ASSET FREEZE AND PROHIBITION TO MAKE FUNDS AND ECONOMIC RESOURCES AVAILABLE

RELATED PROVISION: COUNCIL REGULATION 269/2014

FREQUENTLY ASKED QUESTIONS – AS OF 5 SEPTEMBER 2024

1. **Do the sanctions in Article 2 of Council Regulation (EU) No 269/2014 apply to the companies owned, controlled, managed by or otherwise associated with listed persons?**
   Last update: 8 April 2022

Only the persons and entities listed in Annex I to the Regulation are directly targeted by sanctions.

However, if the listed person is deemed to own or control a non-listed entity, it can be presumed that the control also extends to the assets of that entity, and that any funds or economic resources made available to that entity would reach or benefit the listed person.

This presumption can be rebutted on a case-by-case basis by the entity concerned, if it can be demonstrated that some or all of its assets are outside the control of the listed person, and/or that funds or economic resources made available to it would in fact not reach or benefit the listed person.

For further details on 'control', please see the Commission opinion of 19 June 2020 and the Commission opinion of 8 June 2021.

2. **Article 2 of Council Regulation (EU) No 269/2014 refers to legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, as listed in Annex I. Where can I find the 'natural or legal persons, entities or bodies associated with them'?**
   Last update: 8 April 2022

Strictly speaking, only the persons and entities who/which appear under the column 'Name' in Annex I to Council Regulation (EU) 269/2014 are directly subject to an asset freeze and a prohibition to make funds and economic resources available to them or for their benefit. However, these restrictions can affect transactions with natural or legal persons, entities or bodies associated with them, some of which happen to be mentioned in the 'Identifying information' and/or 'Reasons' columns of Annex I to Council Regulation (EU) 269/2014. Operators need to exert the highest caution when dealing with associated persons or entities. If non listed entities are deemed to be owned or controlled by listed persons or entities, their assets must be frozen as well, and no funds or economic resources can be made available to them.

This presumption can be rebutted on a case-by-case basis by the entity concerned, if it can be demonstrated that some or all of its assets are outside the control of the listed person, and/or that funds or economic resources made available to it would in fact not reach or benefit the listed person.

3. **Is there a list of the ownership percentages of firms owned by people on the sanctions' list?**
   Last update: 8 April 2022

No, this is a task for EU credit institution's compliance and due diligence departments. Some guidance on ownership/control can be found in EU Best Practices. On that basis, it is possible to know which other firms than the banks, state-owned entities or other entities in the Annexes are affected by the restrictive measures. These should not be financed either directly or indirectly.

4. **Can funds or economic resources be considered as being made available to a listed person via an entity he/she neither owns nor controls?**
   Last update: 8 April 2022

If the entity is neither owned nor controlled by the listed person, then the presumptions referred to in Question 1 do not apply to it. In that case, the entity as such is in principle not affected by the asset freeze or the prohibition to make funds or economic resources available to it.

However, it cannot be ruled out that funds or economic resources might be made indirectly available to listed persons via an entity which they neither own nor control (e.g. but is acting as an intermediary). This is to be assessed on a case-by-case basis, if there are indications of a possible sanctions breach.

5. **If, before the listing took effect, the assets of a listed person were transferred to a non-listed third person (e.g. a family member), do the assets still need to be frozen?**
   Last update: 8 April 2022

Article 2(1) of Council Regulation (EU) No 269/2014 does not apply retroactively. However, it does require the freezing of all assets currently belonging to, or held, owned or controlled by listed persons. If, at the time of the assessment, there are reasonable grounds to believe that certain assets "belong to" or are "controlled by" the listed person, even if they are nominally owned by someone else, then these assets must be frozen under Article 2(1). It does not matter when the assets were transferred.

In what regards the assessment, the criteria exemplified in the past by the Commission in the context of 'control' were non-exhaustive. In situations involving third persons (and possible family ties), other elements could also be taken into account, such as:

- the closeness of business and family ties between the listed person and the third person;
- the professional independence of the third person now owning the assets;
- previous gifts given to the third person and how they compare to the transaction in question;
- the frequency/regularity of previous gifts to the third person;
- the content of formal agreements between the listed person and the third person;
- the nature of the assets (e.g. whether these are shares in a company owned or controlled by the listed person).

6. **Does the EU owner of shares or bonds in a company subject to an asset freeze as a result of its ownership or control by a listed person have a duty to freeze these shares or bonds?**
   Last update: 8 April 2022

Since the owner of the shares is the EU operator, not the listed person, no freezing is necessary as such under Article 2(1) of Council Regulation (EU) No 269/2014.

7. **Can the EU owner of the shares or bonds of a listed company sell them?**
   Last update: 8 April 2022

If the sale does not result in making funds or economic resources available to the listed company or for its benefit, it is allowed. However, it would be prohibited if the buyer were the company itself or any other person targeted by EU restrictive measures such as those in Article 2 of Council Regulation (EU) No 269/2014. Furthermore, the transaction must not breach Article 5 or Article 5e of Council Regulation (EU) No 833/2014.

8. **Aggregate ownership: If two or more listed persons are each minority shareholders of a non-listed entity, but their aggregate ownership amounts to 50% or more of that entity, should that entity be considered as owned by listed persons?**
   Last update: 5 September 2024

One should take into account the aggregated ownership of the entity. For example, if one listed person owns 30% of the entity and another listed person owns 25% of the entity, the entity should be considered as owned by listed persons.

9. **A listed person is deemed to control a business group that also includes a listed entity. Should the assets of all the companies belonging to the group be considered as controlled by the listed person and accordingly be subject to restrictions under Article 2 of Council Regulation (EU) No 269/2014?**
Last update: 8 April 2022

If control of the listed person over the group as a whole is determined, then the conclusion can extend to all subsidiaries within the group. If control of the listed person was determined over a single entity in the group (e.g. the listed entity), then this would impact its own subsidiaries, but not other subsidiaries in the wider group.

10. **If an EU citizen provides manual or intellectual labour to an EU entity that is owned or controlled by a listed person, would that be considered as making economic resources available indirectly to the listed person?**
Last update: 8 April 2022

As indicated in the Commission opinion of 19 June 2020, the Commission is of the view that working for an owned or controlled entity can be considered as making economic resources indirectly available to the listed person exerting ownership/control over that entity insofar as this labour enables the listed person to obtain funds, goods, or services. The latter assessment is for the national competent authority to make.

11. **Does the derogation in Article 6 of Council Regulation (EU) No 269/2014 allow for the payment of salaries of EU citizens by entities located in Member States considered to be owned or controlled by a listed person?**
Last update: 8 April 2022

Assets of an owned or controlled entity that are frozen because they were deemed to be controlled by the listed person can be released on the basis of an authorisation granted in line with Article 6 of Council Regulation (EU) No 269/2014, if the conditions specified therein are fulfilled, notably that payment is due under a contract or agreement that was concluded or an obligation that arose before the date on which the person was listed in Annex I to that Regulation; the frozen funds are used for a payment by a listed person (or in this case the owned/controlled entity), and the payment is not made towards any listed person.

12. **For an existing bond, are non-listed entities entitled to receive payments so the listed entity can meet its contractual obligations to pay interest and principal?**
Last update: 8 April 2022

In such a case, the payment could be made to a non-listed entity if an authorisation is granted by the national competent authority, pursuant to Article 6 of Council Regulation (EU) No 269/2014,

whereby: "*By way of derogation from Article 2 and provided* ***that a payment by a natural or legal person, entity or body listed in Annex I is due under a contract or agreement that was concluded by, or under an obligation that arose for the natural or legal person, entity or body concerned, before the date on which that natural or legal person, entity or body was included in Annex I,*** *the competent authorities of the Member States may authorise, under such conditions as they deem appropriate, the release of certain frozen funds or economic resources, provided that the competent authority concerned has determined that: (a) the funds or economic resources shall be used for a payment by a natural or legal person, entity or body listed in Annex I; and (b) the payment is not in breach of Article 2(2).*" The Regulation does not prohibit a general authorisation for payments to all holders of the security/bond, provided that the national competent authority can ascertain that all the payments comply with the conditions in Article 6 of Council Regulation (EU) No 269/2014.

13. Do public entities responsible for the administration of state registries (ministries and state-owned companies) have the right to decide themselves on whether some property is indirectly owned by sanctioned persons and freeze it immediately, without referring the case to the authority responsible for the implementation of financial sanctions under national law?

Last update: 8 April 2022

The obligation to freeze the assets is activated as soon as the public entity holding the assets has reasonable grounds to believe that these are owned or controlled by a listed person. Prompt application of the sanctions is key to preventing asset flight. It is however recommended to ensure coordination with the authority responsible for the implementation of financial sanctions, which may have further information and investigative tools enabling a definitive assessment of ultimate beneficial ownership.

14. If a national competent authority freezes the funds of a company owned by a listed person and the company has no possibility to buy resources necessary for its operation, is there a possibility for temporary administration of the company by the state or involvement of state representatives in its management, without the objective of making profit, but to avoid worsening its business condition during the asset freeze?

Last update: 8 April 2022

Sanctions in general and asset freezes in particular do not entail expropriation and are of a temporary nature. Furthermore, EU operators and institutions holding frozen assets should avoid outcomes causing a disproportionate prejudice to the listed person, which would go beyond the objectives of restrictive measures. It is for the national competent authority to determine how to fulfil and monitor this objective, on a case-case by basis.

15. What measure (if any) should competent authorities adopt in respect of listed shareholders with qualifying holdings in an EU bank? Is the freezing of voting rights appropriate/required? In that case, should a proportionality approach be applied, e.g. by starting with increased monitoring of governance?
Last update: 9 November 2022

Shares qualify as 'funds' and therefore must be frozen if belonging to, owned, held or controlled by a listed person. Accordingly, this means that it is prohibited for the listed person to exercise any voting rights which could lead to any change in relation to these shares (e.g. in their volume, amount, location, ownership, possession, character, destination etc.). Either way, since they can be used to obtain funds, goods or services, voting rights as such can be considered an intangible economic resource. This means they should be frozen, i.e. prevented from being used to obtain funds, goods or services in any way. Therefore under no circumstance nor for any purpose may listed shareholders exercise directly or indirectly their voting rights in a company or fund. Voting rights must be fully frozen.

16. In the application of Article 2, should EU operators assess whether the specific funds or economic resources in question might be used to support the Russian military aggression against Ukraine?
Last update: 10 November 2022

No. The link between each listed person and the Russian military aggression was already determined by the Council at the time of the listing, as indicated in the respective statement of reasons in Annex I. The measures in Article 2 concern the entirety of the person's assets within EU jurisdiction, and all funds or economic resources to be made available to that person. Therefore, when conducting due diligence, what EU operators must assess is whether the assets in question belong to, or are owned, held or controlled by the listed person, and whether any funds or economic resources would be made available, directly or indirectly, to that person.

17. If an EU citizen is a board member in a listed Russian/Belarusian company and at the same time a board member in an EU company, should that person resign from one such post? Can a person be considered of good repute/integrity if he/she is a board member in a listed company?
Last update: 29 April 2022

EU sanctions are targeted, meaning that they apply only to those persons and entities that are subject to a specific restriction (e.g. asset freeze, financing ban etc.). Therefore, sanctions on listed entities do not automatically extend to their board members. However, board members may be themselves listed.

The notions of good repute/integrity are indeterminate legal concepts which are not defined in EU sanctions law.

Elsewhere in EU law, the notion of good repute has been interpreted by the Court of Justice of the EU (*case T-27/19, Pilatus v European Central Bank, point 73*), in the context of Article 23(1) of Directive 2013/36 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms. According to the Court, in the absence of an exhaustive definition of that concept or a list of conduct which may fall within the scope of that concept, the competent authorities are required to examine on a case-by-case basis whether the criterion of good repute is met by a shareholder seeking to acquire a qualifying holding in a credit institution. This requires taking into account the relevant facts (among which the fact that the person in question sits on the board of a sanctioned entity is relevant), the reasons underlying the criterion and the objectives which that criterion is intended to secure. The principle of legal certainty does not, therefore, preclude those authorities from enjoying discretion in the application of the criteria in question.

18. Should the employment contract of listed persons employed in whatever function by an EU financial firm be terminated?
Last update: 26 August 2022

Article 2(2) of Council Regulation (EU) No 269/2014 prohibits EU operators from making funds or economic resources available, directly or indirectly, to persons listed in Annex I to said Regulation. In principle, a salary payment would fall in the category of 'making funds or economic resources available'. Nonetheless, Article 7(2)(b) of Council Regulation (EU) No 269/2014 sets out an exception from Article 2(2) and allows payments to frozen accounts of a listed person if they are necessary for fulfilling obligations stemming from a prior contract. The listed person may therefore remain in his/her employment. However, his/her salary would need to be paid on a frozen account.

19. Should an EU bank freeze funds that are transferred via a listed bank, when both the sender of the funds and the receiver of the funds are non-listed persons?
Last update: 29 April 2022

In principle, all assets of a listed entity must be frozen. That includes funds coming from it and funds going to it. See in this regard the Commission opinion of 4 July 2019 which states, in a similar scenario, that funds of a non-listed person that are deposited in or even just transferred to a listed bank can be considered to be "held", in the meaning of Article 2 of Council Regulation (EU) No 269/2014, albeit temporarily, by the listed bank in question. Article 2 on the asset freeze does not require a minimum duration for the possession of the funds by the listed entity.

This means transfers from a listed bank should not be rejected nor should the funds be returned to the sender; instead, the funds should remain blocked in the EU bank. It will be possible to request to the relevant national competent authority the release of those funds, for instance under the derogation envisaged in Article 6 of Council Regulation (EU) No 269/2014 concerning a

payment by a listed person under a contract concluded before the date on which that person was listed.

20. Is it allowed to pay dividends to persons listed in Council Regulation (EU) No 269/2014 or to persons targeted by the financing restrictions in Council Regulation (EU) No 833/2014?
Last update: 29 April 2022

Dividends may be paid to the frozen accounts of persons listed in Annex I to Council Regulation (EU) No 269/2014, as per the derogation laid down in Article 7(2)(b). In that case, the dividends must also be immediately frozen.

Separately, note that dividends may still be paid to legal persons and entities subject to a financing ban pursuant to Article 5 of Council Regulation (EU) No 833/2014 (e.g. credit institutions, Russian state-owned enterprises).

21. For an existing derivative contract (e.g. an interest rate swap) subject to daily margining requirements, is one party allowed to receive collateral that is contractually due even if the counterparty is a designated entity under Council Regulation (EU) No 269/2014?
Last update: 29 April 2022

In the situation where a designated entity is fulfilling a non-listed entity's margin call by making payments to that entity linked to an already concluded derivative contract, forbidding such payments would result in the absence of transfer of funds owed by the designated entity to the non-designated entity. This would amount to a transfer of economic resources to the designated entity. Considering the wide interpretation of the notion of 'making economic resources available' to listed entities by the Court of Justice, this situation is not compatible with the restrictive measures taken vis-à-vis those designated entities. Non-designated entities can therefore receive collateral.

22. In case of a trigger event, e.g. as a consequence of either party not meeting a margining requirement, many derivative contracts give the other party to the contract the right to foreclose the contract at replacement value. Is such foreclosure permitted?
Last update: 29 April 2022

Council Regulation (EU) No 269/2014 foresees the possibility to derogate from Article 2. The foreclosure can be carried out if the conditions specified in Articles 6, 6b or 7 are fulfilled. If that is not the case, no foreclosure should be carried out.

23. Do ships (vessels) fall under the asset freeze?
Last update: 29 April 2022

Ships fall under the asset freeze, which encompasses all assets owned or controlled by a listed person. This also means that no services, including maritime services, can be provided to ships owned by listed persons.

24. Do the restrictive measures in Council Regulation (EU) No 269/2014 apply to intellectual property rights (patent applications, patents and related procedures) in the European Union?
Last update: 29 April 2022

EU sanctions can indeed apply to intellectual property rights (IPRs). The EU has designated (listed) a number of individuals and legal persons as subject to sanctions. All funds and economic resources, directly or indirectly belonging to, held or controlled by the listed persons must be frozen.

In practice, any EU person, public institution and person doing business in the EU must prevent any transfer of, alteration of, access to, use of or other dealings with those frozen funds or resources. In particular, the freezing of a listed person's economic resources means that any asset of the listed person, whether tangible or intangible, cannot be used by anyone to obtain other funds or assets. Since IPRs can qualify as 'economic resources', they are also subject to this restriction. This means that public institutions (e.g. a trademark register) must not enable the use of IPRs of a listed person, or of a person owned or controlled by a listed person (e.g. no property transfer should be registered).

EU sanctions also prohibit making further funds or economic resources available to listed persons or to entities owned/controlled by them. This means that no further transactions with those persons are possible (e.g. license fees for an IPR paid by an EU person to a person under sanctions).

For more information on the treatment of intellectual property rights, please consult the dedicated FAQs.

25. Does Council Regulation (EU) No 269/2014 allow secondary trading of securities issued by an entity listed in Annex I?
Last update: 29 April 2022

Supposing the entity is not subject to securities transactions restrictions under Article 5 of Council Regulation (EU) No 833/2014, secondary market trading of its securities would not be forbidden. Securities traded on a secondary market cannot be considered as "belonging to, owned, held or controlled by" the entity, nor can their purchase be considered as making funds or

economic resources available to that entity. It should nonetheless be reminded that pursuant to Article 9 of Council Regulation (EU) No 269/2014, it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Article 2 of said Regulation. If you believe you are witnessing sanctions violations or circumvention, these can be reported to your national competent authority or anonymously via the EU whistleblower tool.

26. If the assets of a person listed under Council Regulation (EU) No 269/2014 were transferred to an EU operator before that person's listing, can the operator be held accountable for having accepted them?
Last update: 19 May 2022

If a certain structure was created in order to assist a person to evade the effects of its possible future listing, then current, ongoing participation in that structure can amount to circumvention of the restrictive measures, if done knowingly and intentionally. Circumvention is prohibited under Article 9 of Council Regulation (EU) No 269/2014. Article 9 can be breached even if the freezing of assets is not discontinued and no assets reach or benefit the now-listed person; mere participation in a structure created for that purpose can be considered as a breach. In what regards the cumulative requirements of knowledge and intent, see also the jurisprudence in Case C-72/11, Afrasiabi and Others, in particular that these requirements are met where the operator "deliberately seeks that object or effect or is at least aware that its participation may have that object or that effect and accepts that possibility".

27. Should a vessel (yacht), which is already in an EU port, be denied any services, including mooring on the quay, supply of electricity and water, acceptance of waste - a result of shipping activity?
Last update: 23 May 2022

EU operators are prohibited from making funds or economic resources available, directly or indirectly, to listed persons. Labour and services can be considered as economic resources if they enable the listed person to obtain funds, goods or services. It is for the operator to determine whether the service(s) in question would result in that outcome. In such a case, the service(s) would be prohibited. For more details, see the Commission opinion of 19 June 2020.

28. If the owner or user of a vessel (yacht) is a designated person or an entity, should the national competent authorities take actions if the vessel is located in the territorial sea of a Member State, without violating the right to peaceful passage?
Last update: 23 May 2022

According to Article 2 of the United Nations Convention on the Law of the Sea, the sovereignty of a State extends also to the territorial sea. Therefore, if the relevant designated person or entity is prohibited from entering to the Union then, at their discretion and taking into account the

circumstances, including the freedom of navigation into account, a Member State could take relevant actions also in the geographical scope of its territorial waters.

29. Should the national authorities collect the fees due by vessel's owners?
Last update: 23 May 2022

Yes.

30. What does the reinforced reporting obligation in Article 8 entail?
Last update: 26 July 2022

Previously, Article 8 required all persons under EU jurisdiction to supply to Member States and to the Commission any information "which would facilitate compliance with the Regulation". This included, in particular, information on assets already treated as frozen.

The now-reinforced Article 8 explicitly requires persons under EU jurisdiction to also report any information in their possession about assets not yet treated as frozen. This could include, for instance, assets concealed by the listed persons or assets not adequately handled somewhere in the Union. In addition, Article 8 now applies "notwithstanding the applicable rules concerning reporting, confidentiality and professional secrecy". In other words, it would trump relevant agreements entered into by the EU operators in question, who would be obliged to report all relevant data including names, individual assets and dates of transfers.

It should be noted however that EU sanctions legislation guarantees in particular the right to an effective remedy and the right to defence, as laid down in the Charter. Therefore, in principle, while the reinforced reporting obligation would cover most services and activities linked to listed persons, it should not cover information received as part of legal representation in court proceedings.

EU sanctions law is to be applied in line with all other rights and freedoms in the Charter, including the right to protection of personal data. Article 8(3) already indicates that any information provided or received in accordance with that article must be used "only for the purposes for which it was provided or received".

31. What does the new reporting obligation in Article 9 entail?
Last update: 26 July 2022

For the first time, listed persons and entities are obliged to disclose to Member States' competent authorities funds or economic resources belonging to, owned, held or controlled by them which are located within EU jurisdiction.

This new obligation comes in response to the increasing complexity of sanctions evasion schemes, and it will help ensure that those assets are traced more effectively. Non-compliance with this obligation (i.e. failure to report on time) would be treated as a breach of EU sanctions law, with the consequences that follow under each Member State's national legislation, including criminal penalties.

32. Does a listing affect the status of a beneficial owner of a legal person?
Last update: 30 August 2022

EU sanctions are temporary measures that do not entail expropriation or modification of the ownership, and the status of beneficial owner does not cease to exist in the moment the beneficial owner is listed. As defined in the Council Regulation (EU) No 269/2014:

- The '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, location, ownership, possession, character, destination or any other change that would enable the funds to be used.
- The definition of 'funds' includes publicly- and privately-traded securities and debt instruments, including stocks and shares.

It follows that the listing of an individual, as such, should not result in any change to the information held by national beneficial ownership registers.

33. What actions should the national competent authorities undertake in case of a declared entry into an EU port of a vessel (yacht), whose owner or user is a designated person or an entity who are subject to freezing of economic resources, taking into account the definition of "freezing of economic resources" as defined under Art. 1(e) of Council Regulation (EU) 269/2014?
Last update: 23 May 2022

Vessels fall under the asset freeze, which encompasses all assets owned or controlled by a listed person or entity. Therefore, the vessel should be seized, and the seizure reported in the FSOR database.

34. Should a vessel owned or operated by a designated person or entity be admitted to port, detained or refused entry in an EU port?
Last update: 10 October 2022

It depends whether the vessel is registered under the flag of Russia. Pursuant to Article 3ea(1) of Council Regulation (EU) No 833/2014, as of 9 April 2022, it is prohibited to provide access to ports in the territory of the Union to any vessel registered under the flag of Russia, unless the vessel is in need of assistance and seeking a place of refuge, or in case of an emergency port call for reasons of maritime safety, or for saving life at sea (Article 3ea(4)). Derogations to this prohibition may apply, the conditions of which are laid down in Article 3ea(5) of Council Regulation (EU) No 833/2014.

If the vessel is not registered under the flag of Russia or allowed to enter the port under the specific conditions laid down in Articles 3ea(4) and 3ea(5), then it should be admitted to port and seized if its owner is a designated person or entity under Council Regulation (EU) 269/2014.

New reporting obligations introduced by Council Regulation (EU) 2023/426 of 25 February 2023 amending Council Regulation (EU) 269/2014 ('10th Russia sanctions package')

35. Reporting on information held on assets' changed features over the two weeks prior listing: applicability to all existing designations.
Last update: 26 April 2023

Applying from 26 April 2023, article 8 of Reg. 269/2014 requires operators to report to their national competent authorities (NCAs) on *"information held on funds and economic resources within Union territory belonging to, owned, held or controlled by natural or legal persons, entities or bodies listed in Annex I and which have been subject to any move, transfer, alteration, use of, access to, or dealing referred to in Article 1(e) or 1(f) in the two weeks preceding the listing of those natural or legal persons, entities or bodies in Annex I".*

This reporting requirement applies to designations of natural and legal persons, entities and bodies in Annex I to Regulation 269/2014 and therefore to all existing designations.

36. Reporting on information held on changes to assets which took place over the two weeks prior to the designation for already existing designations on 26 April 2023.
Last update: 26 April 2023

The reporting obligation concerns information held on any move, transfer, alteration, use of, access to, or dealing with assets of designated persons in the two weeks preceding their designation. With information held, the assumption is that the information is already held, typically in existing records, which does not imply additional investigations other than checking existing records.
Two scenarios are possible:

Operators still subject to asset freeze obligations: in this scenario, further to the designation, assets were actually frozen by the operator. These operators have to look back two weeks before designation in their records. For instance, a bank still in charge of the relevant frozen bank account and that processed funds transfers from the bank account of the person in the two weeks preceding his/her designation should report these funds transfers within two weeks after 26 April 2023 to the competent National Competent Authority (NCA).

Operators that carried out or were involved in transactions concerning the asset of a designated person in the two weeks before the designation but have since then no more interaction with the assets (ie unlike the scenario above, they are not in charge of any frozen assets): there may be instances where these operators have been involved in "any move, transfer, alteration, use of, access to, or dealing", for instance a notary having registered the sale of an estate or a trust services provider or lawyer having contributed to placing the assets of a to-be-designated person or entity under a new legal arrangement. Relevant records should be checked against the designated persons or entities to assess a) whether interaction took place with their

assets and b) if such interaction led to any move, transfer, alteration, use of, access to, or dealing with the assets in the two weeks preceding the designation.

When they hold information relevant to article 8(1)a, second indent, operators may approach their NCAs beforehand on the relevant specifics and presentation of the information to be reported. When advising on the level of detail/degree of granularity of the information presented by operators, NCAs may take into account the reporting capacities of the operator (resources, standard recordkeeping and auditing practices…).

37. Reporting on information held on changes to assets over the two weeks prior designation for new designations (designations post 26 April 2023).
Last update: 26 April 2023

Operators freezing assets of natural and legal persons further to their designation after 26 April 2023 should report any information they have on changes that were made to those assets within the two weeks preceding the designation. For instance, an operator reporting on 16 May on assets frozen for a person designated on 15 May should look back until 1 May to detect possible changes and report them where relevant together with its 16 May report.

This specific reporting could be implemented by way of an addendum to the existing reporting form to the NCAs, with possible information held on asset changes reported on such addendum.

38. Specifics of the information to be provided on assets frozen
Last update: 26 April 2023

The table below recaps the relevant provisions of Article 8(1a) with related guidance:

Provisions in Article 8(1a)	**Guidance**
a) information identifying the natural or legal persons, entities or bodies owning, holding or controlling the frozen funds and economic resources, including their name, address and VAT registration or tax identification number;	VAT registration or tax identification number: if known. If unknown, this should be explicitly stated with the assets freeze reporting.
(b) the amount or market value of such funds or economic resources at the date of reporting and at the date of freezing;	Market value: if known/calculable. If impossible to provide, this should be explicitly stated with the assets freeze reporting. Date of reporting: reporting should take

	place within two weeks after actual freeze. If, during this period, assets are subject to valuation changes, the reporting should provide the value at the date of reporting and at the date of freezing *NB: CSDs will report every three months after the initial freezing. Date of reporting will therefore be +3 months, +6 months… after date of freezing (see also FAQ 6 below).*
(c) the types of funds, broken down according to the categories set out in points (i) to (vii) of Article 1(g) as well as crypto-assets and other relevant categories, and an additional category corresponding to economic resources within the meaning of Article 1(d). For each of those categories and where available, the quantity, location and other relevant features of the funds or economic resources.	The description breakdown can be fulfilled by a narrative description of the frozen asset enabling the NCAs without any extra investigation to relate the asset to the categories referred to in point c). Economic resources should be described too.

39. Where/ to whom to report on frozen assets?
Last update: 26 April 2023

Under Article 8(1) of Council Regulation (EU) No 269/2014, reporting operators have to report *"to the competent authority of the Member State where they are resident or located"*, as listed in Annex II to that Regulation. From an enforcement perspective, it matters that reporting lines point to the NCA that supervises and can enforce the reporting obligations. For instance, a branch of a financial institution headquartered in Member State A which is located in Member State B is supervised for its financial sanctions compliance by authorities in Member State B. It should therefore address its reports on frozen assets to the NCA in Member State B, unless it opts for group level reporting.

Reporting on group level (e.g. a financial institution headquartered in Member State A reporting on group level to the NCA in Member State A for its operations in Member States A, B, C…):

reporting on group level could be possible on condition that NCAs in other Member States than the Member State where the report is addressed are informed beforehand and receive a copy of the report indicating the respective national breakdown.

40. Specific cases of CSDs, specific frozen assets reporting and common reporting template

Last update: 26 April 2023

Central securities depositories within the meaning of Regulation (EU) No 909/2014 of the European Parliament and of the Council (CSDs) are under specific frozen assets reporting requirements:

- they must provide the information referred to in paragraphs 1 and 1a of Article 8 of Council Regulation (EU) No 269/2014;
- they must also report information on extraordinary and unforeseen loss and damage concerning the relevant funds and economic resources;
- the information above must be reported within two weeks of acquiring it to the competent authority of the Member State where CSDs are located and every three months thereafter, and transmitted simultaneously to the Commission.

Information on extraordinary and unforeseen loss and damage relate to events such as a cyber-attack affecting the frozen assets, fraud, circumvention of the freeze resulting in assets being moved without knowledge of the CSD.

A common template for reporting frozen assets by CSDs is available here.

41. Can a non-sanctioned company request an authorisation to use the derogations on trade in fertilisers if it does not consider itself to be owned or controlled by a sanctioned person, but its counterparts do? Would that amount to an acknowledgement of ownership and/or control by the sanctioned person over the company?

Last update: 10 May 2023

Provided that a company fulfils the criteria laid out in the Regulation to request an authorisation, its/its directors' subjective position regarding the ownership and/or control of the sanctioned individual over the company does not prevent it from applying for an authorisation. The Regulation does not draw any conclusions from such an application as to whether the company is indeed owned and/or controlled by the sanctioned individual.

Firewall

42. What is a firewall?

Last update: 5 September 2024

Over the past year, several instances have been brought to the Commission's attention, where there was a need to remove the control by designated persons over non-designated EU entities and their assets, several of which concerned the agrifood sector. This was done to mitigate excessively negative effects of EU asset freezing measures, which extend to all assets owned, held or controlled by those non-designated entities.

To this end, the Commission services consider that specific 'safeguards' (also known as a 'firewall') may be implemented to prevent the designated person from exercising control over the non-designated EU entity and its assets, allowing the EU entity's business operations to continue, while preventing that funds and economic resources are made available to the designated person.

This means that the EU entity operating under a firewall can have access to funds and economic resources. The firewall ensures that no such funds or economic resources are made directly or indirectly available to the listed person, entity or body. Accordingly, the EU-based company can continue functioning and EU employees can continue working, while ensuring that the listed person is deprived of any benefit.

A 'firewall' can be established for example by law, by means of a judicial or administrative decision etc., and authorised by the NCA on the basis of the derogation provided for in Article 5 of the Regulation.

The Commission published guidance which sets some criteria that a firewall should meet. The guidance can be found here.

43. Why was a derogation needed in connection to a firewall?

Last update: 24 July 2023

The asset freeze and the prohibition on making funds or economic resources available (Article 2 of Council Regulation (EU) No 269/2014) prevent listed persons from receiving the services that may be necessary for the setting up of the firewall (which are considered as economic resources), as well as from paying for those services (because the funds of the listed person are frozen).

For these reasons, a derogation was needed in order to allow the provision of and the payment for such services, on a strict necessity base, for the purpose of setting up a firewall.

44. When does the firewall derogation apply? What are the consequences if a derogation is granted but the firewall does not effectively decouple the listed person and the EU-based company?
Last update: 24 July 2023

The derogation from Article 2 of Council Regulation (EU) No 269/2014 allows the national competent authorities to authorise the release of certain frozen funds or economic resources belonging to, owned, held or controlled by a listed natural or legal person, entity or body, or the provision of services to such a natural or legal person, entity or body, under such conditions as the relevant national authorities deem appropriate.

The derogation only applies if the relevant conditions are met, and notably provided that: (i) the authorisation is strictly necessary for the setting-up, certification or evaluation of a firewall; (ii) the firewall effectively removes the control by the listed person, entity or body over the assets of a non-listed EU person, which is owned or controlled by the former and (iii) ensures that no further funds or economic resources accrue for the benefit of the listed person, entity or body (see also Question 33 of the FAQ on the provision of services regarding the corresponding derogation from the services prohibitions).

If a firewall is not effectively established, the presumption is not rebutted and the NCA must keep the entity's assets frozen. In addition, in the event of non-compliance with the firewall commitments, the entity and the relevant individuals must be held accountable according to Member State penalties applicable to infringements of the provisions of the relevant EU Regulation.