



**GUIDELINES
ON
TARGETED FINANCIAL SANCTIONS
RELATING TO TERRORISM, TERRORISM FINANCING
AND PROLIFERATION FINANCING**

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Guideline No. 1 of 2022

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ACRONYMS

AML/CFT Anti-money laundering and countering the financing of terrorism

DNFBP Designated Non-Financial Business or Profession

DPP Director of Public Prosecution

DPRK Democratic People's Republic of Korea

FATF Financial Action Task Force

FIU Financial Intelligence Unit

UN United Nations

UNSC United Nations Security Council

UNSCR United Nations Security Council Resolution

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INTRODUCTION

This Guideline replaces the Practical Guidance on Targeted Financial Sanctions – Guideline No. 2 of 2015; and the Targeted Financial Sanctions related to Terrorism and Terrorism Financing Guideline No. 3 of 2015 issued by the Financial Intelligence Unit (FIU). It is intended to provide general guidance and does not supersede or override any person or entity’s obligations under the Anti-Money Laundering and Countering the Financing of Terrorism Act and Regulations made thereunder.

Purpose of the Guideline:

The purpose of this Guideline is to provide general information and guidance on how to comply with the local legislative requirements and the Financial Action Task Force (FATF) standards relating to Targeted Financial Sanctions, particularly as they relate to the freezing, unfreezing, and access to frozen funds of a person or entity *designated* by the United Nations Security Council in accordance with the United Nations Security Council Resolutions (UNSCRs) 1267(1999), 1988(2011), 1718(2006), and 2231(2015) and their successor resolutions, or *specified* in accordance with UNSCR 1373(2001) and its successor resolutions as prescribed under Sections 68 (A-I) and 2(2) of the AMLCFT Act (as amended) respectively.

Target Audience:

This Guideline is aimed at the following audience:

- (a) Any *person or entity* including but not limited to reporting entities, who may be holding or dealing with ‘*funds or other assets*’ of a ‘*listed person or entity*’;
- (b) Supervisory Authorities; and
- (c) Other Competent Authorities.

For the purposes of this Guidance -

- (i) A ***Person*** means any natural or legal subject, including a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint

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venture, or other unincorporated organisation or group, capable of acquiring rights or entering into obligations; and

- (ii) An **Entity** means any person whose regular occupation or business is the carrying on of any activity listed in the First Schedule of the AML/CFT Act 2009. E.g. Licensed Financial Institutions (LFIs), Designated Non-Financial Businesses or Professions (DNFBPs) collectively referred to as reporting entities.
- (iii) The term **funds or other assets** means any assets, including, but limited to, financial assets, economic resources, property of very 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, travellers 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.
- (iv) The term **listed person or entity** means, a person or entity specified by the Minister of Finance under section 2(2) of the AML/CFT Act pursuant to UNSCR 1373(2001) or designated by the UN Security Council in accordance with UNSCR 1267(1999), 1988(2011), 1718(2006) or 2231(2015) and their successor resolutions.

APPLICABILITY

Targeted financial sanctions related to terrorism, terrorism financing and proliferation financing are applicable to any listed person or entity *designated* in accordance with UNSCRs 1267(1999), 1988(2011)1718(2006), 2231(2015) and their successor resolutions; or *specified* in accordance with UNSCR 1373(2001) and its successor resolutions pursuant to the AMLCFT Act.

TARGETED FINANCIAL SANCTIONS – THE BASICS

What are targeted financial sanctions?

‘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 a listed person or entity.

Why MUST a person or entity apply targeted financial sanctions?

- **FATF Requirements**

Recommendations 6 and 7 of the FATF International Standards on combating money laundering and the financing of terrorism and proliferation require countries to implement targeted financial sanctions to comply with the UNSCRs that require countries to freeze, **without delay**¹, the funds or other assets of a designated person or entity, and to ensure that no funds and other assets are made available to or for the benefit of:

- I. Any person or entity designated by the 1267 Sanctions Committee pursuant to UNSCR 1267 (1999) and its successor resolutions;
- II. Any person or entity specified by a country pursuant to UNSCR 1373(2001);
- III. Any person or entity designated by the 1718 Sanctions Committee of the Security Council in accordance with UNSCR 1718(2006) and its successor resolutions;
- IV. Any person or entity designated by the 2231 Sanctions Committee in accordance with UNSCR 2231(2015) and its successor resolutions; or
- V. Any person or entity designated by the 1988 Sanctions Committee and its successor resolutions.

- **Guyana’s AML/CFT Legislative Requirements**

In compliance with the FATF Requirements, sections 2(2), and 68A – 68I of the AML/CFT Act 2009 as amended, and the AML/CFT Regulations No. 4 of 2015 as amended, established obligations for persons or entities in relation to:

¹ The phrase without delay means upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organization.

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- I. Any person or entity designated by the 1267 Sanctions Committee pursuant to UNSCR 1267 (1999) and its successor resolutions;
- II. Any person or entity specified by a country pursuant to UNSCR 1373(2001);
- III. Any person or entity designated by the 1718 Sanctions Committee of the Security Council in accordance with UNSCR 1718(2006) and its successor resolutions;
- IV. Any person or entity designated by the 2231 Sanctions Committee in accordance with UNSCR 2231(2015) and its successor resolutions; or
- V. Any person or entity designated by the 1988 Sanctions Committee and its successor resolutions.

What does targeted financial sanctions involve?

Measures implemented to enforce Targeted Financial Sanctions include an asset freezing regime. Asset freeze comprises of two elements:

- (i) A PROHIBITION² on
 - *dealing*³ directly or indirectly with any property of a listed person or entity, including funds derived or generated from property owned or controlled directly or indirectly by the listed person or entity;⁴
 - *entering* into or facilitating, directly or indirectly, any transaction related to a dealing referred to above;
 - *providing* any financial or other related service in respect of the property referred to above;
 - *making* any property, funds and other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities, available for the benefit of a designated, specified or listed person or entity. AND

² This prohibition is for a maximum of five (5) days to allow for the application to the Court for a Freeze Order.

³ The term “dealing” in this context means engaging in a business transaction with a listed with a listed person or entity thereby allowing for the exchange or transfer of funds or other assets.

⁴ Sections 68A(2) and 68E(2) of the AML/CFT Act 2009 as amended

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- (ii) FREEZING of funds or other assets of a listed person or entity by an Order of the Court.⁵

What does an asset freeze do?

An asset freeze prohibits the transfer, conversion, disposition or movement of any funds or other assets that are owned or controlled by a listed person or entity on the basis of, and for the duration of the validity of an action initiated by the United Nations Security Council or in accordance with UNSCRS 1373, 1278, 1988 and 1718 and their successor resolutions.

This freeze should take place without notice and without delay. The aim is to prevent a listed person or entity from having access to funds through third parties making payments which the listed person or entity would otherwise make.

What does asset freeze mean for a person or entity that is holding funds or other assets of a listed person or entity?

In practical terms, access to accounts or other funds held must be blocked. Funds or assets can only be dealt with, for example, released or paid by the person or entity (or any other person) that holds them, under an authorization issued by an Order of the Court.

COMBATING TERRORISM, TERRORISM FINANCING AND PROLIFERATION FINANCING

Monitoring requirement

A person or entity is required to determine on a continuing basis whether it is in possession or control of funds or other assets, or property owned or controlled by or on behalf of a listed person or entity.⁶

“Property” includes –

- (a) All property, funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat;

⁵ Sections 68A(6A) and 68E(7) of the AML/CFT Act 2009 as amended

⁶ S. 68A. (3) and S. 68E. (3) of the AML/CFT Act 2009 as amended

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- (b) Those funds, property or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;
- (c) The funds, property or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as property, funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

Guidance for Reporting Entities

Maintaining sanctions lists

To determine whether you are in possession or control of funds or other assets or property of a listed person or entity, you must put in place and implement policies and procedures to-

- (a) Keep your entity updated with the various resolutions passed by the United Nations Security Council on targeted financial sanctions related to terrorism, terrorism financing and proliferation financing (UNSC Consolidated List), as well as Specified Orders passed by the Minister of Finance (Local List); and
- (b) Maintain an updated and current database of names and particulars of persons or entities designated by the United Nations Security Council Sanctions Committee (UNSC Consolidated List) or specified by the Minister of Finance (Specified Order List).

The UNSC Consolidated List can be accessed on: [United Nations Security Council Consolidated List | United Nations Security Council](#) or the FIU's website at <https://fiu.gov.gy>

Targeted Financial Sanctions (Specified Person/Entity) Order referred to as the "Local List" can be accessed on: [Specified Persons - Finance Intelligent Unit \(Guyana\) \(fiu.gov.gy\)](#).

© Consider the UN Press Releases containing updates to the UNSC Consolidated List shared by the FIU.

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Conducting screening on customers

A reporting entity must conduct checks on its existing, new and potential customers/clients, via a name-screening and/or internal blacklist database to determine if a customer/client is listed on the UNSC Consolidated List or the Local List.

A reporting entity must screen its entire customer/client database without delay when informed of new names added to the UNSC Consolidated List or Local List.

The obligation to conduct screening on customers/clients also includes funds or other assets derived from property owned or controlled, wholly or jointly, directly or indirectly by the listed person or entity. In this regard a reporting entity must conduct checks on-

- (a) Relationship and transactions connected with the listed person or entity.
- (b) Properties or accounts that are jointly owned and/or indirectly controlled by the listed person or entity; and
- (c) Parties related to the accounts including beneficial owners, signatories, power of attorney relationships, guarantors, nominees, trustees, assignees and payors.

Reporting requirements

A person or entity that has in its possession or control, any funds or other assets of a listed person or entity, must report such to the Director, FIU immediately (without delay).⁷

Guidance for Reporting Entities

To determine whether you are in possession of funds or other assets of a listed person or entity, you must first determine whether any of your customer/client is a listed person or entity, and also whether you are dealing with any funds or other assets of that listed person or entity.

Positive name match relating to listings by the Al Qaida 1267(1999) Sanctions Committee or the 1988 Sanctions Committee, or the 1718(2006)/2231(2015) (on DPRK and Iran) Sanctions Committees

⁷ S. 68A(4) and S. 68E(4) of the AML/CFT Act 2009 as amended

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If there is a 'positive name match' meaning that the name of the customer/client appears on the UN Consolidated List, or Local List, a reporting entity must:

- (i) Take reasonable and appropriate measures to verify and confirm that the customer/client is indeed the listed person or entity before informing the Director-FIU.

This can be done by further checking, in the case of a person, the customer/client's *date of birth*, *place of birth*, *nationality*, and *ID Card/Passport number*, and in the case of an entity, the entity's *address* and *other information*, against the information on the UN Consolidated List or Local List. (This will avoid **false positive** situation where extreme measures may be taken against an innocent person or entity) AND

- (ii) If customer/client's details match, immediately complete and submit a Terrorist Property Report. **See Terrorist Property Report Form at Annex I**
- (iii) If the reporting entity is in possession or control of any funds or other assets or property of the listed person or entity the following information must also be included in the report:
 - (a) Number of persons
 - (b) Contracts or accounts involved
 - (c) Total value of the funds or other assets.

Terrorist Property Quarterly Report

A reporting entity is also required to submit a Quarterly Terrorist Property Report to the FIU whether or not it has had dealings with a listed person or entity.⁸ Such reports are due as follows:

⁸ Regulation 5(3) of AML/CFT Regulations No. 4 of 2015 as amended

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- On or before January 7 – for the quarter (October – December)
- On or before April 7 - for the quarter (January – March)
- On or before July 7 – for the quarter (April – June)
- On or before October 7 – for the quarter (July – September)

See Quarterly Terrorist Property Report formats at Annex II

Examples of Terrorism Financing/Proliferation Financing listings on the UNSC Consolidated List

QD refers to the Al Qaida 1267 Sanctions Committee

(i) refers to individual

(e) refers to entity

Hence QDi or QDe as seen below:

QDi.420 Name: 1: HAJJI 2: 'ABD AL-NASIR 3: na 4: na

Title: na **Designation:** na **DOB:** Between 1965 and 1969 **POB:** Tall 'Afar, Iraq **Good quality a.k.a.:** a) Hajji Abdelnasser b) Hajji Abd al-Nasr **Low quality a.k.a.:** Taha al-Khuwayt **Nationality:** Iraq **Passport no:** na **National identification no:** na **Address:** Syrian Arab Republic **Listed on:** 19 Nov. 2018 **Other information:** ISIL military leader in the Syrian Arab Republic as well as chair of the ISIL Delegated Committee, which exercises administrative control of ISIL's affairs. INTERPOL-UN Security Council Special Notice web link: <https://www.interpol.int/en/How-we-work/Notices/View-UN-Notices-Individuals> [click here](#)

QDe.106 Name: AL-HARAMAYN FOUNDATION (TANZANIA)

A.k.a.: na **F.k.a.:** na **Address:** a) P.O. Box 3616, Dar es Salaam, Tanzania (at time of listing) b) Tanga, Tanzania (at time of listing) c) Singida, Tanzania (at time of listing) **Listed on:** 26 Jan. 2004 (amended on 21 Mar. 2012) **Other information:** Review pursuant to Security Council resolution 1822 (2008) was concluded on 22 Jun. 2010. INTERPOL-UN Security Council Special Notice web link: <https://www.interpol.int/en/How-we-work/Notices/View-UN-Notices-Entities> [click here](#)

(KP) refers to the 1718(2006)/2231(2015) (on DPRK and Iran) Sanctions Committees

(i) refers to individual

(e) refers to entity

Hence KPi or KPe as seen below:

KPi.036 Name: 1: KIM 2: SOK CHOL 3: 4: na

Title: na **Designation:** a) Acted as the DPRK Ambassador to Burma b) KOMID facilitator **DOB:** 8 May 1955 **POB:** na **Good quality a.k.a.:** na **Low quality a.k.a.:** na **Nationality:** Democratic People's Republic of Korea **Passport no:** 472310082 **National identification no:** na **Address:** na **Listed on:** 30 Nov. 2016 **Other information:** Kim Sok Chol acted as the DPRK Ambassador to Burma and he operates as a KOMID facilitator. He was paid by KOMID for his assistance and arranges meetings on behalf of KOMID, including a meeting between KOMID and Burmese defense related persons to discuss financial matters.

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KPe.013 Name: BANK OF EAST LAND

A.k.a.: a) Dongbang BANK b) TONGBANG U'NHAENG c) TONGBANG BANK **F.k.a.:** na **Address:** PO Box 32, BEL Building, Jonseung-Dung, Moranbong District, Pyongyang, Democratic People's Republic of Korea **Listed on:** 22 Jan. 2013 **Other information:** DPRK financial institution Bank of East Land facilitates weapons-related transactions for, and other support to, arms manufacturer and exporter Green Pine Associated Corporation (Green Pine). Bank of East Land has actively worked with Green Pine to transfer funds in a manner that circumvents sanctions. In 2007 and 2008, Bank of East Land facilitated transactions involving Green Pine and Iranian financial institutions, including Bank Mellī and Bank Sepah. The Security Council designated Bank Sepah in resolution 1747 (2007) for providing support to Iran's ballistic missile program. Green Pine was designated by the Committee in April 2012.

TA refers to the Taliban 1988 Sanctions Committee

(i) refers to individual

(e) refers to entity

Hence TAI or TAE

TAi.005 Name: 1: MUHAMMAD 2: TAHER 3: ANWARI 4: na

Name (original script): محمد طاهر أنوري

Title: Mullah **Designation:** a) a) Director of Administrative Affairs under the Taliban regime b) Minister of Finance under the Taliban regime **DOB:** Approximately 1961 **POB:** Zurmat District, Paktia Province, Afghanistan **Good quality a.k.a.:** a) Mohammad Taher Anwari b) Muhammad Tahir Anwari c) Mohammad Tahre Anwari **Low quality a.k.a.:** Haji Mudir **Nationality:** Afghanistan **Passport no:** na **National identification no:** na **Address:** na **Listed on:** 23 Feb. 2001 (amended on 3 Sep. 2003, 9 Jul. 2007, 21 Sep. 2007, 29 Nov. 2011) **Other information:** Belongs to Andar tribe. Review pursuant to Security Council resolution 1822 (2008) was concluded on 23 Jul. 2010. INTERPOL-UN Security Council Special Notice web link: <https://www.interpol.int/en/How-we-work/Notices/View-UN-Notices-Individuals> [click here](#)

NOTE:

While the UNSC Consolidated list contains listings by the Al Qaida 1267(1999) Sanctions Committee, the Taliban 1988 Sanctions Committee, or the 1718(2006)/2231(2015) (on DPRK and Iran) Sanctions Committees, it is important to note that the list also contains listings by other Sanctions Committees such as the Sanctions Committee concerning Iraq, the 2127 Committee concerning Central Africa, and the 2374 Sanctions Committee etc.

Positive name match relating to listings by other Sanctions Committees

If there is a 'positive name match' a reporting entity must:

- (i) Take reasonable and appropriate measures to verify and confirm that the customer/client is the listed person or entity before informing the Director-FIU; and

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- (ii) If customer/client's details match, immediately complete and submit a Suspicious Transaction Report to the FIU.

LISTING

Designations by the United Nations and Specification by Guyana

According to the FATF Recommendations 6 and 7 Countries have a responsibility for

- (i) proposing to the relevant United Nations Sanctions Committee (1267/1988/1718/2231) for designation as appropriate, persons or entities that meet the specific criteria for designation, if that country decides to do so, and believes that it has sufficient evidence to support the designation criteria; and
- (ii) designating persons or entities that meet the specific criteria for designation, as set out in resolution 1373(2001), as put forward either on the country's own motion or, at the request of another country, once satisfied that a requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee meets the criteria for designation.

The United Nations Security Council therefore makes designations based on proposals which must follow the Council's procedures for listing.

In Guyana, the Minister of Finance is responsible for making specification orders⁹ based on recommendation by the Director-FIU who makes such recommendation where there are reasonable grounds to believe that: -

- (a) a person or entity has knowingly committed, attempted to commit, participated in committing or facilitated the commission of a terrorist act;
- (b) a person or entity is knowingly acting on behalf of, at the direction of, or in association with a person or entity referred to above;
- (c) a person or entity carrying out the actual or similar activities referred to above, or a person or entity controlled directly, or indirectly by such person or entity;

⁹ Section 2(2) of the AML/CFT Act 2009 as amended

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- (d) a person or entity is listed by the UN Security Council as a terrorist or terrorist organization;
- (e) a person or entity has committed or participated in the commission of an offence listed under sections 75A or 75B of the Anti-Terrorism and Terrorist Related Activities Act No. 15 of 2015; or
- (f) a request to designate a person as a terrorist or terrorist entity is transmitted to Guyana from another country is supported by reasonable grounds for the designation and is accepted by Guyana.¹⁰

UNSC Consolidated list

The names and particulars of individuals and entities designated by the UNSC and subject to measures imposed by the Security Council are included in the Consolidated List. The inclusion of all names on one Consolidated List is to facilitate the implementation of the measures, and neither implies that all names are listed under one regime, nor that the criteria for listing specific names are the same. For each instance where the Security Council has decided to impose measures in response to a threat, a Security Council Committee manages the sanctions regime. Each sanctions committee established by the United Nations Security Council therefore publishes the names of individuals and entities listed in relation to that committee as well as information concerning the specific measures that apply to each listed name.

Guyana's Targeted Financial Sanctions (Specified Person/Entity) Order (UNSCR 1373).

The names and particulars of persons or entities specified by the Minister of Finance are included in an Order published in the Official Gazette. E.g. Targeted Financial Sanctions (Specified Person/Entity) Order, otherwise referred to as the "Local List".

Notice of updates to the UNSC Consolidated List and the Local List

The FIU is responsible for updating reporting entities through their respective supervisory authority, when:

- (i) There are new listings of designated persons or entities,

¹⁰ Section 2(2)(1) of the AML/CFT Act 2009 as amended

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- (ii) Designated persons or entities are de-listed, or
- (iii) There are amendment(s) to previous listings.

How often is the UNSC Consolidated List and the Local List updated?

There is no predetermined timetable for updating the Lists. Updates are dependent on when there are changes (i.e. additions, deletions or amendments) to the list of individuals and entities targeted by the UNSC or the Minister of Finance.

Reporting entities are informed of updates through their respective supervisory authorities as soon as possible after the publication of targeted financial sanctions Orders by the Minister of Finance and updates to the Consolidated List.

DELISTING

- De-listing procures in case of persons or entities designated pursuant to resolutions 1267(1999), 1988(2011), 1718(2006), and 2231(2015) and their successor resolutions.

Where a person or entity designated by the United Nations Security Council Committee pursuant to resolutions 1267((1999), 1988(2011), 1718(2006), and 2231(2015) and their successor resolutions no longer meets the criteria for such designations, the listed person or entity on its own behalf or the Director-FIU on behalf of the listed person or entity may submit a de-listing request to the relevant United Nations Focal Point.¹¹

- De-listing procedure in case of a person or entity specified by the Minister of Finance pursuant to UNSCR 1373(2001)

A person or entity may make an application to revoke a specified order within sixty days of the notice of specification. If the Minister of Finance decides that there are reasonable grounds for the revocation, he shall revoke the order.¹²

¹¹ Regulation 9 of the AML/CFT Regulations No. 4 of 2015 as amended

¹² Section 2(5) of the AML/CFT Act 2009 as amended

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“Reasonable grounds” could include where a person or entity with the same or similar name as a listed person or entity was inadvertently affected by a freezing mechanism (i.e., false positive).

If following a review to determine whether reasonable grounds continue to exist for the application of TFS to a specified person or entity, the Director determines that such grounds no longer exist, he shall make a recommendation to the Minister of Finance for the specified order to be revoked. The Minister of Finance, if satisfied, based on the evidence provided in support of the Director’s recommendation, may revoke the specified order.

FREEZING

Prohibition/ freeze requirement

A person or entity is prohibited from knowingly –

- (a) Dealing directly or indirectly with any funds or other assets of a listed person or entity.
- (b) Entering into or facilitating, directly or indirectly, any transaction related to a listed person or entity.
- (c) Providing any financial or other related services in respect of funds or other assets of a listed person or entity.
- (d) Making any property or any financial or other related service available, directly or indirectly, for the benefit of a listed person or entity.
- (e) Making any property, funds and other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities, available for the benefit of a designated, specified or listed person or entity.¹³

Further, where a person or entity has determined that it is in possession or control of property, funds or other assets, the person or entity must without prior notice and without delay, freeze¹⁴ all the property held by it in relation to a listed person or entity.

¹³ Sections 68A(2) and 68E(2) of the AML/CFT Act 2009 as amended

¹⁴ Freeze in this context means to prohibit the transfer, conversion, disposition or movement of any funds or other assets that are owned or controlled by a listed person or entity.

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Guidance for Reporting Entity

Once it is established that a customer/client is a listed person or entity, the reporting entity must –

- (a) Immediately (without prior notice and without delay) freeze;
- (b) Notify the Director of such freeze;
- (c) Await Freeze Order by the Court.

This initial freeze is to allow the Director of Public Prosecutions (DPP) to apply to a Judge in Chambers for a Freeze Order in respect of the funds or other assets of the listed person or entity.

Once the Court grants a Freeze Order, the DPP shall immediately serve on the person or entity holding funds or other assets of the listed person or entity, and the reporting entity must comply with the instructions in the Freeze Order.

UNFREEZING FUNDS OR OTHER ASSETS/PROPERTY

Unfreezing funds or other assets of persons or entities designated pursuant to resolutions 1267 (1999), 1988(2011), 1718(2006), and 2231(2015) and their successor resolutions.

Where the relevant United Nations Security Council Committee de-lists a person or entity, the obligation to freeze no longer exists.

In the case of a freeze order issued by the court, the court may upon application by the DPP revoke a freeze order made in relation to the funds or other assets of a designated person or entity.¹⁵ Such application may be made based on verifiable evidence that the person or entity was de-listed by the United Nations Security Council Committee.

¹⁵ Regulation 9A(1) of the AML/CFT Regulations No. 4 of 2015 as amended

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Unfreezing funds or other assets of a person or entity specified by the Minister of Finance pursuant to UNSCR 1373(2001)

In the case of freeze order by the court, where the Director-FIU believes that a person or entity specified by the Minister of Finance no longer meets the criteria for specification, the Director shall advise the DPP to apply for a revocation order. The court *if satisfied*, shall revoke a freeze order made in relation to the funds or other assets of a person or entity specified by the Minister of Finance.¹⁶ The application for a revocation order may be made based on verifiable evidence that the Order specifying the person or entity was revoked by the Minister of Finance and that the person or entity affected is not a specified person or entity and as such was inadvertently affected by the freezing mechanism (i.e. a false positive).

Guidance for reporting entity

Once the court issues a revocation order, the DPP shall immediately serve the revocation order on the reporting entity holding the funds or other assets of the listed person or entity and the reporting entity shall re-commence dealing with such funds or other assets.¹⁷

In the case of freeze by prohibition (i.e. order by the Director-FIU), affecting a listed person or entity, if that person or entity no longer meets the criteria for a declaration as a specified person or entity or where the relevant UNSC Committee has de-listed a designated person or entity, the Director may instruct the reporting entity that is prohibiting access to the funds or other assets to allow access to such funds or other assets by the affected person or entity.

¹⁶ Regulation 8(1) of the AML/CFT Regulations No. 4 of 2015 as amended

¹⁷ Regulation 8(2) of the AML/CFT Regulations No. 4 of 2015 as amended by Regulation 7 of 2015

AUTHORIZING ACCESS TO FROZEN FUNDS

Making funds or other assets available to a listed person or entity

A person or entity is prohibited from knowingly making funds or other assets available, directly or indirectly, to a listed person or entity. Making funds or other assets indirectly available to a listed person or entity would involve the funds or other assets being routed via a third party. For example, it would be illegal to give funds to a listed person's family, friend, business partner or attorney-at-law knowing or suspecting that some or all of the funds will be given to the listed person or entity. However, the Court can authorize access to such funds or other assets in accordance with the AML/CFT legislation.¹⁸

A reporting entity may allow access to frozen funds or other assets of a listed person or entity where it has been determined by an Order of the Court to be necessary for payment of –

- (a) The person's reasonable living expenses (including the reasonable living expenses of the person's dependents, if any) and reasonable business expenses.
- (b) The person's reasonable expenses in defending a criminal charge and any proceedings under the AMLCFT Act.
- (c) A specified debt incurred by the person in good faith.
- (d) Any other expenses the Court may deem necessary.

Authorization

An authorization is a written notice from the Court to allow an activity which would otherwise be prohibited. An authorization may include associated reporting requirements or other conditions. Where it is determined that funds or other assets of a person or entity designated by the Security Council or one of its relevant sanctions committee are necessary for basic expenses, for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses, the Court may authorize access to such funds or other assets in accordance with the relevant UNSCR.

¹⁸Sections 68D and 68H of AML/CFT Act 2009 as amended

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Procedure for authorizing access to frozen funds or other assets

The owner or holder of funds or other assets frozen in accordance with the AML/CFT legislation may apply to the Court for access to the frozen funds or other assets for basic expenses or extraordinary expenses.¹⁹

What are basic expenses?

Basic expenses may include:

- Payment for foodstuff
- Rent or mortgage
- Medicines and medical treatment
- Taxes
- Insurance premiums
- Public utility charges
- Payments exclusively for reasonable professional fees and reimbursements of associated incurred expenses

Basic expenses are therefore considered to cover expenditure which is necessary to maintain basic everyday needs only. In authorizing basic expenses, the Minister of Legal Affairs may consider what is reasonable to meet the everyday needs of a person in the position of the listed person or entity, taking account of any specific needs of the individual and their family. However, the Court may not necessarily authorize access to the full amount requested to allow the listed person or entity to continue to lead a “lavish lifestyle”, particularly where this would defeat the purpose of the listing.

What are extraordinary expenses?

Extraordinary expenses may include:

- Expenses in connection with ancillary transactions that are necessary to allow the reporting entity to repatriate or transfer its assets within the financial group or from other reporting entities (e.g., transactions to align currency reserves in order to repatriate or transfer assets);

¹⁹ Regulation 10(1) of AML/CFT Regulation No. 4 of 2015 as amended

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- Where appropriate, allowing a subsidiary to ‘set off’ against a parent financial group’s frozen assets held by the subsidiary;
- Expenses in connection with certain foreign exchange transactions to allow the reporting entity to meet its obligations under prior contracts (e.g., to allow for payment under prior contracts in the currency called for by the contract at issue;
- The fees of an administrator or auditor.

Where the frozen funds or other assets relate to a person or entity designated by the UNSC, the Director-FIU shall notify the relevant Committee of Guyana’s intention to authorize access to the frozen funds or other assets. In the absence of a negative decision by the Committee after three (3) days of such notification, the Court may by Order authorize access to the frozen fund or other assets for basic expenses only. Access to frozen funds or other assets for extraordinary expenses can only be authorized after approval by the relevant UNSC Committee.²⁰

Where the frozen funds or other assets relate to a person or entity specified by the Minister of Finance, the Court may upon application by the specified person or entity authorize access by written notice upon receipt of request for such access.²¹

The authorized access notice shall specify the type of access granted (e.g., whether for basic or extraordinary expenses).

How can one apply for authorized access to frozen funds or other assets?

Applications for authorized access to frozen funds must be made to the Court.

All applications should set out clearly the grounds on which authorized access is being sought and provide all relevant information, full details of the transaction(s) and supporting documentation.

²⁰ Regulation 10(2) and (3) of AML/CFT Regulation No. 4 of 2015 as amended

²¹ Regulation 10(5) of AML/CFT Regulation No. 4 of 2015 as amended

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PENALTIES FOR CONTRAVENING THE TARGETED FINANCIAL SANCTIONS PROVISIONS

Any natural person that contravenes section 68A or 68E of the AML/CFT Act as amended, commits an offence and shall be liable on summary conviction to a fine of not less than five million dollars nor more than one hundred million dollars or to imprisonment for up to seven years, and in the case of a body corporate to a fine of not less than ten million dollars nor more than two hundred million dollars.

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Annex 1: Terrorist Property Report Form

FINANCIAL INTELLIGENCE UNIT

TERRORIST PROPERTY REPORT (TPR)

In accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (AMLCFT) Regulations No. 4 of 2015 made under the AMLCFT Act Cap. 10:11

PART I INFORMATION ABOUT THE DESIGNATED OR SPECIFIED PERSON OR ENTITY

*Particulars of designated or specified person or entity**

Indicate whether report concerns:

- a. Individual
- b. Group or Entity

If it is a Group or Entity (designated or specified entity), complete fields 1 and 2-4. If it is an individual (designated or specified person), complete fields 1.A – 6.B

1. Full name of Group or Entity.

1.A Surname of individual _____ 1.B First Name of individual _____

1.C Other name(s) _____ 1.D Alias _____

2. Address _____
(village, town, street, lot no.)

3. Phone number _____

4. Date of birth/ incorporation/registration _____
MM/DD/YYYY

5. Nationality (if applicable) _____

6. If an individual, please tick method used to verify identity: (please attach copy)

(a) National Identification Card (b) Passport

(c) Other (please specify)

6.A Date of issue _____
MM/DD/YYYY

6.B Number _____

PART II INFORMATION ABOUT ANYONE WHO OWNS OR CONTROLS THE PROPERTY ON BEHALF OF A DESIGNATED OR SPECIFIED PERSON OR ENTITY

Particulars of entity or individual who owns or controls the property on behalf of a designated or specified person or entity named above. If it is a group or entity, complete fields 7 and 8-10. If it is an individual, complete fields 7.A-12.B*

7. Full name of group or entity.

7.A Surname of individual _____ 7.B First Name of individual _____

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7.C Other Name(s) _____ 7.D Alias _____

8. Address _____
(village, town, street, lot no.)

9. Phone number _____

10. Date of birth/ incorporation/registration _____
MM/DD/YYYY

11. Nationality (if applicable) _____

12. If an individual, tick method used to verify identity: (please attach copy)

(a) National Identification Card (b) Passport

(c) Other (please specify)

12.A Date of issue _____
MM/DD/YYYY

12.B Number _____

PART III INFORMATION ABOUT THE PROPERTY/FUNDS OR OTHER ASSETS

*Type of property**

Cash Bank account Insurance policy Money order

Real estate Securities Travellers cheques

Other Specify _____

(A) If property involves an account:

13. Branch name _____ 14. Account No. _____

14.A Type of account: Personal
Business
Trust
Other
Description of other _____

15. Actual or approximate value _____ as at _____
MM/DD/YYYY

16. Type of currency _____

17. Full name of each account holder (where applicable) _____

18. Date opened _____
MM/DD/YYYY

19. Date closed (if applicable) _____
MM/DD/YYYY

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20. Status of account: Active Inactive Dormant
 Other (specify) _____

(B) If property involves a transaction:

21. Date of transaction _____
MM/DD/YYYY

22. Type of funds or other property involved in initiating the transaction:

- Cash Jewellery Negotiated securities
 Negotiated travellers cheque Redeemed casino chips Diamonds
 Negotiated bank draft Negotiated money order Precious metal
 Real estate Withdrawal from account Negotiated cheque
 Incoming electronic funds transfer Negotiated life insurance policy
 Other (Specify) _____

23. Amount of transaction _____

24. Type of currency (if applicable) _____

25. How was the transaction conducted?

- In branch/office/store Mail deposit Automated banking machine
 Courier Phone
 Other: Specify _____

PART IV INFORMATION ABOUT THE INDIVIDUAL WHO CONDUCTED OR PROPOSED TO CONDUCT THE TRANSACTION(S)

Particulars of individual who conducted or proposed to conduct the transaction(s) (if applicable)*

26.A Surname of individual _____ 26.B First Name of individual _____

26.C Other Name(s) _____ 26.D Alias _____

27. Address _____
(village, town, street, lot no.)

28. Phone number _____ 29. Date of birth _____
MM/DD/YYYY

30. Nationality _____

31. Tick method used to verify identity: (please attach copy)

- (a) National Identification Card (b) Passport
 (c) Other (please specify)

31.A Date of issue _____ 31.B Number _____

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MM DD YYYY

32. Occupation _____ 33. Employer _____

34. Business Address of Employer _____
(village, town, street, lot no.)

35. Business Telephone No. of Employer _____

PART V INFORMATION ABOUT PERSON OR ENTITY FILING REPORT

*Particulars of Reporting Entity or individual filing report**

36.A Full name of Entity or last name of individual _____

36.B Other Name(s) _____ 36.C First Name _____

37. Address _____
(village, town, street, lot no.)

If activity occurred at a branch office

38. Full name of branch office _____

39. Address _____
(village, town, street, lot no.)

40. Type of reporting entity (if applicable) _____

PART VI COMPLIANCE OFFICER/PERSON ACTING ON BEHALF OF COMPLIANCE OFFICER

*Particulars of person completing report**

41.A Surname _____

41.B Other Name(s) _____

41.C First Name _____

42 Job title _____

43. Phone no. _____

44. Date report was prepared _____
MM/DD/YYYY

Signature _____

Stamp/Seal of Reporting Entity if any:

STAMP/SEAL

PART VII REASON FOR FILING THIS REPORT

Provide details of why you are filing a report about property in your possession or control.

Include a clear and complete description of the events that led you to make this report, with as many details as possible.

Include an explanation of how you came to be in possession or control of the property.

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Provide as many details as possible about how you know this property is owned or controlled by or on behalf of a terrorist or a terrorist group or how you believe this property is owned or controlled by or on behalf of a designated person.

Send completed report and associated documents to:

**The Director
Financial Intelligence Unit
c/o Ministry of Finance
Main & Urquhart Streets
Georgetown, Guyana**

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Annex II: Terrorist Property Quarterly Report Formats

To be prepared and printed on letterhead

Date:

Director
Financial Intelligence Unit
Ministry of Finance Compound
Lot 49 Main & Urquhart Streets
North Cummingsburg
Georgetown

Re: Terrorist Property Quarterly Report

Dear Director,

Please note that for the period (select the quarter January – March 2020/April - June 2020/July –September 2020/October - December 2020), our entity was not in possession of any funds or other assets of a person or entity (select whether designated pursuant to UNSCR 1267(1999), 1718(2006), or 2231(2015) and its successor resolutions or specified by the Minister responsible for Finance under section 2(2) of the AMLCFT Act 2009 pursuant to the UNSCR 1373(2001) and its successor resolutions).

Kindly acknowledge receipt by signing and returning the attached copy of this letter.

Yours sincerely,

.....
Name:.....
Compliance Officer

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To be prepared and printed on letterhead

Date:

Director
Financial Intelligence Unit
Ministry of Finance Compound
Lot 49 Main & Urquhart Streets
North Cumminsburg
Georgetown

Re: Terrorist Property Quarterly Report

Dear Director,

Please note that for the period (select the quarter January – March 2020/April - June 2020/July – September 2020/October - December 2020), our entity was in possession of funds or other assets of a person or entity (select whether designated pursuant to UNSCR 1267(1999), 1718(2006), or 2231(2015) and its successor resolutions or specified by the Minister responsible for Finance under section 2(2) of the AMLCFT Act 2009 pursuant to the UNSCR 1373(2001) and its successor resolutions)

Terrorist Property Report(s) were/was submitted to the Financial Intelligence Unit as follows:

- 1. Date of report Name of person or entity reported
- 2. Date of report Name of person or entity reported

Kindly acknowledge receipt by signing and returning the attached copy of this letter.

Yours sincerely,

.....
Name:.....
Compliance Officer

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Annex III: Glossary of terminology

Term	Meaning
Authorized access	An authorization provided by the Court which permits personal access or access to frozen funds or other assets for basic expenses.
Deal	The term “deal” means to engage in a business transaction with a listed person or entity thereby allowing for the exchange or transfer of funds or other assets.
Freeze	For the purpose of this Guidance which focuses on FATF Recommendations 6 and 7 on the implementation of targeted financial sanctions, the term ‘freeze’ means to prohibit the transfer, conversion, disposition or movement of any funds or other assets that are owned or controlled by listed persons or entities on the basis of, and for the duration of the validity of, an action initiated by the United Nations Security Council in accordance with UNSCRs 1267, 1988, 1718 and 1373 and their successor resolutions.
Funds or other assets	The term “funds or other assets” means any assets, including, but limited to, financial assets, economic 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, travellers 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.
Listed person or entity	A listed person or entity means a person or entity specified under section 2(2) of the AML/CFT Act 2009 by the Minister of Finance pursuant to UNSCR 1373(2001) and its successor

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	resolutions, and a person or entity designated by the UN Security Council pursuant to UNSCRs 1267(1999), 1988(2011), 1718(2006) and 2231(2015) and their successor resolutions.
Local List	Targeted Financial Sanctions (Specified Person/Entity) Order
Proliferation Financing	Proliferation financing refers to the act of providing funds or financial services which are used, in whole or in part, for the <i>manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of national laws, or, where applicable, international obligations.</i>
Property	The word “property” refers to- <ul style="list-style-type: none"> (a) All property, funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat; (b) Those funds, property or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (c) The funds, property or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as property, funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.
Reporting Entity	A reporting entity is any person whose regular occupation or business is the carrying on of any activity listed in the First Schedule of the AML/CFT Act 2009 or any other activity

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	defined by the Minister of Finance as such by an order published in the Gazette amending the First Schedule.
Specified person or entity	A specified person or entity means a person or entity specified under section 2(2) of the AML/CFT Act 2009 by the Minister of Finance pursuant to UNSCR 1373(2001) and its successor resolutions.
Targeted Financial Sanctions	Targeted Financial Sanctions means both <u>assets freezing</u> and <u>prohibitions</u> to prevent funds or other assets from being made available, directly or indirectly, for the benefit of a designated or specified person or entity.
Terrorism	Terrorism is defined as criminal acts, including against civilians, committed with intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act.
Terrorist Act	<p>“terrorist act” shall have the same meaning assigned to it as in the Criminal Law (Offences) Act and includes-</p> <p>(a) any act which constitutes an offence within the scope of, and as defined in any of the following treaties-</p> <p>(i) the Convention for the Suppression of Unlawful Seizure of Aircraft (1970);</p> <p>(ii) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);</p> <p>(iii) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973);</p> <p>(iv) the International Convention against the Taking of Hostages (1979);</p> <p>(v) the Convention on the Physical Protection of Nuclear Material (1980);</p>

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	<p>(vi) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention For the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);</p> <p>(vii) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);</p> <p>(viii) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988); and</p> <p>(ix) the International Convention for the Suppression of Terrorist Bombings (1997); and</p> <p>(b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act;</p>
Terrorist Financing	Terrorist financing means wilfully providing or collecting funds whether from a legitimate or illegitimate source, by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used full or in part - to carry out terrorist acts; by a terrorist organisation; or by an individual terrorist.