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03 December 2020

Asset freezing: reinforcement of the system by order

In accordance with the Pacte Law, the government published an order on 4 November 2020 to reinforce the asset-freezing system. It will be accompanied by a decree of the Council of State. Below is a focus on the effects for market participants

Asset-freezing measures are part of economic or financial sanction regimes. The decision to freeze assets can be made at the international, European or national level and must be implemented without delay by all.

Objectives pursued by the Order of 4 November 2020

The order simplifies and speeds up implementation of asset-freezing measures taken by the United Nations Security Council (UNSC) by allowing them to come into force throughout France – including overseas countries and territories - by an order from the French Minister for the Economy. The procedure is the same for the prompt application of the European Union regulation in the overseas countries and territories. In accordance with the international requirement to act quickly, asset-freezing measures are enforceable as soon as the details of identification of the persons are published in the national register of persons subject to an asset-freezing measure.

The order also revises the provisions of the French Monetary and Financial Code to bring the system into compliance with the prescriptions of Resolution 1373/2001 of the UNSC,

FATF Recommendation No. 6 and European Regulation 2016/1686 that apply to all natural persons or legal entities.

Impact on market participants: unification of the various applicable regimes

The order puts an end to the differences that existed between the various asset-freezing regimes by harmonising the various texts. National asset-freezing measures must be implemented by all natural persons and legal entities, and not only by persons subject to anti-money laundering and counter-financing of terrorism (AML/CFT) obligations, and who hold funds or economic resources on behalf of a client. A new article L. 562-4-1 obliges all professionals subject to AML/CFT requirements, without distinction, to set up an internal organisation and procedures for implementing asset-freezing measures.

The AMF's asset-freezing guide will be revised in the near future to take these changes into account. Nevertheless, the explanations contained in this guide about the obligations of professionals at each stage of the asset-freezing process, remain relevant:

- have an effective system in place for screening among its clients and their beneficial owners to identify those persons or entities named in a freezing measurement;
- analyse alerts in order to determine whether the person or entity detected is indeed the subject of an asset-freezing measure or if it is a namesake;
- implement the freezing measure, where applicable, and immediately inform the Directorate General for the Treasury.

Read more

Order No. 2020 -1342 of 4 November 2020 reinforcing the asset-freezing mechanism and measures prohibiting the use of assets (in French only)

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