

US allocates liability for enforcing Russian oil price cap on traders

By admin On September 14, 2022 In Insurance Marine News, Keep, Legal, Marine Liability, Political Risk, Credit & Finance

Shipowners and their marine insurers breathed a sigh of relief over the weekend after it was decided by US authorities that marine insurers, bankers and tanker owners might not be liable if their customers violate the new G7 price cap on Russian oil sales, according to the US Treasury. They will be allowed to rely on their customers' word for shipment price compliance, although due diligence would still be required.

The shipping industry had expressed significant concern about the potential effects of the enforcement of the price cap rules.

On September 2nd the G7 finance ministers had proposed "a comprehensive prohibition of services which enable maritime transportation of Russian-origin crude oil and petroleum products globally" – except for oil purchased below a certain price. The idea had been to create a kind of "buyer's OPEC", and unless the oil is sold below this artificial price threshold, it should be uninsurable and untransportable.

The US Treasury guidance established three tiers of service providers for seaborne Russian oil transport:

- refiners and oil brokers with direct access to price data (Tier I);
- bankers and shipowners with occasional access to price data (Tier II);
- and those who have no access to price data in the normal course of business, (which would include insurers and P&I clubs) (Tier III).

All will have to keep records of compliance, and all will be required to do due diligence on their customers. However, shipowners, bankers and insurers will be allowed to rely on their customers for price data. Should that data turn out to be fraudulent, the shipowners, bankers and insurers will not be liable for accidentally participating in a sanctions violation.

The US Treasury's OFAC (Office of Foreign Asset Control) said that "this recordkeeping and attestation process is designed to create a 'safe harbour' for

service providers from liability for breach of sanctions in cases where service providers inadvertently deal in the purchase of seaborne Russian oil above the price cap due to falsified records”.

The Treasury said that OFAC did anticipate that there would be attempts at sanctions evasion, and it cautioned any parties involved to be on the lookout for signs of deceptive practices, such as AIS manipulation or reluctance to provide pricing data.

The office said that that it intended to harmonize its regulatory approach with the other members of the G7, indicating that the same guidance will be applied broadly.