

Effective Freezing Regime: Communication Strategy

What is Freezing?

According to the Financial Action Task Force (FATF), freezing is the prevention of the transfer, conversion, disposition or movement of any funds or other assets on the basis of and for the duration of the validity of, an action initiated by a competent authority or a court under a freezing mechanism. Section 117 of the Anti Terrorism Act (ATA), Cap 4.02 and Section 4 of the Anti Proliferation (Financing of Weapons of Mass Destruction) Act (APA), No. 10 of 2020 outline the freezing obligations of regulated entities in St. Kitts and Nevis.



FATF Recommendations Six (6) and Seven (7)

Recommendations 6 and 7 require each country to implement Targeted Financial Sanctions (TFS) regimes to comply with the United Nations Security Council Resolutions (UNSCRs) relative to the prevention and suppression of Terrorist Financing (TF) and Proliferation Financing (PF).

These Resolutions require countries to freeze without delay, the funds or other assets of, and to ensure that no funds or assets are made available, directly or indirectly, to or for the benefit of any person or entity designated by the United Nations Security Council or designated by that country.

Efforts to combat TF and PF are greatly undermined if jurisdictions are unable to freeze the funds or other assets of designated persons and entities quickly and effectively. Therefore, an effective freezing regime is paramount.

Importance of an Effective Freezing Regime



An effective freezing regime comprises the following elements:

- ❖ Identifying Information;
- ❖ Authorities to Identify, Designate and Sanction;
- ❖ Communication Strategy.



Effective freezing regimes are critical to the combatting of TF and PF as they act as a preventative tool by:

- ❖ Deterring non-designated persons or entities who might be willing to finance these activities.
- ❖ Exposing TF and PF money trails that may uncover leads to previously unknown financiers.
- ❖ Forcing criminals to use riskier and more costly means of financing their activities making them more susceptible to detection and disruption.
- ❖ Terminating criminal cash flows by shutting down the pipelines used to move terrorist related funds and other assets.
- ❖ Dismantling TF and PF networks by encouraging designated persons or entities to disassociate themselves with these criminal activities.

Identifying Information

For the effective implementation of an asset freeze, robust identifying information is essential. This includes alternate names and spelling, date of birth, place of birth, address, nationality, identification and passport numbers. Every effort therefore should be made to ensure that as much identifying information, as possible, is provided upon designation and updated as more becomes available.

Authorities to Identify, Designate and Sanction

Countries should have appropriate structures and procedures to ensure the effective implementation of the asset freeze mechanism.

Government agencies should be engaged and tasked with the responsibilities of coordinating and promoting the implementation of the asset freeze obligations and ensuring a process is in place for oversight of the implementation process and to overcome any barriers to the implementation process.

Ministries and agencies should have a common understanding of their roles and responsibilities in complying with the requirements of Recommendations 6 and 7 and undertake continuous exchange of information in accordance with local legislation.

There should be clear lines of communication between the Ministries and the agencies to ensure that there is access to all the necessary information to identify targets for designation.



“Without Delay”

In relation to Recommendations 6 and 7, freezing without delay means ideally within a matter of hours of a designation by the UNSC or a relevant Sanctions Committee.

The authorities should have reasonable grounds or a reasonable basis to suspect or believe that a person or an entity is a terrorist, someone who finances terrorism or proliferation, or a terrorist organization. In these cases, the term without delay emphasizes the need to prevent the flight or dissipation of funds or other assets which are linked to the aforementioned persons and organizations.

Freezing should take place without delay but publication of the action should not take place until the freeze is in effect.

Section 117 of the ATA and Section 117 of the APA make provision for freezing without delay, when sanctioned individuals have been identified.

The effective implementation of the asset freeze obligation requires an efficient and effective **communication strategy**.

Recommendations 6 and 7 outline that the requirements should be clearly articulated to the private sector especially regulated entities such as financial institutions, designated non-financial businesses and professions and non profit organizations.

All reporting requirements relevant to funds, assets or activities associated with terrorism or proliferation are outlined in Sections 114—119 of the ATA and Sections 4-7 of the APA. The Attorney General (AG) is the Competent Authority for designating persons and entities for proliferation and terrorist financing. If suspicion is noted, the AG must be notified in accordance with the relevant legislation.



Components of the Communication Strategy

The communication strategy should:

- ⇒ Incorporate efficient and effective methods for informing the private sector and general public of their obligations under the asset freezing mechanism;
- ⇒ Provide clear guidance to all persons and entities likely to hold targeted funds or other assets, which include financial institutions;
- ⇒ Incorporate efficient and effective methods for informing known high risk sectors (as outlined in the National Risk Assessment (NRA));
- ⇒ Include senior level engagement with business, industry and high risk sectors.

Methods of Communicating

Countries should consider maintaining a government Internet site including up-to-date and comprehensive information on:

- ⇒ The designation procedures and asset freezing mechanism;
- ⇒ Text of relevant laws;
- ⇒ Comprehensive list of all persons and entities currently subject to the asset freezing mechanism; and
- ⇒ The contact point for public enquiries.

Content of the Message

The communication strategy should ensure the timely and broad public dissemination of notices relating to:

- ⇒ The asset freezing restrictions and the obligations they impose on the private sector within the country.
- ⇒ The benefits of an asset freezing mechanism as a preventative tool to disrupt terrorist/ proliferation support and activities.
- ⇒ Information identifying all persons and entities subject to the asset freezing mechanism through publication of a comprehensive list of all such persons and entities.
- ⇒ Clear points of contact within the government to which the private sector can direct any enquiries, including a mechanism for the private sector to request, after conducting appropriate due diligence.

Quality and Utility of Data

Given the large number of transactions to monitor as well as the substantial number of persons and entities subject to an asset freeze, the work involved for regulated entities to ensure they are compliant with an asset freeze is considerable.

The more difficult it is to identify a person or entity from a sanctions list, the greater the burden on the regulated entities in ensuring compliance. It can create inefficiencies and lengthens the time it takes to detect breaches.

The list of persons and entities subject to asset freeze measures should therefore be regularly reviewed and updated.

Updates to the UNSCR Listing can be found on the FSRC's website. These lists are also disseminated to all regulated entities when received. If you are not receiving these lists, kindly contact the FSRC to ensure that your contact information is added to the mailing list.



Reference:

FATF 2013 International Best Practices: Targeted Financial Related to Terrorism and Terrorist Financing Recommendation 6.