Articles + Publications | October 31, 2023

Locke Lord QuickStudy: Russian Oil Price Cap Advisory and ?Violation & ?Issuance of Russia-Related General License

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On October 12, 2023, U.S. Department of the Treasury's Office of Foreign Asset Control ("OFAC") issued General License ("GL") 73 authorizing limited safety and environmental transactions involving certain persons and vessels sanctioned under the Russian Harmful Foreign Activities Sanctions program and a joint Advisory for the Maritime Oil Industry and Related Sector with the G7, EU and Australia (the "Price Cap Coalition").

For the first time since the Russian oil price cap was implemented in 2022, OFAC sanctioned two oil tankers and their registered Turkish and UAE-based owners for using U.S.-based service providers to transport Russian oil at a price exceeding the $60 price cap set by the Price Cap Coalition. The sanctioned parties are: (1) Ice Pearl Navigation Corp; (2) Yasa Golden Bosphorus; (3) Lumber Marine SA; and (4) SCF Primorye (collectively, "Blocked Persons"). As a result, all property and interests in property of the Blocked Persons and any entities that are own, directly or indirectly 50% or more by Blocked Persons (together with Blocked Persons, "GL 73 Persons") that are in the U.S. or in possession or control of U.S. persons are blocked (*i.e.*, frozen) and must be reported to OFAC. These actions highlight OFAC's continued commitment to enforce the price cap policy against shipping companies and vessels participating in the Russian oil trade while using Price Cap Coalition service providers.

GL 73 authorizes, through January 8, 2024, transactions that are typically incident and crucial to the following limited activities involving GL 73 Persons: (1) ensuring the secure docking and anchoring of, or any part of SCF Primorye and Yasa Golden Bosphorus ("Blocked Vessels"); (2) safeguarding the health or safety of the crew of any of the Blocked Vessels; or (3) conducting emergency repairs of any of the Blocked Vessels, or carrying out environmental mitigation or protection activities linked to any of the Blocked Vessels. However, any payments to GL 73 Persons must be made into a blocked account.

Concurrently with OFAC's actions, the Price Cap Coalition issued a joint statement to underscore the risks of violating price cap rules and warned they will take appropriate actions against persons engaged in illicit or deceptive practices related to shipments of Russian-origin crude oil and petroleum products. They also published an Advisory for the Maritime Oil Industry and Related Sectors, which is directed at both government and private sector actors involved in the maritime trade of crude oil and refined petroleum products, and provides recommendations concerning specific best practices.

In recent months, the Russians have been purchasing more oil tankers to export its Urals product to avoid the Oil

Price Cap. Despite increased capacity, Russia still needs more capacity. There are reports that regulated vessels are making “dark voyages.” During such journeys, ships hide their location by illegally turning off their transponders to:

- perform covert ship-to-ship transfers of their cargo in the middle of the South China Sea. Russian oil leaves Russian ports on a Russian ship and then transfers the load at sea to another vessel – one subject to the Oil Price Cap which does not report the origin of its cargo, thereby freeing the Russian vessel to return to Russia to ferry another load; or
- using friendly nations such as India to reexport Russian oil thereby obfuscating the identity of the product.

In light of rising oil prices due to conflicts in the Middle East and the surreptitious Russian activities to utilize Western resources in violation of the Oil Price Cap, the Price Cap Coalition recommends the maritime oil industry and related sector stakeholders take actions including:

- vessels maintain continuous, appropriate maritime insurance coverage, and ensure that vessels are fit for the service intended;
- stakeholders (i) should require uninterrupted broadcasting of Automatic Identification Systems (“AIS”) throughout the entire duration of a voyage (we note that there are reports of vessels “going dark” to load Russian oil in nearby ports to attempt to hide the oil cargo origin);(ii) should prohibit risky ship-to-ship transfers, particularly in areas where there is a heightened risk of illicit trading activity or AIS manipulation, and validate oil record logs in order to maintain accurate records of cargo movements on board vessels; and (iii) engaged in the Russian oil trade using “Cost, Insurance, Freight” contracts or whose counterparts utilize such agreements, should require an itemized breakdown of all costs to determine the price paid for oil or petroleum products.
- 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 the applicable authorities.

Please see our prior QuickStudies on the Russian Oil Price Cap entitled: (i) G7 Coordinated Effort to Implement a ?Price Cap on Russian Oil and ?Petroleum Products: September ??27, 2022, (ii) OFAC Russia Related Sanctions Update: November 29, 2022 Relating to the extension of GL 13 and the Russian oil Price Cap, (iii) OFAC Russia Related Sanctions Update: ???December 7, 2022? ?Relating to the ?Russian Oil Price ?Cap, (iv) OFAC Russia Related Sanctions Update: ?April 20, 2023? Russian Tactics to Evade the Oil Price Cap, and (v) Issuance of Russia-Related General License: October 4, 2023.

Conclusion

This paper is intended as a guide only and is not a substitute for specific legal or ?tax advice. ?????Please ?reach out to the authors for any specific questions. We expect ?to continue to monitor the ?????topics ?addressed in this paper and provide future ?client updates when useful.?

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