

Pursuant to Article 44 paragraph 2 point 3 of the Central Bank of Montenegro Law (OGM 40/10, 46/10, 06/13, 70/17) and in conjunction with Article 8 of the Law on International Restrictive Measures (OGM 03/15, 42/17), the Council of the Central Bank of Montenegro, at its meeting held on 30 November 2017, passed the following

GUIDELINES
on implementation of international restrictive measures by banks and financial institutions and supervision of the implementation of these measures

1. Basic Provisions

The Guidelines identify the method and mechanisms for the implementation of international restrictive measures (hereinafter: the restrictive measures) by banks and financial institutions and supervision of the implementation thereof.

Financial institutions, within the meaning herein, shall be legal persons that provide financial services and are licensed and/or granted approval for providing financial services by the Central Bank.

The method of introduction, implementation and abolition of international restrictive measures that Montenegro implements with a view to establishing and preserving international peace and security, respecting human rights and fundamental freedoms, combating terrorism, developing and strengthening democracy and achieving other objectives in accordance with the international law are governed by the Law on International Restrictive Measures (OGM 03/15, 42/17) - (hereinafter: the Law).

The Law stipulates the following two methods for introducing the restrictive measures:

- 1) the decision of the Government of Montenegro (hereinafter: the Government) - (Article 7 paragraphs 1 and 2 of the Law), and
- 2) the decision of the Finance Minister which introduces the restrictive measures against natural or legal persons designated as terrorists, terrorist organisations or financiers of terrorists or terrorist organisations on the national list established by the Government (hereinafter: the restrictive measures against persons on the national list) - (Article 4a and Article 7c paragraphs 1 and 2 of the Law).

In accordance with the Law, unless the decision of the Government of Montenegro on the introduction of the restrictive measure specifies the deadline for the implementation of the restrictive measure, such a measure shall be abolished by the decision of the Government.

By applying the principle of analogy, if the decision of Finance Minister on the introduction of the restrictive measure against persons on the national list did not specify the deadline for the implementation of the restrictive measure, such a measure should be abolished by the decision of the Finance Minister.

In accordance with the Law, the decisions of the Government on the introduction and abolishment of the restrictive measures shall be applied as of the day of their adoption and they shall be published in the Official Gazette of Montenegro and on the website of the Ministry of Foreign Affairs: www.mvp.gov.me.

In accordance with the Law, the decision of the Finance Minister which introduces and abolishes the restrictive measures against persons on the national list shall be submitted, without any delay, to authorities responsible for the implementation of the specified restrictive measures and it shall be published on the website of the Ministry of Finance: www.mf.gov.me.

2. Internal act of a bank and financial institution on the implementation of restrictive measures

A bank and financial institution shall pass internal act on the implementation of restrictive measures, which, as a minimum, governs the following:

- a) designation of a person responsible for monitoring the decisions of the Government on the introduction or abolishment of restrictive measures and follow-up of the decisions of the Finance Minister on the introduction or abolishment of the restrictive measure against persons on the national list;
- b) Obligations of a person responsible for monitoring the implementation of the restrictive measures including also the procedure for activating mechanisms and/or processes for the implementation of restrictive measures;
- c) A detail description of mechanisms and/or processes for the implementation of restrictive measures, including adequate information and technical support for implementing these measures;
- d) Submission of the reports on the implementation of the restrictive measures to the Ministry of Foreign Affairs.

3. Type of restrictive measures applied by a bank and a financial institution

With regard to the restrictive measures specified in Article 4 of the Law, a bank and a financial institution may be obligors to the implementation of the following restrictive measures:

- 1) restricted disposal of funds, and
- 2) restricted disposal of assets.

Funds, in accordance with the Law, are financial assets and other financial benefits, and in particular:

- cash, cheques, monetary claims, bills of exchange, remittances and other means of payment;
- funds invested in entities responsible for the implementation of restrictive measures;
- financial instruments prescribed by the law regulating the securities, including shares, collective investment schemes units, bonds, certificates of deposits, treasury bills and other financial instruments;
- documents evidencing title of financial assets or other financial resources;
- interest rates, dividends and other funds-related income;
- receivables, loans and letters of credit.

Assets, in accordance with the Law, are any type of property rights, tangible or intangible, movable or immovable, as well as securities and other documents (in any form, including the electronic or digital form), that prove the property rights.

A bank and financial institution shall apply restrictive measure of restricted disposal of funds of any kind and/or a measure of restricted disposal of assets owned, possessed or otherwise used by a natural or legal person against which the restrictive measure is applied and which is held with a bank or financial institution (funds at the transaction and other accounts, deposits, safe deposit boxes, collaterals and any other funds and assets stipulated by the Law).

The restricted disposal of funds shall also refer to financial assets inflows into the accounts frozen by applying the restrictive measure based on interest rate and/or income on other basis at those accounts, as well as to inflows of financial assets paid and/or transferred by third persons into those accounts in favour of natural or legal persons subject to the restrictive measures.

Assets and funds subject to the measure of restrictive disposal – freezing may not be made available in any way by the bank and financial institution to a natural or a legal person against whom a restrictive measure is introduced and applied.

4. Bank and financial institution action in implementation of restrictive measure

A bank and a financial institution shall implement, without any delay and without previous notification forwarded to a person subject to the restrictive measure, the introduced restrictive measures.

The implementation of a restrictive measure “without any delay” means the obligation of a bank and a financial institution to implement these measures by the end of a business day following that of the official notification of the Government on introducing such a measure, and no later than upon immediate publication of the decision of the Government in the Official Gazette of Montenegro or on the website of the Ministry of Foreign Affairs, and/or no later than by the end of the business day in which they receive or otherwise are officially notified on passing of the decision of the Finance Minister on the introduction of restrictive measure against persons on the national list.

When implementing the restrictive measures of restricted disposal of funds and/or restricted disposal of assets of a natural or legal person subject to the restrictive measures, the bank and financial institution shall take the following activities, in particular:

- a) Check data of all clients and/or users of services (by searching data bases) and compare them with the identification data of a persons against whom the restrictive measures have been introduced;
- b) In the event of positive match of identification data of clients and/or users of services and data of persons against whom the restrictive measures have been introduced, the bank and financial institution shall restrict, without any delay, the disposal and/or freeze the funds and/or assets of persons against whom the restrictive measures have been introduced and may not make them available to such persons;
- c) Should the decision of the Government and/or decision of the Finance Minister establish the deadline for the implementation of the restrictive measure, the bank and financial institution shall implement the restrictive measure in line with the specified deadline, and if such a deadline is not specified, the bank and financial institution shall implement

restrictive measure until the Government or the Finance Minister, by way of the decision, abolish such a measure;

- d) The bank and financial institution shall provide adequate information and technical support for the implementation of the introduced restrictive measures;
- e) Upon the restriction of disposal of funds or restriction of disposal of assets, the bank and financial institution shall notify the Ministry of Foreign Affairs on the actions taken.

5. Bank and financial institution's action to release a portion of funds and/or a portion of assets

Pursuant to the Law, the Ministry of Finance may, by a way of a decision, may grant the release of a portion of funds or a portion of assets subject to the implementation of restrictive measures and/or made them available to a natural person against whom the restrictive measures have been introduced.

Upon the reception of the decision of the Ministry of Finance on the release of a portion of funds or assets subject to the implementation of the restrictive measures, the bank and the financial institution shall make available the released funds and/or released assets to a natural person against whom the restrictive measures have been introduced no later than by the end of a business day in which it has received the respective decision of the Ministry of Finance.

5. Protection of bona fide third parties

Pursuant to the Law, assets of persons subject to the restrictive measures and the disposal of which is restricted in accordance with the Law may be subject to the enforcement under a final court decision aimed at protecting bona fide third parties.

Upon the reception of the final court decision, which established that the subject of the enforcement under such a decision is assets the disposal of which has been restricted by the bank and financial institution in the process of the implementation of introduced restrictive measure, the bank and financial institution shall act upon the final court decision thereby providing the protection of bona fide third parties.

7. Obligation to submit data

Bank and financial institution shall notify the Ministry of the Foreign Affairs on the implementation of restrictive measures using the Form 1 – Implementation of Restrictive Measures against Natural Person and Form 2 - Implementation of Restrictive Measures against Legal Person, which are attached to the Guidelines and make an integral part thereof.

8. Supervision

The Central Bank shall supervise the implementation of the Guidelines in accordance with the Law through the on-site and off-site examination of a bank and a financial institution and by imposing measures against a bank and a financial institution where it discloses irregularities in the implementation of the restrictive measures.

9. Entering into force

The Guidelines shall enter into force on the eighth day following that of their publication on the web-site of the Central Bank of Montenegro.

COUNCIL OF THE CENTRAL BANK OF MONTENEGRO

CHAIRMAN

Decision number 0101-9793-2/2017

G O V E R N O R,

Podgorica, 30 November 2017

Radoje Žugić, m.p.

Implementation of Restrictive Measures against Natural Person

Natural Person Data			Table A
No.			
1.	Name		
2.	Last name		
3.	Date and place of birth		
4.	Legal domicile or residence		
5.	Citizenship		
6.	Type and number of public document with a photo or uniform identification number		
7.	Address		
Data on funds and assets subject to restricted measure of disposal and/or release			Table B
No			
1.	Type of funds	a)	Total in EUR:
		b)	
		c)	
2.	Type of assets		
Data on the document based on which the restrictive measure is introduced/abolished and/or based on which a portion of funds and/or assets is released			Table C
No			
1.	Restrictive measure of disposal of funds	Name and number of a document of relevant international organisation or other entity based on which the measure is introduced:	
		Decision of the Government of Montenegro on the introduction of restrictive measure or decision of the Finance Minister:	
2.	Restrictive measure of disposal of assets	Name and number of a document of relevant international organisation or other entity based on which the measure is introduced :	
		Decision of the Government of Montenegro on the introduction of restrictive measure or decision of the Finance Minister:	

Bank/financial institution

Signature of authorised person

Implementation of Restrictive Measures against Legal Person

Legal Person Data				Table A
No				
1.	Name and registered office of legal person			
2.	Name and last name of authorised person for representation			
3.	Identification number and tax identification number			
4.	Address of legal person			
5.	Address of person authorised for representation			
Data on funds and assets subject to restricted measure of disposal and/or release				Table B
No				
1.	Type of funds	a) _____ b) _____ c) _____	Total in EUR:	
2.	Type of assets			
Data on the document based on which the restrictive measure is introduced/abolished and/or based on which a portion of funds and/or assets is released				Table C
No				
1.	Restrictive measure of disposal of funds	Name and number of a document of relevant international organisation or other entity based on which the measure is introduced:		
		Decision of the Government of Montenegro on the introduction of restrictive measure or decision of the Finance Minister:		
2.	Restrictive measure of disposal of assets	Name and number of a document of relevant international organisation or other entity based on which the measure is introduced:		
		Decision of the Government of Montenegro on the introduction of restrictive measure or decision of the Finance Minister:		

Bank/financial institution

Signature of authorised person
