



BANGKO SENTRAL NG PILIPINAS

MEMORANDUM NO. M-2022-007

OFFICE OF THE DEPUTY GOVERNOR FINANCIAL SUPERVISION SECTOR

To : **All BSP-Supervised Financial Institutions (BSFIs)**

Subject : **Frequently Asked Questions on Targeted Financial Sanctions**

Date : **02 February 2022**

The BSP issues the attached Frequently Asked Questions (FAQs) on Targeted Financial Sanctions (TFS) document which aims to raise awareness and understanding of BSFIs' TFS obligations. This FAQ document considers the existing TFS-related laws, regulations and issuances, such as the Republic Act (R.A.) No. 11479 or "The Anti-Terrorism Act of 2020", R.A. No. 11521, amending the Anti-Money Laundering Act, R.A. No. 10168 or "The Terrorism Financing Prevention and Suppression Act of 2012" and their Implementing Rules and Regulations, as well as the 2020 and 2021 Anti-Money Laundering Council (AMLC) Sanctions Guidelines and other TFS resolutions.

BSFIs are expected to understand and consider the FAQ to guide and inform enhancements in their TFS-related policies to ensure effective TFS implementation, in a manner consistent and proportionate to their risk profile.

For information and guidance.

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CHUCHI G. FONACIER
Deputy Governor

Digitally signed by
DG Chuchi G. Fonacier
02 February 2022

Att.: As stated



FREQUENTLY ASKED
QUESTIONS ON

TARGETED FINANCIAL SANCTIONS

FEBRUARY 2022



BANGKO SENTRAL NG PILIPINAS

FREQUENTLY ASKED QUESTIONS (FAQs) ON TARGETED FINANCIAL SANCTIONS (TFS)

A. Overview on TFS

1. What are Targeted Financial Sanctions (TFS)?

TFS means both 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, for terrorism, terrorist financing (TF), proliferation of weapons of mass destruction (WMD), and proliferation financing (PF).

2. What is the purpose of sanctions?¹

Financial sanctions are generally imposed to:

- (a) Coerce a regime, or individuals within a regime, into changing their behavior (or aspects of it) by increasing the cost on them to such an extent that they decide to cease the offending behavior;
- (b) Constrain a target by denying them access to key resources needed to continue their offending behavior, including the financing of terrorism or nuclear proliferation;
- (c) Signal disapproval, stigmatizing and potentially isolating a regime or individual, or as a way of sending broader political messages nationally or internationally; and/or
- (d) Protect the value of assets that have been misappropriated from a country until these assets can be repatriated.

3. Why is TFS relevant to BSP-Supervised Financial Institutions (BSFIs)?

BSFIs, which are covered persons under the Anti-Money Laundering Act, as amended (AMLA), are required by applicable laws and regulations to implement TFS and to comply with the financial sanctions (such as targeted asset freeze and prohibition against dealing) imposed on designated individuals and entities. TFS are important means to deprive financiers of terrorism and proliferation of WMD of their funds or access to financial services, thereby protecting people from the threat of terrorism and WMD, among others.

4. What are the pertinent laws, regulations and related guidance issued by competent authorities in the Philippines on TFS?

¹ AMLC 2021 Sanctions Guidelines, Item 1.3

The following are the legal frameworks and administrative rules for TFS:

Legal frameworks:

- Republic Act (RA) No. 11521 amending the AMLA;
- RA No. 11479 or The Anti-Terrorism Act of 2020 (ATA);
- RA No. 10168 or The Terrorism Financing Prevention and Suppression Act of 2012 (TFPSA)

Administrative rules issued by the Anti-Money Laundering Council (AMLC) and the BSP, include the following:

- AMLC Regulatory Issuance No. 05 dated 28 July 2021 on Guidelines for De-Listing and Unfreezing Procedures;
- AMLC 2021 Sanctions Guidelines on TFS related to terrorism, TF and PF issued on 03 March 2021;
- AMLC Regulatory Issuance No. 02 dated 31 January 2021 on Amendments to Certain Provisions of AMLC Regulatory Issuance No. 4, Series of 2020
- AMLC Regulatory Issuance A, B, and C No. 1 dated 30 January 2021 on Amendments to Certain Provisions of the 2018 Implementing Rules and Regulations (IRR) of Republic Act No. 9160, as amended
- AMLC Regulatory Issuance (ARI) No. 4 dated 28 May 2020 on Freeze Order for Potential Target Matches under the United Nations Security Council (UNSC) Consolidated Lists (Targeted Financial Sanctions);
- 2021 AMLC Registration and Reporting Guidelines dated 23 June 2021 (Part 1, Section IV [Suspicious Transaction Reports], D, No. 2 [d]); and
- Sections 921/921-Q (Customer Due Diligence) and 923/923-Q (Additional Preventive Measures for Specific Customers and Activities) of the BSP Manual of Regulations for Banks (MORB) and Manual of Regulations for Non-Bank Financial Institutions (MORNBFI)

The aforementioned laws and rules, as well as subsequent TFS-related issuances can be downloaded from the websites of the AMLC (amlc.gov.ph) and the BSP (bsp.gov.ph). The AMLC Resolutions related to terrorism financing are found in the AMLC website².

B. TFS Risk Assessment and Mitigation Measures

5. What is TFS risk assessment?

TFS risk assessment pertains to the identification and evaluation of sanctions risk or risks of potential breach, non-compliance/non-implementation or evasion of TFS obligations (e.g., designated individuals

² www.amlc.gov.ph; Go to Laws & Regulations/Anti-Terrorism Financing/Resolutions Related to Terrorism Financing

and entities were able to access financial services due to weak customer onboarding procedures, lack of staff training etc.³), and taking appropriate mitigating measures commensurate with the level of identified risks⁴.

6. Why is TFS implementation rule-based, not risk-based?

TFS implementation is rule-based as full application of the TFS is required. TFS requires both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated persons and entities⁵. Relative to this, risk-based measures by BSFIs shall seek to reinforce and complement the full implementation of the TFS requirements by detecting and preventing the non-implementation, potential breach, or evasion of TFS.

7. Is there any specific assessment methodology or model on Institutional Risk Assessment (IRA) and TFS risk assessment prescribed by the BSP?

The methodology should be tailored fit according to the risk and context of the BSFI. There is no one-size fits all methodology. The simpler the products, services and operations of the BSFI, the simpler the approach that can be used. In conducting their IRA, BSFIs may be guided by relevant references, such as Section 911/911-Q of the MORB/MORNBFI, FATF guidance documents on risk assessments, particularly PF risk assessment in June 2021⁶ and TF risk assessment in July 2019⁷, as well as the results of the National Risk Assessment (NRA)⁸ and Sectoral Risk Assessment (SRA)⁹.

8. What are the expectations from BSFIs to effectively implement TFS to counter terrorism and its financing and proliferation of WMD and its financing?

BSFIs are expected to¹⁰, among others:

³ <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Proliferation-Financing-Risk-Assessment-Mitigation.pdf>

⁴ <https://www.fatf-gafi.org/publications/financingofproliferation/documents/statement-proliferation-financing-2020.html>

⁵ 2021 AMLC Sanctions Guidelines, Item 1.1

⁶ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Proliferation-Financing-Risk-Assessment-Mitigation.pdf>

⁷ <https://www.fatf-gafi.org/media/fatf/documents/reports/Terrorist-Financing-Risk-Assessment-Guidance.pdf>

⁸ AMLC Reports on NRA 2011-2014 and NRA 2015-2016 can be accessed through these links:
<http://www.amlc.gov.ph/16-news-and-announcements/82-national-risk-assessment>;
<http://www.amlc.gov.ph/images/PDFs/NRAReport20152016.pdf>

⁹ SRA reports can be downloaded from the BSP website through these links:
<https://www.bsp.gov.ph/SitePages/Regulations/RegulationDisp.aspx?ItemId=4485>,
<https://www.bsp.gov.ph/Regulations/Issuances/2021/M-2021-005.pdf>

¹⁰ Section 911/922/931 and 911-Q/922-Q/931-Q of the MORB/MORNBFI

- i. Conduct sanctions risk assessment, including for TFS on TF and PF which can be conducted as part of the overall IRA. The BSFI's may opt to prepare a separate sanctions risk assessment, but its results should be considered in the IRA.
- ii. Based on the IRA results, adopt proportionate and risk-based sanctions policies and procedures approved by the Board of Directors or equivalent body/authority to ensure that TFS implementation is in line with the BSFI's risk appetite and identified sanctions risk.
- iii. Adopt risk-based measures that support full implementation of TFS requirements, including electronic and/or manual screening tools that are commensurate to the BSFI's risk profile and complexity to ensure, among others, timely updating of sanctions lists, conduct of sanctions screening and implementation of TFS without delay. Corollary thereto, periodic screening or scrubbing of all customers is expected whenever the sanctions lists are updated or new designations are made.
- iv. Designate a unit or officer primarily responsible for ensuring TFS compliance and timely implementation of necessary actions on identified potential target match and target match.
- v. Conduct appropriate testing and regular audit or review of screening systems supported by metrics, analysis and reporting mechanism, to have reasonable assurance that the TFS systems and processes are working as intended.
- vi. Implement robust management information system (MIS) to ensure that the Board and Senior Management receive adequate and timely information on sanctions risk management and TFS implementation.
- vii. Conduct effective awareness and training programs on relevant sanctions risks and compliance with TFS.

C. Screening Tools and Systems

9. What are the mandatory lists to be included in the sanctions database/database of designated persons and entities?

At a minimum, the sanctions database should include the following and their successor resolutions:

- (1) UNSC Consolidated List that includes UNSC Resolutions 1267/1989 (Al Qaeda), 1988 (Taliban) and 2253 (ISIL Daesh) for TFS on terrorism and terrorist financing;
- (2) UNSC Consolidated List that includes UNSC Resolution Numbers 1718 of 2006 (DPRK) and 2231 of 2015 (Iran) for TFS on PF;
- (3) Domestic designations (or those that are designated by the Anti-Terrorism Council [ATC] pursuant to UNSC Resolution 1373, Section 25 of the ATA, Rule 15.b of the IRR of the TFPsA) and those proscribed by the Court of Appeals under Section 26 of the ATA.

The UNSC Consolidated List and the updates thereto may be downloaded from the UNSC website (<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>) or from the AMLC website.

10. When should the designated list be effected and updated in the sanctions database of the BSFIs?

Upon publication in the AMLC, ATC and UN websites, the designations must be effected and updated in the database of the BSFIs without delay to adhere with the immediate freezing and reporting requirements.

11. Can the BSFIs include designations of other foreign or supranational jurisdictions in their sanctions database?

Yes. The BSFIs may decide to include in their sanctions database these foreign designations or supra-national jurisdictions (e.g., Office of Foreign Assets Control [OFAC] of the US Department of the Treasury and European Union sanctions list) related to terrorism, TF or PF, based on the results of their sanctions risk assessment, for purposes of suspicious transaction (ST) reporting and risk management.

12. What are the minimum sanctions screening procedures¹¹?

At a minimum, BSFIs should conduct sanctions screening on:

- i. the names/aliases/country of residence or operations of their customers, including the names/aliases of beneficial owners or any person purporting to act on behalf of the customer, and their authorized signatories;
- ii. transactors/non-accountholders who transact with the BSFI; and
- iii. counterparties/other credentials or information in wire transfers or trade transactions, among others.

13. When should screening be conducted?

The screening should be conducted:

- i. during the establishment of a relationship or opening of an account, or at the latest, prior to the first transaction¹²;
- ii. periodically over the course of the relationship, especially whenever new designations or updates are issued. All new designations should be screened against existing customer base without delay; and

¹¹ Section 922/922-Q of the MORB/MORNBFI on Electronic Monitoring for AML/CFT particularly on item b, watch list monitoring – checks transfer parties (originator, beneficiary, and narrative fields) and the existing customer database for any listed undesirable individual or corporation.

¹² Section 921/921-Q of the MORB/MORNBFI on Customer acceptance and identification policy.

- iii. whenever there are updates to the client's information such as change of Ultimate Beneficial Ownership (UBO), authorized signatories, or change in the names of clients.

14. Should the conduct of sanctions screening be automated?

Risk-based measures should be adopted to support full implementation of TFS requirements. Section 911/911-Q of the MORB/MORNBFI requires all covered persons to adopt an AML/CTPF monitoring system that is appropriate to their risk profile and business complexity. Universal and commercial banks and such covered persons that are complex¹³ shall adopt an electronic AML system capable of monitoring risks associated with ML/TF/PF. The electronic monitoring system's functionalities should include, among others, watch list monitoring that checks transfer parties (originator, beneficiary, and narrative fields) and the existing customer database for any listed undesirable individual or corporation. BSFIs which are not required to have an electronic system of flagging and monitoring transactions shall ensure that they have the means to identify transactions or customers as required for electronic monitoring systems for AML/CFT.¹⁴

15. How should the BSFIs screen "fund/wire transfer" transactions against the sanctions database?

BSFIs should, at a minimum, screen the names/aliases/country of residence/operations of the non-customer remitter, beneficiary and intermediaries, and other information contained in the payment message of a cross-border transaction. The transactions under the National Retail Payment System (NRPS) shall continue to be governed by Section 803/801-Q of the MORB/MORNBFI, and BSP Memorandum to all BSFIs No. M-2018-012 dated 23 March 2018 on NRPS guidelines.

16. What is the approach on NRPS transactions where funds can be transferred from one financial institution (FI) to another, assuming that the 24 hour freeze order period is still ongoing? For Example: Bank A receives the funds and upon implementation of the freeze, it has already been further sent out/transferred to another bank. Will Bank A just file an STR and advise any remaining funds frozen?

The transactions under the NRPS shall continue to be governed by Section 803/801-Q of the MORB/MORNBFI, and BSP Memorandum to all BSFIs No. M-2018-012 dated 23 March 2018. In case of NRPS transactions which involve account-based transactions, if the sender is a designated person, the Originating FI is obliged to freeze the funds in the account and prohibit dealing on the account. If the funds have been transferred to a beneficiary who is not a designated person/entity, the Beneficiary FI

¹³ Pursuant to Section 131/133-Q of the MORB/MORNBFI

¹⁴ Sections 911/911-Q and 922/922-Q of the MORB/MORNBFI

should file a suspicious transaction report (STR). However, if the beneficiary is found to be acting on behalf or at the direction of those designated persons or entities, or the property or funds are among those described under Rule 8.8 of the IRR of the ATA, such funds shall also be subject to freeze¹⁵.

17. How should the BSFIs screen *trade* transactions against the sanctions database?

BSFIs should, at a minimum, screen the names/aliases/country of residence/operations of all *non-customer* parties, including intermediaries, to the transaction. Other key information (usually found in the letter of credit, invoice or other trade documents) such as vessels, trade finance documentation, and insurance companies, agents and brokers may also be screened against the appropriate list of designated persons for effective identification. Traded goods should also be screened against the list of restricted/dual-use goods (e.g., Department of Trade and Industry DTI – Strategic Trade Management Office National Strategic Goods List) to identify items, goods or materials potentially linked or related to production of WMD particularly those referred to in UNSC Resolution No. 1718 on DPRK and 2231 on Iran and their successor resolutions. The AMLC issued the TFS related to proliferation of WMD and PF specifically directing CPs to, among others, incorporate UNSC Resolution Nos. 1718 (2006) and 2231 (2015), and their successor resolutions in their Customer Due Diligence/Risk Profiling policies and procedures¹⁶.

D. Disposition of Matches

18. What is the difference between name match, potential target match and target match?¹⁷

- Name Match - refers to an individual, person or an entity whose name matches with a name in the Sanctions Database/UNSC Consolidated List.
- Potential Target Match - refers to an individual or entity whose identity matches most, but not all, of the identifier information provided in the Sanctions Database/UNSC Consolidated List. It is a close name match

¹⁵ AMLC 2021 Sanctions Guidelines Item 1.5; Rule 8.8 of the ATA-IRR, All property or funds (a) that are owned or controlled by the subject of designation and is not limited to those that are directly related or tied to a particular terrorist act, plot or threat; (b) that are wholly or jointly owned or controlled, directly or indirectly by the subject of designation; (c) derived or generated from funds or other assets owned or controlled, directly or indirectly by the subject of designation; and (d) of persons or entities acting on behalf or at the direction of the subject of designation.

¹⁶ <http://www.amlc.gov.ph/29-un-sanctions-list/notice-on-tfs-obligations-on-proliferation-financing-of-wmd/256-2021-feb-1-notice-unscr-1718-2231>

¹⁷ AMLC Regulatory Issuance No. 4 Series of 2020, Section 3. Definition of Terms

for a person, whose identifier information matches most of those either in the UNSC Consolidated List, ATC designated list or proscribed by the Court of Appeals, subject to a TF or PF asset freeze.¹⁸

- Target Match - refers to an individual or entity whose identity matches all the identifier information and is identified to be the designated person in the Sanctions Database/UNSC Consolidated List.

19. What can BSFIs do to disambiguate or resolve name match?

BSFIs may match other relevant customer identifier information (e.g., alternate names and spelling, date and place of birth, address, nationality, identification or passport numbers¹⁹), or inquire or request additional information and identification documents from the customer or other reliable parties/relevant government agencies, such as the AMLC²⁰, to verify whether the name match is a potential target match or target match.

20. If there is a potential target match, but nothing to freeze, is there a need to confirm with the AMLC the identified potential target match?

Yes. The BSFI is still expected to confirm with the AMLC within 24 hours if indeed it is a target match, for purposes of filing an STR.²¹

21. What are the necessary actions on potential target match and target match?

- a. For potential target match²², BSFIs should do all of the following:
 - (1) Freeze the funds received or in possession of the BSFI without delay;
 - (2) Inform the AMLC on the same day the freeze is implemented, through email to the secretariat@amlc.gov.ph, copy furnish the Executive Director, that a freeze has been implemented. Said information shall contain details on the (i) subject's account name, number and amount frozen, (ii) subject's entry under the relevant Sanctions List/Consolidated List; and (iii) date and time the freeze or hold order is implemented. The AMLC, within 36 hours from receipt of the information, shall confirm the propriety of the freeze. If no confirmation is received within the 36-hour period, the freeze shall be automatically lifted;
 - (3) File an STR, including for attempted transactions or dealings; and

¹⁸ 2021 AMLC Sanctions Guidelines dated 3 March 2021, Item 2.3

¹⁹ FATF International Best Practices on TFS related to Terrorism, and Terrorist Financing Part 1, item D – Identifying Information (<https://www.fatf-gafi.org/media/fatf/documents/recommendations/BPP-Fin-Sanctions-TF-R6.pdf>)

²⁰ 2021 AMLC Sanctions Guidelines dated 3 March 2021, Item 2.2

²¹ 2021 AMLC Sanctions Guidelines dated 3 March 2021, Item 2.3

²² 2021 AMLC Sanctions Guidelines dated 3 March 2021, Items 2.3 and 5.1

(4) File a detailed electronic return (e-return) within 24 hours from receipt of the AMLC's confirmation.

b. For target match against designated list, BSFIs should²³:

(1) Implement appropriate financial sanctions, such as:

- i. freeze without prior notice and preserve without delay/within a matter of hours the property or funds, including related accounts, that are maintained or registered with, possessed or controlled by them, if any, which belong to any of the designated persons, organizations, associations or group of persons or those found to be acting on behalf or at the direction of the designated persons, including all property or funds as enumerated in Item 1.5 of the 2021 AMLC Sanctions Guidelines. The freeze shall take effect immediately and shall remain in effect until the basis for the issuance thereof shall have been lifted;
- ii. not deal with them or not make funds or economic resources available to, or for the benefit of, the designated person, unless:
a) the transaction is an authorized dealing; or b) the transaction is exempted as a duly authorized expense; and
- iii. file an STR unless one has been previously filed under a (3) above.

(2) Submit a detailed e-return within 24 hours from effecting the freeze/receipt of the freeze order. The written return for assets and related accounts frozen should specify the following: (i) account number/s, (ii) name(s) of the account owner(s) or holder(s); (iii) time of freezing of all subject accounts; (iv) balance of the account as of the time of freezing; (v) related accounts, if any, including the balance thereof as of the time of freezing; and (vi) explanation as to the ground for the identification of related accounts; and

(3) Report to the AMLC any and all attempted dealings with regard to the frozen property or funds within twenty-four (24) hours from such attempt.²⁴

22. What actions are to be taken by BSFIs *for target match against other foreign designations*?

Whenever a customer or party to the transaction is designated in line with other foreign designations, but which are not part of the local designation or UNSC Consolidated list, a BSFI should:

²³ 2021 AMLC Sanctions Guidelines dated 3 March 2021, Items 1.5, 1.7, 3.1.2, 5.1, 6.1, 10.2 and Chapter 7

²⁴ IRR of RA No. 10168, Rule 16.d. Duty to Report all attempted Dealings

- (1) Conduct risk re-assessment and enhanced due diligence on the customers and transactions, and perform other measures to mitigate risk in line with the BSFI's policy and IRA; and
- (2) Submit STR, as warranted, in case of target match with individuals or entities listed in other unilateral sanctions lists, including the related accounts²⁵.

23. In case the covered person (CP) has frozen the funds of a potential target match, is the CP required to notify the affected account holder that funds under his/her account were frozen as potential target match, and the basis thereof within the 36-hour period prior to AMLC confirmation?

No, the covered person is not obligated under the guidelines to notify a potential target match during the 36-hour period.

24. If a person or entity has been designated, how can they be delisted from the UNSC Consolidated or local list?

The delisting process for designated persons or entities can be found in Chapters 8 (De-listing from Consolidated List), 9 (Request for De-Listing from ATC Designations), and 10.6 (Notices and De-listing Mechanism) of the 2021 Sanctions Guidelines, and AMLC Regulatory Issuance No. 5 dated 28 July 2021, Guidance for De-Listing and Unfreezing Procedures, to assist covered persons, government entities, and the public on the implementation of TFS.

25. In case of corporate accounts, if one or more of the authorized signatories is a designated person, should the BSFI implement TFS as well on the corporate account?

It will depend on a number of relevant factors, such as the extent of control or authority of the authorized signatory on the corporation, his position within the corporation, his ownership if any over the corporation, as well as the totality of the circumstances. Chapter 4 of the 2021 AMLC Sanctions Guidelines provides, among others, that an asset freeze and some financial services restrictions will also apply to entities that are owned or controlled, directly or indirectly, by a designated person. Even if a corporation is not listed/designated, but there is a reasonable ground or probable cause²⁶ to believe that the corporation is under the control of a designated person, then the sanctions will also apply.

²⁵ 2021 AMLC Registration and Reporting Guidelines, Part I, Item IV (D) (2) (d) (vi)

²⁶ Probable cause - refers to a reasonable ground of suspicion supported by circumstances warranting a cautious person to believe that property or funds are in any way related to terrorism financing, acts of terrorism or other violations under the TF Suppression Act (Rule 3.a.9, TF -IRR), AMLC Sanctions Guidelines Item 3.1.2

26. When a designated person is a beneficial owner, should the account be frozen by the BSFI?

Yes, since a beneficial owner has the ultimate control over the funds/accounts. TFS guidelines direct all CPs and relevant government agencies to freeze without prior notice and to preserve without delay the property or funds involved, including related accounts, that are maintained or registered with, possessed or controlled by them, if any, which belong to any of the designated persons or entities.

27. If the designation is on the originator/sender of the funds (not the customer/beneficiary), will the freeze just be on the transaction and not on the account of the customer/beneficiary?

Yes, the freeze will be on the proceeds or to the extent of the transaction of the originator/sender who is the designated person. However, if the beneficiary is found to be acting for and on behalf or at the direction of those designated persons or entities, or the property or funds is among those described under Rule 8.8 of the IRR of the ATA, such funds shall also be subject to freeze²⁷.

28. What is the impact on loans availed/credit line of the designated persons/entities?

The loan availment/credit must be prohibited because the purpose of the TFS is to restrict the access of the designated persons/entities to funds or financial services unless it falls under the allowable exceptions.

E. Filing of STRs

29. What would warrant filing of an STR against an immediate family of a person in the designated list?

The BSFI should file an STR on the designated person's immediate family if it meets the definition of ST under the law. For example, if the immediate family's account, fund and source originated from and/or are materially linked to the monetary instruments or properties subject of the freeze order.

30. If it is discovered during screening that there was a closed account of a customer who is a designated individual or a legal person, should an e-return and STR be filed even if there is no asset to freeze and no banking relationship anymore?

²⁷ AMLC 2021 Sanctions Guidelines Item 1.5, Rule 8.8 of the ATA-IRR

There are some institutions that still file negative returns²⁸ even if no amount to be frozen on the account to inform AMLC thereof. In said instance, if there is nothing to freeze, then there is no basis for the return, however, an STR should still be filed.

31. What would be the appropriate STR code/s to indicate in STR filing relative to TFS and PF?

Some of the relevant codes for TF/PF-related STRs include:

- PC12 -Hijacking; destructive arson; and murder, including those perpetrated by terrorists against non-combatant persons and similar targets
- PC13 – Terrorism and conspiracy to commit terrorism
- PC14 – Financing of Terrorism
- PC34 – Violation of Section 19(A)(3) of RA 10697, otherwise known as the Strategic Trade Management Act, in relation to the financing of proliferation of WMD and its financing pursuant to UNSC Resolutions No. 1718 of 2006 and 2231 of 2015.

F. Delisting

32. Upon publication of list of delisted persons, should BSFIs lift the effects of the freeze order on the account even without confirmation from the AMLC?

If the institution receives information that its customer subject of freeze order is included in the list of delisted persons, the requirement is to lift the freeze and ensure that assets are unfrozen expeditiously. Upon receipt of an unfreezing order from the AMLC or upon knowledge of a delisting made by relevant UNSC or its Committee, the BSFI holding frozen funds and other assets shall implement the unfreezing order or unfreeze, respectively, without delay and submit a detailed report to the AMLC. The detailed report shall be filed within 24 hours from the lifting of the freeze order and include the time and date of unfreezing and a list of the unfrozen funds and other assets.²⁹

33. Once a designated person is delisted, can the name be deleted from the BSFI's Sanction Screening Database?

Yes. For purposes of TFS implementation, once a person has been delisted either by the UNSC or the local designating authority, the BSFI can delete that person from the database that is used for TFS.

²⁸ Filing of e-return to AMLC indicating that there are no accounts to be frozen.

²⁹ AMLC Regulatory Issuance No. 5, Series of 2021 Guidelines for De-Listing and Unfreezing Procedures, Item 4, page 10

G. Others

34. In case a person's assets/funds were mistakenly frozen, what recourse is available to the person? Is there a liability on the part of the FI?

Any person who is wrongfully sanctioned by the asset freezing mechanism for having a similar name as the designated individual or group, may apply for the lifting of the freeze by submitting to the AMLC relevant identification documents such as the national ID, passport, birth certificate, certificate of registration issued by appropriate government agency, and the like.³⁰

No administrative, criminal or civil proceedings shall lie against any person or entity for acting in good faith when implementing the TFS as provided under pertinent UNSC Resolutions.³¹

35. What are the exemptions to the assets freeze (filed with the UN Security Council Committee)?

The designated person may submit to the AMLC an application for exemption to get access to a certain amount of the frozen asset. There are two types of exemptions to assets freeze:³²

- Basic expenses – include payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, among others. This also includes payment of reasonable professional fees, and reimbursement of incurred expenses associated with the provision of legal services and fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources.
- Extraordinary expenses – other categories than the ones mentioned under paragraph 1(a) of UNSC Resolution 1452 (2002), provided that such determination has been notified by the relevant State(s) to the Committee and has been approved by the Committee.

For TFS on PF, designated persons or entities may apply to the AMLC for an authorization to make payment due under a contract entered into prior to the listing (designation) of such person or entity.

36. Is there a plan or could the AMLC publish lists of sanctioned/high risk countries, for consistency of territories to be monitored by BSFIs/CPs?

The AMLC will study consolidating the sanctions list for TFS.

³⁰ AMLC 2021 Sanctions Guidelines Item 7.2

³¹ AMLC 2021 Sanctions Guidelines Chapter 10, page 34

³² 2021 AMLC Sanctions Guidelines Items 7.2, 7.3 and 10.4

37. Are ATC designations automatically included in the UNSC Consolidated List?

No. Not all terrorist groups designated by the ATC are automatically included in the UNSC Consolidated List. Individuals/entities are included in the UNSC List because they are known to have a connection with international sanctioned groups (e.g., Taliban, Al-Qaida). For example, the Abu Sayyaf and the Maute Group pledged their allegiance with Al-Qaida or ISIL, and because of those acts they can be included in the UNSC Sanctions lists under the UNSCR 1267. The Security Council also noted that there are homegrown terrorist groups who are not affiliated with international sanctioned groups. Hence, there is no consolidated list for these types of groups that have no international connection. The purpose of Security Council Resolution 1373 on each country is to (i) have its own domestic designations especially if there are no outside connections and (ii) allow other countries to designate domestic/local terrorists to prohibit obtaining support from abroad, and vice-versa.