

**TECHNICAL ALERT 01/2023**

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**Help sheet for Insolvency Practitioners on the impact of Sanctions**

This publication has been jointly developed by the member bodies of the Consultative Committee of Accountancy Bodies – Ireland (CCAB-I), being the Institute of Chartered Accountants in Ireland, The Association of Chartered Certified Accountants, The Institute of Certified Public Accountants and Chartered Institute of Management Accountants.

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## **A. Introduction**

1. As a result of the Russian invasion of Ukraine in February 2022, focus has intensified on the area of sanctions which are being introduced at an unprecedented pace.
2. In Ireland, financial sanctions emanate from the EU and the UN, and are contained in sanctions lists. All natural and legal persons are required to comply with financial sanctions. The sanctions restrict persons from dealing with those on the sanctions lists and from carrying out banned activities. This requires monitoring the EU and UN lists and taking appropriate action, more details of which are given below.
3. It is a criminal offence not to comply with sanctions and both individuals and firms which do not comply also risk reputational damage.
4. Members are reminded that the imposition of sanctions may impact on the operation of exclusion clauses (if any) in their Professional Indemnity arrangements and should ensure that they check the current position with their providers.

## **B. CCAB and CCAB-I Guidance**

5. On 2 March 2022, [CCAB](#) issued a joint statement to the profession following recent and ongoing developments in Ukraine. This guidance concentrates on our UK based members' obligations in relation to sanctions, ethical considerations, and obligations under AML legislation.
6. On 4 March 2022, ACCA, together with the other members of [CCAB Ireland](#), issued a joint statement to the profession following recent and ongoing developments in Ukraine. This guidance considers Irish members' obligations in relation to sanctions, ethical considerations, and obligations under AML legislation.
7. In March 2022 CCAB-I issued its updated [Anti Money laundering guidance for accountants](#). While the main focus is general anti money laundering guidance for members and others, there are some paragraphs included in relation to sanctions at 5.3.28. Readers are also reminded that one of the geographical risk factors for potentially higher risk of money laundering or terrorist financing listed in the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 is countries subject to sanctions, embargos or similar

measures issued by organisations such as, for example, the European Union or the United Nations.

### **C. Insolvency Practitioners**

8. Once a person or entity has been sanctioned under EU financial sanctions, there is a legal obligation not to transfer funds or make funds or economic resources available, directly, or indirectly, to that person or entity.
9. In Ireland, financial sanctions emanate from the EU and the UN, and are contained in sanctions lists (see Appendix A). All natural and legal persons, including Insolvency Practitioners, are required to comply with financial sanctions.
10. It is therefore essential that Insolvency Practitioners recognise that they have increased exposure to potential risks including:
  - a. Falling foul of sanctions through the holding of funds, assets, or other economic resources on behalf of individuals or organisations on sanctions lists.
  - b. Money laundering as individuals and business may seek to evade these respective sanctions regimes.
  - c. Clients falling within the definition of Politically Exposed Persons (“PEP”).
  - d. Consideration should also be given to individuals and entities that may be owned or controlled by a sanctions target. Those entities may not be designated in their own right, so their names may not appear on the consolidated list. However, those entities are similarly subject to financial sanctions.
11. In this regard Insolvency Practitioners must:
  - a. Understand the current sanctions regime in place by checking and monitoring the EU and UN lists<sup>1</sup>.
  - b. Take appropriate action to ensure that they are aware of and fully understand the scope and impact of sanctions which may apply to their appointments.
  - c. Remain up to date by regularly checking the relevant lists of sanctions and sanctioned individuals and entities published by the relevant authorities.
  - d. Ensure that they continue to implement enhanced “know your client” procedures for current and potential clients (see Appendix B).

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<sup>1</sup> If the insolvency practitioner is dealing with assets or entities outside of Ireland then local law provisions must be complied with.

- e. Consider whether they hold any funds or economic resources for the persons or entities set out in the sanction's lists. As such they must fully understand the implications of sanctions on:
    - i. the assets under their control through existing insolvency appointments;  
and
    - ii. the assets under the ownership and control of potential clients and how this is likely to impact on any potential insolvency appointments.
  - f. Know and understand their reporting requirements should they suspect or become aware of any potential or actual breach of sanctions (see Appendix C).
  - g. Understand the implications for their Professional Indemnity Insurance.
12. Insolvency Practitioners' attention is drawn to the accounting ban implemented in June 2022 in the EU and which applies in Ireland. The relevant legislative acts, a Decision 2022/884 and a Regulation 2022/879 have been published in the Official Journal and one of the measures is that the provision directly or indirectly of certain business-relevant services such as accounting, auditing including statutory audit, bookkeeping and tax consulting services, business and management consulting, and public relations services to the Russian government, as well as to legal persons, entities or bodies established in Russia are prohibited.
13. The recitals to Regulation 2022/879 provide some additional detail of the services which fall within the sanctions. They state that ".....accounting, auditing, bookkeeping and tax consultancy services cover the recording of commercial transactions for businesses and others; examination services of accounting records and financial statements; business tax planning and consulting; and the preparation of tax documents...."
14. No opinion is offered in this document as to whether an Insolvency Practitioner is included within the ban. Insolvency Practitioners must review the terms of the ban, the work they are doing and the clients they are servicing in order to ascertain if it applies to the services they are providing. If the Insolvency Practitioner still has queries following review of the abovementioned decision and regulation then they may need to seek legal or other professional advice.

## Appendix A – Sanctions Lists

15. The Central Bank of Ireland webpages provide various information on financial sanctions including an [introduction](#) webpage. There is also an up to date [Financial Sanctions Update 2022](#) where you can see details of EU and UN Security Council updates. The webpage on [changes to the Russia/Ukraine Regulations](#) also contains some useful information, and in December 2022 they added a financial sanctions infographic and FAQ page. Members must check whether they hold any funds or economic resources for the persons set out in the current sanctions' lists.
16. There is also a consolidated list of persons, groups and entities subject to EU financial sanctions, which reflects the officially adopted texts published in the [Official Journal of the EU](#). You need to create an account to log in.
17. Insolvency Practitioners can also download a PDF version of the [consolidated list of financial sanctions](#) but must remember this list is constantly being updated and may be out of date so frequent review is essential.
18. The UN publishes a consolidated list of all individuals and entities subject to sanction measures imposed by the [UN Security Council](#).
19. Insolvency Practitioners must also be mindful of the current trade prohibitions issued by the Department of Enterprise, Trade & Employment [EU Trade Sanctions in Response to Situation in Ukraine](#) including those that apply to military-related goods and technology or financial or technical assistance, and dual use goods and technology. The Department's webpage summarises the key trade provisions of the EU sanctions enacted to date. The Department has also prepared an associated [Guidance Note](#).

## Appendix B – Know your client procedures

20. The recent imposition of further sanctions has increased the potential risk of money laundering as individuals and business may seek to evade these sanctions regimes. Members should therefore ensure compliance with [Anti Money laundering guidance for accountants](#) as updated in March 2022.

21. A reminder on Politically Exposed Persons (PEP) is outlined below:

Members in practice are reminded of their obligation under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended), to conduct risk assessments and to perform Enhanced Due Diligence checks where required.

Members should ensure that they fully understand the source of funds and wealth in relation to their clients identified as high-risk. Since many of those who are subject to

sanctions may also be PEPs, members are reminded of their obligation to ensure that they have adequate and up to date procedures in place to identify whether a client, or the beneficial owner of a client, is a PEP or a family member or known close associate of a PEP.

A family member of a PEP includes their spouse, civil partner, children, and parents. A known close associate of a PEP means:

- an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with a PEP.
- an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of a PEP.

Where a potential client is identified as a PEP, members must assess the level of risk associated with that client and the extent of any Enhanced Due Diligence (“EDD”) that should be performed on that client. As a minimum, members must:

- obtain senior management approval for the relationship;
- take adequate measures to establish the source of wealth and funds; and
- perform enhanced ongoing monitoring of the relationship.

When a client ceases to be a PEP, members must continue to apply their EDD procedures to a PEP for as long as is reasonably required to take into account the continuing risk posed by that person and until such a time as that person is deemed to pose no further risk specific to politically exposed persons. However, if the client is a family member or known associate of a PEP, they can stop applying EDD procedures as soon as the PEP status ends. In determining whether someone is a known close associate of a PEP, obliged entities are allowed to rely only on information they already hold or that which is freely available in the public domain.

Insolvency Practitioners’ attention is drawn to the guidelines issued in January 2023 by the Minister for Justice, with the consent of the Minister for Finance, under section 37(12) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) clarifying those functions in the State that may be considered to be prominent public functions for the purposes of the Act. This will assist in identifying domestic PEPs when conducting their risk assessment.

## **Appendix C – Reporting a breach of a financial sanction**

22. The Central Bank of Ireland is the Competent Authority for financial sanctions. If you know or suspect that a breach of financial sanctions has occurred; if a person you are dealing with, directly or indirectly, is a sanctioned person; if you hold any frozen assets; and if knowledge or suspicion of these, come to you while conducting your business you must notify Central Bank. The appropriate email address is [sanctions@centralbank.ie](mailto:sanctions@centralbank.ie).
23. The Department of Enterprise, Trade and Employment is responsible for enforcing trade related sanctions. If you have any queries regarding trade sanctions, please contact the Trade Licensing and Control Unit. The appropriate contact details are 01 631 2328 and [exportcontrol@enterprise.gov.ie](mailto:exportcontrol@enterprise.gov.ie).



24. The Revenue Commissioners have published and updated a [manual](#) on EU Sanctions in response to the situation in Ukraine. The manual may be of somewhat limited value as some paragraphs are redacted/not published under FOI legislation. However, the manual states that the relevant unit to contact is the Prohibitions and Restrictions Unit and the contact email is [rcpr@revenue.ie](mailto:rcpr@revenue.ie).
  
25. Where you are concerned about sanctions evasion or money laundering relating to clients, members should also consider your obligations to report to the [Financial Intelligence Unit](#) and to the [Revenue Commissioners](#).