



BERMUDA

Ministry of Legal Affairs  
Financial Sanctions Implementation Unit

# Financial Sanctions Guidance



September 2018

This Financial Sanctions guidance is produced by the Financial Sanctions Implementation Unit (FSIU), a unit of the Ministry of Legal Affairs Headquarters, which, pursuant to the Governor's delegation, is responsible for carrying out certain functions with respect to the implementation of targeted financial sanctions for terrorism, terrorist financing and proliferation financing in Bermuda.

The guidance provides important information outlining your obligations under Bermuda's financial sanctions regime, including the approach for licencing and compliance issues.

As sanctions measures are subject to change you should also refer to the relevant, up-to-date legislation as well as FSIU or sector specific guidance where it is available.

This guidance does not constitute legal advice and the FSIU cannot provide legal advice in relation to the application of international sanctions measures to specific cases. As appropriate you should obtain independent legal advice to assist in understanding your obligations in order to ensure your compliance with Bermuda's sanctions regime.

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# 1 Financial Sanctions overview

## What are sanctions?

1. 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), European Union (EU) or the United Kingdom (UK) as a tool to comply with certain foreign policy or national security objectives. The effect of sanctions is to:
  - limit the provision of certain financial services
  - restrict access to financial markets, funds and economic resources<sup>1</sup>.

## Why are financial sanctions used?

2. 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
3. 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 Bermuda is committed to playing its role in the maintenance of international peace and security, and therefore as a British Overseas Territory (OT), implements the international sanctions obligations of the United Kingdom (UK). It should be noted that having an effective sanctions regime in relation to terrorism and proliferation financing is required under Recommendation 6 and 7 of the [Financial Action Task Force \(FATF\) Standards](#)<sup>2</sup>.

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<sup>1</sup>OFSI Financial Sanctions Guidance, page 5

<sup>2</sup>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). Bermuda is a member of the Caribbean Financial Action Task Force (CFATF), an associate member of the FATF. The Bermuda

## How are sanctions made?

4. Financial sanctions are measures imposed by the United Nations (UN) and its members are required to implement them through the UN Security Council Resolutions<sup>3</sup>.
5. The majority of the sanctions in effect in the UK come from the UN Security Council (UNSC) and the European Union (EU)<sup>4</sup>. Under Chapter VII of the UN Charter, the UNSC can take enforcement measures to maintain or restore international peace and security. Article 41 of the UN Charter allows the UNSC to decide what measures, excluding the use of armed force, are to be employed to give effect to its decisions; and requires UN Members to implement them.
6. Restrictive measures are applied by the EU either in implementation of sanctions adopted by the UNSC in accordance with Chapter VII of the UN Charter (all UN sanctions are implemented by the EU), or autonomously within the framework of the Common Foreign and Security Policy (CFSP), as set out in the Treaty of the EU. Where the EU applies its own financial sanctions it does so in pursuit of the specific objectives of the CFSP via regulations that have direct effect in its member states.<sup>5</sup>
7. In addition, the United Kingdom (UK) has its own domestic regime to impose financial sanctions and restrictions pursuant to domestic legislation<sup>6</sup>.

## Financial sanctions in force in Bermuda

8. Bermuda is subject to essentially the same financial sanctions imposed in the UK. Financial sanctions imposed in the UK by country, administration or terrorist group are listed on the HM Treasury's Office of Financial Sanctions Implementation (OFSI) website and can be found here: <https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>. The UK sanctions regimes are updated as needed and you should consult the OFSI website for accurate information regarding sanctions regimes in force in the UK.
9. The UK extends sanctions measures to Bermuda by way of Overseas Territories Orders in Council (OT Orders) for the various sanctions regimes. Each OT Order

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Government 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.

<sup>3</sup> The UN website provides further information on financial sanctions here:

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

<sup>4</sup> Additional information on financial sanctions in the EU can be found here:

[https://eeas.europa.eu/headquarters/headquarters-homepage/423/sanctions-policy\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/423/sanctions-policy_en)

<sup>5</sup> OFSI Financial Sanctions Guidance pages 5-7.

<sup>6</sup> UK domestic legislation: Terrorist Asset-Freezing etc. Act 2010, Counter Terrorism Act 2008 and Anti-Terrorism, Crime and Security Act 2001

implements the UN and/or EU sanctions measures in the OTs listed in Schedule 1 to the Order. However, for policy reasons almost all of the OT Orders do not extend to Bermuda and are brought into force under the [International Sanctions Act 2003](#) (International Sanctions Act). The International Sanctions Act empowers the Minister responsible for Legal Affairs (Minister) to make such provisions as appear to be necessary or expedient to give effect in Bermuda to the international sanctions obligations of the UK.

10. The [International Sanctions Regulations 2013](#) (2013 Regulations) were made pursuant to the International Sanctions Act. The 2013 Regulations list all of the sanctions regime-related Orders in force in Bermuda, and is amended as required and on an ongoing basis and provides an up-to-date list of Bermuda's Sanctions Regime. In this regard, Orders are added or removed from Schedule 1 of the 2013 Regulations from time to time as required.
11. There are currently 30 regimes that are subject to financial sanctions in the UK that are in force in Bermuda. The list is also available on the government portal [here](https://www.gov.bm/international-sanctions-measures) (<https://www.gov.bm/international-sanctions-measures>).
12. Under each of the Orders, the Governor of Bermuda has certain powers and duties in relation to the administration of financial sanctions measures. Such powers and duties include: the power to designate persons; the duty to publish certain lists; the power to gather information; and the power to issue and revoke licences.
13. The Governor's obligation to publish and maintain a list of designated or listed persons (those subject to targeted financial sanctions) and restricted goods is provided for in the 2013 Regulations, which specifies that the publication of a web address providing links to such lists satisfies the Governor's said obligation<sup>7</sup>.

### **Delegation of Governor's functions to the Minister of Legal Affairs**

14. Effective 25 September 2018 the International Sanctions (Delegation of Governor's Functions) Notice 2018 (BR 104 / 2018) delegated the following functions to the Minister of Legal Affairs, to:
  - obtain evidence and information;
  - issue and revoke licences;
  - serve as a reporting depository;
  - authorise the exercise of powers in respect of customs powers and investigations or in respect of evidence and information pursuant to the Orders listed in Schedule 11 of the 2013 Regulations; and

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<sup>7</sup>The webpage containing the link and further information is [www.gov.bm/international-sanctions-measures](https://www.gov.bm/international-sanctions-measures).

- specify in the currency of the Territory the equivalent amount which is to be taken to sums expressed in sterling in the relevant Order listed in Schedule 1 of the 2013 Regulations.
15. Under each of the Orders, the Governor of Bermuda (the Governor) has certain powers and duties in relation to the administration of the sanctions measures. Such powers and duties include: the power to gather information and grant licences; as well as the duty to publish lists certain lists.

**Table 1: Entities and Responsibilities in Bermuda’s Sanctions Framework**

Entity	Responsibility
Foreign & Commonwealth Office	Negotiates all international sanctions for Bermuda
The Governor	Competent Authority (certain powers are delegated to Minister) Responsible for making designations under Bermuda’s domestic regime and at the request of another country
The Minister of Legal Affairs (Financial Sanctions Implementation Unit)	Delegated certain functions by the Governor Bermuda’s Competent Authority for implementing financial sanctions, for example in regards to receiving reports and issuing and revoking licences (as per Delegation Notice)
Customs Department	Implements trade sanctions and embargoes
Department of Immigration	Implements travel bans
Bermuda Police Service (BPS)	Investigates breaches of financial sanctions
Supervisory Authorities	Regulates for compliance with financial sanctions obligations Can impose monetary penalties

### **What do financial sanctions measures involve?**

16. 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. An individual or entity subject to an asset freeze, or a designated person will be listed on OFSI’s consolidated list:  
<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>



- **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.

### Complying with financial sanctions

17. Financial sanctions are far reaching and apply broadly and further than the persons subject to them. The following sets out where financial sanctions apply and who is required to comply with them.
  - EU financial sanctions (including those implementing UN sanctions) apply within the territory of the EU and to all EU persons, wherever they are in the world.
  - UK financial sanctions apply within the territory of the UK and to all UK persons, wherever they are in the world.
  
18. In Bermuda UN, EU and UK financial sanctions apply to:
  - All individuals and legal entities who are within or undertake activities within Bermuda must comply with financial sanctions that are in force. The OT Orders provide that financial sanctions apply to:
    - a. any person in Bermuda;
    - b. any person elsewhere who is –
      - i. a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory (Bermuda), or
      - ii. a body incorporated or constituted under the law of any part of Bermuda; and
    - c. any person onboard a ship or aircraft that is registered in Bermuda<sup>8</sup>.

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<sup>8</sup> Article 2 of The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2012; similar provision is contained in all other sanctions OT Orders

## **Publication of lists of designated persons or listed persons and restricted goods**

19. Under the various Orders, the prohibitions relate to certain specified persons (designated persons or listed persons) and restricted goods. In March 2017, the Governor issued the International Sanctions Notice 2017<sup>9</sup> that included the web address [www.gov.bm/international-sanctions-measures](http://www.gov.bm/international-sanctions-measures) which provides links to—
- the UK Treasury consolidated list of persons constituting the target of financial sanctions and relevant guidelines; and
  - the consolidated list of restricted goods,

in respect of each applicable Order, listed in Schedule 1 to the 2013 Regulations.

## **Other unilateral sanctions**

20. Persons may be affected by foreign sanctions (such as the US Treasury’s Office of Foreign Assets Control, OFAC), which are sanctions operated by other countries, for example because of the ownership of your business by a foreign corporation, or because of where or how you operate your business. In addition, the nature of much international trade finance means financial institutions and DNFBPs encounter other sanctions regimes. The FSIU cannot advise you on compliance with foreign sanctions.

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<sup>9</sup> The 2017 Notice revoked and replaced the International Sanctions Notice 2013

## 2 Financial sanctions obligations and restrictions

### Who is subject to financial sanctions

21. OFSI publishes a “**consolidated list**” of the persons, organisations and businesses subject to financial sanctions that are described as designated persons. The consolidated list is maintained by OFSI and a direct link is also on the gov.bm sanctions-measures webpage.

The consolidated list can be found here:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>.

22. The list includes all designated persons subject to UN sanctions, which are implemented via EU regulations, and persons subject to financial sanctions under EU and UK legislation. The consolidated list is a tool OFSI provides to assist persons and businesses to comply with financial sanctions.

### 2017 legislative changes provides swift implementation of UN listing

The UK implemented legislation that enables all new UN listings for existing EU sanctions regimes to have direct effect in the Overseas Territories, including Bermuda, as soon as they are made by the UN for 120 days, or until the Order in Council implementing the relevant UN financial sanctions Resolution enters into force in the Territory, whichever is sooner (Article 9 of the Policing and Crime Act (Financial Sanctions) (Overseas Territories) Order 2017. The Policing and Crime Act came into force in the UK on 1 April 2017, and the Policing and Crime Act (Financial Sanctions) (Overseas Territories) Order came into force in Bermuda on 4 December 2017.

OFSI has indicated that where listings have been made under a new UN Security Council Resolution the Linking Regulations will be amended to include the new Resolution within 48 hours. As soon as they have been amended the listing will have direct effect in Bermuda as noted above.

The Policing and Crime Act (Financial Sanctions) (Overseas Territories) Order 2017 also enables the Treasury to create a temporary sanctions regime where the UN makes a new listing and there is no corresponding EU sanctions regulation in place to implement it. The temporary regime lasts for 120 days in Bermuda or until the Order in Council implementing the relevant UN financial sanctions Resolution enters into force in the Territory, whichever is sooner (Article 7 of the Policing and Crime OT Order)<sup>1</sup>.

23. If a business or individual has been de-listed and your name still appears on the consolidated list, the entity should email OFSI ([ofsi@hmtreasury.gsi.gov.uk](mailto:ofsi@hmtreasury.gsi.gov.uk)) with evidence of the de-listing.

### How to use the consolidated list

24. The consolidated 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
  - government role
  - date person was added to the list
25. The name of an individual or entity you are dealing with may match one or more entries on the consolidated list, which is known as a **name match**. This does not necessarily mean that the individual or entity you are dealing with is the same entity on the list. If you are satisfied that this is the case, you are not required to take further action.
26. If the individual or entity you are dealing with matches all the information on the consolidated list, this is likely to be a **target match**.
27. If you have completed the required screening and remain unsure on whether you have a target match, you can contact the FSIU for assistance.
28. The required steps to take where you have a target match depend on the specific sanctions that apply to the target. Asset freezes are discussed further below (paragraphs 34-36).

### How to get “consolidated list” updates?

#### OFSI updates

29. OFSI publishes Notices describing changes to financial sanctions on GOV.UK: <https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

30. You can subscribe to OFSI to receive email updates whenever a new Notice is published by clicking on the link here:

<https://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new>

### FSIU updates

31. When the FSIU receive a notice from OFSI advising of a change to a financial sanctions regime the FSIU:
- updates the sanctions webpage to reflect the change, the link is here: [www.gov.bm/international-sanctions-measures](http://www.gov.bm/international-sanctions-measures)
  - sends an email notification to the Supervisory Authorities that contains: 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.

### Restrictions and prohibitions

32. You are **prohibited** from carrying out certain activities; including 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.
33. You should always refer to the up-to-date version of the legislation imposing the specific financial sanctions which apply in your case to understand exactly what is prohibited.

### What does an asset freeze do?

34. An asset freeze 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

### What you are required to do

35. 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 funds or economic resources
  - 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 FSIU

- report them to the FSIU (see Chapter 4)
36. **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 a suspicion.

**WARNING!**  
**BREACHING SANCTIONS REQUIREMENTS MAY RESULT IN  
CRIMINAL PROSECUTION**

### **Asset freezing definitions**

37. Funds means financial assets and benefits of every kind, including (but not limited to) –
- cash, cheques, claims on money, drafts, money order and other payment instruments;
  - deposits with relevant institutions or other entities, balances on accounts, debts and debt obligations;
  - publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
  - interest, dividends or other income on or value accruing from or generated by assets;
  - credit, rights of set-off, guarantees, performance bonds or other financial commitments;
  - letters of credit, bills of lading and bills of sale;
  - documents showing evidence of an interest in funds or financial resources; and
  - any other instrument of export financing.
38. **Economic resources** means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services.
39. **Goods** include items, materials and equipment.
40. **Dealing with funds** includes to move, transfer, alter, use, allow access to, or deal with in any way that would result in any change in the funds' volume, amount, location, ownership, possession, character, destination, or any other change that would enable use, including portfolio management, i.e. the management of securities (shares, bonds, etc) and other assets.

41. **Dealing with economic resources** means using the economic resources to obtain funds, goods, or services in any way, including, but not limited to, by selling, hiring or mortgaging the resources. It is not prohibited for a designated person to use their own economic resource for normal personal consumption (e.g. using their car to do the shopping). However a designated person could not sell or use the resource to generate funds (e.g. by selling the car or using it for a taxi or courier business) without a licence.
42. **Making available funds or economic resources, directly or indirectly, to a designated person** – if a person makes funds available (directly or indirectly) to a designated person, or economic resources are made available (directly or indirectly) that would likely be exchanged, or used in exchange, for funds, goods or services by the designated person, this is a criminal offence.
43. **Making available funds or economic resources for the benefit of a designated person** – if funds or economic resource are made available for the benefit of a designated person and they obtain, or are able to obtain, a “significant financial benefit” from the funds or economic resources, this is an offence. In this instance financial benefit includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.
44. **Financial Services** is given its meaning from The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011 (as amended), which provides additional restrictions on the provision of financial services (section 40):

#### **Meaning of “financial services”**

(1) In this Part, “financial services” means any service of a financial nature, including (but not limited to)—

- (a) insurance-related services consisting of—
  - (i) direct life assurance;
  - (ii) direct insurance other than life assurance;
  - (iii) reinsurance and retrocession;
  - (iv) insurance intermediation, such as brokerage and agency;
  - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
- (b) banking and other financial services consisting of—
  - (i) accepting deposits and other repayable funds;
  - (ii) lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions); 23
  - (iii) financial leasing;
  - (iv) payment and money transmission services (including credit, charge and debit cards, travellers’ cheques and bankers’ drafts);
  - (v) providing guarantees or commitments;

- (vi) financial trading (as defined in subsection (2) below);
- (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
- (viii) money brokering;
- (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (x) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
- (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
- (xii) providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).

(2) In subsection (1)(b)(vi), “financial trading” means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in—

- (a) money market instruments (including cheques, bills and certificates of deposit);
- (b) foreign exchange;
- (c) derivative products (including futures and options);
- (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
- (e) transferable securities;
- (f) other negotiable instruments and financial assets (including bullion).

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



## 3 Ownership and control

46. When a person is designated their name is recorded on the consolidated list. However an asset freeze and some financial services restrictions will also apply to entities that are owned or controlled, directly or indirectly, by a designated person. The entities may not be designated and placed on the consolidated list; however such entities are also subject to financial sanctions<sup>10</sup>.

### Ownership

47. In line with EU guidance, the key criterion to assessing whether a legal person or entity is owned by another legal person or entity is the possession of more than 50% of the proprietary rights of an entity or having a majority interest in it. If this criterion is met, and the owner is also a designated person, then financial sanctions will also apply to the entity that is owned by the designated person
48. Owned is interpreted to include direct and indirect ownership. If it is determined a designated person (DP) is the ultimate beneficial owner of an entity (for example, DP owns a corporate body that owns another corporate body), the view taken is that all entities that are part of the ownership chain are subject to financial sanctions.

### Minority interests

49. Where a designated person has a minority interest in another legal person or entity this does not necessarily mean that financial sanctions also apply to them as the ownership criterion has not been met.
50. Take note that you should remain vigilant to any changes in the stake held by the designated person in case it increases to greater than 50% (or the DP obtains majority interest) at which point financial sanctions will also apply to that legal person or entity.
51. You should also consider whether a designated person is in "control" of another legal person or entity. Financial sanctions apply in this situation even where a designated person may only possess a minority interest.

### Control

52. In line with EU guidance, satisfaction of a least one of the following criteria is sufficient to establish whether a legal person or entity is controlled by another legal person or entity, alone or pursuant to an agreement with another shareholder or other third party:

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<sup>10</sup> OFSI Financial Sanction Guidance pages 15-16

- Having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity
- Having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year
- Controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity
- Having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision
- Having the power to exercise the right to exercise a dominant influence referred to in the point above, without being the holder of that right (including by means of a front company).

53. The EU's Best Practices guide can be found here:

<http://data.consilium.europa.eu/doc/document/ST-10254-2015-INIT/en/pdf>

**EU guidance will be interpreted broadly in respect of ownership and control. The above list of criteria is intended to be indicative of the factors leading to control being established, however it is not an exhaustive list.**

54. It is possible that a designated person may have control or use of another person's bank accounts or economic resources and may be using them to circumvent financial sanctions.
55. Examples could include a designated person registering assets in the name of associates or family members, or using non-designated persons' bank accounts to hold funds and facilitate transfers.

Such actions may constitute a breach of the prohibitions or circumvention of financial sanctions and may result in a criminal prosecution.

# 4 Your reporting responsibilities to the FSIU

## General obligations to report

56. Sanctions obligations under the OT Orders require natural and legal persons, entities and bodies to supply the FSIU as soon as possible, with any information that would 'facilitate compliance' with the OT Orders.
57. Any information provided to the FSIU will only be used for the purposes of which it is intended.

## Who must report?

58. The International Sanctions Regulations 2013 (as amended by the International Sanctions Amendment Regulations 2018 BR 101/2018), which enforces the UK and EU regulations, set out specific reporting obligations for a "**relevant institution**" and a "**relevant business or profession**".
59. A **relevant institution** means –
  - a business that carries on deposit-taking business within the meaning of section 4 of the Banks and Deposit Companies Act 1999;
  - a business that carries on investment business within the meaning of section 3 of the Investment Business Act 2003;
  - an insurer (and not a reinsurer) registered under section 4 of the Insurance Act 1978 who carries on long term business falling within paragraph (a) or (c) of the definition of "long-term business" in section 1(1) of the Insurance Act 1978;
  - an insurance manager or broker registered under section 10 of the Insurance Act 1978, but in relation to an insurance broker, only in so far as he acts as a broker in connection with long term business (other than reinsurance business) falling within paragraph (a) or (c) of the definition of "long-term business" in section 1(1) of the Insurance Act 1978;
  - a business that carries on the business of a fund administrator within the meaning of section 2(2) of the Investment Funds Act 2006;
  - a business that carries on money service business within the meaning of section 2(2) of the Money Service Business Act 2016;
  - the operator of an investment fund within the meaning of section 2 of the Investment Funds Act 2006; or

- a business that operates a currency exchange office, transmits money by any means, or cashes cheques which are made payable to customers<sup>11</sup>.

60. **Relevant business or profession** includes:

- an auditor;
- a casino;
- a dealer in precious metals or stones;
- an external accountant;
- an independent legal professional;
- a real estate agent;
- a tax adviser; and
- a trust or company service provider (CSP)<sup>12</sup>

### **Responsibilities of relevant institution, business or profession**

61. If you are a relevant institution, business or profession you must have adequate resources to implement policies and procedures to comply with Bermuda's Sanctions Regime.
62. Your resources should provide for adequate policies and procedures to comply with your sanctions obligations, and should be documented, reviewed and endorsed by senior management. The purpose of the due diligence is to 'know your customer' and that includes ownership and control information.
63. You should also determine your risk profile with reference to the following non-exhaustive 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
64. Relevant staff should all be trained and assessed on how to comply with your sanction compliance procedures. Such procedures should be recorded, audited and updated.

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<sup>11</sup> Proceeds of Crime Act 42A (1) defines AML/ATF regulated financial institution

<sup>12</sup> Regulation 2A(2) of the International Sanctions Regulations 2013. Definitions of each of the listed businesses or professions can be found at Regulation 2A(3) of the International Sanctions Regulations 2013.

65. 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.
66. Upon the receipt of an email notification from the FSIU, advising of the addition of an individual or entity to the consolidated list; and if 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 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 activitiesunless there is an exemption in legislation in which you can rely on, or unless you have obtained a licence from the FSIU.
  - Immediately report them to the FSIU.
  - Complete the Compliance Reporting Form as soon as possible (see Annex 2).
    - 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 listed individual or entity, directly or indirectly, or of any attempted transactions involving those individuals or entities, this should be reported to the FSIU.
    - any failure to comply with financial sanctions legislation, or to seek to circumvent provisions is a criminal offence and may result in prosecution.

### **What must you report**

67. If you are a relevant financial institution or a relevant business or profession, you must report to the FSIU as soon as practicable if you know or have a reasonable cause to suspect that a person:
- is a designated person;
  - has committed an offence under the legislation.

68. 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.
69. When reporting to the FSUI, 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.
70. 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.
71. If you are unsure of any of your reporting obligations, you should seek independent legal advice.

### **How to report**

72. A Compliance Reporting Form (CRF) must be completed when making a report to the FSUI (see Annex 2). The CRF should be used when reporting suspected designated persons, assets you have frozen, and suspected breaches of financial sanctions and should be emailed to [fsiu@gov.bm](mailto:fsiu@gov.bm), and can also be sent to the Financial Sanctions Implementation Unit<sup>13</sup>. The CRF is also located on the FSUI webpage here: <https://www.gov.bm/international-sanctions-measures>
73. All reports to the FSUI that involve a designated person should include the Group ID reference number. The Group ID is a unique identifier for a designated person which can be found in their entry on the consolidated list:  
<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>

### **Record keeping**

74. You should maintain records of any potential matches to names and sanctions lists, whether the match turns out to be a true match or a false positive.
75. You should, as a minimum, keep the following information about any match:

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<sup>13</sup> Address: FSUI, Minister of Legal Affairs Headquarters, Global House, 43 Church Street, Hamilton HM 12, Bermuda

- 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, included attempted or refused transactions;
- subsequent action taken (i.e. freezing accounts)
- if you consulted with, or filed a report with the FSIU.

### **Other reporting obligations**

76. As indicated above, you have a responsibility to report to the FSIU, which is in addition to any other non-financial sanctions reporting obligations you may have. Obligations could include reporting requirements by your supervisor/regulator or, if relevant, submitting Suspicious Activity Reports (SARs) to the Financial Intelligence Agency (FIA).
77. Take note that simply reporting to your regulator or the FIA 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 FSIU at: [fsiu@gov.bm](mailto:fsiu@gov.bm).
78. If you are unclear about your reporting obligations, you should seek independent legal advice.

## 5 Exemptions and licensing

79. The following sections provide a general overview of the standard of exemptions and licensing grounds pursuant to financial sanctions obligations in the OT Orders. The grounds may vary from regime to regime so it is important that you check the relevant, up-to-date OT Orders.
80. Specific exemptions and licensing powers can allow an otherwise prohibited transaction(s) to take place in certain circumstances.
81. A licence is the written authorisation from the Minister of Legal Affairs, with the consent of the UK Secretary of State, permitting the otherwise prohibited transactions.
82. An exemption to a prohibition applies automatically in certain defined circumstances and does not require you to obtain a licence from the FSIU.

### Crediting Frozen Accounts

83. Asset freezing legislation generally permits you to make the following payments into a frozen account without the need for a licence from the FSIU, provided those funds are frozen after being paid in:
  - 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.
84. The legislation also generally permits you to credit a frozen account with payments from a third party without the need for a licence, provided that the incoming funds are also frozen and that you inform the FSIU of the transaction without delay.

### Licensing overview

85. It's important to note that the Minister can only issue licences 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: <https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>



**Please note that the Minister will only consider licensing those activities that fall within the licensing grounds set out in the relevant OT Order.**

86. In order to licence as proportionately as possible whilst mitigating the risk of terrorist financing, the Minister may also attach conditions to a licence. 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.
87. 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 FSIU, 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.
88. 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.
89. You must not continue to carry out any action(s) which are not authorised by a licence.
90. If you deal with funds that should be frozen, or make economic resources available to a designated person without an appropriate licence, that is a criminal offence.
91. 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**

92. Some of the common grounds for obtaining a licence in Bermuda are for: the basic expenses of the designated person or dependent family members; reasonable professional fees and disbursement of incurred expenses in relation to legal services; fees or services charges for the maintenance of frozen funds or

economic resources; extraordinary expenses; 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 Bermuda: Asset Freeze Licence Application Form. (Annex 1)

### Applying for a licence

93. 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 FSIU is satisfied that your application can be considered complete.
94. It is anticipated that a licence application will be considered within 4 weeks of receipt of completed application, however this does not mean that a licence will necessarily be issued with four 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.
95. You should not engage in any activities prohibited by financial sanctions until you have received an appropriate licence.

### Urgent cases

96. FSIU will prioritise urgent and humanitarian cases. If a request is urgent, please indicate this in your application, and explain why.
97. The FSIU will endeavour to assist applicants who contact us to understand the licensing process as well as our evidentiary requirements. However, we cannot provide legal advice and applicants should consider taking independent legal advice before applying, especially for complicated matters.
98. The FSIU expects that legal and professional advisers will have fully considered the relevant law and formed a view about an application before approaching the FSIU for guidance or submitting an application.
99. The FSIU does not charge a fee for licences.

### Submitting a licence application

100. Applicants should use the online form to apply for a licence from the FSIU. The form is available at: <https://www.gov.bm/international-sanctions-measures#International%20Sanctions> (see Annex 1).

101. Applicants will generally be required to provide:
- 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
102. 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 the relevant financial sanctions regime pages: <https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidatedlists-and-releases>.

### **Terrorist Financing**

103. If you seek a licence under Terrorism and Terrorist Financing or the ISIL (Da'esh" and Al-Qaida organisations regime, you should email the FSIU ([fsiu@gov.bm](mailto:fsiu@gov.bm)) setting out the full details of your proposed transaction.

### **Notification and approvals**

104. On the grant, variation or revocation of a licence, the FSIU will give written notice to the person, category of persons or entity.

### **Amending a licence**

105. Requests for an amendment, variation or extension of a licence should be submitted to the FSIU's office as soon as it is apparent that a change is required. Full supporting information and arguments should be provided.
106. It is anticipated that an amendment request will be considered within 2 weeks of receipt.

### **Refusal of a licence**

107. If the FSIU refuses to issue a licence, the proposed transaction or activities will not be lawful. The FSIU will write to the applicant giving reasons for refusing the application.

108. The FSIU may also refuse an application if the applicant does not require a licence for the proposed transaction or activities (see crediting frozen accounts above).
109. If an application for a licence is refused, the applicant has the following options:
- ask the FSIU to review his decision;
  - re-apply with new or supplementary evidence or new supporting arguments; and
  - seek judicial review of the decision.

### **Complying with a licence**

110. 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**

111. A licence issued by the FSIU 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

112. The FSIU is responsible for monitoring compliance with the various financial sanctions regimes, and for assessing suspected breaches. The FSIU has the power to refer cases to law enforcement agencies for investigation and potential prosecution.
113. The FSIU's assessment of breaches is informed by our overall approach to financial sanctions compliance. This approach covers the whole lifecycle of compliance in respect of financial sanctions. We endeavour to take a holistic approach to support those seeking to comply and to raise the level of financial compliance awareness. This will be effected by the FSIU:
- 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
  - responding to non-compliance by intervening to disrupt attempted breaches and by tackling breaches effectively
  - doing these things to change behaviour, directly preventing future non-compliance 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 FSIU 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
- action being taken to improve future compliance.

### **Reporting a suspected breach of financial sanctions**

114. Your reporting obligations to FSIU are set out in the 'Your Reporting Responsibilities' in this guide. Where you know or have reasonable cause to suspect that a breach has occurred this must be reported to the FSIU as soon as practicable.

## **Offences**

Offences are set out in all of the OT Orders and may include:

- making funds or economic resources available to a designated person
- dealing with frozen funds
- failure to comply with reporting obligation
- non-compliance with licencing conditions

## **Penalties for breaches of financial sanctions**

115. Breaches of financial sanctions are considered to be a serious criminal offence. Upon conviction on indictment, offences under the OT Orders in regards to UN / EU financial sanctions provide for a term of imprisonment of up to seven years or a fine or both; and on summary conviction, imprisonment for a maximum of 6 months or to a fine not exceeding £5,000.00 or its Bermuda dollar equivalent or both.

## 7 Designations

116. The Foreign and Commonwealth Office negotiates all international sanctions for the UK and its overseas territories, including Bermuda. The Governor of Bermuda is the competent authority that has responsibility for proposing persons or entities for designations under: existing sanctions regimes; Bermuda's domestic sanctions regime; and at the request of another country.
117. Under existing regimes the Governor'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 Governor carries out his powers through coordination with relevant domestic partners and the Foreign and Commonwealth Office.

### **Domestic designations**

118. For the national designations process the Governor is the Competent Authority for making final designations under section 2 of the Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011 (TAFOTO). However before making a final designation the Governor must consult with the Secretary of State.

### **Request for designation by another country**

119. The process for domestic designation can also be used by the Governor to make designations at the request of other countries, provided the statutory test in TAFOTO is met.
120. The provisions under TAFOTO provide that the Governor may make a final designation where he believes:
  - that the person is or has been involved in terrorist activity
  - that the person is owned or controlled directly or indirectly by a person involved in terrorist activity
  - that the person is acting on behalf of or at the direction of a person involved in terrorist activity
  - that it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.
121. Involvement in terrorist activity includes conduct that facilitates the commission, preparation or instigation of such acts or that is intended to do so.

122. Designation is not automatic upon receipt of a request. The requesting country would have to complete a Designations Impact Assessment Form (DIA) (see Annex 3), 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 FSIU. The FSIU vets the DIA Form to ensure it is complete and provides the completed package to the Governor to progress.
123. The Governor and the FSIU liaise with the Foreign and Commonwealth Office (FCO) as needed during this process. The FCO Sanctions team will assess the DIA information from both a legal and policy standpoint in deciding whether to pursue the proposed measures.
124. 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 TAFOTO is met.
125. Where the statutory test is met and the Governor designates an individual or entity, they are added to the Bermuda current list of Designated Persons on the sanctions webpage and the target and supervisory authorities are notified in the manner prescribed previously in 'FSIU updates' (see Chapter 2).



## 8 De-listing and challenging designations

126. 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.
127. When a decision is reached that supports the challenge the listed individual or entity is removed from the consolidated list of financial sanctions targets. That is, OFSI removes the individual or entity and communicates EU and UN delistings, as well as UK revocations of designations under TAFSA, by updating its consolidated list within one business day.
128. The revocation of a Bermuda designation listing would result in the FSIU reflecting the change in the Bermuda current list of Designated Persons on the sanctions webpage, and notifying the designated person/entity and the supervisory authorities in the manner prescribed in Chapter 2, under 'FSIU updates'.

### When to request delisting?

129. Delisting is considered appropriate whenever the listing criteria under the applicable sanctions 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

130. Where a "**false positive**" occurs, i.e. where a person or entity is wrongfully 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.
131. 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.
132. At times, making the distinction between designated and non-designated persons or entities is 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.

133. 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.
134. 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 FSIU.

### FSIU’s Role

135. Where the findings of the FSIU, upon consideration of all material facts and circumstances, determine the person or entity **is not** the designated person, the FSIU will inform the involved parties of their finding. The relevant institution, business or profession should take steps to immediately unfreeze any funds or economic resources, and should further inform the FSIU of any action taken right away.
136. Where the findings of the FSIU, upon consideration of all material facts and circumstances, determine the person or entity **is** the designated party, the FSIU will inform all parties as to the finding and the asset freeze will remain in place.
137. In the cases where the FSIU is unable to determine a claim of mistaken identity after a thorough investigation, and the claim is not clearly unfounded, they will advise OFSI, and request the provision of an authoritative finding regarding the person or entity’s identity. As soon as OFSI provides an authoritative finding the FSIU will inform all parties involved.

### How to make a delisting request?

138. 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 Sanctions Implementation Unit for assistance at (441) 292-2463.

## Bermuda listings under UNSC Resolution 1373

139. To delist a Bermuda originating listing made under UNSC Resolution 1373, designated persons and entities should submit a petition for delisting to the Governor. The Governor then assesses the petition and consults with the UK Secretary of State. Where they are in agreement with the petition the Governor will revoke a final designation pursuant to the Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011, section 5 (as amended) (TAFOTO). A copy of the petition should be sent to the FSIU.
140. To challenge a designation pursuant to UNSCR 1373 a designated person or entity may appeal to the Supreme Court of Bermuda against any such designation.

## UN listings

141. 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 de-listing 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 Governor should be copied to the FSIU.
142. Requests for delisting submitted to the Governor are initially assessed by the FSIU; and if supported by the Governor, the delisting petition will be submitted to the UK Foreign and Commonwealth Office (FCO) as the FCO is responsible for negotiating all international sanctions for the UK. The UK FCO, as the Member State to the UN, will ultimately decide whether to take the delisting forward to the relevant UN Sanctions Committee or the Security Council.
143. To petition the Governor, you should contact Government House:  
  
Address: The Governor of Bermuda  
Government House  
11 Langton Hill  
Pembroke HM13  
Bermuda  
Telephone: (441) 292 3600  
E-mail: [governor@gov.bm](mailto:governor@gov.bm)
144. Alternatively, petitions for delisting made directly to the UN should note the following:

145. 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](mailto:ombudsperson@un.org)

146. More information about the Office of the Ombudsperson is available on the UN's website: <https://www.un.org/sc/suborg/en/ombudsperson>.

147. 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](mailto: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>.

## EU listings

148. To challenge an EU listing, you should contact the EU directly:

Address: Council of the European Union  
General Secretariat  
DG C 1C  
Rue de la Loi/Wetstraat 175  
1048 Bruxelles/Brussel  
BELGIQUE/BELGIË  
Email: [sanctions@consilium.europa.eu](mailto:sanctions@consilium.europa.eu)

## UK listings

149. For UK listings under its domestic sanctions regimes there are avenues of appeal and judicial review within the specific legislation under which the designation is made. Legal correspondence should be sent to:

Address: The Treasury Solicitor  
Government Legal Department  
One Kemble Street  
London  
WC2B 4TS  
DX 123242 Kingsway  
United Kingdom

150. The FSIU strongly advises all regulated entities to subscribe to OFSI's Consolidated List here:  
<https://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new>.
151. This is the most comprehensive and up-to-date list of financial sanctions in operation in Bermuda. As noted previously, the FSIU sends out notifications of persons/entities removed from the consolidated list to Supervisory authorities and is in the process of establishing a subscription service to enhance its delivery of information and raise awareness of and compliance with financial sanctions.
152. 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

153. 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.
154. Therefore, upon receiving notification advising the removal of a person/entity from the Consolidated List, you must, without delay, take the following steps to effect a de-listing:
- Check whether you have frozen funds or assets of any person/entity removed from the Consolidated List
  - Verify that the person/entity is no longer subject to the asset freeze
  - Remove the person/entity from your institution's list of persons/entities subject to financial sanctions

- Un-freeze the assets of the person/entity and reactivate the relevant accounts
- Send notification to the person/entity that the assets are no longer subject to an asset freeze
- Notify the FSIU of the actions you have taken, as soon as practicable.

## 9 Glossary

**Disclaimer:** The following is a general description of the terms used throughout this guide. Please see the most recent version of the relevant legislation for the exact terms used in context. If you are in doubt about any of the below, please contact the FSIU or seek independent legal advice.

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<b>Asset Freeze-</b>	<p>A type of financial sanction. Under an asset freeze it is generally prohibited to:</p> <ul style="list-style-type: none"><li>- Deal with the frozen funds or economic resources, belonging to or owned, held or controlled by a designated person;</li><li>- Make funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person;</li><li>- Engage in actions that, directly or indirectly, circumvent the financial sanctions prohibitions.</li></ul>
<b>Bermuda Regulations-</b>	<p>See Statutory instruments.</p>
<b>Competent Authority-</b>	<p>Refers to all designated national authorities with statutory power who implement Bermuda's anti-money laundering and anti-terrorist regime. This includes financial supervisors established as independent non-governmental authorities with statutory powers. In particular, this includes the FIA; the authorities that have the function of investigating and/or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing/freezing and confiscating criminal assets; authorities receiving reports on cross-border transportation of currency &amp; BNIs; and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and DNFBPs with AML/CFT requirements. SRBs are not to be regarded as competent authorities.</p>
<b>Consolidated List-</b>	<p>List maintained by FSIU containing designated persons subject to financial sanctions.</p>
<b>Dealing with economic resources-</b>	<p>Generally means using economic resources to obtain funds, goods, or services in any way, including (but not limited to) by selling, hiring or mortgaging them.</p>
<b>Dealing with funds-</b>	<p>Generally means moving, transferring, altering, using, accessing or otherwise dealing with funds in any way which would result in any change to their volume, amount, location, ownership, possession, characters, destination or other change that would enable the funds to be used, including portfolio management.</p>
<b>Designated Person-</b>	<p>A person subject to financial sanctions. Specifically, the term designated person or entity refers to:</p> <p>(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;</p>

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(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 supra-national 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 (2015) and any future successor resolutions by the Security Council.

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<b>Designation-</b>	<p>The term designation refers to the identification of a person<sup>84</sup>, individual or entity that is subject to targeted financial sanctions pursuant to:</p> <ul style="list-style-type: none"><li>- United Nations Security Council resolution 1267 (1999) and its successor resolutions;</li><li>- 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;</li><li>- Security Council resolution 1718 (2006) and any future successor resolutions;</li><li>- Security Council resolution 2231 (2015) and any future successor resolutions; and</li><li>- any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of proliferation of weapons of mass destruction.</li></ul> <p>As far as Security Council resolution 2231 (2015) and any future successor resolutions are concerned, references to “designations” apply equally to “listing”.</p>
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<b>Economic resources-</b>	Generally means assets of every kind-tangible or intangible, movable or immovable- which are not funds but may be used to obtain funds, goods or service.
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<b>Exemption-</b>	Generally found in financial sanctions legislation. An exemption to a prohibition applies automatically in certain defined circumstances and does not require you to obtain a licence.
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<b>FSIU-</b>	The Financial Sanctions Implementation Unit is part of the Ministry of Legal Affairs HQ, Bermuda’s competent authority for implementing financial sanctions.
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<b>Funds-</b>	<p>Generally means financial assets and benefits of every kind, including but not limited to:</p> <ul style="list-style-type: none"><li>- Cash, cheques, claims on money, drafts, money orders and other payment instruments;</li></ul>
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- Deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- Publicly and privately traded securities and debt instruments, including stocks and shares, certificates, representing securities, bonds, notes, warrants, debentures and derivatives contracts
- Interest, dividends or other income on or value accruing from or generated by assets
- Credit, right of set-off, guarantees, performance bonds or other financial commitments;
- Letters of credit, bills of lading, bills of sale; and
- Documents showing evidence of an interest in funds or financial resources.

<b>Goods-</b>	Generally means items, materials, and equipment.
<b>Licence-</b>	A written authorisation from FSIU permitting an otherwise prohibited act.
<b>Legal persons-</b>	Legal persons refer to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, bodies corporate, foundations, anstalt, partnerships, or associations and other relevantly similar entities.
<b>Name match-</b>	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.
<b>OFSI-</b>	Office of Financial Sanctions Implementation. Part of HM Treasury and the UK's competent authority for implementing financial sanctions.
<b>Ownership-</b>	The possession of more than 50% of the proprietary rights of an entity or having a majority interest in it. Includes both direct and indirect ownership.
<b>Person-</b>	Can be a natural person (an individual), or a legal person, body or entity.
<b>Reasonable cause to suspect-</b>	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.
<b>Relevant institution-</b>	Refers to the following: <ul style="list-style-type: none"> <li>- a business that carries on deposit-taking business within the meaning of section 4 of the Banks and Deposit Companies Act 1999;</li> <li>- a business that carries on investment business within the meaning of section 3 of the Investment Business Act 2003;</li> <li>- an insurer (and not a reinsurer) registered under section 4 of the Insurance Act 1978 who carries on long term business falling within paragraph (a) or (c) of the definition of "long-term business" in section 1(1) of the Insurance Act 1978;</li> <li>- an insurance manager or broker registered under section 10 of the Insurance Act 1978, but in relation to an insurance broker, only in so far as he acts as a broker in connection with long term business (other than reinsurance business) falling within paragraph (a) or (c) of the definition of "long-term business" in section 1(1) of the Insurance Act 1978;</li> <li>- a business that carries on the business of a fund administrator within the meaning of section 2(2) of the Investment Funds Act 2006;</li> </ul>

	<ul style="list-style-type: none"> <li>- a business that carries on money service business within the meaning of section 2(2) of the Money Service Business Act 2016;</li> <li>- the operator of an investment fund within the meaning of section 2 of the Investment Funds Act 2006; or</li> <li>- a business that operates a currency exchange office, transmits money by any means, or cashes cheques which are made payable to customers.</li> </ul>
<b>Statutory Instruments (SIs)-</b>	Also referred to as secondary, delegated or subordinate legislation. These SIs are a form of legislation that allows an Act of Parliament to be brought into force or amended without Parliament having to amend that Act. For financial sanctions, SIs generally implement enforcement powers for directly applicable EU regulations.
<b>Target Match-</b>	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.
<b>Terrorist-</b>	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.
<b>Terrorist act-</b>	<p>A terrorist act includes:</p> <p>(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 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>
<b>Terrorist financing-</b>	Terrorist financing is the financing of terrorist acts, and of terrorists and terrorist organisations.
<b>Terrorist</b>	The term terrorist organisation refers to any group of terrorists that: (i)

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**Organisation-** 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.

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**Without delay-** 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.

# **ANNEXES**

## **BERMUDA ASSET FREEZE LICENCE APPLICATION**

This form should be used by individuals or entities seeking a licence from the

Minister of Legal Affairs to allow an activity or transaction to take place that would otherwise be prohibited under asset freezing measures in the Overseas Territories Orders in Council (Overseas Territories Orders) listed in the International Sanctions Act Regulations 2013 (2013 Regulations). The 2013 Regulations list all of the United Nations (UN) and European Union (EU) sanctions regime-related Overseas Territories Orders in force in Bermuda.

This form should **NOT** be used for export control licence applications or other non-asset-freeze matters. The completed form should be submitted via E-mail to: [fsiu@gov.bm](mailto:fsiu@gov.bm), with a copy to:

- i) The Minister of Legal Affairs  
Global House  
43 Church Street  
Hamilton HM 12  
Bermuda
  
- ii) Office of the National Anti-Money Laundering Committee of Bermuda  
at: [info-namlc@gov.bm](mailto:info-namlc@gov.bm)

For license applications relating to the Al-Qaida (Assess Freezing) Regulations 2011, and the Terrorist Asset-Freezing etc Act 2010 (Oversees Territories) Order 2017 in particular, you should instead write to the Minister of Legal Affairs setting out the full facts and details of the licence needed. In some cases a general licence may already be in place.

Licence applications can be legally or commercially complex, and in certain circumstances require clearance or prior notification internationally (e.g. at EU or UN level). Accordingly you should apply at least four weeks before a licence is needed and preferably even further in advance if practicable.

The Minister of Legal Affairs can only issue a licence where there are grounds to do so. These grounds will be set out in the relevant legislation. In each application consideration should be given to the grounds on which the licence is sought and reference should be made to the relevant licensing ground as set out in the relevant legislation. Applications which do not do so may be returned with a request that a suitable licensing ground be added.

**Please read the notes on page 5 before completing the form.**

**PART 1 – UNDER WHICH REGIME IS THE LICENCE SOUGHT?**

<b>Name of regime in respect of which a licence is sought (Egypt, Eritrea, etc.)</b>	
<b>URGENCY</b> Please provide any details that may help us determine the urgency of the case (e.g. deadlines, impact on your business if a licence cannot be granted by a given date).	

**PART 2 – DETAILS OF THE LICENCE APPLICANT**

<b>Date of application</b>	
<b>Name of applicant</b> (Individual / Company Name etc.)	
<b>Are you/is your company a “designated person” (that is, subject to an asset freeze), or owned or controlled by a designated person? If so, please provide details</b>	YES / NO
<b>Nature of business</b>	
<b>Address</b>	
<b>Contact Name</b>	
<b>Telephone number</b>	
<b>Email address</b>	

**PART 3- ABOUT THE LICENCE SOUGHT**

<p><b>Licence required to release frozen funds or economic resources, or make them available, directly or indirectly, to or for the benefit of a designated person, to meet:-</b></p> <p><b>PLEASE TICK WHICHEVER APPLIES</b></p> <p><b>Note: Those grounds marked * are licensing grounds only relating to the release of frozen funds. Funds or economic resources cannot be made available to listed persons under those licensing grounds.</b></p>	Basic expenses of the designated person or his or her dependent family members	
	Reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services	
	Fees or service charges for the maintenance of frozen funds or economic resources	
	Extraordinary expenses	
	*Obligations due under a contract or agreement entered into, or an obligation which arose prior to the designation of the person or entity in question	
	*Obligations arising in connection with certain judicial, administrative or arbitral liens, decisions or judgments	

	Other (please specify, including relevant legislation reference)	
<b>Specify the legal basis for licensing – see note 3 (i.e. the relevant Overseas Territory Order, article and paragraph).</b>		
<b>Please give the licence number(s) of any licence(s) already received by the applicant.</b>		

**PART 4 – OVERVIEW**

<b>Briefly outline the transaction, and your role in it. What is the prohibited act that the licence is for?</b>	
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**PART 5 - DETAILS OF THE TRANSACTION(S) CONCERNED**

<b>Date of contract.</b>		
<b>Date of the intended transaction(s).</b>		
<b>Description of funds, goods or services to be supplied or obtained.</b>		
<b>Are the goods or services for humanitarian purposes (e.g. delivering or facilitating the delivery of assistance, including medical supplies, food, the provision of electricity, or other humanitarian purposes)?</b>	<p style="text-align: center;">YES / NO</p> <p>(If 'Yes' please explain the humanitarian purpose fully)</p>	
<b>Value of the goods or services to be supplied or obtained.</b>		
<b>Names of the parties to the contract.</b>	Seller / supplier	
	Buyer / customer	
	Agent / broker / other intermediary	
<b>As far as you are aware, is the end user different to the contract customer?</b>	<p style="text-align: center;">YES / NO</p> <p>If "Yes", please provide details of the end user (if known)</p>	
<b>As far as you are aware, is the end user an owned or controlled by a designated person?</b>	<p style="text-align: center;">YES / NO</p> <p>If "Yes", please provide details of the ownership or control</p>	

<b>Do you know or have reasonable suspicion that the funds, goods or services will be used by a designated person, or by a person acting on their behalf or at their direction, or by entities owned or controlled by them?</b>	YES / NO If "Yes" who is the individual or entity?
<b>Dates of any transactions / shipments / payments already made.</b>	
<b>Dates of any future transactions / shipments/ payments.</b>	

**PART 6 – BANKING DETAILS**

<b>Method of payment (e.g. cash, cheque, bank transfer, confirmed or unconfirmed letter of credit, or other method).</b>	
<b>The banks (including correspondent, intermediary and confirming banks, if applicable) through which payment will be made. Please provide a/c numbers if they are available.</b>	Correspondent bank
	Intermediary bank
	Confirming or advisory bank
<b>Are payment instructions/funds available for this transaction?</b>	YES / NO

**PART 7 – Further details**

<b>Please provide any additional background information or explanation it would be helpful for the Minister of Legal Affairs to have.</b>	
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You may wish to submit copies of documents that support your application or help us to understand it. Please indicate below if additional documentation has been provided and list attachments.

YES / NO	
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**PART 8 – Confirmation of information**

**I confirm that the above information is true to the best of my knowledge and belief. I will inform the Governor of Bermuda if there are any changes to this information.**

**Signed** \_\_\_\_\_

**Dated:** \_\_\_\_\_



## NOTES

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**1. Please read these notes before completing the form.**

2. This form is designed to be used for all financial sanctions regimes.
3. Licences can only be issued where there is a legal basis to do so; the legal basis will usually be set out in the relevant Overseas Territory Order that established the sanctions regime in question.
4. The form has been developed with commercial arrangements in mind (i.e. sales of goods or services etc.). It should be adapted and used (for example) for gifts or humanitarian transactions where funds, goods or services are donated. Whatever the nature of the arrangements please provide a full explanation of what is happening and how much and who is involved.
5. The form is in EIGHT parts:
  - a. Part 1 asks for the name of the regime under which the licence is sought – this will be the regime under which sanctions otherwise apply. You should refer to any special factors affecting the urgency of your application here.
  - b. Part 2 asks for the details of the person on whose behalf the licence is sought and of a person to contact (who should be familiar with the transaction involved).
  - c. Part 3 is about the licence sought – the type of licence sought. REMEMBER that the Minister of Legal Affairs can only issue a licence if there is a legal basis to do so. The grounds for issuing a licence are found in the Overseas Territory Order imposing sanctions.
  - d. Parts 4 and 5 are about the transaction involved. Please make it clear if a transaction is a one-off or if it will be repeated. If regular or repeat payments are involved, please explain how often those payments will be made.
  - e. Part 6 is about the banking details of the transaction.
  - f. Part 7 provides the applicant with an opportunity to add any additional background. You should also attach and list any additional documents you are sending that will make it easier for the Governor to understand the application. Where a licence is sought (for example) on the basis that a contract was entered into before sanctions were imposed it is essential to provide a copy of that contract.
  - g. Part 8 provides for a confirmation of the truth of the information submitted.

## COMPLIANCE REPORTING FORM

- ✓ This form should be used to report all compliance related information to the Ministry of Legal Affairs' Financial Sanctions Implementation Unit (FSIU), including information regarding suspected designated persons (Part B); assets you have frozen (Part C); and suspected breaches of financial sanctions (Part D).
- ✓ Please note that the information you provide may be shared for the purpose of facilitating or ensuring compliance with financial sanctions regulations, in accordance with the Ministry's information sharing powers.
- ✓ Annexes B and C to this form provide key terms and information to assist you in completing your report.
- ✓ Your financial sanctions reporting and compliance obligations are described in FSIU's General guidance. You should consult this guidance prior to completing this form. You should note that for some businesses there is a legal obligation to report, and that not doing so is a criminal offence.
- ✓ Please ensure that when you complete this form, you believe that the facts and information provided in this form are accurate and true to the best of your knowledge, information and belief.
- ✓ You should note that a criminal offence may be committed if you contravene any of the prohibitions in respect of the financial sanctions regime(s) detailed in part 12 below, or you intentionally participate in activities knowing that the object or effect of them is to circumvent any of those prohibitions or enables or facilitates the contravention of any of those prohibitions.
- ✓ Please email completed forms, including any associated documents to [fsiu@gov.bm](mailto:fsiu@gov.bm) with "SUSPECTED DESIGNATED PERSON", "FROZEN ASSETS", or "SUSPECTED BREACH" as applicable in the subject line.
- ✓ Alternatively, completed forms can be posted to:

**The Minister of Legal Affairs**

Global House  
43 Church Street  
Hamilton HM 12  
Bermuda

**If you are unsure of your compliance or reporting obligations under financial sanctions, you should seek independent legal advice.**

**Part A- General Information**

Please complete this part of the form and indicate what you are reporting on.

<b>1. Person Submitting this Report</b>	
Name (including title)	
Job title	
Company/organisation	
Address	
Contact number(s)	
Email address	

<b>2. Date submitted</b>
(dd/mm/yyyy)

<b>3. Are you submitting this form on behalf of a third party? Tick Box</b>	Yes	
	No	
If yes, please provide the third party's contact details, including their Group ID if they are a designated person.		

<b>4. What are you reporting? Tick all applicable</b>	
Suspected designated person [please complete Part B of this form]	
Frozen Assets [please complete Part C of this form]	
Suspected breach [please complete Part D of this form]	

## **Part B- Reporting a Suspected Designated Person**

This part should be used to report your knowledge or suspicion that an individual, business or organisation is a designated person and therefore subject to financial sanctions. Please complete a separate form for each designated person on whom you are reporting.

Your report should include information by which a designated person can be identified. For example, aliases or alternative identities that could be used to evade sanctions.

If you are also reporting that you have frozen the assets of a designated person, please complete Part C of this form. If you are also reporting a suspected breach of financial sanctions, please complete Part D of this form.

<b>5. Suspected designated person (including persons owned or controlled by them)</b>	
a. Group ID from the consolidated list	
b. Name of the designated person as given on the consolidated list	
c. Name of the person/entity if owned/controlled by a designated person	

<b>6. Information on which your knowledge or suspicion is based</b>	
a. What has caused you to know or suspect that the person you are reporting on is a designated (or is owned/controlled by one)?	<i>Please provide as much detail as possible, including your relationship with the person, what information you hold and how it came to you.</i>
b. Please provide any information not already on the consolidated list by which the designated person can be identified.	<i>e.g. new aliases, dates of birth, addresses, passport numbers, additional trading names, etc.</i>

**Part C- Information on Frozen Assets**

This person should be used to report that you have frozen the assets of a designated person. Please complete a separate form for each designated person whose assets you have frozen.

If you know or suspect that a person is a designated person, please complete Part B of this form. If you are also reporting a beach of financial sanctions, please complete Part D of this form.

<b>7. Designated Person</b>	
d. Group ID from the consolidated list	
e. Name of the designated person as given on the consolidated list	
f. Name of the person/entity if owned/controlled by a designated person	

<p><b>8.</b> Please provide information on <b>all</b> funds and economic resources you have frozen. (For definitions and guidance on what to include please see Annexes B &amp; C.)</p>

**Part D- Information about a Suspected Breach**

This part should be used to report any suspected or known breach of financial sanctions. Please complete one form for each overarching activity. Multiple transactions/transfers relating to an overarching activity may be listed in one form.

Your report should include all known details in relation to the suspected breach activity. Additional supporting material should be attached to your submission and noted in section 22. Where information is not known or applicable, please state.

**9. Who do you suspect has committed, or has attempted to commit, the suspected breach?** Please provide details.

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**10. Summary of Facts**

Including the date(s) the suspected breach (or breaches) was discovered, how it was discovered, and the series of action that led to a suspected breach taking place (where known).

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**11. Does this information relate to a suspect completed, or suspected attempted, breach?** Tick box

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Completed	
Attempted ( <i>including blocked or rejected activity</i> )	

<p><b>12. Financial sanctions regime(s) under which the suspected breach has occurred.</b>  The list of all financial sanctions regimes in effect in the UK, and by extension Bermuda can be found on OFSI's web page:  <a href="https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases">https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases</a></p> <p>Additionally, the list of all financial sanctions regimes in effect in Bermuda can be found on the International Sanctions Measures page:  <a href="https://www.gov.bm/international-sanctions-measures">https://www.gov.bm/international-sanctions-measures</a></p>	
Financial sanctions regime(s)	
Act/Regulation(s) ( <i>if known</i> )	
Relevant section(s), article(s), regulation(s) suspected of having been breached ( <i>if known</i> )	

**Details of Suspected Breach**

See Annex B for a description of what can constitute funds, economic resources, and financial services.

<p><b>13. What does the suspected breach involve?</b> Tick all applicable</p>	
<b>Funds</b>	
Describe, in full, the type(s) of funds involved	
<b>Economic Resources</b>	
Describe, in full, the type(s) of funds involved	
<b>Financial Services</b>	
Describe, in full, the type(s) of funds involved	

<b>Licence conditions</b>		
Give the licence condition(s) and describe, in full, how you suspect it has been breached. Please include the licence number.		
<b>Reporting obligations</b>		
Give the reporting obligation and describe, in full, how you suspect it has been breached. Please include the licence number where relevant.		
<b>14.Total value of the suspected breach (actual or estimated)</b>		
Please provide this information in the currency that was used at the time of the transfer (or provide an estimated value in BMD if unknown)		

<p><b>15.Method(s) of payment and/or transfer</b>  <i>e.g. bank transfer, cash, cheque, money order, internet/electronic, or physical asset transfer</i></p>



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**16. Remitter/sender information**

Please provide full information on the remitter/sender of the funds and/or economic resources, including: dates, goods involved, amount(s), currencies, account names, account numbers, bank details, and nationalities of payers, dates of birth, where known.

If more space is required, please complete Annex A (A1), or attach supporting documents with your submission.

**17. Intermediary information**

Please provide any information you have on intermediaries involved in the activity, including: role in transfer, name(s), date of birth, company registration information, country of operation/nationality, address/location, account name, account number and bank details, where known.

If more space is required, please complete Annex A (A2), or attach supporting documents with your submissions.

**18. Ultimate beneficiary information**

Please provide any information you have on intermediaries involved in the activity, including: role in transfer, name(s), date of birth, company registration information, country of operation/nationality, address/location, account name, account number and bank details, where known.

If more space is required, please complete Annex A (A3), or attach supporting documents with your submissions.

**19. Please list all external parties who have been made aware that this information is being passed to FSU, including any designated persons**

**20. Has this matter been reported to any other authority?**

*If so, please provide their contact details.*

**21. Other relevant information**

Please provide any other information you think will help us understand what has happened.

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**22. Are you providing any supporting documents?**

Please include any documents that supports the information provided, such as bank statements, transaction reports, copies of licences, paperwork, contracts, etc. including those from other jurisdictions.

Yes

No

Please list the supporting documents you are providing.

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**Compliance Reporting Form Annex A**

**Additional remittances (section 15 Remitting information)**

<b>A1. Additional remittance information</b>

**Additional intermediaries involved (Section 16 Intermediary information)**

<b>A2. Additional intermediaries</b>

**Additional beneficiaries involved (Section 17 Ultimate beneficiary(ies) information)**

<b>A3. Additional beneficiaries</b>

## **Compliance Reporting Form Annex B**

This Annex will describe some of the common terms use in financial sanctions legislation.

### - **Designated persons**

A designated person is an individual, entity or body, listed under EU or UK legislation as being subject to financial sanctions.

The list of designated persons can be found on the Office of Financial Sanctions Implementation consolidated list of asset freeze targets here:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>

Note that the financial sanctions also apply to persons and entities that are owned or controlled, directly or indirectly, by a designated person. Those persons or entities may not be designated in their own right, so their name may not appear on the consolidated list. However, those persons or entities are similarly the subject of the financial sanctions. For more information on ownership and control see FSIU's Guidance on Financial Sanctions.

### - **Funds**

Funds means financial assets and benefits of every kinds, including but not limited to:

- ❖ Cash, cheques, claims on money, drafts, money orders and other payment instruments;
- ❖ Deposits with financial institutions or other entities, balances on accounts, debts and debt obligations,
- ❖ Loans and mortgages;
- ❖ Publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- ❖ Interest, dividends or other income on or value accruing from or generated by assets;
- ❖ Credit, right of set-off, guarantees, performance bonds or other financial commitments;
- ❖ Letters of credit, bills of lading, bills of sale;
- ❖ Documents evidencing an interest in funds or financial resources;
- ❖ Any other instrument of export-financing.

### - **Economic Resources**

Economic resources mean assets of every kind, whether tangible or intangible, movable or immovable, (such as goods, property or rights) which are not funds themselves but which can be used to obtain funds, goods or services.

### - **Group ID**

All reports to FSIU involving a designated person should include their "Group ID" reference number. The Group ID is a unique identifier for a designated person which can be found in their entry on the consolidated list.

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>

## - **Financial Services**

Financial services mean any services of a financial nature, including, but not limited to:

- ❖ Insurance- related services consisting of:
  - Direct life insurance;
  - Direct insurance other than life assurance;
  - Reinsurance and retrocession;
  - Insurance intermediation, such as brokerage agency;
  - Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim services.
- ❖ Banking and other financial services consisting of:
  - accepting deposits and other repayable funds;
  - lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
  - financial leasing;
  - payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);
  - providing guarantees or commitments;
  - financial trading (as defined below);
  - participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
  - money brokering;
  - asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
  - settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
  - providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
  - providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).
- ❖ "Financial trading" means trading for own account or for account of customers, whether on an investment exchange, in an over-the- counter market or otherwise, in:
  - money market instruments (including cheques, bills and certificates of deposit);
  - foreign exchange;
  - derivative products (including futures and options);
  - exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
  - transferable securities;
  - other negotiable instruments and financial assets (including bullion).

## **Compliance Reporting Form Annex C**

### **Frozen accounts**

All reports of frozen accounts should include the following information:

- Name of financial institution holding the account
- Account name
- Details of the account holder
- Date account frozen
- Type of account
- Account number
- Sort code (where relevant)
- Credit balance
- Debit balance
- Currency
- Date account opened
- Any other relevant information relevant to the freezing of the account

### **Frozen payments / transactions**

All reports of frozen payments or transactions should include the following information:

- Details of the institution/person who has frozen the transaction
- Details of their role in the transaction
- Date of transaction (Inc. amount and currency)
- Date transaction frozen
- All relevant account details (originator, intermediaries, beneficiary)
- Details of the originator of the transaction (name, address, etc.)
- Details of the originating financial institution (name, address, etc.)
- Details of any intermediary financial institutions (name, address, etc.)
- Details of the beneficiary of the transaction (name, address, etc.)
- Details of the beneficiary financial institution (name, address, etc.)
- Any additional information found in the originator-to-beneficiary or bank-to-bank information
- Any other additional information relevant to the freezing of the transaction, including the payment instruction where available

## 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 FCO Sanctions team ([sanctions@fco.gov.uk](mailto:sanctions@fco.gov.uk)). The form should be signed off by the Governor of the Overseas Territory, Head of FCO Sanctions team and FCO Legal Directorate.

### **Proposal**

The answers given to the five questions below should be used as the basis for formally proposing designations to the EU or UN (eg. through the COREU service for EU).

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

	<p><b>Name of sanctions regime</b></p>
	<p><b>Full name of the individual or entity to be listed (including aliases) and any identifying information</b></p> <p><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.</i></p> <p><i>Example: Russian National Commercial Bank, also known as RNCB Plc. – Registered in Russia and Crimea, Last known address: Apartment 1A, ABC Street, Crimea</i></p>
	<p><b>Cut and paste the relevant listing criteria from UN Security Council Resolution / EU Council Decision here.</b></p> <p><i>This should be the criteria that you are using to capture this proposed individual or entity named above.</i></p> <p><i>Example: Council Regulation 269/2014 “On 17 March 2014, the Council adopted Decision 2014/145/CFSP providing for travel restrictions and for the freezing of funds and economic resources of certain persons responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, including actions on the future status of any part of the territory which are contrary to the Ukrainian Constitution, and natural or legal persons, entities or bodies associated with them. Those natural or legal persons, entities and bodies are listed in the Annex to that Decision.”</i></p>
	<p><b>Statement of reasons for listings</b></p> <p><i>Explain the reasons for listing (including how the proposed individual or entity meets the listing criteria above).</i></p> <p><i>Example: After the illegal annexation of Crimea, Russian National Commercial Bank (RNCB) became fully owned by the so-called “Republic of Crimea”. It has become the dominant player in the market, while it had no presence in Crimea before the annexation. By buying or taking over from branches of retreating banks operating in Crimea, RNCB supported materially and financially the actions of the Russian government to integrate Crimea into the Russian Federation, thus undermining Ukraine’s territorial integrity.</i></p>



	<p><b>Links/reference to evidence (including date of information collected, do not use hyperlink, copy and paste the URL)</b></p> <p><i>Provide the evidence that substantiates the reasons for listing. It is important that policy officers keep a record of the 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.</i></p> <p><i>If the evidence is classified, you will need to provide adequate unclassified evidence to support the classified evidence and this proposal.</i></p> <p><i>Example: Guardian article on Russian aggression, invasion in Ukraine – 11/05/2014</i>  <a href="https://www.guardian.co.uk/articleonukraine">https://www.guardian.co.uk/articleonukraine</a></p>
	<p><b>Date document cleared and approved with FCO Sanctions Section and Legal Directorate</b></p>

## **Impact Assessment**

Any information given below will not be shared with EU/UN Councils.

1	<p><b>How will this listing contribute to the UK’s overall country (or Terrorist) strategy?</b></p> <p><i>Describe how this listing ties with the UK or OT’s overarching objectives for the country in question. You may want to mention some of the non-sanction, UK diplomatic measures that compliment this listing.</i></p>
2	<p><b>How will you measure the listings effectiveness at meeting the objectives of the sanctions regime? When and how should these individuals / entities be delisted?</b></p> <p><i>Describe the indicators that you will monitor and your delisting criteria. Policy officers must review all UK proposals as stipulated in the UNSCR/Council Decision/Regulation – this is typically an annual process, but can be triggered should there be adequate evidence to suggest the individual/entity should no longer be listed.</i></p>
3	<p><b>What consultation have you undertaken in relation to this proposal?</b></p> <p><i>Stakeholder consultation is crucial.</i></p> <p><i>Consider all the teams, posts, departments across the UK (where relevant OTs) Government that may be affected as a result of this listing.</i></p> <p><i>The UK HM Treasury should be consulted on proposed financial sanctions. The UK Department for International Trade (DIT) for proposed trade sanctions.</i></p> <p><i>Information from NGOs can also help but be careful to avoid disclosing sensitive information about possible sanctions targets while negotiations are still ongoing. (Sanctions Section, Legal Advisers, BE Moscow, HM Treasury, Defence Intelligence etc.)</i></p>
4	<p><b>Briefly describe how you can confirm that there is sufficient information to provide a reasonable and credible basis for the listing?</b></p>

*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 Proposal section (but that which you may not wish to share with the UN or EU Council), is available to support the reasons you have outlined for this listing.*