



E-booklet

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# Halting Terrorist Financing: APEC Workshop on Targeted Financial Sanctions Regime.

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*Santiago, 6-8 November, DoubleTree by Hilton.*

APEC Counter Terrorism Working Group (CTWG)

November 2018



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## PRESENTATION

The terrorist threat in the APEC region (and around the world) is growing. As a result, economies must equip themselves with the tools and expertise to derail terrorist financing, as part of a multidimensional preventive approach to tackling this problem at the domestic level, but also strengthening the region's counter-terrorism capacity as a whole.

The response from the international community lies in the United Nations Security Council (UNSC) Resolutions and Financial Action Task Force (FATF) 40 Recommendations. These regimes are becoming more complex, primarily in response to the fact that, terrorist groups themselves – the Islamic State being a chief example – are becoming more dynamic, covering greater geographical space, and in constant need of diversifying their sources of funding to adapt to the international community's responses and fulfill their illicit objectives. Terrorist groups are increasingly delving into other aspects of transnational crime (human and drug trafficking, money laundering, etc.) to acquire funds, further hindering member economies' ability to detect and deny their access to the international financial market.

The following E-Booklet was elaborated under the scope of APEC project CTWG 01 2017 – *“Halting Terrorist Financing: APEC Workshop on Targeted Financial Sanctions Regime”* and captures the content of the three-day workshop held in November 2017 in Santiago, Chile on Targeted Financial Sanctions regime related to terrorism and terrorist financing. The project aimed to increase APEC members' understanding of the targeted financial sanctions regime as stated in the resolutions issued by the United Nations Security Council and the FATF 40 Recommendations relating to the prevention and suppression of terrorism and terrorist financing, and assist economies in strengthening the development and implementation of the terrorist financing preventive regime.

The e-booklet contains the core content of the presentations and concrete recommendations presented at the workshop, to be circulated digitally to the participants and made available through the APEC website.

The Project Overseers want to thank Mr. Javier Martínez, Counter-Terrorism Committee Executive Directorate (CTED), United Nations; Mr. Juan Cruz Ponce, Latin American Financial Action Task Force (GAFILAT); Mr. Esteban Fullin, Regional Advisor AML/CFT Latin America and the Caribbean, International Monetary Fund (IMF); Mr. Hagan Barnett, Chief, Counterterrorism Section, Office of Foreign Assets Control, Department of the Treasury of the United States; Mr. Dmitry Vitashov, Deputy Head of the Counter-Terrorism Financing Department, Russian Federation and Mr. James Nachipo, Director, Counter-Terrorism Asia Pacific & Multilateral, Counter Terrorism Branch, Department of Foreign Affairs and Trade, Australia, for their outstanding presentations.

## CHAPTER I:

# UNITED NATIONS' SECURITY COUNCIL (UNSC) RESOLUTIONS ON FINANCING OF TERRORISM AND PROLIFERATION OF WEAPONS OF MASS DESTRUCTION (WMD).

## 1. Key elements and requirements of UNSC Resolutions on Terrorism and Terrorist financing.

### 1.1 Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated Individuals and entities.

#### Establishment and Mandate

The Committee was established on 15 October 1999 under resolution 1267 which previously imposed sanctions measures on Taliban-controlled Afghanistan for its support of Usama Bin Laden and Al-Qaida. The sanctions regime was modified and strengthened by subsequent resolutions, including resolutions 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009). On 17 June 2011, with the adoption of resolutions 1988 (2011) and 1989 (2011), the Security Council split the 1267 Committee into two Committees, namely, the Al-Qaida Sanctions Committee and the 1988 Sanctions Committee. The names of the individuals and entities on the Al-Qaida Sanctions List against whom the 3 sanctions measures (assets freeze, travel ban and arms embargo) continue to be applied by all States can be found at: [http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml). The Al-Qaida Sanctions Committee continues to oversee the implementation by UN Member States of these 3 sanctions measures; considers names submitted for listing and de-listing as well as any additional information on listed individuals and entities; and considers exemptions to the assets freeze and travel ban measures. Since March 2009, the Committee has made accessible on its website, narrative summaries of reasons for listing for the individuals and entities on the Al-Qaida Sanctions List. The Security Council also recognized the need for the 1988 Sanctions Committee to maintain contact with the Al-Qaida Sanctions Committee, the CTC and the 1540 Committee, particularly given the continuing presence and negative influence on the Afghan conflict by Al-Qaida, and any cell, affiliate, splinter group or derivative thereof.

#### Expert Group

The Al-Qaida Sanctions Committee is assisted by a Monitoring Team of 8 experts established under resolution 1526 (2004) with expertise related to activities of the Al-Qaida organization and/or the Taliban, including: counter-terrorism and related legislation; financing of terrorism and international financial transactions, including technical banking expertise; alternative remittance systems, charities, and use of couriers; border enforcement, including port security; arms embargoes and



export controls; and drug trafficking. The Team is ready to assist Member States on any issue related to the Al-Qaida sanctions regime and can be contacted by email at: 1267mt@un.org. The Monitoring Team has been extended under resolution 1989 (2011) to continue to assist the Al-Qaida Sanctions Committee and under resolution 1988 (2011) to also support the 1988 Sanctions Committee for a period of 18 months until 31 December 2012.

## Measures

The Al-Qaida Sanctions Committee monitors a sanctions regime which requires all UN Member States to:

1. **Freeze without delay**, the funds and other financial assets or economic resources of the individuals and entities designated on the Al-Qaida Sanctions List. There is no requirement to seize or confiscate/forfeit these assets, funds and resources.
2. **Prevent the entry into or the transit through their territories** of the individuals designated on the Al-Qaida Sanctions List. There is no requirement to arrest or prosecute these individuals.
3. **Prevent the direct or indirect supply, sale or transfer**, from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, **of arms and related materiel of all types**, including military equipment, spare parts and technical advice, assistance, or training related to military activities, to the individuals and entities on the Al-Qaida Sanctions List.

All three measures **are preventive in nature** and are not reliant on criminal standards set out under domestic law.

More information can be found on the Committee's website at:

<http://www.un.org/sc/committees/1267/index.shtml>

## 1.2 Security Council Committee established pursuant to Resolution 1373 (2001) concerning Counter-Terrorism.

### Establishment and Mandate

Following the adoption of resolution 1368 (2001), in the wake of the attacks of 11 September 2001, the Security Council adopted resolution 1373 (2001) which, inter alia, requires States to combat terrorism through a series of actions that are best carried out through the adoption of laws and regulations and the establishment of administrative structures. Resolution 1373 (2001) also called upon States to work together to prevent and suppress terrorist acts, including through increased cooperation.

It also established the Counter-Terrorism Committee (CTC) to monitor implementation of the resolution by all States and to increase the capability of States to fight terrorism. In carrying out its mandate, the CTC liaises with international, regional and subregional organizations and devotes



substantial attention to facilitating the provision of assistance to those States that require such assistance for the effective implementation of the resolution. The CTC conducts visits to Member States and works closely with donors, organizations and recipient States regarding facilitation of technical assistance and capacitybuilding.

The CTC is also mandated to maintain a dialogue with States on the implementation of resolution 1624 (2005) on prohibiting incitement to commit terrorists acts and promoting dialogue and understanding among civilizations. The CTC developed a Preliminary Implementation Assessment (PIA) and a Technical Guide to assist States identify steps that should to taken to implement Security Council resolution 1373 (2001) effectively.

On 28 September 2011, the CTC held a special meeting commemorating the adoption of Security Council resolution 1373 (2001) ten years ago. The meeting resulted in an outcome document and launched the updated version of the Global Implementation Survey of resolution 1373 (2001). The Survey outlines areas of priorities for Member States, the Committee, and CTED on the effective implementation of resolution 1373 (2001).

The Global Implementation Survey of resolution 1373 (2001) can be found at:

[https://www.un.org/sc/ctc/wp-content/uploads/2016/10/Global-Implementation-Survey-1373\\_EN.pdf](https://www.un.org/sc/ctc/wp-content/uploads/2016/10/Global-Implementation-Survey-1373_EN.pdf)

A similar survey on the implementation of Security Council resolution 1624 (2005) was also adopted by the Committee, in 2016. Pursuant to this resolution, which is aimed primarily at the threat posed by incitement to commit a terrorist act or acts, the survey considers all operative elements in resolution 1624 (2005), including human rights aspects, identifies trends and developments that have emerged since the last report in 2012, and ends with conclusions and recommendations for its enhanced implementation.

The Global Implementation Survey of resolution 1624 (2005) can be found at:

[https://www.un.org/sc/ctc/wp-content/uploads/2016/10/Global-Implementation-Survey-1624\\_EN.pdf](https://www.un.org/sc/ctc/wp-content/uploads/2016/10/Global-Implementation-Survey-1624_EN.pdf)

## Expert Group

The CTC was originally assisted by a group of 10 experts. Subsequently, in seeking to revitalize the CTC, the Security Council established the CounterTerrorism Committee Executive Directorate (CTED) pursuant to resolution 1535 (2004), in order to enhance the ability of the CTC to monitor the implementation of resolution 1373 (2001) and effectively continue its capacity-building work. The mandate of CTED was extended until 31 December 2013 under resolution 1963 (2010).

CTED is headed by an Executive Director with the rank of Assistant Secretary-General. It consists of the Executive Director's office; the Assessment and Technical Assistance Office (ATAO), comprising the Head of Office, three Geographical Clusters and five thematic Working Groups, including a Senior

Human Rights Advisor. CTED's Administration and Information Office (AIO), comprises of the Head of Office and support staff.

CTED can be contacted by email at: [cted@un.org](mailto:cted@un.org)

## Measures

Legal, institutional and practical measures related to resolution 1373 (2001), including their related technical assistance measures, fall under the following categories:

1. Counter-terrorism law and practice (e.g. international counterterrorism instruments)
2. **Financial law and practice (e.g. criminalization of the financing of terrorism, establishing a Financial Intelligence Unit (FIU), freezing of funds, etc.)**
3. Customs and border controls
4. Police and law enforcement
5. Immigration law and practice to prevent movement of terrorists
6. Extradition law and practice (e.g. mutual legal assistance)
7. Training and capacity-building for the judiciary
8. Expert monitoring and illegal arms trafficking
9. Civil aviation security 10. Maritime security
10. Transportation security
11. Military counter-terrorism training
12. National security

Website: <http://www.un.org/sc/ctc/>

## 2. Key elements and requirements of designated financial sanctions regimes.

### Differences and Similarities between Resolution 1267 (1999) and Resolution 1373 (2001) Comparative Table

Characteristics and conditions	Resolution 1267 (1999)	Resolution 1373 (2001)
Security Council Sanction Committee Designates	Yes	No
Member State Designates	No	Yes
Designation Decision is taken ex parte (without the knowledge of the individual or entity being proposed)	Yes	Yes
Designation decision maybe made by EITHER Judicial Proceedings or Executive Authority	No	Yes



Asia-Pacific  
Economic Cooperation

Designation includes Asset Freeze, Travel Ban, Arms Embargo	Yes	No
The test applied for designation is 'reasonable grounds' or 'reasonable basis'	Yes	Yes
Designation is a finding of criminal guilt	No	No
The Designated Party must be provided with a summary of reasons for their designation and outlining what activities they are prohibited from engaging in.	Yes	Yes
Freeze "without delay" upon designation	Yes	Yes
The Designated Party must be informed when their assets are frozen by the Private Sector	No	No
Member States can remove freeze where Mistaken identity occurs	Yes	Yes
Sanctions have transnational / extra-territorial effect	Yes	No
A Member State may make a 'Third Party' Request to another Member State for freezing action	No	Yes
Penalties for non-compliance administered by Security Council	No	No
Penalties for non-compliance administered by Member State	Yes	Yes
The work of the Sanctions regime is conducted by Committee that reports to the Security Council	Yes	No
Identity of Member State proposing designation made public	Yes	Yes
Is part of Anti-Money Laundering	No	No
Is part of Counter-Terrorist Financing	Yes	Yes
Requires a predicate criminal offence	No	No
The objective to prevent terrorism	Yes	Yes
Requires criminal proceedings or a criminal investigation	No	No
Member States responsible for licensing transactions	No	Yes
Security Council Sanction Committee responsible for Exemptions	Yes	No



**Asia-Pacific  
Economic Cooperation**

Member State responsible for creating offences in domestic law for breach of sanctions	Yes	Yes
Member State must have an appeals process for de-listing	No	Yes
Member State can delist Designated Party	No	Yes
UN Sanction Committee has power to delist	Yes	No
Human Rights should be applied when taking decisions in relation to sanctions implementation	Yes	Yes

## CHAPTER II:

# FINANCIAL ACTION TASK FORCE (FATF) RECOMMENDATIONS ON TERRORIST FINANCING AND TARGETED FINANCIAL SANCTIONS.

1. Overview of Recommendations 5, 6 and 7 of the 40 FATF Recommendations.



**FATF Recommendations on Terrorist  
Financing and Targeted financial  
sanctions**

**Halting Terrorist Financing: APEC Workshop on Targeted  
Financial Sanctions Regime**

Santiago, 6-8 November, DoubleTree by Hilton

## Overview

I) Overview of FATF Recommendations

II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

III) Q&A - Discussion

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## I) Overview of FATF Recommendations

FATF international anti-money laundering and combating the financing of terrorism and proliferation (AML/CFT) standards

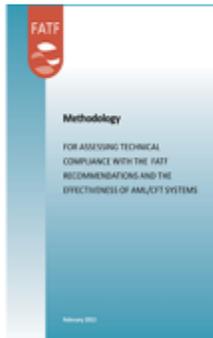


40 Recommendations +  
Interpretative Notes



### 1) Overview of FATF Recommendations

#### METHODOLOGY FOR ASSESSING TECHNICAL COMPLIANCE WITH THE FATF RECOMMENDATIONS AND THE EFFECTIVENESS OF AML/CFT SYSTEMS



**Technical Compliance:** addresses the specific requirements of the FATF Recommendations, principally as they relate to the relevant legal and institutional framework of the country, and the powers and procedures of the competent authorities

**Effectiveness:** It assess the adequacy of the implementation of the FATF Recommendations, and identifies the extent to which a country achieves a defined set of outcomes that are central to a robust AML/CFT system (11 Immediate outcomes).



### 1) Overview of FATF Recommendations

THE FATF RECOMMENDATIONS

Number	Old Number <sup>1</sup>	
<b>A – AML/CFT POLICIES AND COORDINATION</b>		
1	-	Assessing risks & applying a risk-based approach.*
2	R.31	National cooperation and coordination
<b>B – MONEY LAUNDERING AND CONFISCATION</b>		
3	R.1 & R.2	Money laundering offence.*
4	R.3	Confiscation and provisional measures.*
<b>C – TERRORIST FINANCING AND FINANCING OF PROLIFERATION</b>		
5	SRF	Terrorist financing offence.*
6	SRF	Targeted financial sanctions related to terrorism & terrorist financing.*
7		Targeted financial sanctions related to proliferation.*
8	SRF	Non-profit organisations.*
<b>D – PREVENTIVE MEASURES</b>		
9	R.4	Financial institution secrecy laws
		Customer due diligence and record keeping
10	R.5	Customer due diligence.*
11	R.10	Record keeping
		Additional measures for specific customers and activities
12	R.6	Publicly exposed persons.*
13	R.7	Correspondent banking.*
14	SRF	Money or value transfer services.*
15	R.8	New technologies
16	SRF	Wire transfers.*
		Robo-Advisors, Central and Financial Group
17	R.9	Reliance on third parties.*
18	R.15 & R.22	Internal controls and foreign branches and subsidiaries.*
19	R.21	High-risk countries.*
		Reporting of suspicious transactions
20	R.13 & SRF	Reporting of suspicious transactions.*
21	R.14	Tipping-off and confidentiality
		Designated non-financial businesses and professions (DNFBPs)
22	R.12	DNFBPs: Customer due diligence.*
23	R.16	DNFBPs: Other measures.*





## I) Overview of FATF Recommendations

### RECOMMENDATION 5 TERRORIST FINANCING OFFENCE

#### OBJECTIVE

Countries should criminalise TF on the basis of the Terrorist Financing Convention:

“any person who wilfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part: (a) to carry out a terrorist act(s); or (b) by a terrorist organisation or by an individual terrorist”

not require that the funds: (a) were actually used to carry out or attempt a terrorist act(s); or (b) be linked to a specific terrorist act(s).



## I) Overview of FATF Recommendations

### RECOMMENDATION 5 TERRORIST FINANCING OFFENCE

#### OBJECTIVE

- Legitimate or illegitimate source (Difference with ML)
- TF offences should be designated as ML predicate offences.
- Proportionate and dissuasive criminal sanctions should apply to natural and legal persons convicted of TF.

TF offences should include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.



## 1) Overview of FATF Recommendations

**Immediate Outcome 9** Terrorist financing offences and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions.

### *Characteristics of an effective system*

Terrorist financing activities are investigated; offenders are successfully prosecuted; and courts apply effective, proportionate and dissuasive sanctions to those convicted. When appropriate, terrorist financing is pursued as a distinct criminal activity and financial investigations are conducted to support counter terrorism investigations, with good co-ordination between relevant authorities. The components of the system (investigation, prosecution, conviction and sanctions) are functioning coherently to mitigate the terrorist financing risks. Ultimately, the prospect of detection, conviction and punishment deters terrorist financing activities.



## 1) Overview of FATF Recommendations

- 9.1. To what extent are the different types of TF activity (e.g. collection, movement and use of funds) prosecuted and offenders convicted? Is this consistent with the country's TF risk profile?
- 9.2. How well are cases of TF identified, and investigated? To what extent do the investigations identify the specific role played by the terrorist financier?
- 9.3. To what extent is the investigation of TF integrated with, and used to support, national counter-terrorism strategies and investigations (e.g. identification and designation of terrorists, terrorist organisations and terrorist support networks)?
- 9.4. To what extent are the sanctions or measures applied against natural and legal persons convicted of TF offences effective, proportionate and dissuasive?
- 9.5. To what extent is the objective of the outcome achieved by employing other criminal justice, regulatory or other measures to disrupt TF activities where it is not practicable to secure a TF conviction?



## I) Overview of FATF Recommendations

### RECOMMENDATION 6 TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

#### OBJECTIVE

Requires to **implement TFS** to comply with the UNSCR that require countries to:

- **freeze, without delay, the funds or other assets,**
- **ensure that no funds and other assets are made available to or for the benefit of:**
  - (i) any person or entity designated as per UNSCR 1267
  - (ii) any person or entity designated by that country pursuant to UNSCR 1373.

*None of the obligations in R. 6 is intended to replace other measures or obligations that may already be in place for dealing with funds or other assets in the context of an investigation or proceeding, as is required by Rec. 4*



## I) Overview of FATF Recommendations

### RECOMMENDATION 6 TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

- ➔ Measures under Recommendation 6 **may complement criminal proceedings**, but **are not conditional upon the existence of such proceedings.**
- ➔ The focus of R. 6 is on **the preventive measures** that are necessary and unique in the context of **stopping the flow of funds or other assets to terrorist groups**; and the use of funds or other assets by terrorist groups.
- ➔ Countries must also respect **human rights**, respect the rule of law, and recognise the **rights of innocent third parties.**



## I) Overview of FATF Recommendations

### RECOMMENDATION 6 TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

#### General aspects:

#### UNSCR 1267 (1999)

- designations relating to Al-Qaida are made by the 1267 Committee.
- designations pertaining to the Taliban and related threats to Afghanistan are made by the 1988 Committee.

#### UNSCR 1373 (2001)

- designations are made at the national or supranational level by a country or countries acting on their own motion, or at the request of another country

Competent authorities should have legal powers and procedures or mechanisms to:

- ➔ Collect or solicit information to identify persons and entities that meet the criteria for designation
- ➔ Operate ex parte against a person or entity who has been identified



## I) Overview of FATF Recommendations

### RECOMMENDATION 6 TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

#### UNSCR 1267/1989 and 1988 – Countries should:

- ➔ **Identify authority** with responsibility for proposing designations
- ➔ **Mechanisms for identifying targets** for designation
- ➔ Proposal or designation:
  - evidentiary standard of proof: “reasonable grounds/basis”
  - should not be conditional upon the existence of a criminal proceeding;
  - contains as much **detail** as possible.



## I) Overview of FATF Recommendations

### RECOMMENDATION 6 TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

#### UNSCR 1373 - countries should:

- ➔ **Identify authority with responsibility for proposing designations** (either on the country's own motion or by the request of another country).
- ➔ **Mechanisms for identifying targets for designation**
- ➔ **When receiving a request, make a prompt determination of whether the request is supported by reasonable grounds, or a reasonable basis, to suspect that the proposed designee meets the criteria for designation in UNSCR 1373.**
- ➔ **When requesting another country to give effect to the freezing mechanisms, provide as much information as possible.**



## I) Overview of FATF Recommendations

### RECOMMENDATION 6 TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

#### FREEZING AND PROHIBITING DEALING IN FUNDS OR OTHER ASSETS

##### Important: Countries should:

- ➔ **Require all natural and legal persons within the country to freeze without delay and without prior notice, the funds or other assets of designated persons and entities.**
- ➔ **Prohibit their nationals, or any persons and entities within their jurisdiction, from 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 and entities**
- ➔ **Have mechanisms for communicating designations to the financial sector and the DNFBPs immediately and providing clear guidance**



## I) Overview of FATF Recommendations

### RECOMMENDATION 6 TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING

#### DE-LISTING, UNFREEZING AND PROVIDING ACCESS TO FROZEN FUNDS OR OTHER ASSETS

**Countries should:**

- ➔ Have publicly known procedures to de-list and unfreeze (when do not, or no longer, meet the criteria for designation).
- ➔ Mechanisms to authorize access to funds in accordance to UNSCRs



## I) Overview of FATF Recommendations

**Immediate Outcome 10** Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.

*Characteristics of an effective system*

Terrorists, terrorist organisations and terrorist support networks are identified and deprived of the resources and means to finance or support terrorist activities and organisations. This includes proper implementation of targeted financial sanctions against persons and entities designated by the United Nations Security Council and under applicable national or regional sanctions regimes. The country also has a good understanding of the terrorist financing risks and takes appropriate and proportionate actions to mitigate those risks, including measures that prevent the raising and moving of funds through entities or methods which are at greatest risk of being misused by terrorists. Ultimately, this reduces terrorist financing flows, which would prevent terrorist acts.

This outcome relates primarily to Recommendations 1, 4, 6 and 8, and also elements of Recommendations 14, 16, 30 to 32, 37, 38 and 40.



## I) Overview of FATF Recommendations

### Core Issues to be considered in determining if the Outcome is being achieved

- 10.1. How well is the country implementing targeted financial sanctions pursuant to (i) UNSCR1267 and its successor resolutions, and (ii) UNSCR1373 (at the supra-national or national level, whether on the country's own motion or after examination, to give effect to the request of another country)?
- 10.2. To what extent, without disrupting or discouraging legitimate NPO activities, has the country applied focused and proportionate measures to such NPOs which the country has identified as being vulnerable to terrorist financing abuse, in line with the risk-based approach?
- 10.3. To what extent are terrorists, terrorist organisations and terrorist financiers deprived (whether through criminal, civil or administrative processes) of assets and instrumentalities related to TF activities?
- 10.4. To what extent are the above measures consistent with the overall TF risk profile?



## I) Overview of FATF Recommendations

### RECOMMENDATION 7 TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION

#### OBJECTIVE

- ➔ R. 7 requires to implement TFS to comply with UNSCR that require countries to **freeze, without delay, the funds or other assets** of, and to ensure that no funds and other assets are made available to, and for the benefit of, **any person or entity designated by the UNSCR related to the prevention and disruption of the financing of PWMD.**
- ➔ **None of the requirements in R. 7 is intended to replace other measures or obligations that may already be in place**
- ➔ The focus of R. 7 is on **preventive measures** that are necessary and unique in the context of **stopping the flow of funds or other assets to proliferators or proliferation**; and the use of funds or other assets by proliferators or proliferation, as required by the UNSC.



## I) Overview of FATF Recommendations

### RECOMMENDATION 7 TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION

#### FREEZING AND PROHIBITING DEALING IN FUNDS OR OTHER ASSETS OF DESIGNATED PERSONS AND ENTITIES

- ➔ **Implement TFS without delay**
- ➔ have the legal authority and **identify domestic competent authorities for implementing** and enforcing TFS
- ➔ ensure that any funds or other assets are **prevented from being made available by their nationals or by any persons or entities within their territories**, to or for the benefit of designated persons or entities unless licensed, authorized in accordance with UNSCR.
- ➔ have **mechanisms for communicating designations to the financial sector and the DNFBPs immediately** upon taking such action, and providing clear guidance



## I) Overview of FATF Recommendations

### RECOMMENDATION 7 TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION

#### UNITED NATIONS DESIGNATION CRITERIA

(a) **On DPRK** - Resolutions 1718 (2006), 2087 (2013), 2094 (2013) and 2270 (2016)

- (i) any person or entity engaged in the Democratic People's Republic of Korea (DPRK)'s nuclear-related, other WMD-related and ballistic missile-related programmes;*
- (ii) any person or entity providing support for DPRK's nuclear-related, other WMD related and ballistic missile-related programmes, including through illicit means;*
- (iii) any person or entity acting on behalf of or at the direction of any person or entity designated under subsection 13(a)(i) or subsection 13(a)(ii);*



## I) Overview of FATF Recommendations

### RECOMMENDATION 7 TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION

*(iv) any legal person or entity owned or controlled, directly or indirectly, by any person or entity designated under subsection 13(a)(i) or subsection 13(a)(ii)20;*  
*(v) any person or entity that has assisted in the evasion of sanctions or in violating the provisions of resolutions 1718 (2006) and 1874 (2009);*  
*(vi) any person or entity that has contributed to DPRK's prohibited programmes, activities prohibited by the DPRK-related resolutions, or to the evasion of provisions; or*  
*(vii) any entity of the Government of the DPRK or the Worker's Party of Korea, or person or entity acting on their behalf or at their direction, or by any entity owned or controlled by them, that countries determine are associated with the DPRK's nuclear or ballistic missile programmes or other activities prohibited by resolution 1718 (2006) and successor resolutions.*



## I) Overview of FATF Recommendations

### RECOMMENDATION 7 TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION

#### (b) On Iran - Resolution 2231 (2015):

*(i) any person or entity having engaged in, directly associated with or provided support for Iran's proliferation sensitive nuclear activities contrary to Iran's commitments in the Joint Comprehensive Plan of Action (JCPOA) or the development of nuclear weapon delivery systems, including through the involvement in procurement of prohibited items, goods, equipment, materials and technology specified in Annex B to resolution 2231 (2015);*  
*(ii) any person or entity assisting designated persons or entities in evading or acting inconsistently with the JCPOA or resolution 2231 (2015); and*  
*(iii) any person or entity acting on behalf or at a direction of any person or entity in subsection 13(b)(i), subsection 13(b)(ii) and/or subsection 13(b)(iii), or by any entities owned or controlled by them.*

## I) Overview of FATF Recommendations

**Immediate Outcome 11** Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds, consistent with the relevant UNSCRs.

### *Characteristics of an effective system*

Persons and entities designated by the United Nations Security Council Resolutions (UNSCRs) on proliferation of weapons of mass destruction (WMD) are identified, deprived of resources, and prevented from raising, moving, and using funds or other assets for the financing of proliferation. Targeted financial sanctions are fully and properly implemented without delay; monitored for compliance and there is adequate co-operation and co-ordination between the relevant authorities to prevent sanctions from being evaded, and to develop and implement policies and activities to combat the financing of proliferation of WMD.

This outcome relates to Recommendation 7 and elements of Recommendation 2.

## I) Overview of FATF Recommendations

### Core Issues to be considered in determining if the Outcome is being achieved

- 11.1. How well is the country implementing, without delay, targeted financial sanctions concerning the UNSCRs relating to the combating of financing of proliferation?
- 11.2. To what extent are the funds or other assets of designated persons and entities (and those acting on their behalf or at their direction) identified and such persons and entities prevented from operating or from executing financial transactions related to proliferation?
- 11.3. To what extent do financial institutions and DNFbps comply with, and understand their obligations regarding targeted financial sanctions relating to financing of proliferation?
- 11.4. How well are relevant competent authorities monitoring and ensuring compliance by financial institutions and DNFbps with their obligations regarding targeted financial sanctions relating to financing of proliferation?

2. View and analysis of APEC's weaknesses and strengths in the implementation of Targeted Sanctions Regime according to the results of Mutual Evaluations Reports in the region.



II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs







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II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

**METHODOLOGY FOR ASSESSING TECHNICAL COMPLIANCE WITH THE FATF RECOMMENDATIONS AND THE EFFECTIVENESS OF AML/CFT SYSTEMS**



**Technical Compliance:** *addresses the specific requirements of the FATF Recommendations, principally as they relate to the relevant legal and institutional framework of the country, and the powers and procedures of the competent authorities*



**Effectiveness:** *It assess the adequacy of the implementation of the FATF Recommendations, and identifies the extent to which a country achieves a defined set of outcomes that are central to a robust AML/CFT system (11 Immediate outcomes).*

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 Ministerio de Relaciones Exteriores  
 Gobierno de Chile


 UNIDAD DE ANÁLISIS FINANCIERO  
 GOBIERNO DE CHILE



II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

4th Round ME – APEC Members assessed so far:

Jurisdiction	IO9	IO10	IO11	R.5	R.6	R.7	R.8
<a href="#">Australia</a>	SE	ME	SE	LC	C	C	NC
<a href="#">Canada</a>	SE	SE	ME	LC	LC	LC	C
<a href="#">Malaysia</a>	ME	SE	ME	LC	C	PC	LC
<a href="#">Singapore</a>	LE	ME	SE	LC	LC	LC	LC
<a href="#">United States</a>	HE	HE	HE	C	LC	LC	LC

\* Mexico is currently being assessed by the IMF and the FATF. Peru will be assessed in 2018 by GAFILAT



II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

**REC 6 - Some of the usual shortcomings identified:**

- ➔ **Persons are not prohibited from providing financial services to entities owned or controlled by designated persons.**
- ➔ **No authority has been designated for monitoring compliance with the provisions related to TFS.**
- ➔ **Competent authorities only indirectly receive reports on assets frozen or actions taken in compliance with the prohibition requirements of relevant UNSCRs.**
- ➔ **There are no measures which protect the rights of bona fide third parties.**
- ➔ **Sanctions for legal persons not being sufficiently dissuasive.**



II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

*REC 7 - Some of the usual shortcomings identified:*

- ➔ **No mechanisms for monitoring and ensuring compliance with the provisions.**
- ➔ **Little information provided to the public on the procedures to submit delisting requests to the UN on behalf of a designated person or entity.**
- ➔ **There is no provision in accordance with the exemptions under the UNSCRs and the implementation is left to the discretion of the authorities.**



II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

**Effectiveness – Strengths**

- ➔ **Good understanding TF risk.**
- ➔ **Good level of policy and operational cooperation between the relevant authorities including those involved in export control, border control, law enforcement and AML/CFT supervision.**
- ➔ **Intelligence services, LEAs and FIU regularly exchange information, which notably contributes to support prioritization of TF investigations.**
- ➔ **Development of outreach plan which reflects the best practices of the FATF.**
- ➔ **Updated lists of designated persons available on the agencies websites.**
- ➔ **Success in freezing funds of designated persons.**
- ➔ **Terrorists and terrorist organisations are being identified in an effort to deprive them of the resources and means to finance terrorist activities.**



## II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

### Effectiveness – Strengths

- ➔ The country adopted a strong **multi-agency approach** with Joint Terrorism Task Forces
- ➔ The country **proactively and aggressively investigates, prosecutes and convicts** individuals involved in a wide range of TF schemes
- ➔ Where a TF charge is not possible, the **country employs an 'all tools' approach** to prosecute and convict terrorists or would-be terrorists.
- ➔ **Authorities engage extensively with the private sector** enabling constructive information sharing on TF and terrorism-related threats.
- ➔ **Both PF and TF are considered a high priority.**



## II) View and analysis common weaknesses and strengths in the implementation of TFS - MERs

### Effectiveness – Shortcomings

- ➔ *Large FIs implement TFS without delay, but **DNFBPs do not seem to have a good understanding of their obligations***
- ➔ *There have been **no separate and independent TF criminal investigations**. It does not appear that **financial investigations** have ever been undertaken in relation to TF.*
- ➔ *NPOs are monitored on a risk basis, but the **number of inspections conducted does not reflect those TF risks**.*
- ➔ ***No outreach to the NPO sector regarding TF risks.***
- ➔ ***Further implementation guidance is needed.***
- ➔ ***Delay in transposing UN designations to domestic freezing obligations and prohibitions.***
- ➔ ***Little information provided to the public on the procedures to submit delisting requests to the UN on behalf of a designated person or entity***

## CHAPTER III:

# EMERGING ISSUES AND TRENDS RELATED TO TERRORISM AND TERRORIST FINANCING.

## 1. Relevant aspects of FATF Recommendation 8.



**Emerging issues and trends related to terrorism and terrorist financing – Relevant aspects of FATF Recommendation 8**

**Halting Terrorist Financing: APEC Workshop on Targeted Financial Sanctions Regime**

Santiago, 6-8 November, DoubleTree by Hilton



**RECOMMENDATION 8    NON-PROFIT ORGANISATIONS (NPOS)**

NPOs definition and FATF Standards:



*NPO refers to a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works”.*

*Definition is based on those activities and characteristics of an organisation which put it at risk of terrorist financing abuse, rather than on the simple fact that it is operating on a non-profit basis.*



*FATF recognises the vital importance of NPOs in providing these important charitable services, as well as the difficulty of providing assistance to those in need, often in high risk areas and conflict zones, and applauds the efforts of NPOs to meet such needs.*



**RECOMMENDATION 8    NON-PROFIT ORGANISATIONS (NPOS)**

NPOs may be vulnerable to TF abuse by terrorists for a variety of reasons:

- ➔ *They enjoy the public trust,*
- ➔ *Have access to considerable sources of funds, often cash-intensive.*
- ➔ *Some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity.*

Terrorists and terrorist organisations exploit some NPOs in the sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organisations and operations. As well, there have been cases where terrorists create sham charities or engage in fraudulent fundraising for these purposes.



**RECOMMENDATION 8 NON-PROFIT ORGANISATIONS (NPOS)**

**REC 8: OBJECTIVES AND GENERAL PRINCIPLES**

**Objective of Rec 8 is to ensure that NPOs are not misused by terrorist organisations:**

- (i) to pose as legitimate entities;*
- (ii) to exploit legitimate entities as conduits for TF, including for the purpose of escaping asset freezing measures; or*
- (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes, but diverted for terrorist purposes.*



**RECOMMENDATION 8 NON-PROFIT ORGANISATIONS (NPOS)**

**General principles:**

- ➔ *(a) A RBA applying focused measures in dealing with identified threats of TF abuse to NPOs is essential given the diversity within individual national sectors.*
- ➔ *(b) Flexibility in developing a national response to TF abuse of NPOs is essential, in order to allow it to evolve over time as it faces the changing nature of the TF threat.*
- ➔ *(c) TF abuse of NPOs requires countries to adopt effective and proportionate measures, which should be commensurate to the risks identified.*
- ➔ *(d) Measures should not disrupt or discourage legitimate activities.*
- ➔ *(e) Identify and take effective and proportionate action against NPOs that are exploited by, or knowingly supporting, terrorists or terrorist organisations taking into account the specifics of the case.*
- ➔ *(f) Developing cooperative relationships among the public and private sectors and with NPOs is critical*



**RECOMMENDATION 8 NON-PROFIT ORGANISATIONS (NPOS)**

**MEASURES**

**Countries should:**

- ➔ **Identify which subset of organisations fall within the FATF definition of NPO.** Should use all relevant sources of information in order to identify features and types of NPOs, which, by virtue of their activities or characteristics, are likely to be at risk of TF abuse.
- ➔ **Identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs.**
- ➔ **Review the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector in order to be able to take proportionate and effective actions to address the risks identified.**
- ➔ **Periodically reassess the sector by reviewing new information on the sector's potential vulnerabilities**



**RECOMMENDATION 8 NON-PROFIT ORGANISATIONS (NPOS)**

**Approaches to NPO should involve the following elements:**

- ➔ **(a) sustained outreach,**
- ➔ **(b) targeted risk-based supervision or monitoring,**
- ➔ **(c) effective investigation and information gathering and**
- ➔ **(d) effective mechanisms for international cooperation** (effective capacity to respond to international requests for information about an NPO of concern).



**RECOMMENDATION 8 NON-PROFIT ORGANISATIONS (NPOS)**

**RESOURCES FOR SUPERVISION, MONITORING, AND INVESTIGATION**

*Countries should provide their appropriate authorities, which are responsible for supervision, monitoring and investigation of their NPO sector, with adequate financial, human and technical resources*



**Immediate Outcome 10** Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.

**Core Issues to be considered in determining if the Outcome is being achieved**

- 10.1. How well is the country implementing targeted financial sanctions pursuant to (i) UNSCR1267 and its successor resolutions, and (ii) UNSCR1373 (at the supra-national or national level, whether on the country's own motion or after examination, to give effect to the request of another country)?
- 10.2. To what extent, without disrupting or discouraging legitimate NPO activities, has the country applied focused and proportionate measures to such NPOs which the country has identified as being vulnerable to terrorist financing abuse, in line with the risk-based approach?
- 10.3. To what extent are terrorists, terrorist organisations and terrorist financiers deprived (whether through criminal, civil or administrative processes) of assets and instrumentalities related to TF activities?
- 10.4. To what extent are the above measures consistent with the overall TF risk profile?

# Emerging issues and trends related to terrorism and terrorist financing

Halting Terrorist Financing: APEC  
Workshop on Targeted  
Financial Sanctions Regime

Disclaimer: The views expressed herein are those of the author(s) and should not be attributed to the IMF, its Executive Board, or its management.

## Index

1. Evolution of TF–Illicit sources of TF
2. Emerging threats

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## Evolution of TF

- Traditional Terrorism
  - Structured
  - Well defined tasks
  - Local terrorism
  - Armed front and political front
  - Traditional sources of funds
- International Terrorism
  - Unstructured
  - International terrorism
  - Religious and armed front
  - New sources of funds and self funding

## Evolution of TF (cont.)

- ISIL
  - Control over territory
  - Well structured
  - New sources of financing
- Illicit proceeds from occupation of territory. TAX
- Bank looting, extortion and human trafficking
- Control of oil and gas reservoirs (50.000 daily)
- Extorting agriculture (tax and machinery – 50 % fertile)
- Cultural artefacts (20%)
- Kidnapping for ransom (salaries)
- Donations including by or through non-profit organizations
  - Abused
  - Accomplice

## Evolution of TF (cont.)



## ISIL Terrorist Financial Management

Terrorist financial management related to the full financial position of the organization (or cell). It includes the organizational work necessary to *develop the plans, strategies, infrastructure, processes, personnel, and mechanisms that enable groups to effectively raise, move, store and use funds.*

Financial management is central to terrorist operations, as it is a significant factor in decision making to plan plots and execute attacks.

The failure or survival of a terrorist organization is strongly linked to the financial health of the organization.

Similar to a legitimate business, terrorist organizations need to financially plan and strategize to reach their ultimate goals.

- They keep track of their revenues and expenditures
- They manage their assets, liabilities and risks
- They plan and account for all resources
- They use tools such as budgets, cash flow statements, income statements and balance sheets to keep track of their financial health
- They develop strategies and financial plans to ensure long-term growth
- They use financial positions to assist in decision making

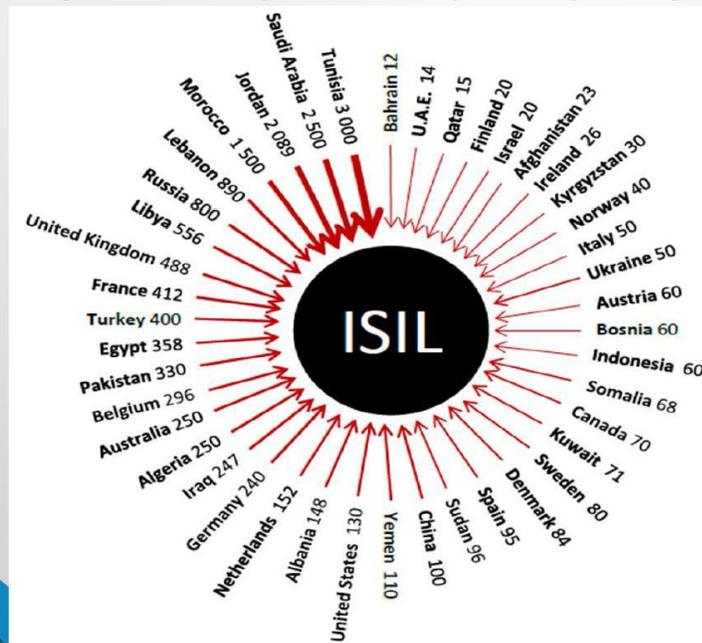
## FTF

### Foreign Terrorist Fighters 2015

- New Threat
- Source of financing
- Involves other countries
- Globalizes threat
- Response from the international community
- New challenges in prevention and investigation (Use of media, intelligence and red flags)

## FTF

### Foreign Terrorist Fighters 2015 by country of origin



## Emerging Threats 2017

- Loss of large part of the territory
- Lost control of oil and gas fields (2 remaining 10.000 barrels)
- Gold dinars as the only currency
- Cultural artefacts seller
- NPO funding
- Budget cuts
- Criminal enterprises

## Emerging Threats 2017

- 22.000 from 100 countries
- 4.000 from western Europe
- Turkey has more 3 million of people seeking temporary asylum
- Returning FTF – Two approaches
  - Criminal and intelligence  
extradition and revocation of travel documents, augmenting intelligence powers for surveillance, or criminalizing travel to foreign conflict zones, electronic tagging, reporting regularly to the police, etc.
  - Rehabilitation and reintegration  
Doesn't preclude criminal responsibility. Process need not take a substantial amount of time to develop. UNSCR 2178 introduces de radicalization as an option. Securing employment, housing, education, and psychological counseling.
- Risk: coordinating organized terrorist plots, carrying out lone wolf-type attacks, or supporting domestic extremist networks.

## Costs

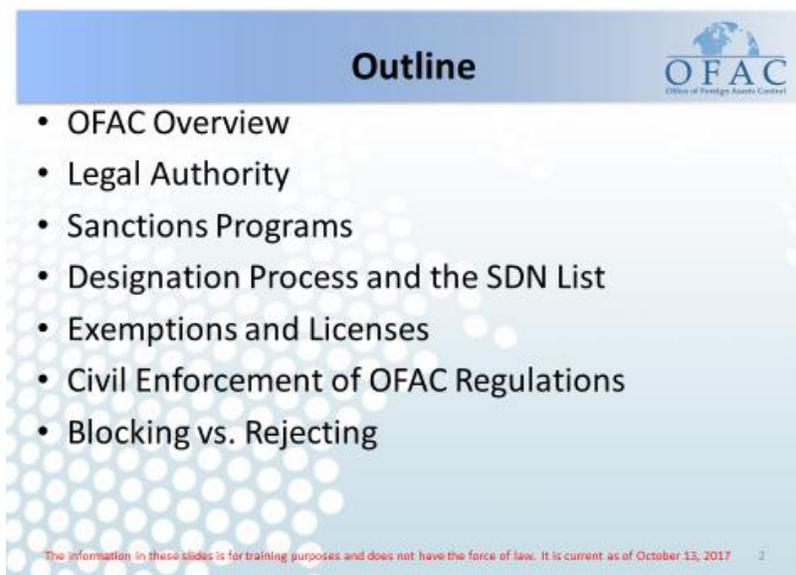
Attack	Date	Estimated cost <sup>3</sup>
London transport system	7 July 2005	GBP 8 000 <sup>4</sup>
Madrid train bombings,	11 March 2004	USD 10 000
Istanbul truck bomb attacks,	15 & 20 November 2003	USD 40 000
Jakarta JW Marriot Hotel bombing	5 August 2003	USD 30 000
Bali bombings	12 October 2002	USD 50 000
USS Cole attack	12 October 2000	USD 10 000
East Africa embassy bombings,	7 August 1998	USD 50 000

- 11 M: 10.000 US\$ (191/1858)
  - 7-7: 15.000 US\$ (52/700)
- VS  
Lone wolf

## CHAPTER IV:

### GOOD PRACTICES AND RECOMMENDATIONS.

#### 1. United States' Targeted Financial Sanctions Regime: Implementation of UNSC Resolutions and FATF Recommendations.



## What is OFAC?



**The Office of Foreign Assets Control (OFAC)** administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted:

- **Foreign governments**
- **Individuals**
- **Entities**

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## Statutory Authorities



- **OFAC's primary statutory authorities include:**

- International Emergency Economic Powers Act (IEEPA)
- Trading with the Enemy Act (TWEA)
- United Nations Participation Act (UNPA)

- **Numerous other country or program specific legislation include:**

- Foreign Narcotics Kingpin Designation Act (Kingpin Act)
- Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA)
- North Korea Sanctions and Policy Enhancement Act of 2016
- Countering America's Adversaries Through Sanctions Act (CAATSA)

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## Executive Orders (E.O.s)



- The President uses E.O.s to impose sanctions by declaring a national emergency with respect to foreign threats to the national security, foreign policy, or economy of the United States, as provided for in IEEPA
- E.O.s impose prohibitions to deal with the threat(s) that led to the declaration of the national emergency
- E.O.s may modify the scope of an existing national emergency including by imposing additional, or removing existing, prohibitions
- E.O.s generally delegate authority for implementation

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## Implementing Regulations



- Code of Federal Regulations (31 C.F.R. Chapter V)
- Outline the contours of each sanctions program
- Each part is separate from, and independent of, the other parts, with the exception of part 501
- Set forth provisions and exemptions
- Define terms
- Provide interpretations, licenses, authorizations, and statements of licensing policy

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# Creation of Smart Sanctions



## Objectives      Means and Strategies

<b>Develop</b>	<ul style="list-style-type: none"> <li>• Drafting Executive Orders</li> <li>• Technical engagement with Congress</li> <li>• Inter-agency collaboration to develop new authorities</li> </ul>
<b>Implement</b>	<ul style="list-style-type: none"> <li>• Issue sanctions regulations</li> <li>• Identify sanctions targets</li> <li>• Develop and issue guidance &amp; FAQs</li> <li>• General &amp; specific licenses or exemptions</li> </ul>
<b>Enforce</b>	<ul style="list-style-type: none"> <li>• Designate targets</li> <li>• Conduct outreach to foreign governments, regulators, private industry (banks &amp; exporters), and others</li> <li>• Identify apparent violations and issue civil penalties</li> </ul>

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# Types of Sanctions Programs



Approximately 30 sanctions programs that can generally run the gamut from comprehensive to list-based programs

Comprehensive Programs	List-Based Programs
<ul style="list-style-type: none"> <li>• Broad programs that generally prohibit most commercial transactions with a nation</li> <li>• Generally prohibit all <b>direct and indirect imports or exports</b> of goods, technology, or services</li> <li>• Generally block all property of the sanctioned government</li> <li>• Examples: Iran, North Korea, Syria, and Cuba</li> </ul>	<ul style="list-style-type: none"> <li>• Targeted programs against               <ul style="list-style-type: none"> <li>○ regime members and/or</li> <li>○ individuals and entities that engage in certain activities</li> </ul> </li> <li>• Generally prohibit transferring, paying, exporting, withdrawing, or <b>otherwise dealing in blocked property</b></li> <li>• Examples: Counterterrorism, Non-proliferation (WMD), and Counter Narcotics Trafficking, DRC, and CAR</li> </ul>

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## Designation Process

  
Office of Foreign Assets Control



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## What is the SDN List?

  
Office of Foreign Assets Control

- Specially Designated Nationals and Blocked Persons List
- Contains individuals, entities, vessels and aircraft designated/identified as blocked under numerous sanctions programs
- SDN entries contain identifying information
- The SDN List is frequently updated with new listings and removals
- Over 5800 individuals and entities are on the SDN List

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## SDN Individual



### Kingpin Act Designations

2/11/2014

OFFICE OF FOREIGN ASSETS CONTROL  
Specially Designated Nationals List Update

The following individual has been added to OFAC's SDN List:

NAME	AKA	ADDRESS	DOB
JAN, Lahore	[a.k.a. JAN, Lahor]	Shop No. 13, Second Floor, Sarai Shahzada, Kabul,	
Afghan	POB sha-khowr area of Achin District, Nangarhar Province, Afghanistan		
1976,	POB Nangarhar,	ID INFO Afghanistan, alt. POB Jalalabad, Afghanistan,	
		nationality Afghanistan	
		Tax ID No. 104-385-2-019 (Afghanistan); Tazkira National ID Card	
		932995 (Afghanistan); alt. Tazkira National ID	
		PROGRAM RELATIONSHIP Tazkira	
		National ID Card 128086 (Afghanistan) (individual) [SDNTK] (Linked To: LAHORE JAN	
		SHANWARI EXCHANGE).	

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## Possible Outcomes of a Designation



- Public exposure
- Blocked assets in the United States
- Pressure on foreign government to prosecute or seize assets
- Delegitimization
- Disruption to the "clean" financial network
- Secondary sanctions- loss of correspondent and payable-through account access

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Asia-Pacific  
Economic Cooperation

## SDN Search →

<http://sdnsearch.ofac.treas.gov>



### Sanctions List Search

The Sanctions List Search application ("Sanctions List Search") is designed to facilitate the use of the Sanctions Designated Nationals and Blocked Persons List ("SDN List") and all other sanctions lists administered by OFAC, including the Foreign Sanctions Evaders List, the List of Persons Identified by Executive Order pursuant to E.O. 13526, the Non-SDN Interim Sanctions Act List, the list for the Global Terrorism Sanctions Program and the Global Terrorism Sanctions - Cuba List. Users may search for individuals and entities on the Sanctions List Search tool. The search results are displayed in a table that includes information that users may wish to view in the program, such as name, address, and other information. These program results include a list of individuals and entities that are currently sanctioned as well as those who have been previously sanctioned but whose names have been removed from the Sanctions List Search tool. Sanctions List Search also provides information on the status of each individual and entity, such as whether they are currently sanctioned, whether they are on the SDN List, and whether they are on the SDN List as a result of a specific Executive Order. Sanctions List Search will return results for individuals and entities that are currently sanctioned, as well as those who have been previously sanctioned but whose names have been removed from the Sanctions List Search tool. OFAC does not provide information on the status of individuals and entities that are not currently sanctioned, including those who are on the SDN List as a result of a specific Executive Order. OFAC does not provide information on the status of individuals and entities that are not currently sanctioned, including those who are on the SDN List as a result of a specific Executive Order. OFAC does not provide information on the status of individuals and entities that are not currently sanctioned, including those who are on the SDN List as a result of a specific Executive Order.

Download the SDN List [View the OFAC Website](#)  
Download the Consolidated Non-SDN List [Program Guide Key](#)

Looking:

Type:	All	Address:	
Name:	ISIS	City:	
ID#:		State/Province:	
Program:	All	Country:	All
	NT List	List:	All
	BALKANS		
	BELARUS		
Maximum Name Score:	100	Search	Reset

Looking Results: 4 Found

Name	Address	Type	Programs	List	Score ↑
<a href="#">ISIS</a>		Entity	FTO, SDGT	SDN	100
<a href="#">ISIS (ALQAFI KHAFIYAH)</a>		Entity	FTO, SDGT	SDN	100
<a href="#">ISIS IN JAWA KARA</a>		Entity	SDGT	SDN	100
<a href="#">ISIS IN SYRIA</a>		Entity	SDGT	SDN	100

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## Exemptions and Licenses



- **Exemption**
  - A category of transaction or activity exempt from prohibition
- **General License**
  - A broad authorization related to a category of transactions or type of conduct – no specific authorization required
- **Specific License**
  - A specific authorization issued on a case-by-case basis
- **Statement of Licensing Policy**
  - A public statement issued by OFAC regarding the agency's policy with regard to a category of activity that requires a specific license



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## Exemptions



- Exemptions are program specific, and may include:
  - Personal communications
  - Humanitarian donations of food, clothing and medicine
  - Information or informational materials
  - Travel
  - Official federal government business

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## Enforcement



### *Strict Liability in a Risk-Based Environment*

- Civil monetary penalties
- Support to external law enforcement agencies for criminal penalties

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## How does OFAC learn about violations?

  
Office of Foreign Assets Control

- Self disclosures
- Blocked and rejected property reports
- Current investigations
- Referrals from other agencies
- Referrals from foreign government agencies
- Other publicly available information



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## Enforcement Guidelines

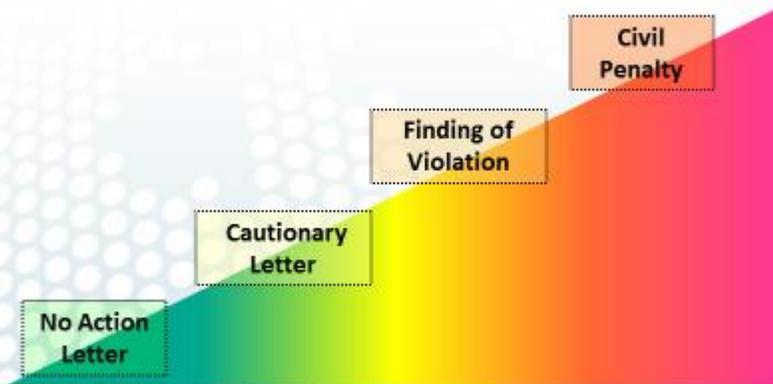
  
Office of Foreign Assets Control

Characteristics of the violation	Characteristics of the violator
<ul style="list-style-type: none"> <li>• Willful or reckless</li> <li>• Sanctions harm</li> <li>• Timing of violation</li> <li>• Remediation</li> <li>• Awareness of conduct</li> </ul>	<ul style="list-style-type: none"> <li>• Individual characteristics</li> <li>• Compliance program</li> <li>• Cooperation with OFAC</li> <li>• Previous enforcement actions</li> <li>• Future compliance/deterrent effect</li> </ul>

- Proportionality
- Other relevant factors

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## Enforcement Responses



Violations may also result in:

- Criminal Referrals
- Blocked Funds & Seized Goods
- License Revocation
- Negative Publicity or Loss of Business

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## OFAC Compliance



- Reviews reports that financial institutions are required to transmit to OFAC within 10 days of a blocking of (or other activity related to) a transaction involving a designated person
- Operates a public “hotline” for use by financial institutions and other industries or persons to resolve questions about U.S. sanctions (including possible “hits” involving a designated person)
- Conducts outreach events throughout the United States and the world to explain OFAC economic sanctions and to increase implementation

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## OFAC Compliance



- Blocking vs. Rejecting
- Blocking or “freezing” assets under U.S. jurisdiction
  - Across-the-board prohibitions on transfers of or transactions involving the blocked property
  - Title of property remains with sanctioned target
- Rejecting
  - Underlying transaction is prohibited but contains no “blockable” interest
  - Must simply refuse to process the transaction

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## Contact Information



### OFAC Compliance Hotline

Phone: 202-622-2490

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## 2. The Russian Federation's Targeted Financial Sanctions Regime: Implementation of UNSC Resolutions and FATF Recommendations.



**THE RUSSIAN FEDERATION'S TARGETED  
FINANCIAL SANCTIONS REGIME:  
IMPLEMENTATION OF UNSC  
RESOLUTIONS AND  
FATF RECOMMENDATIONS**

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**Multi-level system of terrorists' assets  
freezing:**



- 1. The List of Terrorists and Extremists
- 2. Judicial freezing (suspension)
- 3. Inter-Agency Commission decisions
- 4. Urgent suspension of operations (35 days)

2

## The List of Terrorists and Extremists:



3

## Domestic Part of The List is formed by:



### Organizations

- Liquidated or banned on activity due to involvement in extremism or terrorism
- Which activity suspended due to involvement in extremism
- Which are prosecuted for financial support to terrorism

### Individuals

- Convicted by a court of extremism or terrorism-related crimes
- Suspected and accused of committing extremism or terrorism-related crimes

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## International Part of The List is Formed by:



### Organizations and Individuals

- those included into international lists of terrorists and extremists
- with respect of whom sentences and resolutions are available, made by authorities of foreign states

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## Process of Freezing Assets:



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## Process of suspension:



Banks suspend transactions for **5 days**

Banks inform Rosfinmonitoring

Rosfinmonitoring's resolution on transaction suspension for **30 days**

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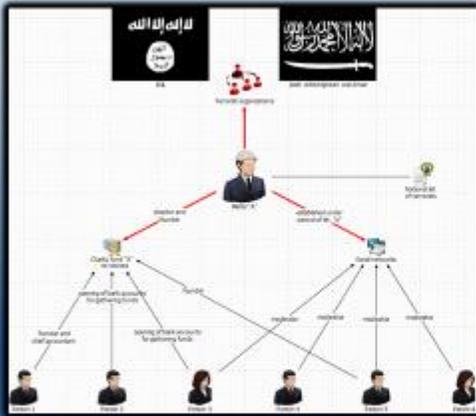
## The Relevant International Legal Acts



- Resolution of the UNSC No. 1373 (dated 28 September, 2001) and subsequent resolutions
- FATF Recommendations (especially No. 6)
- Resolution of the UNSC No. 1617 (dated 29 July, 2005)

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## The Example of Judicial Suppression



- 95 electronic wallets
- 24 bank cards
- 64 mobile telephone accounts

Total amount of frozen monetary funds -  
**100 000 USD**

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## Composition of the Inter-Agency Commission for Combating Terrorism Financing:



The Federal  
Security  
Service



Rosfinmonitoring



The Ministry of  
Foreign Affairs



The Ministry of  
the Interior

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## Commission makes decisions based on:

«enough evidence to suspect an individual or organization of involvement in terrorist activity (financing terrorism)»

**Total of facts is in the core!**

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## How the Commission works:



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## Commission allows:

1. Blocking assets and preventing fund transfers to Russian counterparts
2. Preventing use of Russian financial institutions
3. Identifying location of suspects in Russia and providing feedback to law enforcement authorities

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## International terrorist lists for freezing exchange

Sent to Rosfinmonitoring and frozen by IAC for CTF decision

76

152

number of individuals

Sent to Kyrgyz FIU for freezing



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## Process of urgent suspension:

Law enforcement authorities send information to Rosfinmonitoring

Rosfinmonitoring notifies banks

Banks suspend transactions for **5 days** and inform Rosfinmonitoring

Rosfinmonitoring resolution on transaction suspension for **30 days**

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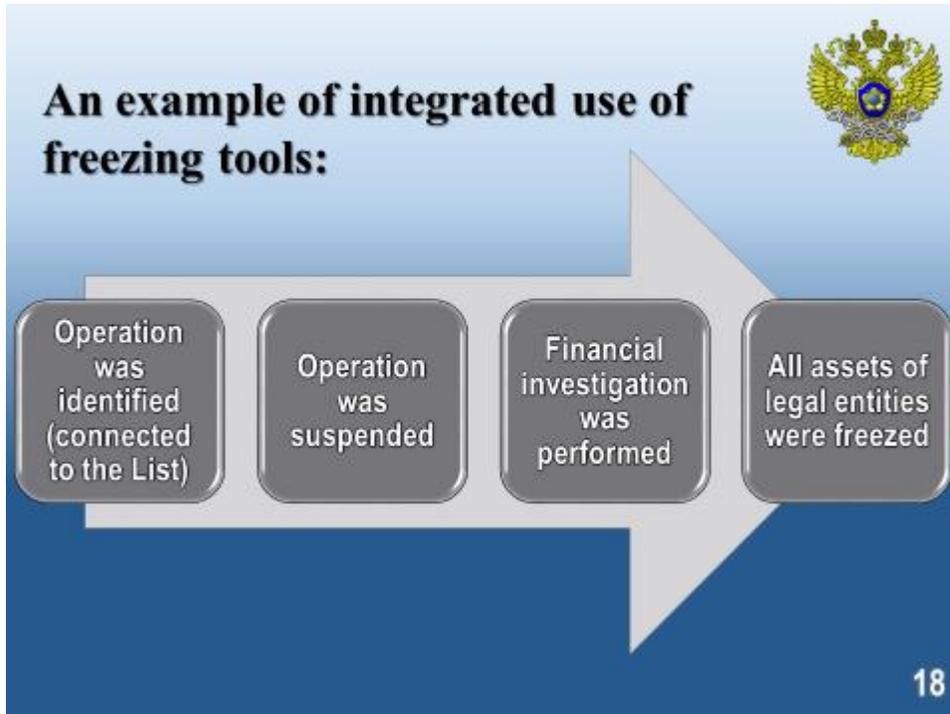
## Prospective tasks:



Implementing of the mechanism of blocking terrorists-related financial instruments placed in the Internet

Utilizing by **Rosfinmonitoring** the mechanism for prohibition from entry into the Russian territory of foreigners involved in unlawful activities

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### 3. Australia’s Targeted Financial Sanctions Regime: Implementation of UNSC Resolutions and FATF Recommendations.

#### Guiding principles / recommendations

- Detecting and disrupting the financing of terrorism is crucial to combating terrorism. Without finance, terrorists cannot buy materials they use to carry out attacks.
- Countering terrorist financing requires an understanding of the typologies that are used to move or transfer money from one location to another.
- Economies must understand current patterns and channels used by terrorist networks, and the profiles of the individuals and entities involved. That understanding is crucial in assisting economies, banks, and financial institutions to identify transactions relating to the financing of terrorism or the circumvention of financial sanctions and take appropriate action.
- Economies must ensure that all relevant entities remain compliant with UNSC sanctions and FATF recommendations.
- Australia encourages all economies to fully adhere to the FATF standards on terrorist financing and counter-proliferation financing.

- Australia is committed to continuing to work to improve the effectiveness of its counter-terrorism and counter-proliferation financing regimes in a manner consistent with the requirements of the FATF standards.

#### Australia's Targeted Financial Sanctions Regime

- Australia has three separate UNSC counter-terrorism sanctions regimes:
  - UNSC ISIL (Da'esh)/Al-Qaida sanctions regime (UNSC resolutions 1267/1989/2253)
  - UNSC Taliban sanctions regime (UNSC resolution 1988)
  - UNSC 1373 sanctions regime (UNSC resolution 1373)
- All UNSC sanctions regimes are implemented by Australia within the same legislative framework, known as the Charter of the United Nations Act 1945 and its various sets of Regulations.
- Under said law, listings under the UNSC ISIL (Da'esh)/Al-Qaida and UNSC Taliban sanctions regimes are immediately and automatically incorporated in Australian law.
- Listings under the UNSC 1373 sanctions regime can be made by the Minister for Foreign Affairs, who has the legal authority to impose targeted financial sanctions on entities and individuals who commit, attempt to commit, participate in or facilitate terrorist acts.
- Listings under the 1373 regime must be reviewed every three years. A listing ceases to have effect on the third anniversary of the day the listing took effect, unless the Minister has declared, that the listing continues to have effect.
- To ensure due process after a listing, the law contains review rights for listed a person or entity. A person may apply to the Minister in writing to have the listing revoked.
- A person who suffers loss as a result of another person's good faith, non-negligent but mistaken compliance with the asset freeze is entitled to be compensated by the Australian Government.
- In Australia, contravening a sanctions measure is a serious offence. It is a serious criminal offence under Australian law for any person to:
  - make assets available, directly or indirectly, to or for the benefit of a designated person or entity
  - use or deal with assets owned or controlled by a designated person or entity.
- Australia defines the following as "assets":
  - an asset of any kind or property of any kind, whether tangible or intangible, movable or immovable, however acquired, and;
  - A legal document or instrument in any form, including electronic or digital, evidencing title to, or interest in, such an asset or such property, including, but not limited to, bank credits, travelers' checks, bank checks, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit.

### Outreach

- The Department of Foreign Affairs and Trade (DFAT) undertakes regular outreach sessions in major cities to assist the public, financial institutions and relevant entities to understand the sanctions regimes.
- Comprehensive guidance on the DFAT web site at [www.dfat.gov.au/sanctions](http://www.dfat.gov.au/sanctions), where the public can:
  - find out what sanctions measures may apply to their situation;
  - check the DFAT Consolidated List, which includes the names of all designated persons and entities;
  - subscribe to receive notification of Consolidated List updates
  - inquire about whether a specific activity requires a permit

### Listing of terrorist organizations

- The Australian Commonwealth Attorney-General can also list terrorist organizations under Australia's Criminal Code Act 1995.
  - Under the law, there are two ways for an organization to be identified as such: by a court, as part of the prosecution of a terrorist organization offence.
  - by being 'listed' by the Government under the Criminal Code Regulations.
- Before listing a terrorist organization, the Australian Commonwealth Attorney-General must be satisfied on reasonable grounds that the organization:
  - is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, or
  - advocates the doing of a terrorist act.
- The Australian Security Intelligence Organisation (ASIO) and the Attorney-General's Department have lead roles in providing support to the Attorney-General in relation to the listing of terrorist organizations.
- A regulation listing a terrorist organization ceases to have effect three years after it commences. This ensures that there is regular review as to whether the organization continues to meet the legislative criteria for listing.
- Currently, 24 organizations are listed as terrorist organizations under the Criminal Code. An updated list is available on the Australian National Security website.
- The Department of Foreign Affairs and Trade communicates designations to financial institutions by publishing a Consolidated List of all designated persons and entities on the DFAT web site (updated within one business day of new designations).

### FATF recommendations

- Australia's FATF Mutual Evaluation in 2015 concluded that its technical compliance with its counter-terrorism targeted financial sanctions obligations were positive with an overall rating of compliant.
- However, in its assessment of effectiveness, the FATF found that Australia did not adequately monitor or supervise the financial sector's compliance with the targeted financial sanctions requirements. The absence of a supervisory body for TFS was recognized by the FATF as a major shortcoming in Australia's supervisory regime.

### Reforms to Australia's anti-money laundering and counter-terrorism financing regime.

- The reforms were prompted by a statutory review of Australia's AML/CTF regime, which made 84 recommendations to shape a modern and efficient regulatory regime that can respond to new and emerging threats.
- The Government is progressing the implementation of the recommendations of the review in phases. Phase one has commenced and it encompasses:
  - a Bill has been introduced into Parliament, which includes regulation of digital currencies and provides for more flexible and effective powers for the regulator;
  - a proposal for a second Bill for introduction in 2018 that includes an overhaul of the framework for accessing and disclosing AUSTRAC information;
  - industry will continue to be closely consulted on the design of reforms to the AML/CTF regime.