



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

Financial systems and crisis management
Sanctions

CONSULTATION STRATEGY

PUBLIC CONSULTATION ON THE REVIEW OF THE BLOCKING STATUTE (COUNCIL REGULATION (EC) NO. 2271/96)

1. BACKGROUND INFORMATION

In recent years, some third countries have increased their use of sanctions or other regulatory measures that restrict the conduct of European Union (EU) individuals or entities outside the territory of the country adopting them, even in situations where a connection with the prohibiting country does not exist. For example, some of those third-country sanctions prohibit EU persons from doing business with certain other third countries and their nationals, even if that business is not prohibited by EU law and lacks a connection with the country applying the prohibition. These measures are considered to have an extra-territorial application in breach of international law. Such measures, or simply the threat of imposing them, has resulted in significant economic damage to the EU economy, as evidenced by a number of studies¹.

In 1996 and in response to such measures, the EU adopted [Council Regulation \(EC\) No 2271/96 \(the ‘blocking statute’ or the ‘Regulation’\)](#). Its aim is to protect EU individuals and entities from having to comply with such extraterritorial third-country sanctions. It does so by

- i. prohibiting compliance with those third-country sanctions
- ii. nullifying the effect in the EU of any non-EU court ruling or administrative decision based on them, and
- iii. allowing EU operators to recover in court damages caused by them

In its [Communication ‘The European economic and financial system: fostering openness, strength and resilience’](#) of 19 January 2021, the Commission announced a strategy to promote the EU’s resilience in economic and financial matters, including considering additional policy options to further deter and counteract the unlawful extra-territorial application of third-country sanctions to EU operators, notably by amending the blocking statute. This initiative could take the form of an amending regulation, or of a regulation repealing and replacing the blocking statute. Irrespective of the legal form, the initiative would:

- i. include additional deterrence mechanisms and
- ii. streamline the application of the Regulation, including by reducing compliance costs for EU operators

This initiative is distinct from the [Commission’s initiative for an instrument to deter and counteract coercive actions by third countries](#), which focuses on the broader problem of foreign coercion of EU countries by non- EU Countries to take, not to take, or withdraw, particular policy measures and does not address specifically extra-territorial sanctions. The Commission will pursue both initiatives and ensure they are consistent with one another. Any information obtained in this call for evidence or in the consultation about the Anti-Coercion instrument will be shared accordingly.

¹ Please see Combined Evaluation Roadmap/Inception Impact Assessment, Section D. Evidence base, data collection and better regulation instruments, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13129-Unlawful-extra-territorial-sanctions-a-stronger-EU-response-amendment-of-the-Blocking-Statute_en

2. CONSULTATION SCOPE AND OBJECTIVES

This call for evidence has the objective of complementing the evidentiary base for the initiative.

As part of its duties under the blocking statute, the Commission has been collecting information on the impact of the unlawful extra-territorial application of sanctions on EU economic operators and on the EU as a whole.

The activities captured in this consultation strategy will allow the Commission to gather (i) additional evidence from EU stakeholders with regard to the nature and impact of the unlawful extra-territorial application of third-country sanctions on the EU economy, (ii) feedback to evaluate the existing legislative framework of the Regulation, and (ii) feedback with regard to the proposed policy options, namely to further deter the extra-territorial application of sanctions and to simplify the application of the Regulation.

Moreover, the Commission's expert group on restrictive measures and extra-territoriality will be consulted with regard to this initiative. The group, which is made up of representatives of national authorities with experience in the enforcement of sanctions, could be complemented by observers and ad-hoc experts from academia and non-governmental organisations (NGOs).

3. STAKEHOLDERS

The following key stakeholder categories and main areas of interest have been identified

- **EU businesses** (including SMEs) and their associations, representations and unions, including trade associations and foreign businesses active in the EU. They might experience likely impacts directly and in the short- and/or medium-term, including potential costs and benefits. Each might experience impacts differently. This category is considered to have a high interest and stake in the initiative
- EU countries' **public authorities**, including central, regional, or other decentralised authorities. They will experience impacts directly and indirectly and in the short-, medium-, and long-term, when it comes to simplification and streamlining of the implementation of the blocking statute. This category is considered to have a high interest and stake in the initiative
- **Research and academic institutions**, think tanks, consultancies and trade unions could also contribute, in particular as regards identifying and studying the problem. This category is considered to have a moderate interest and stake in the initiative
- **NGOs** could contribute as well and are considered to have a high interest and stake in the initiative
- Finally, **non-EU governments and non-EU businesses**, as well as international institutions and bodies, might have an interest in providing input, in particular those who share the same outlook, have put in place blocking legislation similar to the EU's or have opposed it. They might experience likely indirect impacts or in some cases direct impacts, in the short- and/or medium-term, including likely positive or negative impacts. This category is considered to have a high interest and stake in the initiative

(in particular if they are countries that impose those extra-territorial sanctions or that are the target of those sanctions)

4. CONSULTATION ACTIVITIES AND THEIR ACCESSIBILITY

The consultation strategy foresees the following activities:

4.1. Public consultation with citizens and stakeholders

The central consultation activity is an online questionnaire-based public consultation. The consultation aims to give a wide-range of stakeholders and citizens the possibility to make known their views and interests and to feed into the preparatory work of the Commission. Stakeholders will be invited to provide input on the problem definition, evaluation, the policy intervention options and their likely impacts. The consultation will be open to all stakeholders (including citizens) that have an interest in the exercise, with a particular attention to the five key stakeholder categories identified above (point 3).

The consultation will take form of a questionnaire, to be hosted on the Commission's central [public consultations page](#) (EU Survey webpage). It will be available in all official EU languages and respondents may reply in any of the official EU languages.

The consultation period is 8 weeks, to **start at the beginning of September and continue until early November 2021**.

4.2. Stakeholder conference

An online stakeholder conference will accompany and support the public internet-based consultation. The aim will be to provide a general introduction to the initiative, as well as to address any questions stakeholders may have with regard to the public questionnaire and the call for evidence in general.

The target audience will be mainly EU businesses that are impacted by the extra-territorial application of third-country sanctions, for example businesses active in international trade and the financial sector.

The online stakeholder conference is tentatively planned for **September/October 2021**, at the beginning of the public consultation.

4.3. Targeted consultation activities

Additionally, the Commission intends to carry out targeted consultations with specific groups of stakeholders. The aim will be to discuss the question of the extra-territoriality of sanctions and the impact of their application on EU operators in a more confidential and/or technical setting. The consultations will also be an opportunity for the Commission to get immediate feedback with regard to the envisaged policy options and their expected impacts. The targeted consultations will complement the public consultation.

Planned activities include

- **Bilateral meetings** with specific EU companies, industries/associations representing them and with humanitarian NGOs or their associations, in particular those most likely to have been impacted by past extra-territorial sanctions. For example, the

European Chambers of Commerce or Business Europe; banking associations; EU-Iran and EU-Cuba chambers of commerce, as well as EU-Russia and EU-China chambers; companies active in the petroleum, machineries and insurance industries; Business France; Spanish Chamber of Commerce (for Cuba) and companies these associations represent;

- **Interventions in academic conferences and seminars** organised by research and academic institutions, think tanks, consultancies or non-governmental organisations specialised in the topic of extra-territoriality.

The specific meetings may be held in a closed or open session, depending on the level of the technical detail and the information to be exchanged.

The Commission intends to approach the respective stakeholders directly in order to organise the targeted consultation activities. Nevertheless, any stakeholders interested in providing input and sharing views are encouraged to contact the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (FISMA) to discuss if a particular event would be appropriate and necessary. The Commission will use a specific functional mailbox for this purpose, which will be published on the Commission's central [public consultations page](#).

The targeted consultation activities will take place throughout **September-November 2021**, at the same time as the public consultation.

4.4. Dedicated events in the Council and the European Parliament

Dedicated debates in the Council and the European Parliament subject to the determination of the final legal bases may complement the consultation activities. In particular, the Commission could intervene in hearings at the European Parliament and working parties in the Council on the topic of extra-territoriality and the EU's response to it.

In addition, meetings with Member States could be organised bilaterally or also in the framework of the Expert Group on Restrictive Measures and Extra-territoriality (composed of representatives of Member States).

These events will contribute to the envisaged policy intervention taking the co-legislators' concerns and views into consideration at an early stage in the process. They may take place in the period of **September-November 2021**, at the same time as the public consultation.

5. CONSULTATION WEBPAGE & COMMUNICATION ACTIVITIES

The consultation process is managed via the Commission's central [Have your Say portal](#) page for the initiative. That page will serve to announce the planned dates for the consultation activities and will contain the documents relevant for this policy initiative: the Inception Impact Assessment and feedback received, and a consultation summary once the consultation period is closed.

To encourage stakeholders' active participation, DG FISMA will publicise and promote the various consultation activities and developments of the initiative via dedicated channels (EU Finance Twitter account, Finance Newsletter, DG FISMA website), press activities and direct outreach.

This Consultation Strategy is published on DG FISMA's website.