to
VNAB (Netherlands Insurance Exchange Association [*Vereniging Nederlandse Assurantie Beurs*])
from
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re
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REVIEW DOCUMENT SANCTIEPL@TFORM

I. Introduction

This document contains our interpretation of the sanction regulations for the Dutch non-life insurance sector and the application thereof in the Sanctiepl@tform.

This review document deals with the interpretation and application of EU and Dutch sanction regulations only.

This document is a simplified version of the validation document shared and discussed with DNB [*De Nederlandsche Bank*]. The choices made in the validation document were mostly endorsed by DNB and otherwise not disputed.

The structure of this review document is as follows. First, we set out our interpretation of the terms used in the various statutory regulations (2). Then we deal with the application of the sanction regulations in the Sanctiepl@tform (3), largely based on VNAB's explanation of the system's operation.

2. Interpretation sanction regulations: Explanation various definitions

a. Financial assistance
As the term "financial assistance" is not defined in EU regulations, we go by the term "financial services" as defined in article 1 under 3 of EU regulation no. 2580/2001. This EU regulation also pertains to imposing sanctions, in this case against terrorism. Pursuant to article 1 under 3 "financial services" include all types of insurance and related services, including insurance brokerage. We therefore conclude that "financial assistance" includes providing insurance but may also include intermediary services to conclude insurance contracts.

EU sanction regulations do not specify what exactly qualifies as 'providing insurance'. From the rationale behind the sanction regulations follows, in our view, that its scope is confined to providing (provisional) cover. Consequently, submitting a quote does not qualify as "financial

assistance", but providing (provisional) cover does.

b. Brokerage services
In our view, the term "brokerage services" does not include providing insurance-related services. In article 2 under 5 of EU regulation no. 428/2009 (Dual use) it is explicitly provided that the definition of "brokerage services" does not apply to the sole provision of ancillary services. Ancillary services are transportation, financial services, insurance or reinsurance, or general advertising or promotion. In our opinion, providing insurance-related services should therefore be regarded as financial assistance (see above).

c. Economic resources
We do not consider providing insurance – which is, in fact, a potential claim under an insurance contract from the insured – an "economic resource", because in case of non-life insurance, it is uncertain whether the insured will make a claim against the insurer. After all, the insured only has a claim if and insofar as the insured occurrence arises.

If the insured occurrence does arise, this gives rise to a claim for compensation in respect of a contract (a claim under the insurance contract with the non-life insurer), or a "claim" within the meaning of the EU regulations and thus a "claim on money", which in turn qualifies as "fund" within the meaning of the EU sanction regulations.

In the relevant EU regulations "economic resource" is defined as "assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services". The term "funds" is defined as "financial assets and benefits of every kind". Consequently, we consider funds a special kind of economic resources, namely financial assets (which include a "claim on money").

Under the sanction regulations it is prohibited to make funds available to persons or entities on a relevant list or in a specific country. In our view, this prohibition only covers payment of a sum insured and not the actual conclusion of an insurance contract.

d. *"For use in"*
Various restrictive conditions related to the provision of "financial assistance" read as follows (e.g. Council Regulation (EU) no. 224/2014, article 2 under b):
"It shall be prohibited to provide, directly or indirectly, financial assistance related to the goods and technology listed in the Common Military List (…) for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any person, entity or body in country X, or for use in country X.

According to our interpretation of the restrictive conditions it is prohibited, in relation to such goods and technology, a) to provide, directly or indirectly, "financial assistance" to any (legal) person, entity or body in the relevant country or b) to provide, directly or indirectly, "financial assistance" if the sold, transported or exported goods or technology are used in the relevant country. The reference to 'any person, entity or body in country X' does not only relate to 'provision of related technical assistance' but also to 'any sale, supply, transfer or export'.

e. Freezing of funds
In our opinion, a non-life insurer does not hold any funds and therefore cannot freeze funds either. A non-life insurer receives premium from the policyholder in exchange for which the policyholder receives payment of compensation if and insofar as an insured occurrence arises. As opposed to a bank offering a savings account for instance, the non-life insurer does not hold any funds the policyholder/insured can just lay claim to. Consequently, the restrictive conditions related to holding funds do, in our view, not apply to insurers.

f. Military activities
Various EU sanction regulations prohibit the provision of financial assistance related to military activities ("provide financing or financial assistance related to military activities, including in particular (…) export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of arms and related materiel"). The term "military activities" is not defined in the EU sanction regulations, so it remains unclear what it should be understood to mean. In view of the wording of these prohibitions, the insurance directly related to an actual sale, supply or export of arms and related materiel, seems to be subject thereto in any case. Consequently, providing transport insurance for the actual supply of arms would in any case be subject to this prohibition.

The foregoing also serves as a lead for a general comment. Common policies, like a business liability or fire policy, may be issued to an arms manufacturer because they cannot be regarded as providing financial assistance related to military activities. A business liability insurance provides the arms manufacturer with such a general type of cover (cover against third-party claims in general, subject to specific exclusions) that we consider it quite defensible that the relation between the provided cover and the "military activities" in a specific country or use thereof in a specific country, is insufficiently direct and insufficiently definable. This as opposed to a transport insurance that provides cover for a specific type of military goods being shipped to or

designated to be used in a specific country subject to sanctions. In other words, the rationale behind the sanction prohibition in question – to prevent a specific type of military goods from falling into the hands of a specific party at a specific location – makes that the sanction prohibition does not extend to types of insurance that are not clearly related to military activities. This would also be an obvious interpretation because of the important social function of business liability insurance.

3. Application in Sanctiepl@tform

a. Which persons'/entities' UBOs should be identified prior to conclusion of the insurance contract?
Basic principle, in our opinion, is that the policyholder's UBO is identified prior to conclusion of the insurance contract. In case of a (limited number of) named insured (parties), their UBOs have to be identified as well.

The underlying idea is that the "financial assistance" is primarily provided to the insurer's contracting party, the policyholder. In addition, the "financial assistance" is indirectly provided to the named insured (parties), since they are entitled to claim coverage under the policy, if and insofar as the insured occurrence arises. So, indirectly, a financial service is provided to them too.

In our view, there is no need to identify (the UBOs of) other parties involved (intermediary, representative etc) upon conclusion of the insurance contract, as no ("direct or indirect") financial service is provided to them.

b. Which persons'/entities' UBOs should be identified in case of payment?
The payment prohibitions under sanction legislation require that in each case it is checked whether funds are, directly or indirectly, made available to persons appearing on a list. Therefore, the UBOs must be identified of the insured who actually claims payment of compensation as well as– where applicable – of the authorised representative/agent who requests payment of compensation from the insurer on behalf of the insured.

c. How should a person's/entity's UBO be identified?
When identifying the UBO, ownership and control are examined. In order to identify the UBO based on ownership, the Sanctiepl@tform traces the natural person who holds 50 percent or more of the shares in the entity concerned. If the user of the Sanctiepl@tform opts for a percentage of 25, the UBO is identified based on this percentage.

In order to identify the UBO based on control, the Sanctiepl@tform traces the natural person who acts as the (indirect) director of the entity.

If the UBO based on ownership or control cannot be identified electronically by the Sanctiepl@tform, a UBO form has to be completed.

We consider the above procedure for identification of the UBO appropriate in the light of the applicable sanction legislation. At EU level, making funds available to a legal person or entity owned by or under effective control of a person or entity appearing on a list, is in theory regarded as indirectly making funds available to a person appearing on the list.[1] The criterion for determining whether a person qualifies as owner, is a shareholding of 50% or more. The UN use similar criteria, with 50% or more shareholding serving as basic principle.[2] Therefore, opting for a shareholding of 25% or more does not seem useful to us. This number of 25% is stated in the DNB Guidance on the Anti-Money Laundering and Counter-Terrorist Financing Act [*Wet ter voorkoming van witwassen en financieren van terrorisme (Wwft)*] and Sanction legislation, in the section specifically related to the Wwft. The Wwft does not apply to non-life insurers.

To determine whether a person has effective control, it is, in short, relevant whether the person is authorised to dismiss the supervisory or executive body, has exclusive control of a majority of the voting rights or can exercise a dominant influence. This is hard to apply in practice, as the articles of association/incorporation have to be requested from each entity to check them against this criterion. Designating the natural person(s) acting as (indirect) director as UBO, is, in our view, a proportionate and appropriate approach to apply this criterion.

If the director of the legal person is not a natural person but a legal person, we think the 'director line' should be traced back until the natural person acting as director has been found. In other words, if a payment is made to legal person X and X's director is legal person Y, then Y's director has to be identified and so on, until the natural person acting as director has been found. In this case, it is not about the question who is owner of legal person Y, but who is director of legal person Y. This functionality has been incorporated in the Sanctiepl@tform.

d. How should the UBO be identified in case of multiple (legal) persons?
Identification of the UBO may depend on the insured's legal form. When an organisation is added to the Sanctiepl@tform (review subject), the organisation's legal form is determined and the corresponding basic principles are followed. The different legal forms are considered below. The basic principles stated in respect of the public company limited by shares (Dutch NV) and the private company with limited liability (Dutch BV) also apply to the other legal forms, except where explicitly provided otherwise.

[1] Guidelines on the implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy – new elements, secretary general of the Council, 9068/13, 30 April 2013.
[2] See Non-Paper on the Implementation of Paragraph 23 of Resolution 1483 (2003): http://www.un.org/sc/committees/1518/pdf/Non-paper.pdf.

1 The NV and the BV

If a policy is issued to an NV or BV, their UBO is identified by the Sanctiepl@tform as described above under c. I.e., the ownership-based UBO is determined on the basis of 50 percent (or 25 percent, if the user chooses this option) shareholding, and the control-based UBO is determined by identifying the (indirect) director(s). In respect of listed companies, specific basic principles apply, set out hereinafter.

2 One-man business

If a policy is issued or a payment made to a one-man business, only the owner of the one-man business is of relevance. This is by definition a natural person. In that case, this natural person has to be screened against sanction prohibitions, and no further UBO investigation is required.

3 Partnership

If a policy is issued to a partnership, the partnership itself is usually mentioned as policyholder on the policy. The policy – or the applicable policy conditions – usually states that the partners are included under the policy, without naming them.

If the partnership is review subject in the Sanctiepl@tform, the individual partners are identified as UBOs. If it is not possible to do so electronically, a UBO form has to be completed.

Upon conclusion of an insurance contract with or a payment made to a partnership, the partnership itself has to be screened against sanction prohibitions first of all. The partnership's UBO cannot be identified based on the (50 percent or more) ownership criterion, as a partnership has no shareholders and the partners usually have shared control. We therefore recommend that the partnership's UBO be determined – approximately – by identifying the individual partners and checking them for violation of sanction prohibitions. The named partners have to be identified electronically by the Sanctiepl@tform. If electronic identification is not possible, the other partners have to be identified individually by using a UBO form.

4 General partnership

If a policy is issued or a payment is made to a general partnership, the general partnership itself is usually mentioned as policyholder on the policy. The policy – or the applicable policy conditions – usually states that the partners are included under the policy, without naming them.

If the general partnership is review subject in the Sanctiepl@tform, the individual partners are identified as UBOs. If it is not possible to do so electronically, a UBO form has to be completed.

As this situation is usually identical to the one of a partnership, we recommend that the same procedure for screening against sanction prohibitions be followed prior to conclusion of the

insurance contract or a payment being made.

5 Limited partnership

If a policy is issued or a payment is made to a limited partnership, the limited partnership itself is usually mentioned as policyholder on the policy. The policy – or the applicable policy conditions – usually states that the partners are included under the policy, without naming them.

If the limited partnership is review subject in the Sanctiepl@tform, the individual partners are identified as UBOs. If it is not possible to do so electronically, a UBO form has to be completed.

As this situation is usually identical to the one of a partnership, we recommend that the same procedure for screening against sanction prohibitions be followed prior to conclusion of the insurance contract or a payment being made.

6 Foundation

If a policy is issued or a payment is made to a foundation, the foundation will usually be mentioned as policyholder on the policy and a such has to be screened against sanction prohibitions.

If the foundation is review subject in the Sanctiepl@tform, the natural persons acting as officers of the foundation are identified as UBOs. If it is not possible to do so electronically, a UBO form has to be completed.

As the foundation's UBO cannot be determined based on ownership, we think the logical option would be to focus on the control element and determine the UBO – approximately – by identifying the officers of the foundation and screening them against sanction prohibitions.

7 Trust office foundation

The trust office foundation (Dutch "STAK") is perhaps a special construction, as it has holders of depository receipts.

If a policy is issued or a payment is made to a STAK, the same screening procedure can be followed as with a general foundation (see under 6 above).

If a policy is issued or a payment is made to a legal person whose shares are held by a STAK, the Sanctiepl@tform notifies the user accordingly. In that case, the user has to request the legal person to provide details about the STAK's ownership and control structure by using a UBO form. The legal person can state which natural person(s) have ownership or control of the legal person through the STAK.

The above-mentioned procedure to identify the UBO is, in our view, appropriate in the light of applicable sanction regulations. Electronic identification of the natural person holding the shares in a legal person through the STAK, is usually impossible. In that case, a UBO form should be used, as the legal person will usually know which persons/entities have ownership or control of the legal person through the STAK. In this respect it should be noted that not every holder of a depository receipt has the actual right to convert his depository receipt into shares. The actual ownership and control of an entity do not necessarily rest with a party holding 50 percent or more of the depository receipts.

8 Association/cooperative

If a policy is issued or a payment is made to an association/cooperative, the association/cooperative will usually be mentioned as policyholder on the policy. The policy – or the applicable policy conditions – usually states that the members of the association/cooperative are included under the policy, without naming them.

If the association/cooperative is review subject in the Sanctiepl@tform, the natural persons acting as officers of the association/cooperative are identified as UBOs. If it is not possible to do so electronically, a UBO form has to be completed.

As the association's/cooperative's UBO cannot be determined based on ownership, we think the focus should be on the control element and the UBO should be determined by checking the officers of the association/cooperative for violation of sanction prohibitions.

In our view, the members of the association/cooperative should not be identified and screened prior to conclusion of the insurance contract, unless they are named on the policy as insured parties.

In case of a payment being made to a member of the association/cooperative, this member – in addition to the association/cooperative itself and its UBOs – has to be screened against sanction prohibitions.

9 Banks and insurers

If a policy is issued or a payment is made to a bank or insurer supervised by a European supervisory authority, no review is required under the Sanctions Act Protocol.

In the above-mentioned cases, we consider the risk of sanction prohibitions being violated extremely low, so screening will not be required. In our opinion, this category of banks and insurers constitute an extremely low risk as they will generally be subject to supervision in terms

of prudence and conduct. Which includes – unlike (legal) persons in general – extensive external audits and accountability for the financial data of such banks/insurers, the obligation to have a policy in place on integrity of business operations, and the (day-to-day) managers being tested on reliability and suitability. In our view, these control mechanisms reduce the integrity and financial risks of these banks and insurers considerably, and thereby the risk of sanction prohibitions being violated.

10 Legal persons under public law

In respect of (Dutch) national or European government institutions, no review is required under the Sanctions Act Protocol. In respect of non-European government institutions, no review is required either, unless it concerns an institution linked to a country subject to sanctions.

If a government institution is review subject, the natural persons acting as governors of the government institution, are identified as UBOs. If it is not possible to do so electronically, a UBO form has to be completed.

In respect of (Dutch) national or European government institutions, screening against sanction legislation seems unnecessary to us, because the insurer may expect these institutions not to be subject to sanctions. Under the more extensive scope of the Wwft, client due diligence review of (Dutch) national and European government institutions is not required either according to the provisions of articles 6 and 7 of the Wwft. In line with this, it seems logical to us not to screen such institutions under sanction legislation either. The DNB Q&A for non-life insurers already includes such an exception in respect of payment of compensation.[3]

In our opinion, non-European government institutions should not be checked for violation of sanction legislation either, unless it concerns (an institution linked to) a country subject to sanctions. In the latter case, these government institutions, being legal persons under public law, will generally not have shareholders, so their UBOs can only be determined - approximately - by identifying their governors. Consequently, it is not possible to run an ownership-based check, so we recommend running a sanction check on their governors prior to conclusion of the insurance contract ánd in case of a payment being made to the government institution.

11 Listed companies

If a listed company is review subject, the Sanctiepl@tform identifies its UBOs the same way as with an NV or BV (see under 1 above). If identification of the listed company's UBOs is not possible, the Sanctiepl@tform allows a simplified completion of the procedure– unlike the one for BVs and NVs in general. In that case, a UBO form is not required to identify the UBOs and

[3] DNB Q&A, http://www.toezicht.dnb.nl/binaries/50-235745.pdf, p. 5 under 5.1.

successfully complete the review.

We can imagine that in respect of listed companies, a simplified review, compared to NVs in general, would suffice. In this respect it should be noted that article 6 of the Wwft offers the opportunity to conduct a simplified customer due diligence review in case of listed companies. We gather from it that the legislator assesses the risks of money laundering and terrorist-financing by listed companies lower than by legal persons in general.

e. What to do with unspecified insured parties?
If the parties insured under the policy are not specifically named, for instance in case of an accident insurance for all employees of a company X, the insurer cannot be expected, in our opinion, to identify the employees and screen them against the sanction lists prior to conclusion of the insurance contract. Identification of the unspecified insured parties would delay the actual conclusion of the insurance contract for too long and involve a disproportionate workload, especially since it is not possible to do so electronically. Besides, many changes are to be expected during the policy period.

Condition for not screening the unnamed insured parties upon conclusion of the insurance contract is that if an insured makes a claim for compensation under the policy, said insured and their UBO are identified and screened against sanction prohibitions. From a legal point of view, we consider this practical solution justifiable because the objective of sanction legislation – to prevent financial resources from being made available to persons subject to sanctions – will still be met.

f. What to do with completely unknown insured parties?
If the insured parties are completely unknown at the time the insurance contract is concluded – e.g. in case of an insurance made out to bearer –, the insurer cannot possibly determine to whom the policy is issued. In our opinion, a UBO check of the policyholder would then suffice. In the event of loss or damage, the insured will have to identify himself in order to claim compensation. In that case, said insured's UBO has to be identified in order to run the payment prohibition check.

The rationale behind this choice is that, in our view, no financial assistance is provided to an unknown insured, until said insured identifies himself. Which will generally coincide with a claim for compensation being made.

g. What about relationships?
According to the provisions of article 2 under 2 of the Regulation on Supervision pursuant to the Sanctions Act, the insurer is obliged to take measures to check within his records whether the identity of a relationship matches a (legal) person or entity, as referred to in the Sanctions regulation. In article 1 under b of the Regulation on Supervision pursuant to the Sanctions Act

relationship is defined as 'any party involved in a financial service or a financial transaction'. According to page 3 of the explanation, relationship includes:

- the customer(s) of the insurer;
- the beneficiary of a transaction;
- the ultimate beneficial owner of the financial resources;
- correspondent banks;
- the counterparty to the transaction (e.g. in case of payment under a non-life insurance);
- any authorised representative who has access to the financial resources.

In our opinion, the term 'relationship' entails that in principle, in addition to the UBOs of a) the policyholder and b) insured (parties), the UBOs of c) authorised representatives/agents have to be identified only if they request payment of compensation from the insurer on behalf of an insured. We do regard that as "funds being made available" indirectly, because there is a risk of the authorised representative actually having access to the payment to be made by the insurer.

h. Which persons'/entities' UBOs should be identified in case of payment under a liability insurance?
In case of payment under a liability insurance, we think that in addition to the UBO of the insured who claims payment of compensation, the UBO of the injured third party has to be identified too. The latter cannot be identified prior to conclusion of the insurance contract, as the injured third party is still unknown at the time. By making a payment to the insured, the insurer compensates, legally speaking, the loss incurred by the insured resulting from the claim made against him by the injured third party. Legally speaking, the payment does not extend to indemnification of the injured third party. Practically speaking, a payment made by an insurer to an insured under a liability insurance, will lead to indemnification of the injured third party. For the insured will generally use the payment to settle the injured third party's claim.. If it is prohibited under sanction legislation to make funds available to the injured third party, then, in our opinion, by making the payment under the liability insurance to the insured, funds are indirectly made available to said injured third party.

i. Payment to brokers, claims assessors and lawyers
Most insurers make frequent payments to the same brokers, claims assessors and lawyers/law firms with whom they work closely together. As funds are thereby made available to these parties, they - as well as their UBOs - have to be identified and screened.

We consider it justified that in case of high-frequency payments to these parties, not every single payment is checked, provided that the broker, claims assessor or lawyer concerned is not based in a country subject to sanctions. In this case, we consider a two-yearly review of these parties proportionate.

j. Is it allowed to make a payment to one insured while another appears on the sanction lists?
Take for example an accident insurance with several insured parties. One of the insured parties has an accident and claims compensation from the insurer. The insurer establishes that the insured and their UBO do not stand in the way of making the payment. However, one of the other insured parties under the policy, who did not have the accident and can therefore not claim payment of compensation, does appear on a list of (legal) persons to whom it is prohibited to make funds available, directly or indirectly. Is the insurer allowed to make the payment? Yes, all the more so because the insurer can safely assume that the other insured (subject to sanctions), cannot gain access to the payment.

k. When does the UBO check require further investigation?
It is possible that the electronic UBO check does not result in a definite answer about the UBO of a policyholder or other entity. This means (international) sources contain insufficient information about the UBO. Full compliance with the conditions then requires further investigation, for instance by inquiring with the policyholder by using a UBO form. Experience shows that it is not always easy for office staff to complete the UBO form, which would require further actions and investigation. The time and cost involved in such further investigation have to be in proportion to the anticipated risk of violation of the sanction legislation. In order to make a sound assessment, the following parameters could be considered:

1. business location insurer/insured;
2. nationality and place of residence proposer;
3. destination of the goods;
4. nationality and place of residence other parties involved;
5. location transit port /stopovers.

In general, the procedure could be that in case of a UBO form not being completed, no further investigation is required if there are no indications that the policy is in any way related to a country or activity subject to sanctions and it does not concern a policy for a multinational policyholder (like an internationally operating transport company).

l. How long should the UBO check remain valid?
In accordance with the Sanctions Act Protocol, a customer due diligence review has to be conducted at least once every two years.

We consider a two-year validity period for a UBO check acceptable from a legal perspective. Strictly speaking, the UBO check is just a random indication and, in theory, only valid for a day. Theoretically, after one day a new sanction regulation can take effect, a person be placed on the sanction list or a UBO changed (for instance due to a change in ownership structure of the legal person) In short, after one day the "financial assistance" or a payment to a certain person may be allowed after all or, on the contrary, prohibited. However, in practice sanction regulations are not amended on a daily basis and neither will the policyholder or insured (parties) under the

insurance contract change on a daily basis. The ownership structure of the policyholder or insured (parties) will not either. In our opinion, a periodic two-yearly review will suffice.

We do consider it advisable to run the UBO check once all required information is available – not run it prematurely based on incomplete information – and lose as little time as possible between running the UBO check and issuing the policy or making the payment. With each extra day that passes after the UBO check, without the policy being issued or the payment being made, the risk of contravening sanction regulations increases.

m. UBO check of ships and aircraft
In our opinion, the EU regulations and Dutch sanction legislation do not result in the specific obligation to identify the UBO of a ship or aircraft in case of transport. Of course it is possible that the policyholder's or insured's UBO is identified and the UBO turns out to be a legal person that also owns the ship or aircraft.

n. Sanctions applicable to transit via country subject to sanctions?
Some sanction regulations prohibit the direct or indirect provision of "financial assistance" related to certain goods and technologies if the goods or technologies are used in a country subject to sanctions. Suppose it has been stated that the "financial assistance" will not be provided to a (legal) person, entity or body in country X, which is subject to sanctions, and that the goods or technologies will not be used in country X either. However, the goods or technologies in question are shipped in transit via country X for use in country Y.

In our opinion, this does not constitute a violation of the sanction prohibition, as the "financial assistance" is not provided to a (legal) person, entity or body in country X and it has been stated that the goods or technology will not be used in country X either

However, we think that if the insurer knows via which countries the goods are shipped in transit to country Y, the insurer may conclude, based on an assessment of other factors as well, that the risk of the goods or technology ending up in country Y is too high - although the policyholder states that the goods or technology will be used in country Y. In that case, further TDD investigation is required.

o. Data retention obligation
In case of a "hit", the insurer is obliged under article 4 of the Regulation on Supervision pursuant to the Sanctions Act, to keep the report to the supervisory authority as well as the details of accounts of and transactions with the relationship(s) involved, for a period of 5 years after the sanction regulation the (legal) person or entity concerned is subject to, ceased to have effect or was rendered inoperative. All data related to the client due diligence, the transaction due diligence and the payment due diligence reviews are kept on file on the Sanctiepl@tform for a period of 5 years (see Sanctions Act Protocol).

The Regulation on Supervision pursuant to the Sanctions Act does not state how long the data related to UBO checks must be kept if there is no hit. Still, the insurer would be well-advised to keep the data related to CDD checks in such a way that the steps which led to the insurer's conclusion that there was no "hit", can be reproduced afterwards and it can at least be demonstrated that the check was carried out.

p. Conditional quote
In our opinion, the quote phase does not legally qualify as providing "financial assistance" by the insurer, as the insurance contract has not yet been concluded. The only exception being if the insurer provides provisional cover. If no provisional cover is provided, there is no obligation to screen against sanction prohibitions in the quote phase in our opinion.

However, in practice it often happens that an insurer submits a quote, which upon acceptance by the policyholder, leads to conclusion of an insurance contract. This creates the practical problem that in a strictly legal sense the insurer does provide financial assistance and is thus obliged to screen against sanction prohibitions.

This practical problem may be solved by submitting a quote to the potential policyholder which includes the explicit written stipulation that the quote – the insurer's offer – is submitted on the suspensive condition that issuing the policy is not against any sanction prohibition. DNB agreed to this practical solution, provided that the screening against sanction prohibitions takes place as soon as is reasonably possible áfter acceptance of the quote.

q. Limited claims review
We conclude from DNB's Q&A that there are valid legal arguments why reviews are not required in case of payments to natural and legal persons with a Dutch bank account. Just like private persons, these legal persons are checked for violation of sanction prohibitions by Dutch banks.

r. Threshold amounts
In accordance with the Sanctions Act Protocol it is permitted not to conduct the payment due diligence review on specific conditions.

The VNAB decided not to require a payment due diligence review in case of a payment up to and not exceeding EUR 10,000 if the following conditions have been cumulatively met:

- the payment is made to a (legal) person with a European bank account number;
- the total amount of the payment is less than the EUR 10,000 threshold;
- there is no increased risk involved according to the initially retrieved information or the review conducted prior to placement of the policy. Policies in respect whereof no complete review was conducted upon conclusion of the insurance contract, because not

all data had been disclosed, are by definition not classified as 'low risk' and require a full claims review. A case in point are transport policies, as at the time of placement it is unknown which goods will be shipped where.

s. Most Likely UBO
The Sanctiepl@tform provides the functionality to approximate the UBO based on identification of the "most likely UBO". This procedure means that if the ownership percentages of the entity to be reviewed are **not** known, but several legal persons acting as directors and authorised to sign have been found, the most likely owners of said entity are determined based on an ownership check of these legal persons acting as directors. This way the actual UBO is not identified, but approximated.

In principle the UBO has to be identified at all times when running a check for violation of sanction prohibitions. Still, we can imagine that under specific conditions the "most likely UBO" procedure is followed.

We think there is scope for such a procedure, provided that periodic random checks are carried out to establish whether the "most likely UBO" is reliable. For instance, by compelling the user at random to identify the actual UBO by using a UBO form, and then compare the results with the "most likely UBO". If the "most likely UBO" is found sufficiently reliable, this procedure can be continued. If the "most likely UBO" is found insufficiently reliable, the applicable rules will need to be tightened.

t. Policies with limited available information
Insofar as the information required to check for violation of sanction legislation prior to placement of the policy is unavailable to the non-life insurer or broker, it is impossible to check for violation of a specific sanction prohibition. If the available information allows the non-life insurer to effect the policy, then we see no barriers under sanction legislation to do so. The non-life insurer will then be obliged to request this available information and consider it when assessing whether sanction legislation is violated if the policy is issued.

In our view, the foregoing is subject to the condition that in case of payment, a complete check for violation of sanction prohibitions is carried out, i.e. that the previously unavailable information is obtained after all.

u. DNB reporting obligation
In article 3 of the Regulation on Supervision pursuant to the Sanctions Act, the reporting obligation is described as follows: "If the organisation finds that the identity of a relationship matches a (legal) person or entity, as referred to in the Sanctions regulation, the organisation

reports this forthwith to the supervisory authority." Relationship is defined as "any party involved in a financial service (…)". This reporting obligation is specified in the Sanctions Act Protocol.

Article 3 of the Regulation on Supervision pursuant to the Sanctions Act raises the question whether the insurer is under a reporting obligation if the insurer refuses to issue a policy because the proposer appears on a sanction list. In our view, said proposer does not qualify as a "relationship", because – by the insurer's refusal of the policy – no financial service is provided to the proposer. In that case, the insurer does not have to report the refusal to DNB.

In addition, there are sanction regulations prohibiting the issue of a policy related to specific goods which will be used in a specific area, while the person/entity requesting the policy is not subject to sanctions. If the insurer refuses to issue a policy to this person/entity, the insurer is, in our view, not obliged to report this refusal to DNB either. For there is no "relationship" that "matches a (legal) person or entity, as referred to in the Sanctions regulation" within the meaning of article 3 of the Regulation on Supervision pursuant to the Sanctions Act. The prohibition only relates to the issue of the policy due to the nature of the underlying transaction and not to the persons/entities involved.

v. "Hit" notification in case of co-insurance
According to the provisions of the Sanctions Act Protocol, in case of co-insurance, the leading insurer is obliged to report a "hit" forthwith to DNB.

In a strictly legal sense, in case of co-insurance, the participating insurers are each under the obligation to screen the relevant policy against sanction legislation. For practical reasons, we think it suffices to have the leading insurer (once designated) report a "hit" to DNB, or otherwise the broker on behalf of the insurers.