

Targeted Financial Sanctions

United Nations Financial Sanctions Act No. 6 of 2017



What are targeted financial sanctions?

Targeted financial sanctions are a tool used by the international community to prevent or suppress terrorism, the proliferation of weapons of mass destruction (WMD) and the financing of these activities. The most common types are:

- asset freezes, which prohibit you from:
 - dealing with a designated person or entity's property
 - making property available to a designated person or entity
- blocking access by a designated person or entity to financial services, including:
 - insurance related services
 - banking services
 - trust and company services.

'Property' includes funds and other assets, such as bank credits, cheques, money orders etc.

'Dealing' includes transferring, converting, disposing of, moving or using property.

'Designated person or entity' refers to individuals, groups, undertakings and entities that have been designated by the United Nations Security Council (UNSC) or one of its Committees, or by the Prime Minister under the United Nations Financial Sanctions Act No. 6 of 2017 (UNFSA) because they are associated with terrorism or proliferation of WMD.

A Consolidated List of all designated persons and entities is maintained by the Sanctions Secretariat, and is available on the Financial Intelligence Unit website at:

<https://fiu.gov.vu/publications>.

Why do we have targeted financial sanctions?

An effective targeted financial sanctions regime is critical to combating the financing of terrorism and proliferation and can also have important deterrent effect.

Vanuatu is obliged to implement targeted financial sanctions as a matter of international law, under the *Charter of the United Nations* and relevant UNSC Resolutions.

The Financial Action Task Force Standards also require countries to implement targeted financial sanctions to comply with UNSC Resolutions related to terrorism and proliferation and their financing. Vanuatu implements UNSC sanctions and domestic sanctions under the UNFSA.

What are my obligations? (and how do they differ from my old obligations under the CTOCA?)

The targeted financial sanctions provisions that were previously contained in the Counter Terrorism and Transnational Organised Crime Act [CAP313] (CTOCA) have been repealed.

Some of your obligations have not changed – it is still an offence to deal with property of, or make property or financial services available to a designated terrorist or terrorist organisation. There are, however, some important differences between the CTTOCA and the UNFSA, including:

1. Targeted financial sanctions continue to apply to dealing with property of, or providing financial services to, designated terrorists or terrorist organisations, and have also been extended to apply to **designated persons or entities associated with the proliferation of WMD**.
2. The UNFSA imposes new obligations not to be **reckless when dealing with property or providing property or financial services**.
3. The **penalties for non-compliance** with the prohibitions in the UNFSA are **higher** than those that were applicable under the CTTOCA.

What do I need to do to comply?

What constitutes an adequate compliance program largely depends on who your customers are and what kind of business you operate. Certain areas of bank operations, such as international wire transfers, are at higher risk than others of being abused for the purposes of terrorist or proliferation financing. There are a wide variety of compliance software packages that are commercially available. They vary considerably in cost and capabilities.

What are the penalties for non-compliance?

The UNFSA establishes serious criminal offences for non-compliance. Penalties may include a term of imprisonment up to 25 years, a fine or both. Penalties can apply to natural persons and body corporates.

Who is monitoring my compliance?

The Sanctions Secretariat within the Financial Intelligence Unit is responsible for supervising and enforcing compliance with the UNFSA. The Secretariat can delegate its supervision functions and powers to other regulatory authorities, such as the Reserve Bank of Vanuatu, in relation to the industries they regulate.

Powers of the Sanctions Secretariat

The Sanctions Secretariat has the power to request information or documents and conduct on-site inspections for the purpose of monitoring and enforcing compliance with the UNFSA. Failure to comply with a request for information or produce a document is an offence.

The Sanctions Secretariat has a range of non-criminal enforcement measures against persons for non-compliance with the Act. The enforcement measures include formal warnings, penalty notices, enforceable undertakings, injunctions and notices of non-compliance.

What do I do if there is a match to the sanctions list?

If you hold, possess or control property of a designated person or entity, **you must** freeze the property immediately and **you must** report it to the Sanctions Secretariat within five working days of being notified of the designation; the date of publication of the designation in the Official Gazette; or coming into the possession of the property (whichever is sooner).

You must also make a report within two working days of a suspicious transaction or activity, or a transaction involving terrorist property, in accordance with the Anti-Money Laundering and Counter Terrorism Financing Act No. 13 of 2014 (AML/CTF Act).

Failure to make a report is an offence under both the UNFSA and the AML/CTF Act.

You must not:

- deal with the property, or
- make property or a financial service available to the designated person or entity, or a person or entity owned, controlled or acting on their behalf.

What do I do if someone claims there has been a false positive match to the Consolidated List?

A false positive occurs when an individual or entity with the same or similar name as a designated person or entity is inadvertently identified as being a match to a person or entity on the Consolidated List.

If you are approached by an individual or entity that believes they have had their assets frozen in error, you should:

Step 1: conduct an internal investigation in order to determine whether the match is a false positive. Check birth dates and other identifying information to determine whether the account holder is the designated person or entity.

Step 2: If you are unable to determine whether the person is a designated person or entity through an internal investigation, you may seek assistance from the Commissioner of Police to verify whether the person is a designated person or entity.

Step 3: If the Commissioner of Police is unable to advise you whether the person is a designated person or entity, you should direct the person to apply directly to the Sanctions Secretariat for assistance using the form available on the VFIU website.

What is an ‘authorisation’?

An authorisation is a permission granted by the Prime Minister to deal with frozen property or make property or a financial service available to a designated person or entity. The Prime Minister will only grant such authorisations where the property or financial service is required to meet a ‘basic expense’, a ‘contractual obligation’ or an ‘extraordinary expense’.

'Basic expense' includes expenses necessary for obtaining food, paying rent or mortgage, obtaining medicine or medical services, paying taxes, paying insurance premiums, paying public utility charges, paying reasonable professional fees.

'Contractual obligation' means an obligation where payment is required under a contract or agreement made before the date of designation.

'Extraordinary expense' means any payment, which is not a basic expense or a contractual obligation that the Prime Minister considers to be necessary.

It is permissible to deal with frozen property or make property or a financial service available to a designated person or entity in accordance with an authorisation granted by the Prime Minister under the UNFSA.

Where do I go for more information?

You can obtain more information on the Financial Intelligence Unit [website](#), or by contacting Sanctions Secretariat on 7330 250 or vfiu@vanuatu.gov.vu.