

Treasury
Customs and Excise Division

Sanctions Notice 42

European Union Sanctions

Central African Republic



March 2014
(updated to 1 May 2018)



Isle of Man
Government

Reiltsy Ellan Vannin

About this Notice

This Notice draws attention in convenient form to the Orders and Regulations made under the European Communities (Isle of Man) Act 1973 which place financial sanctions on certain named individuals and entities.

This Notice provides guidance on certain aspects only of the Orders and Regulations, and should be read in conjunction with those Orders and Regulations.

The Treasury has appointed its Customs and Excise Division to act for the purpose of enforcing financial sanctions. Accordingly, certain powers have been delegated by the Treasury to the Division.

The list of persons and entities subject to the sanctions may be found at:
http://www.hm-treasury.gov.uk/fin_sanctions_index.htm

Enquiries concerning this Notice should be addressed to the address given below and marked for the attention of the Sanctions Officer.

Enquiries may also be made by -

Facsimile transmission: (01624) 661725
Email: customs@gov.im
Telephone: (01624) 648138

The address for any enquiries or applications relating to this Notice is -

The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.

For further information on sanctions in general, including how to deal with false positives,



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or when sanctions are lifted or persons delisted, see Sanctions Notice 26.

Sanctions Notice 32 deals with the granting of licences.

These Notices, and other information about sanctions and export and trade controls, may be found at -

<https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/sanctions-and-export-control/>

Direction

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Financial Intelligence Unit.

All persons in business or a profession in the Island, including financial institutions, **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists and, if so, they should freeze the account, funds or economic resources and report their findings to the Financial Intelligence Unit.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Financial Intelligence Unit and co-operate in any verification of the information.

Reports of accounts and amounts frozen should be made using THEMIS; however, if you do not have access to this reporting system, you should use the appropriate form on the FIU website.

Financial Intelligence Unit contact details

Financial Intelligence Unit
PO Box 51
Douglas
Isle of Man
IM99 2TD

Telephone: +44 1624 686000

Email: fiu@gov.im

Introduction

1. Following unrest in the country, on 5 December 2013, the UN adopted Security Council Resolution 2127 which *inter alia* imposed an arms embargo on the Central African Republic and urged all countries to take measures to prevent the direct or indirect supply, sale or transfer of arms and related material of all types. The arms embargo was renewed until 28 January 2015 by Resolution 2134, which also imposed asset freezes and travel bans on individuals and entities identified by the sanctions committee established by the Council as violating the arms embargo, actively engaging in the armed conflict in the country, or acting on behalf of or at the direction of a designated person or entity. The arms embargo included a ban on the use of countries' vessels or aircraft from being involved in the supply, sale or transfer of prohibited arms or related materiel.
2. Export and trade control licensing prohibitions and restrictions under Island law gave effect to the UN arms embargo.

3. On 23 December 2013, the EU Council adopted Council Decision 2013/798/CFSP concerning restrictive measures and providing for an arms embargo in accordance with UN SCR 2127.
4. On 10 March 2014, the EU adopted Council Regulation (EU) No 224/2014 which prohibited the provision, directly or indirectly, of -
 - a. technical assistance or brokering services related to goods and technology listed in the EU Common Military List, or related to the provision, manufacture, maintenance and use of goods on that List to any person, entity or body in, for use in, the Central African Republic;
 - b. financing or financial assistance related to the sale, supply, transfer or export of goods or technology on the Common Military List, including grants, loans and export credit insurance, as well as insurance and reinsurance for any sale, supply or transfer, or the provision of any related technical assistance or brokering services to any person, entity or body in, for use in, the Central African Republic;
 - c. technical assistance, financing or financial assistance, brokering services or transport services related to the provision of armed mercenary personnel in, or for use in, the Central African Republic.
5. The Council Regulation also imposed an asset freeze on listed persons, entities or bodies, and provided that no funds or economic resources should be made available, directly or indirectly, to a listed person, entity or body. The persons, entities or bodies were to be those designated by the relevant UN sanctions committee. At the time of its publication, the Council Regulation listed no persons or entities.
6. The Council Regulation also contained the normal derogations and arrangements for licensing the release of funds and economic resources, or the crediting of frozen accounts etc. It also prohibited the involvement, knowingly and intentionally, in activities the object or effect of which was to circumvent the sanctions measures imposed.
7. On 20 March 2014, the European Union (Central African Republic Sanctions) Order 2014 [SD 2014/0116] applied Council Regulation (EU) No 224/2014 in Island law. At the same time, the Central African Republic Sanctions Regulations 2014 [SD 2014/0117] came into effect. The first names were listed by the EU on 23 June 2014, by means of Council Implementing Regulation (EU) No 691/2014.
- 7A. On 7 May 2015, the EU adopted Council Regulation (EU) No 2015/734, which made various amendments to Regulation 224/2014 to extend the scope of the criteria for the designation of persons under that Regulation to take account of UN Security Council Resolution 2126 of 2015. It also added "gold" to the list of natural resources that may not be illicitly exploited to provide support for armed groups or criminal networks.
- 7B. On 29 May 2015, the European Union (Central African Republic Sanctions) (Amendment) Order 2015 [SD 2015/201] applied EU Regulation 2015/734 in Island

law. At the same time new Regulations were made to implement the applied EU Regulation.

- 7C. On 13 April 2016, Council Regulation (EU) 2016/555 came into force. This amended the derogations available under the EU sanctions regime to add one for technical assistance, financing or brokering services provided in respect of non-lethal equipment and the provision of assistance (including training for the security forces) intended solely to support the process of "Security Sector Reform". Prior notification to the relevant UN Sanctions Committee is required before use of the derogation.

At the same time, the new Regulation also amended the criteria for designating persons and entities, and the specific examples of acts that undermine the peace, stability or security of the country.

The amendments made by Regulation 2016/555 were themselves further amended by means of Council Regulation 2017/400/EU of 7 March 2017. The changes made were to amend the criteria for exemption from the arms embargo (see Article 3 of Regulation 224/2014, as amended), and to the criteria for persons, entities and bodies that may be included in the list of those subject to an asset freeze etc under Article 5 of Regulation 224/2014.

Regulation 2017/400/EU was applied in the Island by means of the European Union (Central African Republic Sanctions) (Amendment) Order 2017 [SD 2017/0159], with the Central African Republic Sanctions Regulations 2014 also being amended at the same time.

- 7D. On 24 April 2018, European Union (Central African Republic Sanctions) (Amendment) Order 2018 came into operation. This Order applied Council Regulation (EU) 2018/387, as part of Island law subject to certain modifications.

The amendment provides for certain changes to the exemptions to the arms embargo, as well as to the designation criteria relating to persons and entities subject to restrictive measures.

The Central African Republic Sanctions (Amendment) Regulations 2018 also came into force on the same day. The Regulations amend paragraph 3 to the principle Regulations to extend the provisions for the disclosure of information and documents in connection with the EU Regulations.

Instructions to Financial Institutions etc

8. The Treasury will issue from time to time lists of individuals and entities subject to the sanctions imposed in connection with the restrictive measures.
9. All persons in business or a profession in the Island, including financial institutions **MUST** -
 - (a) check whether they maintain accounts for any of those individuals or organisations listed, and if so
 - (b) freeze the accounts and report findings to the Financial Intelligence Unit.

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10. Regardless of whether any entity and/or person is named on a list notified by the Treasury, if any person or institution suspects that the funds of any customer or client is (or may be) used for facilitating, or providing material support for, acts of terrorism or serious crime they must report their suspicions immediately to the Financial Intelligence Unit (FIU).

Contact details are given at the end of this Notice.

11. Any person, including any bank or financial institution, which knows or suspects that a customer or other person identified in the Notices or news releases published by the Treasury with which it has had business dealings has committed an offence under the Orders, **MUST** report the information on which its knowledge or suspicion is based to the Financial Intelligence Unit as soon as reasonably practicable. Failure to do so may be an offence.

Contact details are given at the end of this Notice.

Definition of funds and economic resources

12. For the purpose of the Regulation, "funds" means financial assets and benefits of any kind, including (but not limited to) -
- cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - interest, dividends or other income on, or value accruing from, or generated by, assets;
 - credits, rights of set-off, guarantees, performance bonds or other financial commitments;
 - letters of credit, bills of lading, bills of sale;
 - documents evidencing an interest in funds or financial resources.
13. Economic resources means assets of every kind, whether tangible or intangible, movable or immovable, (such as goods property, or rights) which are not funds themselves but can be used to obtain funds, goods or services.
14. The definitions are drawn so broadly as to include virtually all forms of asset, actual or potential. Therefore, you should assume that **any dealings** with persons, organisations or territories included in lists issued by the Treasury may be prohibited.

Frozen accounts

15. All funds and economic resources belonging to, owned, held or controlled by named parties included in Notices or news releases published by the Treasury and held in the Island by persons authorised by the Financial Supervision Commission will be blocked and designated as "**Frozen accounts**".
16. Funds held by advocates, accountants and others on behalf of such parties should be placed in a separate account that should be designated as a **Frozen account**.
17. When funds are frozen there should be no move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
18. Economic resources should not be used to obtain funds, goods or services in any way, including by selling, hiring or mortgaging them.
19. No funds or economic resources should be made available, directly or indirectly, for the benefit of a person included in a Notice or news release published by the Treasury.

Payments involving frozen accounts

20. Payments from frozen accounts are generally prohibited unless a **written** licence has been granted by the Treasury.
21. The asset freeze does not apply to payments due under contracts, agreements or obligations which were concluded or arose before 20 March 2014 (i.e. before the financial sanctions took effect in the Island) - BUT any such payment must be made into a frozen account.
22. The prohibitions do NOT prevent financial or credit institutions from crediting frozen accounts where interest is accrued, or where they receive payments transferred to the account of a person designated in a Notice or news release published by the Treasury.
23. Institutions making payment into a frozen account, or crediting a frozen account, must inform the Financial Intelligence Unit as soon as practicable.
24. The Treasury is able to authorise the release of funds or economic resources for -
 - the basic needs of designated persons and dependent family members;
 - payment of reasonable professional fees and reimbursement of legal fees;
 - payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
 - necessary extraordinary expense.

Any release of funds or economic resources **MUST** be authorised in writing by the

Sanctions Officer.

Failure to provide information or providing false information

25. Any person who, except under the authority of a licence issued by the Treasury, makes any funds, other financial assets or economic resources available to or for the benefit of any of the listed persons (or “designated persons”) shall be guilty of an offence.
26. Where the Treasury has reasonable grounds to suspect that the person on behalf of whom any funds etc. are held is a listed person it may direct by way of a Notice that those funds etc. are not to be made available to any person or entity except as permitted under a Treasury licence.
- 26A. The Treasury or any person authorised by the Treasury, such as the Financial Intelligence Unit can serve a written notice on anyone to whom the measures apply, requiring them to furnish them with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions.

Failure to furnish such information or documents without reasonable excuse is an offence. Providing false information is also an offence, as is providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence).

27. Any person who -
- knowingly and intentionally engages in activity the object or effect of which is to enable or facilitate the making available of funds etc. to a designated person;
 - knowingly and intentionally engages in activity the object or effect of which is to enable or facilitate the contravention of a direction contained in this Notice; or
 - fails to disclose knowledge or suspicion that a customer or client is a designated person,
- shall be guilty of an offence.

Amendments to this Notice

28. Paragraph 7 amended to reflect first listing of names, 24 June 2014.
- 28A. New paragraph 7A re amendment of Regulation 224/2014/EU by means of Regulation 2015/734/EU, to take account of UN SCR 2126, inserted 15 May 2015.
- 28B. Paragraph 7A amended to add reference to “gold”, amended 29 May 2015.
- 28C. New paragraph 7B inserted re SD 2015/201 on 1 June 2015.
- 28D. New “directions” substituted on page 3; new paragraph 26A re information powers inserted, 25 November 2015.

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- 28E. Definition of economic resources in paragraph 13 replaced, 15 March 2016.
 - 28F. Paragraph 7C inserted re Regulation 2016/555/EU, 20 April 2016.
 - 28G. Mention of Sanctions Notices 26 and 32 added on page 2/3; and paragraph 7C amended to refer to amendments made by Regulation 2017/400, 10 March 2017
 - 28H. Paragraph 7C amended to mention application of EU Regulation 2017/400 by means of SD 2017/0159 on 4 May 2017.
 - 28I. Amendments made to make clear that not only financial institutions are subject to reporting requirements of the sanctions.
 - 28J. Various amendments to make clear that reporting of frozen accounts or breaches of sanctions must be made to the Financial Intelligence Unit, 3 April 2018.
 - 28K. Various amendments by means of SD 2018/0117 to take account of Council Regulation (EU) 2018/387, 1 May 2018.

Isle of Man Customs and Excise website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases, Sanctions Notices and links to relevant websites and lists at <http://www.gov.im/categories/tax,-vat-and-your-money/customs-and-excise/sanctions-and-export-control/>

New or amended versions of this Notice will also be provided on that website.

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Isle of Man Customs & Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Telephone: (01624) 648100

Email: customs@gov.im

Website: www.gov.im/customs

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