

**SAINT CHRISTOPHER AND NEVIS**

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**STATUTORY RULES AND ORDERS**

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**No. 13 of 2023**

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**Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023.**

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In exercise of the powers conferred by section 120 of the Anti-Terrorism Act, Cap. 4.02 the Minister makes the following Regulations:

*[Published 18<sup>th</sup> May 2023, Official Gazette No. 27 of 2023.]*

**1. CITATION.**

These Regulations may be cited as the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023.

**2. INTERPRETATION.**

In these Regulations,

“Act” refers to the Anti-Terrorism Act, Cap. 4.02.;

“Competent Authority” means the Attorney General pursuant to section 114 of the Act;

“UNSC” means the United Nations Security Council;

“UNSCR” means United Nations Security Council Resolution.

**3. OBJECT.**

The object of these Regulations is to assist in giving effect to Resolutions 1267(1999), 1988(2011), 1373 (2001) of the Security Council of the United Nations.

**4. COMPETENT AUTHORITY TO GATHER EVIDENCE FOR LISTING.**

Pursuant to the provisions of sections 114 and 116, where it is proposed to list an individual, entity or undertaking to the UNSCR list for the UNSCRs 1267(1999), 1988(2011), 1373 (2001), the Competent Authority shall ensure that it has supporting evidence to substantiate its request.

**5. CONTACT WITH STATE WHERE PERSON RESIDES.**

(1) In seeking to substantiate its request, the Competent Authority shall make contact with the State where the individual or entity concerned resides or has citizenship in order to seek any additional information that is available in relation to that individual or entity.

(2) In seeking to make contact with the State referred to in subregulation (1), the Competent Authority may liaise and collaborate with the National Anti-Money Laundering Committee, the Ministry of Foreign Affairs, the White Collar Crime Unit and such other Government ministries, departments or agencies that may assist it in carrying out this objective.

## **6. SUBMISSIONS OF NAMES TO UNSCR.**

(1) Where the Competent Authority has gathered the relevant supporting evidence pertaining to actions that meet the listing criteria as set out in Schedule 1, it shall, as soon as practicable, submit the names to the UNSCR of the individual, entity or undertaking that it is proposing to be listed.

(2) When submitting the names of groups, undertakings or entities, the Competent Authority shall, where it considers it to be necessary, to propose for listing at the same time the names of the individuals responsible for the decisions of the entity concerned.

## **7. LISTING REQUEST.**

(1) Where the Competent Authority makes a listing request, that request must contain a detailed statement of case in support of the proposed listing and the specific criteria under which the names of individuals, groups, undertakings or entities are being proposed.

(2) The details of the statement of case and specific criteria should contain at a minimum the matters set out in Part B of the Schedule.

(3) A listing request shall be submitted in respect of an individual, group or entity using one of the Standard Forms for Listing as set out on the United Nations Security Council website under Procedures for Listing.

## **8. EX PARTE.**

(1) Where the Competent Authority is satisfied that there are reasonable grounds for the designation of an individual or entity pursuant to the provisions of section 116, then the Competent Authority may proceed ex parte against the person to propose an individual for designation to the relevant UNSCR Committee in accordance with the provisions of section 116.

(2) Where the Competent Authority is satisfied that an individual or entity has been designated under the relevant UNSCR Resolutions, then the Competent Authority may, pursuant to sections 117 and 118 of the Act, proceed ex parte against the person to

- (a) freeze without delay the funds or other assets of designated individuals or entities; or
- (b) prohibit the availability of funds, other assets, economic resources, financial or other resources, directly or indirectly for the benefit of those designated individuals or entities or persons acting on behalf of those designated individuals or entities.

## **9. WITHOUT PRIOR NOTICE.**

Subject to the provisions of section 117 and 120(2) of the Act, the requirement on all natural and legal persons to freeze without delay the funds or other assets of designated persons or other entities shall be done without prior notice.

## **10. TIME FOR PROHIBITION REMAINING IN PLACE.**

Where pursuant to section 118, a prohibition is made in respect of funds or other resources that are made available to designated persons or entities, persons acting on their behalf or entities owned or controlled by designated persons or entities, the prohibition shall remain in place unless the natural persons, other persons or entities licensed, authorized or otherwise notified in accordance with the relevant UNSCRs.

## **11. DE-LISTING REQUESTS.**

(1) Where the Competent Authority determines that the listing criteria are no longer applicable to a designated individual, group or entity, then a request for de-listing shall be made to the Office of the Ombudsperson of the UNSC's ISIL (Da'esh) and Al-Qaida Sanctions Committee.

(2) The de-listing request shall be on the basis of the criteria set out in Schedule 2 and should be made in accordance with the form for De-listing Requests set out on the UNSC's website under Procedures for De-listing.

## **12. REVIEW OR APPEAL FROM DESIGNATION.**

(1) Where a designation has taken place pursuant to UNSCR 1373, a designee or other person materially affected by the designation, may appeal to the High Court for a judicial review of the decision in question.

(2) Where a designation has taken place pursuant to UNSCR 1988, the designee or other person materially affected by the designation may, in accordance with the Guidelines of the Committee for the Conduct of its Work, petition the Focal Point mechanism set out under UNSCR 1730 to review the designation.

(3) Where a designation has taken place pursuant to UNSCR 1267 or related to the Al-Qaida Sanctions List, the designee or other person materially affected by the designation, may petition the Office of the Ombudsman pursuant to UNSCRs 1904, 1989, and 2083 to accept delisting petitions.

## **13. INFORMATION RE 1373 FREEZING MECHANISMS.**

Where pursuant to UNSCR 1373, a request is made to another country to give effect to the actions initiated under the freezing mechanisms, the Competent Authority shall ensure that such a request includes

- (a) sufficient details in respect of identifying information; and
- (b) specifying adequate information supporting the designation.

## **14. MECHANISMS FOR COMMUNICATING DESIGNATIONS.**

(1) Where an individual or entity has been designated pursuant to UNSCRs 1267/1989, 1988/2001 or 1373, that information shall be dealt with as follows:

- (a) a memorandum communicating the fact of the designation shall be sent from the Ministry of Foreign Affairs to the Financial Services Regulatory Commission; the information shall be;
- (b) upon receipt of the memo referred to in paragraph (a), the Financial Services Regulatory Commission shall notify the financial institutions and the DNFBPs of the designation;
- (c) subsequent to the issuance of the notification, the information shall also be disseminated via electronic means to the regulated entities and posted on the website of the Financial Services Regulatory Commission in both St Kitts and Nevis.

(2) The notification referred to in subregulation (1) shall include clear guidance on how designated individuals or entities should be treated by regulated entities including

- (a) freezing without delay of assets;
- (b) reporting; and
- (c) holding of targeted funds or other assets.

(3) Where a designated individual or entity has been removed from the UNSCR Sanctions Lists, that information shall be communicated by the Ministry of Foreign Affairs to the Financial Services Regulatory Commission, which shall then inform the regulated entities in like manner as the designation was communicated to them in subregulation 1.

## **SCHEDULE 1**

### **PART A**

#### **LISTING OR DESIGNATION CRITERIA**

##### **UNSCR 1267**

1. Designated acts or activities indicating that an individual, group, undertaking or entity is associated with Al-Qaida or the Taliban include:
  - (a) participating in the financing, planning, facilitating, preparing or perpetrating of acts or activities by in conjunction with under the name of, on behalf of or in support of Al-Qaida;
  - (b) supplying, selling or transferring arms and related materials;
  - (c) recruiting for or otherwise supporting acts or activities of Al-Qaida or any cell, affiliate, splinter cell or derivative thereof;
2. Any individual, group, undertaking, or entity either owned or controlled, directly or indirectly by or otherwise supporting any individual, group, undertaking or entity associated with Al-Qaida including those on the Al-Qaida's Sanctions list shall be eligible for designation.
3. The requirements in paragraph 1(a) above apply to financial and economic resources of every kind including but not limited to those used for the provision of internet hosting or related services used for the support of Al-Qaida and other individuals groups undertakings or entities associated with it.

##### **UNSCR 1988**

1. The acts of any person or entity participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, in support of; supplying, selling or transferring arms and related material; recruiting for, or otherwise supporting acts or activities of those designated and other individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan; or
2. The acts of any undertaking owned or controlled, directly or indirectly, by any person or entity designated under subsection 13(b)(i) of this subparagraph, or by persons acting on their behalf at their direction.

**UNSCR 1373**

1. Any person or entity who commits or attempts to commit terrorist acts, or who participates in or facilitates the commission of terrorist acts;
2. Any entity owned or controlled, directly or indirectly, by any person or entity designated under subsection 13(c)(i) of this subparagraph; or
3. Any person or entity acting on behalf of, at the direction of, any person or entity designated under subsection 13(c)(i) of this subparagraph.

**PART B****LISTING REQUESTS**

Member States may at any time submit to the Committee listing requests for inclusion of individuals, groups, undertakings and entities on the ISIL (Da'esh) & Al-Qaida Sanctions List.

Listing requests must contain a detailed **Statement of Case** in support of the proposed listing and the specific criteria under which the names of individuals, groups, undertakings or entities are being proposed for designation, shall include:

1. specific findings and reasoning demonstrating that the listing criteria are met;
2. details of any connection with a currently listed individual or entity;
3. information about any other relevant acts or activities of the individual or entity;
4. the nature of the supporting evidence, such as intelligence, law enforcement, judicial, media, admissions by subject and related matters;
5. supporting evidence or documents.

To the extent possible, the following specific information should be provided to allow for the positive identification of the individual or entity concerned by competent authorities:

1. For individuals: family name/surname, given names, other relevant names, date of birth, place of birth, nationality/citizenship, gender, aliases, employment/occupation, residence, addresses, passport or travel document (including date and place of issue as well as expiration date) and national identification numbers, current and previous addresses, website addresses, current location and any biometric information (physical description, photographs, fingerprints);
2. For groups: name, short name(s)/acronyms, and other names by which it is known or was formerly known, operational areas, address, organizational linkages, nature of activity, State(s) of main activity, founders and/or leaders.
3. For undertakings or entities: name, registered name, short name(s)/acronyms, and other names by which it is known or was formerly known, address, headquarters, branches/subsidiaries, organizational linkages, parent company, nature of business or activity, State(s) of main activity, leadership/management, registration (incorporation) or other identification number, status (e.g. in liquidation, terminated), website addresses.

**SCHEDULE 2**  
**DE-LISTING REQUEST CRITERIA**

A request for de-listing should contain the following information:

1. An explanation as to why the designation does not or no longer meets the listing criteria. This should be accomplished through countering the reasons for listing as stated in the list entry for that particular individual or entity;
2. The designee's current occupation and/or activities, and any other relevant information, such as information on assets;
3. Any documentation supporting the request can be referred to or attached together with the explanation of its relevance, where appropriate.

In respect of a deceased individual the following information should be included

1. Death Certificate or similar documentation confirming the death whenever possible.
2. Whether or not any legal beneficiary of the deceased's estate or any joint owner of this or her assets is on the Sanctions Lists.

Made this 17<sup>th</sup> day of May, 2023.

TERRANCE M DREW  
*Minister of National Security*