

Guidance Note on Targeted Financial Sanctions in Malta

This guidance note is produced by the Sanctions Monitoring Board (SMB) as the competent authority for the implementation of financial sanctions in the Republic of Malta.

The SMB's website is: www.foreign.gov.mt/SMB and the SMB may be contacted at: sanctions.mftp@gov.mt

Guidance

October 2019

All EU/UN sanctions are directly applicable under Maltese law under the National Interest (Enabling Powers) Act, cap 365 of the Laws of Malta as linked hereunder:

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8835&l=1>

There is an obligation imposed on all economic operators to be aware of applicable sanctions and to make all necessary checks to ensure that sanctions are complied with at all times. Should any situation be encountered which is in violation of sanctions, whether directly or indirectly, there is an obligation to stop any transaction from going through, freeze any assets and inform the SMB. The freezing of assets obligation is covered by the "*Guidance on Asset Freezing Obligations under the National Interest (Enabling Powers) Act*" which can be found on the web page of the SMB linked hereunder:

<https://foreignaffairs.gov.mt/en/Government/SMB/Pages/Sanctions-Monitoring-Board.aspx>

The SMB has launched a service through which amendments to international sanctions lists are communicated to subject persons. If you wish to receive these updates please send an e-mail to sanctions.mftp@gov.mt expressing your interest.

The aforementioned service is part of an approach to conduct more outreach activities with subject persons, normally by sector. The SMB would like to take this opportunity to highlight to all subject persons that any query regarding sanctions must be provided to the SMB in writing and not communicated through any other means.

If a subject person has a doubt as to whether a specific transaction or activity is exclusively a sanctions issue, the SMB suggests that subject persons report to each competent authority according to its respective mandate. Any sanctions related issue must be dealt with and reported to the SMB, and the SMB must emphasize that sanctions breaches are of a criminal nature under the laws of Malta and will be investigated and prosecuted to the full extent of the law when found.

The National Interest (Enabling Powers) Act provides the legal basis for the SMB's endeavours under Maltese law. This law has been amended and will continue to be amended as necessary in order to meet the national interest which, in this case, concerns the robust implementation of all national and international sanctions legislation in the Republic of Malta. This law defines, in detail, the criminal nature of sanctions breaches and evasion attempts, and also provides an obligation on all economic operators in Malta to:

"have in place and effectively implement internal controls and procedures to ensure compliance with the obligations arising from this Act and any relevant United Nations or European Union Resolutions or regulations;" - Chapter 365, Article 17.6.(b)

In practice, this means that every subject person is obliged to implement, in full, all national and international sanctions legislation. Subject persons must immediately notify the Board in case an action

is taken in relation to sanctions legislation. Where a subject person does not rely on automated mechanisms or analytical systems, the obligations remain. Therefore, each subject person must carefully consider its risk profile and weigh the obligations of sanctions legislation with its own investment in sanctions compliance tools and personnel.

The SMB would also like to take this opportunity to highlight that several sectors of subject persons, especially some Designated Non-Financial Businesses and Professions (DNFBPs), were deemed by the MoneyVal assessment to have an “*insufficient*” approach to sanctions compliance, and this is further emphasized as several DNFBPs “*...were not aware at all of freezing or reporting obligations.*” Furthermore, when a potential sanctions issue arises and a subject person “*...simply refuse[s] the transaction or exit[s] the customer relationship*”, this undermines the rigorous implementation of sanctions legislation in Malta and rather than refusing the transaction or exiting a customer relationship, the relevant due diligence is to be made by the economic operator and the SMB advised accordingly.

For any questions the SMB may be contacted at sanctions.mftp@gov.mt

Please find below links to the:

EU Financial Sanctions Database

<https://data.europa.eu/euodp/en/data/dataset/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions>

Consolidated UN Sanctions List

<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>

EU Sanctions Map

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

Sanctions Monitoring Board

<http://www.foreign.gov.mt/smb>