

Guidance for the application of Restrictive Measures

FATF Recommendations 6 and 7

Andorra la Vella, February 2017



UIFAND

UNITAT D'INTEL·LIGÈNCIA FINANCERA

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1. BACKGROUND

The main objective of the restrictive measures set out in Article 68 of the Law on international cooperation in criminal matters and the fight against money laundering and against the financing of terrorism, 29 December 2000 (hereinafter later, LCPI) is to prevent individuals and entities linked to terrorism, terrorist financing or the financing of weapons of mass destruction to use the global system, financial or non-financial, to promote or perform these criminal activities.

To this end, the international community has agreed to adopt Restrictive Measures with regard to persons and entities that appear in national and international lists (see Lists of the Security Council of the United Nations), which are public so that everyone can apply the restrictive measures that are derived. These Restrictive Measures should be applied quickly and effectively so that the efforts aimed at combating terrorism, its financing and the financing of weapons of mass destruction are effective.

Thus, the purpose of this guide is to provide natural and legal persons in Andorra compliance with the legal obligations established in the Principality of Andorra concerning Restrictive Measures.

2. INTERNATIONAL STANDARDS AND THE LEGAL FRAMEWORK OF ANDORRA

2.1. *What is the content of the FATF Recommendations 6 and 7?*

Recommendations 6 and 7 of the FATF point out that countries should implement targeted financial sanctions (TFS) to comply with the resolutions of the Security Council of the United Nations on the prevention and suppression of terrorism, the financing of terrorism, prevention, suppression and disruption of proliferation of weapons of mass destruction and their financing.

These resolutions require countries to block without delay the funds or other assets and ensure that any funds or other assets are made available, directly or indirectly, to or for the benefit of any person or entity, either (i) appointed by or under the authority of the Security Council of the United Nations in the Chapter VII of the United Nations Charter.

2.2. *Which is the legal framework in the Principality of Andorra concerning Restrictive Measures?*

On 23 April 2014, the Law 4/2014 of 27 March, establishes several measures to prevent, fight, and suppress terrorism and the financing of terrorism and prevent and disrupt the proliferation of weapons of mass destruction their financing¹.

Synthetically, Andorran legislation requires to apply "Restrictive Measures" regarding the persons and entities listed in the "List" (and related persons and entities) issued by the Principality of Andorra and published on the website of the UIFAND (<http://www.uifand.ad/mesures-restrictives>).

¹ <https://www.bopa.ad/bopa/026026/Pagines/85BEE.aspx>

3. RESTRICTIVE MEASURES

3.1. *What are the Restrictive Measures?*

The restrictive measures are those actions taken with regard to persons and entities listed in the List. The restrictive measures may include:

1. Freezing all funds and financial assets owned, or directly or indirectly controlled, by the persons or entities referred to in section 3.4, whether these funds and assets are owned in full or in conjunction with others, and including funds derived from or having their origin in the above;
2. Banning the persons and entities referred to in section 3.4, directly or indirectly, accessing any funds, financial assets, financial services, or other related services;
3. Placing restrictions on commercial activity, including restrictions on imports and exports and arms embargo;
4. Placing restrictions on financial activities of any nature, including assessment, support, and procurement services;
5. Any other restrictions, including technical assistance, flight bans and restrictions on admission and transit;
6. Diplomatic sanctions, the suspension of cooperation, and boycotting sports events in case of countries included in the lists issued by the competent committee of the United Nations.
7. Any other determined by the Permanent Committee in the performance of their functions.

All these measures have to be applied to those persons detailed in section 3.4 of this guide, as the Commission decided in its Resolution 1/2016, of February 25, which can also be viewed at UIFAND website:

(http://www.uifand.ad/images/stories/Docs/MesuresRestrictives/29022016_Resolucio1.pdf)

3.2. *What is meant by freezing?*

Freezing assets means a ban on the transfer, conversion, use, or movement of funds and financial assets owned or controlled (whether directly or indirectly) by the person or entity included in the List.

3.3. *What is meant by funds?*

Funds are understood to be the financial assets, property of any kind, be it tangible, intangible, movable or immovable, acquired by any means, whether lawful or unlawful, and the corresponding documents, certificates or any other kind of legal instruments including electronic or digital ones that prove ownership of or an interest in the aforementioned assets and property; in particular, but not limited to, assets and bank loans, traveller's cheques, bank cheques, money orders, shares, securities, debts, bills of exchange, and letters of credit.

3.4. To whom are these Restrictive Measures applied?

Restrictive Measures apply obviously to individuals and entities included on the List and, additionally, they must be applied to:

1. Any entity that is either owned or directly or indirectly controlled by any person or entity on the list;
2. Any person or entity acting on behalf or under the instructions of a person or entity on the list;
3. Countries included in the lists adopted by the corresponding committee of the UN in relation to diplomatic sanctions, suspensions of cooperation and boycott of sport events.

3.5. When to apply Restrictive Measures?

Restrictive measures must be implemented immediately as from their publication on the UIFAND website and without notifying the person or entity to which have been applied (affected by the Restrictive Measure).

4. THE LIST

4.1. What is the list of persons and entities (the List)?

The List is a document regularly updated of persons and entities deemed to have links with terrorist activities, the financing of terrorism, or the financing of the proliferation of weapons of mass destruction.

This List can be found in the section "Mesures Restrictives" of the UIFAND website: <http://www.uifand.ad/mesures-restrictives>.

4.2. Which is the Andorran competent authority to make and publish the List?

The Permanent Committee for the prevention of and fight against terrorism and the financing of terrorism and the prevention of the proliferation of weapons of mass destruction and their funding (hereinafter, the Commission) is the competent body to prepare and release the List.

4.3. Which persons or entities persons are included in the List?

In the List are included:

1. In any case, persons and entities listed in the lists issued by the competent committee of the United Nations (Security Council UN).
2. If a state so requests, the Permanent Committee may decide to include a person or entity on the list if it considers that there are reasonable grounds or a reasonable basis to suspect of that person or entity.
3. The persons and entities that the Commission considers taking into account the criteria and resolutions of the United Nations.

4.4. Where can I find the List?

This List can be found on the UIFAND website, under the section “Mesures Restrictives” (<http://www.uifand.ad/mesures-restrictives>).



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INICI | UIFAND | LEGISLACIÓ | SUBJECTES OBLIGATS | PUBLICACIONS | **MESURES RESTRICTIVES** | COMUNICACIONS | FORMACIÓ

Inici > Mesures restrictives

Mesures restrictives

Publicacions posteriors a l'entrada en vigor de la Llei 4/2014

> Resolució 1/2016, del 25 de febrer, per la qual s'acorda la inclusió a la llista de persones i entitats establerta a l'article 68 de l'LCPI, de les persones i entitats que figuren a la llista consolidada de sancions del Consell de Seguretat de Nacions Unides i a les seves eventuals actualitzacions, a fi de l'aplicació de les mesures restrictives escaients

La Llista de l'article 68 de l'LCPI integrada per la llista consolidada de sancions del Consell de Seguretat de Nacions Unides, que inclou les diverses llistes elaborades pels seus comitès és, en la seva versió consolidada, la següent:

> **Llista consolidada de sancions del Consell de Seguretat de les Nacions Unides**

La llista d'articles prohibits a l'exportació i a la importació de la República Democràtica Popular de Corea (Corea del Nord) que estableix la Resolució és la següent:

> **Llista d'articles prohibits a la importació i a la exportació a la República Democràtica Popular de Corea segons la Resolució 1718(2006) del Consell de Seguretat de les Nacions Unides**

ACCÉS RESTRINGIT

usuari

Contrasenya

Recordar-m ☐

ENTRA

FORMULARIS

- Designació del representant
- Declaració d'Operació Sospitosa
- Instruccions per efectuar una Declaració

Notwithstanding the above, the list of persons and entities determined by the Security Council of the United Nations or any of its committees may also be consulted on the following website: <https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list>.



Subsidiary Bodies: An Overview

that the Security Council may establish subsidiary bodies as needed for the... in Rule 28 of the Council's Provisional Rules of Procedure.

omprised of the fifteen members of the Council. While standing committees... on a monthly basis, other committees and working groups are chaired or... who are announced on an annual basis by a Note of the President of the

4.5. How can I check the persons and entities included in the List?

From the website of the United Nations mentioned above, there are two ways to view the natural persons or entities included in the List:

1. By alphabetical order, or
2. By a permanent reference number.

In each list there is a section for natural persons and another for entities.

Additionally, in order to facilitate the search the List is available in PDF, XML and HTML format.

CONSOLIDATED UNITED NATIONS SECURITY COUNCIL SANCTIONS LIST

[Home](#) » Consolidated Sanctions List

- [Technical actions](#)
- [Composition of the List](#)
- [Identifiers and acronyms in the List](#)
- [Individuals](#)
- [Entities](#)

Consolidated United Nations Security Council Sanctions List

List in alphabetical order

List by Permanent Reference Number

[Search UN Security Council Sanctions Lists](#)

The Security Council of the United Nations has also enabled a search engine to find a person or entity individually. This search can be found at this link: <https://scsanctions.un.org/search/> (see screenshot below)

UNITED NATIONS SECURITY COUNCIL SANCTIONS LIST SEARCH

[Home](#) » Consolidated Sanctions List Search

United Nations Security Council Sanctions List Search

Language ☐ العربية ☐ 中文 ☒ English ☐ Français ☐ Русский ☐ Español

Select the language of the report

FULL TEXT SEARCH

Enter keywords

A

You can enter more than one word to search separated by space.

For example:

case 1: if you enter **John Doe** the results shown will consist of individuals or entities that contain the word "John" or "Doe". If you are searching for an exact phrase include it between quotes "your phrase here". The field is not mandatory when Advanced search options are used.

4.6. Is the List updated?

The List is modified on a regular basis (especially following the changes made by the United Nations), either to include new natural persons or entities or to exclude them.

4.7. How can I know the changes that might be made in the List?

You must regularly check the website of the UIFAND (<http://www.uifand.ad/mesures-restrictives>) to determine if this list has undergone any modification.

Regarding natural persons and entities included in the List based on the consolidated list of the United Nations, this query can be done also through the website of the Security Council of the United Nations (<https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list>).

5. IMPLEMENTATION OF RESTRICTIVE MEASURES

5.1. What do I have to do if I discover that I am managing assets or funds subject to Restrictive Measures?

Concerned parties that are related to or have knowledge of the funds or financial assets affected by a restrictive measure (v.g. customers or beneficial owners included in the List or any of the circumstances mentioned above) must:

1. Implement immediately the Restrictive Measures indicated previously to all persons mentioned above, and
2. Inform the UIFAND via reliable means of the measures taken, as well as any operation that the person or entity intends to carry out.

The communication must be carried out through the form 1: "*Comunicació d'aplicació de mesures restrictives*" available in this guide.

5.2. When do I have to inform the UIFAND of the application of Restrictive Measures?

This notice must be given no later than five days after the publication starting from the publication of the the person or entity (on the List or as a related person) or after the date the funds or financial assets come into the possession of the person giving notice, should this be the later date.

5.3. Once the communication to the UIFAND is made, do I have to expect an answer?

The Permanent Commission has to ratify any Restrictive Measure communicated by the UIFAND within 15 days from the reception of the communication by the Permanent Committee.

For these reason, the holder of the funds can receive a notification from the Permanent Committee. The absence of a communication to the fund holder within 15 days of receipt of the information by the latter will entail confirmation of the measure.

5.4. Do I have to inform the persons and entities affected by the Restrictive Measures?

The Permanent Committee has to inform the persons and entities affected by the restrictive measures.

5.5. After the first communication made to the UIFAND regarding the freezing of funds, do I have to do more communications?

Yes, further communications have to be done:

- You must inform the UIFAND immediately if any incidence occurs and,
- In any case, you must inform every six months (from the first communication) regarding the general status and situation of the freezing funds and financial assets previously made.

These communications must be made through Form 2: "Comunicació semestral de mesures restrictives o d'incidències" available in this guide.

6. PERSONS AFFECTED BY RESTRICTIVE MEASURES

6.1. What happens if my funds have been blocked pursuant to this rule and I need to dispose them to satisfy a fundamental need?

The Permanent Committee may authorise, upon request, all or part of the frozen funds and financial assets to be used by the persons or entities listed or by family members in order to meet their basic needs, including the cost of food, medication, housing, health care, and legal assistance.

The Permanent Committee may also authorise the use of frozen funds and financial assets to cover the cost of taxes, fees, compulsory insurance premiums and bank account maintenance charges, as well as any expenses necessary to maintain and administer the frozen assets and any other justifiable extraordinary expense.

In these cases, in order to make the blocked funds available, the applicant must provide a written request to the Permanent Committee indicating at least the following:

1. Request to use part or all of the funds blocked
2. Date and number of the Resolution of the Permanent Committee related to the referred blocked funds
3. Identification data and contact of the person submitting the request,
4. Identification data and contact person affected by the Restrictive Measures,
5. Indication of the basic need that must be met explaining the amount payable, form and frequency of payment and data to identify the person who has to meet the payment, and
6. Copies of the documents that could justify the request.

6.2. What do I do if my name has been wrongly included in the List?

A written request can be made regarding *bona fide* third parties affected by the actions taken, either because they bear an identity or similarity to the person or entity concerned in terms of their name or otherwise, or for any other reason that constitutes grounds to lift or modify the measures. The written request must be addressed to the Permanent Committee with the following minimum content:

1. Reason to request the lift of the Restrictive Measures.

2. Date and number of the Resolution of the Permanent Committee related to the referred Restrictive Measures.
3. Identification data and contact of the person submitting the request.
4. Identification data and contact person affected by the Restrictive Measures.
5. Copies of the documents that could justify the request.

6.3. How long does the Permanent Committee take to resolve my request?

The Permanent Committee has 15 days to notify the resolution of the request. Once the period of 15 days has lapsed, the request for removal from the list must be understood as having been rejected, allowing the applicant to appeal the decision before the Government.

Comunicació d'aplicació de mesures restrictives¹

Base jurídica: article 72.2 de l'LCPI, que obliga a informar de manera immediata a la Comissió Permanent (per via de la UIFAND) de les persones o entitats incloses en la Llista (en general, persones a les quals s'han d'aplicar mesures restrictives).

1. Dades generals sobre la persona que presenta la comunicació

- Denominació legal (nom de la persona o subjecte obligat):
- Representant/s davant la UIFAND:
- Adreça:
- Breu descripció de l'activitat de la persona que presenta la comunicació:

2. Documentació que s'adjunta

- ☐ Còpia dels documents d'identificació de la persona en relació amb la qual es presenta la comunicació.
- ☐ Actes notariaus.
- ☐ Documentació bancària o de l'operativa en suport paper.
- ☐ Documentació bancària o de l'operativa en suport electrònic.
- ☐ Còpia de la fitxa i documentació del *Know Your Customer* (KYC).
- ☐ Altra documentació de suport (especificar):

3. Data, signatura i segell

_____, _____ d _____ del _____

Signatura del representant legal

Segell

¹ És obligatori adjuntar tots els annexos, encara que no es disposi de la informació requerida.

Annex I – Persona física

1. Dades del client¹

- Núm total de persones reportades:
- Nom i cognoms:
- Document d'identificació (passaport, DNI o altre):
- Núm del document d'identificació:
- Nacionalitat:
- Lloc i data de naixement:
- Professió:
- Adreça de residència:
- País de residència:

¹ Imprimeixi el número de còpies necessàries per omplir les dades amb totes les persones físiques.

Annex II – Persona jurídica o entitat

1. Dades del client¹

- Núm total de persones reportades:
- Nom de la societat:
- Forma jurídica:
- Objecte social:
- Adreça:
- País:
- Nom i Cognoms dels representants legals:

¹ Imprimeixi el número de còpies necessàries per omplir les dades amb totes les persones jurídiques o entitats.

Annex III – Veritable drethavent

1. Dades del client

- El client és el veritable drethavent o el beneficiari efectiu (Si/No):

2. Comentaris (opcional)

Annex IV – Descripció dels fets i identificació dels fons¹

1. Descripció de clara i completa del motiu pel qual es presenta la comunicació

- Descripció de com ha conegut que els fons pertanyen a persones o entitats designades a la Llista o a persones o entitats relacionades amb aquesta/es en el sentit de l'article 69 de l'LCPI:

- Data en la que s'ha conegut aquest fet:

- Descripció de les mesures adoptades en relació als fons:

- Informació sobre la persona, les persones, l'entitat o les entitats en relació a les quals s'apliquen mesures restrictives (*nom i cognoms o denominació / tipus de document identificatiu / número document identificatiu / lloc i data de naixement o de constitució / adreça / telèfon / dades del representant legal de l'entitat / tipus de relació de negoci / data d'inici de la relació de negoci / etc.*):

2. Informació sobre els fons

- Tipus de fons:

- Descripció de fons:

- Valor en euros dels fons:

- Referència identificativa interna del fons:

3. Informació sobre els compte (si és el cas)

- Número de compte:

- Tipus de compte:

- Divisa del compte:

- Nom i cognoms del/s titular/s de comptes i els beneficiaris efectius:

- Data obertura compte:

- Data cancel·lació compte:

- Data d'aplicació de les mesures restrictives:

- Estat del compte (v.g. *actiu/inactiu/adormit*):

¹ Utilitzi l'espai que consideri necessari.

4. Informació sobre transaccions (si és el cas)

- Data i hora de la transacció:
- Import de la transacció:
- Divisa de la transacció:
- Tipus de fons involucrats en la transacció:
- Tipus de transacció (v.g. *caixer automàtic / presencial / correu / telèfon / altra*):
- Descripció de la transacció:
- Persona o entitat que efectua o intenta la transacció:

Comunicació semestral de mesures restrictives o d'incidències

Base jurídica: article 72.5 de l'LCPI, que obliga a comunicar semestralment a la Comissió Permanent (per via de la UIFAND) la situació i estat de fons bloquejats o de qualsevol incidència que es produeixi respecte els mateixos.

1. Dades generals sobre la persona que presenta la comunicació

- Denominació legal (nom de la persona o subjecte obligat):
- Representant/s davant la UIFAND:
- Referència de les mesures restrictives aplicades:

2. Informació sobre els fons o recursos econòmics sotmesos a mesures restrictives

- Persona o entitat en relació amb la qual s'han aplicat mesures restrictives:
- Estat dels fons i/o recursos econòmics sotmesos a mesures restrictives:
- Descripció de les activitats d'administració dels fons i/o recursos econòmics:
- Activitat de la persona o entitat en relació amb la qual s'han aplicat mesures restrictives:
- Incidències:
- Altra informació a destacar:

3. Data, signatura i segell

_____, _____ d _____ del _____

Signatura del representant legal

Segell