



**GUIDANCE TO IMPLEMENT TARGETED
FINANCIAL SANCTIONS PURSUANT TO UNITED
NATIONS SECURITY COUNCIL RESOLUTIONS
1267/1989, 1988 & 1373**

March 2025

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ACCRONYMS AND ABBREVIATIONS

DNFBP	Designated Non-Financial Businesses and Professions
ISIL	Islamic State of Iraq and the Levant
POTA	Prevention of Terrorism Act (Cap. 59B)
POT-TFR	The Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on the Suppression of Terrorism) Regulations, 2024
TFS	Targeted Financial Sanctions
UN	United Nations
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution

DEFINITION OF TERMS

Act:	The Prevention of Terrorism Act (Cap. 59B)
Committee:	Meaning assigned to it under section 2 of the Act
Dealing:	Receiving, acquiring, transacting, representing, concealing, disposing, converting, transferring or moving, using as security or providing financial services
Delisting:	The removal of the name and other identification information of a designated person or entity from the domestic list or the sanction list
Designated Non-Financial Businesses or Profession:	Meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)
Designated Person or Entity:	A person or entity designated pursuant to the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on the Suppression of Terrorism) Regulations, 2024 or the applicable United Nations Security Council Resolutions adopted under Chapter VII of the United Nations Charter
Designation or Listing:	The identification of a person, organization, association or group of persons that is subject to targeted sanctions pursuant to the applicable United Nations Security Council Resolutions
Domestic List:	The list compiled and maintained by the Committee under regulation 20
Economic Resources:	Assets of every kind, whether movable or immovable, tangible or intangible, actual or potential, which are not funds and which may be used to obtain funds, goods or services
Extraordinary Expenses:	Fees to pay professional fees or costs relating to legal services rendered or other extraordinary expenses within reasonable limits or fees for services relating to safekeeping or management of frozen funds

Financial Institution:	Meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)
Financial Reporting Centre:	The Financial Reporting Centre established under section 21 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)
Freeze:	To prevent or restrain specific property or funds from being used, transferred, transacted, converted, altered, concealed, moved or disposed of without affecting the ownership thereof
Person:	A natural person or legal person
Person:	A natural person or legal person
Reporting Institution:	Meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)
Resolution, 1267/1989:	Resolutions 1267 (1999) and 1989 (2011) and 2253 (2015) of the Security Council and includes its successor resolutions
Resolution, 1267:	Resolution 1267 (1999) of the Security Council and includes its successor resolutions
Resolution, 1373:	Resolution 1373 of the Security Council and includes its successor resolutions
Resolution, 1988:	Resolution 1988 (2011) of the Security Council and includes its successor resolutions
Resolution:	A resolution of the United Nations Security Council and includes its successor resolution
Sanctions Committee:	A Committee of the Security Council of the United Nations established under a Resolution of the Security Council
Sanctions List:	The 1267/1989 sanctions list and the 1988 sanctions list or other similar list issued by the Security Council
Secretary to the Committee:	Director General of the Financial Reporting Centre as provided under section 40D (2) (j) of the Act
Security Council:	Security Council of the United Nations established under Article 7 of Chapter III of the United Nations Charter

Self-Regulatory Body:	Meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)
Targeted Financial Sanctions:	Asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated persons and entities
Terrorism Financing Without Delay	Offence specified under section 5 and 5A of the Act Within twenty-four hours of a designation by the United Nations Security Council or its relevant Sanctions Committee or within twenty-four hours of designation by the Committee

PART I PRELIMINARY

1.1 Title

Guidance to implement targeted financial sanctions pursuant to United Nations Security Council Resolutions 1267/1989, 1988 & 1373 for reporting institutions.

1.2 Authorization

This Guidance is issued under 24A of the Proceeds of Crime and Anti-Money laundering Act (Cap. 59A), which empowers the Financial Reporting Centre to issue guidance to reporting institutions.

1.3 Application

This Guidance applies to all reporting institutions.

PART II STATEMENT OF POLICY

2.1 Purpose and Scope

The purpose of this Guidance is to provide practical and actionable instructions to reporting institutions on how to implement the legal framework giving effect to United Nations Security Council Resolutions (UNSCRs) 1267/1989, 1988 & 1373 and to foster a better understanding of the legal obligations arising from the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on the Suppression of Terrorism) Regulations, 2024 (POT-TFR).

The Guidance also aim to enhance the capacity of reporting institutions to prevent and detect terrorism financing activities, which, in turn, will prevent exploitation of the private sector by terrorist networks.

In particular, reporting institutions will be able to: -

- i. identify designated persons or entities listed in the relevant UN Sanction Lists and the Domestic List;
- ii. freeze assets belonging to designated individuals or entities without delay, and;
- iii. report freezing to the Counter Financing of Terrorism Inter-Ministerial Committee (the Committee) and the Financial Reporting Centre.

The Guidance do not replace or override any legal or regulatory requirements and should be read in line with the provisions of the Prevention of Terrorism Act (Cap. 59B) (POTA) and the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on the Suppression of Terrorism) Regulations, 2024.

2.2 Responsibility

Reporting institutions have the responsibility to ensure compliance with this Guidance and the existing legal framework on the implementation of targeted financial sanctions obligations.

2.3 Review

The Guidance shall be subject to continuous review and may be updated from time to time, as may be appropriate.

PART III THE LEGAL FRAMEWORK

3.1 The United Nations Charter

Kenya has ratified the UN Charter and is therefore obligated to implement UN sanctions, as per Article 2(6) of the Kenyan Constitution which states that any treaty or convention ratified by Kenya becomes part of its domestic law; meaning Kenya is legally bound to enforce UN Security Council resolutions, including sanctions, within its jurisdiction by virtue of Article 41 of the Charter of the United Nations. These sanctions, mandated by various UN Security Council Resolutions (UNSCRs), including UNSCRs 1267/1989, 1988 & 1373 are binding international legal obligations. for all UN Member States under Chapter VII of the UN Charter. The UNSCRs 1267/1989, 1988 & 1373 aim to prevent and disrupt terrorism financing by freezing the funds and assets of designated individuals and entities and prohibiting the provision of financial services, funds and assets being made available to designated persons.

3.2 The Prevention of Terrorism Act (Cap. 59B)

The Prevention of Terrorism Act (Cap. 59B) is the primary legislation that provides for the implementation of targeted financial sanctions pursuant to UNSRs 1267, 1373, 1718 and 1988, resolutions relating to the suppression of terrorism financing and the prevention, suppression and disruption of the proliferation of, and financing of, dealings

with weapons of mass destruction and such other related resolutions in accordance with this Act.

The Act establishes the Counter Financing of Terrorism Inter-Ministerial Committee (the Committee), which is tasked with the implementation of targeted financial sanctions related to terrorism financing and proliferation financing by: -

- i. providing guidance, including issuance of directives, guidelines, rules or instructions on compliance with the relevant UN sanctions lists and the domestic list;
- ii. identifying persons or entities for the purpose of designation;
- iii. monitoring the freezing of assets and the prohibition of financial services to designated entities or individuals;
- iv. considering requests for the delisting of a designated person or entity; and
- v. addressing challenges related to effective implementation of targeted financial sanctions and coordinating with relevant competent authorities in performing its functions

3.1.1 The Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2024

The Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2024 (POT-TFR) provides for specific rules on implementing the targeted financial sanctions relating to the suppression of terrorism and terrorism financing pursuant to UNSCRs 1267/1989, 1988 and 1373. The POT-TFR serve as a critical tool in preventing terrorism by targeting financial and material support to terrorist organizations and individuals.

The POT-TFR require freezing of funds, property and other assets belonging to individuals and entities designated pursuant to UNSCRs 1267/1989 and 1988 or UNSCR 1373. Any person, including reporting institutions, are required not to avail any funds or other assets, economic resources or financial or other related services for the designated persons or entities.

The POT-TFR allows access to frozen funds for necessary, basic and extraordinary expenses under strict oversight, ensuring that human rights are observed and that humanitarian needs are met without compromising security.

Any person, including reporting institutions, must file a report on any detection and freezing or any other action taken within 24 hours, to the Committee through the Secretary to the Committee, using a reporting template to be circulated together with the Notice of any changes to the relevant UN sanction Lists or the Domestic List. Additionally, reporting institutions are required to monitor transactions, on an on-going basis, against updated domestic list or relevant UN sanctions lists to mitigate terrorism financing risks.

PART IV OBLIGATIONS OF REPORTING INSTITUTIONS

All natural and legal persons, including reporting institutions are required to comply with targeted financial sanctions obligations to ensure compliance with the relevant UNSCRs on prevention of terrorism and terrorism financing. The obligations include: -

- i. access to the lists and identification of targeted funds or other assets
- ii. application of Targeted Financial Sanction measures
- iii. reporting obligations
- iv. unfreezing obligations

4.1 Access to Information about the Designated Persons and Entities and Identification of Targeted Funds or Other Assets

All persons, including reporting institutions are required to access and maintain up to date relevant UNSC Sanction list and Domestic List on designated persons and entities involved in terrorism and terrorism financing for purposes of identifying targeted funds and assets or other assets. Any changes and updates to these lists are communicated by the Committee through the Secretary to the Committee. The lists under the targeted financial sanctions regimes related to terrorism and terrorism financing include: -

- a) **ISIL (Da'esh) & Al-Qaida Sanctions List** comprising of individuals, groups, undertakings, and entities designated pursuant to the United Nations Security Council Resolutions (UNSCR) 1267 (1999), 1989 (2011) and its successor resolutions in relation to Islamic State in Iraq and the Levant (Da'esh), Al-Qaida. The list is available at the following link, and there is an option to download it in the following formats: .xml, .html and .pdf.

https://main.un.org/securitycouncil/en/sanctions/1267/aq_sanctions_list

- b) **1988 Sanctions List** comprising of individuals, groups, undertakings, and entities designated pursuant to the United Nations Security Council Resolutions 1988 (2011) and its successor resolutions in relation to the Taliban. The list is available at the following link, and there is an option to download it in the following formats: .xml, .html and .pdf.

<https://main.un.org/securitycouncil/en/sanctions/1988/materials>

- c) **Domestic List** comprising of individuals and entities designated by the CFTMC for being involved in terrorism and terrorism financing pursuant to United Nations Security Council Resolution 1373. The list will from time to time be posted on the Financial Reporting Centre's website.
- d) **Any other list that may be issued pursuant to any other United Nations Security Council Resolutions (UNSCR)** imposing targeted financial sanctions in the context of terrorism and terrorism financing.

The United Nations Security Council maintains a consolidated list comprising of all individuals and entities subject to measures imposed by the Security Council, including those related to ISIL (Da'esh) & Al-Qaida Sanctions and 1988 Sanctions regimes, in one list to facilitate the implementation of the measures. The list is available at the following link, and there is an option to download it in the following formats: xml, .html and .pdf.

<https://main.un.org/securitycouncil/en/content/un-sc-consolidated-list>

Reporting institutions are required to put in place measures to regularly review the domestic or relevant UNSC sanction lists and monitor transactions in relation to entities specified in the relevant UNSC sanction list and the Domestic List on an on-going basis to mitigate against the risks of the occurrence of the financing of terrorism. This includes sanction screening measures where information gathered about an individual, entity, or transaction is compared against the relevant UNSC sanction lists and the Domestic List to detect, prevent and report any financial activity or dealings involving individuals, entities, or organizations designated under these lists, thereby disrupting their ability to finance terrorists and terrorist activities.

What and who are the sanctions targets?**a. Designated Individuals and Entities:**

- Persons and entities listed by the UNSC (e.g., under UNSCR 1267/1989 for ISIL/Al-Qaida and 1988 for the Taliban as well as persons designated under the domestic regime).
- Persons and entities associated with designated individuals or entities, including shareholders, beneficiaries, or business partners.

b. Beneficial Owners:

- Persons who own or control, directly or indirectly, a significant share in an entity that appears on a sanctions list.
- Hidden or layered ownership structures, especially in high-risk jurisdictions, must be examined.

c. Affiliates and Networks:

- Close associates, or representatives acting on behalf of designated individuals/entities.
- Groups or organizations that support or facilitate terrorism indirectly, even if not directly listed.

Reporting institutions should therefore sanction screen their potential customers, existing customers, including beneficial owners, affiliates and networks, and parties in any transactions against the relevant UNSC sanction lists and the Domestic List to establish direct and indirect ties to designated persons and entities.

Screening should be done at least in the following circumstances:

- a. Upon receipt of updates to the relevant UNSC sanctions list or domestic list.
- b. During onboarding of new customers;
- c. When customer information is updated; or
- d. During processing of wire transfers.

In the case of a "partial name match" with the designated person or entity, reporting institutions must first carry out internal checks whether the partial name match refers to the same designated person or entity. If the reporting institution is satisfied that the "partial name match" is not the individual or entity or is a "false positive" (not subject to targeted financial sanctions) after performing internal checks, then the business

relationship or transaction may be allowed to continue with internal case records maintained.

4.2 Application of Targeted Financial Sanction Measures

The following targeted financial sanctions measures shall be applied upon identification of sanction targets and these measures must remain in place until the person or entity is de-listed from the relevant UNSC sanctions list or the domestic list. No legal actions shall be initiated against any entity, including reporting institutions regarding the execution or enforcement of an order that designates a person or freezes the funds or other assets of a designated entity in good faith under the POT-TFR.

4.2.1 Freezing of all Funds or other Assets Without Delay and Without Prior Notice

According to the POT-TFR, all natural and legal persons within the country are obligated to freeze, without delay and without prior notice, the funds or other assets of designated persons and entities.

Freezing means to prevent or restrain specific property or funds from being used, transferred, transacted, converted, altered, concealed, moved, or disposed of without affecting the ownership thereof. The phrase "without delay and without prior notice" indicates that the freezing action should occur within 24 hours of a designation by the United Nations Security Council or its relevant Sanctions Committee or by the Committee without informing the designated individual or entity that such action is about to take place.

The definition of funds, property or other assets to be frozen includes: -

- i. all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat;
- ii. those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;
- iii. the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; and
- iv. funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

Examples of the application of freezing measures:

For financial institutions, freezing measures can be denying access to funds in bank accounts, blocking transactions or providing financial services to individuals or entities listed under the relevant UNSC sanctions regime or the domestic regime. All transactions on frozen accounts must be suspended while a freezing measure is in effect. Additionally, designated individuals are prohibited from receiving payments via payment instruments, and cash cannot be transferred to them.

For DNFBPs, freezing measures can be stopping the facilitation of or blocking the transfer of ownership of immovable or movable assets. Any commercial relationship with a designated individual or entity should not be accepted. For instance, an advocate may decline to execute a contract for the transfer of property from the designated individual to another individual.

Access to frozen funds or other assets is exempted from the freezing order under the following circumstances: -

- a) specified humanitarian exemptions
- b) third party claims to bona fide rights

For both circumstances, the Committee shall issue an authorization and notify or direct the persons or entities holding funds or other assets, subject to access granted, in writing in the event of any exemption that is specified above. No frozen funds or other assets shall be released to a designated person or entity in absence of an authorization from the Committee.

4.2.2 Prohibition to Make Funds, Assets, Economic Resources or Financial and Other Related Services Available

It is strictly prohibited to make available any funds, assets, economic resources, or financial and other related services, directly or indirectly, wholly or jointly, for the benefit of designated persons and entities, entities owned or controlled, directly or indirectly, by designated persons or entities, and persons and entities acting on behalf of, or at the direction of designated persons or entities unless licensed, authorized or otherwise notified in accordance with the relevant UNSCR.

Examples of prohibition measures:

For financial institutions, the measures can include prohibition in offering banking or transactional services or once the property or funds of the designated person or entity have been frozen, institutions are obliged to refrain from providing any financial or other services or funds or other property to or for the benefit of natural persons or collectives, groups, organizations, and entities list pursuant to the relevant UNSC sanctions regime or the domestic regime.

For DNFBPs, the measures can include prohibition to provide any services, such as legal services to transfer asset ownership, buying or selling real estate, selling jewellery, precious metals, natural resources, etc.

4.3. Reporting Obligation

Within 24 hours of taking action or freezing funds or other assets, the person who effected the freezing shall file a report to the Committee through the Secretary via:

Email: tfs@frc.go.ke

A reporting institution is required to use a prescribed reporting template, specifying the assets frozen or actions taken, including any attempted dealings with property or funds against which a freezing action has been taken.

4.4. Unfreezing Obligation

The persons or entities holding targeted funds or other assets shall, immediately, unfreeze the funds or other assets frozen under the following circumstances: -

- i. Where funds or other assets may have been inadvertently or mistakenly frozen due to similarity in name with a designated person or entity on a domestic list upon: -
 - a. confirming that the name was not a true positive and getting an approval from the Committee; or
 - b. the committee approving an application that the person or entity involved is not the designated person or entity and communicating its decision.
- ii. Upon receipt of a notification and directive from the committee regarding a third-party claim to funds or assets frozen following an approval of such application by the Committee.

- iii. Upon de-listing of a designated person or entity by the relevant UNSC Sanctions Committee or the Committee (the Counter Financing of Terrorism Inter-Ministerial Committee) circulates the notification of the de-listing.
- iv. Where the Committee authorizes access to frozen funds or other assets pursuant to the domestic listing and a clear guidance has been provided by the Committee to facilitate access to the funds or assets to cover: -
 - a. necessary and basic expenses, including payments for rent or mortgage, foodstuffs, monthly family expenses, medicines and medical treatment, taxes, insurance premiums and public utility charges;
 - b. expenses exclusively for payment of reasonable professional fees, or reimbursement of incurred expenses associated with the provision of legal services;
 - c. fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources; and
 - d. necessary for extraordinary expenses provided that such request is assessed by the Committee and if favourably considered, forwarded to the relevant Sanctions Committee for its approval.

PART V LEGAL LIABILITY

Any person who violates the targeted financial sanctions obligations as stipulated in the POT-TFR commits an offense and shall be subject, upon conviction, to a fine not exceeding three million shillings or imprisonment for a term not exceeding seven years.

A person may also be subject to administrative sanctions may include a warning letter, administrative monetary penalty of up to 3 million Kenyan shillings for each violation, debarment from employment in a specific sector, suspension of persons responsible of the violation, suspension or restriction of a specific activity or cancelation of licence, may be imposed on reporting institutions by the Financial Reporting Centre, relevant supervisory body or self-regulatory body for breach of the targeted financial sanctions obligations.

Any person or entity, including Reporting Institutions acting in good faith, in respect of implementing targeted financial sanctions obligations are protected from liability.

PART VI EFFECTIVE DATE

The effective date of this Guidance shall be 6th March 2025

PART VII ENQUIRIES

For more information or queries regarding the Guidance, you can reach the Financial Reporting Centre through:

The Director General Financial Reporting Centre & Secretary to the Counter Financing Inter-Ministerial Committee

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Tel: +254 709 858 000

E-mail: tfs@frc.go.ke

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