

New Luxembourg framework for restrictive measures in financial matters

The Law of 19 December 2020 relating to the implementation of restrictive measures in financial matters entered into force on 27 December 2020. It implements in Luxembourg restrictive measures in financial matters adopted at UN and EU levels against certain States, persons, entities and groups ("**Law**"). The Law repealed the Law of 27 October 2010, the scope of which was limited to terrorist financing. In a nutshell, international sanctions resulting from UN and EU restrictive measures will be implemented in Luxembourg through Grand Ducal regulations. They have to be complied with by Luxembourg citizens and legal entities as well as by other persons and entities operating in Luxembourg. Severe sanctions may apply in the event of non-compliance.

Key provisions of the Law include:

- a comprehensive definition of "restrictive measures", which comprise *inter alia* the prohibition to provide any financial services to sanctioned persons as well as the freezing of their funds, assets or other economic resources;
- supervision by supervisory authorities and self-regulatory bodies of compliance by legal entities with restrictive measures, where applicable; such authorities and bodies have at their disposal the same (broad) powers as those provided for in the AML Law (e.g. on-site inspections, access to documents);
- designation of in-scope restrictive measures by Grand Ducal regulation, either specifically (in a national context, under specific circumstances, e.g. the defence of the vital interests of the country) or by reference to a list appended to a UN or EU act;
- a 60-day application limit for restrictive measures adopted at Luxembourg level before relevant sanctions are adopted at UN or EU level, save for duly motivated 30-day extensions;
- a duty for legal entities bound to execute in-scope restrictive measures to inform the authorities of this execution;
- a new exception to the professional secrecy obligation incumbent upon certain legal entities (provided that disclosure of confidential information occurs in good faith for the purposes of compliance with the Law);

- severe sanctions for non-compliance with the Law, namely imprisonment (from 8 days up to 5 years) and fines (from EUR 12,500 up to EUR 5,000,000), or one of these sanctions only.

For any further information please contact us or visit our website at www.elvingerhoss.lu.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter.