

In case of discrepancies between the French and the English texts, the French text shall prevail

Luxembourg, 4 April 2003

To all the persons and entities
supervised by the CSSF

CSSF CIRCULAR 03/101

Re: Identification and declaration of business relationships with terrorist circles

Dear Sir, Madam,

We are pleased to enclose Council Regulation (EC) No 561/2003 of 27 March 2003 amending, as regards exceptions to the freezing of funds and economic resources, Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban.

This new Regulation inserts in Regulation (EC) No 881/2002 an Article 2a providing for certain exceptions to the freezing of funds and economic resources as laid down in Article 2 of Regulation (EC) No 881/2002, namely when funds and economic resources are necessary to cover basic expenses, extraordinary expenses or are intended exclusively for payment of professional fees or payment of fees or service charges for the routine holding or maintenance of frozen funds or frozen economic resources. Any person wishing to benefit from the provisions referred to in Article 2a shall address its request to the relevant competent authority of the Member State as listed in Annexe II of Regulation (EC) No 881/2002.

Regulation (EC) No 561/2003 is binding in its entirety and directly applicable on the day following its publication in the Official Journal of the European Union (29 March 2003).

In this context, we remind you that, when reporting any suspicion of money laundering or financing of terrorism to the CSSF, you should quote the reference of the CSSF Circular or any other specific document (e.g. CRF Circular of the Luxembourg Public Prosecutor's Office), on which the report may be based.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Charles KIEFFER
Director

Arthur PHILIPPE
Director

Jean-Nicolas SCHAUS
Director General

Annexe.

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 561/2003
of 27 March 2003**

amending, as regards exceptions to the freezing of funds and economic resources, Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community, and in particular Articles 60, 301 and 308 thereof,

Having regard to Council Common Position 2002/402/CFSP of 27 May 2002 concerning restrictive measures against Usama bin Laden, members of the Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them and repealing Common Positions 96/746/CFSP, 1999/727/CFSP, 2001/154/CFSP and 2001/771/CFSP⁽¹⁾,

Having regard to Council Common Position 2003/140/CFSP of 27 February 2003 concerning exceptions to the restrictive measures imposed by Common Position 2002/402/CFSP⁽²⁾,

Having regard to the proposal from the Commission⁽³⁾,

Having regard to the opinion of the European Parliament⁽⁴⁾,

Whereas:

- (1) Common Position 2002/402/CFSP provides, *inter alia*, that the European Community is to take certain restrictive measures, including the freezing of funds and economic resources, in accordance with Resolutions 1267 (1999), 1333 (2000) and 1390 (2002) of the Security Council of the United Nations.
- (2) The freezing of funds and economic resources has been implemented by means of Council Regulation (EC) No 881/2002⁽⁵⁾.
- (3) By means of its Resolution 1452 (2002) of 20 December 2002, the Security Council permitted certain exceptions to the freezing of funds and economic resources under Resolutions 1267 (1999), 1333 (2000) and 1390 (2002).
- (4) In view of Resolution 1452 (2002) it is necessary to adjust the measures imposed by the Community,

⁽¹⁾ OJ L 139, 29.5.2002, p. 4.

⁽²⁾ OJ L 53, 28.2.2003, p. 62.

⁽³⁾ Proposal of 3.2.2003 (not yet published in the Official Journal).

⁽⁴⁾ Proposal of 13.3.2003 (not yet published in the Official Journal).

⁽⁵⁾ OJ L 139, 29.5.2002, p. 9; Regulation as last amended by Commission Regulation (EC) No 414/2003 (OJ L 62, 6.3.2003, p. 24).

Article 1

The following Article shall be inserted in Regulation (EC) No 881/2002:

'Article 2a

1. Article 2 shall not apply to funds or economic resources where:

- (a) any of the competent authorities of the Member States, as listed in Annex II, has determined, upon a request made by an interested natural or legal person, that these funds or economic resources are:
 - (i) necessary to cover basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
 - (ii) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
 - (iii) intended exclusively for payment of fees or service charges for the routine holding or maintenance of frozen funds or frozen economic resources; or
 - (iv) necessary for extraordinary expenses; and
- (b) such determination has been notified to the Sanctions Committee; and
- (c) (i) in the case of a determination under point (a)(i), (ii) or (iii), the Sanctions Committee has not objected to the determination within 48 hours of notification; or
 - (ii) in the case of a determination under point (a)(iv), the Sanctions Committee has approved the determination.

2. Any person wishing to benefit from the provisions referred to in paragraph 1 shall address its request to the relevant competent authority of the Member State as listed in Annex II.

The competent authority listed in Annex II shall promptly notify both the person that made the request, and any other person, body or entity known to be directly concerned, in writing, whether the request has been granted.

The competent authority shall also inform other Member States whether the request for such an exception has been granted.

3. Funds released and transferred within the Community in order to meet expenses or recognised by virtue of this Article shall not be subject to further restrictive measures pursuant to Article 2.

4. Article 2(2) shall not apply to the addition to frozen accounts of:

(a) interest or other earnings due on those accounts; or

(b) payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of UN Security Council resolutions implemented successively through Regulation (EC) No 337/2000 (*), Regulation (EC) No 467/2001 (**) or this Regulation.

(*) OJ L 43, 16.2.2000, p. 1; Regulation as last amended by Regulation (EC) No 467/2001.

(**) OJ L 67, 9.3.2001, p. 1; Regulation as last amended by Regulation (EC) No 881/2002.

In the same manner as the account to which they are added, such interest, other earnings and payments shall also be frozen.'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 March 2003.

For the Council

The President

M. STRATAKIS
