

AML/CFT/PF NATIONAL COORDINATION COMMITTEE



GUIDANCE ON TARGETED FINANCIAL SANCTIONS

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1. Financial Sanctions Overview

What are financial sanctions?

Financial sanctions are enforcement measures used by the international community to achieve, maintain or restore international peace and security in a specified regime. Financial sanctions are imposed on a regime, individual within a regime or entity, by the United Nations (UN), or any country, as a tool to comply with certain foreign policy or national security objectives. The effect of financial sanctions is to:

- limit the provision of certain financial services
- restrict access to financial markets, property, funds and economic resources.

Why are financial sanctions used?

Financial sanctions are largely imposed to:

- **coerce** a regime, or individuals into changing their behaviour, or aspects of it, by increasing the cost on them to such extent that they decide to cease the offending behaviour
- **constrain** a target by denying them access to key resources needed to continue their offending behaviour, including the financing of terrorism or nuclear proliferation
- **signal disapproval**, resulting in stigmatising and potentially isolating the target, or as a way of sending broader political messages domestically or internationally; and
- **protect the value of assets** that have been misappropriated from a country until such assets can be repatriated.

The range of sanctions available include comprehensive economic and trade sanctions, and more targeted measures such as arms embargoes and financial restrictions e.g. asset freezing measures. The Government of Guyana is committed to playing its role in the maintenance of international peace and security, and therefore as a member country of the UN, implements the international sanctions obligations of the UN. It should be noted that having an effective targeted financial sanctions regime in relation to terrorism and proliferation financing is required under Recommendations 6 and 7 of the [Financial Action Task Force \(FATF\) Standards](#)¹.

¹ The FATF is the inter-governmental body, established by the G7 in 1989, which sets the global standards for combating money laundering, terrorist financing and proliferation financing (the FATF Standards). Guyana is a member of the Caribbean Financial Action Task Force (CFATF). Guyana supports the work of the FATF and has demonstrated a strong commitment, via its membership in CFATF, to helping the organisation carry out its mandate.

Who makes and implements sanctions?

Financial sanctions are measures imposed by the United Nations (UN) and member states are required to implement them through Resolutions² passed by the UN Security Council.

Guyana also automatically imposes financial sanctions. These sanctions are implemented via a combination of regulations (statutory instruments) and primary legislation. Namely: the Anti Money Laundering/Countering the Financing of Terrorism Act 2009, the Anti Terrorism and Terrorist Activities At 2015, and the AML/CFT Regulations.

When there are updates for TFS for TF or PF on the UN Security Council’s website, these are immediately posted on the website of the Financial Intelligence Unit without delay, and communicated to all supervisory and competent authorities, including the AML/CFT/PF National Coordination Committee.

Duties and powers of Competent Authorities

Under the AML/CFT legislative regime, the Director of the FIU has certain powers and duties in relation to the administration of financial sanctions measures. Such powers and duties include: the power to recommend the designation of persons; the duty to publish certain lists; and the power to gather information,

The Director of the FIU’s obligation to publish and maintain a list of designated persons (those subject to targeted financial sanctions) is provided for in the AML/CFT Act and its Regulations, which specifies that the publication and the dissemination of the notices and any updates to such.

Table 1: Entities and Responsibilities in Guyana’s Sanctions Framework

Entity	Responsibility
The Minister of Finance	The designating Competent Authority (certain powers are delegated to the Director of the FIU in the AML/CFT Regulations). Responsible for making designations under Guyana’s domestic regime and at the request of another country. Actions are dependent on the recommendation of the Director of the FIU
Director of the FIU	Provides recommendations to the Minister of Finance with regard to designating persons.

² The UN website provides further information on financial sanctions here:
<https://www.un.org/sc/suborg/en/sanctions/information>

	<p>Can recommend persons for designation to Sanctions Committee</p> <p>Can recommend unfreezings and delistings to the Attorney General</p> <p>Publication and dissemination of sanctions list on website and to competent and supervisory authorities and reporting entities without delay upon update of the list</p>
The Attorney General and Minister of Legal Affairs	Can perform certain functions such as facilitating delistings, communications to FIs and DNFBPs,
Director of Public Prosecutions	<p>Application for freezing and unfreezing orders to the Court</p> <p>Publication of orders without delay</p>
AML/CFT/PF National Coordination Committee Subcommittee on Law Enforcement Issues	<p>Provides support to the Director of the FIU and the Minister of Finance with regard to identifying targets of designation.</p> <p>Responsible for raising awareness of financial sanction and compliance responsibilities through outreach, collaborates with law enforcement and operational partners in assessing suspected breaches and ensures robust enforcement.</p> <p>Engages with other overseas competent authorities.</p>
Guyana Revenue Authority (Customs)	Implements trade sanctions and embargoes and enforces breaches of trade sanctions.
Central Immigration and Passport Office	Assists with the Implementation of travel bans.
Special Organised Crime Unit (SOCU) of the Guyana Police Force (GPF)	Investigates and enforces breaches of financial sanctions.
Supervisory Authorities	Regulates for compliance with financial sanctions obligations. Can impose monetary penalties for regulatory breaches through sections 22 and 23 of the AML/CFT Act.

What do financial sanctions measures involve?

Financial sanctions may take many forms as they are used to respond to various circumstances. Types of restrictions commonly used include:

- **Targeted asset freezes** apply to named individuals, entities and organisations, and restrict access to funds and economic resources.
- **Restrictions on a wide variety of financial markets and services** can apply to named individuals, entities and bodies, specified groups and also entire sectors. Such restrictions have taken the form of:
 - investment bans
 - restrictions on access to capital markets
 - directions to cease banking relationships and activities
 - requirements to notify or seek authorisation prior to certain payments being made or received
 - restrictions on the provision of financial, insurance, brokering or advisory services or other financial assistance
- **Directions to cease all business** these measures specify the type of business and can apply to a specific person, group, sector or country. The Minister of Finance has such a power under section 75E of the AML/CFT Act as amended.

Who must comply with financial sanctions

15. All individuals and legal entities in who are within or undertake activities in Guyana must comply with UN financial sanctions that are in force in Guyana. Further, financial sanctions will apply to a designated person wherever they are in the world.

Other unilateral sanctions

17. In addition to sanctions imposed by the UN, other countries may impose their own unilateral sanctions or enforce sanctions operated or imposed by other countries. By way of example the United States administers its domestic sanctions programme through the US Treasury's Office of Foreign Assets Controls (OFAC) and may impose sanctions that are not imposed by Guyana.

Implementation of TFS without delay

Targeted Financial Sanctions in Guyana are implemented without delay. There are no further actions or procedures, such as a court process or publication in a gazette, are required for transposing UNSC designations into law.

WITHOUT DELAY implementation of UN sanctions:

Where listings are made under a new UN Security Council resolution or sanctions committee, such new listings will have effect in Guyana's law via the publication of this list and its updates by the Financial Intelligence Unit by the AML/CFT Act and its regulations.

The Director of the FIU will publicise the new UN listings; upon receipt of the updated notice from the FIU, the new listings are disseminated and alerts Supervisors and Reporting Entities immediately.

2. Who is subject to financial sanctions.

The list includes all designated persons subject to UN sanctions, which are implemented via the AML/CFT Act and its regulations, and those persons subject to domestic designations under UNSCR 1373. The FIU provides the Sanctions List to assist persons and businesses to comply with financial sanctions and aims to update the List within one working day for all new UN listings.

Publication of Domestic Designations

When a domestic designation occurs the designated person or entity is published in the Gazette, as well as on the FIU's website.

If a business or individual has been de-listed and their name still appears on the List, the entity should email the FIU (director@fiu.gov.gy) with evidence of the delisting.

How to use the Sanctions List

The Sanctions List is a valuable resource as it contains relevant information to aid the identification of designated persons. Information on an individual may include:

- full name
- aliases
- date of birth
- nationality
- national identification number
- passport details

- last known address
- employment information or role
- government role
- date person was added to the list

Where the name of an individual or entity matches one or more entries on the consolidated list, this will be considered a **name match**. However, this does not necessarily mean that the individual or entity is the same entity on the list. If you are satisfied that this is the case, you are not required to take further action.

If the individual or entity matches all the information on the sanctions list, this is likely to be a **target match**.

If you have completed the required screening and remain unsure on whether you have a target match, you may contact the FIU for assistance.

Where you have a target match the required steps to take will depend on the specific sanctions that apply to the target. Asset freezes are discussed further in Chapter 3 below.

How to get “Sanctions list” updates?

FIU updates

When the FIU receive a notice from the UN advising of a change to a financial sanctions regime the FIU:

- updates the website to reflect the change, and:
- sends an email notification to the Supervisory Authorities and Reporting Entities containing: the relevant update information; advises them to share with their supervised entities; and sets out obligations the supervised entities must follow to comply with the sanctions notice.

3. Financial sanctions restrictions and prohibitions

Restrictions and prohibitions

Certain activities or behaviour are **prohibited** where financial sanctions apply. Such activities include making any funds or other assets, economic resources, or financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of designated persons or entities; or behaving in a certain way if financial sanctions apply.

Always refer to the up-to-date version of the legislation imposing the specific financial sanctions which apply in each case to understand exactly what is prohibited. Prohibitions are interpreted widely, which means a wide range of actions will be considered by the FIU when assessing whether a breach of financial sanctions has occurred.

Asset Freezes:

What are they?

An asset freeze is a measure which prohibits:

- dealing with the frozen funds or economic resources belonging to or owned, held or controlled by a designated person
- making funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person
- engaging in actions that, directly or indirectly, circumvent the financial sanctions prohibitions

Any funds or economic resources must be frozen immediately by the entity/person in possession or control of them. Freezing the assets does not involve a change in ownership of the frozen funds/economic resources, nor are they confiscated or transferred to the FIU.

What you are required to do?

If you know or have “**reasonable cause to suspect**” that you are in possession or control of, or are otherwise dealing with funds or economic resources owned, held or controlled by a designated person you must:

- freeze the property/funds or economic resources immediately

- not deal with them or make them available to, or for the benefit of, the designated persons, unless:
 - there is an exemption in the legislation you can rely on
 - you have been issued a licence from the Court

- report them to the FIU and if you are under a supervisory regime, your supervisor (see Chapter 4)

Reasonable cause to suspect refers to an objective test that asks “Are there factual circumstances from which an honest and reasonable person should have inferred knowledge or formed a suspicion?”.

WARNING!

BREACHING SANCTIONS REQUIREMENTS MAY RESULT IN CRIMINAL PROSECUTION

Asset Freezing definitions:

“property” includes money, investments, holdings, legal documents or instruments in any form, including electronic or digital, evidencing title to or interests in assets of every kind, all possessions, assets and all other property movable or immovable, tangible or intangible, including a chose in action and any other property wherever situated whether in Guyana or elsewhere and includes any interest in such property and includes indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by any other person and assets of every kind, whether tangible or intangible;

Economic resources generally means assets of every kind and fall within the definition of property in the AML/CFT Act and therefore includes – tangible or intangible, movable or immovable – which are not funds, but may be used to obtain funds, goods or services. This includes but is not limited to:

- precious metals or stones • antiques • vehicles • property

Goods generally means items, materials and equipment.

Crypto assets (digital assets) are covered by the definition of currency of the AML/CFT Act (as amended). Accordingly these assets are caught by the financial sanctions restrictions.

Deal - engage in a business transaction with a designated person or entity thereby allowing for the exchange or transfer of funds or other assets.”.

Making available property, directly or indirectly, to a designated person - funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit. Such conduct may constitute a criminal offence.

Useful examples demonstrating how the FIU will apply this prohibition are noted in the **Frequently Asked Questions**, published with this Guidance.

4. Your reporting responsibilities to the FIU

Reporting Obligations

Financial Sanctions obligations under the Guyanese sanctions regime require **all** reporting entities, natural and legal persons, entities and bodies to supply the FIU as soon as practicable, with any information if they know or reasonably suspect a person is designated or has committed offences under the AML/CFT Act or its regulations, where such information is received in the course of carrying on their business. The reporting obligation includes all legal persons; not just financial institutions and professionals.

The AML/CFT Act and its regulations, set out specific reporting obligations for a “**reporting entity**”.

Reporting Entities – requirements under this Guideline in relation to TFS-TF/PF

If you are a reporting entity, you must report to the FIU as soon as practicable (without delay, ideally immediately but no longer than a matter of hours) if you know or have a reasonable cause to suspect that a person:

- is a designated person;
- has committed an offence under the legislation, particularly for the purposes of this guidance, sections 67-75E of the AML/CFT Act 2009 (as amended) or the Anti-Terrorism and Terrorist Activities Act 2015.

You are required to report this information, or other matters on which your knowledge or suspicion is based, if it came to you in the course of conducting your business.

When reporting to the FIU, you **must** include:

- the information or other matters on which the knowledge or suspicion is based; and
- any information that you hold about the individual or designated person, by which they can be identified.

If you know or have a reasonable cause to suspect that a person is a designated person, and that person is a customer of your institution or business, you must also state the nature and amount or quantity of any funds or economic resources held by you for that customer. For examples of the type of information that is required to be reported see Table 2 below.

If you are unsure of any of your reporting obligations, contact the FIU as soon as possible for guidance.

Table 2: Examples of the type of information to be reported³

A designated person or entity	A customer of a relevant firm is a suspected or known designated person or entity. In addition to providing the FIU with any information you hold regarding the designated person/entity that enables identification of them, if the designated person is a customer/client you must also inform the FIU about the nature, amount and quantity of any funds and or economic resources held on behalf of the customer/client at the time this knowledge or suspicion arose.
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³ UK Financial Sanctions: General Guidance, page 21

<p>Property including funds and economic resources</p>	<p>Details must be provided regarding the nature, amount or quantity of any funds and economic resources held by your firm.</p> <p>Property, including funds or economic resources may include, but are not limited to:</p> <ul style="list-style-type: none"> • cash • cheques • crypto assets • bond futures • precious metals or stones • vehicles • antiques
<p>Credits to frozen accounts</p>	<p>A relevant firm must inform the FIU immediately whenever it credits a frozen account where it receives funds transferred to it for the purpose of crediting such account.</p> <p>*a relevant firm does not need to report to the FIU when it credits an account with interest or other such earnings.</p>

How to report

A Terrorist Property Reporting Form (TPR Form) must be completed when making a report to the FIU. The TPR Form should be used when reporting suspected designated persons, assets you have frozen, and suspected breaches of financial sanctions and should be emailed to director@fiu.gov.gy, and can also be sent to the AML/CFT/PF National Coordination Committee Subcommittee on Law Enforcement Issues at asg.sthill@mola.gov.gy.

Any information provided to the FIU will only be used for the purposes of which it is received.

Responsibilities of reporting entities

If you are a reporting entity you must have adequate resources to implement policies and procedures to comply with Guyana’s Sanctions Regime.

Your resources should provide for adequate policies and procedures to comply with your sanctions obligations, which should be properly documented, reviewed and endorsed by

senior management, including the Board should be documented, reviewed and endorsed by senior management.

You should also determine your risk profile with reference to the following nonexhaustive list of risk factors:

- customer, product and activities
- distribution channels
- complexity and volume of transactions
- processing and systems
- operating environment
- screening processes of intermediaries
- geographical risk
- any other relevant sanctions regulations

Relevant staff should all be trained and assessed on how to comply with your financial sanctions compliance procedures. Such procedures should be recorded, audited and updated.

Your processes should include adequate mechanisms at the start of a new business relationship, and on an ongoing basis, in order to prevent designated persons from entering into prohibited transaction. Such measures may include screening the names of your clients, including any beneficial owners, against the consolidated list to ensure that you are not engaging in business with a designated person. Existing clients should also be checked against consolidated list on an ongoing basis to capture newly designated persons that have been added to the list.

It is your responsibility to ensure that you are receiving notifications on a timely basis of changes to the consolidated list.

If at any time you know or have reasonable cause to suspect that you are in possession or control or are otherwise dealing with the funds or economic resources of a designated person, you MUST:

- immediately freeze the property, funds and or economic resources of the designated person;
- not enter into financial transactions or provide financial assistance or services in relation to:
the designated person or any third party;

proliferation and nuclear or other sanctioned activities unless there is an exemption in legislation in which you can rely on, or unless you have obtained a licence from the Court.

- Immediately report them to the FIU.
- Complete the TPR Form as soon as possible.
 - where you have already reported details of accounts, economic resources or other funds held frozen for designated persons, you are not required to report these details again.
 - **If there are details of any other involvement with a designated individual or entity, directly or indirectly, or of any attempted or aborted transactions involving those individuals or entities, this should be reported to the FIU.**
 - any failure to comply with financial sanctions legislation, or to seek to circumvent provisions is a criminal offence and may result in prosecution.

Powers to require information from you

Under sections 24, 27, 28, 30 and 31 of the AML/CFT Act, an authorised officer has powers to require you to provide information or produce any document or goods in your possession or control which he may require for the purpose of:

- establishing the nature and amount or quantity of property, owned, held or controlled by or on behalf of a designated person;
- establishing the nature and amount or quantity of property made available directly or indirectly to, or for the benefit of, a designated person;
- establishing the nature of any financial transactions entered into by a designated person;
- monitoring compliance with or detecting evasion of any provision of financial sanctions regulations including licensing and reporting conditions and obligations; and/or
- detecting or obtaining evidence of the commission of an offence.

For a complete list of the authorised officer's powers to request information, please refer to the legislation underpinning each particular financial sanctions regime.

The power to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the

period within which the information, document or goods should be provided or produced for inspection.

Where such a request is made, you must comply with it within such time and in such manner as may be specified in the request.

Failure to comply with a request for information, including providing false information, destroying documents or, otherwise intentionally obstructing competent authorities when exercising these powers, is an offence and may result in a criminal prosecution.

Record keeping

You should maintain records of any potential matches to names on sanctions lists, whether the match turns out to be a true match or a false positive.

You should, as a minimum, keep the following information about any match:

- the information or other grounds which triggered the match (i.e. a 'hit' provided by screening software);
- any further checks or enquiries undertaken;
- the Sanctions Regime;
- the person(s) involved, including any members of compliance or senior management who authorised treatment of the match as a false positive;
- the nature of the relationship with the person or entity involved, including attempted or refused transactions;
- subsequent action taken (i.e. freezing accounts) if you consulted with, or filed a report with the FIU.

Other reporting obligations

As indicated above, you have a responsibility under the Guyana sanctions regime to report to the FIU, which is in addition to any other non-financial sanctions reporting obligations you may have. Other obligations may include reporting requirements by your supervisor/regulator or, if relevant, submitting Suspicious Activity Reports (SARs) to the FIU.

Take note that simply reporting to your regulator does not meet your reporting obligations under the financial sanctions regimes. If you have information to report regarding financial sanctions, this must be sent to the FIU at: director@fiu.gov.gy.

5. Exceptions and licensing

The following sections provide a general overview of the standard of exceptions and licensing grounds pursuant to financial sanctions obligations.

Specific exceptions and licensing powers can allow an otherwise prohibited transaction(s) to take place in certain circumstances.

A licence is the written notice from the Attorney General and Minister of Legal Affairs or the Court under sections 68B, 68C, 68D and 68H , permitting the otherwise prohibited transactions.

An exemption to a prohibition applies automatically in certain defined circumstances and does not require you to obtain a licence from the Court or the Attorney General and Minister of Legal Affairs.

Crediting Frozen Accounts

Asset freezing legislation generally permits you to make the following payments into a frozen account without the need for a licence from the Court or the Attorney General and Minister of Legal Affairs, provided those funds are frozen after being paid into a frozen account:⁴

- any interest or earnings on the account;
- any payments due to a designated person under contracts, agreements or obligations that were concluded or arose before the date the person became sanctioned; and
- any payment to a frozen account from a third party, provided that the incoming funds are also frozen and the third party informs FIU of the transaction immediately without delay.

Licensing overview

The Minister or Court can only issue licences/written authorisation where there are specific and relevant licensing grounds providing the avenue to do so, and where the specific conditions in the grounds have been met. The available grounds can be found in the legislation underpinning each particular financial sanctions regime.

Please note that the Minister or the Court will only consider licensing those activities that fall within the licensing grounds set out in the AML/CFT Act or its regulations.

In order to licence as proportionately as possible whilst mitigating the risk of terrorist financing, the Minister may also attach conditions to a licence (dealt with in a specified way). Licence conditions apply safeguards to ensure that funds or economic resources can be made available to designated persons in a way that protects against terrorist financing risks. In this way, appropriate conditions facilitate the granting of a licence that it might otherwise not be possible to grant.

The conditions that would apply to licences reflect two broad policy objectives:

- to ensure that designated persons do not have access to large amounts of cash, which can be more easily diverted to terrorist activity; and
- to ensure that there is a reasonable audit trail to address terrorist finance risks and that the FIU, on behalf of the Minister, can monitor compliance with the terms of the licence and identify if any breaches of the legislation has have occurred.

Licences will not be issued retrospectively and will be considered on a case by case basis. You should not assume that a licence will be granted or engage in activities prohibited by financial sanctions until you have received an appropriate licence.

You must not continue to carry out any action(s) which are not authorised by a licence.

It is a criminal offence to deal with funds that should be frozen, or make economic resources available to a designated person without an appropriate licence.

It is also an offence for you to knowingly or recklessly provide false or misleading information in any licence application. Any such licence granted is void from the time it was granted. Doing so may result in a criminal prosecution.

Licensing grounds

Some of the common grounds for obtaining a licence in Guyana are for:

- a) the basic expenses of the designated person or dependent family members;
- b) reasonable professional fees and disbursement of incurred expenses in relation to legal services;

- c) fees or services charges for the maintenance of frozen funds or economic resources;
- d) routine maintenance of frozen accounts and economic resources;
- e) extraordinary expenses; and
- f) obligations under a contract entered into or an obligation that arose prior to the designation of the person in question.

To see the full list of grounds, please consult the AML/CFT Act 2009.

Applying for a licence

You must provide evidence to support an application and demonstrate that all criteria of the relevant licensing grounds (where applicable) have been met. A completed application is one where all the information is received that would enable a decision to be made about whether there is a legal basis to grant a licence. Incomplete applications will be sent back, or you will be asked for additional information until the competent authority is satisfied that your application can be considered complete.

It is anticipated that a licence application will be considered within 6 weeks of receipt of completed application, however this does not mean that a licence will necessarily be issued within 6 weeks. Take note that failure to submit a complete application (which includes all relevant, or requested, supporting documentation will result in delays to your licence application process.

You should not engage in any activities prohibited by financial sanctions until you have received an appropriate licence.

Urgent cases

The Court and the Attorney General will prioritise urgent and humanitarian cases. If a request is urgent, please indicate this in your application, and explain why.

The FIU will endeavour to assist applicants who contact us to understand the licensing process as well as our evidentiary requirements. However, neither the FIU nor the NCC cannot provide legal advice and applicants should consider taking independent legal advice before applying, especially for complicated matters.

The FIU expects that legal and professional advisers will have fully considered the relevant law and formed a view about an application before approaching the FIU for guidance or submitting an application.

The Competent Authorities do not charge a fee for licences.

Submitting a licence application

Applicants should apply to the Court or the Attorney General and Minister of Legal Affairs.

Tips for applicants

i. Read this guidance and up-to-date version of the relevant legislation

ii. Identify the appropriate licensing ground

iii. Make an application through the Court or write to the Minister of Legal Affairs, depending on the details of the designation

iv. Provide a clear description of the payment chain and all parties involved

v. Ensure that all relevant information and supporting evidence is included with the application

vi. You should endeavour to apply for the licence a minimum of six weeks in advance

vii. Be available to fully engage with the FIU regarding your application

viii. Where applicable, make sure your bank or reporting entity in possession of the property is aware of the situation

In line with international best practice, the NCC's view is that specificity in licensing regarding the transaction to be authorised is key in achieving compliance with financial sanctions. Licence applicants should therefore be prepared to provide full details of transactions relevant to any licence applications. Information Applicants will generally be required to provide includes:

- the licensing ground(s) being relied upon in the application including supporting arguments
- full information on the parties involved in the proposed transaction, e.g.:
 - the designated person(s)
 - any financial institution(s) involved (e.g. remitter, correspondent, beneficiary)
 - ultimate beneficiary of the transaction
- the complete payment route including account details
- the amount (or estimated amount) of the proposed transaction

Applicants are encouraged to always refer to the up-to-date version of the legislation that imposes the relevant sanction regime. Links to these can be found on a number of pages including

- The Attorney General’s Chambers and Ministry of Legal Affairs website
- The Financial Intelligence Unit website and
- The Bank of Guyana website.

Terrorist Financing

If you seek a licence under Terrorism and Terrorist Financing or the ISIL (Da’esh” and Al-Qaida organisations regime, you should email the FIU (director@fiu.gov.gy) setting out the full details of your proposed transaction.

Notification and approvals

On the grant, variation or revocation of any order, including licences, the DPP and the FIU will give written notice to the person, category of persons or entity.

Amending a licence

Requests for an amendment, variation or extension of a licence should be submitted to the competent authorities as soon as it is apparent that a change is required. Full supporting information and arguments should be provided.

It is anticipated that an amendment request will be considered within 3 weeks of receipt.

Refusal of a licence

If the competent authorities refuses to issue a licence, the proposed transaction or activities will not be lawful. The relevant competent authority will write to the applicant giving reasons for refusing the application, which is a principle under Guyana's legislative regime with regard to public authorities giving written reasons for decisions.

The competent authorities may also refuse an application if the applicant does not require a licence for the proposed transaction or activities (see crediting frozen accounts above).

If an application for a licence is refused, the applicant has the following options:

- ask the relevant competent authority to review its decision;
- re-apply with new or supplementary evidence or new supporting arguments; and
- seek judicial review of the decision.

Complying with a licence

Any conduct outside the terms of the licence, such as use of a different payment route or payments in excess of a specific payment cap, is a breach of financial sanctions, and is a criminal offence.

Reporting under a licence

A licence issued by the relevant competent authority contains a requirement for specified information to be reported to the Minister within a prescribed time frame. A failure to comply with reporting requirements may result in the revocation, suspension or termination of a licence or further restrictions being added to the licence. Failing to report is a criminal offence.

6. Compliance and enforcement

Supervisory authorities, in conjunction with the FIU and the NCC, are responsible for monitoring compliance with the various financial sanctions regimes, and for assessing suspected breaches. The FIU has the power to refer cases to law enforcement agencies for investigation and potential prosecution.

Moreover, the supervisory authorities for reporting entities are responsible for monitoring their supervised entities' compliance with Guyana's sanctions regime.

Assessment of breaches are informed by our overall approach to financial sanctions compliance. This approach covers the whole lifecycle of compliance in respect of financial sanctions. The NCC and the FIU, endeavours to take a holistic approach to support those seeking to comply and to raise the level of financial compliance awareness by:

- promoting compliance, publicising financial sanctions, and engaging with the private sector;
- enabling compliance by making it easier to comply, and providing customers with guidance and alerts to help them fulfil their own compliance responsibilities; and
- responding to non-compliance by intervening to disrupt attempted breaches and by tackling breaches effectively.

These actions are intended to change behaviour, directly preventing future noncompliance by the individual and more widely through the impact of compliance and enforcement actions.

While a decision to pursue a criminal prosecution for breaches of financial sanctions ultimately lies with the prosecuting authorities, the FIU will consider the following when initially considering the course of action to take:

- whether the breach was self-disclosed fully and promptly;
- the level of cooperation with any inquiries; and
- action being taken to improve future compliance.

Reporting a suspected breach of financial sanctions

Your reporting obligations to FIU are set out in the FIU Guidelines. Where you know or have reasonable cause to suspect that a breach has occurred this must be reported to the FIU as soon as practicable.

Offences

Offences are set out in the legislation and may include:

- making property available to a designated person or entity
- dealing with frozen property
- activities that circumvent an asset freeze
- failure to comply with reporting obligation
- non-compliance or breach of licencing conditions.

Penalties for breaches of financial sanctions

Breaches of financial sanctions are considered to be a serious criminal offence. A natural person who contravenes the section 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.

In addition, supervisory authorities have the power to issue civil penalties for breach of obligations under Guyana's sanctions regime.

7. Designations

The Director of the FIU has responsibility for proposing persons or entities for designations under: existing sanctions regimes, whilst the Minister of Finance designates persons under Guyana’s domestic sanctions regime upon the recommendation of the Director of the FIU; and at the request of another country.

Under existing regimes the Director’s powers to propose a designation are met by complying with the requirements of the specific regime as outlined by the relevant UNSCR committee. The Director and the Minister of Finance carry out their respective powers through coordination with relevant domestic partners and the NCC LEI.

Domestic designations

For the national designation process the Minister of Finance is the Competent Authority for making final designations, upon the recommendation of the Director of the FIU. The Director’s recommendation is also supported by a designation impact assessment and the NCC LEI.

Request for designation by another country

The process for domestic designation can also be used by the Minister of Finance, through the Director of the FIU to make designations at the request of other countries, provided the statutory test in the AML/CFT Act (as amended) is met.

134. Pursuant to the modifications of the Act by the AML/CFT (Amendment) Act No 15 of 2023, the Minister of Finance may make a final designation as follows -

- (2)(1) For the purposes of this Act, where the Director has reasonable grounds to believe that-*
 - (a) a person or entity has knowingly –*
 - (i) committed;*
 - (ii) attempted to commit;*
 - (iii) participated in committing; or*
 - (iv) facilitated the commission of a terrorist act;*
 - (b) a person or entity is knowingly acting –*
 - (i) on behalf of;*
 - (ii) on the direction of;*
 - (iii) in association with,*
- a person or entity referred to in paragraph (a);*
- (c) a person or entity (hereinafter, a person) carrying out the actual or similar activities referred to in paragraph (a) or a person owned or controlled*

directly or indirectly by such person or a person acting on behalf of or at the direction of or in association with such person

- d) the person is included in a list of individuals and entities designated by, or under the authority of, the United Nations Security Council as terrorists or terrorist organisations;
- (e) the person has committed or participated in the commission of an offence referred to in the Anti-Terrorism and Terrorist Related Activities Act or sections 75A or 75B of this Act; 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

Involvement in terrorist activity includes any terrorist related activity under the ATA which includes any act under the Anti Terrorism Conventions, which include-

- a) being responsible for, engaging in or providing support for, the commission, preparation or instigation of acts of terrorism;*
- b) providing financial services, or making available funds or economic resources, for the purposes of terrorism;*
- c) facilitating, promoting or encouraging terrorism;*
- d) providing or receiving training for the purposes of terrorism;*
- e) travelling or attempting to travel from or into the relevant territory for the purposes of terrorism;*
- f) carrying out recruitment activities for a person involved in terrorism;*
- g) being responsible for, engaging in, being complicit in, providing support for, or promoting, the abduction, enslavement, forced marriage or rape of, or sexual violence against, persons outside the relevant territory on behalf of, or in the name of, a person who is involved in terrorism;*

h) supporting or assisting any person who is known or believed by the person concerned to be involved in any activity mentioned in subparagraphs (a) to (g); or

i) being involved in assisting the contravention or circumvention of any relevant provision.

Designation is not automatic upon receipt of a request. The requesting country would have to complete a Designations Impact Assessment Form (DIA) , which will record the reasons for proposing financial sanctions against the person as well as the evidence to support the designation. The completed form should be sent to the FIU. The FIU vets the DIA Form to ensure it is complete and provides the completed package to the NCC LEI to progress.

The Minister of Finance and the Director of the FIU will liaise with the NCC LEI as needed during this process. The NCC LEI team will assess the DIA information from both a legal and policy standpoint in deciding whether to pursue the proposed measures.

8. De-listing and challenging designations

Designated persons and entities who are subject to financial sanctions can challenge their listing by making a request for delisting. The financial sanctions remain in place while the challenge or request is being considered.

When a decision is reached that supports the challenge the listed individual or entity is removed from the consolidated list of financial sanctions targets.

The revocation of a Guyanese designation listing would result in the FIU reflecting the change on its website, and notifying the designated person/entity and the supervisory authorities in the manner prescribed in the AML/CFT legislation under section 2 of the Act and section 9 -9A of the amended Regulations (2015).

When to request delisting?

Delisting is considered appropriate whenever the listing criteria under the applicable sanction's regime are no longer met. Some examples include: cases of mistaken listing, whenever relevant changes in fact or new evidence emerge, upon the death of a listed person, or upon the liquidation of a listed entity.

False positives

A **"false positive"** is where the potential match to a listed person or entity (due to the common nature of the name, or the vague identifying data) is, after thorough investigation, determined not to be a match.

Where a false positive occurs, i.e. where a person or entity is subject to sanctions measures (such as an asset freeze), and they assert that they are not the intended target, the person or entity should first contact the relevant institution that has applied the financial sanction.

Making the distinction between designated and non-designated persons or entities may be difficult. There are some instances where the funds of a person or entity that was not the intended target of a restrictive or prohibited measure are frozen, due to the identifiers matching those of a designated person.

The person or entity should then request an explanation as to why the assets are frozen, including why the institution believes that they are the intended target match on the consolidated list. It is important to note that the burden of proof concerning the determination of "false positives" is on the person or entity. The affected person/ entity should submit

evidence to the relevant institution, business or profession and also provide a detailed statement or evidence to demonstrate why they are not the targeted match.

The parties should work together within the relevant institution, business or profession's sanctions policies to resolve this matter. If the relevant institution or the person or entity, after exhausting all of the resources available to them, are still unable to confirm that the customer is not the intended match, either party should then inform the FIU.

FIU's Role

Where the findings of the FIU, upon consideration of all material facts and circumstances, determine the person or entity **is not** the designated person, the FIU will inform the involved parties of their finding. The relevant institution, business or profession should take steps to immediately unfreeze any property, funds or economic resources, and should further inform the FIU of any action taken right away.

Where the findings of the FIU, upon consideration of all material facts and circumstances, determine the person or entity **is** the designated party, the FIU will inform all parties as to the finding and the asset freeze will remain in place.

In the cases where the FIU is unable to determine a claim of mistaken identity after a thorough investigation, and the claim is not clearly unfounded, they will advise the Court, and request the provision of an authoritative finding regarding the person or entity's identity in order to assist in the determination of their designation status. As soon as the Court provides an authoritative finding the FIU will inform all parties involved.

How to make a delisting request?

Requests (or petitions) for delisting are sent to the competent authority with the relevant supporting information. The relevant competent authority will vary based on the sanctions regime which designates the person or entity. If you require assistance identifying which competent authority to submit a delisting request, you can contact the Financial Intelligence Unit.

Guyana listings under UNSC Resolution 1373

To delist a Guyana originating listing made under UNSC Resolution 1373, designated persons and entities should submit a petition for delisting to the Court. The Director of the FIU may also make recommendations for delisting to the various competent authorities.

Where the Court is in agreement with the petition the Court will revoke the designation, or it may be revoked by the Minister of Finance, depending on the findings and report by the Director of the FIU. The Attorney General also has a general power to apply to the Court or the relevant Sanctions Committee to delist under section 2(13). A copy of a petition to delist should be sent to the FIU.

To challenge a designation pursuant to UNSCR 1373 a designated person or entity may appeal to the Supreme Court of Guyana against any such designation.

UN listings

Persons subject to designation have a right to request removal from UN Listings.

To challenge a UN listing, individuals, groups, undertakings and/or entities inscribed on the sanctions list of one of the Security Council sanctions committees, can submit delisting requests either through the Governor or directly through one of the applicable UN delisting agencies (the Office of the Ombudsperson or the UN Focal Point). De-listing requests to the Court or the Ministers of Finance or Legal Affairs should be copied to the FIU.

Requests for delistings submitted are initially assessed by the FIU;. The Attorney General, will ultimately decide whether to take the delisting forward to the relevant UN Sanctions Committee or the Security Council.

To petition the Attorney General, you should contact the Attorney General's Chambers and the Ministry of Legal Affairs and the contact information is noted below:

Address: Attorney General's Chambers and Ministry of Legal Affairs
95 Carmichael Street
North Cummingsburg
Georgetown
GUYANA

Telephone: +592 225 3663
e-mail: agchambers@mola.gov.gy

Alternatively, petitions for delisting made directly to the UN should note the following:

For UN listings under the ISIL (Da'esh) and Al-Qaida sanctions regime (1267/1989), a petition for delisting can be made to the **Office of the Ombudsperson** to the ISIL (Da'esh) and Al-Qaida Sanctions Committee:

Address: Office of the Ombudsperson
Room DC2 2206
United Nations
New York, NY 10017
United States of America

Telephone: +1 212 963 8226
E-mail: ombudsperson@un.org

163. More information about the Office of the Ombudsperson is available on the UN's website:

<https://www.un.org/sc/suborg/en/ombudsperson>.

164. For all other UN listings, a request should be sent to the **UN Focal Point** for delisting:

Address: Focal Point for De-listing
Security Council Subsidiary Organs Branch
Room DC2 0853B
United Nations
New York, N.Y. 10017
United States of America
Telephone: +1 917 367 9448
Fax: +1 212 963 1300
Email: delisting@un.org

More information about the Focal Point is available on the UN's website:

<https://www.un.org/sc/suborg/en/sanctions/delisting>.

The FIU strongly advises all regulated entities to subscribe to the UN Security Council Sanctions List subscription.

As noted previously, the FIU sends out notifications of persons/entities removed from the sanctions list to Supervisory authorities.

Supervisory authorities inform their respective supervised entities of de-listing updates generally and send targeted information to supervised entities known or suspected to be holding targeted funds and assets of de-listed persons/entities.

What you must do upon notification of de-listings

Where the UNSCRs 1267/1989, 1988, 1718 Sanctions Committees and the Security Council pursuant to UNSCR 2231, delist any individual/entity or an individual/entity has been de-listed pursuant to UNSCR 1373, the frozen funds or assets must be unfrozen immediately as the obligation to freeze no longer exists.

Therefore, upon receiving notification advising the removal of a person/entity from the Sanctions List, you must, without delay, take the following steps to effect a delisting:

- a) Check whether you have frozen funds or assets of any person/entity removed from the Sanctions List
- b) Verify that the person/entity is no longer subject to the asset freeze
- c) Remove the person/entity from your institution's list of persons/entities subject to financial sanctions
- d) Un-freeze the assets of the person/entity and reactivate the relevant accounts
- e) Send notification to the person/entity that the assets are no longer subject to an asset freeze
- f) Notify the FIU of the actions you have taken, as soon as practicable.

When completing the DIA form, requesting countries are strongly advised to provide as much **open source information** as possible in the DIA form.

Applicants should consider the relevant legislation in its entirety when making an application to ensure the statutory test in the AML/CFT Act and its regulations is met.

Where the statutory test is met and the Minister of Finance designates an individual or entity, the DPP simultaneously applies for a freezing order on the designated person, and also publishes the order accordingly as an additional safeguard.

Notice of the designation and the order are also published on the website of the FIU.

APPENDIX I

Designation Impact Assessment Form (DIA)

DESIGNATION IMPACT ASSESSMENT (DIA)

This form must be completed for all listing proposals of individuals or entities, under existing sanctions regimes (also use for listing requests from other countries. For guidance on completing this form, please liaise with the AML/CFT/PF National Coordination Committee (asg.sthill@mola.gov.gy). The form should be signed off by the Director of the Financial Intelligence Unit.

Proposal

The answers given to the five questions below should be used as the basis for formally proposing designations to the UN.

Any information given in the below five questions could be disclosed to other UN Security Council Member States.

Name of sanctions regime
Full name of the individual or entity to be listed (including aliases) and any identifying information
First Name: _____ Last _____
Name: _____
Entity: _____
<i>Enter as much accurate identifying (biometric or otherwise) information as possible to ensure effective implementation of the measures. Policy officers should be aware that incorrect information may lead to unintended consequences and an increase in the legal risk. Example: Commercial Bank, also known as NBC Ltd. – Registered in Country X , Last known address: Town, ABC Street, CountryX</i>
Place the relevant listing criteria from UN Secretary Council Resolution here.

This should be the criteria that you are using to capture this proposed individual or entity named above.

Links/ references to evidence (including data of information collected, do not use hyperlink, copy and paste the URL)

Provide the evidence that substantiates the reasons for listing. It is important that policy officers keep a record of evidence, including screenshots of websites in case they are removed. A newspaper article from a reputable outlet will be seen as more robust than one from an unfamiliar website. Evidence that is in a different language must be translated. A machine translation is sufficient to inform the decision-making but in the event of a legal challenge a translation from a reputable source would be required.

If the evidence is classified, you will need to provide adequate unclassified evidence to support the classified evidence and this proposal.

*Example: Guardian article on Russian aggression, invasion in Ukraine – 11/05/2014
<http://www.guardian.co.uk/articleonukraine>*

Date document cleared and approved

dd/mm/yyyy

3 What consultation have you undertaken in relation to this proposal?

Stakeholder consultation is crucial. Consider all the teams, posts, departments across the Guyanese Government that may be affected as a result of this listing.

The Ministry of Finance should be consulted on proposed financial sanctions.

The Minister with responsibility for foreign trade for proposed trade sanctions.

Information from NGOs can also help but be careful to avoid disclosing sensitive information about possible sanctions targets while negotiations are still ongoing

4 Briefly describe how you can confirm that there is sufficient information to provide a reasonable and credible basis for the listing?

The standard of proof applied is whether there is “reasonable suspicion” that the individual or group meets the criteria for designation at this present time.

What other evidence in addition to that stated in the above Proposed section (but that which you may not wish to share with the UN Council), is available to support the reasons you have outlined for this listing.

GLOSSARY

<p>Designated person</p>	<p>A person subject to financial sanctions. Specifically, the term designated person or entity refers to:</p> <ul style="list-style-type: none"> (i) individual, groups, undertakings and entities designated by the Committee of the Security Council established pursuant to resolution 1267 (1999) (the 1267 Committee), as being individuals associated with Al-Qaida, or entities and other groups and undertakings associated with Al-Qaida; (ii) individuals, groups, undertakings and entities designated by the Committee of the Security Council established pursuant to resolution 1988 (2011) (the 1988 Committee), as being associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan, or entities and other groups and undertakings associated with the Taliban; any natural or legal person or entity designated by jurisdictions or a supranational jurisdiction pursuant to Security Council resolution 1373 (2001); (iv) any individual, natural or legal person or entity designated for the application of targeted financial sanctions pursuant to Security Council resolution 1718 (2006) and any future successor resolutions by the Security Council in annexes to the relevant resolutions, or by the Security Council Committee established pursuant to resolution 1718 (2006) (the 1718 Sanctions Committee) pursuant to Security Council resolution 1718 (2006); and (v) any natural or legal person or entity designated for the application of targeted financial sanctions pursuant to Security Council resolution 2231
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	<p>(2015) and any future successor resolutions by the Security Council.</p> <p>This also includes any person or entity designated under UNSCR.</p>
Designation	<p>The term designation refers to the identification of a person individual or entity that is subject to financial sanctions pursuant to:</p> <ul style="list-style-type: none"> - United Nations Security Council resolution 1267 (1999) and its successor resolutions; - Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination; - Security Council resolution 1718 (2006) and any future successor resolutions; - Security Council resolution 2231 (2015) and any future successor resolutions; and - any future Security Council resolutions which impose financial sanctions in the context of the financing of proliferation of weapons of mass destruction. <p>As far as Security Council resolution 2231 (2015) and any future successor resolutions are concerned, references to “designations” apply equally to “listing”.</p> <p>This also includes any person or entity designated under any UNSCR.</p>
Licence	<p>A written authorisation or an order from a competent authority permitting an otherwise prohibited act.</p>
Name Match	<p>The situation where a person you are dealing with partially matches the details of a designated person on the consolidated list. They are unlikely to be a target match</p>

Reasonable cause to suspect	Refers to an objective test that asks whether there were factual circumstances from which an honest and reasonable person should have inferred knowledge or formed the suspicion.
Target Match	The situation where the person you are dealing with matches the details of a designated person on the consolidated list. Likely to be a confirmed match for that person
Terrorist	The term terrorist refers to any natural person who: (i) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully; (ii) participates as an accomplice in terrorist acts ; (iii) organises or directs others to commit terrorist acts ; or (iv) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act
Terrorist Act	(a) an act which constitutes an offence within the scope of, and as defined in one of the following treaties: (i) Convention for the Suppression of Unlawful Seizure of Aircraft (1970); (ii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971); (iii) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973); (iv) International Convention against the Taking of Hostages (1979); (v) Convention on the Physical Protection of Nuclear Material (1980); (vi) 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); (vii) Convention for the

	<p>Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005); (viii) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (2005); (ix) International Convention for the Suppression of Terrorist Bombings (1997); and (x) International Convention for the Suppression of the Financing of Terrorism (1999).</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>
Without delay	<p>The phrase without delay means, ideally, within a matter of hours of a designation by the United Nations Security Council or its relevant Sanctions Committee (e.g. the 1267 Committee, the 1988 Committee, the 1718 Sanctions Committee or the 1737 Sanctions Committee). For the purposes of S/RES/1373(2001), 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 organisation. In both cases, the phrase without delay should be interpreted in the context of the need to prevent the flight or dissipation of funds or other assets which are linked to terrorists, terrorist organisations, those who finance terrorism, and to the financing of proliferation of weapons of mass destruction, and the need for global, concerted action to interdict and disrupt their flows swiftly.</p>
Virtual Assets	<p>This term refers to any digital representation of value that can be digitally traded, transferred or used for</p>

	<p>payment. Statutory definitions of 'property' which includes "funds" and "economic resources" are wide. Virtual assets are considered to be covered by these definitions and are therefore caught by the financial sanctions restrictions. (AKA crypto currency, crypto assets)</p>
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