



Preliminary Guidance on Implementation of a Maritime Services Policy and Related Price Exception for Seaborne Russian Oil

Date: September 9, 2022

Overview

As part of a coalition of countries including the G7 and the EU, the United States will implement a policy with regards to a broad range of services related to the maritime transportation (the “maritime services policy”) of Russian Federation origin crude oil and petroleum products (“seaborne Russian oil”). This ban will take effect on December 5, 2022 with respect to maritime transportation of crude oil and on February 5, 2023 with respect to maritime transportation of petroleum products.

This policy, constructed as a ban on services, will have an important exception: jurisdictions or actors that purchase seaborne Russian oil at or below a price cap to be established by the coalition (the “price exception”) will expressly be able to receive such services. This policy is intended to expressly establish a framework for Russian oil to be exported by sea under a capped price and achieve three objectives: (i) maintain a reliable supply of seaborne Russian oil to the global market; (ii) reduce upward pressure on energy prices; and (iii) reduce the revenues the Russian Federation earns from oil after its own war of choice in Ukraine has inflated global energy prices.

1. What seaborne Russian oil will flow to the market?

At the G7 Finance Ministers Meeting on September 2, 2022, the G7 [confirmed](#) its joint intention to implement and finalize a comprehensive plan for services that will clearly sustain the maritime transportation of seaborne Russian oil, permitting oil purchased at or below a price cap to be established by an implementing coalition of countries.

To implement this policy, the U.S. Department of the Treasury (“Treasury”), Office of Foreign Assets Control (“OFAC”) anticipates issuing a determination pursuant to Executive Order (E.O.) 14071 (“Prohibiting New Investment In And Certain Services To The Russian Federation in Response to Continued Russian Federation Aggression”), which will (i) permit the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of services related to the maritime transportation of seaborne Russian oil, if the seaborne Russian oil is purchased at or below the price cap and (ii) prohibit such services if the seaborne Russian oil is purchased above the price cap. As a legal matter and consistent with other implementing partners, this framework will be implemented as a ban, from which there will be an exception for the purchase of Russian seaborne oil at or below the cap. OFAC anticipates publishing guidance on services subject to the maritime services policy.

2. How can purchasers or service providers use the framework to import seaborne Russian oil? What is the price exception to the maritime services policy? How can transactions qualify for the price exception?

As noted above, the maritime services policy, constructed as a ban on services, will have an important exception with respect to shipments of seaborne Russian oil purchased at or below the price cap. This means that importers that purchase seaborne Russian oil at or below the price cap can reliably continue to receive maritime services related to that oil, and service providers in countries implementing the maritime services policy can provide those services for shipments of seaborne Russian oil sold at or below the price cap.

Importers and refiners who want to receive seaborne Russian oil and related maritime services can do so by purchasing the oil at or below the price cap and providing certain documentation or attestations to service providers, as explained further below.

3. Will the maritime services policy prohibit services related to seaborne Russian oil sold at or below the price cap?

No. Seaborne Russian oil purchased at prices at or below the price cap is eligible for maritime services from firms in coalition countries implementing the price exception. Service providers for seaborne Russian oil will *not* face an OFAC sanctions enforcement action, provided that the service provider obtains certain documentation or attestations that the purchase price of the oil is at or below the price cap.

4. How will the price cap be set?

Countries that agree to implement the maritime services policy and price exception and those that commit to implementing a price cap on imports will be able to participate directly in the coalition's consultative process that sets the price cap. This coalition of countries will conduct a technical exercise to consider a range of factors and, aided by a rotating lead coordinator, reach consensus on the level at which the price cap is set. OFAC will issue additional guidance on how the level of the price cap will be published and updated.

5. Does the price exception authorize the importation of seaborne Russian oil into the United States?

No. Pursuant to Executive Order 14066 ("Prohibiting Certain Imports and New Investments With Respect to Continued Russian Federation Efforts To Undermine the Sovereignty and Territorial Integrity of Ukraine"), the United States has imposed a prohibition on the importation of Russian Federation origin crude oil; petroleum; and petroleum fuels, oils, and products of their distillation. This prohibition will remain in place alongside the U.S. implementation of the maritime services policy and price exception. The prohibition in E.O. 14066 does not restrict the importation of Russian Federation origin crude oil; petroleum; and petroleum fuels, oils, and products of their distillation into other countries besides the United States.

6. How can providers of maritime services comply with the price exception?

The price exception will rely on a recordkeeping and attestation process that allows each party in the supply chain of seaborne Russian oil to demonstrate or confirm that oil has been purchased at or below the price cap. This recordkeeping and attestation process is in addition to standard due diligence a service provider may have in place for sanctions risk, including the risk of violation of the maritime services policy through evasion.

- Actors who regularly have direct access to price information in the ordinary course of business, such as commodities brokers and refiners (“Tier 1 Actors”), should retain and share, as needed, documents that show that seaborne Russian oil was purchased at or below the price cap. Such documentation may include invoices, contracts, or receipts/proof of accounts payable.
- Actors who are sometimes able to request and receive price information from their customers in the ordinary course of business, such as financial institutions (“Tier 2 Actors”), should, when practicable, request, retain, and share, as needed, documents that show that seaborne Russian oil was purchased at or below the price cap. When not practicable to request and receive such information, Tier 2 Actors should request customer attestations in which the customer commits to not purchase seaborne Russian oil above the price cap.
- Actors who do not regularly have direct access to price information in the ordinary course of business, such as insurers and protection and indemnity (P&I) clubs (“Tier 3 actors”), should obtain and retain customer attestations in which the customer commits to not purchase seaborne Russian oil above the price cap, for example as part of their annual insurance policy renewal process or updates to their insurance policy to comply with the price cap. Insurers may request attestations from customers that cover the entire period a policy is in place, for example for the entire length of an annual policy, rather than request separate attestations for each shipment.

This recordkeeping and attestation process is designed to create a “safe harbor” 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 provided by those who act in bad faith and make material misrepresentations. For example, where a service provider without direct access to price information reasonably relies on a customer attestation, that service provider will not be held liable for potential sanctions breaches because of those acting in bad faith who seek to cause a violation of the maritime services policy or evade OFAC sanctions. OFAC anticipates publishing guidance for industry alongside the determination pursuant to E.O. 14071 that will implement the maritime services policy and the price exception.

U.S. persons will be required to reject participating in an evasive transaction or a transaction that violates the maritime services policy and price exception, and report such a transaction to OFAC.

7. How will the recordkeeping and attestation process work?

The following material may be considered exemplary.

Category	Sample actors	Expectation	Examples of information or documentation	Recommendations for risk-based measures for compliance with price exception
Tier 1 — Actors with direct access to price information	Refiners, importers, commodities brokers, traders, customs brokers	Retain and share price information and provide attestation to Tier 2 or Tier 3, as needed	Invoices, contracts, receipts/ proof of accounts payable	Updating terms and conditions of contracts, updating invoice structure to include itemized price for oil purchase (excluding shipping, freight, and customs costs)
Tier 2 — Actors sometimes able to request price information	Financial institutions providing trade finance, shippers	Request, retain, and share, as needed, price information (when practicable) or attestation from Tier 1 (when direct receipt of price information is not practicable)	Invoices, contracts, receipts/ proof of accounts payable; price cap attestation	Providing guidance to trade finance department/ relationship managers/ compliance staff, updating requests for information (RFIs) or sanctions questionnaire templates, updating bill of lading templates to include attestations
Tier 3 — Actors without direct access to price information	Insurance brokers, cargo / Hull and Machinery (H&M) insurers, reinsurers, P&I clubs	Receive attestation from Tier 1 or Tier 2 regarding compliance with the price cap	Attestation tied to an annual policy	Updating policies and terms and conditions, providing guidance to staff

OFAC will expect the actors in Tier 1, Tier 2, and Tier 3 to retain relevant records for five years.

8. What are some possible red flags for price cap evasion?

OFAC anticipates publishing information to alert the industry of possible red flags for evasion of the price cap, similar to the advisories OFAC has previously published to alert the maritime industry to deceptive shipping practices used to evade sanctions and best practices to consider adopting to mitigate exposure to sanctions risk. Treasury and the U.S. government broadly anticipates working with other members of the coalition implementing the price cap, including by sharing information, with regard to violations of the maritime service ban or evasive actions.

OFAC recommends that persons providing services related to the maritime transportation of seaborne Russian oil in compliance with the price exception be vigilant about the red flags listed below, which may indicate possible evasion. Although not every service provider may have access to all information about a transaction involving seaborne Russian oil, service providers should review the information available to them for potential red flags.

- **Evidence of deceptive shipping practices:** On May 14, 2020, the U.S. Departments of State and the Treasury, and the U.S. Coast Guard, issued a global [advisory](#) to alert the maritime industry, and those active in the energy and metals sectors, to deceptive shipping practices used to evade sanctions, with a focus on Iran, North Korea, and Syria. Indicators of deceptive shipping practices, as detailed in this advisory, also serve as indicators that actors may be evading the price cap. Tactics used to facilitate sanctionable or illicit maritime trade include disabling or manipulating the automatic identification system (AIS) on vessels; physically altering vessel identification; falsifying cargo and vessel documents; ship-to-ship (STS) transfers; voyage irregularities; false flags and flag hopping; and complex ownership or management. Business practices recommended to address red flags include institutionalizing sanctions compliance programs; establishing AIS best practices and contractual requirements; monitoring ships throughout their entire transactions lifecycle; adopting Know Your Customer (KYC) and counterparty practices; exercising supply chain due diligence; incorporating best practices into contractual language; and fostering information sharing within the industry. For more information on these red flags and best practices, please consult the [advisory](#).
- **Refusal or reluctance to provide requested price information:** A customer’s refusal, reluctance, or hesitation to provide the necessary documentation or attestation may indicate they have purchased seaborne Russian oil above the price cap. Requests for exceptions to established practice may also be red flags.
- **Unusually favorable payment terms, inflated costs, or insistence on using circuitous or opaque payment mechanisms:** Seaborne Russian oil purchased so far below the price cap as to be economically non-viable for the Russian exporter may be an indication that the purchaser has made a back-end arrangement to evade the price cap. Similarly, excessively high services costs may be an indication that a service provider has made a back-end arrangement to evade the price cap. Attempts to use opaque payment

mechanisms may indicate the customer or counterparty is avoiding creating documentation around payment.

- **Indications of manipulated shipping documentation, such as discrepancies of cargo type, voyage numbers, weights or quantities, serial numbers, shipment dates, etc.:** Any indication of manipulated shipping documentation may be a red flag for potential illicit activity and should be investigated fully prior to providing services.
- **Newly formed companies or intermediaries, especially if registered in high-risk jurisdictions:** Firms should exercise the appropriate due diligence when providing services to new customers or counterparties, particularly if these entities were recently formed or registered in high-risk jurisdictions and do not have a demonstrated history of legitimate business.
- **Abnormal shipping routes:** The use of shipping routes or transshipment points that are abnormal for shipping seaborne Russian oil to the intended destination, as determined by past practice or historic AIS data; a lack of historic AIS data for a particular tanker or fleet of tankers owned by a particular shipper; transshipment through one or more jurisdictions for no apparent economic reason; and sudden unexplained changes in route may indicate attempts at concealing the true history of an oil shipment in violation of the price cap.

9. How will OFAC enforce the price cap?

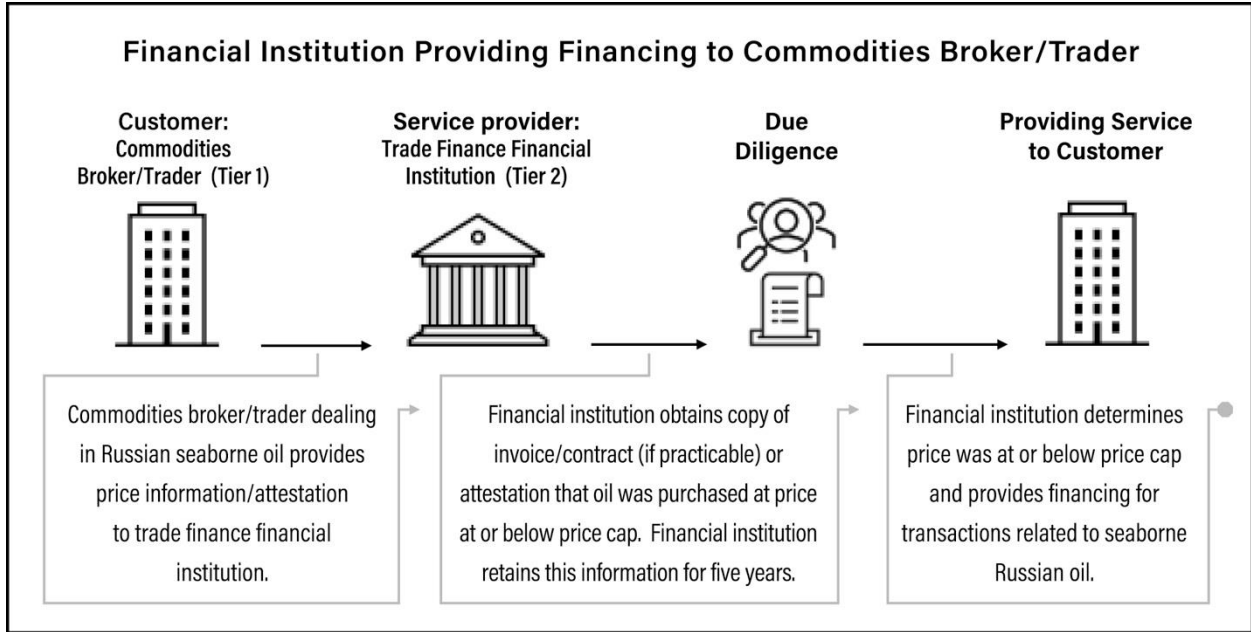
As described above, the recordkeeping and attestation process is intended to create a “safe harbor” from liability for service providers for violations of the maritime services policy in cases where service providers inadvertently deal in oil purchased above the price cap due to falsified records provided by illicit actors. For example, where a service provider without direct access to price information reasonably relies on a customer attestation, that service provider will not be held liable for potential sanctions breaches because of illicit actors who seek to cause a violation of the maritime services policy or evade OFAC sanctions. OFAC will expect service providers to retain relevant records for five years.

Persons that make significant purchases of oil above the price cap and knowingly rely on service providers subject to the maritime services policy, or persons that knowingly provide false information, documentation, or attestations to such a service provider, will have potentially violated the maritime services policy and may be a target for a sanctions enforcement action.

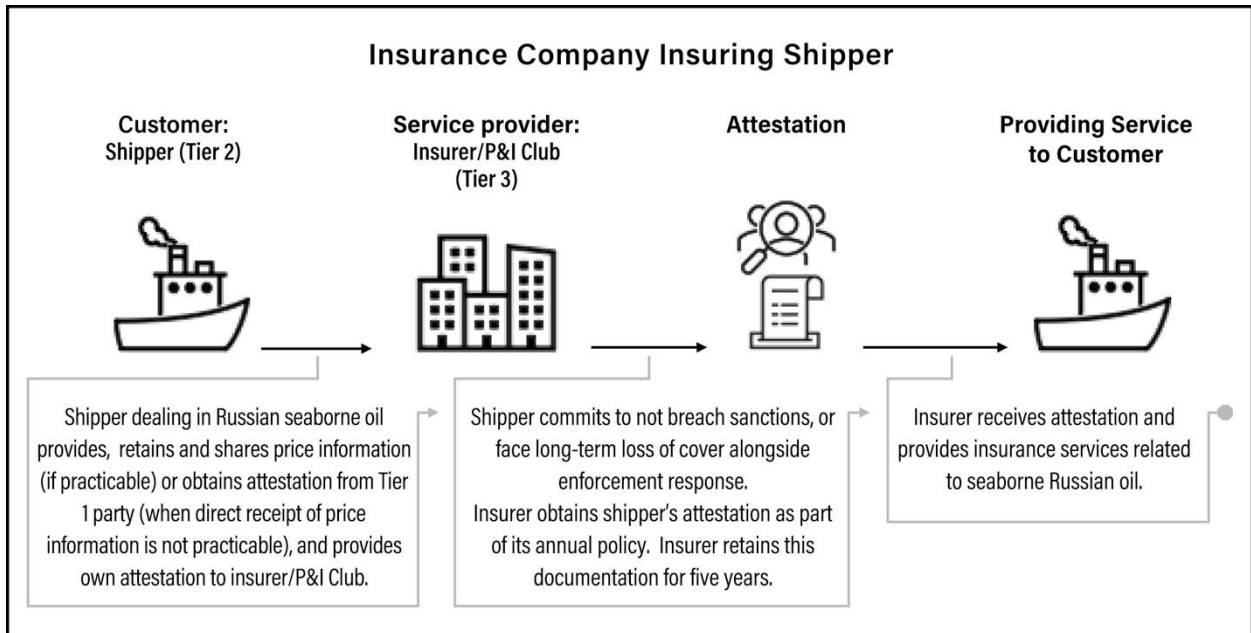
Treasury and the U.S. Government broadly anticipates working with other members of the coalition implementing the maritime services policy to enforce the price cap, including by sharing information.

10. What are examples of permissible vs. prohibited transactions?

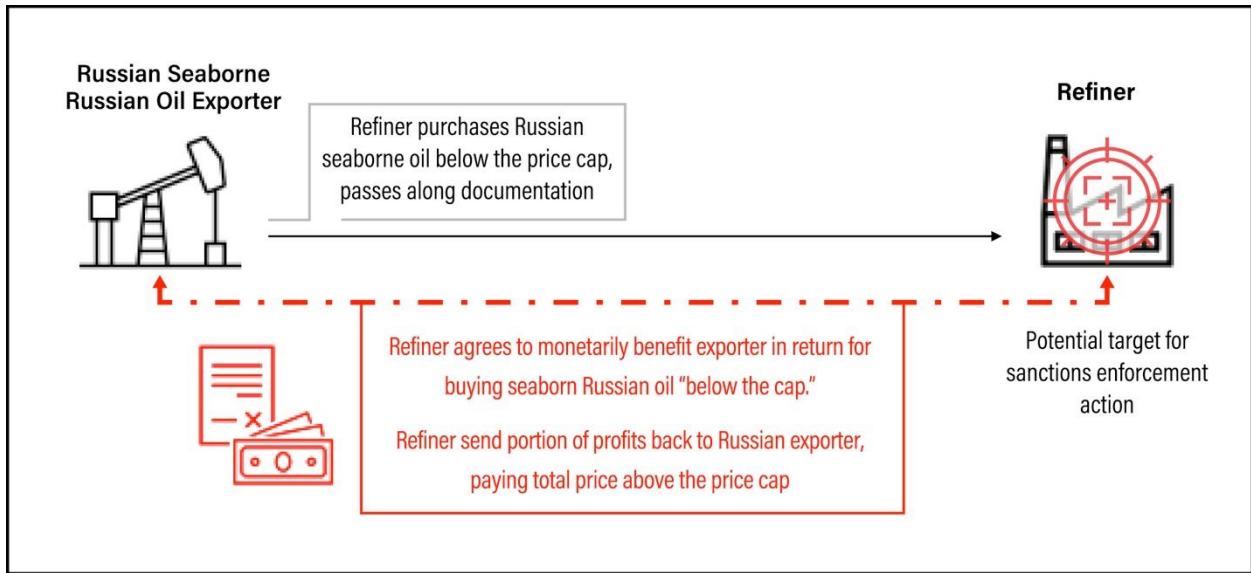
Compliant Transaction #1



Compliant Transaction #2



Non Compliant Transaction #1



Non Compliant Transaction #2

