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IMPLEMENTATION OF INTERNATIONAL SANCTIONS IN FINANCIAL INSTITUTIONS

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TERMS USED AND THEIR DEFINITIONS

AML/CTF – anti-money laundering and/or counter-terrorist financing.

AML/CTF Law – the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing

BoL Guidelines – Guidelines on the Prevention of Money Laundering and/or Terrorist Financing for Financial Market Participants approved by Resolution No 03-17 of the Board of the Bank of Lithuania of 12 February 2015 on the Approval of the Guidelines on the Prevention of Money Laundering and/or Terrorist Financing for Financial Market Participants.

EEA – European Economic Area.

EU – European Union.

EU Council Guidelines and Best Practices – Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy and EU Best Practices for the effective implementation of restrictive measures of the Council of the European Union of 4 May 2018.

EU sanctions – restrictive measures established by decisions and regulations of the Council of the European Union.

EU sectoral sanctions – restrictive measures imposed by the European Union that target specific sectors of the economy of a sanctioned country (e.g. restrictions on imports, exports, financing, investment).

FCIS – Financial Crimes Investigation Service under the Ministry of the Interior of the Republic of Lithuania.

FCIS Instructions – Instructions for Supervision of Proper Implementation of International Financial Sanctions in the Area Regulated by the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania approved by Order No V-273 of the Director of the Financial Crimes Investigation Service under the Ministry of the Interior of the Republic of Lithuania of 20 October 2016 on the Approval of Instructions for Supervision of Proper Implementation of International Financial Sanctions in the Area Regulated by the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania.

FMP – a financial market participant.

Law on Sanctions – Republic of Lithuania Law on International Sanctions.

ML/TF – money laundering and/or terrorist financing.

Regulation 269/2014 – Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (consolidated version of 4 June 2022).

Regulation 833/2014 – Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (consolidated version of 4 June 2022).

Sanctioned entity – a state or part of a state, a territory (zone of specific status), a natural or legal person, any other organisation or a group of natural or legal persons and/or a group of organisations subject to international sanctions.

Transactions – transactions and/or payment operations.

UN sanctions – international sanctions imposed by resolutions of the United Nations Security Council and international sanctions imposed by decisions of sanctions committees established by resolutions of the United Nations Security Council.

CONTENTS

I. PURPOSE AND METHODS OF THE REVIEW

In carrying out, within its competence, risk-based supervision of FMPs, the Bank of Lithuania notes that FMPs do not always pay appropriate attention to the implementation of international sanctions and restrictive measures and that FMPs face difficulties in the implementation of international sanctions and restrictive measures in practice. In this Review of the Implementation of International Sanctions in Financial Institutions (hereinafter – the Review), the Bank of Lithuania provides key insights into the measures taken by FMPs to implement international sanctions and restrictive measures.

The Review is based on the provisions of legal acts and good practices of the EU and the Republic of Lithuania, Analysis of the International Sanctions Screening Systems conducted by the Bank of Lithuania over 20 FMPs (banks, electronic money institutions, payment institutions) in December 2021–May 2022 (hereinafter – the Analysis), contains examples of good practice identified during the Analysis and cases where the measures applied to implement international sanctions need to be improved.

II. BASIS AND PURPOSE OF IMPLEMENTATION OF INTERNATIONAL SANCTIONS, RESTRICTIVE MEASURES

Under Chapter VII of the UN Charter, the UN can take measures to maintain or restore international peace and security, which include non-military measures such as sanctions. The UN Security Council has applied (and applies) sanctions to support peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote non-proliferation of weapons of mass destruction. EU restrictive measures (sanctions) are an instrument of the Common Foreign and Security Policy (CFSP) used by the EU to implement resolutions of the UN Security Council or to further the objectives of the CFSP, namely promoting international peace and security, preventing conflicts, supporting democracy, the rule of law and human rights, and defending the principles of international law. EU sanctions are intended to bring about a change in policy or activity by targeting non-EU countries, as well as entities and individuals, responsible for malign behaviour.

The scope of regulations imposing restrictive measures (sanctions) directly applied by the EU (see, e.g. Article 17 of Regulation 269/2014) covers the territory of the EU, including its airspace, any aircraft or vessel under the jurisdiction of EU Member States, any person inside or outside the territory of the EU who are nationals of EU Member States, any legal person, entity or body inside or outside the territory of the EU which is incorporated or constituted under the law of a EU Member State, and any legal person, entity or body in respect of any business done in whole or in part within the EU.

Article 1(1) of the Law on Sanctions establishes the purpose of the Law – to ensure the interests of the national security and foreign policy of the Republic of Lithuania in implementing international commitments of the Republic of Lithuania, the EU's CFSP, also contributing to maintaining peace, stability and the rule of law in the world, the international community's struggle against international terrorism, violations of human rights, territorial, ethnic and religious conflicts in other states. Article 4(1) of the Law on Sanctions stipulates that all natural persons and legal persons must comply with and implement international sanctions implemented in the Republic of Lithuania in accordance with the procedure laid down by the Law on Sanctions and other legal acts. Article 6 of the Law on Sanctions provides, inter alia, that both EU and UN sanctions should be implemented directly and in full scope in the Republic of Lithuania.

Article 29(1)(4) of the AML/CTF Law stipulates that FMPs are required to establish adequate internal policies and internal control procedures relating to the implementation of international financial sanctions and restrictive measures.

Chapter IX of the BoL Guidelines further details the requirements for the implementation of international financial sanctions, restrictive measures applicable to FMPs (for more details, see the following sections). The requirements for the implementation of international financial sanctions applicable to FMPs (and other persons) are also set out in the FCIS Instructions. It should be noted that the FCIS is responsible for supervising the implementation of the FCIS Instructions, but the insights of the Bank of Lithuania presented in the Review are also related to the implementation of the provisions of the FCIS Instructions.

III. IDENTIFYING, ASSESSING AND MANAGING INTERNATIONAL SANCTIONS RISKS

International sanctions are adopted, renewed and/or supplemented as the international community responds to events and conflicts in the world, with the aim of changing the behaviour of the states, entities and individuals that caused them. In this context, FMPs should continuously keep up to date with information on international sanctions and promptly assess the international sanctions risks faced by FMPs. Identifying, assessing and managing the international sanctions risks should be an ongoing (continuous) process in FMPs. It should be noted that the assessment of international sanctions risks differs from the assessment of the ML/TF risks due to the specificity of content of international sanctions and their direct binding nature. In the management of the ML/TF risks by FMPs, the legislation prescribes the use of the risk-based approach, with the greatest resources and enhanced measures targeted at the areas of highest ML/TF risks. Meanwhile, in managing the international sanctions risks, FMPs should apply measures and allocate resources to any risk that exists, even if the probability of occurrence of the risk is assessed by the FMP to be low.

By keeping up to date with information on international sanctions, as the UN or the EU decides to impose new sanctions or modify existing sanctions regimes, FMPs should, as soon as possible, identify the international sanctions that are relevant to FMPs and that should be implemented by them. As mentioned above, EU and UN sanctions are applicable directly and must be implemented in full scope, but there may be particular sanctions (specific restrictive measures) that are not relevant in respect of certain FMPs due to the type of the FMP or the nature of the services/products provided. For example, the prohibition laid down in Article 5i(1) of Regulation 833/2014 on the sale, supply, transfer or export of banknotes denominated in any official currency of a Member State to Russia or to any natural or legal person, entity or body in Russia, including the government and the Central Bank of Russia, or for use in Russia, might be irrelevant (and therefore unenforceable) for an FMP that does not provide any cash-related services. Nevertheless, it should be noted that the relevance of sanctions should not be treated superficially by FMPs as in practice there are cases where various EU sectoral sanctions, import/export and/or related restrictions are considered by FMPs irrelevant because FMPs only refer to the fact that they do not carry out transactions from and/or to the country subject to such international sanctions. It should be noted that such an assessment is not appropriate as international sanctions may be violated by both counterparties being present and/or conducting transactions in non-sanctioned countries (e.g. the prohibition laid down in Article 3h(1) of Regulation 833/2014 prohibiting the direct or indirect sale, supply, transfer or export of any of the luxury goods listed in Annex XVIII to Regulation 833/2014 to any natural or legal person, entity or body in Russia or for use in Russia, may be breached by both counterparties being present in the EU if the ultimate recipient of the goods is an entity in Russia and/or the ultimate purpose of the goods is the use in Russia). Therefore, FMPs should assess the relevance of international sanctions in the light of the content of specific international sanctions (legislative provisions).

In order to properly and fully implement international sanctions, FMPs should have appropriate measures and establish ways to implement such sanctions. The scope of the measures should be such as to prevent a potential breach of international sanctions and should be consistent with the content of the international sanctions imposed. It should be noted that once the FMP has put in place measures for implementing international sanctions, the measures should be reviewed on a regular (periodic) basis in order to assess

whether the measures ensure adequate management of the international sanctions risks, whether they perform the function of prevention of violation of international sanctions, and whether, in the event of a change in the FMP's business model, an increase in the number of the FMP's clients or the number of transactions carried out by the FMP, the measures used by the FMP are still adequate, or whether they should be improved.

IV. INTERNAL CONTROL SYSTEM FOR THE IMPLEMENTATION OF INTERNATIONAL SANCTIONS, RESTRICTIVE MEASURES

Requirements of the BoL Guidelines

[…]

70. In order to ensure proper implementation of international financial sanctions and restrictive measures, as provided for in the legislation of the Republic of Lithuania regulating the implementation of international sanctions, the FMP shall:

70.1. establish adequate internal policies and internal control procedures relating to the implementation of international financial sanctions and restrictive measures, that would allow identifying customers, beneficial owners and/or the customer's representatives falling within the scope of such international sanctions and establish whether the customer's transactions do not fall within the scope of international restrictive measures (e.g. where there are restrictions on investment transactions, insurance transactions, transactions relating to the transport of dual-use goods to certain jurisdictions);

[…]

70.4. ensure that the FMP relies on the latest and most up-to-date information on existing international financial sanctions and restrictive measures.

71. The FMP shall ensure that the members of staff responsible for the implementation of international financial sanctions and restrictive measures in the institution have an adequate understanding of legislation regulating international sanctions and the application thereof and sufficient resources and means to identify possible violations of international sanctions.

Requirements of the FCIS Instructions

[…]

5. The Persons shall be obliged to do the following:

[…]

5.10. appoint an employee/employees who would organise implementation of financial sanctions, was/were responsible for suspending disposal of the accounts, regular updating of the list of entities affected by the financial sanctions, reporting to the FCIS and other authorities responsible for supervision of the implementation of international sanctions;

5.11. establish the respective internal control procedures which would ensure implementation of the financial sanctions.

An effective internal control system is the key to the proper implementation of international sanctions in FMPs. In accordance with the requirements set out in the BoL Guidelines and the FCIS Instructions, the internal control system for the implementation of international sanctions in FMPs must be at least comprised of the following:

1. A responsible FMP officer to organise the implementation of international sanctions. In order for the responsible officer designated by the FMP to adequately carry out the functions assigned to them, the FMP should provide sufficient human resources for ensuring the internal control of international sanctions, and sufficient FMP funds and information technology (IT) resources should be allocated if, in the opinion of the responsible officer, databases, special systems or other similar tools are necessary for the proper implementation of international sanctions. In the day-to-day operations of the FMP, the responsible officer should be in charge of taking decisions related to the implementation of international sanctions (including, but not limited to, taking decisions on the suspension of customer accounts following the imposition of international sanctions, reporting to the FCIS and other competent authorities). The officer appointed to organise the implementation of international sanctions should have specific knowledge in the field of international sanctions: an understanding of the objectives of international sanctions, the basis and procedure

for the adoption of sanctions in the EU and the UN, knowledge of relevant international requirements related to sanctions (including, but not limited to, the EU Council Guidelines and Best Practices), knowledge of the provisions of legal acts of the Republic of Lithuania establishing the requirements for implementation of international sanctions. In applying *mutatis mutandis* the provision set out in paragraph 16 of the BoL Guidelines, the FMP must ensure the officer's knowledge and competence development and professional development in the field of international sanctions (e.g. through their participation in training courses, seminars, conferences, etc.). It should be noted that other staff performing functions related to the implementation of international sanctions and senior managers responsible for decision-making on international sanctions risks should also have specific knowledge of international sanctions.

2. Internal policies and internal control procedures. The FMP's internal policy provisions relating to the implementation of international sanctions should be the basis on which the FMP establishes an internal control system over the implementation of international sanctions. At a minimum, the FMP's internal policy should define the international sanctions regimes implemented by the FMP (the mandatory EU and UN regimes and any other regimes that the FMP additionally chooses to implement, if any), the basic provisions applicable to all FMP staff (e.g. prohibition of acts prohibited by international sanctions, etc.) and the consequences of violating such provisions, the procedure of appointment of the FMP officer(s) responsible for the implementation of the international sanctions, their rights, duties (responsibilities), etc.

The FMP's internal control procedures defining the implementation of international sanctions should contain a detailed description of the process of implementing international sanctions within the FMP, including the measures used by the FMP to implement international sanctions; the actions to be taken by the staff assigned to the implementation of international sanctions, including actions taken to identify potential match with a sanctioned entity prior to establishing or during the business relationship; and the procedures should set out how and where the staff document the actions taken, and/or where the actions taken are recorded in the internal systems of the FMP. The internal control procedures should include a process for monitoring, controlling and testing the measures used to implement international sanctions in the FMP. If the FMP uses databases, systems, automated scenarios, etc. to implement international sanctions, the internal control procedures should set out the rules for updating the lists of international sanctions contained in the databases, systems and, in the case of the use of a service provider (third party), the service provider's control measures. The internal control procedures should also lay down how the FMP implements its statutory obligations in the event of identification of a case where international sanctions should be applied or where they are violated (e.g. who and how restricts the right of the sanctioned entities to manage, use and dispose of the entity's cash and other assets, who and how notifies the FCIS and/or other competent authorities of identified cases of application or violations of international sanctions, etc.).

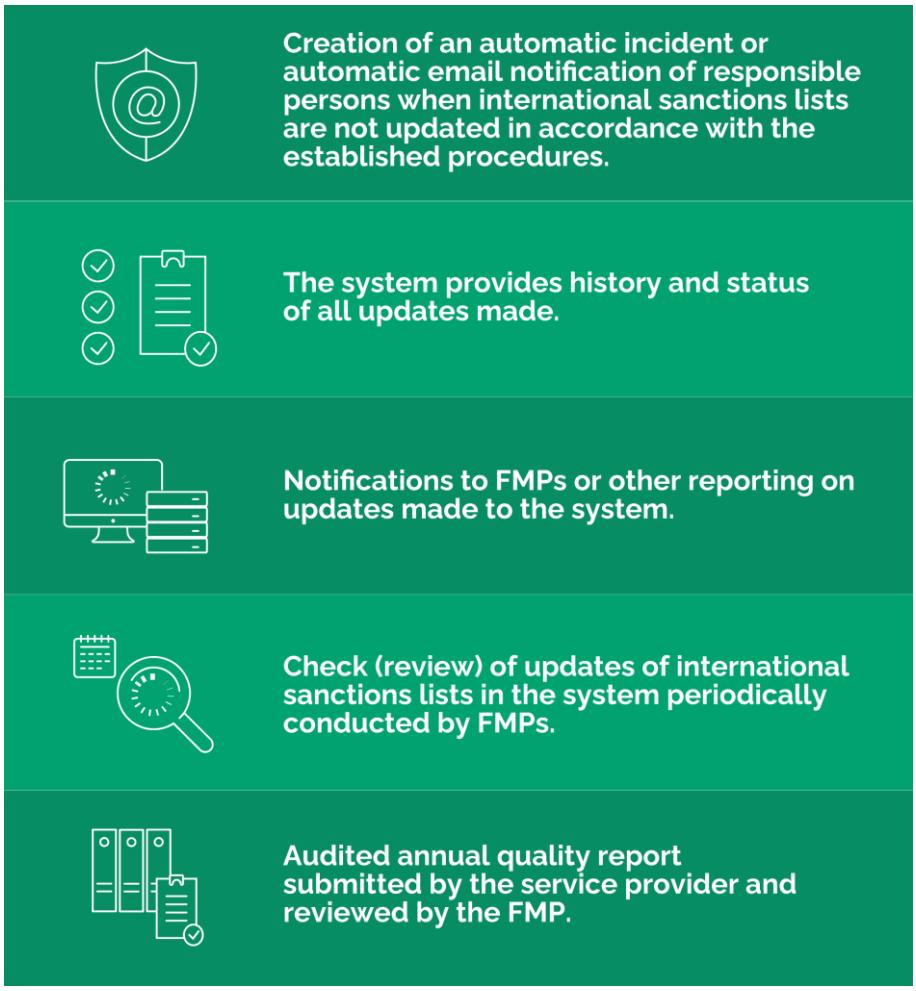
Both internal policies and internal control procedures should set out the rules for their adoption, amendment, frequency of updating, cases when the policies and/or procedures should be updated on an ad hoc basis, in accordance with the requirements set out in subparagraph 22.1 of the BoL Guidelines. It should be noted that internal policies and internal control procedures should not be verbatim replications of legislative provisions; instead, it is essential that the process set out by the FMP is tailored to the FMP's business model, client base and geography, services/products provided, and the international sanctions to be implemented. The process should be understandable and clear to FMP's staff and consistent with the FMP's measures applied in practice to the implementation of international sanctions.

3. Databases, systems, sources and/or other means (tools) for implementing international sanctions. It should be noted that, in common practice, FMPs choose to implement international sanctions (in particular financial sanctions) in one of the following three ways: (1) by staff manually checking for match with international sanctions either through direct sources (official lists of international sanctions) or through commercial consolidated databases provided by third parties; (2) by integrating into the IT systems used by the FMP and/or by using separately automated systems in which checks for matches with international

sanctions are carried out automatically by checking the details of the client and/or transaction against the consolidated list of sanctioned entities or commercial databases installed in the system, and where the system identifies a possible match with a sanctioned entity, the alert generated by the system is reviewed by the FMP's staff; (3) through mixed checks (e.g. manual checks prior to onboarding of a client and automated checks during the business relationship). Irrespective of the specific measures (methods) chosen by the FMP to implement international sanctions, the **FMP should ensure the appropriateness, control, effectiveness and efficiency of the measures (methods) used**.

First of all, before deciding on the measures of implementing international sanctions to be used, FMPs should assess their appropriateness taking into account, inter alia, the scope and content of the international sanctions to be applied, the business model of the FMP, the nature of the services and products provided, the client base, the geography/territories where the clients are resident/registered, and the territories to/from which transactions are carried out. When deciding on the complexity of the measures to be applied, FMPs should, inter alia, assess quantitative criteria such as the number of clients the FMP has, the average number of transactions per day (week, month) in the FMP, and the number of FMP staff members who perform the functions related to the implementation of international sanctions. Accordingly, an assessment should be made as to whether manual checks are sufficient or whether automated solutions are necessary. It should be noted that the assessment of the appropriateness of the methods chosen for the implementation of international sanctions should not be a one-off exercise prior to their implementation, instead, they should be assessed periodically and after significant changes that may affect their appropriateness (e.g. a significant increase in the number of FMP's clients; new services/products provided by FMP; new international sanctions imposed, etc.).

Second, the FMP should apply controls to the measures (methods) chosen to implement international sanctions. Regardless of the method chosen to implement international sanctions, the FMP should exercise quality control over the actions of the staff performing international sanctions screening, by ensuring that they comply with the process set out in the FMP's internal control procedures and legal requirements. In case the FMP purchases a database, an automated international sanctions screening system or other tools (together referred to as "**systems**") from third parties (service providers), the FMP should understand for which international sanctions the systems or the specific scenarios put in place in the systems are intended, be able to understand and explain whether the systems are working correctly and be able to monitor the functioning of the systems. Although often the measures supplied by third parties are (at least partially) administered by the service providers themselves, the FMP should ensure that the service provider fulfils its contractual obligations properly (e.g. by updating the lists of international sanctions in a quality and timely manner), and that records of the updates of international sanctions and/or their lists, scenarios used or other modifications are captured in the database/system (the audit log) and that the FMP has access to the records. The Analysis showed that some of FMPs do not apply control measures to service providers as they refer to contractual obligations of the service providers or the reliability and market awareness of such service providers. It should be noted that this practice should not be considered appropriate as the FMP is responsible for the proper implementation of international sanctions through the use of the systems offered by the service providers and should accordingly ensure that the FMP is able to monitor the systems, obtain information on their functioning and thus ensure that the FMP is properly implementing international sanctions. It should be noted that the control measures to be applied to service providers may vary. For example, the following are the controls applied by FMPs, as identified by the Analysis, to ensure that service providers update the international sanctions lists used in their systems in a quality and timely manner.



Third, FMPs should assess the effectiveness and efficiency of the chosen tools (methods) of implementing international sanctions. Such an assessment is particularly important for FMPs using systems of third parties (service providers) or more complex solutions (systems) developed by the FMP itself, and especially in cases where the tools are automated. The FMP should assess whether the tools (systems) are functioning effectively, i.e.:

- whether the tools are effective in recognising the data of sanctioned entities;
- whether the tools are effective in recognising the data of sanctioned entities in case of a minor error (either due to a data entry error by a staff member, or due to a change in the data by the sanctioned entity in order to evade sanctions), or the data similar to that of a sanctioned entity (e.g. a relative of the sanctioned entity), i.e. assessing the tool's sensitivity percentage and the system's fuzzy logic rules;
- whether the tools provide false positive alerts, how the tools react to data of non-sanctioned entities;
- whether the tools recognise all types of data (e.g. name, date of birth) with the same level of effectiveness;
- whether the tools are equally effective in respect of the different services/products provided by the FMP.

The FMP should also assess whether the tools (systems) are functioning efficiently, for example, whether the number of false positive alerts produced by the tools is not unreasonably high, whether the sensitivity percentage of the tools is not too low, resulting in the tools producing alerts on entities that do not have links or similarities to sanctioned entities, and whether the number of FMP-appointed staff assigned to the handling

of the tool's alerts is sufficient to ensure that the processing of the alerts is complete, of a high quality, and within the timeframes set by the FMP.

This type of assessment (review, audit and/or testing) should be carried out prior to the introduction of new tools (systems) for implementation of international sanctions, during changes being made in the tools used (e.g. when introducing new screening scenarios in the automated screening system for international sanctions), and periodically, in order to identify errors and weaknesses in the tools and to assess whether they remain appropriate in the context of changes in international sanctions or activities of the FMP.

4. Effective and continuous management of international sanctions risks, keeping up to date with the latest and most relevant information. Finally, as mentioned in Part III of the Review, FMPs should ensure that the international sanctions risk is continuously assessed and that the FMP's internal control system is modified to adapt to changes in this risk.

V. SCREENING OF INTERNATIONAL FINANCIAL SANCTIONS, RESTRICTIVE MEASURES

Requirements of the BoL Guidelines

[...]

70. In order to ensure proper implementation of international financial sanctions and restrictive measures, as provided for in the legislation of the Republic of Lithuania regulating the implementation of international sanctions, the FMP shall:

[...]

70.2. both before entering into a business relationship with a customer and in the course of ongoing business relationships, check whether the customer, the beneficial owner and the customer's representative are not persons subject to international financial sanctions and restrictive measures;

70.3. in the course of business relationships with a customer, check whether the customer does not execute transactions with persons subject to international financial sanctions and restrictive measures.

Requirements of the FCIS Instructions

[...]

5. The Persons shall be obliged to do the following:

5.1 implement the financial sanctions and carry out the actions provided for in the resolutions of the Government of the Republic of Lithuania concerning implementation of international sanctions and the Regulations of the European Union concerning international sanctions and the exemptions from implementation thereof;

5.2. verify if their customer or his beneficial owner (hereinafter referred to as the "entities") are included in the consolidated list of entities and groups of entities affected by the financial sanctions provided for in the Resolutions of the United Nations Security Council against terrorism (United Nations Security Council Resolution 1267(1999) (as amended)) and the European Union financial sanctions (the updated consolidated list shall be published in the official websites of the United Nations and the European Commission) and impose the sanctions provided for herein on such entities (including the European Union entities set out in Common Position 2001/931/CFSP (as amended));

5.3 pay special attention to the entities from the countries included in the list of non-cooperating states and territories drawn up by the Financial Action Task Force (hereinafter referred to as the "FATF") and the financial operations or transactions carried out by them or on their behalf (the updated list of non-cooperating states and territories is published on the official website of the FATF);

5.1. SCREENING OF FMP CLIENTS FOR INTERNATIONAL FINANCIAL SANCTIONS, RESTRICTIVE MEASURES

As set out in the BoL Guidelines, FMPs are obliged to screen clients for match with international financial sanctions and restrictive measures both before and during the business relationship with the client.

In practice, depending on the business model of the FMP, it is observed that in some cases FMPs have outsourced the performance of such screenings to third parties – FMP's intermediaries, distributors, etc. It should be noted that, in the event that the FMP delegates the function of implementing international sanctions to third parties, the responsibility for the proper implementation of the legal requirements remains with the FMP. When planning to outsource the implementation of international sanctions to third parties, the FMP must assess for itself the importance of the function for the FMP and the potential impact in the event of a disruption of services. When engaging third parties, FMPs are required to apply third-party control measures that should include both measures for ensuring that third parties carry out client screening for match with international financial sanctions and restrictive measures in all the cases set out in the legislation and the FMP's internal control procedures, for assurance of quality of such screenings and the notification of the FMP, and enforcement of the legal requirements in the event that the third party identifies the client's match with a sanctioned entity.

When deciding on the frequency with which FMP clients should be screened for the application of international financial sanctions, restrictive measures, FMPs should ensure that such screenings are carried out **at least when there is a change in the lists of international sanctions or when there is a change in the client's details**. As monitoring of such developments and the respective ad hoc checks can be burdensome and require significant human resources, the Analysis has identified a practice where FMPs (especially those with a big number of clients and/or a high volume of transactions) opt for automated screening solutions that frequently (once every 24 hours or more often) check the entire client base of the FMP against international financial sanctions, restrictive measures. Such measures are in most cases sufficient to ensure that sanctioned entities will be identified in the event of changes to international sanctions lists and/or client data.

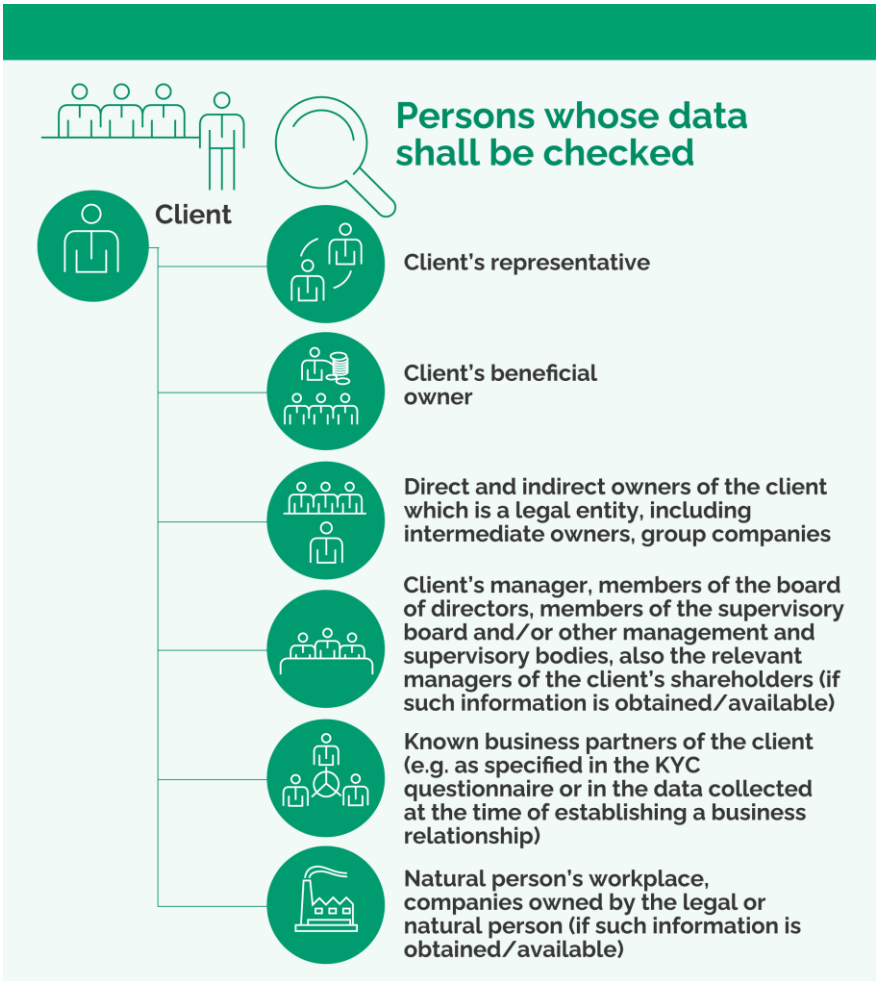
The Analysis also has uncovered some practices that should be considered inappropriate, for example, some FMPs in their business relationships carry out client screening for the application of international financial sanctions, restrictive measures only during the periodic review of the client's records (e.g. every 1, 2, 3 years or less frequently, depending on the client's ML/TF risk group). Although this practice is often justified by the FMP on the grounds that clients' details are checked for match with international sanctions during the transactions of such clients, it should be noted that this does not always ensure proper implementation of international sanctions. In particular, if the client is inactive or uses passive services/products of the FMP (e.g. a deposit) and the client becomes a sanctioned entity, the FMP may fail to detect this for a long period of time and consequently may not take the mandatory action required by law (e.g. restriction of the right of disposal of funds – freezing of funds). Secondly, during the screening of transactions for match with international sanctions, depending on the tools (systems) used by the FMP, the FMP does not always check all available data on the client and only checks the data provided in a specific transaction, which does not eliminate the risk that the client is sanctioned (e.g. through related persons – beneficial owner, representative, etc.).

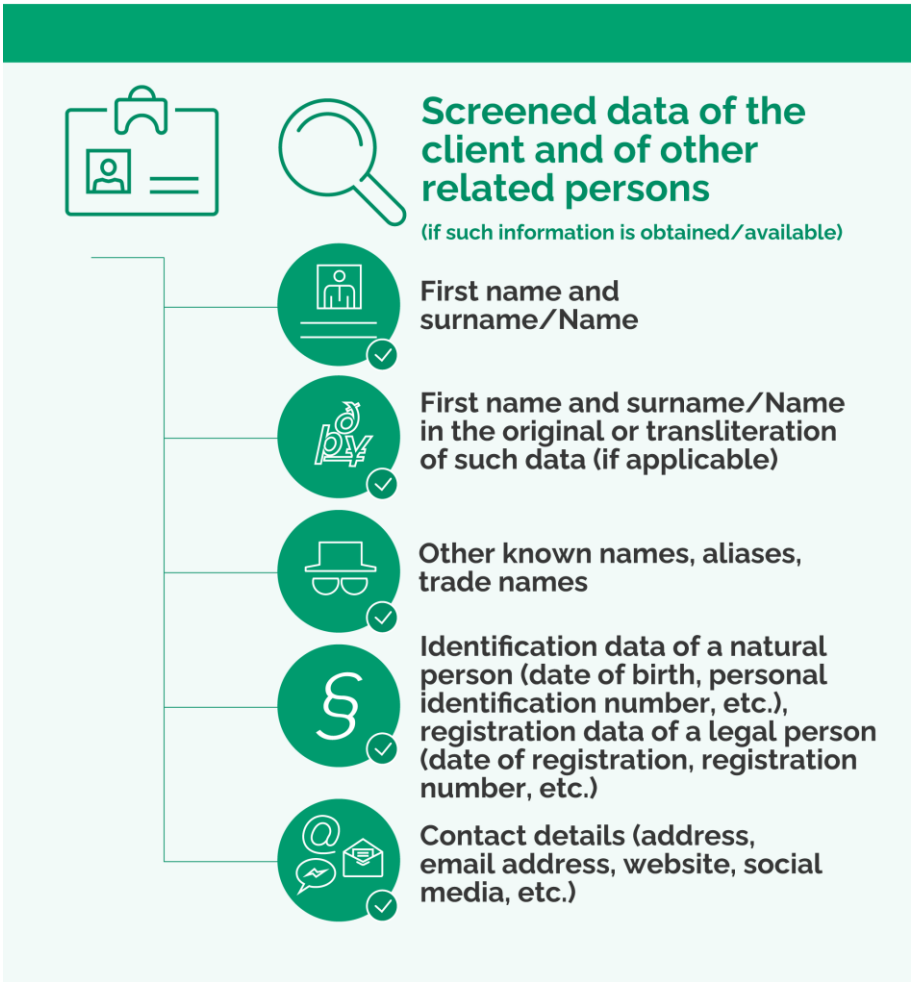
When the FMP considers the scope of the client data to be checked, both prior to the establishment of the business relationship and periodically, it is important to note that, in accordance with the requirements of the BoL Guidelines, at least the data of the client, the beneficial owner and the client's representative must be checked for match with the international financial sanctions, restrictive measures. It should be noted that, irrespective of the provisions of the BoL Guidelines, the main legal acts defining the scope of application and implementation of international sanctions are the directly applied EU Regulations and UN legislation, and therefore, in order to properly implement international sanctions, FMPs **are required to take into account the content of the legislation on international sanctions as well as other documents and/or legal acts that contain requirements for the proper implementation of international sanctions**. For example, when deciding on the scope of client data to be screened, it is crucial that the FMP takes into account the **ownership** and **control** criteria set out in the EU Council Guidelines and Best Practices (sections

55a and 55b of the EU Council Guidelines, sections 62 and 63 of the EU Council Best Practices) that establish in which cases, inter alia, a sanctioned entity is deemed to own or otherwise control a legal person, and therefore the relevant legal person should be deemed to be sanctioned as well.

FMPs should also take into account what additional data on sanctioned entities (in addition to the name) are contained in international sanctions lists (e.g. EU legislation may contain extensive data on sanctioned entities – reasons for listing, including a description of the entity's activities, related companies and persons; transliterated name, address, date of birth/registration; natural person's place of birth, nationality, gender, position or activity; legal entity's registration number and other registration details, website or social media addresses, email address, telephone number, etc.). The large amount of data on sanctioned entities contained in the international sanctions lists can help FMPs to identify sanctioned or related (owned, controlled) entities on the basis of such additional data. This is particularly important in cases where there is no direct (apparent) link to the sanctioned entity due to the sanctioned entity's actions to circumvent international sanctions. For this reason, the FMP should accordingly screen a wide range of client data for match with international financial sanctions, restrictive measures.

In light of the above and having examined during the Analysis the scope of client information screened by FMPs in practice, the screening of client information as set out in the table below for match with international financial sanctions, restrictive measures, both prior to and during the course of a business relationship, shall be considered good practice.





It should be noted that in practice, in some cases, FMPs differentiate the scope of the client data to be screened based on the ML/TF risk level (group) to which the client is assigned or undertake a broader screening of client information only in cases where an FMP employee has suspicions of a possible risk of a breach of international sanctions. It should be noted that the intensity and scope of international sanctions screening should be based on the assessment of the international sanctions risk, should not be based solely on subjective criteria (e.g. individual assessment by an FMP employee) and should not violate the requirements of the Republic of Lithuania and international legislation on the implementation of international sanctions (e.g. in all cases, the client's representative, beneficial owners, shareholders, members of the management bodies should be subject to screening in order to ensure the proper application of the ownership and control criteria as laid down in the EU Council Guidelines and Best Practices).

5.2. SCREENING OF FMP CLIENTS' TRANSACTIONS FOR INTERNATIONAL SANCTIONS

As set out in the BoL Guidelines, FMPs are required to identify whether a client's transactions and operations fall within the scope of international sanctions, to which end the FMP should apply international sanctions screening measures. In practice, it is observed that international sanctions screening systems of FMPs are often integrated into the monitoring of client operations (transactions) conducted in order to identify suspicious client operations (transactions), for example, by putting in place monitoring scenario(s) in which the monitoring system generates an alert when it detects a (potential) match of a client, counterparty, or other transaction data with a sanctioned entity.

In order to ensure the proper implementation of international sanctions, FMPs should screen all incoming or outgoing transactions and other dealings by FMP clients for compliance with international sanctions. The

Analysis showed that some of the FMPs do not carry out such checks for all client transactions, for example, they do not check internal transactions (between two clients of the FMP). It should be noted that this practice can only be applied if effective and efficient screening of clients for match with financial sanctions, restrictive measures (before and during the business relationship) is ensured and measures are taken to ensure that transactions carried out by clients do not violate economic, EU sectoral sanctions. In any case, where the FMP decides not to screen some of the transactions carried out by the FMP for match with international sanctions, such decisions must be based on the applicable international sanctions risk mitigation (management) measures and **should not be based on arguments such** as:

- low transaction value. The legislation on international sanctions does not set limits on the amount of funds, assets, transactions or other thresholds for triggering the application of international sanctions,[2] and international sanctions must therefore be implemented regardless of the value of the transaction;
- both parties to the transaction are from non-sanctioned countries (e.g. EU Member States). It should be noted that international financial sanctions can be applied to legal persons irrespective of the state of registration of such persons, as they may be considered (indirectly) sanctioned by virtue of the ownership and control criteria applied. As regards economic, EU sectoral sanctions, it should also be noted that such sanctions may be violated regardless of the place of registration (residence) of the parties to the transaction (for example, when the parties enter into a transaction involving sanctioned goods). The country of registration, residence and/or nationality of sanctioned entities may be a non-sanctioned country (e.g. Viatcheslav Moshe Kantor, who is subject to financial sanctions under Regulation 269/2014, is not only a citizen of Russia, but also of Israel and the United Kingdom);
- transactions are carried out using certain products/services, such as card payments. The legal acts establishing international sanctions, legislation of the Republic of Lithuania or international legal acts setting out the requirements for implementation of international sanctions do not provide for exceptions under which international sanctions need not be implemented in respect of certain products/services.

It should be noted that the BoL Guidelines and/or other legislation do not specify the minimum transaction details that should be screened in the context of international sanctions. When deciding on the scope of the transaction details to be screened, FMPs should take into account whether the details can be used to identify applicable international sanctions. Such details to be screened include **at least the following information**:

1. All identifying data of the client and the other party to the transaction (first name and surname/name, country, code, address and/or other data provided at the time of the transaction);
2. The purpose of the payment or other free text fields. It should be noted that the purpose of the payment/free text may identify the actual sender/recipient of funds (on behalf of), the goods, the country of destination or country of origin of the goods for which the payment is made, and any other relevant information that may help to identify the applicable international sanctions;
3. Details of all financial institutions involved in the transaction (including intermediate institutions, correspondents). It should be noted that international sanctions (both financial and economic (sectoral)) are often imposed on financial institutions, therefore, it is important to identify whether such sanctioned entities are involved in the transaction. In practice, it is observed that some FMPs screen only the name of the financial institution for match with international sanctions, but the recommendation is to also screen the identification codes (BIC (SWIFT) or other) of financial institutions, which, due to their uniqueness, can help to quickly identify the applicable international sanctions;

[2] Although there are exceptional cases where such limits are set (e.g. in Article 5b of Regulation 833/2014), it should be noted that such limits are not applied in respect of financial sanctions (such as those set out in Regulation 269/2014).

4. The country to or from which the transaction is carried out, where the transaction is concluded (executed), the country of origin of the goods for which the transaction is concluded, etc. A country may indicate a higher risk of violating international sanctions in a transaction due to its exposure to international sanctions or known typologies of evading international sanctions by conducting or simulating transactions in neighbouring countries;
5. Other details of the operation or transaction, depending on the nature, type of the operation (transaction), the supporting documentation received, etc., for example, the International Securities Identification Number (ISIN) in securities–related transactions; information provided in trade finance documents on all parties involved in the transaction, etc.

It should be stressed that screening the transaction details referred to above against the international sanctions lists could, in most cases, only ensure the implementation of international financial sanctions. For the proper implementation of economic, EU sectoral sanctions, the screening of transaction details in international sanctions lists is not sufficient due to the nature of such sanctions. In practice, FMPs use a range of measures to ensure proper implementation of economic, EU sectoral sanctions, for example:

- suspension and/or analysis of all transactions to or from a sanctioned country or otherwise linked to a sanctioned country;
- the introduction of scenarios and/or other checks on lists of sanctioned sectors and goods in the transaction monitoring;
- reviewing the entire client base to identify links, partners or business relationships with the sanctioned country, assessing historical transactions of the client, etc;
- enhanced monitoring of business relationships where links with a sanctioned country are identified, including enhanced retrospective monitoring of transactions carried out, more frequent periodic review of client data.

VI. USEFUL LINKS

EU restrictive measures (sanctions):

1. The Official Journal of the EU where the latest legislation, including EU Council decisions and regulations on restrictive measures (sanctions), are published;
2. Interactive map of EU sanctions and search for sanctioned entities;
3. Information and FAQs from the European Commission on sanctions adopted following Russia's military aggression against Ukraine;
4. General information from the European Commission on EU sanctions, including useful links.

UN Sanctions:

1. Consolidated list of UN sanctions;
2. General information on UN sanctions.

Legal acts of the Republic of Lithuaniaand other useful information:

1. Republic of Lithuania Law on International Sanctions;
2. Description of the Procedure for Implementation of International Sanctions approved by Resolution No 535 of the Government of the Republic of Lithuania of 25 May 2022 On the Implementation of the Republic of Lithuania Law on International Sanctions;
3. FCIS information on international financial sanctions, including connections of natural and/or legal persons with entities subject to international sanctions;
4. Information from the Ministry of Foreign Affairs of the Republic of Lithuania on the implementation of international sanctions;
5. Information from the Bank of Lithuania on international sanctions;
6. FAQ of the Sanctions Group of the Centre of Excellence in Anti-Money Laundering.