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Logistics Companies Update: Iran Sanctions

On March 14, 2013, the Office of Foreign Assets Control (OFAC) at the U.S. Department of the Treasury updated the Specially Designated Nationals (SDN) List. The updates, of particular interest to logistics and transportation companies, add a number of persons, entities, and vessels to the SDN List pursuant to the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR) and related regulations. As alleged by OFAC, the persons and entities included in the update materially assisted the National Iranian Tanker Company to purchase vessels and otherwise assist sanctioned entities in violating the ITSR.

Logistics companies are prohibited from directly transacting with any person or entity in Iran or otherwise included on the SDN List, and from facilitating any transaction between a "U.S. Person" and any such sanctioned person or entity. As discussed in a prior client alert on March 7, 2013, the Justice Department has pursued cases alleging violations of OFAC regulations, including the ITSR, against half a dozen logistics companies in recent months, and penalties include up to 10 years imprisonment. Criminal fines range up to the greater of \$500,000 or twice the pecuniary gain per violation for an organization, or the greater of \$250,000 or twice the pecuniary gain for an individual.

The bottom line for logistics companies: (i) beware of "front" companies by conducting reasonable diligence on those parties with whom you directly or indirectly transact; (ii) screen the names added on March 14, 2013 against a roster of persons, entities and vessels with whom you transact; (iii) update your SDN screening process to include these new names on a going-forward basis; and (iv) review, and where necessary, update your export compliance strategy to mitigate your risk of a violation of OFAC sanctions programs.

OFAC Sanctions Programs

OFAC oversees a range of sanctions and embargoes that prohibit U.S. persons from transacting or facilitating business with targeted people or organizations. Most sanctions are directed against people, businesses, and organizations on the SDN List. The remaining OFAC sanctions prohibit transactions between a U.S. person and any person or entity from Cuba, Iran, North Korea, Sudan or Syria.

OFAC defines a U.S. person as any business or entity organized under U.S. law, as well as any U.S. citizen, permanent resident or national. The definition includes anyone present in the United States, regardless of nationality, foreign branches of U.S. businesses, and U.S. branches of foreign businesses. The March 14, 2013 action was related to the sanctions program against Iran pursuant to the ITSR.

Mitigating Facilitation Risk

Logistics companies should adopt and continuously update a risk-based export compliance program to minimize facilitation risk. A robust compliance policy should designate a person or group responsible for export compliance; require the proper screening of any customer or client against government lists; and specify how export concerns should be escalated within the company.

The company should separate interactions with sanctioned jurisdictions from the operations of any U.S. entity, specify a records retention policy, and require OFAC compliance language in all contracts. Finally, the policy should require contract language that allows for periodic and trigger-based reviews and audits of third parties to ensure OFAC compliance. Multijurisdictional logistics companies also need a recusal policy enabling U.S. persons to recuse themselves from participating in a transaction that may violate OFAC regulations.

Inquire also about the details of a routed transaction when asked by a foreign postal service to ship to a country or ultimate consignees that are different from those provided by the U.S. postal firm. End-user destination information should be included on all commercial documents such as invoices, bills of lading or air waybills accompanying the export or re-export.

Tightening of Iran Sanctions

Over the past few months, the U.S. government has tightened the sanctions against Iran. At the same time, the Iranian government has engaged in multiple attempts and schemes to avoid the impact of U.S. sanctions. For example:

- In May, 2012, the President issued Executive Order 13608 “Prohibiting Certain Transactions with and Suspending Entry into the United States of Foreign Sanctions Evaders with Respect to Iran and Syria” that enables OFAC to penalize foreign individuals and entities determined to have violated, attempted to violate, conspired to violate, or caused a violation of U.S. sanctions on Syria or Iran. The order also gives OFAC the authority to impose sanctions on foreign persons who have facilitated deceptive transactions for or on behalf of persons subject to U.S. sanctions. On July 19, 2012 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

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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.

Conclusion

Logistics companies that take the time to identify and mitigate facilitation risk are less likely to run afoul of sanction programs, and will be better prepared to respond in the event of an OFAC inquiry.

March 14, 2013 Additions to the SDN List:

The following individual has been added to OFAC's SDN List:

CAMBIS, Dimitris (a.k.a. KAMPIS, Dimitrios Alexandros; a.k.a. KLIMT, Gustav); DOB 14 Oct 1963 (individual) [IRAN] [ISA].

The following entities have been added to OFAC's SDN List:

ASIA ENERGY GENERAL TRADING (LLC), Suite 703, Twin Tower, Baniyas Street, Deira, Dubai, United Arab Emirates [IRAN].

BLUE TANKER SHIPPING SA, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

CENTRAL INSURANCE OF IRAN (a.k.a. BIMEH MARKAZI; a.k.a. BIMEH MARKAZI IRAN; a.k.a. CENTRAL INSURANCE OF IR IRAN; a.k.a. CENTRAL INSURANCE OF THE ISLAMIC REPUBLIC OF IRAN), No. 223 N. East St., Africa Ave., Tehran, Iran [IRAN-TRA].

GARBIN NAVIGATION LTD, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

GRACE BAY SHIPPING INC, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

HERCULES INTERNATIONAL SHIP, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

HERMIS SHIPPING SA, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

IMPIRE SHIPPING COMPANY (a.k.a. IMPIRE SHIPPING; a.k.a. IMPIRE SHIPPING LIMITED), Greece [IRAN] [ISA].

JUPITER SEAWAYS SHIPPING, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

KISH PROTECTION & INDEMNITY (a.k.a. KISH MUTUAL PROTECTION & INDEMNITY; a.k.a. KISH P&I), Flt No. 9,

No. 78, Vaali Nejad Alley, Africa Blvd, Tehran, Iran [IRAN-TRA].

KONING MARINE CORP, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

LIBRA SHIPPING SA (a.k.a. LIBRA SHIPPING), 3, Xanthou Street, Glyfada 16674, Greece [IRAN].

MONSOON SHIPPING LTD, c/o Libra Shipping SA, 3, Xanthou Street, Glyfada, Athens 16674, Greece [IRAN].

POLINEX GENERAL TRADING LLC, Health Care City, Umm Hurair Rd., Oud Mehta Offices, Block A, 4th Floor 420, Dubai, United Arab Emirates [IRAN].

SIMA GENERAL TRADING CO FZE (a.k.a. SIMA GENERAL TRADING & INDUSTRIALS FOR BUILDING MATERIAL CO FZE), Office No. 703 Office Tower, Twin Tower, Baniyas Rd., Deira, P.O. Box 49754, Dubai, United Arab Emirates [IRAN].

SYNERGY GENERAL TRADING FZE, Sharjah - Saif Zone, Sharjah Airport International Free Zone, United Arab Emirates [IRAN].

The following vessels have been added to OFAC's SDN List:

GLAROS Crude Oil Tanker Liberia flag; Vessel Registration Identification IMO 9077850 (vessel) [IRAN].

LEYCOTHEA Crude Oil Tanker Panama flag; Vessel Registration Identification IMO 9183934 (vessel) [IRAN].

NEREYDA Crude Oil Tanker Panama flag; Vessel Registration Identification IMO 9011246 (vessel) [IRAN].

OCEAN NYMPH Crude Oil Tanker Panama flag; Vessel Registration Identification IMO 9180281 (vessel) [IRAN].

OCEAN PERFORMER Crude Oil Tanker Liberia flag; Vessel Registration Identification IMO 9013749 (vessel) [IRAN].

SEAGULL Crude Oil Tanker Liberia flag; Vessel Registration Identification IMO 9107655 (vessel) [IRAN].

ULYSSES 1 Crude Oil Tanker Liberia flag; Vessel Registration Identification IMO 9177155 (vessel) [IRAN].

ZAP Crude Oil Tanker Liberia flag; Vessel Registration Identification IMO 9005235 (vessel) [IRAN].

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