



Guidelines

Relating to the implementation of financial restrictive measures (sanctions)¹ against third countries², entities or individuals

¹ In this guide, the term "sanctions" is used interchangeably with the term "restrictive measures". For the purposes of this guide, these terms shall have the same meaning.

² Non-EU countries.



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General comments:

- The recommendations issued in this guide are to be considered non-exhaustive and of a general nature for the purpose of implementing financial sanctions.
- The recommendations set out in this guide are not legally binding and should not be read as recommending any action, which would be incompatible with applicable European or national laws. The guide is not intended to replace the obligation to consult applicable law. Only the latter is legally binding.
- It therefore follows that the guide shall not substitute applicable law or the handling of individual requests.
- The Ministry of Finance is responsible for keeping the guide up-to-date and invites users to send their suggestions by email to the following address: sanctions@fi.etat.lu
- Users are also invited to communicate by email any difficulties they encounter in the implementation of a financial sanctions regime.
- The guide is available for download from the [Ministry of Finance's website](#), under the International Financial Sanctions section.
- This guide does not specifically address financial restrictive measures imposed within the framework of combating terrorism financing. In respect of such measures, users are asked to refer to the Ministry of Finance's guide entitled "Guidelines relating to the implementation of financial sanctions against certain persons, entities, bodies and groups within the framework of combating terrorism financing", which is also available for download from the [Ministry of Finance's website](#), under the International Financial Sanctions section.
- It is highly recommended to subscribe to the Ministry of Finance's newsletter to receive the latest updates in matters of financial sanctions. The link for subscribing is available on [Ministry of Finance's website](#).
- This guide contains unofficial translations of certain articles of Luxembourg laws from the original French version to English. In case of discrepancies between the French version and its English translation, the French version prevails.



1. Types of financial restrictive measures

Luxembourg differentiates between three financial restrictive measures regimes applicable in Luxembourg:

Restrictive measures at United Nations' level: These relate to restrictive measures put in place by United Nations Security Council Resolutions ("UNSC Resolutions") under chapter VII of the Charter of the United Nations, which countries are required to transpose into their national legislation and implement. With respect to policy areas that fall within the competence of the European Union, the transposition of the UNSC resolutions by the European Union removes the need for national transposition.

Restrictive measures at European level: These are one of the EU's tools to promote the objectives of the Common Foreign and Security Policy (CFSP) and are adopted by an EU CFSP decision. Where such decisions have an impact on policy areas that fall within the competence of the European Union, they are implemented by an EU Council or Commission Regulation. Unlike decisions, which do not provide for direct obligations to be imposed on stakeholders, EU Regulations are directly applicable to Luxembourg and do not require national transposition. They generally enter into force on the day following their publication in the Official Journal of the European Union.

In Luxembourg, the designation of States natural and legal persons, entities or groups appearing on a list annexed to an act of the European Union or of the United Nations and the determination of the restrictive measures in financial matters, which apply, shall be made automatically by reference to that list.³

Restrictive measures at national level: In addition to the automatic transposition into national law of UN and EU designations referred to above, a grand-ducal Regulation may impose restrictive measures against States, natural and legal persons, entities or groups in order to ensure the defence of the national and external security or vital interests of the country.⁴

2. List of the main competent authorities in matters relating to financial sanctions in Luxembourg and self-regulatory bodies⁵

2.1. The Ministry of Foreign and European Affairs, Defence, Development Cooperation and Foreign Trade and in particular the **Directorate for European Affairs and International Economic Relations** are competent for the **coordination of the implementation of international restrictive measures⁶** taken by the United Nations Security Council and/or the European. They work together with other national authorities responsible for the implementation of restrictive measures.

⇒ **Contact details: Ministry of Foreign and European Affairs, Defence, Development Cooperation and Foreign Trade**

Directorate for European Affairs and International Economic Relations
9, rue du Palais de Justice

³ Art. 4(2) of the Law of 19 December 2020.

⁴ Art. 5 of the Law of 19 December 2020

⁵ Art.6 of the Law of 19 December 2020.

⁶ [Internal regulation of the Government.](#)



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Tel: (+352) 247-82300
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Website: <https://mae.gouvernement.lu/en.html>

2.2. The **Ministry of Finance** is the competent authority for all matters relating to the implementation of financial sanctions. Such competence includes in particular (a) dealing with any questions regarding the implementation of financial restrictive measures from the natural and legal persons, entities or groups targeted, as well as from natural and legal persons called upon to apply them; (b) dealing with any questions and disputes regarding homonyms⁷; (c) dealing with any questions and disputes regarding unintended consequences of the financial restrictive measures on assets; and (d) exceptionally granting authorisations exempting from the imposed prohibitions and restrictive measures. In addition, (e) the Ministry of Finance may inform natural and legal persons of the implementation of prohibitions and restrictive measures via its website⁸.

⇒ **Contact details: Ministry of Finance**

Directorate for Multilateral Affairs, Development and Compliance
3, rue de la Congrégation
L-2931 Luxembourg
Tel: (+352) 247 82656
Fax: (+352) 46 62 12
Email: sanctions@fi.etat.lu
Website: <https://mfin.gouvernement.lu/en/dossiers/sanctions-financieres.html>

⇒ **Who can contact the Ministry of Finance in matters of financial sanctions implementation?**

- (i) Any natural or legal person of Luxembourg nationality, residing in Luxembourg or operating from Luxembourg or from abroad and their lawyers⁹;
- (ii) All natural or legal person of foreign nationality or who do not reside in Luxembourg but whose assets have been frozen in Luxembourg, and their lawyers.¹⁰

2.3. The **Commission de Surveillance du Secteur Financier ("CSSF")** is competent for the **prudential supervision** of persons of the financial sector falling under the scope of its competences. On the basis of article 33, paragraph 2 of CSSF Regulation no. 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing, as modified, these persons are required to keep the CSSF informed when persons, entities or groups involved in a transaction or business relationship subject to restrictive measures in financial matters are identified. These persons must, among others, apply without delay the required restrictive measures and inform the authorities competent for financial sanctions. The "Financial crime" section of CSSF's website contains useful information on this matter.

⇒ **Contact details: Commission de Surveillance du Secteur Financier**

283, route d'Arlon

⁷ As regards the matter of homonyms, please refer to the "Lists – Databases" section.

⁸ Art. 6(1) of the Law of 19 December 2020.

⁹ The Ministry of Finance may request a copy of the mandate.

¹⁰ Idem.



L-1150 Luxembourg
Tel: (+352) 26 25 1 – 1
Fax: (+352) 26 25 1 – 2601
Email: direction@cssf.lu
Website: www.cssf.lu

- 2.4.** The **Commissariat aux Assurances ("CAA")** is the supervisory authority responsible for the supervision of natural and legal persons falling within its competence for the purposes of the implementation of the Law of 19 December 2020 on the implementation of restrictive measures in financial matters. In accordance with article 2(2) and article 31 of the CAA Regulation 20/03 dated 30 July 2020 on the fight against money laundering and terrorism financing, these persons have to apply financial restrictive measures and inform without delay the competent authorities in financial sanctions matters. A copy of this reporting has to be addressed to the CAA.

⇒ **Contact details: Commissariat aux Assurances**

11, rue Robert Stumper
L-2557 Luxembourg
Tel: (+352) 22 69 11 – 1
Fax: (+352) 22 69 10
Email: caa@caa.lu
Website: www.caa.lu

- 2.5.** The **Administration de l'enregistrement, des domaines et de la TVA ("AED")** is the supervisory authority in charge of specific categories of persons referred to in article 1 of the Law of 10 August 2018, as amended.

⇒ **Contact details: Administration de l'enregistrement, des domaines et de la TVA**

1-3, avenue Guillaume
L-1651 Luxembourg
Tel: (+352) 247-80800
Fax: (+352) 247-90400
Email: info@aed.public.lu
Website: <https://pfi.public.lu/>

- 2.6.** The **Institut des réviseurs d'entreprises ("IRE")**: Following the article 6 paragraph (2) and (5) of the Law of 19 December 2020 on the implementation of restrictive measures in financial matters, the IRE is responsible for the supervision of the persons falling within its competence for the purposes of the implementation of this Law. The IRE has the same powers as those attributed to them by articles 8-2a, 8-10, 8-11, 8-12 and 8-13 of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended. Following the article 6 paragraph 1 of the above-mentioned Law, persons falling within the competence of the IRE who are required to implement the restrictive measures provided for in this Law shall inform the Finance Minister of the execution of each restrictive measure taken in respect of a State, natural or legal person, entity or group designated in accordance with this Law and the implementing regulations, including attempted transactions. For the purposes of implementing this Law, the Finance Minister is competent to deal with matters relating to the enforcement of financial restrictive measures on the part of the persons obliged to apply them and falling within the competence of the IRE.



⇒ **Contact details: Institut des réviseurs d'entreprises**

7, rue Alcide de Gasperi
L-1615 Luxembourg
Postal address: B.P. 2056 L-1020 Luxembourg
Tel: (+352) 29 11 39 1
Email: contact@ire.lu
Website: www.ire.lu

- 2.7. The Ordre des Experts-comptables ("OEC"):** Following the article 6 article (1) of the Law of 19 December 2020 on the implementation of restrictive measures in financial matters, persons falling within the competence of the OEC and who are obliged to apply restrictive measures provided by the above mentioned Law, shall inform the Finance Minister of the execution of each restrictive measure taken in respect of a State, natural or legal person, entity or group designated in accordance with this Law and the implementing regulations, including attempted transactions. For the purposes of implementing this Law, the Finance Minister is competent to deal with matters relating to the enforcement of financial restrictive measures on the part of the persons obliged to apply them and falling within the competence of the OEC.

Following the article 6 paragraph (2), the OEC is responsible for the supervision of the persons falling within its competence for the purposes of the implementation of this Law. This supervision is performed by a specific control of the compliance with professional obligations in AML/CFT matters. During these controls and in case of detection of persons, entities or groups involved in a transaction or in a business relationship subject to prohibitions or restrictive measures in financial matters, it is verified that the professional has informed the Ministry of Finance.

Following the article 6 paragraph (5) of the above mentioned Law, the OEC has the same powers as those attributed to them by articles 8-2a, 8-10, 8-11, 8-12 and 8-13 of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.

The section "LBC/FT" of the OEC website contains useful information on this matter.

⇒ **Contact details: Ordre des Experts-Comptables**

7, rue Alcide de Gasperi
L-1615 Luxembourg
Tel: (+352) 29 13 33
Email: contact@oec.lu
Website: www.oec.lu

- 2.8. The Ordres des avocats** established by the Law of 10 August 1991 on the legal profession are the self-regulatory bodies responsible for the supervision and the control of lawyers, as defined in article 2 (9) d) of the Law of 19 December 2020. Since the entry into force of the Law of 19 December 2020 on the implementation of restrictive measures in financial matters, the Ordres des avocats have additional powers of supervision and sanctions, coherent with those in the Law of 12 November 2004, as amended. To this end, they ensure an effective monitoring of the implementation of financial restrictive measures by the lawyers and take the necessary measures to that end.

⇒ **Contact details: Ordre des avocats du Barreau de Luxembourg**

2A, boulevard Joseph II
L-1840 Luxembourg



Tel: (+352) 46 72 72-1
Fax: (+352) 22 56 46
Email: aml@barreau.lu
Website: <https://www.barreau.lu>

2.9. The **Chambre des Notaires** is the self-regulatory body defined in the article 2 (9) (c) of the Law of 19 December 2020 on the implementation of restrictive measures in financial matters. The Chambre des Notaires shall be responsible for the supervision of the persons falling within its competence for the purposes of the implementation of this Law (art.6 (2)).

⇒ **Contact details: Chambre des Notaires du Grand-Duché de Luxembourg**
53, boulevard Joseph II
L-1840 Luxembourg
Tel: (+352) 44 70 21
Fax: (+352) 45 51 40
Email: info@notariat.lu
Website: <http://www.notariat.lu/>

2.10. The **Chambre des huissiers de justice** referred to in Chapter VIII of the Law of 4 December 1990 on the organisation of the court bailiffs, as amended, is the self-regulatory body responsible for the supervision of the bailiffs for the purposes of the implementation of restrictive measures in financial matters.

⇒ **Contact details: Chambre des huissiers de justice**
1, rue Nicolas Simmer
L-2538 Luxembourg
Tel: (+352) 44 13 33 1
Email: conseil@huissier.lu
Website: www.huissier.lu

⇒ **Please note:** By way of additional information, it should be noted that although it is not a competent authority for cases relating to financial sanctions, the *Office du contrôle des exportations, importations et du transit (OCEIT)* in the Ministry of Foreign and European Affairs is the competent authority controlling the export, transfer, transit and import of goods of a strictly civil nature, defence-related products and dual use goods; brokering and technical assistance¹¹; intangible transfers of technology of these items and the implementation of restrictive measures on commercial matters relating to these goods, laid down by the European Union against certain states, , natural or legal persons, entities or groups.

⇒ **Contact details: Ministry of Foreign and European Affairs– *Office du contrôle des exportations, importations et du transit (OCEIT) (previously Office des licences)***
9, rue du Palais de Justice

¹¹ **Technical assistance** ⇒ Any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance. Also see the "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", Section III (Standard wording for legal instruments), paragraph 59.

<https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf>



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3. Financial Intelligence Unit ("FIU")

The FIU¹² is the national authority responsible¹³ for receiving and analysing suspicious transaction reports and other information regarding suspicious facts that might amount to money laundering, associated predicate offences or terrorism financing. It has the necessary authority and capacity to freely carry out its functions, including the autonomous decision to analyse, request and disseminate specific information to the services and authorities which are competent for fighting money laundering and terrorist financing.

The obligation to report, without delay, all suspicious transactions to the FIU is based, in particular, on article 5, paragraph (1) a) of the Law of 12 November 2004, as amended, on the fight against money laundering and terrorism financing.

According to these provisions, *“The professionals, their directors (dirigeants, members of the authorised management) and employees are obliged to cooperate fully with the Luxembourg authorities responsible for the fight against money laundering and terrorist financing “and self-regulatory bodies, [...] are required to: inform promptly, on their own initiative, the Financial Intelligence Unit (...) when they know, suspect or “have reasonable grounds to suspect that money laundering, an associated predicate offence or terrorist financing” is being committed or has been committed or attempted, in particular in consideration of the person concerned, its development, the origin of the funds, the purpose, nature and procedure of the operation. This report must be accompanied by all supporting information and documents having prompted the report. “All suspicious transactions, including attempted suspicious transactions, shall be reported, regardless of the amount of the transaction.” The obligation to report suspicious transactions shall apply regardless of whether those filing the report can determine the predicate offence.”*

It should be noted that the obligation to report suspicious transactions set forth in paragraph 1, point (a) shall also apply, since the entry into force of the Law of 20 July 2022 relating to the creation of the committee supervising restrictive measures in financial matters, where they know, suspect or have reasonable grounds to suspect that the non-compliance with the restrictive measures in financial matters as laid down under article 10 of the modified Law of 19 December 2020 relating to the implementation of restrictive measures in financial matters is being committed or has been committed or attempted.

Moreover, in accordance with the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, the Financial Intelligence Unit has the authority to *freeze*¹⁴ the

¹² See Articles 74-1 et seq of the [Law of 7 March 1980, as amended](#), on the organisation of the judicial system.

¹³ Idem.

¹⁴ Unofficial translation of the term “blocage” which is different of freezing (“gel”) in the context of restrictive measures.



assets and give the instruction not to carry out the operations relating to the transaction or the customer to the professionals¹⁵. Following the updates introduced by the Law of 10 August 2018 concerning the organization of the Financial Intelligence Unit, the FIU *freezing* instruction is no longer limited in time. It should also be noted that the FIU *freezing* instruction is possible even in the absence of a suspicious transaction report.¹⁶

⇒ **Contact details: Cellule de Renseignement financier (*Financial Intelligence Unit*)**

Postal address: L-2080 Luxembourg

Tel: (+352) 2473-2447

Email: crf@justice.etat.lu

Website: <https://justice.public.lu/fr/organisation-justice/crf.html>

4. **Obligation to cooperate with the authorities¹⁷**

Natural and legal persons who have to apply financial restrictive measures are obliged to cooperate with the national authorities responsible for implementing these measures. They have to provide the national competent authorities with any information, which may be relevant such as, among other things, details pertaining to any accounts frozen, data on the identity of designated persons, details of incoming transfers resulting in the crediting of a frozen account, attempts to circumvent existing financial sanctions and cases of homonyms.

The national authorities may use the information they receive only for the purposes for which it was provided, namely ensuring the effective implementation of the restrictive measures. Such implementation also involves sustained cooperation with international and transnational authorities such as the European Commission, the Council of the European Union, the EEAS¹⁸, the relevant United Nations sanctions committees, the competent authorities of other Member States and police, customs and legal authorities.¹⁹

5. **Value and binding nature of the various legal acts imposing financial sanctions**

5.1. **UNSC resolutions – CFSP Decisions**

UNSC Resolutions or CFSP Decisions are binding standards for Member States.

⇒ **Please note:** The designation of States, natural and legal persons, entities or groups appearing on a list annexed to an act of the European Union or of the United Nations and the determination of the restrictive measures in financial matters, which apply, shall be made automatically by

¹⁵ Law of 12 November 2004, Article 5. (Cooperation requirements with “the FIU,” “the authorities “and “the self-regulatory bodies”), paragraph 3a, (“The provisions of paragraph 1, point (b) and paragraph 3 apply even in the absence of a suspicious transaction report made by the professional according to paragraph 1, point (a) and paragraph 1a).”

¹⁶ <https://justice.public.lu/fr/organisation-justice/crf.html>.

¹⁷ See also section on “Obligation to freeze, without delay, funds and economic resources”.

¹⁸ The European External Action Service (<http://www.eeas.europa.eu/>).

¹⁹ See “Restrictive Measures (sanctions): Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Restrictive Financial Measures) – IV (Role of economic operators and citizens), paragraph 41; V (Use of information by competent authorities), paragraphs 42 and 43.



reference to that list. This reference also applies to States, natural and legal persons, entities or groups included in these lists under the European Union's police and judicial cooperation in criminal matters.²⁰

Natural and legal persons who are required to implement the restrictive measures may consult the UNSC Resolutions on the following website:

<https://www.un.org/securitycouncil/content/resolutions-0>

CFSP Decisions are available on the following websites:

<https://eur-lex.europa.eu/homepage.html?locale=en> and <https://www.sanctionsmap.eu/#/main>

5.2. EU Regulations

An EU Regulation is a rule that is binding on citizens of the EU and/or natural or legal persons residing, having their registered office in the EU or operating in or from EU territory. An EU Regulation is binding in its entirety and directly applicable in all Member States without need for transposition into national law by the national authorities.

The relevant EU Regulations may be consulted on the following websites:

<https://eur-lex.europa.eu/homepage.html?locale=en>²¹

and

<https://www.sanctionsmap.eu/#/main>

5.3. Laws/Grand-Ducal Regulations

A law or Grand-Ducal Regulation, issued to implement a law, becomes effective following its publication in the Official Gazette.²² They are applicable to citizens of Luxembourg, both natural and legal persons, and any other natural or legal person operating in or from Luxembourg.

The laws and Grand-Ducal Regulations can be consulted on the following website:

<http://legilux.public.lu/>

Natural and legal persons who are required to implement the restrictive measures may as well consult the websites of the [Ministry of Finance](#) and of the [CSSF](#).

5.4. No retroactivity

EU Regulations, laws and Grand-Ducal Regulations have no retroactive effect.

6. Territoriality clause of EU Regulations

²⁰ Art. 4(2) of the Law of 19 December 2020.

²¹ See also Section 13. Lists – Databases for consolidated lists of financial sanctions targets.

²² The law or the Grand-Ducal Regulation will enter into force four full days after its publication, unless it states a longer or shorter deadline.



EU Regulations should apply only in situations where links exist with the EU. The European Union will refrain from adopting legislative instruments that, having extra-territorial application, would be in breach of international law. In general, EU Regulations shall apply:²³

- Within the territory of the European Union, including its airspace²⁴.
- On board of any aircraft or any vessel under the jurisdiction of a Member State. It therefore follows that natural and legal persons, entities or groups falling within the scope of the EU Regulation and which own or control vessels or aircraft registered outside the European Union must make every effort to ensure that such vessels or aircraft comply with the EU Regulations.
- To any person inside or outside the territory of the European Union who is a national of a Member State.
- To any legal person, entity or group, within or outside the European Union, which is incorporated or constituted under the law of a Member State.
- To any legal person, entity or group in respect of any business concluded in whole or in part within the European Union. It follows that any non-European legal person, entity or group established in a non-European country must apply EU Regulations in respect of any business carried out in whole or in part within the European Union. Any other interpretation would mean allowing the non-European entity to conduct a transaction in the EU that is prohibited to EU citizens.

On the other hand, entities subject to the law of a country outside the EU and established outside the EU shall not be bound by EU Regulations. That said, where the registered office of such entities is established in the EU and where such entities are acting under the direction of such registered office, the latter may be held liable.

7. Various language versions

The Court of Justice of the European Union ("CJEU") considers that the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision, or be made to override the other language versions in that regard.²⁵

The interpretation of a provision of EU law must take into account the context, the objects, the purpose and the wording of the rules of which it forms part.²⁶

8. Fight against money laundering and terrorism financing and financial sanctions

²³ Also see the "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", Section II-J (Jurisdiction), paragraphs 51 and 52.

²⁴ **Territory of the Union** ⇒ The Territory of the Union means the territories of the Member States to which the Treaty on European Union and the Treaty on the Functioning of the European Union is applicable, under the conditions laid down in the treaties, including the airspace of the Member States. Territories that are expressly excluded by the Member States are outside the territory of the Union and are listed in the corresponding annex of the abovementioned treaties. As a result these territories do not have to implement EU Regulations.

²⁵ CJEU, 5 December 1967, Van de Vecht, 19/67.

²⁶ CJEU, 21 February 1984, St. Nikolaus Brennerer, 337/82, ECR 1051, point 10, CJEU 17 October 1995, Leifer and others, C-83/94, ECR I-3231, point 22.



Although there are areas of convergence between the legal provisions on the fight against money laundering and terrorism financing, (AML/CFT) and the legal provisions relating to financial sanctions, it is important to bear in mind that the legislation and obligations are not identical.

In short, the AML/CFT legal provisions impose identification (*know your customer*), customer due diligence and risk assessment requirements on professionals in order to ensure that funds originating from and/or received by their clients are not proceeds of a criminal activity or being used to finance terrorism/terrorists.

However, in implementing the financial sanctions' legislation, natural and legal persons who are required to implement them are required to prevent the circumvention of financial sanctions that would result in funds or economic resources being made available to a designated natural or legal person, entity or group.

It should be noted that the funds in question **may** be the proceeds of an entirely legitimate activity.²⁷

It therefore follows that IT or other systems put in place in order to detect activities that may constitute a money laundering or terrorism financing offence may not always suffice to detect breaches of financial sanctions legislation and vice versa. The legislation relating to financial sanctions may therefore impose additional obligations on natural and legal persons who are required to implement them with respect to the identification of the parties to a transaction and the monitoring of such transactions.

By the same reasoning, the verification of, by means of example, a Politically Exposed Persons (PEP) database, may not necessarily allow to detect a possible breach of financial restrictive measures.

9. Technical and IT issues

The obligation to implement financial sanctions shall remain in force even in the event of technical or IT issues and such issues cannot justify the breach of financial restrictive measures.

The Ministry of Finance recommends that it is notified as soon as possible of any issues that may be encountered, whether technical or IT-related, when implementing a financial sanctions regime so that the Ministry may assess each situation on a case-by-case basis to determine the appropriate course of action, which may include changes to procedures or to applicable legislation.

10. Remedies

10.1. Non-contentious remedies – Requests for de-listing

²⁷ If, on the other hand, there are reasonable grounds to suspect that money laundering, an associated predicate offence or terrorist financing is being committed or has been committed or attempted, then the professional must submit a suspicious transaction report to the Financial Intelligence Unit. This obligation is additional to the one of freezing the funds and notifying the competent authorities of such asset freeze.



Existing legal texts	Delisting procedure	Who to contact
EU Regulation and Council Decision	✓	EU Council General Secretariat 175, rue de la Loi B-1048 Brussels – Belgium sanctions@consilium.europa.eu
UNSC resolutions ²⁸	✓	Focal Point for De-listing²⁹ Security Council Subsidiary Organs Branch Room DC2 2034 United Nations New York, N.Y. 10017 United States of America Tel: +1 917 367 9448 Fax: +1 917 367 0460 Email: delisting@un.org https://www.un.org/securitycouncil/sanctions/delisting *Petitioners may submit de-listing requests either through the focal point process outlined in resolution 2744 (2024) , or through their State of residence or citizenship. *If a person is removed from the UN sanctions list, relevant amendments are made to the corresponding legal acts of the EU.
Luxembourg grand-ducal Regulation	✓	Ministry of Finance Directorate of Multilateral Affairs, Development and Compliance 3, Rue de la Congrégation L-2931 Luxembourg Email: sanctions@fi.etat.lu

10.2. Contentious remedies

10.2.1. Against an EU Regulation

Court of Justice of the European Union
L-2925 Luxembourg

²⁸ With the exception of Resolutions 1989 (2011), 1267 (1999), 2253 (2015) ; in respect of these Resolutions, please refer to the "Best practices guide relating to the implementation of financial sanctions against certain persons, entities, bodies and groups within the framework of combating terrorism financing", which is also available for download from the [Ministry of Finance's website](#).

²⁹ Established pursuant to Resolution 1730 (2006) of the Security Council, with the procedure for de-listing being subsequently amended pursuant to Resolution 2755 (2024).



Tel. switchboard: (+352) 4303-1

Fax: (+352) 4303-2600

http://curia.europa.eu/jcms/jcms/Jo2_7022/en/

An application for the annulment of an act imposing financial restrictive measures is heard in the General Court of the EU. An appeal to the judgment of the General Court is heard by the CJEU.

It should be noted that the annulment of the acts imposing restrictive measures (against a person, entity, group or body) does not take effect immediately after the judgment made by the General Court unless explicitly stated in the judgment. The effects of any acts that have been annulled in the first instance are maintained until expiry of the period for bringing an appeal (two months and ten days from notification of the judgment). During that period, the competent EU institution can remedy the infringements established and adopt new restrictive measures with respect to the natural and legal persons, entities or groups concerned by the annulment. Alternatively, the competent institutions can appeal, in which case the restrictive measures remain in full force pending the outcome of the appeal. After the aforementioned period of two months and ten days, if the EU institution does not bring an appeal and if the infringements established by the General Court are not remedied, the restrictive measures against this person or entity will end.³⁰

10.2.2. European Union Legal Aid

In order to ensure effective access to justice, legal aid shall be granted for proceedings before the General Court of the European Union. Legal aid shall cover, in whole or in part, the costs involved in legal assistance and representation by a lawyer in proceedings before the General Court. The cashier of the General Court shall bear those costs. Any natural person who, because of their financial circumstances, is wholly or partly unable to meet the costs referred to above shall be entitled to legal aid. Their financial circumstances shall be assessed, taking into account objective factors such as income, capital and the family situation. Legal aid shall be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded.

An application for legal aid may be made before or after the action has been brought before the General Court. The application needs not be made through a lawyer.

The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial circumstances, such as a certificate issued by the competent national authority attesting to his financial circumstances.

If the application is made before the action has been brought before the Court, the applicant must briefly state the subject matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents to that end.

Further information is available on the following website:

https://curia.europa.eu/jcms/jcms/Jo2_7039/en/

³⁰ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section A (Designation and identification of persons and entities subject to targeted restrictive measures), III (De-listing), paragraph 22.



10.2.3. Against a Grand-Ducal Regulation

An application for the annulment of an act imposing financial restrictive measures following a designation under the national regulation is heard in the “Tribunal Administratif”. An appeal to the judgment of the “Tribunal Administratif” is heard by the “Cour Administrative”. *“The recourse has no suspensive effect unless the president of the Tribunal or the judge who replaces him decides otherwise.”*³¹ It should also be noted that *“[...], during the delay for appeal and during the instance of appeal, the execution of judgements annulling or reforming contested decisions is suspended”*.³² The time limit for recourse is three (3) months starting from the publication of the legal act or in the event of no publication, starting from the date of the notification to the applicant or the date the applicant was informed.³³

Applications for authorisation³⁴ and other applications

10.3. Procedure

In accordance with the Article 6 (1) of the Law of 19 December 2020, *“[...] the Minister responsible for Finance is competent to deal with matters relating to the enforcement of financial restrictive measures on the part of the natural and legal persons, entities and groups concerned, as well as on the part of the natural and legal persons obliged to apply them. The Minister responsible for Finance is also competent to exceptionally issue authorisations derogating from the prohibitions and restrictive measures imposed if the resolutions and acts referred to in article 1 allow such derogations and under the conditions provided for therein.”*

Applications for authorisation in accordance with the exemptions specifically provided for under European and/or national legislation, as well as any queries regarding implementation of international financial sanctions should be sent by email to sanctions@fi.etat.lu or by mail to Ministry of Finance, Directorate of Multilateral Affairs, Development and Compliance, 3, rue de la Congrégation, L-1352 Luxembourg. Once the application is submitted, the Ministry of Finance shall acknowledge receipt thereof to the applicant.

⇒ **Please note:** Concerning authorisations issued by the *OCEIT*, further information can be found on the following website:

<https://guichet.public.lu/fr/entreprises/marche-international/licences.html>

³¹ Unofficial translation of the article 11(1) of [the Law of 21st June 1999](#) on procedural rules before administrative courts. The French text reads as follows : « *Le recours n’a pas d’effet suspensif s’il n’en est autrement ordonné par le président du tribunal ou par le juge qui le remplace.* »

³² Unofficial translation of the article 45 of [the Law of 21st June 1999](#) on procedural rules before administrative courts. The French text reads as follows : « *Pendant le délai et l’instance d’appel, il est sursis à l’exécution des jugements ayant annulé ou réformé des décisions attaquées.* »

³³ Unofficial translation of the article 16 of [the Law of 21st June 1999](#) on procedural rules before administrative courts. The French text reads as follows : « *Le délai d’introduction est de trois mois à partir de la publication de l’acte attaqué ou, à défaut de publication, de la notification ou du jour où le requérant en a eu connaissance.* »

³⁴ Certain legal provisions may provide for the requirement to submit prior notification and not the requirement to obtain prior authorisation. The procedure set out in section 9 of this guide shall also apply, mutatis mutandis, to prior notifications.



10.4. Processing time

The Ministry of Finance shall notify applicants of its decision as soon as possible. However, the processing time depends on the complexity of the application and the status of the case. Incomplete applications will not be processed until all required paperwork is received. Furthermore, depending on the complexity of the case, additional consultations within the relative government departments and with the European Commission Services are often necessary.

10.5. Supporting documents/forms

With respect to applications for authorisation concerning transfers of frozen funds and/or any related notifications, users are asked to use the form available for download from the [Ministry of Finance's website](#), under the International Financial Sanctions section.

10.6. Expenses in respect of applications

The costs of processing applications for authorisation shall be borne by the Ministry of Finance.

10.7. Can a copy of the authorisation be sent to third parties?

Notwithstanding the applicable rules concerning confidentiality and professional secrecy, applicants may transfer a copy of the authorisation to third parties that have an apparent connection with the transaction. The Ministry of Finance should be consulted prior to forwarding the document to party entities that have no obvious connection with the transaction (for example, foreign government authorities). In case of any doubt, the Ministry of Finance should also be consulted.

10.8. Modification and validity of an authorisation

Authorisations are issued on the basis of the information and documents submitted during the application process. It follows that applicants are required to a) keep the Ministry of Finance informed of any changes that are likely to alter the assessment parameters on the basis of which the authorisation was issued and (b) where necessary, submit a new application with all of the necessary and/or useful supporting documents and information. If the authorisation is issued on the basis of information that proves to be false, the authorisation shall be considered null and void. In the event of a change in circumstances on the basis of which the authorisation has been issued, the Ministry of Finance may withdraw or amend the authorisation.

10.9. Removal from the financial sanctions lists of a person and/or entity for which the authorisation has been issued

In the event of the removal from the financial sanctions lists of a person and/or entity for which the authorisation has been issued, it shall no longer be necessary to request authorisation to perform transactions involving such person and/or entity. The authorisation shall therefore expire on the date of actual removal from the list.³⁵ It is recommended to keep a copy of the authorisation and any

³⁵ See also the "Remedies" section.



documentation relating thereto in the event of inspections or queries relating to the period during which the authorisation was still valid.

10.10. What should I do if an authorisation is refused?

The Ministry of Finance shall provide reasons for its refusal. In the event of refusal, the applicant is strictly prohibited from carrying out the underlying transactions. If, however, the applicant would like the Ministry of Finance to reconsider its decision, it must provide an analysis on the basis of new facts and information and submit any relevant documentation.

10.11. Miscellaneous

It is important to notify the Ministry of Finance of any cases of emergency circumstances (for example, humanitarian emergency³⁶).

A duly formulated application for authorisation within the context of a specific financial sanctions regime does not exempt the applicant from the requirement to submit prior notification or obtain prior authorisation, which might be provided for in other legislation, not relating to financial sanctions, whether at national or European level.

The authorisation procedure does not negate the need for ordinary procedures to determine the validity of claims against a designated person or entity, and an authorisation does not confer title.³⁷

Applications or queries relating to financial sanctions imposed by other Member States or third countries do not fall under the competencies of the Luxembourg Ministry of Finance; applicants should therefore contact the competent authorities of such Member States or third countries.

Lastly, it should be noted that should an entity be licensed by a Luxembourg or foreign authority, it does not mean that such entity cannot be subject to financial sanctions.

11. Problematic business relationships and transactions

⇒ **Please note:** Where at least one party to the transaction is listed³⁸, a transaction is deemed problematic, regardless of whether such party is acting as the principal or agent for the purposes of the transaction.

³⁶ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial restrictive measures), XI (Guidance when considering requests for exemption), paragraph 91.

³⁷ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), XI (Guidance when considering requests for exemptions), paragraph 86.

³⁸ The term "listed" referring to persons, groups, entities and bodies is used interchangeably with the term "designated". For the purposes of this guide, these terms shall have the same meaning.



11.1. Examples of (potentially) problematic transactions³⁹

Example 1: The beneficiary is a citizen of a sanctioned country. No other party to the transaction has connections with a sanctioned country and no party is designated.

Overview

	PARTIES TO A TRANSACTION ⁴⁰			
	Beneficiary	Payer	Agent	Intermediary
Connections with a sanctioned country ⁴¹	Yes	No	No	No
Listed	No	No	No	No

The transaction could be problematic.

If a person is connected, by way of their nationality or residence, to a sanctioned country, it does **not necessarily follow** that the transaction in question **will not be in compliance** with the legal provisions (EU Regulations and other provisions).

Consequently, the natural and legal persons who are required to implement the restrictive measures must check whether the restrictive regime in force requires the submission of an application for authorisation to the Ministry of Finance prior to execution of the transaction in question.

Furthermore, the natural and legal persons must make sure that the transaction is not used to make funds, assets or economic resources directly or indirectly available to a listed individual.

In case of any doubt with respect to the compliance of the transaction with the legal provisions, please contact the Ministry of Finance **without delay**.

Example 2: The payer is a **citizen** of a sanctioned country **and is designated**. No other party to the transaction has connections with a sanctioned country and no other party is designated.

	Beneficiary	Payer	Agent	Intermediary
Connections with a	No	Yes	No	No

³⁹ The tables below illustrate examples of (potentially) problematic business relationships and shall not substitute the legal provisions in force or the requirement to assess transactions on a case-by-case basis based on relevant information relating to the parties and/or the assets concerned. In case of any doubt, the transaction shall be suspended and the competent authorities informed **without delay**.

⁴⁰ The parties to a transaction may vary according to the applicable regulatory text. In these examples, we refer to a standard transaction structure (beneficiary, payer, agent, intermediary).

⁴¹ By way of residence or nationality.



sanctioned country				
Listed	No	Yes	No	No
<p>The transaction is problematic.</p> <p>It is essential to consult the applicable legal provisions and to ensure compliance with the legal provisions concerning, in particular, (i) the freezing of funds and other assets and economic resources; (ii) the prohibition of directly or indirectly making funds, other assets or economic resources available; (iii) the notification of asset freezes to the Ministry of Finance; and (iv) prior notification and/or authorisation requirements for the release of the assets in question.</p>				

Example 3: The beneficiary **resides** in a sanctioned country but is **not designated**, while the beneficiary's agent is a **citizen** of the same country and is a **designated individual**.

	Beneficiary	Payer	Agent	Intermediary
Connections with a sanctioned country	Yes	No	Yes	No
Listed	No	No	Yes	No
<p>The transaction is problematic.</p> <p>It is essential to consult the applicable legal provisions and to ensure compliance with the legal provisions concerning, in particular, (i) the freezing of funds and other assets and economic resources; (ii) the prohibition of directly or indirectly making funds, other assets or economic resources available; (iii) the notification of asset freezes to the Ministry of Finance; and (iv) prior notification and/or authorisation requirements for the release of the assets in question.</p>				

11.2. "Red flag" indicators of potentially problematic transactions (By way of example only)

1. The transaction is inconsistent with the customer's profile;
2. The structure is not very clear (for example, there are a significant number of intermediary companies for which there appears to be no logical business or economic purpose: ⇒ could these be front companies?);



3. The financial transaction is split into smaller transactions in amounts below the threshold triggering prior notification or authorisation requirements (“smurfing”);
4. The customer fails to provide information on the economic purpose and/or the parties to the transaction and/or the associated documentation (contracts, invoices, identity documents, etc.);
5. The beneficiary receives the funds in a country which is not their country of residence;
6. Moneys are made available by the payer in a country which is not their country of residence;
7. One or more of the parties to the transaction are listed by a third country;
8. The beneficiary receives the funds on an account with a banking institution located outside of his/her country of residence;
9. One or more parties to the transaction are acting on behalf of or under the direction/control of a listed individual;
10. The transaction involves banks located in non-sanctioned countries but through which funds are transferred to sanctioned countries.

11. Freezing of funds and economic resources

11.1. Funds, economic resources; freezing and making them available - Definitions, scope of application and examples

⇒ Please note: Except if otherwise indicated in the text, the definitions below are based on standard definitions. Only the applicable legal provisions are binding.

Funds ⇒ “funds” means financial assets and benefits of every kind, including but not limited to:

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- (d) interest, dividends or other income on or value accruing from or generated by assets;
- (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading, bills of sale;
- (g) documents evidencing an interest in funds or financial resources.⁴²

Freezing of funds ⇒ “freezing of funds” means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount,

⁴² Also see the "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", Section III (Standard wording for legal instruments), paragraph 60.



location, ownership, possession, character, destination or other change that would enable the use of the funds, including portfolio management.⁴³

Economic resources ⇒ “economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services.⁴⁴

Freezing of economic resources ⇒ “freezing of economic resources” means preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.⁴⁵

Entry into force of the asset freeze ⇒ The existing legislation shall determine whether transactions initiated prior to the entry into force of financial sanctions shall be carried out. In the absence of any specific provision, transactions shall be frozen, even if they were initiated before the entry into force of the financial sanctions. Any contractual provision to the contrary shall be null and void.⁴⁶

Making funds and economic resources available to listed persons ⇒ Making funds and economic resources available can take several forms and has been broadly interpreted by the CJEU. For example, economic resources can be made available by way of payment for goods and services, as a donation, in order to return funds previously held under a contractual arrangement, and as a swap. The fact that economic resources are made available against payment of a consideration, which may be regarded as adequate, is therefore irrelevant.⁴⁷ In case of doubt, the Ministry of Finance must be contacted.

Making funds or economic resources indirectly available to listed persons ⇒ In order to establish whether funds have been made indirectly available, one must first determine whether there is “ownership”, “possession” or “control”.⁴⁸ If this is the case, making funds or economic resources available to non-listed entities or groups, but which are owned or controlled by a listed person, entity or group will ultimately be considered as making them indirectly available to the listed person, entity or group regardless of the number of intermediaries, their place of residence and notwithstanding the existence of legally separate contractual undertakings. Even if the intermediary is not an entity owned or controlled by the designated entities or persons, it may, however, make funds indirectly available for the benefit of a listed person. Each case should therefore be considered on its individual merits and the Ministry of Finance must be contacted in case of any doubt.

It is the responsibility of the natural and legal persons who are required to implement the restrictive measures to provide the information necessary to determine, on a case-by-case basis using a risk-

⁴³ Idem.

⁴⁴ Also see the “Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy”, Section III (Standard wording for legal instruments), paragraph 61.

⁴⁵ Idem.

⁴⁶ See “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Financial Restrictive Measures), III (Scope of financial restrictive measures), paragraph 33.

⁴⁷ See “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Financial Restrictive Measures), VII (Economic Resources), paragraph 59.

⁴⁸ See the “Ownership, possession and control” section.



based approach, that the funds or economic resources concerned will not be used by or benefit that listed person. The criteria to be taken into account include, among others:

- the date and nature of the contractual links between the entities concerned;
- the relevance of the sector of activity of the non-listed entity for the listed person or entity;
- the characteristics of the funds or economic resources made available, including their potential practical use by, and ease of transfer to, the listed entity or person.⁴⁹

Examples of the asset freeze measures⁵⁰ ⇒ (1) The debiting of frozen accounts is prohibited; (2) The crediting (including the accrual of interest) of frozen accounts is not prohibited, but the amount concerned shall also be frozen; (3) Transfers are blocked in the place in which they are located at the time of their identification; (4) Cheques deposited are credited to accounts and the corresponding amount is frozen; (5) Cheques drawn on accounts are suspended pending authorisation or refusal; (6) Withdrawal and payment cards are deactivated; (7) Clearing (incl. set-off) is prohibited⁵¹; (8) Purchase and sale transactions are blocked; (9) The provision of goods is prohibited notwithstanding pre-existing contractual obligations⁵²; (10) Proceeds from loans and credit facilities, received and not yet disbursed, will no longer be granted or disbursed.

Freezing and closure of accounts ⇒ It should be noted that the freezing of bank accounts does not impose an obligation to close such accounts. In fact, the closure of a frozen account is subject to prior authorisation. In this respect, consideration should be given to whether it would be better not to close the account, for the following two reasons: (a) To prevent the financial exclusion of the designated person or entity; (b) To allow the competent authorities to continue monitoring the finances of the designated person and/or entity.

Transfer of rights ⇒ Non-designated creditors of a designated person or entity may, without authorisation, transfer to any non-designated person their financial claims against the designated person or entity. The designated person, entity or group, however, needs an authorisation to transfer his, her or its financial claim against any other person, entity or group to any other person.⁵³

⁴⁹ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Ownership and Control), paragraphs 68-70.

⁵⁰ For information purposes only. In the event of contrary provisions or exceptions provided for in existing legislation (for example, transactions subject to the prior notification procedure but not to the prior authorisation procedure; transactions permitted in execution of contracts concluded before a specific date specified in the existing legislation, etc.), only the applicable legislation has authoritative status.

⁵¹ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VI (Funds), paragraph 47.

⁵² See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), III (Scope of financial restrictive measures), paragraph 33.

⁵³ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VI (Funds), paragraph 46.



Proportionality and fundamental rights ⇒ A decision to freeze assets is taken with respect for the principle of proportionality and the fundamental rights of the individual.⁵⁴ Freezing measures are not punitive measures.⁵⁵ It follows that it is neither the purpose nor the effect of these measures to submit those persons to inhumane or degrading treatment. In the absence of precise rules on this matter in existing legislation, a natural or legal person who, in good faith and in case of emergency, has not been able to comply with freezing measures due to the obligation to prevent inhumane or degrading treatment must report without delay to the Ministry of Finance.

Basic expenses ⇒ Basic expenses are defined as expenses necessary to satisfy the basic needs of the designated natural or legal persons, entities or groups, and include in particular payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges.⁵⁶ The Ministry of Finance shall assess each application on a case-by-case basis to determine whether or not the expenses can be considered as basic.

Unnecessary expenses ⇒ Any unnecessary expenses (e.g. numerous subscriptions for the same purpose, expenditure on luxuries, unnecessary travel costs) are subject to a prior authorisation procedure and are assessed on a case-by-case basis.

Expenses linked with a real and effective defence of the designated person ⇒ Financial restrictive measures do not affect the right to a real and effective defence. The EU Regulations contain specific provisions for the release of funds intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services. It therefore follows that the release of lump sums or sums that are not justified is not authorised. In order to allow the Ministry of Finance to determine whether there are grounds for releasing funds, applicants must submit:

- A copy of the mandate granted by the client;
- A copy of the publicly available documents relating to the case at hand;
- In the event of a request for reimbursement: copies of paid invoices;
- Otherwise, a summary of time spent and costs incurred (time sheets);
- Copies of airline tickets, hotel expense receipts and other similar documents;
- Copies of any other relevant documents as may be requested by the Ministry of Finance.

Personal use of economic resources ⇒ It follows that the personal use of frozen economic resources (e.g. living in one's own house or driving one's own car) by a designated person is not prohibited. In summary, assets which are only suitable for personal use or consumption, and therefore cannot be used by a designated person to obtain funds, goods or services, do not fall within the definition of

⁵⁴ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures) X (Exemptions), paragraph 80.

⁵⁵ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures) III (Scope of financial restrictive measures), paragraph 32. Also see the "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", Sections D and E and Annex I.

⁵⁶ See "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", paragraph 83 (Standard wording 1.a)) EU Regulations and UNSC Resolutions also provide for similar exemptions. See <https://www.un.org/securitycouncil/sanctions/information>.



“economic resources”. No authorisation is therefore required to make them available to a designated person. In this spirit, domestic supplies of utilities such as gas, electricity, water and telephone lines are not prohibited by the EU Regulations, owing to their consumptive nature and consequent lack of transferability.⁵⁷ However, if use of frozen economic resources amounts to an economic activity, which could result in the designated person obtaining funds, goods or services (e.g. if the designated person seeks to let his or her house or his or her car), it will require prior authorisation.⁵⁸

Right to work ⇒ Financial restrictive measures do not affect a designated person’s freedom to engage in work. However, payment for that work requires an authorisation. Authorisation in such circumstances should normally require payments to be made to a frozen account. Any payment in cash should be authorised explicitly. Deductions for social security and taxes may be authorised under the exemption for basic expenses (see above). An authorisation is also required to make welfare benefits available to a designated person (for example, unemployment benefits).⁵⁹

Designated legal entities ⇒ When a legal entity is designated, its continued existence as such is not prohibited. In the case of a business, freezing its assets will affect its operation and have direct consequences for third parties such as employees, creditors and others that may not have caused the listing of the entity. Business conducted with such an entity will generally involve either making funds or economic resources available to it and require prior authorisation. In order to again operate freely without any restrictions, de-listing is required.⁶⁰

11.2. Ownership, possession and control

The term “freeze” does not mean confiscation, transfer of ownership or seizure.⁶¹

The funds and economic resources may also be owned by non-designated individuals. Consequently, it is necessary to take into consideration the notions of “ownership”, “possession” and “control”. Requests for authorisation are assessed on the basis of the fulfilment of the criteria of ownership, possession and control.

Ownership ⇒ The right to use, enjoy and dispose of property fully and freely subject only to such limitations as are prescribed by law.

⁵⁷ See “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Financial Restrictive Measures), VII (Economic Resources), paragraph 61.

⁵⁸ See “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Financial Restrictive Measures) VII (Economic Resources), paragraphs 53-55.

⁵⁹ See “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Financial Restrictive Measures), X (Exemptions), paragraph 81.

⁶⁰ See “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Financial Restrictive Measures) IX (Designated legal Entities), paragraphs 77-79.

⁶¹ See “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section B (Financial Restrictive Measures), II (Administrative and judicial freezing, seizure and confiscation), paragraph 28; Section III (Scope of financial restrictive measures), paragraph 32; Section VI (Funds), paragraphs 44 and 48.



In the case of **joint ownership** by a designated person and a non-designated person, the assets must be frozen. It is up to the non-designated person or entity to request an authorisation to use such frozen assets and/or to sever the joint ownership so that that person's share can be unfrozen. Joint ownership of the funds does not negate this requirement of the non-designated person to request prior authorisation, even though third-party property as such is not frozen by the EU Regulations.⁶²

Possession ⇒ Possession is a factual state of exercising control over an object, whether owning the object or not. A person may be in possession of property although possession does not always imply ownership. If the possessor is a designated person, the assets should be frozen at the time of implementation of the restrictive measure, even if the possessor of the property is not the owner thereof.

Control ⇒ Control is either a legal notion or is based on facts. Control is found to exist if (a) a rule establishes it, regardless of whether the control is exercised or not; and (b) in practice, a person has the power to enjoy all or part of the ownership rights.⁶³ In both cases, assets must be frozen upon implementation of the restrictive measure.

Holding or controlling should be construed as comprising all situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner.⁶⁴

The freezing measures do not require persons that hold or control economic resources owned by a designated person or entity to return such economic resources to their owner, and no authorisation is required to continue such holding or controlling. However, since such economic resources are frozen, any new contractual arrangement concerning their use or any dealing with them requires prior authorisation.⁶⁵

⁶² See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), III (Scope of financial restrictive measures), paragraphs 35 and 36; Section VI (Funds), paragraph 45; Section VII (Economic resources), paragraph 56.

⁶³ A designated person is considered as controlling funds without owning them if he or she has received powers to represent another non-designated person, allowing him or her to order the transfer of funds he or she does not own. The same applies where a designated person is a guardian for a minor, and therefore has the power to administer the bank account of a non-designated minor, who is the legal owner of the account. See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), III (Scope of financial restrictive measures), paragraph 34.

⁶⁴ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), III (Scope of financial restrictive measures), paragraph 34.

⁶⁵ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VI (Funds), paragraph 44 and VII (Economic Resources), paragraph 60.



Overview

	Assets controlled by the owner (= designated person)	Assets held or controlled by another person (=non-designated person) who is not the owner.	Joint ownership of the assets (The owners are not all designated)
Will the assets be frozen or not? * Assets = Funds or economic resources	Assets must be frozen.	Assets must be frozen. *No prior authorisation required to continue holding or controlling the economic resources.	Assets must be frozen. In order to use their respective share of the assets, the other owners must request prior authorisation or sever the joint ownership.

Release of frozen assets or release of non-frozen assets to a designated person ⇒ Taking into consideration the notions of ownership, possession and control, it may be considered that the release of frozen assets or the release of non-frozen assets to a designated person may take place when that person has acquired ownership of the assets or holds or controls such assets.

It is therefore necessary to assess and determine the appropriate course of action for each situation on a case-by-case basis with the assistance of the Ministry of Finance.

11.3. Legal persons – Definitions of ownership and control

Owning a legal person, group or entity ⇒ means being in possession of 50% or more of the proprietary rights of a legal person, group or entity, or having a majority interest therein.⁶⁶

Controlling a legal person, group or entity means any of the following:⁶⁷ ⇒ **(a)** having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person, group or entity; **(b)** having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person, group or entity who have held office during the present and previous financial year; **(c)** controlling alone, pursuant to an agreement with other shareholders in or members of a legal person, group or entity, a majority of shareholders' or members' voting rights in that legal person, group or entity; **(d)** having the right to exercise a dominant influence over a legal person, group or entity, pursuant to an agreement entered into with that legal person, group or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person, group or entity permits it being subject to such agreement or provision; **(e)** having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right⁶⁸; **(f)** having the right to use all or part of the assets of a legal

⁶⁶ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Ownership and Control), paragraph 62.

⁶⁷ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Ownership and Control), paragraph 63.

⁶⁸ Including, for example, by means of a front company. See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Control), paragraph 63.



person, group or entity; **(g)** managing the business of a legal person, group or entity on a unified basis, while publishing consolidated accounts; **(h)** sharing jointly and severally the financial liabilities of a legal person, group or entity, or guaranteeing them.

If any of these criteria are satisfied, it is considered that the legal person, group or entity is controlled by another person or entity, unless the contrary can be established on a case-by-case basis.⁶⁹ The fulfilment of the above criteria of ownership or control may be refuted on a case-by-case basis.⁷⁰

The following examples describe circumstances that may qualify as indications that a designated person or entity has control over a non-designated entity. These examples are not exhaustive and are intended only as illustrative guidance:

- a) Majority shareholding: a designated person is the largest shareholder of a company compared to other shareholders. For instance, the designated person has 40%, whereas the other shareholders each have 10%. Such situation may warrant further analysis whether the designated person fulfils any of the abovementioned control criteria (for instance, the power to appoint the majority of directors in the management board).
- b) Buyback option: a management buyout took place, whereby the designated previous owner can buy back the company under favourable conditions. Especially where these conditions could easily be invoked, this may warrant further analysis whether the designated previous owner has control.
- c) Transfer of shares at a time close to the designation: a transfer of a relevant number of shares in the non-designated entity to a new owner shortly before or after (if allowed for by the relevant Council Regulations) a person has been designated may also suggest retained control by the designated person and could trigger further investigation as to the previous owner's influence over the new owner. A "relevant" number of shares is not only a large number thereof, but also smaller numbers which enable the listed seller, for instance, to fall below the ownership threshold.
- d) Use of front persons:
 - A new owner is closely connected to the designated previous owner, e.g. a family member or former employee/business partner, and, possibly, the sale price was too low or otherwise abnormal, or
 - The entity has an advisor (or a board of advisors) with ultimate decision power over the activity of the entity, even though from the title or function this does not seem self-evident, or
 - There is a written agreement from which it is clear that a non-shareholder or a shareholder with minor shareholdings is given the authority to solely decide on the business of the entity, or
 - The persons who are supposed to be in charge of an entity have their decisions made by designated persons.
- e) Use of trusts, shell companies and limited liability companies:
 - An entity is part of a needlessly complex corporate structure, potentially involving entities such as shell companies, limited liability companies and/or trusts linked to a designated person. Some of these entities were set up or changed their identity shortly before or after (if allowed by the relevant Council Regulations) the adoption of

⁶⁹ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Ownership and control), paragraph 64.

⁷⁰ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Ownership and control), paragraph 65.



the sanctions regime or the person's designation, and/or have no credible business activity.

- One or several trusts are used as receiver(s) of assets from an entity owned or controlled by a designated person. The management of the trusts involves professionals from the jurisdiction where the trusts was/were formed.⁷¹

It should be noted that a legal person that is owned or controlled by a designated person or entity may not necessarily be included in the list of designated persons or entities. Natural and legal persons who are required to implement the restrictive measures may therefore request access to any relevant documents or information that would allow them to determine the identity of the persons that ultimately own or control the legal person.

A natural or a legal person who is aware that a non-listed legal person or entity is owned or controlled by a listed person or entity has to inform the competent authority of the relevant Member State and the Commission either directly or through the Member State.⁷²

11.4. Acting on behalf or at the direction

The notion of “acting on behalf of or at the direction” of a natural or legal person, entity or body is also relevant and explicitly referred to in the context of several prohibitions in the financial sanctions context. In this sense, while the notion is distinct from those of ownership and control, its effects can be placed on an equal footing, but the former relation should be determined in and of itself.

The criteria to be taken into account include, inter alia:

- a) the precise ownership/control structure, including links between natural or legal persons, entities or bodies;
- b) the nature and purpose of the transaction, coupled with the stated business duties of the legal person, entity or body;
- c) previous instances of acting on behalf or at the direction of the listed natural or legal person, entity or body;
- d) disclosure made by third parties obtained from credible, reliable and independent sources and/or factual evidence indicating that directions were given by the natural or legal person, entity or body.⁷³

11.5. Legal entities – Typology

11.5.1 Designated legal persons that own and/or control a subsidiary

As a shareholding is regarded as an asset, the listed person may not redeem its shareholding to generate profits. No further payments shall be made for the benefit of the listed person (for example, dividend payments). The freezing of funds does not, however, affect voting rights or any legal conventions in general. The non-designated subsidiary may not, however, continue its business activity insofar as such activity involves making funds indirectly available to the designated parent company. It is therefore necessary to exercise increased due diligence in respect of business

⁷¹ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Ownership and control), paragraph 67.

⁷² See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), VIII (Ownership and control), paragraph 75.

⁷³ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), IX (“Acting on behalf”), paragraphs 71 and 72.



transactions with the subsidiary and to assess each situation on a case-by-case basis with assistance from the Ministry of Finance.

11.5.2 Branches of a designated company

A branch is a place of business and is not a separate legal entity distinct from the designated parent company; as a consequence the freezing will also affect the assets of branches⁷⁴.

11.5.3 Legal persons controlled by a designated natural person

As the legal person is regarded as an asset, the funds of such legal persons will be frozen.

11.5.4 Joint-venture

First of all, reference should be made to the legal text establishing the financial restrictive measures. If the legal text does not contain any specific conditions relating to joint-ventures, reference should be made to the agreement establishing the joint-venture in order to determine, on a case-by-case basis, whether the activity of the latter is for the benefit of a listed person (either on a daily basis or occasionally, for example, through the payment of dividends). The Ministry of Finance shall determine each situation on a case-by-case basis based on the information provided in the application.

11.6. Obligation to freeze, without delay, funds and economic resources

Once natural and legal persons who are required to implement the restrictive measures become aware that the person is listed, the funds and economic resources belonging to, owned, held or controlled by⁷⁵ that person must be frozen without delay. Natural and legal persons who are required to implement the restrictive measures must also inform the Ministry of Finance without delay of asset freeze measures taken together with any relevant information relating thereto. The natural or legal person should provide the Ministry of Finance with any additional information that may help the Ministry of Finance to decide on the outcome of the blocked transaction.

It is prohibited to make funds and/or economic sources available to the designated persons, directly or indirectly. The Minister responsible for Finance is competent to exceptionally issue authorisations derogating from the prohibitions and restrictive measures imposed if the underlying legal act establishing the prohibition allow such derogations and under the conditions provided for therein.⁷⁶

11.7. Informing the designated person of the asset freeze

Natural and legal persons who are required to implement the restrictive measures are advised to inform the designated person (a) that he or she has been included on the financial sanctions list; (b) that he or she may request exceptional authorisation to perform a specific transaction from the Ministry of Finance provided that applicable legal provisions allow for such authorisation and in accordance with the conditions laid down by the latter. The designated person as well as the natural

⁷⁴ Art. 3 of the Law of 19 December 2020.

⁷⁵ See "Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures", Section B (Financial Restrictive Measures), IX ("Acting on behalf"), paragraphs 62.

⁷⁶ Art.6(1) of the Law of 19 December 2020.



and legal persons who are required to implement the restrictive measures, however, are strictly prohibited from attempting to circumvent or circumventing or facilitating the circumvention of the financial restrictive measures in any manner whatsoever.

11.8. No claims clause

The EU Regulations may include a waiver of recourse clause aimed at preventing applications seeking an extension of time or payment of a guarantee/counter-guarantee and protecting European natural and legal persons whose guarantees/counter-guarantees are called as a consequence of the termination of an agreement caused by sanctions.⁷⁷ It is the responsibility of the natural and legal persons to determine whether it is appropriate to apply this clause, insofar as this only leads to a temporary suspension of the contractual obligations. In any event, this clause may not be invoked to withdraw the guarantees/counter-guarantees or to refuse to execute them in cases where transactions have not been suspended as a result of sanctions.

12. Limitation of liability

12.1. In the event of the natural and legal persons' compliance with the financial restrictive measures

As per the EU Regulations, freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with the legal provisions, shall not give rise to liability of any kind on the part of the natural or legal person or entity or group carrying out such action, or its directors or employees, unless it is proven that the funds and economic resources were frozen or withheld as a result of negligence.⁷⁸ The burden of proof of negligence lies with the person seeking to establish liability.

It should be noted that as per the Law of 19 December 2020, the limitation of liability is excluded in case of gross negligence.⁷⁹

12.2. In the event of the natural and legal persons' non-compliance with the financial restrictive measures

According to existing EU Regulations, the financial sanctions shall not give rise to any liability of any kind on the part of the natural and legal persons, entities or groups who made funds or economic resources available if they did not know, and had no reasonable cause to suspect, that their actions would infringe the prohibition in question.⁸⁰

This is about limiting the liability of natural and legal persons who have acted in good faith. Good faith assumes that the natural and legal persons had exercised due diligence before the transaction could

⁷⁷ See also the standard wording included in the "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", Section III G.

⁷⁸ See standard wording included in the "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", Section III F.

⁷⁹ Art. 8 of the Law of 19 December 2020.

⁸⁰ See standard wording included in the "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", Section III F.



start or continue. If the natural and legal persons are unable to demonstrate the necessary due diligence he/she cannot therefore plead good faith.

In any event, if the natural or legal person becomes aware that he/she has not complied with the legal provisions, he/she must contact the Ministry of Finance without delay in order to redress the situation. If necessary, such natural and legal persons are advised to seek independent legal advice.

13. Lists – Databases

Consolidated lists of designated persons and entities are published by the European Commission and the United Nations on their respective websites. These lists facilitate the tracking and investigation process; however, in case of discrepancies between these lists and applicable legal provisions, the applicable legal provisions shall prevail.

The lists may be consulted on the following websites:

For the European Commission:

<https://sanctionsmap.eu/#/main>

https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions_en

For the United Nations: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>

In addition, it is highly recommended to subscribe to the [Ministry of Finance's](#) newsletter.

14. Homonyms

A situation of homonyms exists where:

- A person has the same first name and surname as a listed person, including cases where the first name and surname cannot be discerned from each other.
- A person has a first name and surname that differs slightly from the listed person's surname due to the possible use of different alphabets.

In a situation of homonyms, accounts are monitored and all transactions suspended. Such situations should be brought without delay to the attention of the Ministry of Finance for its assessment.

It is not sufficient that the name and surname of the person concerned are identical to those of the listed person in order to conclude that it is the same person. On the contrary, other identifiers may clearly demonstrate that they are indeed two different persons. By way of example, such identifiers may reveal a different geographic location, different occupations or professions, different dates of birth, or different passport numbers etc.

Any natural and legal persons that are confronted with a situation of homonyms must gather additional identifiers without delay before making any decision and keep a written record of the results of their enquiries. If, after gathering such identifiers, it can be clearly demonstrated that they are not the same person, the Ministry of Finance need not be contacted. In case of any doubt, the natural and legal persons have to contact the Ministry of Finance and suspend any transactions on the



account until the situation is sufficiently clarified. The limited availability of identifiers cannot, alone, justify dealings with a designated person or entity.⁸¹

15. Sanctions for breaching the financial restrictive measures

As per article 10 of the Law of 19 December 2020: *“Without prejudice to the application of the more severe penalties provided for, where applicable, by other legal provisions, failure to comply with the restrictive measures adopted pursuant to this Law shall be punished by imprisonment for a term of eight days to five years and a fine of between EUR 12 500 and EUR 5 000 000 or by one of these penalties only. Where the offence has resulted in substantial financial gain, the fine may be increased to four times the amount of the offence.”*

Furthermore, as per article 5 of the Law of 20 July 2022 and article 506-1 paragraph 1 of the Penal Code, those who have knowingly facilitated, by any means, the false justification of the nature, origin, location, disposition, movement or ownership of goods forming the object or product, direct or indirect of an infraction to article 10 of the Law of 19 December 2020 or constituting any financial advantage derived from this offence shall be punished by imprisonment for a term of one to five years and a fine of between EUR 1 250 and EUR 1 250 000 or by one of these penalties only.

16. Summary of websites to be consulted (for guidance only)

Website	Link
Ministry of Finance	https://mfin.gouvernement.lu/en/dossiers/sanctions-financieres.html
Ministry of Foreign and European Affairs, Defence, Development Cooperation and Foreign Trade	Website (French version)
Commissariat aux Assurances	http://www.caa.lu
Commission de Surveillance du Secteur Financier	https://www.cssf.lu/en/financial-crime/
Administration de l'enregistrement, des domaines et de la TVA (AED)	https://pfi.public.lu/fr/blanchiment/sanctions-financieres-internationale.html
Institut des réviseurs d'entreprises (IRE)	https://ire.lu/item/R%C3%A8glementation---13/Sanctions%20financi%C3%A8res%20internationales---9066
Ordre des Experts-Comptables (OEC)	https://oec.lu/myeteam/index.htm#HTML/253182
FIU	https://justice.public.lu/fr/organisation-justice/crf.html
Official Gazette	http://www.legilux.public.lu

⁸¹ “Restrictive measures (sanctions) – Update of the EU Best Practices for the Effective Implementation of Restrictive Measures”, Section A (Designation and identification of persons and entities subject to targeted restrictive measures), II (Claims concerning mistaken identity), paragraph 9.



Official Journal of the European Union⁸²	http://eur-lex.europa.eu/homepage.html
Consolidated list of sanctions – EU	https://sanctionsmap.eu/#/main https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions_en <i>These lists are available for download in PDF, XML, and CSV and allow comparing the clients of the natural and legal persons as well as other party involved in a transaction or a business relationship, against the list of States, natural and legal persons, entities and groups subject to restrictive measures in financial matters.</i>
Consolidated list of sanctions – United Nations	https://www.un.org/securitycouncil/content/un-sc-consolidated-list <i>These lists are available for download in PDF, XML, and HTML and allow comparing the clients of the natural and legal persons as well as other party involved in a transaction or a business relationship, against the list of States, natural and legal persons, entities and groups subject to restrictive measures in financial matters.</i>
United Nations Security Council Resolutions	https://www.un.org/securitycouncil/ https://www.un.org/securitycouncil/sanctions/information
EU Best Practices	https://data.consilium.europa.eu/doc/document/ST-10572-2022-INIT/en/pdf
EU Guidelines	https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf
GAFI – FATF	http://www.fatf-gafi.org/

17. EU sanctions map

The [EU sanctions map](#) provides comprehensive details of all EU sanctions regimes and their corresponding legal acts, including those regimes adopted by the UN Security Council and transposed at EU level.

18. UNSC Sanctions Committees

Information on UNSC Sanctions Committees is available [here](#).

⁸² The consolidated versions of the legal acts published on the Official Journal are not legally binding and are not always updated to include the most recent amendments to the legal act. It is therefore necessary to take into account those amendments that were published after the date of the consolidated act.