

EUROPEAN STABILITY MECHANISM

THE POLICY ON THE PREVENTION OF MONEY LAUNDERING, TERRORISM FINANCING AND SANCTIONS VIOLATIONS(EXTRACT)

Introduction

Purpose and Scope

This Policy on the Prevention of Money Laundering, Terrorism Financing and Sanctions Violations of the ESM (the “**Anti-Money Laundering and Sanctions Policy**” or “**AML and Sanctions Policy**”) is established by the Managing Director of the European Stability Mechanism (the “**ESM**”).

The purpose of the AML and Sanctions Policy is to assess the money laundering risk inherent in ESM’s operations and to implement appropriate procedures to protect the ESM against being used for the purposes of money laundering or terrorist financing. In addition, the AML and Sanctions Policy also assesses the sanctions risk that ESM is exposed to by virtue of its operations.

This AML and Sanctions Policy applies to all members of ESM staff while acting for and on behalf of the ESM.

Definitions

1. **Money laundering** as defined by Directive (EU) 2015/849¹ on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing is:
 - a. the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;

¹ References to Directives (EU) 2015/849 and 2017/541 in this AML Policy are for ease of reference only. They do not imply that such directive is fully or partially applicable to ESM.

- b. the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
 - c. the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;
 - d. participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.
2. **Terrorist financing** means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences referred to in Articles 3 to 10 of Directive (EU) 2017/541 on combatting terrorism.
 3. **Sanctions** means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the United Nations Security Council and the competent bodies/official institutions or agencies charged with administering, enacting or enforcing sanctions including in: (i) the EU, the Council of the EU; (ii) the UK, the Office of Financial Sanctions Implementation; and (iii) the US, the US Office of Foreign Assets Control.

Measures to Prevent Using ESM for Money Laundering and Terrorist Financing

1. To eliminate or to reduce the money laundering and terrorist financing risk to the minimum possible, the ESM will not engage in any other operation than is necessary to complete its mandate. The ESM currently does not establish business relationships with private individuals or non-financial institution corporates in relation to transactions performed to carry out its mandate, i.e. managing its paid-in capital, raising funds to finance the financial assistance programmes and providing support to ESM Members. Should the ESM decide at any time to establish business relationships with private individuals or non-financial institution corporates for such transactions, this would trigger the review of the AML and Sanctions Policy.
2. The ESM currently only enters into business relationships relating to its financial operations (funding, lending and investments) with counterparties that are
 - a. Central Banks
 - b. Sovereigns and sub-sovereigns
 - c. Government Agencies
 - d. Supranational Institutions
 - e. Credit or financial institutions either subject to the Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing or are operating in a third country which imposes requirements equivalent to those laid down in the above mentioned Directive and are supervised for compliance with those requirements.

3. The ESM uses a risk-based approach in assessing the counterparties for money-laundering, terrorism financing and sanctions risk and applies due diligence measures that commensurate with the risk.

Sanctions Compliance

1. Sanctions are diplomatic and economic measures designed to bring about a change in certain activities and/or policies of individuals, entities or governments. Sanctions may be imposed in response to law enforcement, national security, foreign policy or other objectives by international bodies such as the UN, or by individual countries and regional bodies, such as the EU, UK and US. Sanctions can include comprehensive embargoes on certain countries or territories, as well as targeted measures which restrict specific trade or business activities, or which freeze the assets of individuals, entities or groups.
2. The ESM has privileges and immunities contained in the Treaty Establishing the ESM which extend to sanctions (in particular Article 32(1) and (3)). Such privileges and immunities form part of the domestic law of the ESM Members (Euro Area Member States) and the ESM seeks recognition of its privileges and immunities in other territories in which it performs functions or holds assets. Notwithstanding this, in addition to legal risk, the ESM recognises that sanctions may present reputational risk challenges in relation to its financial operations and business relationships – potentially reducing access to the market, lowering of credit rating, loss of political capital, inability to attract suitably qualified staff and other similar consequences. The ESM therefore seeks to protect itself from any exposure to sanctions risks, no matter how remote, by undertaking its mandate in accordance with the highest professional standards.
3. However, given that the ESM enters into business relationship with limited and carefully selected counterparties and that it only processes transactions related to its own deals, its sanctions risk is very low.

To address even the remote risk of selecting a counterparty that would be subject to sanctions, a relevant check is included in the counterparty risk assessment process. The sanction check is performed by ESM Compliance.

On-going Monitoring, Reporting of Unusual Activity, Confidentiality

1. On-going monitoring of counterparties and transactions is conducted in a risk-based manner.
2. Members of ESM staff who have reason to suspect that a part or the entirety of a transaction is connected to money laundering, terrorist financing or sanctions violations, must report this suspicion in writing without delay to the Compliance Officer. The Compliance Officer will confirm receipt of the report, will investigate the matter and take action as appropriate.

3. The fact that a transaction was considered suspicious must not be disclosed to third parties. Any breach of such obligation is a serious matter and may lead to disciplinary measures.

Training

1. Members of staff of the divisions listed in the internal procedure are under the obligation to participate in AML and sanctions training in order to be able to identify any potential money laundering and sanctions related concerns during their daily activities.
2. Training attendance is documented.

Record Retention

1. Records of activities relating to AML and sanctions measures, including trainings are retained as per internal record keeping provisions.

Policy Ownership, Maintenance and Review

1. This Policy is owned by the General Counsel and is approved by the Managing Director.
2. The Compliance Officer assesses whenever needed (particularly in case of significant changes in the business operation of the ESM), and in any case within three years from the last such assessment, whether the provisions contained in this Policy are still appropriate and initiate a revision of the Policy if this is no longer the case.