

SANCTIONS ACT PROTOCOL

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*DIVISION OF TASKS CENTRALISED SANCTIONS ACT CHECKS THROUGH THE VNAB
SANCTIEPL@TFORM.*

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Coöperatieve Vereniging Nederlandse Assurantie Beurs B.A. (VNAB) [Netherlands Insurance Exchange Association].*

DEFINITIONS

- **Claim:** a `loss` covered by the insurance underwritten by the insurer in respect whereof compensation is requested.
- **Customer:** policyholder, named insured (parties).
- **Customer due diligence review (CDD):** the review conducted to identify the policyholder's and/or the named insured parties' UBOs using the facilities provided by the Sanctiepl@tform.
- **Hit:** a notification from the system indicating that a name (natural person/legal entity) on the customer base seems to match a name on the sanction lists. Further investigation has to show whether the hit should be reported to DNB (the name on the customer base actually matches the name on the sanction lists).
- **Change:** a change at relationship or policy level.
- **Transaction due diligence review (TDD):** the review conducted to check the transaction upon which a policy is effected or a claim is paid against relevant EU/US regulations using the facilities provided by the Sanctiepl@tform.
- **Sanctiepl@tform:** the application linked to e-ABS providing all Sanctions Act-related information and facilitating Sanctions Act checks for VNAB members and anyone authorised to access the Sanctiepl@tform by the VNAB.
- **Sanctions Act check:** check against the sanction lists.
- **Sanction lists:** consolidated lists available at http://eeas.europa.eu/cfsp/sanctions/index_en.htm, <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>
- **Payment:** any payment, whether or not through the broker, made to a beneficiary.
- **Payment due diligence review:** review conducted to check that the beneficiary and the UBO do not appear on the sanction lists.
- **Beneficiary:** the customer or counterparty.
- **Ultimate Beneficial Owner (UBO):** a natural person who:
 - Can, directly or indirectly, exercise 50% or more of the voting rights at the general meeting of the policyholder/insured/beneficiary
 - Holds a direct or indirect participating interest of 50% or more in the capital of a policyholder/insured/beneficiary
 - can, directly or indirectly, exercise effective control (appointment of board members) of a policyholder/insured/beneficiary
 - is the beneficiary of 50% or more of the assets of a policyholder/insured/beneficiary or a trust; or
 - has special control of 50% or more of the assets of a policyholder/insured/beneficiary.
- **Insured:** the party on whose behalf the insurance contract has been taken out.
- **Policyholder:** the natural person or legal entity with whom the insurance contract has been concluded.

This Sanctions Act Protocol version 2.1 is a slightly amended version of the Sanctions Act Protocol version 2.0 of November 2016. Version 1.0 regulated the basic division of tasks between insurers and brokers as to conducting the customer due diligence reviews (CDD checks), version 2.0 of November 2016 provided for the basic division of tasks as to conducting the transaction due diligence reviews (TDD checks). The amendments in this version 2.1 of July 2018 include the introduction of a threshold amount, the implementation of an exemption for EU governments, the extension of the CDD validity from one to two years, as well as a change in the quote phase (inclusion of a suspensive condition). This Sanctions Act Protocol herewith replaces the protocol of November 2016.

1. DIVISION OF TASKS

With this protocol the VNAB aims to have in place a basic division of tasks between insurers and brokers as to conducting the customer due diligence reviews (CDD checks), the transaction due diligence reviews (TDD checks) and the payment due diligence reviews (in case of payments to third parties) with respect to:

- The policyholder
- The (named) insured parties
- The Ultimate Beneficial Owner (UBO)
- The beneficiary/beneficiaries
- The transaction upon which the policy is effected or the claim is paid

These data are checked against the sanction lists by the Sanctiepl@tform.

The protocol applies to VNAB members and policies recorded by means of the e-ABS application. VNAB members conform to the division of tasks set out below as basic division of tasks to run the CCD and TDD checks. All VNAB members have access to the Sanctiepl@tform. Where required, market players can decide in consultation to run additional checks to the actions described in the protocol.

Whether a party presents a risk, will, among other things, depend on:

1. Business location of the policyholder/insured
2. Nationality and place of residence of the party submitting the insurance proposal
3. Nationality and place of residence of the board members and any other party involved such as lawyers and intermediaries.

Should the business location or nationality be linked to a country subject to sanctions, this constitutes an increased risk.

The VNAB emphasises that compliance with statutory obligations is each party's own responsibility.

2. CUSTOMER DUE DILIGENCE, TRANSACTION DUE DILIGENCE & PAYMENT DUE DILIGENCE REVIEWS

2.1. CUSTOMER DUE DILIGENCE REVIEW

The broker conducts the customer due diligence review, which includes:

1. Identifying the policyholder and the insured (parties) named in the policy, including a search, within reason, until the UBO (always a natural person!) and the policyholder's board members according to the articles of association/incorporation (insofar as they are natural persons) have been identified.

2. Running periodic checks in accordance with articles 2.3 and 4.1 on the natural persons and/or legal entities referred to under 1 above, as recorded by the broker's back office.

If identification is not possible based on public source information in combination with the available information in the Dun & Bradstreet or Graydon database, the broker has to request these data from the policyholder using the VNAB UBO form, unless the relevant facts provide conclusive evidence that there is no risk of violation of the sanction legislation. Once the natural persons and/or legal entities referred to under 1 above have been identified, they are checked against the sanction lists. The results (both the manually and electronically obtained ones) of the customer due diligence and the subsequent Sanctions Act checks are recorded on the Sanctiepl@tform.

2.2. TRANSACTION DUE DILIGENCE

The broker conducts the transaction due diligence review, which includes:

1. Identifying the risk to which the policy (directly or indirectly) applies.
2. If the policy (directly or indirectly) applies to any country, product or service mentioned on the sanction lists, the additional questions on the Sanctiepl@tform need to be answered.

2.3 PAYMENT DUE DILIGENCE REVIEW

In principle the broker conducts the payment due diligence review (unless it has been agreed that the leading insurers makes the payment, in that case the insurer conducts the payment due diligence review), which includes:

1. In case of payment, a payment due diligence review is conducted to check that the insured and the beneficiary and the UBO of the beneficiary do not appear on the sanction lists. In addition, a check is carried out as to whether the loss incurred is the result of a risk (directly or indirectly) related to a country, product or service mentioned in the sanction regulations.
2. If the available information is not sufficient to establish whether a payment should be made (code orange), further investigation by the broker is required. This investigation either results in a code red or a code green.
3. If the checks referred to in this article result in a code red, no payment is made and all parties concerned (broker and insurers) are notified of the code red.

Once every two years the VNAB will conduct a payment due diligence review of VNAB members (broker, insurer and/or claims assessor). The result of this review will be made available to VNAB members on the Sanctiepl@tform. In that case, the broker or insurer can use the result of the review without having to conduct the payment due diligence review themselves.

2.4 NO CUSTOMER DUE DILIGENCE, TRANSACTION DUE DILIGENCE OR PAYMENT DUE DILIGENCE REVIEW REQUIRED

The payment due diligence review referred to in article 2.3 is not required:

1. In case of payment of a small amount without increased risk if the following conditions have been cumulatively met:
 - a. The total claim amount is less than EUR 10,000, and
 - b. Payment is made to a (legal) person with a Dutch bank account number. In this context "persons with a Dutch bank account number" are deemed to include legal entities with a Dutch bank

account number. These (legal)persons are already screened for violation of sanction prohibitions by the Dutch bank(s) concerned, and

- c. There is no increased risk involved according to the initial CDD review or the TDD review conducted prior to placement of the policy.
2. In case of payment to national or European government institutions.
3. In case of payment to non-European government institutions, unless it concerns (an institution linked to) a country subject to sanctions.
4. In case of payment to an insurer or bank supervised by a European supervisory authority.

The reviews referred to in articles 2.1, 2.2 and 2.3 are not required in case of a policy being issued or a payment being made to an insurer or bank supervised by a European supervisory authority. In that case the risk of sanction prohibitions being violated is extremely low. The final assessment of a situation as referred to hereinbefore, is up to the broker concerned.

2.5. MOMENT TO CONDUCT REVIEWS

The customer and transaction due diligence reviews are in any case conducted:

1. Before the actual conclusion of the insurance contract
2. Before any payment (including advances)

The payment due diligence review will only be conducted before a payment (including advances) is made.

The quote phase does not yet include the obligation to conduct a customer due diligence and transaction due diligence review, provided that no provisional cover in any form is provided and the quote includes the explicit written stipulation that the quote is issued on the suspensive condition that conclusion of the insurance contract is not against any ban or prohibition pursuant to (international) sanction legislation. In this case, the check on sanction prohibitions has to take place as soon as is reasonably possible after conclusion of the insurance contract.

2.6 RESULTS CUSTOMER DUE DILIGENCE, TRANSACTION DUE DILIGENCE & PAYMENT DUE DILIGENCE REVIEWS

1. The results of the customer due diligence, the transaction due diligence and the payment due diligence reviews are classified into the following categories:
 - a) Code green: no objections found, the insurance contract can be concluded or continued.
 - b) Code orange: not all data are available or not all data provide conclusive evidence or there are data indicating a link with a country subject to sanctions. Code orange indicates a risk. Objective criteria will have to show whether further investigation is required. If no further investigation is required, code orange will turn to code green. If further investigation is required, code orange remains applicable. Eventually, further investigation will have to show whether the insurance contract can be concluded or continued (code green) or not (code red).
 - c) Code red: the name of the policyholder/insured/beneficiary/UBO matches a name on the sanction lists or the policy applies to a risk described in a sanction regulation. If further investigation by the broker or the insurer does not refute the result, the insurance contract will not be concluded or continued, no cover will be provided for the risk, and no payment will be made.
2. All results of the customer due diligence, the transaction due diligence and the payment due diligence reviews are recorded on the Sanctiepl@tform. These data serve as the basis for further (periodic) checks.

2.7 NON-VNAB INSURERS

If non-VNAB insurers participate in a policy, the broker makes sure the information about checks carried out and, where applicable, reports to the supervisory authority is also available to such participating non-VNAB insurers.

3. DATA EXCHANGE

1. Insurers and brokers concerned have access to the results of the checks. Each party involved is allowed to download the checks run by another party.
2. If the system reports a code orange, not all data are available or not all data provide conclusive evidence or there are data indicating a link with a country subject to sanctions. Further investigation has to show whether the insurance contract can be concluded, the risk be placed or a payment be made (please refer to article 2.6.1. under b).
3. If the system reports a code red, the insurance contract will not be concluded/accepted/continued and no payment will be made.

4. DURING THE POLICY PERIOD

4.1. PERIODIC CHECKS

1. The Sanctiepl@tform automatically updates Sanctions Act-related information. If a change in the sanction lists results in a possible hit on one of all previously conducted reviews, the system will automatically generate a notification.
2. The customer due diligence is conducted at least once every two years and the transaction due diligence review at least once a year by the broker.
3. If a check on the policyholder (and their UBOs) results in a code red, no cover is provided, no payment is made, and the policy will be cancelled as of the next premium due date.
4. If a check on the named insured (and their UBOs) results in a code red, no cover is provided for said insured, no payment is made to or on behalf of said insured, and said insured will be excluded from the policy as of the next premium due date.
5. If a check on the risk to which the policy applies results in a code red, no cover is provided, no payment is made, and the policy will be cancelled as of the next premium due date.
6. If a check on the beneficiary (and their UBOs) results in a code red, no cover is provided, no payment is made, and the policy will be cancelled as of the next premium due date.

4.2. CHANGES

1. Changes in relationship records
 - 1.1. Changes in relationship records received by the broker, are registered and reported to the insurers concerned. The changes are input into the Sanctiepl@tform and screened against the Dun & Bradstreet and/or Graydon databases and the sanction lists.
 - 1.2. If the customer due diligence review following a change results in a code red or code orange, the broker advises all insurers concerned accordingly.
 - 1.3. If the customer due diligence review following a change in the policyholder's records results in a code red, the change is not processed, no cover is provided, and the policy will be cancelled as of the next premium due date.

- 1.4. If the customer due diligence review following a change in the named insured party's records results in a code red, the change is not processed, no cover is provided for said insured, and said insured will be excluded from the policy as of the next premium due date.
2. Changes in policy records
 - 2.1. Changes in policy records received by the broker, are registered and reported to the insurers concerned. The changes are input into the Sanctiepl@tform.
 - 2.2. If the transaction due diligence review following a change results in a code red or code orange, the broker advises all insurers concerned accordingly.
 - 2.3. If the transaction due diligence review following a change in the policy records results in a code red, the change is not processed, no cover is provided, and the policy will be cancelled as of the next premium due date.
3. Changes in sanction lists
 - 3.1. The Sanctiepl@tform automatically updates changes in the sanction lists and checks whether relationships reviewed before match a name on the updated sanction lists. With respect to countries to which the so-called "monitoring functionality" applies, the Sanctiepl@tform also checks against adjustments in the Dun & Bradstreet or Graydon databases. Should any change be detected compared to the records of a policyholder/insured/UBO on the Sanctiepl@tform, then the broker who conducted the review and the insurers participating in the policy who downloaded the review in question will be notified accordingly.
 - 3.2. If a notification of change relates to a policyholder and such notification results in a code red, then in case of any amount being payable at the time, no payment is made, no cover is provided, and the policy will be cancelled as of the next premium due date.
 - 3.3. If a notification of change relates to a named insured and such notification results in a code red, then in case of any amount being payable at the time, no payment is made to said insured, no cover is provided for said insured any longer, and said insured will be excluded from the policy as of the next premium due date.
 - 3.4. If a notification of change results in a code orange, further investigation is carried out as referred to in article 2.6.1. under b.

5. DATA RECORDING AND DATA RETENTION OBLIGATION

5.1. DATA RECORDING

1. All data resulting from the reviews and checks described in the protocol, as well as the audit trail, are recorded on the Sanctiepl@tform and are readily accessible to all VNAB parties involved in the relevant policy. Even if no UBO can be identified in connection with a policy (code orange), this notification will be recorded on the Sanctiepl@tform, so all parties can take due note of it.
2. If a situation requires that the supervisory authority be notified (please refer to article 6.1), the report including relevant details will also be recorded on the Sanctiepl@tform by insurers.

5.2. DATA RETENTION OBLIGATION

1. All data related to the customer 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.
2. In case of a report to the supervisory authority, the report as well as the details of accounts of and transactions with the party/parties named in the report, must be kept for a period of 5 years after the sanctions regulation the natural person or legal entity is subject to, ceased to have effect or was rendered inoperative.¹

6. REPORTING OBLIGATION

1. If an insurer finds (through the broker or otherwise) that the identity of a policyholder/insured/beneficiary/UBO matches a natural person or legal entity as referred to in the sanctions regulation (code red) or the policy applies (directly or indirectly) to a country or transaction subject to sanctions, the leading insurer reports this forthwith to the supervisory authority (in this case DNB)² using the Sanctiepl@tform template. If the foregoing is found prior to the actual conclusion of the insurance contract, i.e. during the quote phase when no formal leading insurer has been designated yet, each insurer involved reports this forthwith to the supervisory authority (in this case DNB) using the Sanctiepl@tform template.

¹ Article 4 Regulation on Supervision pursuant to the Sanctions Act 1977

² Article 3 Regulation on Supervision pursuant to the Sanctions Act 1977; please refer to DNB Guidance 2015, page 43