



BORD TA' SORVELJANZA DWAR IS-SANZJONIJIET
SANCTIONS MONITORING BOARD
MALTA

**Responsibility for Non-Subject
Persons under The National Interest
(Enabling Powers) Act**

Guidance Note

23 December 2022

Responsibility for Non-Subject Persons under The National Interest (Enabling Powers) Act

According to Article 3(5) of the National Interest (Enabling Powers) Act, Chapter 365 of the Laws of Malta, the Act is applicable to all persons in Malta, persons resident in Malta, to citizens of Malta wherever they may be or to vessels, aircraft or other means of transport registered in or belonging to Malta or travelling to or from such countries as the Minister may in the regulations determine. Strict compliance with international sanctions is therefore incumbent on both subject and non-subject persons alike and any breach of sanctions would entail the heavy penalties established by Article 6 of the National Interest (Enabling Powers) Act.

Article 17(6) of the National Interest (Enabling Powers) Act imposes specific obligations on “any legal or natural person conducting a relevant activity or relevant financial business as defined in the Prevention of Money Laundering and Funding of Terrorism Regulations”. These individuals and entities are termed “subject persons” and have the specific obligation to:

- (a) regularly check the list of designations by the United Nations, the European Union, and the Board, and to screen their client databases against those lists on a regular basis and immediately after a change to any of these lists occurs.
- (b) have in place and effectively implement internal controls and procedures to ensure compliance with the obligations arising from this Act and any relevant United Nations or European Union Resolutions or regulations; and

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- (c) immediately notify the Board in case targeted property is identified, and of the actions taken in relation to such property in compliance with the requirements under this Act, including in relation to any attempted transactions.

Through this guidance, the Sanctions Monitoring Board wishes to clarify that the obligation to adhere to UN/EU and national sanctions is incumbent on both subject and non-subject persons alike. Whilst subject persons are subjected to onsite examinations by the regulators who will check for compliance with the requirements under article 17(6), non-subject persons are not subject to onsite examinations however they are still expected to conduct the necessary checks to ensure compliance with applicable sanctions at all times.

There is hence an obligation for all persons falling under article 3(5) of the National Interest (Enabling Powers) Act, whether subject or non-subject persons, to ensure that sanctions are not violated. Any non-subject person who may encounter potential sanctions breaches or circumvention of sanctions is obliged to ensure that that potential breach or circumvention is reported. Hence it is recommended for non-subject persons to adopt all necessary processes and procedures to ensure sanctions compliance at all times including ongoing monitoring of client databases. For those non-subject persons whose exposure to the risk of sanctions violations, following a risk assessment, is deemed to be high, the adoption of automated screening tools is recommended.



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The restrictive measures adopted by the European Union and the United Nations, including those on Russia following the aggression against Ukraine, may be consulted on the website of the Sanctions Monitoring Board on <https://foreign.gov.mt/smb>.

It is recommended that all persons in Malta remain informed of any updates made to applicable sanctions. To subscribe to the mailing list of the Sanctions Monitoring Board one may send an email to updates.smb@gov.mt.

Sanctions Monitoring Board

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