



**NOVEMBER 28, 2018**

**CIRCULAR NO. 44/18**

**TO MEMBERS OF THE ASSOCIATION**

**Dear Member:**

**IRAN SANCTIONS UPDATE – IRANIAN CRUDE OIL SHIPMENT WAIVERS**

In **Club Circular 41/18** of November 6, 2018 Members were informed of the reimposition of US secondary sanctions against Iran in the aftermath of the US Administration's decision to withdraw from the Joint Comprehensive Plan of Action (JCPOA) signed by China, France, Germany, Russia, the United Kingdom, the United States, the European Union (EU) and Iran.

The US has made it clear that it expects all non-US persons to comply with the secondary sanctions thus reimposed. Primary US sanctions against Iran, prohibiting US persons from dealing with Iran, have always remained in force.

Unlike the US, the EU has sought to maintain the sanctions relief provided for by the JCPOA by amending the annex to Council Regulation (EC) No 2271/96 (the Blocking Regulation). The Blocking Regulation forbids EU nationals from complying with US secondary sanctions against Iran.

Eight countries - China, India, Italy, Greece, Japan, South Korea, Taiwan, and Turkey - have been, or will be, granted waivers by the US so that they may continue to be permitted to import limited amounts of Iranian crude oil. The waivers do not extend to any other commodities. Limited guidance in relation to these waivers, or Significant Reduction Exemptions (SREs), is provided by OFAC FAQ 642.

It is understood from various contacts which have been made with the authorities in Washington that countries holding SREs are being advised by the US Administration to import Iranian crude only on NITC or IRISL vessels, or on vessels registered in the country holding the SRE, and only where those vessels are insured under a sovereign guarantee issued by the government holding the SRE. However, there appears to be some uncertainty in this regard, and it remains to be seen whether the US government will provide clearer official guidance generally, or permit vessels from non-SRE countries to transport Iranian crude oil, and allow entities in non-SRE countries to provide insurance cover therefor.

Under the primary US sanctions against Iran which apply to US persons, the American Club is currently expressly prohibited from insuring vessels transporting crude oil and petroleum products to or from Iran. However, and as mentioned in Circular 41/18 to which reference is made above, the Club has sought authorization to cover shipments by non-US Members encompassed by the waivers, should this ultimately be permissible beyond the narrow circumstances mentioned in the previous paragraph.



Some limited trade with Iran is possible for non-US persons to undertake without a significant risk of violating US secondary sanctions (for example, the carriage of certain agricultural commodities, consumer goods and foodstuffs: see OFAC FAQ 637). Members should be aware, however, that even if the trade does not appear to violate US sanctions, practical difficulties mean that it is unlikely that International Group clubs, including the American Club, will be in a position to make or receive payments, provide security or respond to any claims in the usual manner.

Moreover, in circumstances where the American Club may be able to cover a claim with an Iranian nexus, there is the potential for there to be significant reinsurance shortfalls. For the 2018 policy year, individual International Group (IG) clubs retain the first US \$10 million of claims arising from an incident. Between US \$10 million and US \$100 million, losses are shared between all 13 International Group clubs (the Pool). If any of the 13 International Group clubs is prohibited (by sanctions applicable to that club) from contributing its share of any Pool claim, the individual member will bear that shortfall in accordance with the applicable club's rules.

Claims above US \$100 million fall within the International Group's General Excess of Loss Reinsurance (GXL) program. In respect of a claim which engages that program, any sanctions-related shortfall which arises in connection with an exposure for which the club in question is not directly liable under an approved certificate or guarantee (so-called non-certificated liabilities) is not automatically re-pooled by the International Group clubs and will be borne by the member under the applicable club's rules.

It is material in this regard to note that as a consequence of the withdrawal of OFAC General Licence H (which applied to non-US domiciled affiliates and subsidiaries of US domiciled insurers and reinsurers), a significant minority of reinsurers will no longer be able to rely on that license to contribute to claims with an Iranian nexus.

Members are also reminded that, like all International Group clubs, the American Club has provisions in its rules excluding from cover any claims arising from unlawful, improper or imprudent trading. There may be circumstances where the American Club considers a particular trade to be imprudent or improper insofar as it poses a risk of a sanctions violation.

If Members intend to conduct Iranian trade, they are advised to do so with extreme caution, carry out appropriate due diligence before entering into contracts and be aware of the challenges faced by the American Club and other clubs of the International Group in providing cover and supporting its/their members in these trades.

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Again, as stated above, Members are reminded that pursuant to American Club rules there is no cover for unlawful voyages or for voyages where the extension of cover would violate or pose a risk of violating sanctions prohibitions and also that causing a violation could entail the imposition of sanctions or penalties. Members are accordingly reminded to proceed with extreme caution in dealing with or involving Iran and Iranian entities and to conduct additional sanctions compliance due diligence to ensure their own and the American Club's compliance with applicable sanctions prohibitions.



Before committing to any voyages involving Iran, Members should contact the American Club, disclose the details of the voyage, and seek confirmation with respect to the availability of cover for a particular voyage.

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Should Members wish to discuss any questions or need additional guidance regarding any aspect of the foregoing or other 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 (presently only SDNs)) or Russian and other entities or individuals subject to US economic sanctions (e.g., OFAC SDN List), please contact: 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,

Joseph E.M. Hughes, Chairman & CEO  
Shipowners Claims Bureau, Inc., Managers for  
**THE AMERICAN CLUB**