Guides for compliance specialists

Maritime compliance: key regulations and best practices

MCaaS®

MARITIME COMPLIANCE SPECIALISTS

Introduction

"As the requirement for international sanctions becomes more common, companies face complex challenges to understand and navigate a shifting regulatory environment.

"Global trade and economic sanctions against governments, businesses and individuals are increasingly impacting business relationships across trade, travel, vessels, financial services and more.

"Sanctions compliance, AML (Anti-Money Laundering), CTF (Counter-Terrorism Financing) and ABC (Anti-Bribery and Corruption) risks and penalties loom large on a global scale, with each passing year bringing heightened concerns for both institutions and individuals. As such, it has become increasingly crucial for companies and individuals to remain vigilant, meet regulatory standards and mitigate potential risks – or face severe financial and reputational damage.

"In order to avoid compliance violations, regulators have outlined a set of best practices which companies are encouraged to adopt.

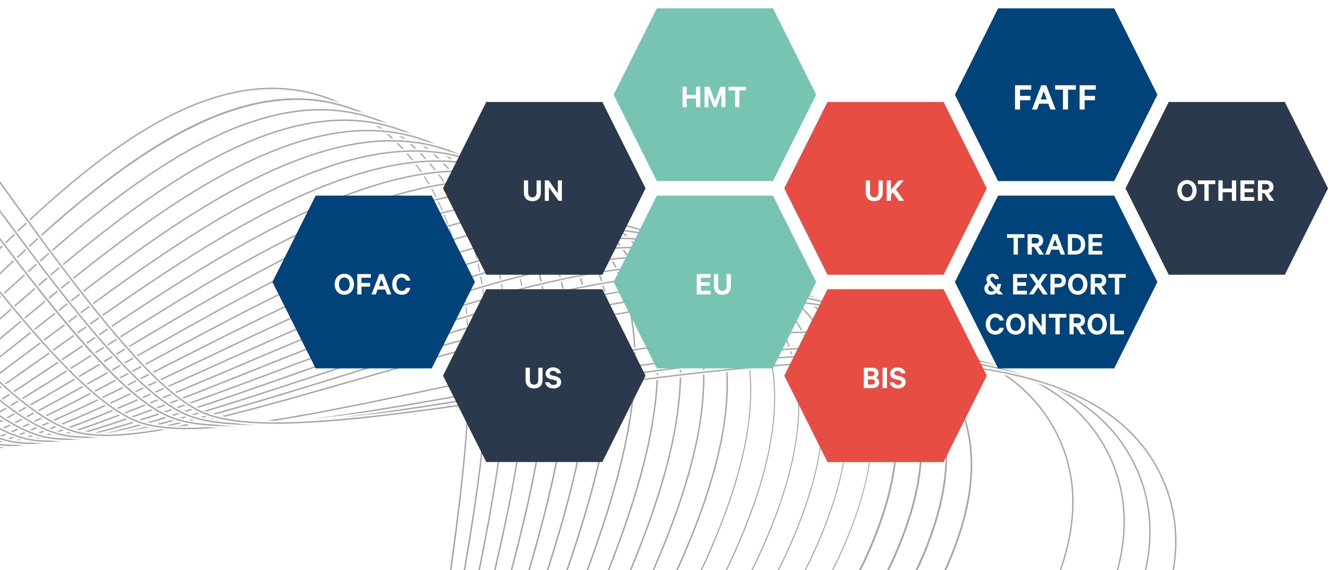
"These practices include the implementation of a rigorous KYC (Know Your Customer) due diligence programme, as well as exercising supply chain due diligence, such as conducting thorough KYCC (Know Your Customer's Counterparties) checks.

"While these practices are not exhaustive, they serve as key measures which companies must take to ensure compliance and uphold regulatory standards. This guide highlights some important regulations which companies should consider.

"I hope you find the information in this guide helpful. If you have any questions about maritime regulation or compliance, please get in touch through the MCaaS website or email me at a.majeed@marcura.com."

Kind regards,

Majeed SA
Manager – MCaaS



Contents

United States (US)

In May 2020, the US Department of Treasury, the US Department of State and the US Coast Guard issued a 35-page advisory called **"Guidance to Address Illicit Shipping and Sanctions Evasion Practices"** to all those operating in the maritime industry (from ship owners, managers, operators, brokers and ship captains to insurance companies and financial institutions) to address illicit shipping and sanctions evasion practices. The advisory includes a detailed set of best practices for the private industry to consider adopting in order to mitigate exposure to sanctions risks.

The Office of Foreign Assets Control (**OFAC**) administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction and other threats to the national security, foreign policy or economy of the US.

The US Department of Commerce's Bureau of Industry and Security (**BIS**) administers US laws, regulations and policies governing the export and re-export of commodities, software, and technology (collectively "items") falling under the jurisdiction of the Export Administration Regulations (**EAR**).

On 23 December 2022, the US Congress passed the **Anti-Money Laundering Whistleblower Improvement Act** ("the Act"), expanding whistleblower protections and strengthening incentives for reporting. The Act aims, in part, to enforce US sanctions against Russia to locate and seize hidden or laundered assets and the below table highlights the key features of the Act.

Transnational and enables citizens from any country in the world to report and receive rewards	Qualified whistleblowers will receive mandatory financial reward of "not less than 10%" and up to 30% of the fine or sanction imposed	Whistleblowers can report sanction violations anonymously and confidentially	Protects whistleblowers, who report on banks/ financial institutions that assist in evading sanctions, from retaliation
Whistleblowers must voluntarily provide information about violations	Fines paid by the offenders are used to pay whistleblowers	Consider relevant factors that the SEC employs to determine SEC Whistleblower awards	Incorporates provisions similar to the Dodd-Frank Act

United Kingdom (UK)

On 16 March 2023, the UK's Office of Financial Sanctions Implementation (OFSI), released its latest guidance **OFSI enforcement and monetary penalties for breaches of financial sanctions**. The guidance includes details of the OFSI approach to assessing breaches of financial sanctions where an incorrect assessment of ownership and control of an entity is relevant to the commission of the breach and sets out the principles-based approach for conducting due diligence and making assessments, with examples.

This is likely a result of the OFSI's concerns that failures to correctly identify ownership and control is causing sanctions to be breached and this will inevitably be a focus for the OFSI's supervision and enforcement teams moving forwards. It is worth highlighting that the principles-based approach requires relevant entities to ensure that appropriate due diligence has been conducted, rather than following a prescriptive approach to identification.

Furthermore, the government is creating a new failure to prevent fraud offence to hold organisations to account if they profit from fraud committed by their employees through **economic crime and corporate transparency bill 2022.**

The government regulates the trade or transit of certain sensitive goods, software and technology through export controls. These controls are based on legislation and are part of the government's commitments relating to non-proliferation and arms control. The policy says that it is an exporter's responsibility to check whether items require an export license for **dual-use or military goods**. If so, you need to apply well in advance of shipment to avoid any potential issues (such as unnecessary customs difficulties when at port).

The passage of the **UK Bribery Act 2010**, which set new standards in anti-bribery and corruption (**ABC**) compliance, brought to the forefront the heightened requirement to conduct due diligence on an organisation's associated parties. This requirement was compounded by rounds of anti-money laundering (**AML**) regulations from the EU.

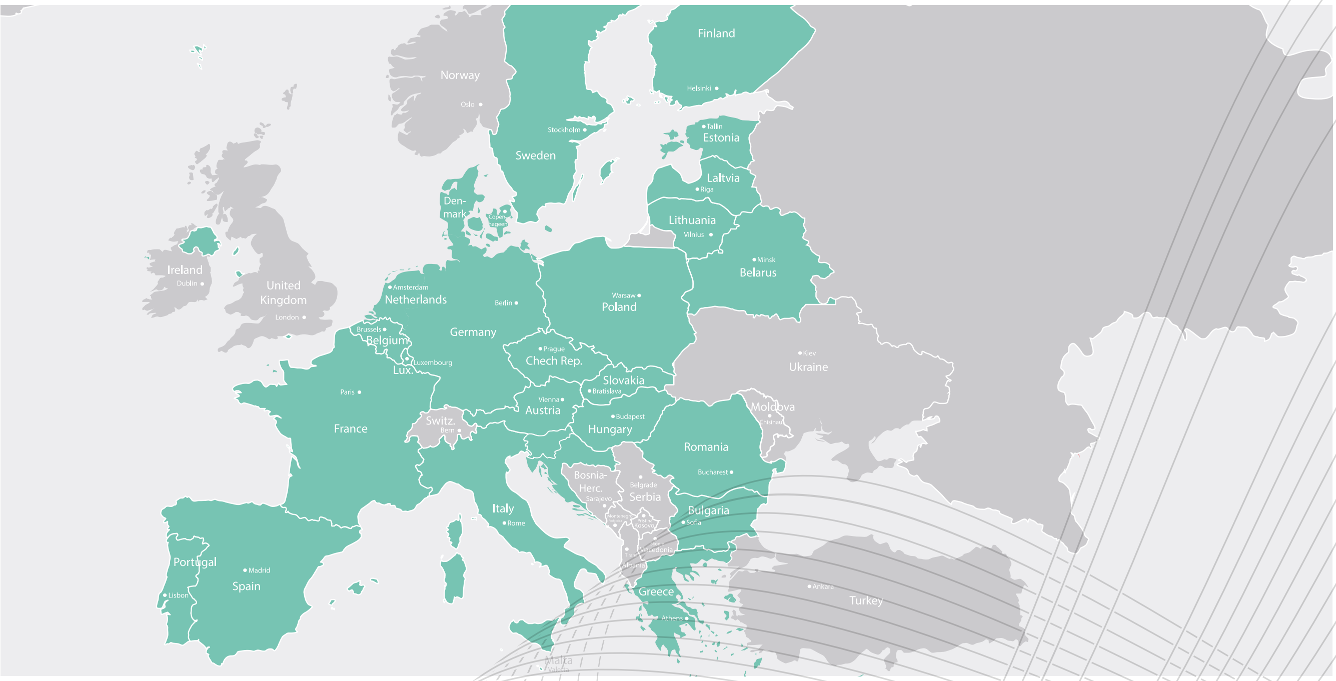
The British International Freight Association (**BIFA**), has issued several Good Practice Guidance related to due diligence to help freight forwarders, often in principal roles, implement a framework to address operational concerns related to: cargo, documents, routing, customs regimes, licensing, dual use goods, theft and cargo risk.

European Union (EU)

EU sanctions do not target a country or population, but are always targeted at specific policies or activities, the means to conduct them and those responsible for them. All sanctions adopted by the EU are fully compliant with obligations under international law including those regarding the respect of human rights and fundamental freedoms.

For the majority of sanctions regimes, measures are targeted at individuals and entities and consist of asset freezes and travel bans. The EU can also adopt sectoral measures, such as economic and financial measures (e.g. import and export restrictions, restrictions on banking services) or arms embargoes (prohibition on exporting goods set out in the EU's common military list).

In order to facilitate the application of financial sanctions, the European Banking Federation, the European Savings Banks Group, the European Association of Co-operative Banks and the European Association of Public Banks ("the EU Credit Sector Federations") and the Commission recognised the need for an EU consolidated list of persons, groups and entities subject to Common Foreign and Security Policy (**CFSP**) related financial sanctions. It was therefore agreed that the Credit Sector Federations would set up a database containing the consolidated list for the Commission, which would host and maintain the database and keep it up-to-date. This database was developed first and foremost to assist the members of the EU Credit Sector Federations in their compliance with financial sanctions.



United Nations (UN)

The UN Security Council can take action to maintain or restore international peace and security under Chapter VII of the United Nations Charter. Sanctions measures, under Article 41, encompass a broad range of enforcement options that do not involve the use of armed force. Since 1966, the Security Council has established 31 sanctions regimes as highlighted in the table below.

These sanctions have taken a number of different forms, in pursuit of a variety of goals. The measures have ranged from comprehensive economic and trade sanctions to more targeted measures such as arms embargoes, travel bans and financial or commodity restrictions.

The UN Security Council has applied sanctions to support peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote non-proliferation. For more details, please refer to the 2023 fact sheets called **"subsidiary organs of the united nations security council"**.

The UN Security Council sanctions committees and expert panels work closely with specialised entities like ICAO, IMO, WCO and INTERPOL. Ten Committees have special agreements with INTERPOL allowing the UN Security Council to issue INTERPOL-UN Security Council Special Notices for those individuals and entities subject to targeted measures.

Al-Qaida	Haiti	Sierra Leone
Angola	Iran	Somalia
CAR	Iraq	South Africa
Côte d'Ivoire	ISIL (Da'esh)	South Sudan
DPRK	Lebanon	Southern Rhodesia
DRC	Liberia	Sudan
Eritrea	Libya	Taliban
Ethiopia	Mali	Yemen
Guinea-Bissau	Rwanda	Yugoslavia

Other regulatory bodies

Governments and international organisations have increasingly used economic sanctions to address human rights abuse and geopolitical conflict. Contrary to economic sanctions, the so-called moral sanctions and price cap aim to address similar issues while minimising harm to the general population.

Panama Maritime Authority (PMA) issued a notice to all Panamanian-flagged vessels by warning that it will impose sanctions up to US$10,000 and/or de-registration or de-flagging of vessels due to non-compliance.

Starting from 21 January 2023, **P&I Clubs** (American, North, UK and West) are no longer able to secure reinsurance for war risk exposure to Russian, Ukrainian or Belarusian territorial risks. The clubs are among the biggest P&I insurers who cover around 90% of the world's ocean-going ships.

Due to an increasingly complex sanctions landscape, in 2020 the **Baltic and International Maritime Council (BIMCO)** has updated its sanctions clause for time charterer parties to help internationally trading companies manage and mitigate their sanctions risk.

IFC (International Finance Corporation), part of the World Bank Group, is supporting more than 560 banks from 96 emerging market countries with critical risk assistance by identifying and addressing AML and terrorism financing concerns related to trade finance, providing customer due diligence support and guidance for targeted risk management globally.

FATF (Financial Action Task Force) is a 39-member body that serves as the global watchdog for money laundering and terrorist financing. Its primary objective is to establish international standards aimed at preventing these illegal activities and urging governments worldwide to implement these standards as part of a coordinated global response against organised crime, corruption and terrorism.

Several countries and entities have introduced independent sanctions regimes to compliment or diverge from the **UNSC (United Nations Security Council)** sanctions regime, with an emphasis on combating AML/CTF while also enforcing trade controls. These include the **MAS (Monetary Authority of Singapore), ASO (Australian Sanctions Office),** India, Israel, Japan, Malaysia, China, Russia as well as various Middle Eastern and European nations.

How MCaaS can help

MCaaS offers cargo, third-party and vessel screening solutions powered by MCaaS Core, a self-service compliance platform, and supported by a team of 60+ compliance specialists.

By using our customisable, bank-grade maritime compliance solutions, you can:

- Reduce false positives and errors before screening
- Validate your data on counterparties, commodities & vessels
- Quickly access reports to help you mitigate compliance risk

Some of our MCaaS customers

Chandris (Hellas) Inc., Emirates Shipping Line, Fleet Management Limited, Glencore, Hapag-Lloyd, KMTC, Koch, RCL Regional Container Lines, Rio Tinto, Unifeeder, V.Group, Womar Tanker Pools

Find out more at www.mcaas.com

MCaaS®

www.mcaas.com

Marcura®