



TARGETED FINANCIAL SANCTIONS

MEASURES/PROCEDURES

RELATED TO

TERRORISM, TERRORISM FINANCING AND

PROLIFERATION FINANCING

**These Measures/Procedures replace the
Measures/Procedures published in January 2023**

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These procedures/measures for listing (designating/specifying), de-listing, freezing, unfreezing, and providing access to frozen funds of persons or entities designated pursuant to the United Nations Security Council Resolutions 1267(1999), 1988(2011), 1373(2001), 1718(2006), and 2231(2015) and their success resolutions, provisions in the Anti-money Laundering and Countering the Financing of Terrorism (AML/CFT) Act 2009 and AML/CFT Regulations No. 4 of 2015 as amended.

The main objective of these measures/procedures is to inform the public, including reporting entities, supervisory authorities, law enforcement agencies and other competent authorities of the legislative provisions in place in Guyana for listing, (designating/specifying), de-listing, freezing, unfreezing, and providing access to frozen funds of persons or entities designated pursuant to the United Nations Security Council Resolutions 1267(1999), 1988(2011), 1373(2001), 1718(2006), and 2231(2015) and their success resolutions.

It is not intended to override the provisions of the AML/CFT Act or its Regulations. But rather, it must be read in conjunction with those legislation, and other applicable directives or guidelines currently in force or as may be amended or updated from time to time.

LISTING (DESIGNATION/SPECIFICATION)

UNSCRs 1267(1999), 1988(2011), 1718(2006), 2231(2015)

- **The United Nations Security Council 1267(1999), 1988(2011), 1718(2006), 2231(2015) Sanctions Committees** designate individuals and entities based on recommendations or on their own initiative.

- **The United Nations Security Council Sanctions Committees,**
 - publish updates (Press Releases) about new designations and de-listings (amendments) on the United Nations Security Council's website and update their respective Sanctions List accordingly.

 - Update the United Nations Security Council Consolidated List following all changes made to the Committee's Sanctions Lists.

UNSCR 1373(2001)

- The Director-FIU upon reasonable grounds recommends to the Minister responsible for Finance that an order be made specifying a person or entity. ***(Section 2(2)(1) of the AMLCFT Act as amended)***

- The Director's recommendation must be supported by a Designated Impact Assessment (an impact assessment with regard to a person or entity proposed to be designated as a listed or specified person or entity).

- The Minister responsible for Finance,
 - if satisfied that there is evidence to support the Director's recommendation, may by order declare a person or entity as a specified person or entity; and

 - notify the specified person or entity in writing of the listing as well as the implications of the listing, review procedure, information of the de-listing

process and procedures which allow for authorized access to frozen funds or other assets.

(Section 2(2)(2) of the AMLCFT Act as amended/Regulations 4(1) AMLCFT Regulations 2015 as amended)

Criteria for listing in accordance with UNSCR 1373(2001) – Evidentiary Standard of Proof – Reasonable Grounds

There are reasonable grounds to believe that a person or entity:

- (a) has knowingly committed, attempted to commit, participated in, or facilitated the commission or a terrorist act;
- (b) is knowingly acting on behalf of, on the direction of, or in association with, a person or entity that committed a terrorist act;
- (c) is carrying out the actual or similar activities as referred to above, or is owned or controlled directly or indirectly by such person, or is acting on behalf of, or at the direction of, or in association with, such person;
- (d) is included on a list of individuals designated by the United Nations Security Council as terrorists or terrorist organisations;
- (e) has committed or participated in the commission of an offence referred to in the Anti-Terrorism and Terrorist Related Activities Act, or sections 745A or 75B of the AMLCFT Act; or
- (f) was recommended to be designated by another country.

DE-LISTING

UNSCRs 1267(1999), 1988(2011), 1718(2006), 2231(2015)

Where it is determined by Guyana, that a person or entity designated by the United Nations 1267, 1988, 1718 or 2231 Committee, no longer meets the criteria for designation, for example,

- **The designated person or entity** on his own behalf; or
- **The Director-FIU** on behalf of the designated person or entity,

may submit a de-listing request to the UN Office of the Ombudsperson pursuant to resolution 1904(2009), or the United Nations Focal Point established pursuant to United Nations Security Council Resolution 1730(2006). ***(Regulation 9 of AMLCFT Regulations No. 4 of 2015), (Section 68G (1) of the AMLCFT Act 2009 as amended)***

UNSCR 1373(2001)

Within 60 days of the publication of a Specified Order, a specified person or entity may make an application in writing to the Minister responsible for Finance for the revocation of the order. ***(Section 2(2)(3) of the AMLCFT Act 2009 as amended)***

- The Minister consults with the Director-FIU, to determine whether there are reasonable grounds for the revocation, and shall
 - (a) Revoke the order, if there are reasonable grounds for the revocation; or
 - (b) Refuse the application, if there are **no** reasonable grounds for revocation. ***(Section 2(2)(5) of the AMLCFT Act 2009 as amended)***

Where the Minister refuses the application for revocation, the applicant may within 60 days of the Minister's decision, apply by notice to the Director-FIU, to a Judge for a review of that decision.

The judge shall make an order after –

- Examining any security or intelligence reports that were considered in the recommendation for the listing, and hear any other evidence or information that the Director presents;
- Providing the applicant with a statement summarizing the information available to him;
- Providing the applicant with a reasonable opportunity to be heard; and
- Determining whether the decision is reasonable on the basis of the information available to him.

If it is found that the Minister’s decision was not reasonable, the Judge shall make an order to that effect.

Unless the Minister appeals the Judge’s decision, he shall revoke the specified order.
(Section 2(2)(7) of the AMLCFT Act 2009 as amended)

Review Procedure – UNSCR 1373 listings

The Director reviews all specified orders every six months to determine whether there are still reasonable grounds for the listing.

Where the Director determines (based on a review procedure) that there are no such reasonable grounds, he shall recommend to the Minister for a revocation of the specified order. ***(Section 2(2)(9) of the AMLCFT Act 2009 as amended)***

PROHIBITION/FREEZING

In relation to UNSCRs 1373/1267/1988/1718

- The FIU checks the United Nations Security Council (UNSC) website **daily** for updates to the UNSC Consolidated List and also receives, publishes and updates a list of specified persons or entities on the FIU's website Specified Orders granted by the Minister with responsibility for Finance as soon as these are Gazetted.
- The FIU **immediately** notifies reporting entities and competent authorities by email whenever
 - (i) there is an update to the UNSC Consolidated List; or
 - (ii) a Specified Order from the Minister with responsibility for Finance is received, published or updated on the FIU's website.

OBLIGATIONS OF PERSONS AND ENTITIES

Prohibition:

No person or entity shall knowingly –

- (a) deal 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;
- (b) enter into or facilitate, directly or indirectly, any transaction related to a dealing referred to in paragraph (a);
- (c) provide any financial or other related service in respect of the property referred to in paragraph (a);
- (d) make any property or any financial or other related service available, directly or indirectly, for the benefit of a listed person or entity; or
- (e) make 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.

Freeze:

If a person or entity recognizes that the name of any of its customers or clients appears on the UNSC Consolidated List or local list, the person or entity must -

- 1) **immediately (without prior notice and without delay)** freeze the assets of such person/entity;
- 2) notify the FIU that there is a positive match; and
- 3) submit to the FIU, information on the funds or other assets or property in their possession for the designated/listed person or entity. Eg. number of persons, contracts or accounts involved and the total value of the property.

Note:

Freeze in these steps/procedures 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.

The FIU then -

- **verifies** that the name reported by the person or entity is on the UNSC Consolidated List or local list;
- **instructs** person or entity who made report by telephone or by any other means necessary to be followed up in writing, not to deal with funds or other assets of the person or entity listed on the UNSC Consolidated List;
- **conducts** searches (database/open sources) to assist in the development of an analysis/intelligence report.
- **alerts** SOCU accordingly; and
- **notifies** the DPP, providing all information received from the person or entity. Eg. number of persons, contracts or accounts involved and the total value of the funds or other assets as well as a clear description of the funds or other assets. And in the case of 1373 listing – copy of the Specified Order.

The DPP then -

- **makes** an application to a Judge in Chambers for a freeze order;
- **serves** immediately, the freeze order on reporting entity or competent authority holding funds or other assets of the designated person or entity;

- ***instruct*** immediately, the Registrar of Deeds and Registrar of Lands not to deal with any immovable property, for a period of seven days (if immovable property is frozen); and
- ***registers*** the order with the Registrar of Deeds and in respect of registered land, the Registrar of Lands (if titled property is involved).

The person or entity holding funds or other assets of property of the designated person or entity must carry out the instructions in freeze order, and also report to the FIU on all-

- (i) property frozen
- (ii) actions taken or
- (iii) attempted or aborted transactions

in relation to any action taken against a listed, specified or designated person.

Note:

The term 'person or entity' includes reporting entities e.g., Licensed Financial Institutions and Designated Non-Financial Businesses or Professions, subject to the AML/CFT legislative framework.

UNFREEZING

UNSCRs 1267(1999), 1988(2011)

Where the funds or other assets of a designated person or entity were frozen by an order of the Court pursuant to Section 68A(6A)(a) and the United Nations 1267 Committee has granted a delisting request in response to an application made by the Director or the applicant on his own behalf, the Director shall immediately advise the Director of Public Prosecutions to apply to the Court for a revocation order and the Court if satisfied shall revoke the freezing order. ***(Regulations 9A(1) of the AMLCFT Regulations No. 4 of 2015 as amended by Regulations No 7 of 2015)***

UNSCRs 1718(2006), 2231(2015)

Required action where access to funds or other assets is prohibited.

Where a listed person or entity has been de-listed by the United Nations Security Council Committee, the Director shall inform the Minister, who shall immediately direct any person who had reported that they were holding funds or other assets of a listed person or entity and were not dealing with the funds and other assets or entity prohibiting access to funds or other assets of a listed person or entity as required by law to recommence dealing with the funds and other assets.

Required action where Freeze Order is in effect.

Where a person or entity affected by a freezing order applies to the Court for a revocation of the order in relation to the person's or entity's property, the Court shall revoke the freezing order in relation to the applicant if satisfied on evidence that the account or other property or the person's or entity's interest in it is not owned or held by or on behalf of a terrorist, terrorist organisation or someone involved in proliferation financing. ***(Section 68G(1-4) of the AMLCFT Act 2009 as amended by AMLCFT (Amendment) Act No. 17 of 2018)***

UNSCR 1373(2001)

Where the Director believes (on reasonable grounds) that a person or entity specified by Minister with responsibility for Finance in accordance with section 2 (2) of the AML/CFT Act pursuant to UNSCR 1373 (2001), no longer meets the criteria for

specification and the funds or other assets of such person or entity were frozen by an order of the Court, the Director shall immediately advise the Director of Public Prosecutions to apply to the Court for a revocation order.

The Court, if satisfied, shall revoke the freezing order. **(Regulations 8(1) of the AMLCFT Regulations No. 4 of 2015 as amended by Regulations No 7 of 2015)**

ACCESS TO FROZEN FUNDS

General provision:

A person or entity designated or specified in accordance with UNSCR 1267, 1988, or 1373, whose funds or other assets were frozen may apply to the Court for personal access to frozen funds or other assets for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of fees or service charges for routing holding or maintenance of frozen funds or other financial assets or economic resources, or for extraordinary expenses.

(Regulation 10(1) AMLCFT Regulations No. 4 of 2015 as amended)

Other Provisions:

UNSCRs 1267(1999), 1988(2011)

Where frozen funds or other assets relate to a person or entity designated by the United Nations Security Council under Chapter VII of the Charter of the United Nations, as required by the UNSCR 1267, the Director is required to notify the Committee established pursuant to Resolution 1267 (1999), and 1988(2011) of Guyana's intention to authorise, where appropriate, access to such funds, assets or resources to a designated person or entity.

In the absence of a negative decision by the relevant sanctions committee after three (3) days of the Director's notification, the Court may permit access to funds or other assets specified in the notice to be used or dealt with in a specified way.

The Court's Notice shall be given to the owner or holder of the frozen funds or other assets as soon as practicable after an application is made. ***(Regulation 10(2) – (7) AMLCFT Regulations No. 4 of 2015 as amended)***

UNSCR 1373(2001)

Where frozen funds or other assets relate to a person or entity listed pursuant to UNSCR 1373, the Court may by written Notice permit funds or other assets specified in the notice to be used or dealt with in a specified way.

Where the Court has permitted access to frozen funds or other assets, the Minister shall immediately –

- Notify the listed person or entity that the request was granted; and
- Serve a copy of the Court’s Notice on the reporting holding the frozen funds or other assets of the listed person or entity.

Upon receipt of the Court’s Notice the reporting entity shall immediately allow access to the frozen funds or other assets as directed by the Court. ***(Section 68D AMLCFT Act 2009 as amended)***

UNSCRs 1718(2006) and 2231(2015)

Where the funds or other assets of a person or entity designated pursuant to UNSCRs 1718 and 2231 and their successor resolutions is frozen, the designated person or entity may apply to the Court for access to the frozen funds or other assets.

The Court upon receipt of the written application by a designated person or entity may by written notice grant access to frozen funds or other assets specified in the notice to be used or dealt with in a specified way where it is determined by the Court-

- (a) to be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the Minister to the relevant United Nations Security Council Sanctions Committee of the Court’s intention to authorise, where appropriate the funds, other financial assets and economic

resources and in the absence of a negative decision by the Sanctions Committee within five working days of such notification;

(b) to be necessary for extraordinary expenses, provided that the Court has notified the relevant United Nations Security Council Sanctions Committee of such determination and the Sanctions Committee has approved access to the frozen funds or assets; or

(c) to be subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered prior to the date of the present resolution, is not for the benefit of a listed person or entity, and the Court has notified the relevant United Nations Security Council Sanctions Committee. **(Section 68H(2) of the AMLCFT Act 2009 as amended by AMLCFT (Amendment) Act No. 17 of 2018)**

Where the Court has permitted access to frozen funds or other assets, the Minister shall immediately –

- Notify the listed person or entity that the request was granted; and
- Serve a copy of the Court's Notice on the reporting holding the frozen funds or other assets of the listed person or entity.

Upon receipt of the Court's Notice the reporting entity shall immediately allow access to the frozen funds or other assets as directed by the Court. **(Section 68H(1) of the AMLCFT Act 2009 as amended)**

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

- the person's reasonable living expenses (including the reasonable living expenses of the person's dependents, if any) and reasonable business expenses.

- The person's reasonable expenses in defending a criminal charge and any proceedings under the AML/CFT Act.
- A specific debt incurred by the person in good faith.
- Any other expenses the DPP may deem necessary. (***Section 68C of the AMLCFT Act 2009 as amended***)

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