

A guide to the UN advisory on sanctions compliance for financial organisations



The UN advisory “Sanctions compliance for the maritime transportation sector” clarifies the risks and responsibilities facing financial organisations in relation to sanctions compliance, as well as making clear recommendations on what financial organisations should be doing to demonstrate compliance.

In this short guide, we summarise the key risks, requirements and recommendations for financial organisations.

About the advisory

When: 12 September 2014

Where: Singapore

Who: Governments of Australia and Singapore + more than 100 representatives from across the supply chain and related services (including UN Expert Panel, shipowners and agents, freight forwarders, insurance companies, brokers and port operators, industry associations, regulators and think tanks)

Why: For the shipping and maritime transportation sector, to raise awareness of United Nations sanctions and explore issues relating to compliance with such sanctions

Read here: bit.ly/UNadvisory

1 Financial organisations face many risks

According to the UN advisory, “there is a real risk that the [transportation] sector could be misused by proliferators”. For this reason, the UN has “adopted sanctions to counter the risk that the sector could be used to carry out activities prohibited by Security Council resolutions.”

The UN advisory highlights that “assisting in the trade in goods prohibited under a sanctions regime, whether knowingly or unknowingly, poses a number of risks for the transportation sector”¹, including:²

- **Enforcement action by State authorities (either in port or on the high seas)**
- **Delay or diversion of vessels (as a result of law enforcement action)**
- **Interruption of the movement of goods on the same vessel (or in the same container) as suspected illicit cargo**
- **Legal liability and other costs**
- **Damage to reputation**
- **Physical danger to crew members, port, other facilities and staff (due to hazardous nature of some sanctioned goods e.g. ammunition, explosives and radiological, chemical and biological agents)**
- **Freezing of assets (including vessels themselves)**
- **Detention of cargo due to enforcement action in relation to the vessel**

2 Financial organisations are responsible for ensuring compliance

The UN advisory clarifies the responsibilities of various members of the maritime transportation supply chain. Many apply specifically to financial organisations, while others apply to the transportation sector generally.

“The financial services sector must also refrain from assisting in the sale, supply or transfer of goods to countries subject to sanctions.”³

Responsibilities:

Applies to	Responsibility
Financial services companies (specifically)	“The financial services sector must also refrain from assisting in the sale, supply or transfer of goods to countries subject to sanctions.” ³
All entities/companies (generally)	“Entities providing support for international trade need to take measures to ensure that their services are not utilized to assist in any activity in breach of sanctions.” ⁴
	“Businesses must exercise vigilance to ensure that they do not conduct prohibited transactions or deal with designated entities.” ⁵
	“Businesses operating in the shipping, freight forwarding, insurance and port operating sectors must put in place measures that respect the laws implementing sanctions in relevant jurisdictions [...] it is usually the case that a business must consider the compliance status not only of its own activities, but also that of the activities of clients and business partners.” ⁶

3 Financial organisations must not provide “assistance” in prohibited trades

While sanctions and controls have been understood to be “primarily aimed at the sellers or purchasers of sanctioned goods”⁸, in some cases the Security Council goes further to specifically require States “to prevent the provision of assistance for any trade that is prohibited under the sanctions regime.”⁷

What does “assistance” mean?

The UN advisory clarifies that “the term ‘assistance’ is generally given a broad meaning [...] often understood as financial or other assistance related to the supply, sale or transfer of sanctioned goods.”⁹

“Assisting in the trade in goods prohibited under a sanctions regime, whether knowingly or unknowingly, poses a number of risks for the transportation sector.”⁸

⁴ p.7 para II.A.10 (Requirements of sanctions)

⁶ p.19 para V.61 (Risk-based compliance)

⁸ p.8 para III.17 (Compliance)

⁵ p.20 para VI.68 (Conclusions)

⁷ p.6 para II.A.9 (Requirements of sanctions)

⁹ p.6-7 para II.A.9 (Requirements of sanctions)

4 Financial organisations should implement measures

The advisory offers recommendations on how financial organisations can manage their risks by implementing a range of measures, including:

- Screening vessel owners and vessels by comparing their names against lists of designated entities in order to determine whether they are subject to sanctions.¹⁰
- Monitoring the movement of vessels in and around ports or vessels that are subject to sanctions.¹¹
- Asking business partners or clients if they have in place a compliance process that provides confidence that they are not involved, whether knowingly or otherwise, in the shipment of goods in violation of sanctions.¹²
- Putting into place measures to identify whether business partners or clients are owned or controlled by a designated person or entity.¹³
- Keeping thorough records and audit trails of international transactions (and requiring the same of your business partners)¹⁴
- Ensuring the company is compliant and remains current with changing sanctions, regulations and requirements by implementing a compliance structure.¹⁵
- If inadvertent non-compliance does occur, taking actions to identify such non-compliance, report it to the authorities, as appropriate, and improve the compliance process so that it does not recur.¹⁶

The sanctions compliance checklist for financial organisations:

Compliance activities	<input checked="" type="checkbox"/>
Are you screening vessel owners and vessels by comparing their names against lists of designated entities in order to determine whether they are subject to sanctions? ¹⁰	<input type="checkbox"/>
Are you monitoring the movement of vessels in and around ports or vessels that are subject to sanctions? ¹¹	<input type="checkbox"/>
Do my business partners or clients have in place a compliance process that provides confidence that they are not involved, whether knowingly or otherwise, in the shipment of goods in violation of sanctions? ¹²	<input type="checkbox"/>
Are you taking sufficient due diligence? ¹⁷	<input type="checkbox"/>
Are you identifying whether vessels are owned, controlled or operated by a designated person or entity? ¹⁷	<input type="checkbox"/>
Do you determine whether the vessel is owned in or sails under the flag of a State that has a government programme that is subject to sanctions? ¹⁷	<input type="checkbox"/>
Do you identify whether a vessel has previously been involved in activities indicating non-compliance with sanctions? ¹⁷	<input type="checkbox"/>
Do you flag whether the activities of a vessel that utilizes your services are suspicious? ¹⁷	<input type="checkbox"/>
Are you checking the vessel's International Maritime Organization numbers (as well as the vessel name)? Because vessels involved in proliferation-related activities frequently change name and flag State in order to evade controls. ¹⁸	<input type="checkbox"/>

¹⁰ p.17 para E.52(a) (Vessel monitoring)

¹¹ p.17 para E.52(b) (Vessel monitoring)

¹² p.17 para B.45 (Transactions)

¹³ p.14 para IV. A.40 (Cross-sectoral issues)

¹⁴ p.19 para H.60 (Audit trails & record keeping)

¹⁵ p.20 para V.64 (Risk-based compliance)

5 Financial organisations should consider screening and vessel monitoring solutions

Screening

According to the UN advisory, businesses operating in or associated with the maritime transportation sector should screen vessel owners and vessels by comparing their names against lists of designated entities in order to determine whether they are subject to sanctions.¹⁰

Vessel monitoring

The second recommendation made by the advisory is for businesses operating in or associated with the maritime transportation sector to adopt vessel monitoring solutions as part of their sanctions compliance programmes (which many have done already).

They go on to describe the “two main systems that can be used for vessel monitoring”²¹ as:

AIS: The Automatic Identification System (AIS) is a VHF (very high frequency) radio tracking system that is used by ships and vessel traffic services to identify and locate other nearby ships for the primary purpose of collision avoidance. AIS is required on all vessels with a gross tonnage above 300. It is an inexpensive means of tracking vessels, but is subject to a number of security vulnerabilities that can affect its reliability.

Satellite: Satellite communications systems (i.e. Inmarsat) provide secure, reliable, global coverage. Due to their high reliability these systems are used by flag states for regulatory tracking purposes (e.g. LRIT).

Limitations of AIS

The UN advisory offers a warning that “while the two systems should routinely correspond to the true location of the vessel, it has been noted that ship captains do, on occasion, switch off the automatic identification system when engaging in clandestine activity. In some such cases, the Inmarsat system has made it possible to continue tracking the vessel.”²¹

Case study: Panama

The advisory highlights the Panama Maritime Authority as an example of a port authority taking proactive steps to screen vessels against sanctions-related risks¹⁹. Panama recently adopted Pole Star’s PurpleTRAC screening and compliance solution, allowing them to screen vessel owners and vessels against:

- **Global sanctions lists**
- **Country sanctions checks (flag and country of domicile, control and registration)**
- **Class society and ship quality performance**
- **Ship movement history (last 90 days, AIS data)**
- **Current geo-political threats**

Panama becomes first port state to use Pole Star’s PurpleTRAC service for sanctions compliance and risk management :

Read here: bit.ly/PanamaCaseStudy

What you need to know about AIS

How sole reliance on AIS data could undermine your organisation’s sanctions compliance programme.



Read here: bit.ly/AISdataReliance

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¹⁶ p.20 para V.66 (Risk-based compliance)

¹⁸ p.15 para E.50(b) (Vessel monitoring)

²⁰ p.18 para E.53 footnote O (Vessel monitoring)

¹⁷ p.15 para E.50 (Vessel monitoring)

¹⁹ p.13 para A.C.34 (Port operators)

²¹ p.18 para E.53 (Vessel monitoring)