

26 January 2024

## TO ALL MEMBERS

Dear Sir or Madam

### Quint-Seal Compliance Note: Know Your Cargo

On December 11, 2023, five US agencies (the Department of Justice, Commerce Department's Bureau of Industry and Security, Department of Homeland Security's Homeland Security Investigations, State Department's Directorate of Defense Trade Controls, and Treasury Department's Office of Foreign Assets Control) released a joint compliance note "Know Your Cargo" ("the Compliance Note"), highlighting tactics commonly deployed by malign actors in the transportation sector and best practices for the maritime and other transportation industries as well as examples of enforcement actions.

The Compliance Note provides guidance for all companies in the maritime sector—vessel owners, charterers, exporters, managers, brokers, shipping companies, freight forwarders, commodities traders and financial institutions, including (re)insurers.

### Best Practices

The Compliance Note builds further on previous guidance from OFAC relating to sanctions evasion in the maritime industry, including the Sanctions Advisory for the Maritime Industry published on May 14, 2020 and the Advisory for the Maritime Oil Industry published on October 12, 2023.

It reiterates best practices including to:

- Develop, implement, and adhere to written, risk-based operational compliance policies, procedures, standards of conduct, and safeguards;
- Conduct risk-based due diligence on the location history of vessels or vehicles, to identify prior manipulation or disabling of location or identification tracking data;
- Implement robust know your customer due diligence;
- Exercise of risk-based supply chain due diligence to verify "the true nature, origin, and destination of the cargo they are involved in transporting";
- Share information across industries and supply chains, as appropriate.

### Red Flags

The Compliance Note identifies several red flags that may indicate attempts to evade sanctions and export controls:

- Manipulation of location or vessel identification data;

- Falsification of cargo and vessel documents;
- Ship-to-ship transfers at night or conducted in high-risk areas;
- Voyage irregularities and use of abnormal shipping routes that appear to be done without a legitimate reason;
- Frequent registration updates (flag hopping); and
- Obscure ownership structures or frequent changes in ownership.

It also provides examples of the US government's increased monitoring of, and enforcement against, sanctions and export control evasion.

The Compliance Note concludes by advising all actors that: "Companies operating in the maritime and other transportation industries should be vigilant in their compliance efforts and be on the lookout for efforts to disguise the nature, origin, or destination of cargo being transported. These entities are strongly advised to assess their sanctions and export risks; implement rigorous compliance controls to address those risks; and, ultimately, verify the true nature, origin, and destination of the cargo they are involved in transporting."

Entities and individuals — both US and non-US — involved in global transportation industries should therefore carefully and consider their exposure to US sanctions. Recent enforcement actions demonstrated that non-US persons can face potential civil or criminal liability when their transactions involve a US nexus under the theory that they are "causing" US persons to violate sanctions. Furthermore, even where their transaction has no US nexus whatsoever, non-US companies transacting directly or indirectly with sanctions targets can be exposed to the risk of designation pursuant to executive orders that authorize sanctions for providing material support to blocked persons.

Compliance Note provides a reminder that the maritime industry is not just responsible for adhering to the price cap on Russian oil, but also detecting and preventing deceptive maritime practices relating to Iran, North Korea, and other sanctions programmes.

Members are reminded that cover is not available for any trade that breaches applicable sanctions and are advised to conduct thorough due diligence on the parties, cargoes, vessels and trade involved before engaging in trade in high-risk sanctions jurisdictions.

We also refer our members to the previous IG Circulars on Russian Oil Price Cap update dated 5 May 2023 (copy available [here](#)), US Global Maritime Advisory published 21 May 2020 (copy available [here](#)) and Vessel monitoring and P&I insurance dated 19 May 2020 (copy available [here](#)).

*All Clubs in the International Group have issued a similarly worded circular.*

Yours faithfully  
A BILBROUGH & CO LTD  
(MANAGERS)