

# Don't Let Ship Sale Be a Vessel for Non-Compliance – UK Government Issues Guidance on Russian Sanctions in Relation to Sales of Second-Hand Vessels to Third Countries

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PRACTICES Ship Sale and Purchase, Shipping

A notice to exporters (“[NTE 2024/11](#)”) titled “Russia sanctions – Sales of oil tankers to third countries” was published by the Export Control Joint Unit (“**ECJU**”) of the UK Government Department for Business and Trade on the 21 May, 2024. NTE 2024/11 includes a [guidance note](#) with the same title (the “**Guidance**”). The Guidance focusses on the early identification and prevention of Russian sanctions evasion for those in the UK engaged or involved in the sale and brokering of second-hand vessels (not just oil tankers) to third countries. The overarching aim of the Guidance is to place the maritime sector firmly in the spotlight of the UK government’s efforts to tackle sanctions evasion particularly in the context of the sale of second-hand vessels to third countries and to consolidate industry awareness of potential risks and common deceptive practices which have the potential to undermine the purpose of UK government sanctions.

## The Growth and Impact of the Sanctions Regime Against Russia

Co-ordinated sanctions against Russia have been in place since 2014 and were introduced internationally in response to the annexation of Crimea and the ongoing destabilisation of Ukraine. The [Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#) (the “**2019 Regulations**”) came into force in the UK in December 2020 to replace the EU sanctions regime in relation to Russia to ensure that certain sanctions relating to Russia continued to operate effectively after the UK left the EU. The Regulations have been amended as part of co-ordinated rolling sanctions which target Russia’s financial, aviation, shipping and strategic sectors, following the full-scale Russian invasion of Ukraine in February 2022.

The prohibitions and requirements imposed by the 2019 Regulations apply within the UK and in relation to the conduct of all British nationals wherever they are in the world, as well as all companies established in any part of the UK, and any branches of UK companies operating overseas. A breach of these sanctions is a criminal offence, with a maximum penalty of 10 years’ imprisonment or an unlimited fine or both.

Of notable importance are regulations 24, 25 and 29 of the 2019 Regulations, which concern respectively the making available or acquiring of, and brokering services relating to “restricted goods”. In accordance with Part 7 of Schedule 2A of the 2019 Regulations (as amended), “restricted goods” includes a range of different vessels, marine systems and equipment and specifically makes reference to the broad sweeping category at Part 7(f) of “*vessels (surface or underwater), including inflatable boats and specially designed components therefor*”. Additionally, regulation 29 specifically prohibits the provision of brokering services in relation to an arrangement whose object is: (i) the direct or indirect supply or delivery of restricted goods from a third country to a place in Russia; and (ii) directly or indirectly making restricted goods available in a third country for direct or indirect supply or delivery to a person connected with Russia<sup>1</sup> or to a place in Russia.

In February 2024 (and updated in March 2024) the UK Government introduced [Financial Sanctions Guidance for Maritime Shipping](#) (“**FSGMS**”) which sets out financial sanctions guidance for entities and individuals that operate in, or with, the maritime sector, including the handling of goods. This has now been bolstered by the publication of the Guidance, demonstrating a growing commitment to tackle Russian sanctions evasion.

The Guidance advises that direct trade between the UK and Russia has fallen dramatically, meaning Russia has been seeking to procure restricted goods and services via alternative methods such as indirect routes and complex supply chains. Examples given are a buyer in a third country acting as an intermediary, intentionally making a purchase of a restricted good with the aim of selling it on to Russia, or a buyer in a third country, acting as a front company which may have disguised or opaque ties to a person connected with Russia. The Guidance goes on to note that entities which enable Russian sanctions evasion are often coupled with complex and irregular corporate structures, which includes the use of shell companies, tiered ownership or frequent changes in ownership and lack of transparency surrounding the ultimate beneficial owner (“**UBO**”).

Whilst the Guidance is for those involved in the sale and brokering of second-hand vessels to third countries, it emphasises that sanctions relating to oil have impacted Russia significantly. In particular, the oil price cap introduced by the G7+ Coalition (comprising the G7, the European Union and Australia) has resulted in Russia seeking methods of circumvention, such as purchasing second hand tankers which it can run to service its oil exports without relying on G7+ services. This is known as Russia’s “dark fleet” and is currently estimated to comprise of 300 vessels. Given Russia’s urgent demand for these vessels, the Guidance notes that second-hand tankers which are being sold as part of Russian sanctions evasion are likely to be older than 15 years and sold at a significant premium above market price for tankers of this kind.

## The Crucial Role of Due Diligence and the Key Risk Indicators

Thorough due diligence and risk based Know Your Customer / Know Your Counterpart (“**KYC**”) checks are vital for identifying the UBO of a potential buyer or potential “end user” of any second-hand vessel, particularly to ensure that this is not a person connected with Russia for the purpose of the 2019 Regulations. Identifying the UBO can be a complex and lengthy process given that in these circumstances the UBO is unlikely to directly approach the sellers or be named on relevant paperwork. Due diligence commonly includes (but is not limited to) scrutiny and screening of contact details, identification documents, associated individuals, professional background, assets and business involvements, to determine whether there is any connection to Russia or a politically exposed person (“**PEP**”) or any links to criminal activity. According to the Guidance, due diligence generated information can be verified against third party databases, media and market intelligence and can be conducted periodically, on a risk basis or when triggered (for example, by a change in vessel ownership or vessel trading activity).

Perhaps most significantly, in its emphasis of the importance of due diligence for those engaged in the sale and brokering of second-hand oil tankers and other vessels, the Guidance introduces a series of key risk indicators split into three categories: (i) the transaction; (ii) the buyer; and (iii) country or jurisdiction. These include where:

- the transaction concerns a vessel that is relatively old (15+ years);
- the purchase price for the vessel appears materially above market price or is otherwise not consistent with the quality and age of the vessel being sold;
- the transaction concerns a vessel which via its particulars or structures of sale has or will have deliberately obscured legal ownership;

- the potential buyer is physically located in a country for which the market for second-hand vessels has increased significantly since Russian sanctions were introduced;
- there is lack of transparency, especially regarding source, end-user and/or end use; and
- there is evidence of payments or transfers made to importers, exporters, agents or brokers that export to countries and ports near the border of sanctioned countries.

Whilst those engaged or involved in the sale and brokering of second-hand vessels to third countries will no doubt already have in place a multi-tiered due diligence process, the Guidance serves to reiterate both the importance of thorough KYC checks and the breadth of possible sanctions evasion routes that Russian entities have been known to or have attempted to take. Industry wide commitment to exercising due diligence in accordance with the Guidance is likely to make the process for Russian sanctions evasion more challenging and the Guidance warns that this is likely to bring new tactics and routes of circumvention meaning that those involved should remain live to any scenarios or patterns of behaviour which are at odds with market practice.

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<sup>1</sup> A person connected with Russia is defined by the 2019 Regulations as (i) an individual, who is, or an association or combination of individuals who are ordinarily resident in Russia or located in Russia; or (ii) a person, other than an individual, which is incorporated or constituted under the law of Russia, or which is domiciled in Russia.