

# SANCTIONS SPACE

## MARITIME SANCTIONS COMPLIANCE ENHANCING CROSS- INDUSTRY COOPERATION AND IMPLEMENTATION

### ACAMS International Sanctions Compliance Task Force

ACAMS is the largest international membership organization dedicated to enhancing the knowledge, skills and expertise of AML/CTF, sanctions and other financial crime prevention professionals through training, best practices and professional development.

**“The International Sanctions Compliance Task Force has been created with the aim of facilitating dialogue by bringing together sanctions specialists from a wide array of sectors.”**

ACAMS is present in over 175 countries and regularly works with global think-tanks and other like-minded organizations. The International Sanctions Compliance Task Force has been created with the aim of facilitating dialogue by bringing together sanctions specialists from a wide array of sectors. As a high-level inter-industry forum, one of the key priorities of the Task Force is to enable and support cross-industry dialogue on global sanctions compliance topics.

This paper has been prepared in collaboration with our International Sanctions Compliance Task Force ‘Energy, Maritime and Commodities’ workstream which is co-chaired by Alexandra Belmonte, Chief Legal Counsel, Maersk and Richard Dunmall, Executive Director, EMEA Head of Sanctions, Sumitomo Mitsui Banking Corporation Europe Limited. Our purpose in producing this paper is to offer a framework for advancing cross-industry dialogue, including the identification of key priorities for public-private sector engagement.

**ACAMS extend their appreciation to all Task Force members and industry representatives who engaged in the drafting of this paper. Particular thanks are extended to our co-chairs and the International Group of P&I Clubs.**



## Growing Prominence of Maritime Sanctions Compliance


Sanctions compliance expectations for all stakeholders associated with the maritime shipping industry has evolved considerably over recent years. A concerted program of international activity has stemmed from United Nations obligations in respect to North Korea, including enhanced emphasis on the implementation of appropriate controls to identify illicit shipping practices. United Nations Panel of Experts reports have further highlighted the importance of addressing maritime risks associated with violations of UN Security Council obligations; for example, those relevant to the transportation of oil, coal and sand by North Korea.

In parallel, US enforcement actions reflect a notable growth in the number of non-US vessels, owners and operators designated for alleged sanctions evasion or for their dealings with blacklisted entities related to North Korea, Iran, Syria and Venezuela. These enforcement actions have been underpinned by extensive public messaging on the importance of maritime sanctions compliance.

On May 14 2020, the US Treasury Department's Office of Foreign Assets Control (OFAC), along with the US State Department and the United States Coast Guard, published a **'Sanctions Advisory for the Maritime Industry, Energy and Metals Sectors, and Related Communities'** ('the Advisory'), which expands on a number of previous shipping advisories issued in 2018 and 2019. The purpose of the Advisory, as expressed in its opening paragraph, is to provide tools and further information to 'counter current and emerging trends related to illicit shipping and sanctions evasion'.<sup>1</sup> It goes on to state that this Advisory reflects the US government's ongoing commitment to prevent sanctions evasion, smuggling, criminal activity, facilitation of terrorist activity, and the proliferation of weapons of mass destruction (WMDs), particularly related to Iran, North Korea, and Syria. In Annex A, the Advisory lists specific guidance for parties such as maritime insurance companies; flag registry managers; port state control authorities; shipping industry associations; regional and global commodity trading, supplier and brokering companies; financial institutions; ship owners, operators and charterers; classification societies; vessel captains; and crewing companies.

Although this is an 'advisory' and the language within is that of recommendation rather than obligation, it is important to keep in mind that OFAC will likely view the advisory as creating a standard of expectation to be incorporated within an entity's OFAC compliance frameworks.

<sup>1</sup>Advisory, p.1



Furthermore, while the Advisory is stated to have a focus on Iran, North Korea and Syria, industry would assume it is relevant for other major sanctions regimes (e.g. Venezuela).

The UK Office of Financial Sanctions Implementation (“OFSI”) issued its own ‘**Maritime Guidance**’ in July 2020. The issuance of this maritime guidance reflects an additional step in advice and measures targeted at deceptive shipping practices in the maritime sector. In contrast to the US Advisory, the OFSI guidance is positioned to focus more on industry awareness raising without setting out direct recommendations.

### **Maritime Compliance: Enhancing Cross-Industry Cooperation and Implementation**

Complying with sanctions regulations associated with the maritime industry involves many factors and stakeholders. Consequently, understanding how the industry is structured is a paramount requirement and has resulted in ACAMS advancing a series of Task Force meetings under the pillar of our *Energy, Maritime and Commodities* workstream. Participants in these sessions have included representatives from across the maritime community, including global financial institutions, energy, maritime, insurance, and think-tanks. The themes set out in this paper build upon these discussions and roundtables.

In the time since the publication of the Advisory, the maritime community has generally sought to understand what the impact and effects are likely to be, as well as how to implement recommendations effectively. Given that the Advisory provides specific guidance to a number of different stakeholders (within a varied, diverse and fluid sector), it is important to remember that individual stakeholders are having to examine different questions with regards to how to remain compliant. Nevertheless, a number of key aspects have been drawn out by stakeholders as being of key concern/requiring further dialogue or clarification.

For the financial sector, long familiar with sanctions compliance and the expectations of regulatory bodies such as OFAC, the new expectations are perhaps less of a significant development. However, in the case of smaller and regional financial institutions, they may have less exposure to maritime activities and may therefore be less familiar with processes and aspects such as the Automatic Identification System (AIS). Yet even for those financial institutions familiar with maritime sanctions compliance, the recommendations in the Advisory ‘raise the bar’ in terms of compliance, risk assessment and due diligence standards. Additionally, the Advisory

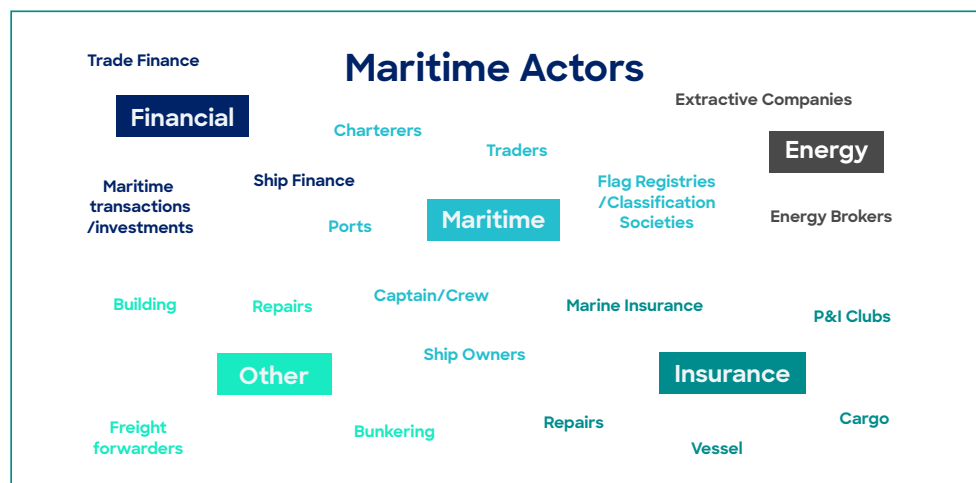
and its subsequent impact on regulatory expectations further create new standards for those who have traditionally been less exposed to sanctions compliance requirements.

The extensive diversity of the maritime sector has led to varying expectations on how compliance obligations should be implemented among the many different actors involved. Consequently, there has been much debate about how to approach the current framework of evolving expectations, including sanctions compliance risk assessment, implied ‘Know Your Customer’s Customer’ obligations, enhanced due diligence frameworks, AIS monitoring, contractual provisions and legal limitations concerning data-sharing. The following aspects of this paper expand further on these points.

### Parties and Responsibilities - Determining who does what and what information they hold

Annex A of the Advisory lists targeted guidance for ten different types of maritime actors/organizations. These are: maritime insurance companies; flag registry managers; port state control authorities; shipping industry associations; regional and global commodity trading, supplier and brokering companies; financial institutions; ship owners, operators and charterers; classification societies; vessel captains; and crewing companies. Consequently, guidance and recommendations for due diligence and sanctions compliance differs in the case of each, to a varying extent.

Alongside recognising the extremely diverse nature of the sector, with varying size of actors and many different types of stakeholders, it is also important to consider the fluidity of the maritime community, in which roles and responsibilities can and will change. The below diagram demonstrates those we have identified as the main actors most relevant for maritime sector sanctions compliance.





The importance of determining not only who are the relevant actors in the maritime community, but also their respective roles and responsibilities should not be underestimated. Our cross-industry dialogue has sought to advance thinking on the viability of setting out an industry toolkit that maps the roles and responsibilities for different stakeholders concerning: Risk Assessment; Due Diligence; Documents; Screening; and Reporting Obligations.

The importance of knowing who is playing what role, as well as what information they have at their disposal, will clearly underpin effective cross-industry compliance frameworks. In turn, this will reduce the likelihood of the creation of due diligence exercises which, in effect, cannot be completed due to answers not actually being available to that stakeholder. Ascertaining what further information it would be reasonable for individual stakeholders to possess and share has emerged as a priority area for our Task Force deliberations.

**“The importance of knowing who is playing what role, as well as what information they have at their disposal, will clearly underpin effective cross-industry compliance frameworks.”**

From these key observations our Task Force has highlighted the following areas for further analysis:

- **Who holds what information:** Asking the appropriate questions to the appropriate people within the maritime community requires understanding where the information sits and will vary depending on individual circumstances (e.g. the commodity being dealt with).
- **Vessel due diligence:** Understanding the types of financial sector scenarios where vessel owners and operators are examined through regular due diligence versus from an enhanced due diligence (EDD) perspective. In assessing the appropriate levels of due diligence, there will be many variations in what information should be gathered, and indeed what information is available.

### Case Study - Variations in Vessel due diligence example

On one hand, you have a scenario of a large container vessel trading on a fixed route between China and the US. Such scenarios would require less due diligence because of the vessel's fixed trading pattern and no direct engagement with Iran, Syria or North Korea. The trading pattern could be tracked using AIS, but there would be no need as such routes are published (just like a bus route). On the other hand, you may have a bulk or tanker vessel trading regionally between high-risk countries and their neighbouring countries. Such trade could warrant EDD depending on the commodity and regional trading patterns. In addition, one factor that could be considered when doing due diligence on a tanker vessel is examining its ship-to-ship transfer activities<sup>2</sup>, particularly in regions known for illicit transfers (e.g. the East China Sea).

- **General principles to information gathering (trade finance):** Potential scope to identify a common set of trade finance-related principles. For instance, depending on the individual situation, standard principles of due diligence may include an assessment of the following:
  - Where is the vessel flagged?
  - Where have the goods originated from?
  - Where are the goods going to end up?
  - How to seek a reasonable assurance that a sanctioned party will not somehow benefit?
  - Ability to access end users certificate/statement?
  - Is there any US origin in the good?
  - Is it a dual-use good?
  - What is the transportation route?
- **How to deal with key information gaps:** It is inevitable that, due to the realities of the industry, there will be information gaps, including the impossibility of knowing what is inside each and every container beyond what is declared (i.e. shipping declarations/export documents) or the origin of a blended oil product. Proportionality of expectations on what information is available, as are appropriate responses to common information gaps, is an area requiring further consideration.

<sup>2</sup>Ship-to-ship transfer (STS) refers to the movement of cargo from one ship to another while at sea, rather than in port. While the majority of STS transfers are perfectly legal, they can also be used to conceal the origin or destination of the transferred cargo. For this reason there is a greater emphasis on monitoring STS transfers in regions known for illicit transfers.

## MARITIME SANCTIONS COMPLIANCE

Enhancing cross-industry cooperation and implementation

**“OFAC strongly encourages organizations subject to US jurisdiction, as well as foreign entities that conduct business in or with the US, US persons, or using US origin goods or services, to undertake a risk assessment as part of their sanctions compliance program.”**

### Common Maritime Information Gaps:

- Knowledge gaps relating to origin and destination of cargo
- Lack of knowledge on all parties to a transaction
- Information about the end use/user
- How to verify loss of signal explanations
- Ascertaining that unlawful conduct has taken place following a loss of AIS signal


### Maritime Sanctions Compliance Risk Assessment

Risk assessments in sanctions compliance are used to identify inherent risks in order to inform risk-based decisions and controls. Undertaking a well-founded maritime focused risk assessment is essential in order to determine approaches to due diligence, use of AIS data, etc.

OFAC strongly encourages organizations subject to US jurisdiction, as well as foreign entities that conduct business in or with the US, US persons, or using US origin goods or services, to undertake a risk assessment as part of their sanctions compliance program.

Within the context of the Advisory, any assessment of risk must give weight to the diversity across and within different sectors of the maritime community, necessitating that each sector/actor must determine their own risk and manage it appropriately. In accordance with this, attention should be drawn to OFAC’s 2019 **‘A Framework for OFAC Compliance Commitments’**, which offers guidance on conducting a risk assessment. This outlines that, while there is not a ‘one-size-fits all’ risk assessment, it should generally consist of a holistic review of the organization from top to bottom. Some general aspects highlighted by OFAC include:

- The organization conducts or will conduct a risk assessment in a manner and with a frequency that adequately accounts for the potential risks;
- Existing information should be leveraged to inform the process;
- The risk assessment will generally inform the extent of the due diligence efforts at various points in a relationship or a transaction;
- This may include developing a risk rating for customers, customer groups, or account relationships by leveraging information provided by the



customer and independent research. This will guide the timing and scope of future due diligence efforts;

- The OFAC risk matrices include important elements to consider in determining the sanctions risk rating;
- Mergers and acquisitions should be included in an organizations risk assessment, with compliance functions integrated;
- The organization should develop a methodology to identify, analyze, and address the particular risks it identifies; and
- As appropriate, the risk assessment will be updated to account for the conduct and root causes of any apparent violation or systemic deficiencies identified by the organization.

#### **Interlinkage Between Risk Assessment and Counterparty Policies & Procedures**


The Advisory recommends that ship owners, operators, charterers and classification societies require that counterparties maintain an ‘adequate and appropriate’ compliance policy, which includes:

- Conducting activities consistent with sanctions;
- Adequate resourcing to ensure sanctions compliance;
- Ensuring sanctions compliance by affiliates and subsidiaries;
- Having controls to monitor AIS;
- Having controls to assess loading or unloading of cargo in high-risk locations;
- Having controls to verify the authenticity of bills of lading; and
- Having controls to operate consistent with the Advisory<sup>3</sup>.

Risk assessment frameworks will therefore need to consider the individual risks posed by counterparties (or a set of counterparties) in order to determine the likelihood that sufficient sanctions compliance policies and procedures will be adopted throughout the chain of relationships. It should be noted that the distinction in interpretation between ‘best practice’, loosely defined guidance versus mandatory provisions can be significant in how obligations are implemented across the varying stakeholders.

<sup>3</sup> Advisory, p. 18





How to apply risk assessment principles across different maritime stakeholders is a priority area being advanced through the ACAMS Sanctions Space program and related cross-industry dialogue.

### **Perceived Scope of Know Your Customers' Customer (KYCC)**

The perceived scope of Know Your Customers' Customer (KYCC) implications and whether the advisory should be interpreted as creating any new KYCC obligation is an area of consideration.

Industry dialogue has identified the limitations of implementing KYCC. This is particularly true in the case of applying KYCC requirements to commodity trading, as it would be challenging to implement at a practical level. For example, there may not only be challenges in obtaining certain information (i.e. verifying the contents of a sealed container and/or verifying the accuracy of a bill of lading) but also whether certain aspects of information can be permissibly shared under varying domestic legal frameworks. This concern has previously been raised by P&I Clubs<sup>4</sup> and Classification Societies<sup>5</sup> where voluntary reporting to commercial databases may lead to a breach of relevant data protection or competition law<sup>6</sup>.

Another example is that a customer who is a freight forwarder or trader may not be willing to provide information about their customers, which may be the end user or purchaser of the cargo. This could be due to confidentiality concerns, breach of contractual obligations or due to competition being classified as business-sensitive information.

### **Use of "Grey Lists"**

The Advisory emphasises that proper due diligence will require parties to actively monitor publicly available information that may be relevant in a determination of potential sanctions risk. Such publicly available information may include "grey lists" of vessels associated with sanctions violations but which have not been designated. These lists can be issued by both governments and non-government parties and often result in a significant impact for the named vessel (e.g. de-registration by a flag state, denied port access or loss of financial services associated with the vessel). As such, governments and other bodies who issue grey lists should be aware of the potential unintended consequences of their use.



Industry has noted that the effectiveness of such monitoring will be dependent on the quality and source of the information utilized. It is essential that where grey lists are issued, they are kept up to date and, where appropriate, withdrawn or corrected as new material becomes available. The effect on a vessel or entity that has been publicly accused of having a connection with a sanctions-breaking activity can be as profound as a formal designation, but without the identified party being given any formal process by which to clear its name.

**“The effect on a vessel or entity that has been publicly accused of having a connection with a sanctions-breaking activity can be as profound as a formal designation, but without the identified party being given any formal process by which to clear its name.”**

### **Grey List within Sanctions Screening**

An important element of due diligence and Know Your Customer (KYC) is screening to ensure that a party does not engage with a sanctioned party. To screen effectively, a list selection needs to be made.

In general, a list selection is expected to include regulatory lists (i.e. the OFAC and EU lists, as well as other lists designed to comply with regulatory requirements). Such lists may include internal or private lists of individuals/entities known to have a sanctions nexus, often referred to as ‘Private lists’ or ‘Grey lists’. The parties on such Grey lists should be assessed against the company’s risk appetite and ideally applied in screening for a set timeframe, dependent on the risk. It is important to regularly review the nature and accuracy of grey lists as otherwise legitimate entities may be incorrectly included in screening lists.

The Wolfsberg Group<sup>7</sup> provides guidance on sanctions screening, including list management. The Wolfsberg Group may not be familiar to the maritime industry but is widely known and recognized by global financial institutions. Often the Group’s work is used by financial institutions to set frameworks and standards. The maritime industry may wish to explore cross-industry collaboration and utilize frameworks and standards set in other industries, when these are applicable and appropriate.

<sup>4</sup> Protection and indemnity insurance more commonly known as P&I insurance, is a form of mutual maritime insurance provided by a P&I

<sup>5</sup> A non-governmental organization in the shipping industry, a classification society establishes and maintains technical standards for construction and operation of marine vessels and offshore structures.

<sup>6</sup> International Group of P&I Clubs, Circular, Maritime Sanctions Advisory

## Automatic Identification System (AIS):

### Establish AIS Best Practices and Contractual Requirements:

The Advisory sets a clear expectation that entities in the maritime industry are strongly encouraged to monitor a vessel's AIS history to identify potential past and present manipulation. AIS is a navigational system governed by The International Convention for Safety of Life at Sea ('SOLAS') by which transponders transmit a ship's location and movements, and in most cases this remains active to track a ship's progress. The legal obligation to comply with SOLAS provisions rests with the state parties (flag states) and ship owners or operators.

The Advisory recommends the establishment of AIS best practices and contractual requirements, including that 'entities in the maritime industry may wish to consider, based on their individual risk assessments, researching a ship's history to identify previous AIS manipulation and monitoring AIS manipulation and disablement when cargo is in transit'<sup>8</sup>. As part of this, actors are encouraged to promote continuous broadcasting of AIS throughout the life of the transaction, especially in high-risk areas. Additionally, private industry is encouraged 'to investigate signs and reports of AIS transponder manipulation before entering into new contracts involving problematic vessels or when engaging in ongoing business'. Furthermore, it encourages service providers to amend contracts to make disablement of AIS for illegitimate reasons 'grounds for termination of contracts or investigation, which could lead to termination of services or contracts if illicit or sanctionable activity is identified'<sup>9</sup>.

Consequently, in Annex A of the Advisory, AIS is a predominant feature across the majority of sector-specific guidance, with a focus (dependent on relevance to the actor/organization) on monitoring, investigating non-transmission inconsistent with SOLAS, assessing AIS history of vessels, introducing contractual language and provisions concerning AIS.

In the course of implementing AIS controls, industry has identified a number of practical aspects that should be considered. These are as follows:

<sup>7</sup> The Wolfsberg Group is an association of international financial institutions with the aim to develop frameworks and guidance for the management of financial crime risks.

<sup>8</sup> Advisory, p. 4

<sup>9</sup> Advisory, p. 4

- AIS transmissions will not be received for a number of legitimate reasons. Some of these are as follows (this is a non-exhaustive list):
  - Interference from LED lighting systems;
  - Turning off of the system where the Master has a reasonable belief that it is necessary for the safety of the vessel (as entitled under SOLAS); e.g. if there is the risk of piracy;
  - State electronic interference;
  - Weather conditions; and
  - Concentration of vessels/high-density traffic.
- This loss of AIS for legitimate reasons can and does happen frequently;
- There may be no reasonable means available to a party to verify why a loss of AIS signal has occurred. As such, implementation of the guidance will need to ensure against a disproportionate response to the loss of AIS signal (potentially for a legitimate or as yet undetermined reason), in which the above contract clause is invoked prior to any risk-based analysis;
- To determine whether the loss of an AIS signal was a sanctions violation or due to a legitimate reason may require significant investigation and should therefore be targeted to higher risk scenarios. A blanket approach to investigating each and every case will be both time intensive and disproportionate to the risk; and
- Long-range identification and tracking (LRIT) data is not readily available to the parties listed in the annex other than the Flag State.

#### **Applying a Risk-Based Approach to the Loss of AIS:**

Specific waters and geographic locations are key in shaping risk-based decisions concerning responses to the loss of AIS. Beyond the Maritime Advisory, Iran and DPRK guidance specify locations where AIS loss of signal is particularly problematic from a sanctions perspective. The response to a switch-off will therefore vary depending on whether the area where they went dark is higher risk. Furthermore, vessel data can be checked to ensure there is not a malign history in terms of sanctions, though this can often be difficult to ascertain. ACAMS identified this as an area to take forward by setting out factors to influence the risk thinking with regards to AIS switch-off.

- Industry discussion encouraged further dialogue around the appropriateness of contractual clauses relating to loss of signal, and how this can be implemented in an effective and proportionate manner;
- A holistic approach to AIS, considering it among other mechanisms for ensuring sanctions compliance and that it is not disproportionately focused on; and
- Further discussion on factors to consider concerning AIS risk.

Overall industry representatives highlighted the need to mitigate against the risk of a disproportionate over utilization of AIS as a sanctions compliance tool. A recognition is required that AIS may be lost or turned off for reasons other than sanctions evasion, consequently industry should collaborate on defining the application of a risk-based approach to the investigation of loss of continuous broadcasting.

**“Overall industry representatives highlighted the need to mitigate against the risk of a disproportionate over utilization of AIS as a sanctions compliance tool.”**

### **Suspicion-Based Reporting Obligations for the Maritime Sector**


An area of evolving cross industry dialogue relates to the scope of suspicion-based reporting obligations for those that have traditionally not held such responsibilities. Specifically, the Advisory list of deceptive shipping practices, draws out the practice of ‘false flags and flag hopping’ and recommends ‘that the private sector be aware of and report to competent authorities’ any such occurrence.<sup>10</sup> In Annex A, under specific guidance, the Advisory recommends that Flag Registries utilize ‘relevant bodies to report possible illicit activity’. For ship owners, operators, and charterers, the Advisory further recommends emphasizing to clients that all ships will be monitored for AIS manipulation, and instances of AIS disablement inconsistent with SOLAS will be investigated and reported.<sup>11</sup>

Furthermore, in the guidance specifically for marine insurers, the Advisory recommends ‘informing legal regulators/competent authorities, other insurers, commercial databases, the International Maritime Organization (IMO, and when relevant, the United Nations (UN Security Council 1718 Committee Panel of Experts (the UN DPRK Panel of Experts in the event of insurance denial or cancellation of services of a vessel in relation to illicit activity’.<sup>12</sup>

<sup>10</sup> Advisory, p. 3

<sup>11</sup> Advisory, p. 18

<sup>12</sup> Advisory, p. 9



It is worth noting that suspicion-based reporting obligations are a well utilized tool for regulated entities. For instance, financial institutions and other defined entities are under an obligation to report suspicious activity to the relevant competent authority where there is a case of suspected criminal activity. This obligation is accompanied by global standards that specify how domestic legal and regulatory frameworks should be established in order to ensure regulated entities appropriately discharge their reporting responsibilities.

A number of those operating in the maritime sector have not traditionally been expected to report suspicious activity, nor do they have an equivalent regulatory authority for receiving such reports. Consequently, careful consideration will need to be given as to how these new reporting expectations can be reasonably applied for actors who will operate under a wide variety of legal frameworks. Further clarification will also be required on the extent that any new expectations are mandatory versus guidance.


The most immediate questions raised for those in the maritime sector who have not traditionally held suspicion-based reporting obligations include:

**Who to report to:** The maritime guidance highlights a number of agencies where reports could be submitted, however it is not clear which organizations are best equipped and mandated to receive such information;

**What to report:** For regulated entities mandated to submit suspicious activity reports thresholds for reporting are based on a level of ‘reasonable suspicion’. Consideration will need to be given how these thresholds should apply to maritime actors, including the primary red flags that should trigger a potential report and related ‘suspicion’ thresholds;

**Protection for reporters:** Established suspicious activity reporting frameworks include certain protections to those who submit reports in good faith. This may include protection against liability, expected standards of confidentiality and protocols as to how submitted information will be treated and shared. Agencies highlighted in the Advisory as potential receivers of suspicious activity reports will need to articulate what protections will apply to non-traditional maritime reporters.

**Managing unintended consequences of reporting:** Both governments and industry will need to recognize that expanded reporting frameworks may also need to be balanced with the implementation of parallel legal obligations i.e. competition law and data protection.



A further element to note is that reporting requirements can be buried in a complex web of other regimes, and in other financial crime regulations. There may, therefore, be mandatory or heavily suggested reporting obligations in other instruments that may be relevant for the context of maritime related activities.

**Further Dialogue:** An immediate priority for public-private sector dialogue should focus upon the practical application of suspicion-based reporting obligations. The questions of where, how and what potential thresholds for reporting will all require further exploration, as will the need to identify cross-border reporting obligations and the extent to which these obligations arise from mandatory instruments versus voluntary arrangements. We propose an initial first step would be to identify case-study scenarios that would enable all stakeholders to walk through the reporting process.

#### **Case Study - Thresholds for suspicion-based reporting obligations**

In order to accurately report on suspicious transactions, knowledge about the maritime industry is necessary to avoid legal and immaterial transactions being reported. This is particularly important given the enhanced risk that poorly defined reporting may result in maritime players having to defend legal transactions.

For example, a shipment to Syria is reported to a relevant authority as being suspicious. That authority contacts the ship owner carrying the cargo about the transaction. No other details are shared. This can put the shipowner in a challenging situation as there is no timeframe to narrow a search or any details to identify and address the actual shipment. Additionally, the shipment may be chartered or even sub-chartered, meaning that it is commercially managed by someone else. In such case the ship owner may not know about the transaction.

In moving forwards with suspicion-based reporting obligations, it is recommended that further dialogue is held on thresholds for reporting, information-sharing standards, anticipated investigations channels and how these should be applied to maritime activities.



## Summary Conclusions - Next Steps: Priority Areas for Further Task Force Dialogue

This paper has sought to assess key implementation aspects associated with the application of evolving sanctions compliance standards across the global maritime sector. We recognize that those operating within the maritime sector are a highly diverse set of stakeholders, thus necessitating the need to balance varying perspectives of approach, exposure and sanctions awareness. We further acknowledge that as compliance thinking evolves, cross-industry dialogue will be crucial in helping to advance proportionate responses that reflect well-informed, risk-based decision-making.

With this in mind, in advancing our continued deliberations on cross-industry maritime sanctions compliance, we have highlighted the following areas that will be prioritized for further analysis.

**“We recognize that those operating within the maritime sector are a highly diverse set of stakeholders, thus necessitating the need to balance varying perspectives of approach, exposure and sanctions awareness.”**

### Industry/Cross-Industry Priorities

At the industry/cross-industry level, a number of areas for further dialogue have been identified by the Task Force:

- Advancement of an industry toolkit that outlines different stakeholders in the maritime sector, what their roles and responsibilities are, and what information they have access to. This should further address how different stakeholders can utilize AIS, plus approaches to due diligence, risk assessment and reporting for each stakeholder;
- Further industry discussion on how financial institutions risk and others assess vessel owners and operators as part of regular due diligence and/or enhanced due diligence;
- Further industry discussion regarding information gaps, focusing on where they are prevalent and commonly arise;
- Further industry dialogue around contract clauses and loss of AIS signal, and how this can be implemented in an effective and proportionate manner;
- Further discussion on risk-based factors to consider concerning the use of AIS as a sanctions compliance tool; and
- Challenges for non-traditional reporting sectors with regards to suspicion-based reporting, in particular clarification of what the reporting process looks like.



## With Competent Authorities

Our Task Force deliberations have identified the following three areas where public-private sector dialogue will be proposed to relevant authorities. These are as follows:

- **Competent Authority Expectations on Risk Assessment and Due Diligence** – public-private sector information exchange on how different stakeholders within the sector operate, the information available to them, common knowledge gaps and how this may impact due diligence and risk assessment expectations. The ability to advance public-private information sharing forums will also be proposed as an area for further analysis;
- **Effective utilization of AIS as a Sanctions Compliance Tool** – questions on how to effectively utilize AIS within the toolkit of wider sanctions compliance, including risk-based utilization of AIS, proportionate responses to loss of signal and related contract clause obligations, are clear priorities for industry stakeholders; and
- **Implementation of Suspicion Based Reporting Obligations** – further analysis and dialogue should be advanced in terms of competent authority expectations on reporting frameworks, including how, to whom and what should be reported. Further thought is also needed on the management of corresponding information safeguards and compliance approaches to dealing with potential reporting conflicts.



[www.linkedin.com/  
in/justine-walker](https://www.linkedin.com/in/justine-walker)

**Justine Walker**, Head of Global Sanctions & Risk  
**Sam Cousins**, Associate, Global Sanctions & Risk

October 2020

ACAMS is committed to keeping our members up-to-date on the changing sanctions landscape. To access our Sanctions Space Podcast, Global Monthly Update series, Masterclasses, webinars and other resources, visit the **ACAMS Sanctions Space**.