

COMPLIANCE FOCUS



TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING



Recommendation 6 of the Financial Action Task Force (FATF) Recommendations requires countries to implement Targeted Financial Sanctions (TFS) regimes to comply with the provisions of the United Nations Security Council Resolutions (UNSCRs) relating to the prevention and suppression of terrorism and terrorist financing. The Resolutions require jurisdictions to freeze without delay the funds or other assets of, and to ensure that no other funds or assets are made available to (directly or indirectly) to or for the benefit of any, person or entity designated by or under the authority of the United Nations Security Council (UNSC).

The UNSC is one of the six principal organs of the United Nations (UN) and is charged with ensuring international peace and security, recommending the admission of new UN members to the General Assembly and approving any changes to the UN Charter.

The UNSC is the only UN body with the authority to issue resolutions that are binding on member states.

The UNSCRs are formal statements of the UNSC's opinion or will. These Resolutions can resolve international disputes and threats to peace and security, impose sanctions such as travel bans and asset freezes and approve mandates for peace keeping forces.

UN Designation Criteria

The criteria for designation as specified in the UNSCR are:

UNSCR 1267 (1999), 1989 (2011) and successor resolutions:

a. any person or entity involved in the planning, financing, facilitating or perpetrating of acts or activities under the name of or in support of supplying or selling of arms and related material to support Al Qaida/ the Taliban or any affiliate group of Al Qaida/ the Taliban.

b. any undertaking owned or controlled by any person or entity designated in (a) above or by persons acting on their behalf.

UNSCR 1373 (2001):

a. any person or entity who commits or attempts to commit terrorist acts or who facilitates the commission of terrorist acts.

b. any entity owned or controlled by any person or entity designated under this UNSCR.

c. any person or entity acting on behalf of or at the direction of any person or entity designated under this UNSCR.

Financial Institutions (FIs) are reminded to submit the quarterly Terrorist Property Report to the FIU and the FSRC in accordance with Section 20 of the ATA.



Notify the Attorney General, the FIU and the FSRC of the freezing action in accordance with Section 119 of the ATA.

PLEASE NOTE

Freezing and Prohibition of Funds and Assets

Countries are required to freeze without delay and without prior notice, the funds or assets of designated persons and entities.

Countries should also prohibit any person or entity within the jurisdiction from making any funds, assets or any service or resource available to the designated person or entity.

Countries should have mechanisms for communicating designations to financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) providing clear guidance.

FIs and DNFBPs are required to report any frozen assets or actions taken to Competent Authorities.

The Role of the FSRC

The FSRC regularly disseminates the various sanctions lists including lists from the UN and the Office of Foreign Asset Control (OFAC) in accordance with Regulation 14 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, No. 13 of 2023. Regulated Entities are required to screen their new and existing customer listings against these lists in accordance with Section 115 of the Anti-Terrorism Act (ATA), Cap 4.02.

If a regulated entity identifies a designated person, entity or group, the following steps should be taken:

- Freeze without delay (within 24 hours) funds and/or assets in accordance with Section 117 of the Anti-Terrorism Act; and
- File a suspicious transaction report (STR) with the Financial Intelligence Unit (FIU) within 24 hours in accordance with Section 115 of the ATA.

A country's regime to implement UNSCRs 1267 and 1373 should include the following elements:

- ⇒ Competent Authority or Court for proposing or designating persons or entities;
- ⇒ Mechanisms for identifying targets for designation;
- ⇒ Legal Authorities and procedures to collect and solicit information from all relevant sources to identify persons and/or entities that meet the criteria for designation.
- ⇒ Procedures to operate ex-parte against a person or entity who has been identified for designation.

De-Listing and Unfreezing of Funds and Assets

Countries should have publicly known procedures for de-listing and unfreezing of the funds and assets of persons and entities that no longer meet the designation criteria.

A mechanism should also be in place through which a designated person or entity can challenge their designation; have it reviewed by a court or competent authority.

Jurisdictions should have mechanisms for communicating de-listing and unfreezings to FIs and DNFBPs immediately upon taking action.

Regulation 11 of the Anti-Terrorism Regulations makes provisions for de-listing requests for an individual, group or entity which no longer meets the designation criteria. Schedule 2 of the Regulations outlines the criteria for de-listing.