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TO MEMBERS OF THE ASSOCIATION

Dear Member:

PRICE CAP COALITION ISSUES AN UPDATED ADVISORY FOR THE MARITIME INDUSTRY AND OFAC ISSUES A COMPLIANCE COMMUNIQUÉ WITH SANCTIONS COMPLIANCE GUIDANCE FOR THE MARITIME INDUSTRY

I. UPDATED ADVISORY FOR THE MARITIME INDUSTRY

On 21 October 2024, the Price Cap Coalition (“Coalition”) issued an [Updated Advisory for the Maritime Industry](#) which sets out best practice recommendations for those involved in the trade of Russian origin crude oil and petroleum products. An Initial Advisory was published [on 12 October 2023](#). The updated version provides new recommendations (Nos. 8-11) on meeting international maritime safety and environmental obligations, enhancing due diligence around tanker sales, avoiding interactions with sanctioned counterparties, and raising internal awareness.

The Coalition confirms in the updated Advisory its commitment to facilitating the safe flow of oil/petroleum products while at the same time highlighting the increased safety, environmental, financial and legal risks arising from maritime oil trade performed outside the agreed price cap framework.

Recognizing increased trade involving the ‘shadow’ fleet the Coalition highlights the following main risks associated with it (which are unchanged from the previous Advisory):

- **Maritime Safety and Marine Environment** - the vessels engaged in this trade are typically older ships; with substandard or falsified certifications; inadequate safety and maintenance standards performed by substandard flags or unrecognized organizations; and inexperienced crew.
- **Insurance and Economic** – recognizing the tremendous environmental damage and high cost of dealing with oil spills, the Coalition underlines the danger of not having proper P&I insurance: with insufficient capital, reinsurance arrangements and lack of the necessary technical expertise to handle marine casualties.
- **Reputational, Logistical, and Financial** - highlighting that actors involved in the shadow trade often have complex and/or concealed corporate structures and engage in disabling or manipulating Automatic Identification Systems (AIS). As a result, such deceptive practices may cause stakeholders to unknowingly engage in transactions that are inconsistent with their compliance policies which negatively affects their reputations and causes de-risking behavior from counterparties.

- **Legal and Sanctions** – reminding the maritime industry that multiple sanctions and economic measures have been adopted in response to Russia’s war against Ukraine, including the oil price cap. Use of deceptive practices/shadow trade may lead to the violation of such sanctions and measures. As a new measure the updated Advisory reminds the maritime industry that Coalition members have taken action by directly sanctioning specific vessels and counterparties involved in the Russian oil trade which underscores the risk of deceptive behavior.

Considering the risks identified above, the Coalition continues to recommend the following measures and best practices:

1. Require appropriately capitalized P&I insurance

With sufficient coverage for 1992 Civil Liability Convention and Oil Pollution Act 1990 liabilities and conducting appropriate due diligence of the insurer, including financial soundness, track record, regulatory record, and/or ownership structure.

2. Receive classification from an International Association of Classification Societies (IACS) member society

The Coalition encourages stakeholders to ensure counterparties receive classification from IACS member classification societies confirming vessels are fit for the service intended.

3. Best-practice use of Automatic Identification Systems (“AIS”)

Stakeholders should promote the continuous broadcasting of AIS throughout a voyage. Where a ship needs to disable its AIS in response to a legitimate safety concern, the ship should document the circumstances that necessitated disablement. Industry stakeholders should also vigilantly monitor irregular AIS patterns or data that are inconsistent with actual ship locations.

4. Monitor high-risk ship-to-ship transfers

New in the updated Advisory is a requirement for stakeholders to ensure all ship-to-ship (STS) activities are consistent with the MARPOL convention rules and regulations and any national regulations. As in the previous version, stakeholders are reminded of the need to conduct enhanced due diligence in the context of STS transfers, including the notification of STS oil cargo transfers especially in areas at higher risk for illicit trading activity or AIS manipulation. Industry stakeholders should also verify that oil record logs hold an accountable record of cargo movements aboard vessels.

5. Request associated shipping and ancillary costs

The inflation of shipping and ancillary costs (e.g., freight, customs, insurance), or the bundling of such costs, are tactics that may be used to conceal that Russian oil was purchased above the price cap. The updated advisory refers to the requirement from February 2024 for industry stakeholders involved in the Russian oil trade to request in certain circumstances an itemized breakdown of all known costs, especially if demanded by the regulators.

6. Undertake appropriate due diligence

New in the updated Advisory is a recommendation to conduct heightened due diligence for ships that have undergone numerous administrative changes such as re-flagging, vessel name changes, and ownership changes, or otherwise have elevated risk profiles based on age, incident history, deficiencies, and/or inspection history.

7. Report ships that trigger concerns

If an industry participant is aware of potentially illicit or unsafe maritime oil trade, including suspected breaches of the oil price cap, they should report this to the relevant authorities. The updated Advisory refers to the Coalition's February 2024 Compliance and Enforcement Alert, which contains an annex with relevant reporting information.

8. Ensure vessels meet international maritime safety and environmental obligations

The Advisory highlights the important role of Flag States and Coastal States in upholding standards in the maritime oil trade. It refers to the 2023 IMO resolution requiring Flag States to ensure that vessels are not conducting illegal operations or evading compliance with safety or environmental regulations. It calls on Port State Controls, Coastal States and/or other relevant authorities to consider actions to address such behavior, e.g. detaining or preventing those vessels from entering national ports, monitoring ship-to-ship operations in their territorial waters and exclusive economic zone (EEZ). It also recommends that other industry stakeholders should engage with Flag States, Port States, Coastal States, and relevant authorities on vessels of particular concern.

9. Monitor tanker sales

The updated Advisory requires parties involved in the sale and brokering of tankers to conduct enhanced due diligence on potential evasive or illicit purchase structures, especially for aging tankers, including tankers previously designated for recycling. Such due diligence should include ultimate beneficial ownership information, understanding if buyers or associated ship management companies have a previous association with vessels engaged in potentially illicit or unsafe behavior, and obtaining information such as contact details, source of funds, and copies of identification of the buyer's beneficial owner or owners.

10. Avoid interactions with sanctioned parties

The updated Advisory reminds stakeholders to monitor their exposure constantly to ensure they are not interacting with sanctioned parties unless a relevant national authority has granted a license or exemption. Stakeholders should also undertake proactive investigations to ascertain sanctions exposure, including understanding whether their counterparties may have recently engaged with sanctioned entities.

11. Raise the level of awareness and enhance market transparency

The updated Advisory requires stakeholders to develop targeted training programs for their employees and associated partners focused on the risks of shadow fleet activities and deceptive practices, addressing topics such as identifying red flags, understanding the effects of deceptive practices on maritime safety, proper reporting practices, sanctions risks, and the importance of transparency and compliance. The Advisory also notes that stakeholders should prioritize open communication and collaboration to combat deceptive practices, including information and data sharing with industry partners.

II. OFAC COMPLIANCE COMMUNIQUÉ: SANCTIONS COMPLIANCE GUIDANCE FOR THE MARITIME INDUSTRY

On 31 October 2024, the Office of Foreign Assets Control (OFAC) also published a [Compliance Communiqué: Sanctions Guidance for the Maritime Shipping Industry](#) (the “Compliance Communiqué”). This guidance is scenario-based and aims to aid maritime sector stakeholders in identifying certain new or common fact patterns that may be indicative of sanctions evasion, addressing common counterparty due diligence issues, and implementing best practices to promote sanctions compliance.

The Compliance Communiqué contains five scenarios highlighting potential pitfalls for maritime actors. Members are encouraged to review the scenarios to help recognize possible indicators of sanctions evasion. Key recommendations from each scenario are summarized as follows:

1. Voyage Documentation and Data Manipulation:

Conduct enhanced due diligence on trade documentation, especially for cargo originating from high-risk areas known for potential sanctions evasion (such as locations commonly listed on falsified documentation or certain waters known for frequent STS operations of sanctioned oil). Be aware of potential vessel location manipulation techniques, such as AIS manipulation or “spoofing.” Look for red flags including:

- misclassification of vessels and class of trade;
- extended dark periods of AIS data non-transmission;
- unusual traffic or voyage patterns; and
- other forms of data manipulation, such as MMSI manipulation to disguise vessel identity.

2. Concealing Blocked Person Involvement:

Watch for red flags that may indicate efforts to hide the involvement of a blocked party in a transaction, such as:

- modifications to original documentation or letters of engagement in commercial transactions to hide or remove evidence of a nexus to sanctionable activity;
- sudden and unusual changes in shipping instructions; and
- lack of cooperation in providing requested information.

3. Sanctions-Specific Clauses:

Ensure that contracts and policies contain robust sanctions exclusion clauses which (1) enable termination if activities prohibited by U.S. sanctions arise; and (2) require counterparty compliance with U.S. sanctions regulations. Regularly review and update these clauses based on evolving compliance needs.

4. Public Reporting of Sanctions Violations:

If a prohibited activity becomes apparent mid-voyage, such as through the designation of an entity which owns cargo onboard, conduct additional due diligence to understand the sanctions risk in continuing to provide services. Consider applying to OFAC for specific licenses related to continuing or winding down such services when needed.

5. Opaque Vessel Ownership:

For vessel sale transactions, be vigilant of complex ownership and management structures, shell companies, and intermediaries that may be used to obscure the ultimate beneficial owner of a vessel. Conduct thorough risk assessments and enhanced due diligence when necessary.

Members are strongly encouraged to review the [Updated Advisory for the Maritime Industry](#) as well as the [Compliance Communiqué: Sanctions Guidance for the Maritime Shipping Industry](#) and Members are reminded that cover is not available for any trade that breaches applicable sanctions. Members are advised to conduct thorough due diligence throughout the trade chain on the parties, cargoes, vessels, and other service providers that are or may be involved before they engage in any trade with a high sanctions risk. Finally, Members are reminded to keep records of their due diligence investigations and findings.

Yours faithfully,



Dorothea Ioannou, CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB

All Clubs in the International Group have issued a similar circular.