

**THE UNITED REPUBLIC OF TANZANIA**

**FINANCIAL INTELLIGENCE UNIT**



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**TARGETED FINANCIAL SANCTIONS GUIDELINE**

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**JULY, 2022**

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## Definitions

- Designated Person or Entity
- Delisting
- False Positive
- Freeze
- Funds or other assets
- Property
- Means a party that is declared by the Minister or by the Security Council to be subjected to targeted financial sanctions;
  - Means the identification and declaration of a designated party as being no longer subject to targeted financial sanctions;
  - This occurs where there is a name match but the client/customer is not the person on the United Nations Security Council List;
  - Means prohibition of transfer, conversion, disposition or movement of any funds or other assets that are owned or controlled by a designated party on the basis of, and for the duration of the validity of the designation;
  - The term funds or other assets means any assets, including, but not limited to, financial assets, economic resources (including oil and other natural resources), property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services;
  - Defined to include funds, whether situated in United Republic of Tanzania (URT) or elsewhere, and any legal or equitable interest, whether full or partial, in property;

Targeted  
Financial  
Sanctions  
Without  
Delay

- Means both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated persons and entities. (FATF)
- Means within a matter of hours after designation or within such a time to prevent flight or dissipation of funds or other assets of the designated party or within such time before the designated party or any other relevant or concerned person becomes aware of the designation or within such time to allow concerted action to swiftly interdict and disrupt their flow

Financial  
sanctions

- Financial sanctions are restrictions put in place by the UN and other groups on countries to achieve a specific foreign policy or national security objective. They can limit the provision of certain financial services and restrict access to financial markets, funds and economic resources. Financial sanctions come in many forms as they are developed in response to a given situation.

Targeted asset  
freezes

- which are usually applied to named individuals, entities and bodies, restricting their access and ability to use funds and economic resources.

## 1. Introduction

The United Nations Security Council (UNSC) is one of the six principal organs of the United Nations (UN) and has primary responsibility for the maintenance of international peace and security. It has 15 Members, and each member has one vote. Under the Charter of the United Nations, all Member States of the UN are obliged to comply with the Security Council decisions.

The UNSC holds the capacity to take action seeking to maintain or restore international peace and security under Article 41 of Chapter VII of the Charter of the United Nations by imposing sanctioning measures. These measures encompass a broad range of enforcement options that do not involve the authorization of the use of armed force, including interruption of economic relations, international communications, and diplomatic relations.

The Security Council sanctions regimes focus mainly on supporting the settlement of political conflicts, nuclear non-proliferation, and counterterrorism. These regimes include measures ranging from comprehensive economic and trade sanctions to more targeted measures such as arms embargoes, travel bans, and restrictions on dealing with certain financial or commodity transactions.

In addition, the Financial Action Task Force (FATF), an inter-governmental body responsible for setting international standards on anti-money laundering (AML) and countering the financing of terrorism (CFT) and proliferation (CPF), under Recommendations 6 and 7 (R6/R7). The United Republic of Tanzania (URT) as a member of Eastern and Southern Anti-Money Laundering Group (ESAAMLG) a regional style body of FATF has an obligation to comply with 40 FATF Recommendations which requires the implementation of targeted financial sanctions

(TFS) to comply with the UN Security Council Resolutions (UNSCRs) relating to the prevention and suppression of terrorism, terrorism financing, and proliferation financing.

The United Republic of Tanzania (URT), as a member of the United Nations, is committed to implementing UNSCRs, including those related to the UN's sanctions regimes. Consequently, the URT is implementing relevant UNSCRs on the suppression and combating of terrorism, terrorist financing and countering the financing of proliferation of weapons of mass destruction, in particular relating to TFS. Persons should note that, in accordance with the laws of the URT, the URT Government also applies TFS by publishing a Local Terrorist List in accordance with UNSCR 1373 (2001).

The term TFS refers to asset freezing and other financial prohibitions, agreed upon by the UNSC, to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated individuals, entities, or groups.

The purpose of this Guideline is to assist reporting persons generally in complying with their obligations regarding targeted financial sanctions. This specifically relates to the prevention and suppression of terrorism and terrorist financing, and the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.

## 2. Targeted financial sanctions (TFS)

The term targeted financial sanctions means both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated persons and entities.

"Designated persons" - Any person or entity designated as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable United Nations Security Council Resolution or by another jurisdiction or supra-national jurisdiction.

### 3. Financial Assets

The POTA (General) regulations, 2022 requires the freezing of "property or funds" which defined as financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends, or other income on or value accruing from or generated by such funds or other assets.

Property or funds also include-

- (a) all funds or other assets that are owned or controlled by the designated person or entity, and which are not limited to those that can be tied to a particular terrorist or proliferation act, plot or threat;
- (b) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;
- (c) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; and
- (d) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

### 4. Ownership

Ownership under the law include **"beneficial ownership"**. A **"beneficial owner"** refers to any natural person who-

- (a) ultimately owns or controls the customer and/or on whose behalf a transaction or activity is being conducted; or

(b) has ultimate effective control over a legal person or arrangement.

Any natural person who directly or indirectly **owns five percent (5%) or more** of the legal person who is a customer of the covered person ('Ownership Prong') shall be considered the **beneficial owner**.

If the ultimate beneficial owner of a juridical person is a designated person, the financial sanctions shall also apply to the said juridical person.

If the ultimate beneficial ownership of an entity rests with a designated person (for example, they own a corporate body which owns another corporate body), the POTA Legislation takes the view that all entities that are part of the ownership chain are subject to financial sanctions.

Example:

**Entity X** is not listed under the consolidated list. However, your research shows that the majority owner or the beneficial owner of **Entity X** is designated **Entity Y**.

As the ownership criterion has been met, **Entity X** is also subject to the same restrictions as designated **Entity Y**.

## 5. Scope of the asset freeze

The assets freeze applies to all economic resources and assets owned or controlled by listed individuals, groups, undertakings and entities. It also applies to the funds that are derived from property that they own or control, directly or indirectly, or that are owned or controlled by persons acting on their behalf or at their direction.



The funds and assets referred to by the law, are not limited to those that can be tied to a particular terrorist or proliferation act, plot or threat.

#### 6. Economic resources

These includes assets of every kind, whether movable, immovable, tangible, intangible, actual or potential, which potentially may be used to obtain funds, goods or services, such as-

- (a) land, buildings and other real estate;
- (b) equipment, including computers, computer software, tools, and machinery;
- (c) furniture, fittings and fixtures and other items of a fixed nature;
- (d) vessels, aircrafts and motor vehicles;
- (e) inventories of goods;
- (f) works of art, precious stones, jewelers and gold;
- (g) commodities, including oil, minerals and timber;
- (h) arms and related materials;
  - patents, trademarks, copyrights, trade names, franchises, goodwill and other forms of intellectual property;
  - internet hosting and other related services used for the support of designated parties;
- (i) direct and indirect trade in oil and refined products, modular refineries and related material, including chemicals and lubricants and other natural resources; actual or potential
- (j) any other assets, whether tangible, intangible,

## 7. Minority interests

If a designated person has a minority interest (i.e. owns less than 5% of the legal person) in another legal person or entity this does not necessarily mean that financial sanctions also apply to them as the ownership criterion has not been met. However, the reporting person should remain vigilant to any changes in the stake held by the designated person in case it increases to greater than 5% (or they obtain a majority interest) at which point financial sanctions will also apply to that legal person or entity.

The reporting person should also consider whether a designated person is in 'control' of another legal person or entity. Financial sanctions apply in this situation even where a designated person only possesses a minority interest.

## 8. Rights of bona fide third parties

Any freezing order granted under the Prevention of Terrorism (General) Regulations, 2022, apply without prejudice to the rights of bona fide third parties.

Any person who has an interest in any funds or other assets which is subject to a freezing order granted in URT may apply to the Court to exclude his interests from the freezing order, and the Court may grant an application where it is satisfied on the following;

- (a) the applicant has a legitimate legal interest in the funds or other assets; and
- (b) no participation, collusion or involvement with respect to a terrorist act or financing of terrorism or financing of proliferation which is the subject of the proceedings can be imputed to the applicant.

## 9. Types of financial sanctions

Financial sanctions come in many forms as they are developed in response to a given situation. The Prevention of Terrorism (General) Regulations, 2022, provides two (2) types of sanctions:

- (a) Targeted asset freeze: these apply to named individuals, entities and bodies, restricting access to funds and economic resources. Someone subject to an asset freeze will be listed on the designated persons;
- (b) Prohibition against Dealing:
- Prohibiting any person from dealing, directly or indirectly, in any way and by any means, with any property or funds that he knows or has reasonable ground to believe is owned or controlled by a designated person, organization, association or group of persons, including funds derived or generated from property or funds owned or controlled, directly or indirectly, by a designated person, organization, association or group of persons; or
  - Prohibiting any person from making available any property or funds, or financial services or other related services to a designated person, organization, association or group of persons.

## 10. Freeze orders

The freeze orders direct all reporting persons and competent authorities to freeze without prior notice and preserve without delay property or funds, including related accounts, that are maintained or registered with, possessed or controlled by them, if any, which belong to any of the persons, organizations, associations or group of persons mentioned in the UNSC Consolidated List or those designated by Minister of Home Affairs.

## 11. Who needs to comply with financial sanctions?

The 2022 new POTA regulations, directs the following to comply with the financial sanctions (freeze order and prohibition against dealing) imposed on the individuals and entities under the sanction List:

- (a) reporting persons as defined under the AMLA Cap 423, R.E, 2022;

- (b) competent authorities; and
- (c) The general public, particularly with regard to the prohibition against dealing with property.

## 12. Prohibition against dealing

This means Reporting persons are prohibited from:

- (a) dealing with the funds or other assets, belonging to or owned, held or controlled by a designated person
- (b) making funds or other assets available, directly or indirectly, to, or for the benefit of, a designated person; or
- (c) engaging in actions that, directly or indirectly, circumvent the financial sanctions prohibitions.

Reporting person's obligations imposed by the targeted sanction are as follows:

- (a) to screen customers (individual and company) against the local or UNSCR terrorist or terrorist financiers updated sanction list or domestic list published by the Minister of Home affairs for any positive result and to report to FIU immediately where the screen is positive;
- (b) to report/disclose any existence of any property in his/her possession or control, which is, to his/her knowledge, owned or controlled by or on behalf of a terrorist group;
- (c) to report to the FIU every three months that he is not in possession or control of any property owned or controlled by or on behalf of a Terrorist group;
- (d) Not to make available, any funds or other assets or financial or other related services directly or indirectly, wholly or in part, to or for the benefit of-
  - (i) a designated party;

(ii) a party acting on behalf, or at the direction, of a designated party;

or

(iii) an entity owned or controlled, directly or indirectly, by a designated party, unless authorized by the Minister or by the Security Council.

(e) all reporting persons must freeze without prior notice and without delay funds or other assets of the designated party and inform the Minister without delay the freezing of the funds of other assets.

### 13. Subject of financial sanctions

Any person or entity designated as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable United Nations Security Council Resolution or by another jurisdiction or supra-national jurisdiction may be a subject of targeted financial sanctions.

The information that a reporting person need to captured in order to effectively implement the TFS responsibilities include the following information:

- (a) date of birth;
- (b) passport details;
- (c) nationality;
- (d) last known address;
- (e) National Identification Number for domestics designated persons;
- (f) Beneficial owners for designated entities.

As reporting person, you may find that the name of an individual or entity you are dealing with matches one or more entries on any of the consolidated list. This is known as a **name match**. However, it does not necessarily mean that the individual or entity

you are dealing with is the same one on the list. If you are satisfied that this is the case, you do not need to take further action.

If the individual or entity you are dealing with matches **all the information** on the consolidated list, this is likely to be a **target match**.

#### 14. Asset freeze

The assets freeze, as set out in paragraph 1 (a) of UNSC Resolution 2161 (2014), applies to individuals, groups, undertakings and entities whose names are referred to in the Al Qaida Sanctions List of the Al-Qaida Sanctions Committee. The resolution obliges Member States to Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly for such persons' benefit, or by their nationals or by persons within their territory. The purpose of the assets freeze is to deny listed individuals, groups, undertakings and entities the means to support terrorism. To achieve this, it seeks to ensure that no funds, financial assets or economic resources of any kind are available to them for so long as they remain subject to the sanction's measures

**Table 1: Terrorist group and terrorist financiers.**

S/N	Sanctioned group	Resolutions
1.	Islamic State in Iraq and the Levant (Da'esh), Al-Qaida, and associated individuals, groups, undertakings and entities.	UNSCR 1267 (1999), 1989 (2011) and its successor resolution
2.	Any individual or entity included in the Local Terrorist List, pursuant to UNSCR 1373 (2001)	UNSCR 1373 (2001)

## 15. Minority interests

If a designated person has a minority interest (i.e. owns less than 5% of the legal person) in another legal person or entity this does not necessarily mean that financial sanctions also apply to them as the ownership criterion has not been met. However, you should remain vigilant to any changes in the stake held by the designated person in case it increases to greater than 5% (or they obtain a majority interest) at which point financial sanctions will also apply to that legal person or entity.

You should also consider whether a designated person is in 'control' of another legal person or entity. Financial sanctions apply in this situation even where a designated person only possesses a minority interest.

## 16. Exemptions

Despite the implementation of freeze order, any listed individual or group may apply to the UNSCR 1267 Committee for an exemption to get access to a certain amount of the frozen asset. This exemption is solely for basic necessities expenses only such as food, fees, utilities and

Any party that is designated pursuant to POTA Legislations but believes to be falsely identified may apply for redress to the Security Council in accordance with the procedures of the Security Council.

Any party designated by the Minister of Home Affairs under POTA (General) Regulations, 2022, but believes to be mistakenly identified may apply for redress to the Minister and the Minister upon the advice of the Committee established by the National Security Council Regulations 2013, and being satisfied with the grounds of the application, consider the application and revoke the designation.

Upon the Minister revoking the designation, the designated party's name will be delisted and the Minister will communicate the decision accordingly.

#### 17. Rights of bona fide third parties

Any freezing order granted under the POTA (General) Regulations, 2022, apply without prejudice to the rights of bona fide third parties.

Any person who has an interest in any funds or other assets which is subject to a freezing order granted in URT may apply to the Court to exclude his interests from the freezing order, and the Court may grant application where it is satisfied on the following;

- (a) the applicant has a legitimate legal interest in the funds or other assets; and
- (b) no participation, collusion or involvement with respect to a terrorist act or financing of terrorism or financing of proliferation which is the subject of the proceedings can be imputed to the applicant.

#### 18. Proliferation Financing

“proliferation” includes the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling, supply, sale or use of nuclear, ballistic, chemical, radiological or biological weapons or any other weapon capable of causing mass destruction and their means, of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), including technology, goods, software, services or expertise,

The TFS prohibits any person or entity from making any of the following;

- (a) makes available an asset;
- (b) provides a financial service;
- (c) conducts a financial transaction;

The prohibition applies whether the person knows that, or is reckless as to whether, the asset, financial service or financial transaction is intended to, in whole or in part, facilitate proliferation of WMD in relation to UNSC Resolution Nos. 1718 of 2006 and 2231 of 2015.



**Table 2: TFS on proliferation of weapons of mass destruction (WMD)**

<b>s/n</b>	<b>Sanctioned country</b>	<b>Resolutions</b>
<b>1.</b>	Democratic People's Republic of Korea (DPRK): nuclear related, other weapons of mass destruction-related and ballistic missile-related programmes.	UNSCR 1718 (2006) and its successor resolutions
<b>2.</b>	Islamic Republic of Iran: nuclear programme	UNSCR 2231 (2015)

## 19. Arms embargo and travel ban

### 19.1 Imposition of arms embargo on designated parties

This is a prohibition to any person whether this conduct is carried out from United Republic or by United Republic nationals living abroad or by anyone using flag vessels or aircraft from United Republic against supplying, selling or transferring, directly or indirectly, to a designated party, arms and related materiel of all types, including-

- (a) weapons and ammunition
- (b) military vehicles and equipment;
- (c) paramilitary equipment and spare parts for the aforementioned as well as technical advice, assistance, or training related to military activities.

### 19.2 Imposition of travel ban on designated persons

This is a prohibition against a designated party other than a designated party who is a citizen of United Republic or resident of United Republic, from entering into, or transiting through the United Republic unless there are reasonable grounds to allow a party so designated by the Security Council to enter or be in transit through United Republic.

Where such reasonable grounds exist, the Minister of Home Affairs, may allow that party entry into, or transit through, United Republic.

## 20. Effective date

These guidelines shall become effective on 12 July, 2022.



Fatma A. Simba

**Commissioner**

**Financial Intelligence Unit**