INTERNATIONAL FINANCIAL SANCTIONS

1. International financial sanctions regimes applicable in Spain.

In accordance with the provisions of Article 42 of Law 10/2010, of April 28, on the prevention of money laundering and terrorist financing, three financial sanctions regimes apply in Spain:

- Sanctions imposed by **a Resolution of the United Nations Security Council**, pursuant to Chapter VII of the United Nations Charter.
- **Restrictive measures adopted by the European Union** in accordance with Article 29 of the TEU and Article 215 of the TFEU.
- **Autonomous sanctions and countermeasures** approved by the Council of Ministers.

Under **Chapter VII of the United Nations Charter,** the Security Council may adopt coercive measures to maintain or restore international peace and security. These measures range from economic or other sanctions–which do not involve the use of armed force–to international military intervention.

Furthermore, within the framework of the Common Foreign and Security Policy, the **European Union applies restrictive measures or sanctions** (both terms are used interchangeably), either on an autonomous EU basis or in implementation of United Nations Security Council resolutions. The European Union's adoption of sanctions is part of its efforts to achieve the specific objectives of the Common Foreign and Security Policy (CFSP):

- To safeguard the Union's common values, fundamental interests, independence, and integrity in every respect.
- To preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter.
- To promote international cooperation and consolidate democracy, the rule of law, and respect for human rights and fundamental freedoms.

Restrictive measures, in general, are characterized by their constant evolution and adaptation, which is why they are set forth in a wide variety of legal instruments. However, to facilitate monitoring, the European Commission periodically updates the instruments currently in force and any amendments thereto.

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2. Who is subject to financial sanctions?

In accordance with the Article 42 of Law 10/2010 of April 28, financial sanctions are mandatory for **any natural or legal person** and take effect immediately upon designation.

In the case of **restrictive measures adopted by the European Union**, they shall apply to:

- To any person, whether inside or outside the territory of the Union, who is a national of a Member State.
- To any legal person, entity, or body, whether located within or outside the territory of the Union, incorporated or established under the law of a Member State.
- To any legal person, entity, or body in connection with any transaction carried out, in whole or in part, within the Union.

3. Measures to freeze or block funds and economic resources and prohibit their making available.

The most significant measure–and one common to other sanction regimes adopted internationally for various reasons–is the **freezing or blocking of funds and economic resources** owned by an expressly designated person, entity, or body.

Furthermore, the obligation to freeze or block **assets** is typically accompanied by the so-called **prohibition on making assets or economic resources available**, **either directly or indirectly**, thereby restricting the sanctioned person's access to such assets or economic resources.

The terms "funds" ,"other financial assets," and "economic resources" shall be understood to mean property of any kind, whether tangible or intangible, movable or immovable, as well as documents or legal instruments evidencing ownership or other rights to such property, including bank credits, traveler's checks, bank checks, money orders, shares, securities, bonds, bills of exchange, and letters of credit.

In the UNSCR and EU Regulations establishing sanctions, the annexes contain a list of persons and entities to which this asset freeze applies, and with whom, consequently, no business relationships may be established or maintained, subject to the exceptions specified in the Regulations themselves. In any case, the criteria regarding ownership and control of legal entities or assets that may be owned by directly sanctioned individuals must be taken into account.

Any person or entity that receives a payment from persons or entities subject to restrictive measures, or that holds funds or economic resources at the time of designation, must

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immediately freeze such funds or resources and promptly notify the Subdirectorate General for Inspection and Control of Capital Movements, within the Directorate General of the Treasury and Financial Policy, **in writing**, by submitting the standard notification form via one of the following methods:

- By submitting it via the electronic registry addressed to the Subdirectorate General for Inspection and Control of Capital Movements (DIR 3: EA0043022).
- By email addressed to sancionesfinancieras@economia.gob.es
- By mail or in person to the following address: Paseo del Prado, 6, 28014 Madrid, for the attention of the Subdirectorate General for Inspection and Control of Capital Movements.

4. Prohibition on conducting economic or financial transactions and reporting obligation.

In addition to measures freezing funds and economic resources, there may also be **prohibitions or restrictions on direct or indirect transactions** involving the purchase, sale, assistance, or provision of investment services, as well as on transactions, loans, and credits to entities linked to the Russian government and authorities, and to entities listed in the regulations themselves.

Furthermore, these regulations impose certain **reporting obligations** on the competent national authorities, such as the recurring reporting of deposits and transfers exceeding certain thresholds when they belong to or are made by (as is the case under Council Regulation (EU) No. 833/2014 of July 31, 2014, concerning restrictive measures in response to Russia's actions destabilizing the situation in Ukraine).

5. Issues of homonymy.

When an institution detects that the name of one of its customers matches that of a person subject to asset-freezing measures, the necessary steps may be taken–at the institution's request and without prejudice to the immediate freezing of funds–to verify whether or not the identity of the person in question matches that of the person subject to asset-freezing measures.

In this regard, once this information has been communicated to the General Secretariat of the Treasury, that office requests additional information from the Civil Guard, the National Police, and the Ministry of Foreign Affairs, European Union, and Cooperation to attempt to confirm the details of the entity's customers that match those included on the lists.

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Upon receipt of this clarifying information–if it has been possible to obtain it due to the existence of relevant data–the response is forwarded to the interested parties so that they may decide, on that basis, whether or not to unfreeze the funds.

Requests must be submitted in one of the following ways:

- By electronic submission to the Subdirectorate General for Inspection and Control of Capital Movements (DIR 3: EA0043022).
- By email addressed tosancionesfinancieras@economia.gob.es
- By mail or in person to the following address: Paseo del Prado, 6, 28014 Madrid, for the attention of the Subdirectorate General for Inspection and Control of Capital Movements.

6. Release of frozen funds.

The regulations provide for certain circumstances in which **previously frozen or blocked funds** may **be released or certain transfers authorized**.

In such cases, the competent authorities of the Member States may authorize, under conditions they deem appropriate, the release of certain frozen funds or economic resources, provided that the conditions set forth in the regulations are met.

For the processing of such cases, the provisions of **Articles 47 and 49 of Royal Decree 304/2014**, of May 5, which approves the Regulations of Law 10/2010, of April 28, on the prevention of money laundering and terrorist financing, as well as the rules established in the specific regulations.

Applications must be submitted via electronic filing to the Subdirectorate General for Inspection and Control of Capital Movements (DIR 3: EA0043022).

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7. Failure to comply with obligations arising from the imposition of financial sanctions.

It is prohibited to knowingly and deliberately participate in actions whose purpose or effect is to circumvent the prohibitions established by any of the regimes provided for in Article 42 of Law 10/2010 of April 28.

SEPBLAC, as well as the other competent supervisory authorities, shall be responsible for ensuring compliance with the obligations arising from the enforcement of international financial sanctions.

Specifically, actions that violate the regulations on sanctions may be considered **administrative offenses** in accordance with the provisions of Articles 52 et seq. of Law 10/2010, of April 28.

Furthermore, actions intended to circumvent sanctions may also constitute criminal **offense**.

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