

# **MEMBER ALERT**



*Shipowners Claims Bureau, Inc., Manager*  
*One Battery Park Plaza 31<sup>st</sup> Fl., New York, NY 10004 USA*  
*Tel: +1 212 847 4500*  
*Fax: +1 212 847 4599*

[www.american-club.com](http://www.american-club.com)

**JULY 5, 2011**

## **UNITED STATES OFFICE OF FOREIGN ASSETS CONTROL IMPOSES SANCTIONS ON IRANIAN PORT OPERATOR, TIDEWATER MIDDLE EAST COMPANY.**

The United States Office of Foreign Assets Control (OFAC) has this past week imposed sanctions on Tidewater Middle East Company (Tidewater), a designation which may have some impact on the American Club and its Members.

Tidewater is a major port operator owned by the Islamic Revolutionary Guard Corps of Iran. It operates the following Iranian ports:

- Bandar Abbas (Shahid Rajare Container Terminal)
- Bandar Immam Khomeini Grain Terminal
- Bandar Anzali
- Khorramshar Port (one terminal)
- Assaluyeh Port
- Aprin Port
- Amir Abad Port Complex.

The designation of Tidewater means that Tidewater's assets and other property within U.S. jurisdiction (in the United States or within the possession or control of a U.S. person) are blocked (frozen). This means that all funds transfers through the United States, or the U.S. financial system, which are to, from, through, or that otherwise benefit or involve Tidewater, will also be blocked – even if they are remitted or are to be received by an innocent, non-sanction target party. Additionally, U.S. persons, with few exceptions, are prohibited from engaging in transactions and activities with or involving Tidewater. The American Club, SCB, and Members of the American Club that are U.S. persons must comply with the foregoing blocking requirements and prohibitions.

### **The American Club**

For the American Club, prohibited transactions include payments of claims and expenses related to incidents involving Tidewater or ports operated by Tidewater, and payments to, from, or for Tidewater or other financial transactions involving Tidewater. Tidewater has been designated as a nuclear proliferator, which is the basis for the designation of many other Iranian entities, including Iranian banks, which appear on OFAC list of SDNs and Blocked Persons.

# **MEMBER ALERT**



*Shipowners Claims Bureau, Inc., Manager*  
*One Battery Park Plaza 31<sup>st</sup> Fl., New York, NY 10004 USA*  
Tel: +1 212 847 4500  
Fax: +1 212 847 4599

[www.american-club.com](http://www.american-club.com)

While the American Club has to this point been permitted to provide coverage for non-excluded voyages to and from Iran by non-U.S. person shipowners and their vessels, including voyages to Tidewater facilities there, and payments of expenses and claims related to incidents arising in Iran, provided the payments did not involve certain SDNs, Tidewater is now just another SDN. As a consequence, all potential payments to, or for the benefit of, Tidewater-related entities must be carefully evaluated by the Club's Managers and counsel well before payments are made or due for a definitive determination as to their legality.

## **Non-U.S. Person (Foreign) Members of the American Club**

In theory, non-U.S. Members of the American Club should not run afoul of U.S. sanctions laws as long as their transactions and activities with or involving Tidewater do not involve U.S. persons and the United States, and such trade is not of a kind which would trigger sanctions under CISADA, which trade is already excluded by the American Club's Rules.

The Club's non-U.S. person Members should assume, however, that in the absence of any additional OFAC license, the American Club is prohibited from making any payments or issuing any security to, or from otherwise engaging in transactions with or involving, Tidewater or Tidewater ports.

A non-U.S. shipowner who enters into a contractual arrangement with Tidewater or deals with Tidewater should not face measurable U.S. legal/sanctions risk – as long as the shipowner is a non-U.S. person, the cargo being delivered is not of a type which contravenes/offends CISADA, all transactions between the shipowner and Tidewater do not involve a U.S. person in any way, and the shipowner's transactions with Tidewater or Iran comprise less than a de minimis portion of the shipowner's worldwide trade in terms of number of voyages and the value of cargo transported per year.

Nonetheless, Members who do not qualify as U.S. nationals may also be affected by these developments since the entities that own Tidewater also appear on the EU list of sanctioned entities. Under the EU sanctions regime, Members subject to EU jurisdiction are prohibited from providing funds or other economic resources to companies who are "controlled or owned" by sanctioned entities. Thus, Members subject to EU jurisdiction will also in practice be unable to make payments to Tidewater. It follows that the American Club will be unable to assist in the

## MEMBER ALERT



*Shipowners Claims Bureau, Inc., Manager*  
*One Battery Park Plaza 31<sup>st</sup> Fl., New York, NY 10004 USA*  
Tel: +1 212 847 4500  
Fax: +1 212 847 4599

[www.american-club.com](http://www.american-club.com)

payment of claims or the provision of security directly or indirectly for the benefit of Tidewater Middle East Co.

Lastly, it should be noted that, on June 23, 2011, OFAC issued a general license permitting certain transactions between U.S. persons and Tidewater Middle East Company as long as the transactions relate to the export of agricultural commodities, medicines and medical devices to the Government of Iran, authorized under a valid TSRA license. A copy of the license is attached.

Again, the terms of the license are complex, and members are urged to consult with the Managers and counsel in any individual instance.

As always, the purpose of this Alert is solely to provide Members with a general notice of developments. It is not intended to be, nor should it be taken as a substitute for, legal advice by counsel concerning a Member's rights and obligations in any given case. Nevertheless, your Managers stand ready to assist should the need arise.

For details of this latest addition to the U.S. sanctions regime, please visit the links below.

<http://www.treasury.gov/press-center/press-releases/Pages/tgg.aspx>

[http://ofacsdnlistremoval.files.wordpress.com/2011/06/fact-sheet\\_-treasury-sanctions-major-iranian-commercial-entities.pdf](http://ofacsdnlistremoval.files.wordpress.com/2011/06/fact-sheet_-treasury-sanctions-major-iranian-commercial-entities.pdf)

<http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20110623.aspx>

## OFFICE OF FOREIGN ASSETS CONTROL

Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 C.F.R. Part 544

### General License No. 4

**Exportation or reexportation of agricultural commodities, medicine, or medical devices to Iran through any Iranian port operated by Tidewater Middle East Company is authorized in certain circumstances.**

(a) Effective June 23, 2011, subject to the limitations and requirements of paragraph (b), the exportation or reexportation of agricultural commodities, medicine, or medical devices to the Government of Iran, any entity in Iran, individuals in Iran, or persons in third countries purchasing specifically for resale to any of the foregoing, through any Iranian port operated by Tidewater Middle East Company (“Tidewater”), an entity designated pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 C.F.R. Part 544, as well as services and payments related to such exportation or reexportation, is authorized, provided the exportation or reexportation is authorized by a specific license issued by the Office of Foreign Assets Control (“OFAC”) prior to June 23, 2011, pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. §§ 7201-7211) and the Iranian Transactions Regulations, 31 C.F.R. Part 560, and is shipped under a contract entered into prior to June 23, 2011, requiring delivery through a port or ports operated by Tidewater.

(b) This General License expires at 11:59 PM Eastern Daylight Time on August 23, 2011. Any person engaging in transactions pursuant to this General License is required to submit a report to OFAC detailing such transactions within 30 days of the transactions. Reports

should be submitted to the attention of the Licensing Division, Office of Foreign Assets Control,  
U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a cursive 'S' and 'Z', with a horizontal line extending to the right from the end of the signature.

Adam J. Szubin  
Director  
Office of Foreign Assets Control

Date: June 24, 2011