

TARGETED FINANCIAL SANCTIONS

GUIDELINES

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FOR FINANCIAL INSTITUTIONS,
DESIGNATED NON-FINANCIAL BUSINESSES AND
PROFESSIONS
AND THE PUBLIC¹

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ABBREVIATIONS

AMSF	Monegasque Financial Security Authority
UNSC	United Nations Security Council
DBT	Department of Budget and Treasury
DNFBP	Designated non-financial businesses and professions
EUR	Euro
FP	Financing of proliferation
FATF	Financial Action Task Force
FI	Financial institution
AML/CFT Law	Law no. 1362 of 3 August 2009
AML/CFT	Anti-Money Laundering / Countering the Financing of Terrorism
UN	United Nations
SO 8.664	Sovereign Ordinance No. 8.664 of 26 May 2021 on procedures for freezing assets and economic resources pursuant to international economic sanctions
UNSCR	United Nations Security Council Resolutions
DPRK	Democratic People's Republic of Korea
TFS	Targeted financial sanctions
EU	European Union

KEY TERMS

Targeted financial sanctions (TFS)

The term "targeted sanctions" refers to sanctions that are intended to have a strategic impact on certain individuals, entities, groups or companies.

The term "targeted financial sanctions" refers to both asset freezing and prohibition on making funds or other assets available in order to prevent funds or other assets from being made available, directly or indirectly, for the benefit of sanctioned individuals, entities, groups or companies.

This term, derived from FATF terminology, has a broader scope insofar as it covers, in the Principality of Monaco, not only sanctions regarding anti-money laundering/countering terrorism and proliferation financing, but also sanctions aimed at ensuring respect for human rights and democracy.

There are two main types of financial sanctions:

- a) Freezing of assets: the implementation of any action aimed at preventing any movement, transfer, modification, use or manipulation of the said assets, which would result in a change in their volume, amount, location, ownership, possession, nature, destination or any other modification that could make it possible to use them.
- b) Prohibition on making funds available: the prohibition on making funds or economic resources available or providing financial or other related services, directly or indirectly, wholly or jointly, to or for the benefit of sanctioned individuals, entities, groups or undertakings.

Funds

The term "funds" refers to financial assets and economic resources of any kind, tangible or intangible, physical or virtual, movable or immovable, regardless of their method of acquisition, as well as legal deeds or instruments in any form, including electronic or digital, attesting to the ownership of these assets or the related rights and in particular, but not exclusively:

- cash, cheques, cash receivables, drafts, payment orders and other instruments or means of payment;
- deposits of funds with credit institutions and payment institutions such as repayable public funds held or paid into deposit accounts, funds paid into a payment account, funds invested in savings products or paid under individual or collective asset management contracts, the balances of these accounts or contracts;
- funds paid on life insurance or capitalisation policies as well as the surrender value of these policies;
- receivables;
- debt securities, ownership and borrowing securities, such as shares, certificates representing transferable securities, bonds, promissory notes, warrants, unsecured bonds and derivative contracts, whether traded on a stock exchange or the subject of a private investment;
- interest, dividends or other income from assets or capital gains received on assets;
- credit, right to set-off, guarantees, performance guarantees or other financial undertakings;
- letters of credit, bills of lading, sales contracts;
- any document certifying the holding of units in a fund or financial resources;
- any other export financing instrument;
- virtual financial assets.

Economic resources

The term "economic resources" means assets of any kind, tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, property or services. This includes, but is not limited to:

- Equipment, furniture, fixtures and fittings;
- Any material of a fixed nature, such as ships, aircraft and motor vehicles;
- Inventories of goods;
- Art, jewellery and gold;
- Goods, including oil, refined products, modular refineries and related materials, including chemicals, lubricants, minerals, timber or other natural resources and commodities;
- Weapons and related materials, raw materials and components that may be used in the manufacture of improvised explosive devices and non-conventional weapons;
- Patents, trademarks, copyright and other forms of intellectual property;
- Real estate.

INTRODUCTION

1. The United Nations Security Council (UNSC) is one of the six principal organs of the United Nations (UN) and has primary responsibility for the maintenance of international peace and security. Under the United Nations Charter, all UN member states are obliged to comply with the decisions of the Security Council.
2. By virtue of Article 41 of Chapter VII of the United Nations Charter and in order to fulfil its mission, the UNSC is empowered to take such measures as it deems appropriate. In certain cases, it can impose sanctions or even authorise the use of force to maintain or restore international peace and security.
3. UNSC sanctions take a variety of forms and have different objectives, ranging from comprehensive economic and trade sanctions to more targeted measures such as arms embargoes, travel bans and financial or commodity restrictions. However, the main purpose of these sanctions is to support the political resolution of conflicts, promote the non-proliferation of nuclear weapons and combat terrorism.
4. As a member of the UN, the Principality of Monaco (Monaco) applies all the measures concerning the freezing of funds and economic resources decreed by the UNSC.
5. In addition, the Financial Action Task Force (FATF), the intergovernmental body responsible for setting international standards in the fight against money laundering (AML), countering the financing of terrorism (CFT) and financing of proliferation (FP), under Recommendations 6 and 7 of the FATF Standards, requires the implementation of Targeted Financial Sanctions (TFS) to comply with the UNSC Resolutions on the prevention and suppression of money laundering, terrorism and proliferation financing.
6. In accordance with the Franco-Monegasque banking agreements and the Monetary Agreement with the European Union (EU), the Principality of Monaco is also required to adopt all measures taken by the European and French authorities to freeze funds and economic resources.
7. The Monegasque authorities also have the possibility of adopting autonomous measures to freeze funds and autonomous economic resources, in accordance with UNSCR 1373 (2001).
8. Therefore, pursuant to the provisions of Sovereign Order 8.664 of 26 May 2021, as amended, on procedures for freezing funds and economic resources pursuant to international economic sanctions (SO 8.664), Monaco implements all relevant UN, European Union and French Republic sanctions relating to the suppression and combating of terrorism, financing of terrorism, financing of the proliferation of weapons of mass destruction and sanctions intended to ensure respect for human rights, democracy, international peace and security. To this end, Minister of State Decision no. 2021-1 of 4 June 2021, as amended, issued on the basis of SO 8.864, lists all the international sanctions regimes in force in Monaco.
9. In order to inform the professionals, particularly FIs and DNFBPs, SO 8.664 has established a National List of natural or legal persons, entities or bodies subject to a fund or economic resource freezing measure in Monaco. This consolidated list, maintained and updated by the Department of Budget and Treasury, is published on the Government website dedicated to asset freezing measures. This National List includes the sanctions lists adopted by the UN, the EU and the French Republic.

Scope of the Guidelines

10. These guidelines have been issued by the Advisory Committee on the Freezing of Funds and Economic Resources (the Advisory Committee) to help financial institutions (FIs), designated non-financial businesses and professions (DNFBPs) and the general public in understanding the procedures for implementing targeted financial sanctions in the Principality of Monaco. In accordance with Monegasque regulations, FIs and DNFBPs are required to apply policies, procedures and controls to implement the TFS against sanctioned persons and entities on the National List.
11. The information contained in this document does not constitute in any way whatsoever legal advice and should be read in conjunction with relevant national regulations, international standards and guidance published by the Advisory Committee or other competent bodies, in particular the Monegasque Financial Security Authority (AMSF). Compliance with the legal and regulatory obligations in force is the sole responsibility of each FI and DNFBP. This document will be updated regularly.

Contact

12. For all information, declarations and requests relating to the implementation of targeted financial sanctions, please send an e-mail to the Department of Budget and Treasury.

E-mail: dbt.geldefonds@gouv.mc

Website: <https://geldefonds.gouv.mc/en>

THE VARIOUS TFS REGIMES

13. In Monaco, the procedures for implementing freezing measures are governed by the following texts:

- Sovereign Ordinance No. 8.664 of 26 May 2021 on procedures for freezing assets and economic resources pursuant to international economic sanctions;
- Minister of State Decision No. 2021-1 of 4 June 2021 in application of Sovereign Ordinance No. 8.664 of 26 May 2021 on procedures for freezing funds and economic resources pursuant to international economic sanctions;

available on the following page: <https://geldefonds.gouv.mc/en/regulations/national-legislation>

14. SO 8.664 empowers the Minister of State to issue via ministerial decisions the measures to freeze funds and economic resources decreed by the UN, the EU, the French Republic or on his own initiative, in order to ensure compliance with the norms and principles enshrined in public international law, in particular human rights, democracy, international peace and security.

United Nations Security Council Resolutions

There are currently 15 sanction regimes, including:

The fight against terrorism and the financing of terrorism of:

The Islamic State in Iraq and the Levant (Da'esh), Al-Qaeda, and associated individuals, groups and entities.	UNSCR 1267 (1999), 1989 (2011) and its subsequent resolutions
The Taliban and associated individuals, groups, companies and entities.	UNSCR 1988 (2011) and its subsequent resolutions

The financing of the proliferation of weapons of mass destruction of:

The Democratic People's Republic of Korea (DPRK): nuclear-related, other weapons of mass destruction-related and ballistic missile-related programs.	UNSCR 1718 (2006) and its subsequent resolutions
The Islamic Republic of Iran: Nuclear programme	UNSCR 2231 (2015)

The political resolution of conflicts, in particular concerning:

South Sudan	UNSCR 2206 (2015)
Mali	UNSCR 2374 (2017)

European regulations imposing restrictive measures

15. As part of the Common Foreign and Security Policy (CFSP), the EU adopts European regulations enabling it to:

- Transpose into its internal legal system UNSCRs providing for the freezing of funds and economic resources;
- Impose measures to freeze funds and economic resources autonomously, independently of any action by the United Nations. Thus, the EU adopts freezing measures as part of the fight against the financing of terrorism, the fight against the proliferation and use of chemical weapons, the fight against cyber attacks and economic sanctions to deal with serious human rights violations.

Freezing measures adopted by the French authorities

16. Pursuant to Articles L.562-2 and L.562-3 of the Monetary and Financial Code, the French authorities take autonomous freezing measures aimed at:

- Countering the financing of terrorism (Article L.562-2);
- Combatting actions prohibited by resolutions adopted under Chapter VII of the United Nations Charter or acts adopted in application of Article 29 of the Treaty on European Union or Article 75 of the Treaty on the Functioning of the European Union, i.e. violations of human rights, international peace and security (Article L.562-3).

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Monaco's autonomous designation system

17. In accordance with the provisions of Article 7 of SO 8.664, the Minister of State may take measures to freeze funds and economic resources on his own initiative, or after considering a request from another State, against persons and entities involved in acts of terrorism. To date, the Minister of State has not ordered any freezing of funds or economic resources in this context.

IMPLEMENTATION OF TARGETED FINANCIAL SANCTIONS

Scope of application

18. The term "targeted financial sanctions" includes both the freezing of funds and economic resources without delay and the prohibition on making funds and other goods or services available, directly or indirectly, to sanctioned persons, entities or groups.

- **Freezing of funds and economic resources without delay:** freezing is the prohibition on transferring, converting, disposing of or moving funds and other assets that are held or controlled by persons, entities or groups designated on the National List. It includes:

- The freezing of funds and other financial assets and economic resources, including the prevention of their use, alteration, movement, transfer or access.
- The freezing of economic resources also includes a prohibition on their use to obtain funds and other goods or services in any way, including, but not limited to, by selling or mortgaging them.

Example of the freezing of funds and economic resources

1. An FI implements a freezing measure by suspending a customer's access to his bank account(s), or by refusing to allow a transaction to be executed on his account.
2. A DNFBP implements a freezing measure by refusing to transfer ownership of a property.

- **Prohibition on making funds and other goods or services available:** this means prohibiting the provision of funds and other goods, or the provision of financial or other services, to any designated person, entity or group.

Example of a prohibition on making funds/goods/services available

1. An FI decides not to offer banking services to a designated person.
2. A DNFBP declines its offer to purchase goods from a designated person in exchange for cash (for example, dealer purchasing jewellery in exchange for cash).

Concrete examples of the implementation of freezing measures

Accounts

19. FIs must not open accounts for, or provide financial services to, designated persons or entities. In addition, as soon as a freeze measure comes into force, all debit transactions on frozen accounts must be suspended. Payments by means of payment instruments are also blocked (e.g. cards, cheques), and cash cannot be handed over to the designated person. However, frozen accounts may be credited, provided that any additional sums paid into these accounts are frozen and that this operation is immediately reported to the Department of Budget and Treasury (DBT).

Loans

20. FIs and DNFBPs must not enter into loan agreements with a designated person or entity. In all cases, no funds are released to the designated person or entity. FIs and DNFBPs must not accept any security or guarantee from a designated person or entity.

21. In cases where a loan agreement was concluded before the freezing measure and the borrowed funds have not yet been made available to the designated person or entity, FIs and DNFBPs shall refrain from disbursing the funds after the freeze measure takes effect. However, the DBT may authorise the payment of borrowed funds into a frozen account on a case-by-case basis.

Life insurance contracts

22. Insurance companies are required to freeze the execution of life assurance or capitalisation contracts where a designated person or entity is:

- the subscriber or policyholder;
- the joint subscriber or policyholder;
- the payer, when the latter is not the subscriber;
- the beneficiary.

23. The freezing measure must be applied at every stage in the life of the policy, whether at the time of conclusion, waiver, partial or total payment or redemption, or when the contract is cancelled.

Persons and entities aimed by freezing measures

24. The freezing of funds and the prohibition on making funds available apply to:

- any individual, entity or body **designated** by decision of the Minister of State;
- any entity or body wholly or jointly **owned, held or controlled**, directly or indirectly, by an individual, entity or body designated by decision of the Minister of State;
- any individual, entity or body **acting on behalf of or on the instructions** of any individual, entity or body designated by decision of the Minister of State.

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Please note that TFS must also be applied to:

1. funds and economic resources **derived from or generated by** assets or economic resources belonging to, possessed, held or controlled, directly or indirectly, by natural or legal persons, entities or bodies designated by decision of the Minister of State;
2. funds and economic resources **held by entities belonging to or controlled** directly or indirectly by these natural or legal persons, entities or bodies designated by decision of the Minister of State or by any person acting on their behalf or on their orders.

25. The lists of designated persons, groups and entities can be consulted on the following websites:

- The UN website:
<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>
- The UN website's press releases page which documents the changes made to the various sanctions regimes and publishes the list of new designations:
<https://press.un.org/en/content/security-council/press-release>
- The Monegasque Government's dedicated TFS website publishes a consolidated list of designated individuals, groups and entities called the "National List", which is in line with the lists drawn up by the United Nations, the European Union and the French Republic and includes any designations made by the Minister of State on the basis of resolution 1373 (2001):
<https://geldefonds.gouv.mc/en/national-asset-freezing-list>

Duration of TFS

26. The measures to freeze funds and prohibit making them available have no time limit, except for those based on French freeze measures, which are adopted for a period of six months and may be renewed.
27. Funds and other assets must remain frozen, and the prohibition on making funds and other goods or services available remains in place until the person, entity or body is removed from the National List.
28. This removal may result either from the repeal or cancellation of the freezing measure.
29. When the freezing measure is removed, the FIs and DNFBPs shall remove all restrictions on accounts, contracts and transactions, without waiting for confirmation from the DBT. However, as part of their AML/CFT policies, they are required to reassess the risk profile of their business relationships with the persons and entities concerned and to implement appropriate due diligence measures.

OBLIGATIONS OF FIs AND DNFBPs

Screening Databases

30. FIs and DNFBPs must carry out continuous screening exercises of their databases in order to detect any person designated by a decision of the Minister of State. Such exercise must be carried out in the following cases:

- a. Each time the National List is updated:
In such cases, screening must be carried out **immediately** to ensure compliance with the obligation to implement freezing measures without delay;
- b. Before entering into a relationship with a new customer;
- c. During KYC (Know Your Customer) reviews;
- d. When changes are made to a customer's information;
- e. Before processing any type of transaction.

31. Best practice requires FIs and DNFBPs to ensure on an ongoing basis that existing customers and related persons (such as agents and beneficial owners) are subject to regular reviews in order to comply at any time with targeted financial sanctions. The policies and procedures of FIs and DNFBPs must clearly define the detection perimeter.

IMPORTANT NOTE

TFS screening is not a risk-dependent due diligence measure, but should be carried out regardless of the customer's risk profile.

32. As a general rule, screening should be carried out when establishing a new relationship, to ensure that it is permissible, and at each triggering event or in the event of a change in the underlying information, to validate that the relationship or relationships remain permissible. Where data, whether internal or external, changes frequently, periodic filtering can be carried out at a daily frequency, but longer intervals between each new periodic filtering may be acceptable in situations where changes are less frequent.

33. FIs and DNFBPs must identify, assess, monitor, manage and mitigate sanctions-related risks, in particular the risks of terrorism and proliferation financing. The internal screening process must take into account such a risk assessment. In the event of higher risks, FIs and DNFBPs should take additional measures to manage and mitigate the risks, including enhanced due diligence measures.

DRAWING UP PROCEDURES FOR IMPLEMENTING ASSET FREEZING MEASURES

FIs and DNFBPs must have procedures that clearly explain how to implement asset freezing measures and clearly specify:

- the legal framework applicable to the freezing of funds, including the risk of criminal or disciplinary sanctions in the event of non-compliance with obligations;
- the screening system put in place;
- the scope and frequency of screening;
- the electronic lists used (the National List, external providers, United Nations lists, etc.);
- sources of information used by the FI/DNFBP for screening persons and entities (including commercial databases used to identify adverse information on persons and entities);
- the roles and responsibilities of employees involved in screening, reviewing and updating alerts, maintaining and updating the various screening databases, and transmitting potential matches;
- the authorisations required to access and process alerts;
- the process of analysing alerts and determining whether a potential match is a false positive (person or entity with the same or a similar name) or a confirmed match;
- the measures to be taken when sending a declaration to the DBT on potential matches and the follow-up to the response from this government department following such a request;
- measures to be taken to freeze or restrict access to funds by sanctioned persons;
- the management of the customer or business relationship impacted by a freezing measure and the information to be provided to the customer whose funds have been frozen;
- keeping a record of the actions taken during the processing of the alert;
- the removal implementation of the freezing measure.

34. In the event that any of the scenarios described in letters a) to e) above occur, FIs and DNFBPs are required to check the following databases to help them identify possible matches with names on the National List:

- Existing customer databases;
- Names of parties to any transaction (including buyers, sellers, agents, etc.);
- Beneficial owners;
- Names of persons or entities having direct or indirect relations with designated persons;
- Customers, before carrying out transactions or entering into a serious business relationship with them;
- Directors and/or agents acting on behalf of clients (including persons with power of attorney).

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IMPORTANT NOTE

Screening of databases is an ongoing exercise for FIs and DNFBPs.

In order to ensure that they never do business with a designated person or entity in any way, FIs and DNFBPs must screen all their databases (including both existing and new customers), taking into account all possible identification factors, such as first name, surname, date of birth, nationality, address, etc..

Reporting obligations

35. When a FI or a DNFBP identifies a confirmed or potential match during the screening of its database, they are required to report promptly such matches to the DBT after the freezing measure has been implemented. The reporting of any freezing measure or attempted transaction by a designated person, entity or group must be communicated immediately to the DBT by e-mail (dbt.geldefonds@gouv.mc).

36. To facilitate exchanges between FIs and DNFBPs and the authorities, the DBT has developed reporting templates which are available on the Government dedicated website. The use of these templates is strongly recommended as it speeds up the reporting process and also enables the DBT to obtain consistent and harmonised information. Model declarations vary depending on the reporting entity and may be downloaded on the following link:

<https://geldefonds.gouv.mc/en/regulations/procedures/procedure-for-freezing-funds-and-economic-resources>

IMPORTANT NOTE

When filling out the reporting template, the first question requires whether the professional is reporting on a **potential match** or a **confirmed match**.

A **potential match** is a partial match between the identifiers on the National List and any information contained in the databases, for which the professional is unable to determine whether it is a false positive or a confirmed match. In such a case, all transactions should be suspended, the DBT should be informed and the freezing measure should be maintained until a response is received from the DBT on the status of the match.

A **confirmed match** occurs if the person, entity or organisation matches all the key identifiers published on the National List. If the confirmed match is an existing customer, the freezing measures should be implemented without delay, the offer of funds and other goods or services should be stopped and the freezing measures should be reported to the DBT immediately. If the confirmed match is a potential customer, the transaction should be rejected immediately and reported to DBT.

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37. For the purpose of monitoring the implementation of TFS and the information provided to the DBT, professional secrecy does not prevent the exchange of information between FIs, DNFBPs, other bodies, entities or persons and the DBT, provided that such information is used solely for the purpose of verifying the identity of persons directly or indirectly concerned by freezing measures or for monitoring transactions involving frozen funds and economic resources.

38. In addition, pursuant to Article 42 of Act 1362 of 3 August 2009, as amended, FIs and DNFBPs are required to report transactions and facts relating to natural or legal persons, entities or bodies covered by measures freezing funds and economic resources to the AMSF's financial intelligence unit.

Additional obligations for FIs and DNFBPs

39. In addition to the screening and reporting obligations described above, FIs and DNFBPs are expected to:

- Cooperate with the DBT, the competent authority for requesting any information when verifying the accuracy of the information submitted;
- Implement the freezing, delisting or cancellation measure, if applicable, without delay, in accordance with the decisions taken by the Minister of State; and
- Establish and implement policies, procedures and internal controls to:
 - Ensure compliance with the obligations arising from SO 8.664;
 - Identify existing accounts, transactions, funds and other assets of designated persons, entities or bodies;
 - Conduct ongoing TFS training and awareness sessions to the relevant employees and senior management;

- Prohibit staff from informing, directly or indirectly, the customer or any related person (such as an agent or beneficial owner) that a freezing measure is to be implemented in accordance with the provisions of SO 8.664; and
- Ensure that appropriate resources are available to meet TFS implementation obligations without delay.

Subscribing to the Freeze Funds Newsletter

40. SO 8.664 requires any designation made by the Minister of State to be published, within no more than 24 hours of being signed by the Minister of State, on the Prince's Government website dedicated to the freezing of funds and economic resources (<https://geldefonds.gouv.mc/decisions-ministerielles>).

41. In practice, these publications, carried out by the DBT, mention in particular the surnames and first names, aliases, date and place of birth, business names or corporate names, as well as any other information relating to the identification of the natural or legal person, entity or body designated.

42. In order to inform FIs and DNFBPs of each designation, modification or de-listing of persons, entities or bodies, the DBT has set up a free subscription service for the public to a Newsletter sent by e-mail.

43. FIs and DNFBPs can subscribe to the "Asset Freezing" newsletter at the following address <https://geldefonds.gouv.mc/en/newsletter/register>.

IMPORTANT NOTE

Although it is not compulsory, subscribing to the "Asset Freezing" Newsletter is an effective tool to help FIs and DNFBPs comply with their obligation to freeze the funds and/or economic resources of designated persons without delay.

ADMINISTRATIVE AND CRIMINAL SANCTIONS

Administrative sanctions

44. In accordance with the provisions of Article 7-3 of SO 8.664, the monitoring of the application and implementation of the freezing measures taken pursuant to SO 8.664 is exercised, as the case may be, by the agents of the department exercising the supervisory function of the AMSF (for FIs and DNFBPs with the exception of lawyers) or by the Bar Association (for lawyers).

45. In the event of non-compliance by FIs and DNFBPs (with the exception of lawyers), the AMSF may impose one or more of the sanctions listed in Article 65-8 of Law no. 1.362 of 3 August 2009, as amended, such as a warning, reprimand or injunction.

46. In the event of misconduct by a lawyer, the Bar Association may impose the sanctions listed in Articles 69-2 to 69-4 of Law no. 1.362 of 3 August 2009, as amended.

Criminal sanctions

47. In accordance with the provisions of Article 12 of SO 8.664, any failure by FIs and DNFBPs to comply with the TFS provisions is punishable by the sanctions set out in point 4 of Article 26 of the Monegasque Criminal Code, i.e. a fine from €18,000 to €90,000.

48. In addition, in accordance with the provisions of point III of Article 71-2 of Law No. 1.362 of 3 August 2009, as amended, taxable persons who fail to report suspicions as referred to in Article 42 shall be liable to a fine of twice the fine provided for in point 4 of Article 26 of the Criminal Code, i.e. from €36,000 to €180,000.

Circumvention of freeze measures

49. Pursuant to Article 4 of SO 8.664, it is forbidden to knowingly and intentionally carry out or participate in transactions whose purpose or effect is to circumvent a freezing measure directly or indirectly.

Exemption from liability

50. The 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 would be in accordance with the provisions of SO 8.664, shall not give rise to liability of any kind on the part of the natural or legal person or entity implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen as a result of negligence.

RELEASE OF FROZEN FUNDS OR ECONOMIC RESOURCES

Request for release or use of frozen funds or economic resources

51. Any person or entity designated by the Minister of State and affected by an asset freezing measure under the provisions of SO 8.664 may submit a written request to the DBT to access to the frozen funds. The authorisation to release or use frozen funds or economic resources may be granted by decision of the Minister of State, in accordance with the conditions provided for by the economic sanction regime imposed by the UN, the European Union or the French Republic.

52. Article 4 of Ministerial Decision 2021-1 of 4 June 2021 specifies that this authorisation may be issued if the applicant proves that his application meets one of the conditions for the release of funds set out in the relevant sanction regime.

53. In accordance with the provisions of SO 8.664, requests for the release of funds must be sent either directly by the person whose funds have been frozen, or by a duly authorised representative, or by the bank that implemented the freezing measure, by e-mail (dbt.geldefonds@gouv.mc).

54. Requests to the DBT to release or use frozen funds must include the following information:

- the reason for releasing the funds, stating the legal basis for the request;
- the exact amount of funds to be released and the bank account to which the funds should be released;
- all relevant supporting documents.

55. The decision whether or not to authorise the use of frozen funds is notified by e-mail (with acknowledgement of receipt) to the person whose funds have been frozen and the bank that implemented the decision or, where applicable, the representative who submitted the request.

56. If authorisation to release the funds is granted, the sums required to cover these expenses will be paid directly by the bank to the creditor, with the exception of the amounts allocated for food, clothing and personal hygiene, which are paid to the applicant in cash, on a monthly basis, against signature of a receipt.

57. The request for release may relate to the following payments in particular:

- Payment of essential expenses;
- Payment due under a contract concluded before the freezing measure was implemented.

Essential expenses

The Minister of State may authorise the release of certain frozen funds or economic resources or the making available of certain funds or economic resources after having established that such funds or economic resources are required to pay:

- the expenses necessary to meet the basic needs of the designated natural or legal persons and the family members of the natural persons who are their dependants, in particular the costs of food, clothing and daily hygiene, health care, rent and mortgage payments, taxes, insurance premiums, public utilities (water, electricity, gas and telecommunications);
- reasonable fees or reimbursement of expenses incurred for legal services;
- fees or services charges for the management of frozen funds or economic resources.

Release of inadvertently frozen funds

58. Any person or entity with the same or a similar name as a person or entity designated under a freezing measure whose funds or economic resources have been inadvertently frozen (case of a "false positive") may refer the matter to the DBT.

59. To this end, the person or entity concerned must submit their request to the DBT, providing all relevant identification documents for verification by the competent departments.

60. Should these checks confirm that the person or entity concerned is not a person or entity on the National List, the DBT will send a notification to the person concerned and to the FI or DNFBP that inadvertently froze the funds so that the funds can be released.

FREEZING MEASURES ADOPTED WITH REGARD TO ACTIONS ENDANGERING OR THREATENING THE TERRITORIAL INTEGRITY, SOVEREIGNTY AND INDEPENDENCE OF UKRAINE

Special provisions applicable to measures adopted by the EU in connection with the Russian-Ukrainian conflict

61. Since 2014, the European Union has imposed restrictive measures against Russia, initially in response to the illegal annexation of Crimea and Sevastopol and the deliberate destabilisation of Ukraine. Then, on 24 February 2022, in response to Russia's military aggression against Ukraine, the EU massively extended the sanctions and added a very large number of people and organisations to the sanctions list, which has since been subject to numerous additions.

62. At the same time, the EU sanctions regime against Belarus has also been extended in response to the country's involvement in Russia's aggression against Ukraine. This is in addition to the sanctions already in place against Belarus. This sanctions regime consists of a series of financial, economic and commercial measures.

63. Having adopted the same measures as the European Union, the Principality of Monaco has supplemented its legal framework to introduce new reporting obligations for designated persons or entities and for FIs and DNFBPs.

64. Thus, pursuant to the provisions of Article 14-1 of SO No. 8.664 of 26 May 2021, as amended, natural or legal persons, entities or bodies subject to a freezing measure must declare to the DBT the funds and economic resources that belong to them, that they own, hold or control **in the territory of the Principality**, by means of a [form](#) accessible from the Government website dedicated to freezing measures.

65. In addition, pursuant to the provisions of Article 14-2 of the above-mentioned SO, FIs and DNFBPs are required to inform the DBT about:

- information held on funds and economic resources in **the territory of the Principality** belonging to natural or legal persons, entities or bodies designated by decision of the Minister of State and **which have not been treated as frozen**;
- information concerning funds and economic resources **located in the territory of the Principality** which these natural or legal persons, entities or bodies own, hold or control and which have been moved, transferred, modified, used, manipulated or accessed **during the two weeks preceding the designation**.

FREEZING MEASURES ADOPTED PURSUANT TO UNSCR 1373 (2001)

Identifying targets for national designation

66. In Monaco, the Minister of State holds the power to designate persons or entities meeting the designation criteria set out in UNSCR 1373, either on his own initiative or after examining a request from another State.

Designation criteria under UNSCR 1373

a) any person or entity that commits or attempts to commit acts of terrorism or which participates in or facilitates the perpetration of terrorist acts; or

b) any entity held or controlled, whether directly or indirectly, by any person or entity designated in paragraph a); or

c) any person or entity acting on behalf of or on the instruction of any person or entity designated in paragraph a).

67. To this end, the Advisory Committee on the Freezing of Funds and Economic Resources (the Advisory Committee) has been established to assist the Minister of State in his role as designating authority. One of the Advisory Committee's tasks is to submit proposals for designation to the Minister of State,

68. The members of the Advisory Committee may collect and request information from any competent authority in order to determine whether a person, group or entity, on the basis of reasonable grounds for suspicion or belief, meets the criteria for designation.

69. The Advisory Committee must gather sufficient information to identify the persons and entities that meet the criteria for designation set out above, before submitting a proposal for designation to the Minister of State. Relevant identifying information may include, but is not limited to:

- names, aliases and their spellings;
- date of birth;
- place of birth;
- address;
- nationality; and
- identification or passport numbers.

70. The Advisory Committee may use confidential information and documents. In practice, given the essential role played by intelligence in the fight against terrorist threats, the key information for designating a person or entity as a terrorist is often provided by the intelligence services.

71. The Advisory Committee and its members are not authorised to notify any person, group or entity that has been identified and whose designation is under consideration.

Designation process

72. The Advisory Committee can propose to the Minister of State the designation of a person or entity only when it considers that it has reasonable grounds to believe that the criteria for designation are met and if it can provide the Minister of State with sufficient evidence to support the proposed designation. In this case, the Advisory Committee must propose the designation in accordance with three rules, namely:

- Include in each proposal the standard procedures and forms to be followed for listing, as adopted by the UN Security Council;
- Provide as much relevant information as possible on the suggested name and, in particular, sufficient identification information to enable the precise and positive identification of persons, groups, companies and entities, as well as, to the extent possible, the information required by Interpol to issue a "special opinion"; and
- Provide a statement of reasons containing as much information as possible on the reasons for the registration, including specific information supporting the decision that the person or entity meets the relevant designation criteria, the nature of the information, the information and supporting documents that may be provided and information on any relationship between the person or entity whose registration is proposed and any person or entity already listed.

73. Following receipt of such a proposal from the Advisory Committee, the Minister of State shall, where appropriate, officially designate the persons or entities proposed by means of a decision, which shall come into force upon publication on the Government website dedicated to the freezing of funds and economic resources (<https://geldefonds.gouv.mc/en/ministerial-decisions>).

Important note

Any decision by the Minister of State which adds, deletes or modifies an entry on the National List is published without delay on the Government website dedicated to the freezing of funds and economic resources, at the latest within 24 hours of its signature.

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Delisting from the National List

74. Any person or entity designated by the Minister of State may appeal against the decision to the Court of First Instance within two months as of the publication of the decision on the Government website dedicated to the freezing of funds and economic resources.

75. In this case, the applicant must follow the procedure applicable before the Court of First Instance, pursuant to the provisions of the Monegasque Code of Civil Procedure.

76. If the Court of First Instance grants this request, the Minister of State will delist the person who requested the delisting from the National List. This decision will then be published on the website of the Government dedicated to the freezing of assets and economic resources within 24 hours.

77. The DBT is then responsible for updating the Prince's Government dedicated website to inform all FIs and DNFBPs of the removal decision. These entities must then lift the freeze measures taken against the person's funds and economic resources within a period not exceeding 24 hours from the date of publication.

PROPOSALS FOR DESIGNATIONS TO THE UNSC IN APPLICATION OF UNSCR 1267 (1999)

Proposing designations to the United Nations

78. In Monaco, the Minister of State is the authority responsible for proposing designations of persons or entities to the UNSC or the relevant Sanctions Committee, if sufficient evidence has been gathered to believe, on reasonable grounds, that the person or entity meets the criteria for designation set out in the relevant UNSCR. The decision of the Minister of State to propose a designation is not subject to the existence of criminal proceedings within Monaco or in any other country against the person or entity concerned, and the proposal must be made without prior notice to the person or entity concerned.

79. As part of Monaco's implementation of UNSCR 1267 (1999), 1989 (2011), 1718 (2006), 2231 (2015) and all subsequent resolutions, the following designation criteria must be met:

Designation criteria pursuant to UNSCR 1267 (1999), 1989 (2011) and subsequent resolutions concerning Da'esh and Al-Qaida

1. Any person or entity participating in the financing, planning, facilitation, preparation, or perpetration of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of; providing to, selling to or transferring arms and related material to; recruiting for; or otherwise supporting acts or activities of Al-Qaida, or any cell, affiliate, splinter group or derivative thereof; or
2. Any company owned or controlled, directly or indirectly, by any person or entity designated pursuant to the above paragraph or by persons acting on their behalf or on their instruction.

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Designation criteria pursuant to UNSCR 1988 (2011) and subsequent resolutions concerning the Taliban

1. Any person or entity participating in the financing, planning, facilitation, preparation, or perpetration of acts or activities by, in conjunction with, on behalf of, or in support of; providing to, selling to, or transferring arms and related materiel to; recruiting for; or otherwise supporting the acts or activities of; designated persons and other persons, groups, undertakings, and entities associated with the Taliban in a manner that constitutes a threat to peace, security, international peace and security in Afghanistan; or
2. Any company owned or controlled, directly or indirectly, by any person or entity designated pursuant to the above paragraph or by persons acting on their behalf or on their instruction.

Designation proposal procedure

80. As with the designations made under UNSCR 1373, the Advisory Committee supports the Minister of State. For this purpose, the Advisory Committee gathers and requests information from any competent authority in order to determine whether a person, group or entity, on the basis of reasonable grounds for suspicion or belief, meets the criteria for designation set out above.

81. If the Advisory Committee has gathered sufficient information to enable the persons and entities to be accurately and positively identified, it will submit a proposal for designation to the Minister of State.

82. The Advisory Committee shall propose to the Minister of State the designation of a person or entity pursuant to any UNSCR referred to above only where it considers that it has reasonable grounds to believe that the criteria for designation are met and it can provide the Minister of State with sufficient evidence to support the proposed designation. In this case, the Advisory Committee proposes the designated in accordance with three rules:

- Include in each proposal the standard procedures and forms to be followed for listing, as adopted by the UN Security Council;
- Provide as much relevant information as possible on the suggested name and, in particular, sufficient identification information to enable the precise and positive identification of persons, groups, companies and entities, as well as, to the extent possible, the information required by Interpol to issue a special opinion; and
- Provide a statement of reasons containing as much information as possible on the reasons for the registration, including specific information supporting the decision that the person or entity meets the relevant designation criteria, the nature of the information, the information and supporting documents that may be provided and information on any relationship between the person or entity whose registration is proposed and any person or entity already listed. After analysing the information submitted, the Minister of State proposes, where appropriate, that the person or entity be registered with the competent UNSC Committee using the standard form provided for this purpose:

https://www.un.org/securitycouncil/sanctions/1267/ag_sanctions_list/procedures-for-listing.

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Requesting a delisting from the United Nations List

83. Any person or entity designated by the UNSC may submit a de-listing request to the UNSC Sanctions Committee, in accordance with the procedures for submitting de-listing requests. The procedure to be followed varies according to the nature of the UNSCR concerned:

- Individuals or entities on the Security Council's sanctions list against ISIL (Da'esh) and AL-Qaida must submit their request to the Ombudsperson:
<https://www.un.org/securitycouncil/ombudsperson>
- Persons or entities registered under other Resolutions should submit their de-listing request directly to the Focal Point:
<https://www.un.org/securitycouncil/sanctions/delisting>.