

Guidelines on Implementation of TFS for PF for ICAP / ICMAP Reporting Firms

1. Proliferation Financing (PF)

PF is an act of providing **funds** or **financial services** which are used to develop nuclear, chemical or biological weapons and any related materials to weapons of mass destructions (WMD).

2. Targeted Financial Sanctions (TFS) for PF

- TFS for PF are applicable to persons and/or entities designated by the UN Security Council or the relevant committees set up by the Security Council.
- Designation/listing criteria are:
 - persons or entities engaging in or providing support for, including through illicit means, proliferation-sensitive activities and programmes;
 - acting on behalf of or at the direction of designated persons or entities;
 - owned or controlled by designated persons or entities; and
 - persons or entities assisting designated persons or entities in evading sanctions, or violating resolution provisions
- TFS for PF requires to;
 - freeze immediately the funds, other financial assets and economic resources of the designated persons and/or entities or that are owned or controlled, directly or indirectly by the designated persons/entities
 - ensure that no funds or other assets and economic resources are made available to such persons and entities, except in specific situations, and under conditions specified in the UNSC resolutions

3. Relevant UN Security Council Resolutions (UNSCRs) for PF TFS

| Country Flag | Country Name | UNSC Country Code | UNSCRs |
|---|--|-------------------|-------------------|
|  | Democratic People's Republic of Korea (DPRK) | KP | 1718 & successors |
|  | Islamic Republic of Iran | IR | 2231 & successors |

4. International Legislative Framework for PF TFS

a) UNSCR 1718 (and its successors)

b) UNSCR 2231 (and its successors)

c) FATF Standards (Recommendations):

The FATF has issued specific Recommendations that require countries to impose obligations on REs, including **Real Estate Agents, Dealers in Precious Metals and Stones, Including Jewelers and Accountants**, to implement preventive measures, including specific measures for compliance with TFS for PF. This is due to the fact that international trends reveal the abuse of DNFBPs by financiers of PF to enable the financing or the movement of goods to facilitate proliferation. In particular, FATF Recommendation 7 requires countries to implement targeted financial sanctions to comply with the UN Security Council Resolutions relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and their financing. The UN Security Council has also called upon countries to apply Recommendation 7 and related guidance papers for effective implementation of targeted financial sanctions related to proliferation. Recommendation 7 is currently applicable to two country-specific regimes, namely the DPRK and Iran. The TFS obligations 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, directly or indirectly for the benefit of (a) any person or entity designated by the UN, (b) persons and entities acting on their behalf or at their direction, (c) those owned or controlled by them.

5. National Legislative Framework for PF TFS

a) UNSC Act, 1948

Available at: <https://mofa.gov.pk/wp-content/uploads/2020/10/THE-UNITED-NATIONS-SECURITY-COUNCIL-ACT-1948.pdf>

b) AMLA, 2010

Available at: <https://www.fmu.gov.pk/docs/Anti-Money-Laundering-Act-2010-amended-upto-Sep.%202020.pdf>

c) ATA, 1997

Available at: https://www.fmu.gov.pk/docs/ATA_passed_by_Parliament.pdf

d) SECA, 2004

Available at: <http://www.secdiv.gov.pk/uploads/Doc-1%20Export%20Control%20Act-2004-0c0c.pdf>

e) CRMC Guidelines on TFS for PF for DNFBPs

Available at: <http://secdiv.gov.pk/uploads/CRMC-Guidelines-For-DNFBP-on-TFS-For-PF-668c.pdf>

f) ICAP / ICMAP AML/ CFT Guidelines for ICAP / ICMAP Reporting Firms

Available at:

- <https://icap.org.pk/files/per/aml/AMCFTGuidelinesforAccountants.pdf>
- <https://www.icmainternational.com/downloads/AML/AMLCFTGuidelinesforAccountants2020.pdf>

6. Obligations for Reporting Firms under PF Guidelines

a) Maintain Sanctions List:

Regularly update current database of names and particulars of the **designated persons**.

Designated persons are the names of individuals designated by UNSC for sanction measures.

- PF TFS list of designated persons is specified in UN Consolidated List.
Link: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>
- PF TFS list of designated persons is also available SECDIV's website.
Link: http://secdiv.gov.pk/unsc_sanctions_list
- Reporting Firms may consider subscribing to MoFA's e-portal subscription service to maintain the updated sanctions list of UNSCRs.
Link: <http://202.83.172.66/app/signup/>

b) Conduct Customer Screening:

Conduct screening on existing, new and potential customers to check for any positive name matched with any designated person.

- Screen its entire customer database **without delay** when any amendments are made in a UNSCR.
- Screening also includes **checking for funds derived from property owned or controlled** by designated person or its related party.
- In case of a name match, appropriate measures must be taken to verify and confirm the identity of customer against the designated person.

Without delay means acting within hours of a designation by the UNSC.

- Reporting Firms are advised to search, examine and analyze past financial activities of designated person or related party.
- Always be wary of possible use of false identities, dual nationalities, multiple names and identities.
- Intermediaries are encouraged to conduct PF risk assessment

c) Freeze, Block and Reject

Existing customers: once the identity is matched with designated person, Reporting Firm must **freeze** funds, properties or accounts in case the identity is matched with a designated person.

Potential or new customer – once the identity is matched with designated person, Reporting Firm must reject the customer if the transaction has not commenced.

- Where “false positive” scenario exists, the affected person may make an application to MoFA to unfreeze such assets.
- The freezing shall remain in effect until the person is delisted or it is confirmed that it is a “false positive”.

“False positive”: where a customer’s name is similar with the name of designated person but he is not the designated person.

- Reporting Firms will send queries to AML/ CFT Supervisors to determine whether the customer is a

Guidance on the Freezing of Funds: If assets jointly owned by designated person cannot be segregated, entire asset should be subject to freezing.

- Frozen assets can continue to receive dividends, interest etc, but such benefit must remain frozen
- No outgoing payment should be made from the frozen funds without prior approval of MoFA

d) Report Relevant Authorities

- Reporting to **ICAP / ICMAP and CRMC:** Reporting Firms must immediately report on any freezing, blocking or rejection actions taken.
- Reporting to Financial Monitoring Unit (FMU): Reporting Firms must **submit Suspicious Transaction Report (STR)** in any of the following situations:
 - **Positive name matches** from screening of customer database.
 - **Attempted transaction** by any of the designated person or its related party.

7. Situations indicating possible PF activities (Red Flags)

- Transaction involves person or entity in foreign country of proliferation concern.
- Transaction involves person or entity in foreign country of diversion concern.
- The customer or counter-party or any person having similar address to one of the parties found on publicly available lists of “designated persons” or has a history of export control contraventions.
- Customer activity does not match business profile, or end-user information does not match end-user’s business profile.

- Order is placed by firms or persons from foreign countries other than the country of the stated end-user.
- Transaction involves possible shell companies (e.g., companies do not have a high level of capitalization or displays other shell company indicators).
- Circuitous route of financial transaction.
- Trade finance transaction involves route (if available) through country with weak export control laws or weak enforcement of export control laws.
- Transaction involves persons or companies (particularly trading companies) located in countries with weak export control laws or weak enforcement of export control laws.
- Transaction involves shipment of goods inconsistent with normal geographic trade patterns (e.g. does the country involved normally export/import good involved?).
- Transaction involves financial institutions with known deficiencies in anti-money laundering / countering terrorism financing (AML/CFT) controls and/or domiciled in countries with weak export control laws or weak enforcement of export control laws.
- Based on the documentation obtained in the transaction, the declared value of the shipment was obviously under-valued vis-à-vis the shipping cost.
- Inconsistencies in information contained in trade documents and financial flows, such as names, companies, addresses, final destination etc.
- Pattern of wire transfer activity that shows unusual patterns or has no apparent purpose.
- Customer vague/incomplete on information it provides, resistant to providing additional information when queried.
- New customer requests letter of credit transaction awaiting approval of new account.
- Wire instructions or payment from or due to parties not identified on the original letter of credit or other documentation.
- Involvement of a person connected with a country of proliferation concern (e.g. a dual-national).
- Use of cash or precious metals (e.g. gold) in transactions for industrial items.
- Involvement of a small trading, brokering or intermediary company, often carrying out business inconsistent with their normal business.
- Involvement of a customer or counter-party, declared to be a commercial business, whose transactions suggest they are acting as a money-remittance business.

- Transactions between companies on the basis of “ledger” arrangements that obviate the need for international financial transactions.
- Customers or counterparties to transactions are linked (e.g. they share a common physical address, IP address or telephone number, or their activities may be coordinated).
- Involvement of a university in a country of proliferation concern.
- Evidence that documents or other representations (e.g. relating to shipping, customs, or payment) are fake or fraudulent.
- Use of personal account to purchase industrial items.

FATF Guidance on Countering Proliferation Financing, available at:

<http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Countering-Proliferation-Financing.pdf>