

Treasury  
Customs and Excise Division

## Sanctions Notice 44

### European Union Sanctions

#### Burundi



November 2015  
(updated 25 November 2015)



**Isle of Man**  
Government

*Reilts Ellan Vannin*

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## 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 economic 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 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 financial sanctions under EU sanctions imposed in respect of Burundi may be found at:

[http://www.hm-treasury.gov.uk/fin\\_sanctions\\_index.htm](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](mailto: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.



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## Directions to all Financial Institutions

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 Division.

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 Division.

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

### Introduction

1. On 18 May 2015, the European Council expressed its deep concern regarding the situation in Burundi following an attempted coup and other acts of violence and abuse of the constitutional order in that country. At the same time it stated its determination to take all measures necessary against any party whose actions perpetuated violence and hampered the search for a political solution. This position was restated on 22 June 2015, when the Council said it would impose targeted restrictive measures, if necessary.
2. Given the continuing situation in Burundi, on 1 October 2015, the Council decided that travel restrictions and an asset freeze should be imposed on persons undermining democracy or obstructing the search for a political solution, as well as those responsible for serious violations of human rights.
3. Council Decision (CFSP) No 2015/1760 was therefore made and came into force in the EU on 2 October 2015. This imposed -
  - a. travel restrictions prohibiting the entry into, or transit through, EU territory; and
  - b. an asset freeze,on persons included in an Annex to the Council Decision.
4. The Annex to the Council Decision was to include those persons undermining democracy or obstructing the search for a political solution in Burundi, and persons responsible for serious human rights violations, and legal persons, entities or bodies associated with them.
5. Also on 1 October 2015, Council Regulation (EU) No 2015/1755 was made and similarly contained provisions dealing with an asset freeze, and exceptions,

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derogations etc relating to it. This Regulation was applied in Island law by means of the European Union (Burundi Sanctions) Order 2015 [SD 2015/0349] and this came into operation with effect from 1445 on 26 October 2015. Annex I to the applied Regulation contained the names of those subject to the asset freeze.

6. The Burundi Sanctions Regulation 2015 [SD 2015/0350] also came into operation on 26 October 2015, providing for the implementation of the applied Regulation 2015/1755, and providing further provisions on information powers, licences etc.
7. No funds were to be made available, directly or indirectly, to or for the benefit of those persons and entities included in the Annex.

### **Exemptions and licences**

8. The travel restrictions were subject to exceptions where -
  - a. the Member State involved was bound by international law to allow a listed person to enter or transit its territory;
  - b. the person(s) involved were attending meetings intended to promote democracy, human rights and the rule of law in Burundi; or
  - c. the travel was justified by urgent humanitarian need.
9. The asset freeze and ban on making funds available were subject to exceptions where a release of funds, or making funds available was -
  - a. necessary for the basic needs of the person and their dependent family members (such as for food, rents, mortgages, medicines and medical treatment, tax, insurance premiums and utility payments);
  - b. exclusively for payment of reasonable professional fees or the reimbursement of expenses incurred in the provision of legal services;
  - c. exclusively for payment of fees or service charges for holding or maintaining frozen funds or other economic resources;
  - d. for other extraordinary expenses (subject to prior approval);
  - e. for satisfying an enforceable arbitral decision, judicial or administrative decision that predated the listing of the person concerned - but only if this does not benefit the listed person(s) and that it is not contrary to public policy;
  - f. to allow a payment due under a contract entered into prior to the person concerned being listed - but only if the payment does not benefit, directly or indirectly, a listed person; or
  - g. to allow interest or other earnings being added to frozen accounts,

but in all cases other member States and the European Commission had to be notified (up to 2 weeks in advance in the case of item d).

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## **Definition of funds**

10. For the purposes of the sanctions, “funds and economic resources” may be taken to mean -

Financial assets and economic benefits of any kind, including (but not limited to) gold coin, gold bullion, 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; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds and other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing.

The definition is deliberately drawn so broadly as to include virtually all forms of asset, actual or potential.

## **Frozen accounts**

11. The sterling, foreign currency and gold bullion accounts of named parties included in lists issued by the Treasury and held in or by institutions in the Island should be blocked and designated as “Frozen accounts”.

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.

## **Licence and payments from frozen accounts**

12. Notwithstanding the exceptions mentioned in paragraph 9, payments from Frozen accounts are prohibited unless a written licence has been granted by the Treasury.

## **Information powers**

13. The Treasury can serve a written notice on anyone to whom the measures apply, requiring them to furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the owner of those funds shall furnish the Treasury 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.

## **Amendments to this Notice**

- 25 November 2015      New “directions” substituted on page 3; new paragraph 13 re information powers inserted.

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## **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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