



## SCAN-SHIPPING CLIENT ADVISORY – March 9th, 2016

### SOLAS Regulations – Verified Gross Mass (VGM)

Dear Customer,

YES- SOLAS– July 1<sup>st</sup> implementation is still moving forward. Shippers should not misinterpret recent controversial USCG – United States Coast Guard statements to mean IMO regulations will not take effect in a little over three months. Whether the USCG rescinds or clarifies their recent statement is to be determined, however, the stance made by a single US enforcement agency, does not supersede the regulations enacted, after years of deliberation, by the 175 States (countries) who are members of SOLAS <http://www.imo.org/en/About/Membership/Pages/MemberStates.aspx>

Can SOLAS States individually delay their implementation of new VGM rules? The answer is yes, there is verbiage within regulations that seemingly allows for such an action, however, the implication of a single, or a dozen States, taking such a course would result in serious trade implications as the States conforming with IMO rules would be compelled to decline freight en route, or, refuse to load or discharge freight transiting to/from these exceptional States.

Could IMO Secretariats, who represent SOLAS members, propose a delay subject to 175 approvals? The answer is 'maybe' and even a maybe would require careful legal direction. It is clear that necessary and conscionable efforts are being made now to address SOLAS changes. It is understood that had the collective transportation community acted on SOLAS regulation changes when initially disclosed, the world would be in a better position for Jul1-implementation. Still, forward momentum to address these important safety measures is evident as is the deficient number of weeks left to establish and troubleshoot procedures. If in recognition of these difficulties the IMO were able to delay implementation date, by even 3-6 months, to help minimize burdens on supply chains, terminal operations and innumerable other exposures, this would be a beneficial gesture to the transportation community, most specifically cargo-owners who will shoulder the majority of costs and liabilities. However, at time of this post there are no plans whatsoever, by IMO, to stall implementation.

Preparation – Carrier and Terminals Operators are working together through [OCEMA.org](http://www.ocema.org) (a U.S based association comprised of 18 major U.S. and foreign flagged ocean common carriers) due to antitrust considerations, and Carriers and Terminal Operators are moving full steam ahead to adopt procedures that will address the numerous technical requirements and exposures brought on by VGM collection.

Lack of Uniformity - As the clock ticks away, the lack of clear procedures, lack of uniformity between States, and even individual terminals within, is reason for concern;

- Ocean Carriers have indicated freight will not be on-boarded, without VGM, in compliance with VGM procedures and most Terminal Operators indicate freight can be in-gated without VGM. However, other Terminal Operators are stating freight cannot in-gate without a VGM.
- (Some) Terminal Operators have commented that an area will be designated for freight in-gated without VGM and held until documentation is properly updated. Pass through roll-fees, and any other related handling fees would be Shipper's ultimate responsibility are not yet known and will vary by individual terminals. There is talk that these No-VGM Roll surcharges could in fact be greater than a typical roll fee, subject to DMR that could accrue depending on gate-in VS free time. Ocean carriers would need to announce and file such fees with 30 days notification. Shippers should be cognizant of these exposures and ensure the calculation of VGM, and relay of same to the ocean carrier or designated 3<sup>rd</sup> party, is established in an assured SOP well in advance of July 1st.
- Variance – Regulations allow individual States/governments to decide upon an acceptable variance between submitted VGM vs actuals or weight conclusions derived upon arrival. The issue remains a Shipper's freight may load in a State allowing for an example a 5% variance whereas upon arrival, the receiving State only allows for a 2% variance. If cargo is spot checked and exceeds this 2%, a Shipper who has ensured compliance in one State, could be subject to holds and fees by another. At this time specific variances have not been declared by SOLAS States.

Scan-Shipping will continue to monitor SOLAS implementation and provide updates accordingly. Please contact your representative or local Scan-Shipping branch, should you require assistance.