



KHARON

WINSTON
& STRAWN
LLP

MANAGING MARITIME SANCTIONS-RELATED RISK

April 29, 2020



Maritime Sanctions Advisories - Timeline

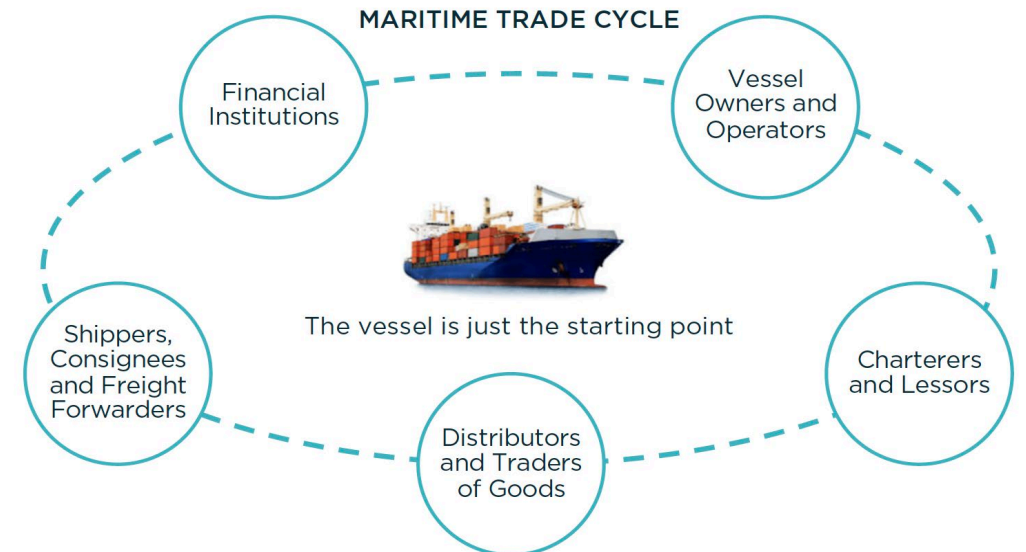


- **February 23, 2018** North Korea Sanctions Advisory – Sanctions Risk Related to North Korea’s Shipping Practices
- **November 20, 2018** Advisory to the Maritime Petroleum Shipping Community – Sanctions Risks Related to Shipping Petroleum to Syria
- **March 25, 2019** Advisory to Maritime Petroleum Shipping Community – Sanctions Risks Related to Petroleum Shipments involving Iran and Syria
- **May 2, 2019** A Framework for OFAC Compliance Commitments
- **September 4, 2019** Advisory to the Maritime and Petroleum Shipping Community – Sanctions Risk Related to Shipping Petroleum and Petroleum Products from Iran
- **February 26, 2020** Panel of Experts Report – North Korea
 - Illicit imports of refined petroleum
 - Illicit exports of commodities (coal and sand)
 - Illicit imports of luxury goods (vehicles, alcohol, robotic machinery)
- **March 6, 2020** Interview with DAS Peyman

Maritime Sanctions-Related Risk

Kharon Research Methodology

- Guidance encourages institutions to leverage newly available FinTech and open source datasets to create efficiencies
- Explore entire network of relationships
 - Vessel is the starting point (owners, operators)
 - Lifecycle of maritime trade
 - Shippers and consignees
 - Distributors and traders of goods
- Mine best available primary sources



Case Studies: Maritime Sanctions-Related Risk

CASE STUDY 1: NORTH KOREA EXPOSURE

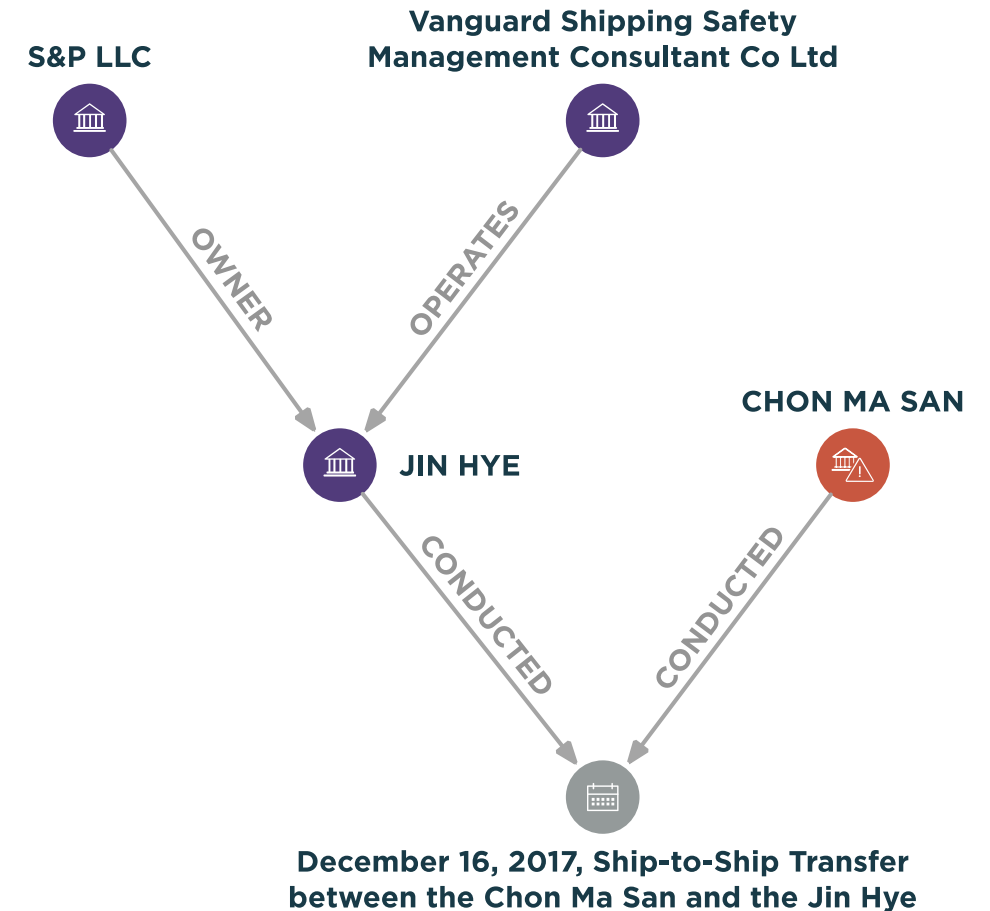
Red flag indicators of sanctions evasion networks:

- Ship-to-Ship transfers
- False registration and vessel names
- Altering physical vessel identifiers
- Lack of AIS signal in “relevant regions”

CASE STUDY 1: NORTH KOREA EXPOSURE

Taiwan-incorporated Vanguard Shipping Safety Management Co.

- *Jin Hye* engaged in ship-to-ship transfers with sanctioned *Chon Ma San* vessel in the East China Sea
- The *Chon Ma San* attempted to hide its identity through physical manipulation



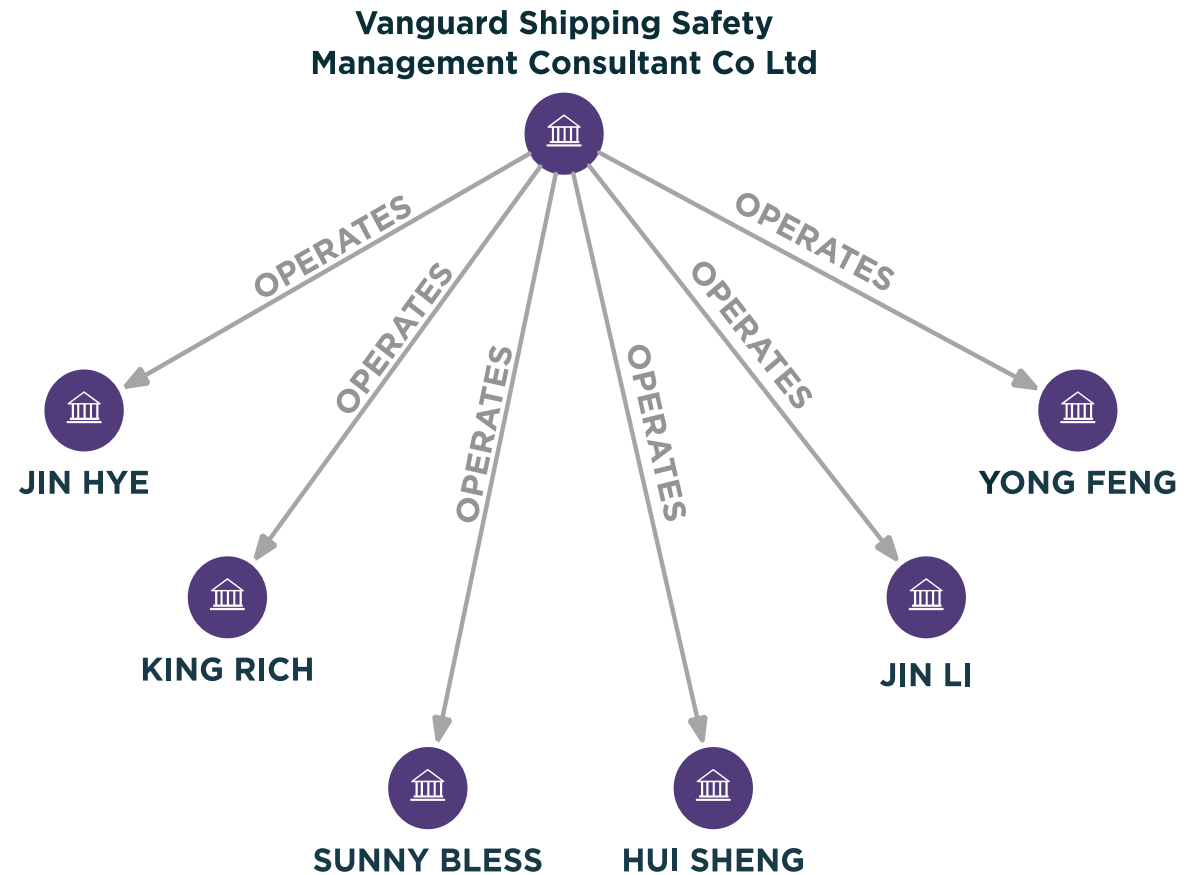


Source: UN Panel of Experts

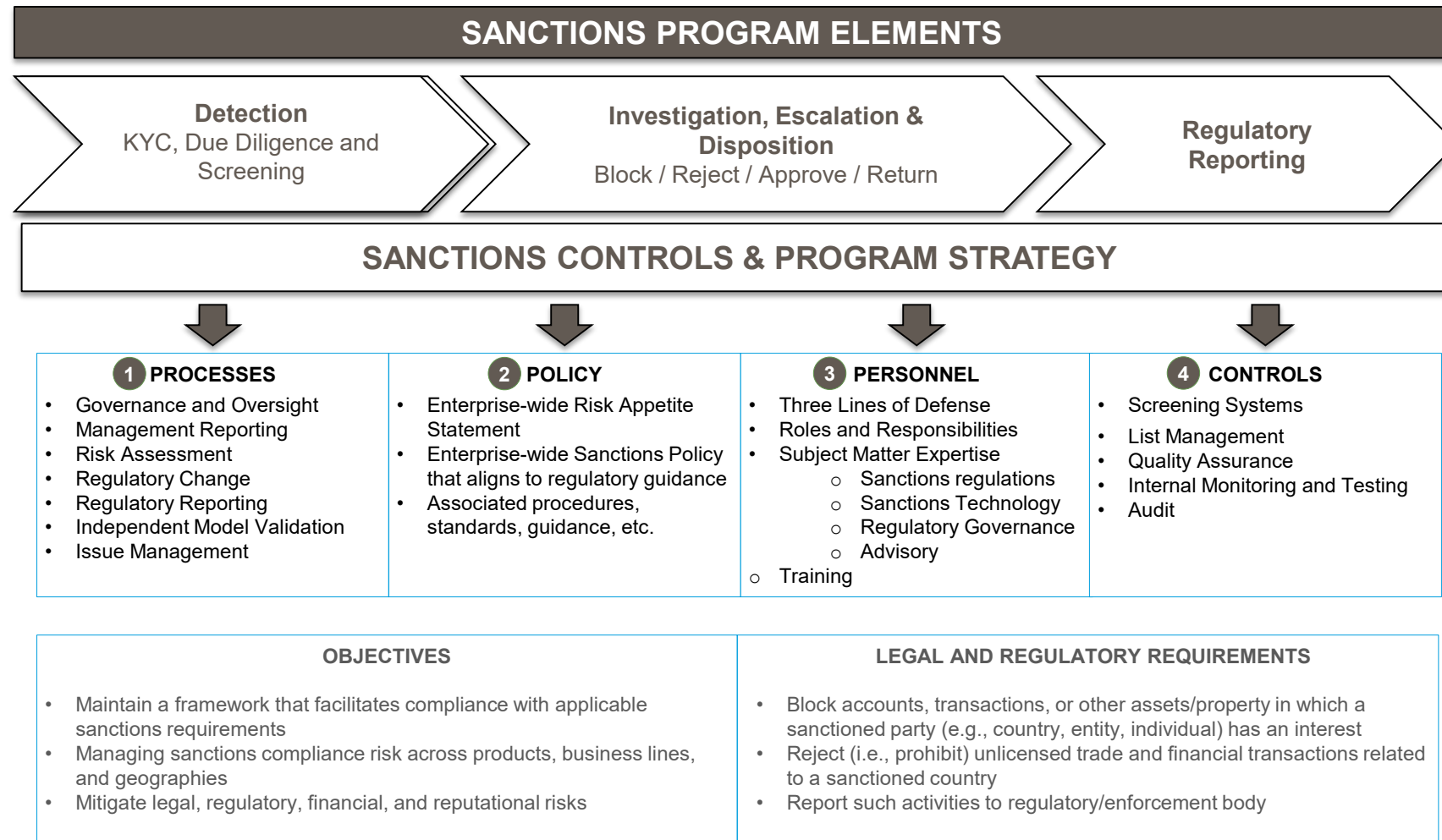
CASE STUDY 1: NORTH KOREA EXPOSURE

Taiwan-incorporated Vanguard Shipping Safety Management Co.

- Vanguard Shipping operates other vessels
- *King Rich* vessel has exhibited suspicious activity and movement, similar to those of the *Jin Hye*



Back to Sanctions Compliance Basics



(Re)insurance and Sanctions Exclusion Clauses

Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

LMA3100

15 September 2010

EU Blocking Measure and Iran, AIS Exclusions

EU Blocking Measure (Commission Delegated Regulation (EU) 2018/1100) amended August 2018: Prohibits EU “operators” from complying with US sanctions against Cuba and now Iran post-JCPOA withdrawal by the US

- Exception: EU operators are free to make business decisions to start, continue, or cease business operations in (Cuba or) Iran “on the basis of their assessment of the economic situation”
- May include economic reasons such as no access to financing, AML concerns, no access to U.S. inputs required for production, etc.

(Re)Insurance Coverage – Additional Exclusions

EU Blocking Measure

- Concerns that territorial or other exclusions may be required in addition to sanctions exclusions for EU insurers to effectively exclude Iranian exposures
- Some introduction of Iran-specific exclusions and consideration of AIS exclusions

Notwithstanding anything to the contrary, the cover provided under this policy expressly excludes any loss or damage: (i) resulting in Iran or its territorial waters; (ii) incurred by persons or entities located in Iran or its territorial waters; or (iii) resulting in, or involving activities that directly or indirectly involve or benefit the government entities or nationals of Iran.

(Re)Insurance Coverage – Additional Exclusions

Illicit Shipping Activity and Automatic Identification System (AIS)

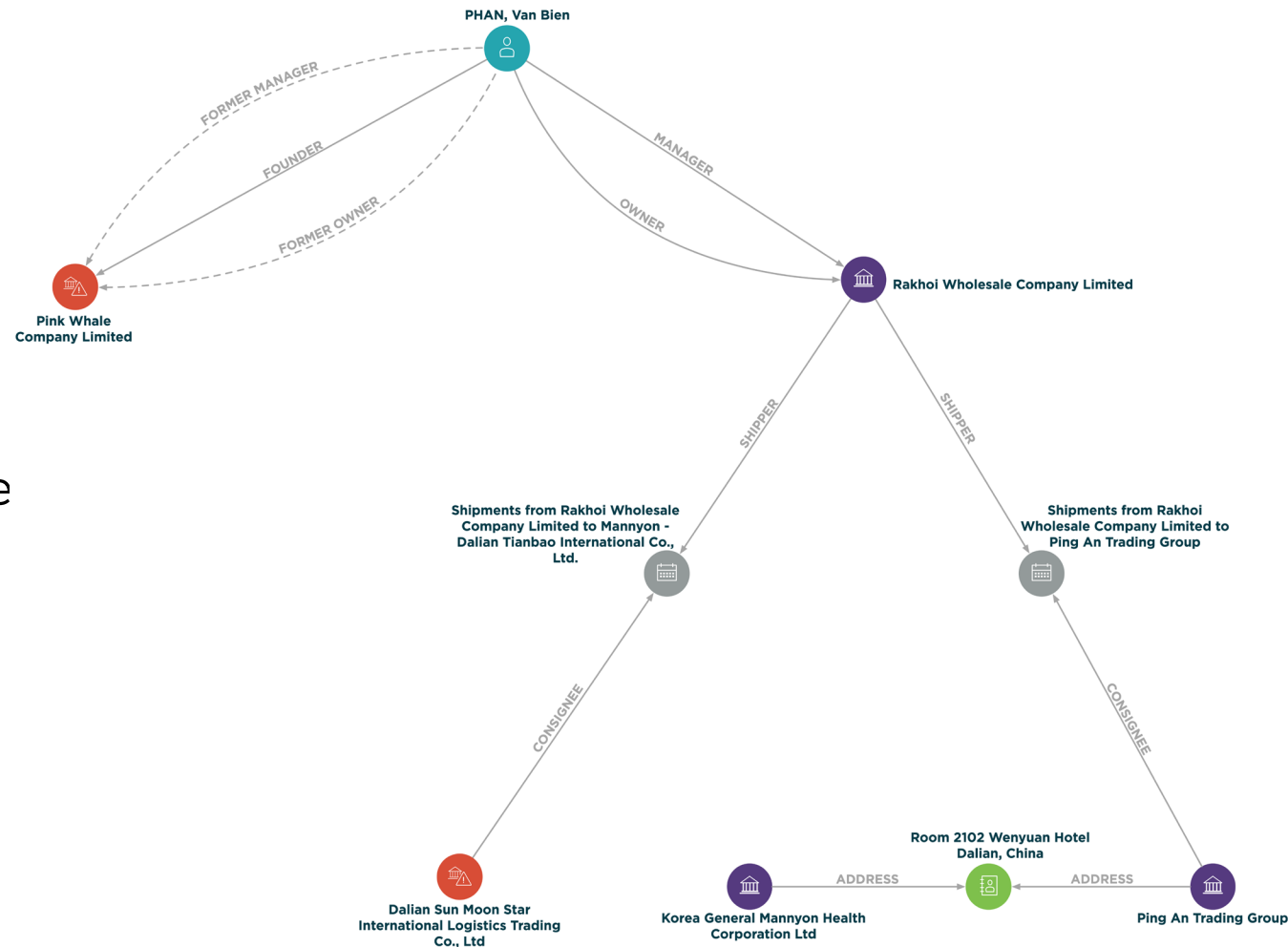
- Concerns about AIS manipulation/switch off and implications of OFAC Advisories is leading to consideration of “AIS switch off” clauses for insurance
 - May not be necessary; implicates legitimate coverage concerns

The policy will not provide any coverage for any vessel that is operating in a manner designed to preclude, disguise or otherwise impede the detection of its identity or location, including but not limited to by deactivating its Automatic Identification System ("AIS") or manipulating AIS data. In case of an event of precluded, impeded or disguised identity or location in conjunction with activities or locations that may be prohibited by any applicable economic sanctions laws or rules, including those administered by the EU, US or UN, the (re)insurer has the right to unilaterally terminate this coverage immediately on giving notice to the policyholder. This exclusion and termination shall not apply where such inability to detect the vessel's identity and location is due to a demonstrable malfunctioning or other similar demonstrable external event beyond the control of the owners or operators of the vessel. In cases where the inability to detect the vessel's identity or location is due to demonstrable malfunction or external event, the policyholder must notify the (re)insurer and the (re)insurer will confirm in writing to the policyholder whether: (i) cover for that vessel will continue; or (ii) cover for that vessel will cease from such date as is specified by the (re)insurer.

CASE STUDY 2: NORTH KOREA EXPOSURE

Vietnam-based Rakhoi Wholesale Company Limited

- Exporting items to Chinese companies in high-risk jurisdictions
- Shareholders previously owned Pink Whale Company (fka Sunico)
- Exposure of US and EU firms supplying products to Rakhoi Wholesale



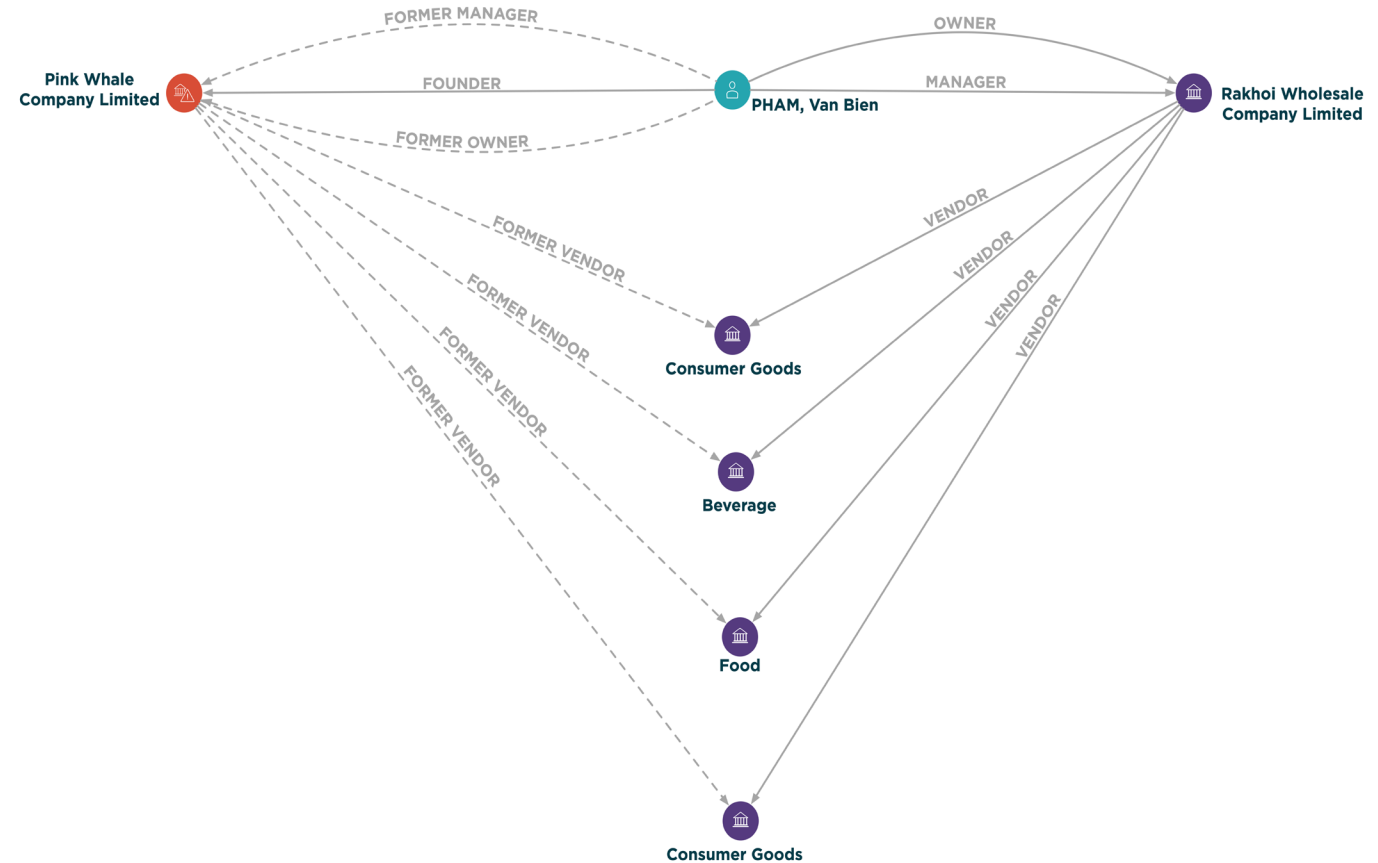
PYONGYANG TRADE FAIR (MAY 2019)



CASE STUDY 2: NORTH KOREA EXPOSURE

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CASE STUDY 3: IRAN-RELATED EXPOSURE

Maritime Networks Post JCPOA Withdrawal

- 700+ actors listed in November 2018
- 200+ newly listed
- Maritime vessels and front companies
- 270 actors not relisted

CASE STUDY 3: IRAN-RELATED EXPOSURE

Cyprus-domiciled Santarosa Shipping Company Limited

- Sanctioned vessels, previously owned by subsidiaries in China and Turkey
- Exhibited suspicious activity between Malaysia and China



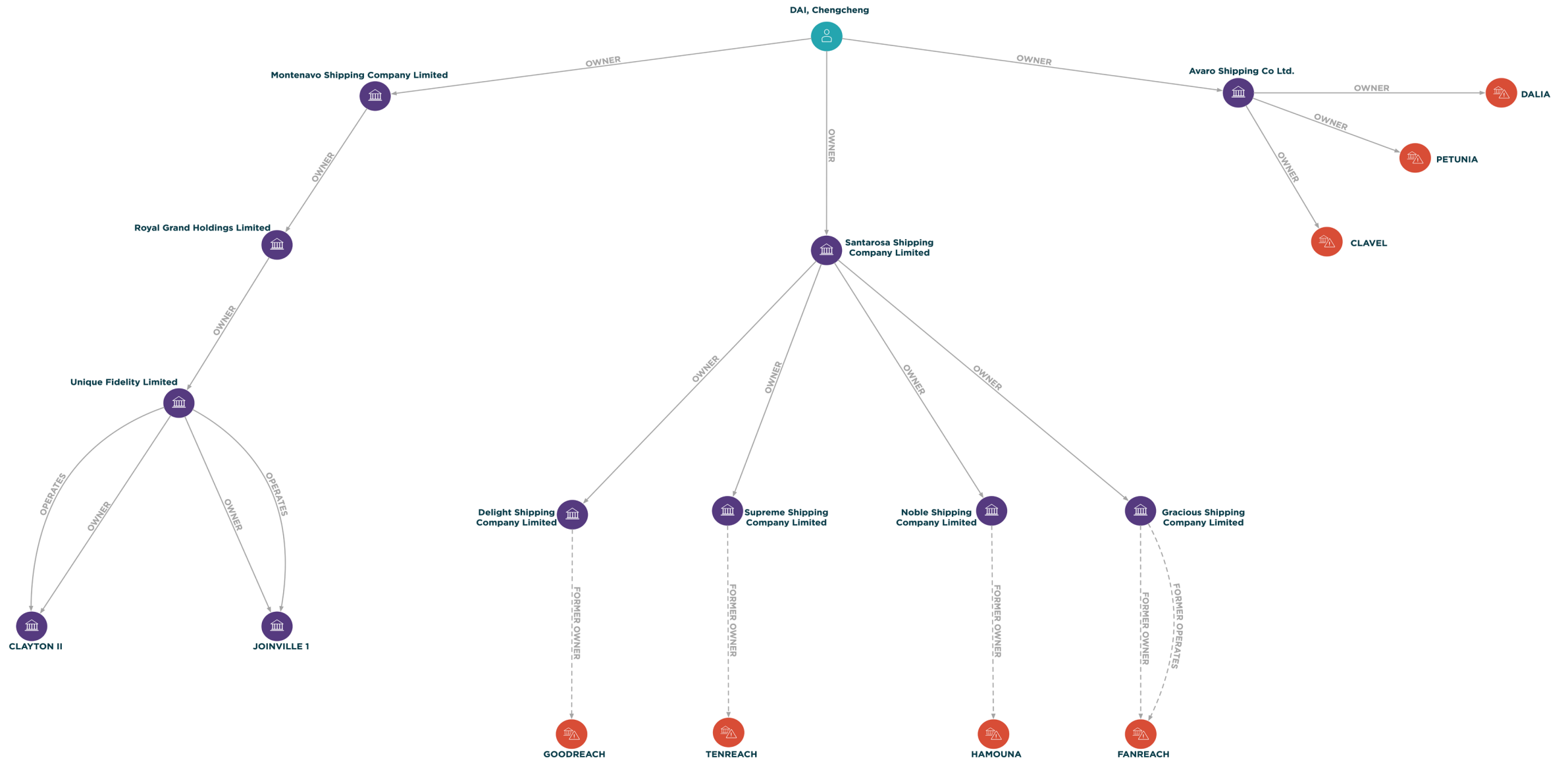
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The *Fanreach* and *Tenreach* vessels carrying IRISL containers

CASE STUDY 3: IRAN-RELATED EXPOSURE



Recent Enforcement Actions: Lessons Learned and Operationalizing Guidance

Panel Discussion

Enforcement Actions

- **American International Group (AIG)** | June 2017 | \$148,698
- **Apple** | November 2019 | \$466,912
- **ACE Limited / Chubb** | December 2019 | \$66,212
- **Allianz Global Risks US Insurance Company** | December 2019 | \$170,535
- **Eagle Shipping International** | January 2020 | \$1,125,000

Thank you



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