

**ANTI-MONEY LAUNDERING, COMBATTING THE TERRORIST FINANCING AND THE
PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND CORRUPTION**



ABBREVIATIONS

AMSF	Autorité monégasque de Sécurité Financière
DBT	Direction du Budget et du Trésor
DNFBP	Designated Non Financial Businesses and Professionals
FI	Financial institution
TFS	Targeted Financial Sanctions
UN	United Nations
EU	European Union



This Thematic Guidance is proposed by the AMSF and the Department of Budget and Treasury (DBT) in order to provide operational and concrete support to all financial institutions (hereinafter "FIs") and designated non-financial businesses and professions (hereinafter "DNFBPs"), subject to Law No. 1.362 as amended, in the implementation of their system for combating money laundering, the financing of terrorism and the proliferation of weapons of mass destruction and corruption (AML/CFT-P-C).

Article 42 of Law No. 1.362 of 3 August 2009, as amended, and Sovereign Ordinance (SO) No. 8.664, as amended, relating to procedures for freezing funds and economic resources in application of international economic sanctions define the obligations of obliged entities in relation to targeted financial sanctions (hereinafter "TFS"). The objective of this practical guide is to help FIs, DNFBPs, as well as the general public, to understand the issues and procedures to be put in place to comply with good practices regarding TFS in the Principality of Monaco.



The scope of this Thematic Guidance is purely informative. The only legally binding documents are the legislative and regulatory texts governing the anti-money laundering, counter-terrorism and proliferation financing, and corruption framework in Monaco. All obligations and their details are therefore not addressed herein: solely applying the measures presented in this Guidance does not ensure that the obliged entity fully complies with current legal obligations.

Compliance with applicable legal and regulatory obligations is the responsibility of each obliged entity.

This guidance takes into account the regulations in force on the date of its publication.



SUMMARY

ABBREVIATIONS.....	2
CONTEXT	5
What is a targeted financial sanction (abbreviated "TFS")?	6
OBLIGATIONS	8
1. The Business Risk assessment.....	8
2. Implementation of internal procedures	10
3. Internal Controls	11
4. Training.....	11
5. Know Your Customer	12
6. Control system in place – Database screening	12
7. The obligation to submit a suspicious activity/transaction report (SAR/STR)	17
8. Recordkeeping	17
SPECIAL CASE: CIRCUMVENTION OF TFS	18
RISK INDICATORS:.....	18
CASE STUDIES.....	19
1. Case study 1: Failure to comply with regulations on TFS and reporting of suspicious transactions.....	19
2. Cas study 2 : Circumvention of sanctions by changing the beneficial owners of a legal structure	20
criminal and administrative Sanctions.....	22
1. Administrative sanctions	22
2. Criminal sanctions.....	22
3. Circumvention of a TFS.....	22
4. Liability exemption	23



CONTEXT

As part of the fight against money laundering, the financing of terrorism, the proliferation of weapons of mass destruction, and corruption, the Principality of Monaco applies targeted financial sanctions stemming from various regimes:

- ❖ As a **member of the UN**, the Principality of Monaco (Monaco) applies all sanction measures enacted by the United Nations Security Council (UNSC).
- ❖ In accordance with the **Franco-Monegasque banking agreements and the Monetary Agreement concluded with the European Union (EU)**, Monaco also adopts all sanction measures taken by the European and French authorities. **Monaco thus implements all relevant UN, European Union, and French Republic sanctions** relating to the suppression and fight against terrorism, the financing of terrorism, the financing of the proliferation of weapons of mass destruction, and threats to peace, security, and stability.
- ❖ At the same time, the Monegasque authorities also have the option of **adopting autonomous targeted sanctions**. The Minister of State may thus take measures to freeze funds against individuals and entities involved in acts of terrorism, either on his own initiative or after examining a request from another state.

The AMSF, in exercising its supervisory function, may conduct on-site and documentary checks to verify compliance with TFS. In the event that shortcomings are revealed:

- ❖ Administrative sanctions may be imposed by the AMSF's Enforcement Department;
- ❖ The Supervisor has the power to refer the matter to the General Prosecutor if he becomes aware of facts that may constitute a breach of the provisions of SO No. 8.664, as amended, and which may be subject to criminal sanctions.

USEFUL INFORMATION

The application of targeted financial sanctions is a performance-based obligation. In other words, all obliged entities are subject to them in a strictly mandatory manner. The legislation allows no tolerance for non-compliance with a targeted financial sanction measure by obliged entities.



What is a targeted financial sanction (abbreviated "TFS")?

The term "*targeted financial sanctions*" refers to sanctions designed to strategically target specific individuals, entities, groups, or companies.

There are two types of financial sanctions: **freezing** and **prohibiting the provision of funds or other assets**.

USEFUL INFORMATION

TFS constitute an immediate restriction on property rights. However, they are temporary and do not constitute expropriation. Ordered by an administrative authority, these measures are distinct from seizures or confiscations ordered by judicial authorities.

Targeted financial sanctions apply to funds and economic resources that are "owned," "owned," "held, or controlled," wholly or jointly, directly or indirectly, by a person or entity designated by a decision of the Minister of State.

Upon publication of a decision by the Minister of State to freeze funds on the Prince's Government [website dedicated to TFS](#), obliged entities are required to proceed, without delay and without prior notification, to freeze the funds and economic resources of the natural or legal persons targeted by the freezing measure, until the publication of the Minister of State's decision to remove them from the National List.

Regarding designations made by the United Nations Security Council, they are directly applicable in Monaco upon publication on the [United Nations Security Council website](#). Those subject to the sanctions are therefore required to freeze funds and economic resources from this publication until the publication of the Minister of State's decision to remove them from the National List.

USEFUL INFORMATION

Obliged entities are advised of the very broad scope of funds or economic resources that may be frozen (see Guidelines developed by the Advisory Committee on the Freezing of Funds and Economic Resources).



PROHIBITION ON MAKING FUNDS AVAILABLE

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 companies

Targeted Financial Sanctions

FREEZING MEASURE

Implementation of any measure aimed at preventing any movement, transfer, alteration, use, or handling of said funds that would result in a change in their volume, location, ownership, possession, nature, purpose, or any other modification that could enable their use



Points to watch

Individuals or entities affected by sanctions may seek to evade these measures through various means. This is referred to as the "risk of circumvention of SFCs". This risk may arise from concerted efforts by designated individuals and entities to evade targeted financial sanctions (for example, by using shell companies or fictitious companies, joint ventures, fictitious accounts, intermediaries, or even fraudulent/dishonest intermediaries in order to obtain the funds, assets, economic resources, etc. affected by the sanction).



OBLIGATIONS

Compliance with the regulations relating to targeted financial sanctions is closely linked to compliance with numerous other AML/CFT-P obligations, as defined by Law No. 1.362, as amended.

Compliance with the regulations relating to targeted financial sanctions requires each obliged entity to ensure, before entering into a business relationship or carrying out a transaction, as well as throughout the business relationship, that none of its customers is affected by such a measure. To this end, the development of a satisfactory business risk assessment (1), the inclusion of sufficiently explicit measures specific to targeted financial sanctions in internal procedures (2), the establishment of an internal control mechanism specific to targeted financial sanctions (3), the inclusion of targeted financial sanctions in the obliged entity's training and awareness program (4), and compliance with the obligation to identify and know your customer (5) are all elements that must be taken into account to ensure compliance with the obligations relating to targeted financial sanctions. The obliged entity must also screen or carry out a comprehensive review of its customer and transaction database(s) (6), any positive "hits" must give rise to a suspicious transaction report (STR) to AMSF (7). All measures taken by the obliged entity must be formalized and kept according to recordkeeping limits provided for by legal provisions in force (8).

1. The Business Risk assessment

FIs and DNFBPs are required to identify and understand their ML/TF-ML risks through a comprehensive business risk assessment, which must be formalized and documented.

- The Generic Guidelines and the Practical Guide, entitled "Business Risk Assessment," detail how to develop it.



Exposure to SFCs and their circumvention must be taken into account in the Business Risk Assessment, particularly through risk factors related to the geographic area. Indeed, to assess this risk, the client's, its representative, or beneficial owner's ties (nationality, residence, principal place of business, or wealth-generating activity) with countries subject to sanctions, embargoes, or similar measures issued by international organizations such as the United Nations Security Council or the European Union must be taken into consideration.



The questions to ask are:

- ❖ Does the Business risk assessment method address this point? How?
- ❖ Do the results of the Business risk assessment infer a level of risk of exposure to SFCs? To their circumvention?
- ❖ Are mitigation measures for these risks detailed? Are they proportionate and effective?
- ❖ What is the residual risk level for this issue?



Points to watch

Obligated entities must ensure that they have adequate resources to meet the obligations to implement TFS without delay. This concept corresponds to a period of a few hours, or a maximum of one day, following a designation made by the United Nations Security Council or the Minister of State.



2. Implementation of internal procedures

FIs and DNFBPs must implement **formalized and operational internal procedures** that include specific guidelines for targeted financial sanctions. Internal procedures must clearly specify:

- ❖ the up-to-date legal framework applicable to fund freezing measures, including the risk of criminal or disciplinary sanctions in the event of non-compliance with those obligations;
- ❖ a description of the screening system in place (manual, automatic, hybrid), its scope, the screening frequency, the lists used (the Monegasque national list, the United Nations lists, etc.) and/or the sources of information used for screening, including the tools/software used to identify adverse information on individuals and entities);
- ❖ the roles and responsibilities of employees involved in screening, reviewing, and updating alerts, maintaining and updating the various screening databases, and the authorizations required to access and process alerts, where applicable;
- ❖ The alert analysis process: this explains the procedures for processing the resulting "alerts," including internal control measures in this area and the formalization and retention of actions taken;
- ❖ The obligation to submit a suspicious transaction report to the AMSF;
- ❖ The measures to be taken when submitting a report to the DBT;
- ❖ The measures to be taken to freeze or restrict access to funds by sanctioned individuals;
- ❖ The management of the client or business relationship concerned, including the prohibition on prior notification of any freezing measure;
- ❖ the implementation of the lifting of the freezing measure.



Points to watch

Internal procedures must enable any reader (entity staff, AMSF, etc.) to understand what due diligence is carried out, by whom, according to what methods and at what frequency.



3. Internal Controls

Obligated entities are required to implement ongoing and periodic controls covering AML/CFT obligations, including targeted financial sanctions.

The internal control mechanism must:

- ❖ Include the topic of targeted financial sanctions;
- ❖ Determine the applicable method. For example, the entity may choose to introduce a regular audit or control of the results and quality of the processing of "hits" generated by the system implemented by the obliged entity;
- ❖ Identify the person(s) responsible;
- ❖ Establish monitoring of actions/recommendations to be implemented, where applicable.

USEFUL INFORMATION

The adequacy of an obliged entity's internal control will be examined taking into account its size, the nature, complexity and volume of its activities.

4. Training

Obligated entities must also provide initial and ongoing training and awareness-raising activities related to TFS for employees and management.

- ❖ As an integral part of the training program, it must ensure that:
- ❖ the control system and the resulting TFS obligations are understood by staff and management;
- ❖ the concepts of terrorist financing and proliferation financing, in particular, are known and understood.

Typologies relating to targeted financial sanctions related to terrorist financing and proliferation financing are available at the following link:

<https://geldefonds.gouv.mc/documentation/publications-du-gouvernement-de-monaco>



5. Know Your Customer

The obliged entity must not only identify their client but also formalize their knowledge of their activities, risk profile, origin of funds, and assets. Identifying beneficial owners is particularly critical.

Given that targeted financial sanctions are individual and name-specific, meaning they must be applied to all funds and economic resources of specifically designated persons and entities, their effective implementation is likely to be hampered when an obliged entity fails to accurately identify the beneficial owners.

As part of the measures taken and controls carried out with respect to the parties involved in the business relationship or the occasional customer, a good knowledge of the customer will allow:

- ❖ To assess the (potential) TFS aspects of a business relationship or an occasional customer;
- ❖ To identify a person targeted by a freezing measure;
- ❖ To confirm or deny, with greater assurance, a possible match with a name appearing on the national fund freezing list.

6. Control system in place – Database screening

FIs and DNFBPs must have effective and appropriate systems in place to detect transactions benefiting designated persons or entities. TFS screening is not a due diligence measure dependent on the risk assigned to a client but must, on the contrary, be carried out independently of their risk profile.

6.1 Type of screening

- ❖ Screening can be **manual**, **automated**, or even **hybrid**. The choice of system depends largely on the obliged entity's ability to ensure comprehensive and effective screening.
- ❖ Screening can be carried out **internally**, at the **group level**, or **outsourced**. However, it should be remembered that compliance with this obligation remains the responsibility of each obliged entity.



6.2 Purpose of screening

Obligated entities are required to verify their client databases and monitor transactions. To this end, obliged entities must, in particular:

- ❖ Verify existing **client databases**, including BOs, stakeholders (managers, shareholders, names of the structure(s) involved, etc.), as well as persons acting on behalf of the client (representatives, etc.);
- ❖ **Monitor transactions**, including counterparties to the transactions.

6.3. Lists used :

Whether the system is automated, manual, or hybrid, the screening in place must include or take into account the Monegasque national list, as soon as it is published.

It is available at the following link: <https://geldefonds.gouv.mc/liste-nationale-de-gel-des-fonds?query=&displaylatestdm=false>

The national list can be viewed directly online using a "search" function. It can also be exported (<https://geldefonds.gouv.mc/liste-nationale-de-gel-des-fonds?query=&displaylatestdm=false>) or downloaded (<https://geldefonds.gouv.mc/api>) for the purposes of the taxable entity's system.

If the obliged entity has chosen a commercial/off the shelf screening tool, it is its responsibility to verify with its supplier that the Monegasque list is included, and within what timeframe.

USEFUL INFORMATION

An entity that only checks its databases against the French list is not fulfilling its obligations. Indeed, as previously stated, the Principality has an autonomous designation mechanism.



6.4 Screening frequency

- ❖ Obligated entities must conduct regular and ongoing screening of their databases to detect any person designated in the national list. Screening must include the client themselves, as well as any structure involved, BOs and/or representatives, shareholders, directors, etc.
- ❖ Screening must be initiated in the following cases:
 - Before entering into a relationship with a new client;
 - Following a triggering event, in the event of a change in the client's situation or profile;
 - When reviewing a client file;
 - Before processing any type of transaction, by any means of payment;
 - When there are updates to the National List: screening must then take place immediately and without delay (within 24 hours).

Checks carried out after entering into a relationship or after carrying out a transaction, even if they are rigorously conducted, do not allow the entity to ensure the implementation of any possible fund freezing measure without delay, nor to satisfy the obligation to transmit a suspicious transaction report to the AMSF before carrying out the transaction.



Points to watch

If the transaction screening system is automated, and to ensure that no funds or economic resources are released to a person subject to a freezing measure, it must have a blocking function in the event of a hit.

6.5 Search Method and Match Rate Applied

Regardless of the nature of the chosen screening system, the obliged entity must be careful to avoid exposing itself to "false negatives," i.e., a match between a customer and a person subject to a freezing measure that goes undetected. Overly restrictive spelling criteria, aliases, the use of abbreviations, or the absence of information in the screening tool's settings or during manual checks do not always allow for effective detection of transactions benefiting the designated persons or entities. For example, a name from an alphabet other than Latin may result in different spellings during the transliteration process.

When searches are manual, the method applied is particularly important. Depending on the checks performed, the number of results may be more or less significant, which ties up resources and can hamper the effectiveness of the system. Therefore, it is useful to develop techniques to refine the number of results obtained, such as filling in more information fields or combining first and last names, for example.



6.6 Processing of results

To ensure that they never deal with a designated person or entity, FIs and DNFBPs must consider all possible identifying factors, including surnames, first names, aliases, date and place of birth, nationality, business name or company name:

- ❖ For natural persons: surnames, first names, including common names, maiden name; gender; date of birth; country and/or city of birth; occupation; address; nationality(ies);
- ❖ For entities: full company name; country of incorporation and registration; registered office address; corporate purpose and activity; commercial register number or equivalent under foreign law, etc.
- ❖ For vessels: name; other name; acronym; country of registration; IMO number, etc.

Several types of results are possible:

6.6.1. Negative results

The checks carried out do not produce any results or the possible results do not reveal any match between a customer and a person or entity targeted by a freezing measure.



Points to watch

When searches are manual, it is important to keep a dated record of the searches carried out, even if they are unsuccessful. This allows the entity to demonstrate its ability to implement a freezing measure without delay. When searches are automated, the tool must keep a record of the controls carried out.

6.6.2. False negatives

An obliged entity may be exposed to "false negatives," i.e., a match between a customer and a person subject to a freezing measure that is not detected by the system in place. Such a deficiency may be identified during a periodic check carried out as part of an internal control plan or during an audit of the system in place.

In any event, such deficiencies require an overhaul or modifications to the system/configuration in place.



6.6.3. False positives

False positives are names, entities, or transactions that are wrongly flagged as alerts or matches by the monitoring system. Homonymy is one example of a false positive. Similarity of names is another. For example, the names of individuals from certain cultures or alphabets may be similar. Similarly, the designation of legal entities or entities, which, depending on the country of registration, often contain terms such as "global" or "international," may cast doubt on the positive nature of a match.

When it appears that the first and last name are identical to those of a listed individual, the entity must immediately check whether other information can demonstrate that they are different individuals (dates of birth, for example).

The entity must keep a written and dated record of the results of its procedures and analyses. In case of doubt, obliged entities acting as intermediaries in fund movements must place the accounts under surveillance and suspend transactions. For other obliged entities, postponing the provision of a service or suspending it is a temporary measure to be applied in the event of a false positive.

6.6.4. Positive results

If the outcome of a control is positive and a match is found, obliged entities are required to proceed immediately and without prior notification to freeze funds and economic resources *"belonging, owned, held, or controlled wholly or jointly, directly or indirectly, by natural or legal persons, entities, or bodies designated by decision of the Minister of State"* (Art. 3 OS 8.664).

Example of freezing: an FI suspends a customer's access to their bank account(s) and refuses to allow a transaction to be executed on their account. A DNFBP refuses the transfer of ownership of real estate to a designated person (beneficial owner, representative, etc.).

Example of a prohibition on provision: An FI decides not to offer banking services to a designated person. A DNFBP declines an offer to purchase goods from a designated person in exchange for fiat currency (e.g., a gold dealer purchasing jewelry in exchange for cash).



Points to watch

Staff are prohibited from directly or indirectly informing the customer or a third party that a freezing measure or any other measure related to TFS is going to be implemented.

USEFUL INFORMATION

In all cases, the analysis undertaken by the obliged entity to retain or reject a result must be formalized, dated, sufficiently in-depth and explicit to avoid the obliged entity failing to comply with its obligation to freeze.



7. The obligation to submit a suspicious activity/transaction report (SAR/STR)

In addition to the obligation to inform the DBT of the implementation of a freezing measure, the subject entity must file a suspicious transaction report with the AMSF's FIU.

Pursuant to Article 42 of Law No. 1.362, obliged entities are required to report to the AMSF transactions and facts concerning natural or legal persons subject to measures to freeze funds and economic resources.

It is recalled that the reporting obligation applies to both customers and prospects. Furthermore, particularly in the context of targeted financial sanctions, a suspicious transaction report must be submitted before the transaction is executed. Finally, doubts (e.g., a false positive that has not been definitively resolved or a link to a listed individual) may justify submitting a suspicious transaction report.

As a freezing measure must be implemented without delay, just as notification of the DBT must be prompt, obliged entities should also inform the FIU of the AMSF as soon as possible.



8. Recordkeeping

The choice of recordkeeping methods, controls, and analyses required in the area of targeted financial sanctions rests with each obliged entity. Provided that access to the data allows for a rapid and comprehensive response to any request for information from the FIU of the AMSF, recordkeeping may be in paper or electronic format.

Recordkeeping should result in the maintenance of statistics by the obliged entity (number of alerts, false negatives/false positives/positives, broken down by the applicable sanction regime, the number of analyses performed, suspicious transaction reports, etc.). Such data can usefully inform the obliged entity's business risk assessment and also facilitate the completion of the annual questionnaire issued by the AMSF.



Points to watch

In order to demonstrate compliance with the obligations relating to TFS, the dating of documents justifying controls and analyses must be given particular attention.



SPECIAL CASE: CIRCUMVENTION OF TFS

RISK INDICATORS:

Circumvention is the practice by which individuals or legal entities subject to sanctions, restrictions, or prohibitions seek to circumvent them.

Any opening of an account or new or pre-existing business relationship that could be used to **circumvent** sanctions rules is strictly prohibited. Obligated entities must be attentive to the following behaviors or situations, which are likely to be risk indicators:

- ❖ Modification of transaction payment messages to circumvent sanctions;
- ❖ (Re)structuring of a transaction to avoid detection of the application of sanctions;
- ❖ Concealment of the origin of funds or close ties to a prohibited or sanctioned country;
- ❖ Modification of BOs to circumvent sanctions (e.g., use of unsanctioned family members or close associates);
- ❖ Use of nominees or intermediaries: Sanctioned individuals or entities use third parties (friends, family members, shell companies) to conduct transactions or hold assets in their name;
- ❖ Use of unconventional payment methods, such as virtual assets;
- ❖ Use of shell companies, shell companies, or complex structures;
- ❖ Frequent changes in shipping routes or destinations, particularly to sanctioned countries or high-risk jurisdictions;
- ❖ Inconsistent pricing or a trade discrepancy between declared prices, invoiced values, or trade volumes;
- ❖ Unusual, non-existent, or less visible or credible business activities (lack of websites, physical offices, or legitimate customer relationships, associated with significant financial transactions, etc.);
- ❖ Barter trade or bilateral agreements: Parties under sanctions exchange goods or services directly without going through traceable financial transactions;
- ❖ Increased use of banks or third-party intermediaries: Individuals subject to freezing measures use banks or financial institutions that have little or no compliance with sanctions regimes;
- ❖ Falsification or concealment of shipping and origin information: Exporters or importers under sanctions falsify documents to mask the origin or destination of goods;
- ❖ Anonymous purchase of physical assets: Individuals under sanctions purchase assets such as works of art, precious metals, or jewelry to store value without the funds being traceable.



CASE STUDIES

1. Case study 1: Failure to comply with regulations on TFS and reporting of suspicious transactions

1.1. Context

The wife of a man who has been subject to a fund freezing measure in Monaco since 2022 is the sole holder of an account registered with a Monegasque financial institution. The client has no professional activity, and her bank account, which is regularly in operation, is funded exclusively by her husband.

1.2. Questions to ask

- ❖ Determine the precise origin of the funds deposited in the bank account: the financial relationship between the wife and her sanctioned husband is known to the obliged entity, which should result in the application of measures to the account;
- ❖ Determine the destination and use of the funds: an analysis of the person(s) who directly or indirectly control these funds and economic resources and who benefits from them is required.

1.3. Analysis

It is common for funds or economic resources to be transferred to relatives or third parties, particularly family members, who are not directly targeted by the freezing measures, in an attempt to evade their consequences and therefore render them ineffective.

Consequently, in this case, it is up to the obliged entity to determine whether transactions or facts involving a natural person subject to a measure freezing funds and economic resources are likely to justify a suspicious transaction report to the FIU of the AMSF.

1.4. Conclusion

This case highlights a failure to comply with reporting requirements in the event of financial ties to sanctioned individuals. Obligated entities must take strict measures to fully comply with their obligation to achieve results in this area by verifying the links between clients and sanctioned individuals or entities.



2. Cas study 2 : Circumvention of sanctions by changing the beneficial owners of a legal structure

2.1. Context

A Russian oligarch undertook a strategic change in the beneficiaries of trusts he established shortly after Russia began its invasion of Ukraine in February 2022. The change was designed to name his children as beneficiaries of the trusts, whose assets are estimated to be worth more than \$7 billion. This change effectively excludes these funds from the asset freeze measures imposed against the Russian oligarch in March 2022.

2.2. Questions to ask

- ❖ Determine the reasons for the change in the beneficial owners of the trusts: the settlor adjusted the terms of the trusts so that his children are now the beneficiaries of the assets instead of himself;
- ❖ Determine precisely the date on which the change occurred: knowing the respective dates of the change in the beneficiaries of the trusts and the decision to freeze the funds is critical in determining the measures to be taken by the obliged entity;
- ❖ Determine who has use of the funds and economic resources: following the change in the terms of the trusts, the children of the person subject to a freezing measure are now the beneficiaries of several billion dollars of assets. It is necessary to characterize who directly or indirectly controls these funds and economic resources and who benefits from them.



2.3. Analysis

Trusts are legal instruments that allow ownership of an asset to be transferred to beneficiaries of the settlor's choice. In this case, the obliged entity must determine whether the changes made are intended to avoid targeted financial sanctions while maintaining indirect control over the assets held by the trusts.

Consequently, if circumvention of an SFC is proven, the obliged entity may not indirectly, fully or jointly, in any manner whatsoever, make funds or economic resources available to a designated person, nor provide or continue to provide them with services. The obliged entity must implement a freezing measure, which must be reported to the Budget and Treasury Directorate (DBT) and a suspicious transaction report submitted to the FIU of the AMSF.

In the specific case of restrictive measures adopted by the European Union in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, information concerning funds and economic resources which have been subject to movement, transfer, modification, use, manipulation or access, during the two weeks preceding the said designation must also be communicated to the DBT.

2.4. Conclusion

This case illustrates the use of legal structures to circumvent international financial sanctions. Subjects must be vigilant and implement measures to detect such maneuvers in order to ensure the effectiveness of the SFC issued.



CRIMINAL AND ADMINISTRATIVE SANCTIONS

Failure to comply with a freezing measure taken within the framework of the aforementioned measures may result in administrative sanctions and/or criminal convictions:

1. Administrative sanctions

Le contrôle de l'application et de la mise en œuvre des mesures de gel prises est exercé, selon le cas, par l'AMSF (pour les IF et les EPNFD à l'exception des Avocats).

En cas de manquement par les assujettis¹, l'AMSF peut prononcer à leur encontre une ou plusieurs des sanctions énumérées à l'article 65-8 de la loi n° 1.362 du 3 août 2009, modifiée, telles qu'un avertissement, un blâme, une injonction, une sanction pécuniaire, la suspension temporaire ou la révocation d'un permis de travail...

AMSF oversees the application and implementation of the freezing measures taken, as appropriate, (for financial institutions and DNFBPs, with the exception of lawyers).

In the event of non-compliance by regulated entities, AMSF may impose one or more of the sanctions listed in Article 65-8 of Law No. 1.362 of August 3, 2009, as amended, such as a warning, a reprimand, an injunction, a financial penalty, the temporary suspension, or revocation of a work permit.

2. Criminal sanctions

Any failure by obliged entities to comply with the requirements prescribed by SO 8.664 is punishable under the conditions set out in Articles 219-1 to 219-4 of the Monegasque Criminal Code (criminal fine between €36,000 and €900,000 and/or imprisonment of 5 to 10 years).

Furthermore, in accordance with the provisions of point III of Article 71-2 of Law No. 1.362 of 3 August 2009, as amended, obliged entities who fail to report a suspicion referred to in Article 42 are liable to a financial fine of twice the fine provided for in point 4 of Article 26 of the Criminal Code, i.e., between €36,000 and €180,000.

3. Circumvention of a TFS

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

¹ A specific regime is applicable to accountants, bailiffs and notaries.



4. Liability exemption

The freezing of funds and economic resources or the refusal to authorise their provision, carried out in good faith on the grounds that such action would be in accordance with the provisions of SO 8.664, does not entail any liability of any kind whatsoever for the legal or natural person or entity carrying it out, its management or its employees, unless it is established that there has been negligence.

USEFUL INFORMATION

Subscription to the TFS Newsletter

To inform financial institutions and DNFBPs of each designation, modification, or deletion of persons, entities, or organizations, the DBT has set up a free subscription service for the public to a newsletter sent by email.

Financial institutions and DNFBPs can subscribe to the "TFS" newsletter via the following address: <https://geldefonds.gouv.mc/newsletter>.

Websites to consult :

- ❖ In order to facilitate the information of the public, in particular those subject to it, OS 8.664 has established a **National List of natural or legal persons, entities or organizations subject to a targeted financial sanction in Monaco**. This consolidated list, maintained and updated by the DBT, is published on the website of the Prince's Government dedicated to measures to freeze funds and economic resources (<https://geldefonds.gouv.mc/liste-nationale-de-gel-des-fonds>). This National List includes the sanctions lists adopted by the UN, the EU and the French Republic
- ❖ The UN website : <https://www.un.org/securitycouncil/fr/content/un-sc-consolidated-list>
- ❖ The UN website's press releases page, which documents changes to the various sanctions regimes and publishes the list of new designations : <https://press.un.org/fr/content/security-council/press-release>



Other available resources :

- ❖ « Sanctions financières ciblées à l'intention des institutions financières, des entreprises et professions non financières désignées et du public », document drafted by the Comité consultatif en matière de gel de fonds et de ressources économiques (<https://geldefonds.gouv.mc/documentation/publications-du-gouvernement-de-monaco>)
- ❖ « Les typologies relatives au financement du terrorisme et de la prolifération », (<https://geldefonds.gouv.mc/documentation/publications-du-gouvernement-de-monaco>)
- ❖ Generic guidelines, issued by AMSF (<https://amsf.mc/accompagnement/lignes-directrices-guides-et-guides-pratiques>)
- ❖ Guidance on suspicious transaction reporting, issued by AMSF (<https://amsf.mc/accompagnement/lignes-directrices-guides-et-guides-pratiques>)
- ❖ Dates of webinars having mentioned TFS :
 - FIs : du 4/04/2023, 2/05/2023, 13/06/2023, 19/03/2024 (<https://amsf.mc/accompagnement/formations/webinaires-aml-tuesday-s>)
 - DNFPBs : 11/04/2023, 9/05/2023, 20/06/2023, 26/03/2024 (<https://amsf.mc/accompagnement/formations/webinaires-aml-tuesday-s>)
 - Face-to-face training : 9/07/2024.

Contacts :

For any information, please send an email to :

- ❖ The Department of Budget and Treasury
E-mail: dbt.geldefonds@gouv.mc
Website : <https://geldefonds.gouv.mc/>
- ❖ AMSF
E-mail : contact@amsf.mc
Website : <https://amsf.mc>





13 rue Emile de Loth
98000 Monaco

Phone : (+377) 98.98.42.22

Fax: (+377) 98.98.42.24

Website: www.amsf.mc

E-mail : contact@amsf.mc

The premises of the Supervision Department are located at the following address:

Bâtiment-pont Stade Louis II
Avenue Prince Albert II
98000 Monaco

Please note that the official address for mail to Supervision remains 13 rue Emile de Loth.



Direction du Budget et du Trésor

12, Quai Antoine 1^{er}
BP 512
MC 98015 MONACO CEDEX

Phone: (+377) 98 98 87 73

Fax: (+ 377) 98 98 84 26

