

IG Circular - Development of Russian sanctions and price cap attestation update

This circular highlights recent key developments in the sanctions imposed against Russia by the UK, EU and U.S.

The Price Cap

Members should refer to our circular [“The Price on Russian oil and petroleum products”](#) updated on 10 February 2023 for details of the Price Cap scheme which regulates the transport and insurance of Russian CN 2709 and CN 2710 cargoes. Retention and sharing of attestations have been a feature of compliance with the Price Cap scheme since it was introduced. Changes to this attestation model have now been announced.

The Price Cap Coalition (G7, Australia and the EU) has published a statement of updates to the Price Cap rules [Coalition-Statement-on-Price-Cap-Rule-Updates.pdf \(treasury.gov\)](#). The changes are designed to support the implementation of the Price Cap and disrupt circumvention by reducing opportunities for bad actors to use opaque shipping costs to disguise oil purchased above the cap. These changes will come into effect on 19 February 2024 (UK and U.S.) and for cargoes loaded on or after 20 February 2024 (EU).

The two key changes are:

- A requirement for **attestations to be provided on a per-voyage basis**. Annual attestations will no longer be acceptable. Where the cargo is transferred to another vessel via STS, this will constitute a new voyage requiring further attestations.

The per voyage attestations should be provided as follows:

- o The attestations received by shipowners from charterers or other contractual counterparts should be obtained prior to loading. This is emphasised in the U.S. guidance. Unless the attestation is received before loading, the shipowner will not have comfort that the cargo is price cap compliant until it is already on board. The EU guidance reiterates that “Shipowners are required to do the necessary due diligence such that it would be reasonable to rely on the attestation they have been provided by their customer”.

- o The attestations provided by shipowners to P&I clubs must be provided within 30 days of loading. No cover will be available unless an attestation is provided within this timescale.

- **Itemised price information for ancillary costs** are to be recorded by those entities

with access to price information and then provided to shipowners and P&I Clubs upon request. Shipowners must ensure they have a right to ancillary costs information within 30 days. Accordingly, Members should include in their contracts appropriate provisions to enable them to exercise such rights. If Members fail to do so, this may affect their ability to discharge their own information obligations to their Club, and potentially jeopardise their P&I cover. P&I clubs are to ensure that shipowners obtain and share this information with them on request. The EU Regulation 833/2014 has been amended to provide that service providers should have the right, upon request, to itemised price information. Members should therefore consider ensuring a right to such information within a much shorter timescale than 30 days, so as to be able to share the information promptly with P&I Clubs and other service providers.

The itemised ancillary costs to be recorded and shared as set out in the UK and EU guidance should include the following:

“For cost, insurance, and freight (CIF) contracts, the following should be covered:

- *Costs: export licences, inspection of products, fees for shipping and loading the goods at the seller’s port, packaging costs, fees for customs clearance, duty and taxes, compensation for any damage or destruction of the goods, port dues at the point of loading/export and port service charges at the point of loading/export.*
- *Insurance: cost of insuring the shipment up until the buyer’s goods have been delivered at the port of destination.*
- *Freight: cost of shipping the freight via sea or waterway from the seller’s port to the buyer’s port of destination.*
- *Other costs: any other costs that demonstrate compliance with the general licence and provide assurance that the transaction is being conducted legally (the EU FAQs add that these costs include “costs related to the provision [of] auxiliary services for ship-to-ship transfers”)*

For free on board (FOB) contracts, the following should be covered:

- *Costs: costs of packaging the exported items, any charges for loading the product onto transport and delivering the goods to the seller’s port, export taxes, customs duty and costs, and any transfer, handling and loading charges associated with loading the product onto the ship”.*

In order to be able to rely on attestations and other costs information provided, Members must also conduct appropriate due diligence on the reliability and accuracy of the information provided.

On 1 February 2024 the Price Cap Coalition published a [Compliance and Enforcement Alert](#) which includes an overview of key Price Cap evasion methods and recommendations for identifying such methods and mitigating their risks and negative impacts. The Alert provides important guidance to shipowners and service providers and should be considered in detail.

Finally, it should also be noted that parties engaged in Price Cap oil shipments were originally placed into one of three “tiers”, with tier 3 entities being those, including shipowners and P&I clubs, without direct access to information on the price of the cargo. The UK and EU have now split tier 3 entities into tier 3A and tier 3B. Included in tier 3A are P&I Clubs, H&M insurers, cargo insurers, insurance brokers, shipowners and ship management companies. Tier 3B entities are reinsurers and financial institutions providing general financing facilities. The changes to the attestation model set out in the UK and EU guidance do not apply to 3B entities.

Form of attestation required and Club cover

The changes set out above mean that for the 2024/2025 policy year per voyage attestations will be required in the revised form set out at Annex A to this circular.

In order for the Club to provide assistance where an entered vessel is engaged in the carriage of Russian oil or petroleum products, the Member must have:

1. Submitted an attestation as set out in Annex A; and
2. Provided the voyage information in a SPIRE report (see [circular](#) published on 19 May 2022). Members are reminded that this information must be provided to the Club following any call to a Russian port or a transit of Russian waters, whatever the cargo.

Once the above information and documentation has been submitted, it will be reviewed by the Club who may request further or clarificatory information from the Member. This may include a request for the itemised price information for ancillary costs referred to in this Circular and Members are reminded that failure to provide this information to the Club may jeopardise the provision of cover. Members can expect such a request for itemised price information where the Club does not have sufficient comfort that the requirements of the Price Cap scheme have been complied with, or in response to a request from a relevant authority. Reasons why the Club may not have sufficient comfort could include because there are concerns about the parties involved in the trade, concerns arising from the Club’s own due diligence or where they have received information about a suspected violation (i.e. from open-source reporting or a request from a relevant authority).

The EU Regulation states that “*competent authorities can request that [the itemised price] information from any actor, regardless of their place in the supply chain, at any time, in order to verify compliance with the price cap mechanism*”.

Members should anticipate that there may be delays in the provision of assistance by the Club due to the need to first ensure compliance with the Price Cap scheme.

EU 12th package of sanctions

The EU adopted its 12th package of sanctions against Russia on the 18 December 2023. In addition to the changes to the Price Cap scheme set out above, key features for the shipping industry of the 12th package of sanctions include:

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- Notification of tanker sales – In addition to a prohibition on selling or otherwise transferring ownership of tankers to a Russian person or for use in Russia, the EU has introduced a notification requirement for tanker sales more generally, where tankers are sold to any third country entity. Article 3q(4) of Regulation 833/2014 provides that any sale “*entailing a transfer of ownership by a national of a Member State, a natural person residing in a Member State, and a legal person, entity or body which is established in the Union to any third country of tankers for the transport of crude oil or petroleum products listed in Annex XXV, falling under HS code ex 8901 20, with the exception of a sale or other transfer of ownership prohibited under paragraph 1, shall be notified immediately to the competent authorities of the Member State where the owner of the tanker is a citizen, a resident or is established*”. The notification requirement is retrospective with all sales between 5 December 2022 and 19 December 2023 to be notified before 20 February 2024. Sales after 19 December 2023 should be notified immediately.
 - A prohibition on the direct and indirect import, purchase or transfer of diamonds originating in, exported from or transiting Russia, and Russian diamonds processed in a third country. The ban on Russian diamonds applies from 1 January 2024 whilst the ban on Russian diamonds processed in third countries will be phased in from 1 March 2024 and completed by 1 September 2024.
 - Further restrictions on imports of goods which generate significant revenues for Russia such as pig iron, copper and aluminium wires, foil tubes and pipes (with a wind down period until 20 March 2024 for contracts concluded before 19 December 2023 for most of the metal goods targeted).
 - A prohibition on the import of Liquefied Petroleum Gas with a winddown period until 20 December 2024 for contracts concluded before 19 December 2023.
 - Tighter export restrictions concerning dual use goods and technology..
 - An obligation for exporters to contractually prohibit re-export of certain sensitive goods and technology to Russia (with a wind-down period until 20 December 2024 or until their expiry date, whichever is earlier, for contracts concluded before 19 December 2023) Relevant goods are those relating to aviation, jet fuel, firearms and goods on the Common High Priority list.
 - Additional designations of over 140 entities and individuals.

Stemming Russian bunkers

The EU has now clarified its position by adding the wording in italics below to its FAQ18a “Is it prohibited for an EU vessel to bunker Russian petroleum products?”:

“The bunkering by an EU vessel of Russian petroleum products in Russia is possible provided this purchase is required to meet the essential needs of the purchaser in Russia (Article 3m

paragraph 9), meaning bunkering for the operation of the tanker pursuing the voyage”.

Although the FAQ refers to the bunkering being possible if required for the operation of the “tanker” pursuing the voyage, this is in the context of an update to the “Oil Price Cap” FAQs and it is assumed that the position would be the same for all ship types.

All trade involving Russia continues to be subject to very significant legal restrictions. Cover is not available for trade that breaches applicable sanctions and Members are encouraged to conduct thorough due diligence on the parties, cargoes and trade involved before engaging in trade to, through or from Russia.

All Clubs in the International Group have issued a similarly worded circular.

Further information:

OFAC Guidance on Implementation of the Price Cap Policy for Crude Oil and Petroleum Products of Russian Federation Origin: [download \(treasury.gov\)](#)

UK Maritime Services Ban and Oil Price Cap Industry Guidance: [OFSI OPC Guidance - December 2023.docx \(publishing.service.gov.uk\)](#)

EU Guidance on oil price cap: [Oil price cap - European Commission \(europa.eu\)](#)

1 February 2024 Compliance and Enforcement Alert:
<https://ofac.treasury.gov/media/932571/download?inline>

ANNEX A

Issued to:

Name of P&I Club

Address of P&I Club

VOYAGE PRICE CAP ATTESTATION FOR RUSSIAN ORIGIN OIL AND/OR PETROLEUM PRODUCTS

Vessel:

IMO number:

Load port or place:

Expected place of discharge:

Expected/actual date of loading:

Name of charterers:

1. The Assured represents and warrants that for any provision of services related to the maritime transportation of Russian origin oil or Petroleum Products (as detailed above) by any party entitled to cover such transportation has been, is, and will be in compliance with the price cap policy administered and enforced by the governments of the United Kingdom, the United States, the European Union and its Member States, including their allies and partners such as Japan and Norway. The Assured represents and warrants that it has not taken and will not take any action with the effect or purpose of evading, circumventing, or attempting to violate the price cap policy.

2. The Assured shall provide to the Club information and documentation related to compliance with the price cap policy, including any relevant attestation, itemised price information for ancillary costs and proof of reporting provided by a Tier 1 or Tier 2 actor, as quickly as

practicable upon request and always within 30 days of the request.

3. In the event the Assured becomes aware of circumstances that provide reasonable cause to suspect that it may have been or may be involved in any activity contrary to the price cap policy, the Assured shall immediately notify the Club of such circumstances. The Club may notify relevant authorities of information that provides a reasonable cause to suspect that a violation of the price cap policy has taken place.

4. The Club shall not indemnify an Assured against any liabilities, costs or expenses where the provision of cover, the payment of any claim, or the provision of any benefit in respect of those liabilities, may expose the Club to risk of violation of the price cap policy. In the event the Club determines that a violation of the price cap policy has taken place, the Club may immediately terminate the policy and will have no liability whatsoever under the policy beyond what is permitted by applicable law.

5. The Assured and the Club will retain the executed version of this attestation for five years.

Policy Number(s) or other reference

Insured name

Insured address

Represented by (name)

Position of representative

Signature

Date of signature