



# Client Alert



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## OFAC Advisory on Islamic Republic of Iran Shipping Lines

On July 19, 2012 the Office of Foreign Assets Control (OFAC) issued an Advisory to alert the maritime industry that Islamic Republic of Iran Shipping Lines (IRISL) has recently been operating vessels despite their flags having been revoked. International sanctions, and IRISL's efforts to evade sanctions, require increased vigilance by the logistics industry.

An increasing number of countries have revoked or refused to issue a flag to vessels in which IRISL or its affiliates have an interest. As more jurisdictions refuse to flag IRISL vessels, it is increasingly likely that logistics companies will encounter IRISL vessels that are not properly flagged. Therefore, logistics companies should be alert to the presentation by IRISL of potentially fabricated vessel registration and flag credentials.

Assisting IRISL or its blocked affiliates to re-flag their vessels may constitute the provision of services in violation of the Iranian Sanctions Program maintained by OFAC. Further, IRISL's recent actions increase the possibility that a US-based logistics company inadvertently could run afoul of US sanctions against Iran.

Logistics companies, under OFAC's comprehensive sanctions, are prohibited from directly transacting with any person or entity in Iran or otherwise included on the Specially Designated Nationals List (SDN List), and from facilitating any transaction between a "U.S. Person" and any such sanctioned person or entity.

Logistics companies should adopt, implement, and continuously update an internal, risk-based export control compliance program to ensure compliance with OFAC sanctions programs. This policy should, for example, require the proper screening—against the SDN List, the Denied Parties List and other similar lists—of any customer or client. A logistics company needs to "know" its clients.

Logistics companies also should consider specific operational processes to mitigate facilitation risk. Contracts with third parties, including employees, agents, and clients, should include a representation from the third party as to compliance with law, and should specifically include language affirming compliance with OFAC regulations. In certain circumstances, a logistics company should use standard language that allows for periodic, and "trigger-based," reviews and audits of the third party to ensure compliance with OFAC sanctions programs.

Logistics companies obviously should not process fraudulent shipping documents or facilitate prohibited activities, and should be alert to the presentation of fabricated vessel names in trade documents. Further, they should verify the accuracy of container numbers, particularly when unfamiliar with the issuer of the shipping documents. Any logistics company that screens a vessel against the SDN List without checking the International Maritime Organization number increases its facilitation risk

Penalties for violations of U.S. sanctions programs are severe. In addition to reputational damage and the cost of related investigations and litigation, U.S. sanctions programs include robust penalty provisions. In the recent past, logistics companies such as Stena Bulk LLC, Maersk Line, Limited, Seacor Holdings Inc., and DPWN Holdings (USA), Inc. have each been subject to investigations over violations of the Iranian Sanctions Program and significant fines for such violations.

Criminal fines for violating the provisions of most sanctions programs range up to the greater of \$500,000 or twice the pecuniary gain per violation for an organization, or up to the greater of \$250,000 or twice the pecuniary gain per violation for an individual. Individuals may also be imprisoned for up to 10 years for a criminal violation. Knowingly making false statements or falsifying or concealing material facts when dealing with OFAC in connection with matters under its jurisdiction is a separate criminal offense.

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