

ENSURING YOUR COMPLIANCE IS SHIP SHAPE

U.S. Department of Commerce, Department of the Treasury, Department of Justice, Department of State, and Department of Homeland Security issue first Quint-Seal Compliance Note

On December 11, 2023, the U.S. Department of Commerce, Department of the Treasury, Department of Justice, Department of State, and Department of Homeland Security (collectively, "**U.S. Authorities**") issued a [Quint-Seal Compliance Note](#) ("**Compliance Note**") directed at a broad range of participants in "maritime and other transportation industries – including transportation companies, maintenance companies, insurance providers, other financial institutions, and other entities involved in funding or facilitating the transport of cargo." The U.S. Authorities, once again warning of the risks of sanctions and export controls evasion attempts, strongly advise such entities to ensure that their compliance frameworks are designed to adequately identify and to manage these new risks and advise that they should "know your cargo." The last such guidance involving the maritime sector came in 2020 from U.S. Treasury Department Office of Foreign Assets Control (OFAC), the U.S. State Department and the U.S. Coast Guard (which we wrote about [here](#)).

Consistent with the trend of the current Administration's whole of government approach, the Compliance Note brings together five government agencies with oversight, regulatory, and enforcement authority in the global transportation industry and related sectors.

The Compliance Note cautions companies about the ongoing and heightened risks of efforts by bad actors to evade U.S. sanctions and export controls through the use of a number of deceptive tactics include:

- Manipulating location or identification data, often through the disabling of a vessels Automatic Identification System (AIS) or manipulating International Maritime Organization (IMO) numbers to conceal a vessels true location/route or origin.
- Falsifying cargo and vessel documents by presenting fake or doctored documents including airway bills, certificates of origin, or proof of insurance.
- Using ship-to-ship transfers outside of legitimate needs and in suspect locations and times, generally for no commercial purpose.
- Voyage irregularities and use of abnormal shipping routes to disguise and conceal the true origin or destination of the goods.
- Frequent registration changes or so-called "flag hopping" with the goal of avoiding detection of the true owners.
- Complex ownership or management to disguise or obscure the ultimate owner.

The Compliance Note cautions those involved in the global transport of goods to consider the above "red flags" in designing a risk-based compliance program and in training employees to detect high-risk activities. In addition to a written and implemented compliance program, the Compliance Note provides further guidance, encouraging, as best practices on a risk-based approach:

- Establishing location monitoring.
- Adopting contractual language that incorporates prohibitions on transactions or business parties that are sanctioned or otherwise restricted.
- Supply chain due diligence that includes requiring sufficient documentation, review of documentation and reliance, where needed, on open-source information to check and verify.
- Sharing of information across the industry, where appropriate.

The Compliance Note reminds readers that it is not just those involved in the physical shipment of goods that are impacted by bad actors and who should take heed of both the "red flags" and compliance advice, but also those involved in related industries, including ports, insurers/reinsurers, brokers, and financial institutions.

The Compliance Note concludes with several examples of recent enforcement actions, both civil and criminal, which reinforces the messages that these risks are real and that for those who fail to heed the Compliance Note guidance, the U.S. Authorities will take enforcement action.

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