +1 504 460 7226, [daniel.tadros@american-club.com](mailto:daniel.tadros@american-club.com) or Charles J. Cuccia, Senior Vice President - Compliance, ph +1 212 847 4539, mob +1 917 215 2883, [charles.cuccia@american-club.com](mailto:charles.cuccia@american-club.com).

Yours faithfully,



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**THE AMERICAN CLUB**

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