



**THE OFFICE
FOR THE PREVENTION AND FIGHT
AGAINST MONEY LAUNDERING**



MD-2004, Chisinau, bd. Stefan cel Mare si Sfânt, 198, www.spcsb.md, office@gov.md, tel. (+373) 22-257-243

ORDER

23rd August 2018

no. 35

***On approval of the Instruction on
enforcing international restrictive
measures***

In line with the provisions of Law no. 25 of 04.03.2016 “On enforcing international restrictive measures”, art.22 par. (1), letter k), art.34 of Law no. 308 of 22.12.2017 “On preventing and combating money laundering and terrorism financing”,

I ORDER:

1. To approve the “Instruction on enforcing international restrictive measures” in line with Annex 1.
2. In case of amendment/cancellation of the international restrictive measures, the Supervision and Compliance Service within the Office for the Prevention and Fight against Money Laundering will make suggestions to amend the enforcement of international restrictive measures by the reporting entities pursuant to art. 4, par. (1). e), h), l) of the Law 308/2017.
3. The interaction with the reporting entities, bodies with supervisory and regulatory functions, as well as the control over the execution of this Order shall be the task of the Supervision and Compliance Service.
4. This Instruction enters into force on 23rd August 2018.

Director Vasile ȘARCO

Annex 1 to the Order

INSTRUCTION ON ENFORCING INTERNATIONAL RESTRICTIVE MEASURES

Chapter I GENERAL PROVISIONS

1. The Instruction on enforcing international restrictive measures (hereinafter referred to as “the Instruction”) approved by the Office for the Prevention and Fight against Money Laundering (hereinafter referred to as the “Office”) aims at setting out the requirements to the reporting entities referred to in art. 4, par. (1). e), h), l) of the Law 308/2017, in relation to the enforcement of international provisions and of the obligations undertaken by the Republic of Moldova at international level in order to establish an adequate mechanism of enforcement, maintenance and cancellation of international restrictive measures. The Office for the Prevention and Fight against Money Laundering will periodically assess the system of enforcement of international restrictive measures and will notify the reporting entities about its compliance or non-compliance with the applicable legislation.

Chapter II LEGAL AND REGULATORY FRAMEWORK

2. The legal framework on the enforcement of international restrictive measures is represented by Law no. 308 of 22.12.2017 “On preventing and combating money laundering and terrorism financing”, Law no. 25 of 04.03.2016 “On enforcing international restrictive measures”, the lists of the Security and Intelligence Service on individuals, groups and entities involved in terrorist activities, the lists of the United Nations Security Council on individuals, groups and entities involved in terrorist activities and the proliferation of weapons of mass destruction, the consolidated list of individuals, groups and entities subjected to financial sanctions of the European Union, the standards of the Financial Action Task Force (FATF-GAFI), the universally recognized provisions of international law, the international treaties to which Moldova is party and other normative acts that regulate relations in this area.

Chapter III ENFORCEMENT OF RESTRICTIVE MEASURES

3. The list of individuals, groups and entities involved in terrorist activities and the proliferation of weapons of mass destruction who are subject to restrictive measures includes:

a) the list of the United Nations Security Council on individuals, groups and entities involved in terrorist activities;

- b) the list of the United Nations Security Council on individuals, groups and entities involved in the proliferation of weapons of mass destruction;
- c) the list of the European Union on individuals, groups and entities involved in terrorist activities;
- d) the additional list of the Security and Intelligence Service on individuals, groups and entities involved in terrorist activities

4. The reporting entity shall check whether its clients and their actual beneficiaries are included in the list of individuals, groups and entities involved in terrorist activities and the proliferation of weapons of mass destruction referred to in item 3.

5. The reporting entities apply prompt restrictive measures in respect of assets that belong to or are owned or controlled, directly or indirectly, by individuals, groups and entities included in the list mentioned in item 3, as well as the legal entities that belong to or are controlled, directly or indirectly, by such individuals, groups and entities.

6. The reporting entities shall refrain from activities and transactions in favor of or to the direct or indirect benefit of individuals, groups and entities included in the list mentioned in item 3, as well as of the legal entities, which belong to or are controlled, directly or indirectly, by such individuals, groups and entities throughout the enforcement of the restrictive measures.

7. The restrictive measures listed in item 5 and 6 are compulsory, enforced immediately and are maintained for an undetermined period. The restrictive measures shall be maintained until the decision on cancellation of the restrictive measures issued in accordance with items 25-28.

8. The reporting entities accept additional payments made by a third party, or the increase in value of assets that were subjected to the restrictive measures stipulated in item 5 and 6 and extend the applicability of restrictive measures on additional assets. The information about the extension of restrictive measures on additional assets is transmitted promptly, to the Office within 24 hours.

9. The reporting entities do not establish business relationships with individuals, groups or entities involved in terrorist activities and the proliferation of weapons of mass destruction, included in the list mentioned in item 3. The refusal to establish business relationships with them is communicated immediately by the reporting entities to the Office within 24 hours, and all the data held with regard to such case is presented. Where appropriate, the reporting entities may additionally apply unilaterally other international restrictive measures that are published by other states or relevant international organizations on their own initiative.

10. The Security and Intelligence Service develops, updates and publishes in the Official Gazette of the Republic of Moldova the consolidated list of individuals, groups and entities that includes all the categories of lists mentioned in item 3 letter a)-d).

11. The reporting entities permanently monitor the official webpages of the Ministry of Foreign Affairs and European Integration and the Security and Intelligence Service to ensure the direct enforcement and the immediate legal effect of the lists referred to in item 3 letter a)-d).

12. The Office may set exceptions to the enforcement of international restrictive measures for specific individuals, groups or entities. The mechanism of setting exceptions is regulated by art.16 of the Law 25/2016.

Chapter IV PAYMENT AUTHORIZATION

13. At the request of the individual, group, entity or any other interested party, the Office, in coordination with the Security and Intelligence Service, may authorize the payment at the account of the assets that were subjected to restrictive measures, to:

- a) ensure the existing minimum living standard in line with the official indexes calculated for the Republic of Moldova;
- b) provide emergency medical treatment;
- c) pay the fees and taxes to the budget and compulsory insurance premiums;
- d) cover other extraordinary expenses or expenses related to the maintenance of assets that were subjected to restrictive measures.

14. The request of the authorization to make the payments that were subjected to restrictive measures is transmitted by the reporting entity to the Office indicating the purpose of the payment and the required amount. The Office, after coordination with the Security and Intelligence Service, authorizes or denies payments at the account of the assets that were subjected to restrictive measures.

15. The authorization or refusal to authorize the payments shall be communicated by the Office within 5 working days from the moment of receipt of the request to authorize the payments.

16. The decision of the Office concerning the authorization or refusal to authorize the payments referred to in item 14 can be appealed against in the administrative court, and the sentence of the judge can be appealed against as set out in the legislation.

17. The routine expenses associated with the maintenance and servicing of assets that were subjected to international restrictive measures, including the fees collected, may be deducted from the assets mentioned by the reporting entity, only if the deductions are not made available to individuals, groups or entities that are subjected to restrictive measures.

Chapter V COMMUNICATION OF INFORMATION ON THE ENFORCEMENT OF RESTRICTIVE MEASURES

18. The reporting entities shall promptly send the information on the enforcement of restrictive measures to the Office within 24 hours from the moment of enforcement of the restrictive measure, and the Office shall inform within 24 hours the Security and Intelligence Service and the Ministry of Foreign Affairs and European Integration for the transmission of information to the line bodies and authorities of the United Nations and the European Union.

19. The information on the enforcement of the restrictive measure is transmitted by the reporting entity on special forms approved through Order of the Director of the Office no. 18 of 08.06.2018 on reporting activities or transactions that fall under the

incidence of Law 308/2017 that determines the shape, structure and method of transmission, receipt and acknowledgement of the special forms on the enforcement of restrictive measures.

20. The special form with information on the enforcement of the restrictive measures is transmitted via the secure channel to the Office for the Prevention and Fight against Money Laundering.

21. In emergency cases, it is possible to transmit the information on the enforcement of restrictive measures referred to in item 5 and 6 verbally, by presenting data from the special form by the authorized employees of the Office for the Prevention and Fight against Money Laundering during a telephone conversation, and submit the form in an electronic format later via the secure channel, within 24 hours from the moment of verbal notification.

22. In case of doubts or suspicions that do not allow being strongly convinced about the identity of the individual, group or entity included in the list referred to in item 3, the reporting entities shall notify the Office immediately within 24 hours. Within 24 hours, the Office, after consultation with the Security and Intelligence Service, informs the reporting entity about the need to apply or not restrictive measures.

23. The reporting entities shall provide to the Office all the data, information and documents required for the enforcement of restrictive measures, so that the Office can perform supervisory functions.

Chapter VI CANCELLATION OF RESTRICTIVE MEASURES

24. The decision to cancel the restrictive measures is adopted by the Security and Intelligence Service on the basis of changes arising as a result of the removal of one or more individuals, groups or entities from the lists referred to in item 3 in case the criteria that served as grounds for introducing the individual, group or entity in the additional list are no longer valid.

25. The decision to cancel the restrictive measures is adopted immediately, but no later than within 24 hours from the moment of the changes and is communicated to the Office so that the latter informs the reporting entity that applied the restrictive measure.

26. The Office will inform the reporting entity that applied restrictive measures about the adoption of the decision to cancel them and the reporting entity will cancel the applied measures only on the date indicated in the decision referred to in item 25.

27. The reporting entity will immediately inform the individual, group or entity that were subjected to restrictive measures about the decision to cancel them and the date when the decision comes into force.

Chapter VII INTERNAL CONTROL PROCEDURES

28. The reporting entities establish and apply their own procedures of internal control to adequately manage the enforcement, maintenance and cancellation of

international restrictive measures, which shall include at least the method of updating of the lists of individuals, groups and entities involved in terrorist activities and the proliferation of weapons of mass destruction, the method of checking the clients and their effective beneficiaries in terms of inclusion in the lists referred to in item 3, the procedure of enforcement of international restrictive measures, the mechanism and the form of transmission of the information on the enforcement of restrictive measures to the Office, the mechanism of canceling international restrictive measures and the method of informing the individuals, groups or entities in relation to which the measures were cancelled.

29. The reporting entities appoint a person in charge for organizing the whole procedure of enforcement, maintenance and cancellation of international restrictive measures within the reporting entity.

30. The appointed person permanently monitors and updates the lists referred to in item 3.

31. In case when no person was appointed in charge for ensuring compliance with this Instruction, these responsibilities shall be fulfilled directly by the head of the reporting entity, and, in his/her absence – by the person replacing him/her.