

Updated Price Cap Coalition Advisory for the Maritime Oil Industry and Related Sectors

Best Practices in Response to Recent Developments in the Maritime Oil Trade

October 21, 2024

The Price Cap Coalition is issuing this updated advisory to provide recommendations concerning specific best practices for private sector actors (“industry stakeholders”¹) involved in the maritime trade of crude oil and refined petroleum products, as well as government stakeholders. This updated advisory reflects our ongoing efforts to promote responsible practices in the industry to prevent and disrupt sanctions evasion. It also reflects efforts to further enhance compliance with the price caps on crude oil and petroleum products of Russian Federation origin, maintained by the G7, the European Union, Australia, and New Zealand (“the Price Cap Coalition” or “Coalition”).² In addition to changes throughout the document, Recommendations 8-11 have been added to this updated advisory.

The Coalition is committed to facilitating conditions to allow for the responsible maritime trade of crude oil and petroleum products within a reputable, safe, and secure market. The Coalition is also committed to ensuring maritime safety, which may include safety-related exemptions or licenses issued by national authorities. Recent developments in the maritime oil trade, described below, expose stakeholders to increased safety, environmental, economic, reputational, financial, logistical, and legal risks. This advisory outlines best practices stakeholders should adopt to reduce risks while promoting the safe flow of oil on the market. These recommendations build upon previous guidance issued by Price Cap Coalition members such as the May 2020 Sanctions Advisory for the Maritime Industry,³ the Office of Financial Sanctions Implementation (OFSI) March 2024 Maritime Guidance,⁴ the Office of Foreign Assets Control (OFAC) February 2023 Guidance on Implementation of the Price Cap Policy,⁵ OFAC’s April 2023 Alert on Possible Evasion of the Russian Oil Price Cap,⁶ the Coalition’s previous October 2023 Advisory, the Coalition’s February 2024 Compliance and Enforcement Alert,⁷ the UK Department for Business and Trade’s May 2024 Guidance on Sales of Oil Tankers to Third Countries,⁸ OFSI’s UK Maritime Services Ban and Oil Price Cap Industry Guidance,⁹ the European Commission’s Oil Price Cap Guidance,¹⁰ and the European Commission’s Compliance Alert on the Oil Price Cap.¹¹ By adopting the recommendations included in this advisory and previous guidance documents, stakeholders can continue to reduce their exposure to possible risks associated with recent developments in the maritime oil trade.

INCREASED RISKS FROM RECENT DEVELOPMENTS IN THE MARITIME OIL TRADE

Geopolitical changes continue to impact and shape the world's maritime oil trade, shifting trade routes, broadening the scope of shipping service providers, and, at times, resulting in a loss of transparency. A "shadow" trade has become more pronounced, often involving actors and cargo affiliated with countries and/or persons subject to sanctions, or associated with other illicit activity. This shadow trade is characterized by irregular and often high-risk shipping practices that generate significant concerns for both the public and private sectors. These heightened risks include, but are not limited to:

- *Maritime Safety and Marine Environment:* The vessels engaged in this shadow trade, sometimes called the "shadow fleet," are typically older ships, many of which are operating past their traditional lifespans. These vessels are often registered with flag states that fail to meet their international obligations. There is also an increased risk of falsified/fraudulent registration. Vessels in the shadow trade may fabricate or neglect the appropriate surveys or inspections and lack regulatory certificates required under international conventions. Additionally, crews employed on shadow fleet vessels may be less experienced or face pressure to disregard prudent shipboard practices, including those provided by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers ("STCW"). These factors (*i.e.*, vessel age; substandard certifications; inadequate safety and maintenance standards performed by substandard flags or unrecognized organizations; inexperienced crew; imprudence by crew) could increase the likelihood of marine casualties.
- *Insurance and Economic:* Oil spills can create tremendous environmental damage and impose immense economic costs on coastal states. Ships involved in the shadow trade may rely on unproven Protection and Indemnity (P&I) insurance providers that operate in jurisdictions with opaque or limited regulation, and insufficient capital, reinsurance arrangements, and/or technical expertise to handle a major claim in the event of a marine casualty. Accordingly, it is more challenging to hold such vessels accountable for the heavy economic burden generated by environmental damage.
- *Reputational, Logistical, and Financial:* Actors involved in the shadow trade often conceal their ownership structures and the origin of their cargo. The ownership of shadow fleet tankers may be concealed through complex corporate arrangements, with a recent increase of single vessel fleets. Shadow fleet tankers have been observed disabling or manipulating Automatic Identification Systems (AIS) to conceal illicit activity or other information about their voyages. Such deceptive practices may cause stakeholders to unknowingly engage in transactions that are

inconsistent with stakeholders' compliance policies, affect stakeholders' reputations, and trigger de-risking behavior from counterparties. This de-risking can result in loss of access to reputable service providers, financing, customers, and ports.

- **Legal and Sanctions:** A coalition of over thirty countries has adopted a variety of economic measures in response to Russia's war against Ukraine, including the oil price cap policy implemented by the Price Cap Coalition. Some actors may use deceptive practices to access Price Cap Coalition services to transport Russian oil or petroleum products sold above the price cap, or to engage in activity that may otherwise violate the Coalition's sanctions, laws, or regulations. Recent sanctions actions by Coalition members regarding specific vessels and counterparties involved in the Russian oil trade underscore the risk of this deceptive behavior.

RECOMMENDED ACTIONS

The following recommendations are best practices that the Coalition continues to encourage stakeholders to adopt, subject to applicable laws and regulations and, as appropriate according to their risk, based on: (i) their role; (ii) the information available to them; and (iii) the types of transactions in which they engage:

Recommendation 1: Require appropriately capitalized P&I insurance. The shadow trade involves ships that may rely on unknown, untested, sporadic, or fraudulent insurance. Without legitimate, continuous insurance coverage, these ships may be unable to pay the costs of accidents in which they are involved, including oil spills, which entail tremendous environmental damage and safety risks and associated costs. The Coalition encourages stakeholders to require that vessels have continuous and appropriate maritime insurance coverage for the entirety of their voyages. The Coalition further recommends that stakeholders require vessels to be insured by legitimate insurance providers with sufficient coverage for Civil Liability Convention and Oil Pollution Act (CLC)¹² liabilities. If an industry participant is engaging with a ship that is not insured by such a legitimate insurance provider, the industry participant should conduct sufficient due diligence to ensure that the insurer can cover all relevant risks. Such due diligence could include, as feasible, a review of an insurer's financial soundness, track record, regulatory record, and/or ownership structure.

Recommendation 2: Receive classification from an International Association of Classification Societies¹³ (IACS) member society. The information gathered by classification societies is useful in enabling insurers, port states, and other stakeholders to make informed decisions about the seaworthiness of vessels. Some ships involved in the shadow trade have shifted away from industry standard classification societies, and instead use societies that are not a part of, or have been removed from, the International Association of Classification Societies. The Coalition encourages¹⁴ stakeholders to ensure

counterparties receive classification from IACS member classification societies to ensure vessels are fit for the service intended.

Recommendation 3: Best-practice use of Automatic Identification Systems (“AIS”). Consistent with the International Convention for the Safety of Life at Sea (“SOLAS”), stakeholders should promote the continuous broadcasting of AIS throughout the lifetime of a voyage. If 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. By requiring that ships with which they engage use AIS in accordance with the SOLAS, industry stakeholders will improve their understanding of vessels’ activities, and reduce their exposure to criminal actors and associated risks.

- *If accessible, complement AIS Tracking with Long-Range Identification and Tracking (“LRIT”).* In instances of AIS outages or suspected AIS manipulation, stakeholders such as flagging registries that have access to LRIT should use it to determine the true location of vessels, including, where feasible, those leased to third parties. For those industry stakeholders who have access to LRIT, combining AIS and LRIT is a best practice for mitigating risk.

Recommendation 4: Monitor high-risk ship-to-ship transfers. Stakeholders should ensure all ship-to-ship (STS) activities are consistent with the MARPOL convention rules and regulations and any national regulations, as referenced in the IMO’s December 2023 Resolution on STS activities and the shadow fleet.¹⁵ While STS transfers (the transfer of cargo between ships at sea) are often conducted for legitimate purposes, such transfers can also be used to conceal the origin or destination of cargo in circumvention of sanctions or other regulations. Furthermore, STS transfers of crude oil or petroleum products outside of safe and sheltered waters entail heightened environmental and safety risks. Stakeholders should recognize these enhanced risks and, as appropriate to their role, conduct enhanced due diligence in the context of STS transfers, including the notification of STS oil cargo transfers as required by Annex I of the International Convention for the Prevention of Pollution from Ships (“MARPOL”), especially in areas at higher risk for illicit trading activity or AIS manipulation. Industry stakeholders should also verify oil record logs hold an accountable record of cargo movements aboard vessels.

Recommendation 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 billing of commercially unreasonable or opaque shipping and ancillary costs should be viewed as a sign of potential price cap evasion. Shipping, freight, customs, and insurance costs are not included in the price caps and must be invoiced separately and at commercially reasonable rates. Industry stakeholders involved in the Russian oil trade should require an itemized breakdown of all known costs negotiated at the start of the trade transaction (e.g., port dues, freight, and insurance costs). As of early 2024, coalition service

providers are required to request such information in certain circumstances, including, but not limited to, requests from relevant authorities. This entails industry stakeholders updating contractual terms and conditions with sellers or counterparts or adjusting invoicing models to show the price of the oil until the port of loading and the price for transportation and other services separately.

Recommendation 6: Undertake appropriate due diligence. Industry stakeholders should carry out appropriate due diligence. Heightened diligence may be appropriate 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. Industry stakeholders may also wish to conduct increased diligence when dealing with intermediary companies (e.g., management companies, traders, brokerages, etc.) that conceal their beneficial ownership or otherwise engage in unusually opaque practices. Such companies may be more likely to engage in deceptive practices and expose counterparties to heightened risks. Industry stakeholders' due diligence should be calibrated according to the specificities of their business and the related risk exposure. Due diligence is especially important where market assessments indicate that Russian oil prices exceed the price cap, and Coalition services are being used or sought.

Recommendation 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 relevant authorities and, depending on national regulations, may be required to do so. Stakeholders should reference the Coalition's February 2024 Compliance and Enforcement Alert, which contains an annex with relevant reporting information. By reporting these concerning behaviors, industry stakeholders can collectively help protect the trade from malign activity, while promoting safety and integrity across the market.

Recommendation 8: Ensure vessels meet international maritime safety and environmental obligations. Flag States play a critical role in promoting safety and upholding agreed-upon standards across the maritime oil trade. In particular, Flag States are responsible for upholding standards and duties under SOLAS, MARPOL, STCW, and CLC. Port State Controls (PSC) can also play an important role in ensuring that foreign flagged tankers entering ports (other than those of the Flag State itself) meet the requirements of international regulations and maintain high safety and environmental standards. In line with the 2023 IMO resolution, flag states should ensure vessels are not conducting illegal operations or evading compliance with safety or environmental regulations, and PSCs and/or other relevant authorities should consider actions to address that behavior, e.g., detaining or preventing those vessels from entering national ports. Coastal States should also ensure compliance with maritime safety and pollution prevention standards by monitoring ship-to-ship operations in their territorial waters and exclusive economic zone (EEZ). Industry stakeholders should engage with Flag States, Port States, Coastal States, and relevant authorities on vessels of particular concern. If an

industry stakeholder is aware of potentially illicit or unsafe maritime oil trade, including suspected breaches of the oil price cap, they should report this to relevant authorities, as referenced in Recommendation 7.

Recommendation 9: Monitor tanker sales. Those involved in the sale and brokering of tankers should remain vigilant of potential evasive or illicit purchase structures and end-uses, especially for aging tankers, including tankers previously designated for recycling. While new participants may enter the industry, the Coalition strongly encourages stakeholders to conduct enhanced due diligence on these transactions, including ultimate beneficial ownership due diligence, and to understand if buyers or associated ship management companies have a previous association with vessels engaged in potentially illicit or unsafe behavior. Appropriate due diligence should include obtaining information such as contact details, source of funds, and copies of identification of the buyer's beneficial owner or owners. The Coalition recommends that this information be verified against third party databases, media, and market intelligence, and reviewed periodically, consistent with regulations of each jurisdiction and in line with Recommendation 6. Stakeholders should be aware that the European Union has introduced measures to more closely monitor the sale of tankers to third countries and prevent their use in the transport of oil priced above the cap established by the Coalition.¹⁶

Recommendation 10: Avoid interactions with sanctioned parties. Coalition members have taken a series of sanctions actions against illicit oil traders, opaque intermediaries, companies that own vessels, and vessels themselves. Stakeholders should constantly monitor their exposure to ensure they are not interacting with sanctioned parties unless a relevant national authority has granted a license or exemption. Stakeholders should consider not only checking counterparties and vessels against national sanctions lists, but also undertaking proactive investigations to ascertain sanctions exposure, including to understand whether their unsanctioned counterparties may have recently engaged with sanctioned entities. Stakeholders should, where possible, deny attempts by sanctioned vessels or parties to enter port, conduct ship-to-ship transfers, and sell or buy tankers, and report these attempts to relevant authorities. Stakeholders should be aware that owners and operators of sanctioned vessels may attempt to engage in deceptive practices to obfuscate their status, such as renaming, reflagging, obscuring their IMO number, or falsifying documents, increasing sanctions risk for non-sanctioned counterparties.

Recommendation 11: Raise the level of awareness and enhance market transparency. As appropriate, industry stakeholders should develop targeted training programs for their employees and associated partners focused on the risks of shadow fleet activities and deceptive practices. These trainings should address topics such as identifying red flags, understanding the effects of deceptive practices on maritime safety, the environment, and the economy, proper reporting practices, sanctions risks, and the importance of transparency and compliance, among others. In addition, stakeholders should, where possible, prioritize open communication and collaboration to combat deceptive practices, including information and data sharing with industry partners.

¹ Industry stakeholders include but are not limited to ship owners, managers, operators, brokers, ship chandlers, flag registries, port operators, shipping companies, freight forwarders, classification service providers, and insurance and reinsurance companies.

² The price cap is designed to deprive the Russian Federation of the revenue it uses to wage its unjust war against Ukraine, while maintaining reliable supply of crude oil and petroleum products to global markets.

³ Guidance to Address Illicit Shipping and Sanctions Evasion Practices, U.S. Department of Treasury, State, and Coast Guard (May 14, 2020), <https://ofac.treasury.gov/recent-actions/20200514>.

⁴ Maritime Guidance, Office of Financial Sanctions Implementation (March 5, 2024), <https://www.gov.uk/government/publications/financial-sanctions-guidance-for-maritime-shipping/financial-sanctions-guidance-for-maritime-shipping>.

⁵ Guidance on Implementation of the Price Cap Policy for Crude Oil and Petroleum Products of Russian Federation Origin; Publication of Russia-related Determinations; Issuance of Russia-related General Licenses, OFAC (February 3, 2023), https://ofac.treasury.gov/recent-actions/20230203_33.

⁶ OFAC Alert: Possible Evasion of the Russian Oil Price Cap (April 17, 2023), <https://ofac.treasury.gov/media/931641/download?inline>.

⁷ Price Cap Coalition: Oil Price Cap (OPC) Compliance and Enforcement Alert (February 1, 2024), <https://ofac.treasury.gov/media/932571/download?inline>.

⁸ Russia Sanctions: Sales of Oil Tankers to Third Countries (May 21, 2024), <https://www.gov.uk/government/publications/russia-sanctions-sales-of-oil-tankers-to-third-countries/russia-sanctions-sales-of-oil-tankers-to-third-countries>.

⁹ UK Maritime Services Ban and Oil Price Cap Industry Guidance (June 21, 2024), <https://www.gov.uk/government/publications/uk-maritime-services-ban-and-oil-price-cap-industry-guidance/uk-maritime-services-ban-and-oil-price-cap-industry-guidance>.

¹⁰ Oil Price Cap; Related Provision: Article 3n of Council Regulation 833/2014 Frequently Asked Questions (August 2023) https://finance.ec.europa.eu/system/files/2023-08/guidance-russian-oil-price-cap_en.pdf.

¹¹ The Commission Issues a Compliance Alert on the G7+ Oil Price Cap (May 17, 2024), https://finance.ec.europa.eu/news/commission-issues-compliance-alert-g7-oil-price-cap-2024-05-17_en.

¹² International Convention on Civil Liability for Oil Pollution Damage (CLC) (May 1996), [https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-\(CLC\).aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-(CLC).aspx).

¹³ The International Association of Classification Societies is the principal consultative technical advisor to the International Maritime Organization (IMO) and classes over 90% of the world's ocean-going tonnage. See Safer and Cleaner Shipping, IACS (September 2023), <https://iacs.org.uk/about-us/>.

¹⁴ For EU member States, there is legislation in place requiring use of certain classifications societies as Recognized Organizations that have been approved at EU level (OJ 2022/C 466/07).

¹⁵ Urging member states and all relevant stakeholders to promote actions to prevent illegal operations in the maritime sector by the "dark fleet" or "shadow fleet" (December 6, 2023), [https://www.wcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.1192\(33\).pdf](https://www.wcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.1192(33).pdf)

¹⁶ FAQs and Template for the Notification and Authorization of Tanker Sales to Third Countries (February 19, 2024), https://finance.ec.europa.eu/publications/tanker-sales_en.