

OFFICIAL



Virgin Islands Office of the Governor



VIRGIN ISLANDS FINANCIAL SANCTIONS GUIDELINES

Revised

PREFACE

These Financial Sanctions Guidelines (“Guidelines”) are issued under the authority of the Governor as the Competent Authority responsible for the implementation of financial sanctions in the Virgin Islands. It has been compiled with the assistance of the agencies that support the Governor in the discharge of his duties under the Sanctions regimes.

The purpose of these Guidelines is to assist persons in meeting their obligations under financial sanctions, including consideration for how licensing and compliance issues should be addressed.

Sanctions measures are subject to constant change. You should, therefore, refer to the relevant Sanctions Orders and legislation, as well as any other relevant guidance issued from time to time by the relevant competent authorities. At all times you should have regard to your business risk, the overall risk assessment of your clients and any other specified risk.

It should be noted that these guidelines are general in nature and do not serve as legal advice. As such, independent legal advice should be sought if you are unsure of your obligations in any given case.

Any questions regarding these guidelines should be directed to:

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I. INTRODUCTION

The Virgin Islands (“VI”) (“the Territory”) is committed to embracing international standards to ensure an effective financial sanctions regime and meet its obligations to combat money laundering, financing of terrorism and proliferation financing¹.

As a British Overseas Territory (“OT”), the VI implements all international sanctions that are extended to it through United Kingdom (“UK”) legislative action. This includes the UK’s autonomous sanctions regimes, such as the Global Human Rights and Global Anti-Corruption regimes and resolutions passed by the United Nations Security Council (“UNSC”)². Orders in Council (OIC) are laid in the UK to ensure that these regimes can be fully and effectively implemented in the VI³. Sanctions regimes may be country specific or may be targeted at specific themes, groups, persons or entities.

The obligation to adhere to these targeted financial sanctions designations is applicable to individuals, relevant businesses, entities, professionals and regulated persons in the VI, such as Financial Institutions (“FIs”), Designated Non-Financial Businesses and Professions (“DNFBPs”) and Non-Profit Organisations (“NPOs”).

The purpose of these Guidelines is to assist persons in meeting their financial sanctions obligations, including consideration for how licensing and compliance issues should be addressed.

¹ The VI is a member of the Caribbean Financial Action Task Force (“CFATF”) and required to fully comply with the requirements of the FATF Recommendations. The Financial Action Task Force “FATF” is the inter-governmental body established by the G7 in 1989, which sets global standards to promote effective implementation of measures to combat money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a “policy-making body” which developed a series of **recommendations** that are recognised as the international standard for combating of money laundering and the financing of terrorism and proliferation of weapons of mass destruction. Specifically, Recommendations 6 and 7 of the FATF Recommendations require countries to implement targeted financial sanctions regimes which comply with United Nations Security Council Resolutions (UNSCRs) relating to the prevention, suppression and disruption of terrorism, terrorist financing and proliferation financing.

² For example, under The Terrorism (United Nations Measures) (Overseas Territories) Order 2001 and The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, the VI implements financial sanctions regimes pursuant to UNSCR 1373, which requires countries to freeze the assets of terrorists and take measures to ensure that their nationals cannot make funds and any related financial services available directly or indirectly to or for the benefit of terrorists or terrorism. In addition, under the Isil (Da’esh) and Al-Qaida (United Nations Sanctions) (Overseas Territories) Order 2020, the VI also implements UNSCR 1267 in relation to targeted financial sanctions against individuals and entities associated directly or indirectly with ISIL and Al Qaida which requires the freezing of assets of designated persons.

³ See Chapter 3, for further detail on requirements and legislative process.

1. Financial Sanctions Overview

WHAT ARE SANCTIONS?

1. Sanctions that are binding on the Territory are restrictive measures that are put in place by the UNSC and/or the UK to achieve a specific foreign policy or national security objective⁴, as well as maintain international peace and security, and preventing terrorism.⁵
2. Sanctions come in many forms and are developed in response to a particular circumstance. They can include but are not limited to
 - **Trade sanctions**⁶ include prohibitions on:
 - the import, export, transfer, movement, making available or acquisition of goods and technology
 - the provision or procurement of services related to goods and technology
 - the provision or procurement of certain other non-financial services
 - A common trade sanction measure is an arms embargo. This is a prohibition that applies to the export, supply, or delivery, making available and transfer of military items, as well as the provision of technical assistance, financial services and funds and brokering services related to military items. Similar provisions are in place for certain energy related items and dual-use items - which are goods, software and technology that can be used for both civilian and military applications⁷.
 - **Financial sanctions**⁸ can limit the provision of certain financial services and restrict access to financial markets, funds and economic resources. These measures can vary and may include targeted asset freezes which restrict access to funds and economic resources to a sanctioned country, government, organization, individual or entity who may be resident in the UK, VI or abroad.

⁴ UN sanctions should not be confused with autonomous sanctions that are imposed by individual countries in furtherance of their strategic interests. The primary objective of all UN sanctions, set out in Chapter VII of the UN Charter, is to implement decisions by the UNSC for maintaining international peace and security.

⁵ <https://www.gov.uk/guidance/uk-sanctions>

⁶ Trade Sanctions - The Department for Business and Trade implements and enforces trade sanctions and other trade restrictions. <https://www.gov.uk/guidance/uk-sanctions>

⁷ Dual use goods are products and technologies normally used for civilian purposes but may have military applications. EU Commission on Trade – Import and Export Rules - <https://ec.europa.eu/trade/import-and-export-rules/export-from-eu/dual-use-controls/>

⁸ 'Financial sanctions: General Guidance' – OFSI -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1100991/General_Guidance_-_UK_Financial_Sanctions__Aug_2022_.pdf

- **Immigration sanctions**, commonly known as travel bans, restrict the movement of identified individuals associated with regimes or groups whose behaviour is considered unacceptable by the international community.⁹
- **Transport sanctions** impose restrictions on aircraft and ships. They include prohibitions on the ownership, registration, movement and use in certain countries¹⁰.

WHY DO WE HAVE FINANCIAL SANCTIONS?¹¹

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

WHO MAKES AND IMPLEMENTS FINANCIAL SANCTIONS?

4. The UN imposes financial sanctions through the UNSCRs and requires member states to implement these UNSCRs. UNSCRs are adopted under Chapter VII of the United Nations Charter and are legally binding on the UK under international law. However, they do not have automatic application in UK law and have to be implemented by a combination of UK regulations and legislation.
5. The UK can also autonomously impose financial sanctions by way of a combination of regulations and primary legislation (collectively the ‘domestic regime’) namely:
 - Sanctions and Anti-Money Laundering Act 2018 (“SAML A”)
 - Counter Terrorism Act 2008 (“CTA 2008”)

⁹ [Travel bans guidance](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1118529/Travel_bans_guidance.pdf)

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1118529/Travel_bans_guidance.pdf)

¹⁰ <https://www.gov.uk/guidance/transport-sanctions>

¹¹ [UK financial sanctions general guidance - GOV.UK](https://www.gov.uk/government/publications/financial-sanctions-general-guidance/uk-financial-sanctions-general-guidance) (<https://www.gov.uk/government/publications/financial-sanctions-general-guidance/uk-financial-sanctions-general-guidance>)

- Anti-Terrorism, Crime and Security Act 2001 (“ATCSA 2001”)¹²
6. The UK Regulations made under SAMLA confer broad powers on the Secretary of State to impose sanctions measures that are considered appropriate for compliance with the UN obligations. UK Regulations made under SAMLA may also authorise the Secretary of State to designate specific persons or entities, to whom specific sanctions measures apply (i.e. asset freezes, travel bans, etc.). To exercise this power, certain threshold conditions must be met. In this regard, the Secretary of State must have reasonable grounds to suspect that the person/entity is an ‘involved person’ (as defined in each set of regulations).
 7. When a person/entity has been designated by the UK under these powers, there is a requirement to publicise that designation. These designations are published by the Foreign, Commonwealth & Development Office (“FCDO”) on the UK [Sanctions List](#), which is the comprehensive lists of persons, entities or ships designated under sanctions regimes set up using the powers in SAMLA.

Financial Sanctions Orders in Force

8. The financial sanctions in force in the VI are essentially the same as those imposed in the UK. The list of sanctions regimes in force in the VI are available on the Financial Investigation Agency (“FIA”) and Financial Services Commission (“FSC”) websites:
 - [British Virgin Islands Financial Investigation Agency > International Sanctions > Sanctions by Regime \(fiabvi.vg\)](#)
 - [Sanctions By Regime | British Virgin Islands Financial Services Commission \(bvifsc.vg\)](#)
9. A list of *Sanctions Orders in Force* (and relevant amendments) are also published in the Government of the Virgin Islands’ *Official Gazette*, located at: <https://eservices.gov.vg/gazette/>

2. The Role of the Competent Authorities and Relevant Agencies in Relation to Sanctions

The Governor’s Office

Obligations

10. The Governor of the Virgin Islands is the competent authority responsible for the implementation of financial sanctions measures.

¹² Office of Financial Sanctions Implementation, Financial Sanctions Guidance page 25

Powers of the Governor

11. Under the sanctions regimes as extended and modified by the relevant Orders in Council (“OIC”), the Governor has certain powers and duties in relation to the administration of financial sanctions measures. These include, inter alia, the following¹³:
- power to grant, vary or revoke licences, subject to the consent of the Secretary of State. Sanctions Orders generally provide that “any person who, except under the authority of a licence granted by the Governor, makes any funds or financial (or related) services available directly or indirectly to or for the benefit of - (a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism, (b) a person controlled or owned directly or indirectly by a person in (a), or (c) a person acting on behalf, or at the direction, of a person in (a), is guilty of an offence¹⁴;
 - power to authorise persons to exercise various enforcement and evidence gathering powers;
 - power to delegate his or her functions;
 - power to disclose information in the exercise of his/her powers to relevant persons (law enforcement or other relevant competent authority) for the purposes of giving assistance for cooperation to the relevant Security Council’s resolutions under the UN;
 - power to direct—by notice—that funds are not to be made available to any person (suspected of participating or facilitating in an act of terrorism), except under the authority of a licence granted¹⁵;
 - duty to publish designation lists.
12. It should be noted that the VI does not have autonomous power to designate a person or entity. However, the Governor, where certain criteria is met, may in consultation with the Secretary of State designate a person¹⁶ or entity¹⁷ or otherwise propose a person or entity (through the FCDO and UN) to be designated (see the below section on designation).

Attorney General’s Chambers (“AGC”)

13. The Attorney General’s Chambers is an office created under the Constitution of the Virgin Islands and the Attorney General (“AG”) is the principal legal advisor to the Government of the Virgin Islands.
14. The AGC is responsible for drafting any legislation that may be required in relation to these sanctions designations to give them effect. With respect to cases where licences are required for entities affiliated with, or owned, held or controlled by designated persons, the AGC supports the Governor by ensuring that the licensing request meets the requirements of applicable

¹³ Article 4 “*Extension of the Sanctions and Anti-Money Laundering Act 2018: Governor’s designation Powers*” and Schedule 2(5) “*Functions of the Governor*” -The Counter-Terrorism (Sanctions)(Overseas Territories) Order 2020

¹⁴ Ibid.

¹⁵ Part 3- “Finance” Regulations 11 through 15 - The Counter-Terrorism (Sanctions)(EU Exit) Regulations, 2019

¹⁶ Under Part 2, Subsection 1 of the PFPA, “person” means any natural person or body corporate.

¹⁶ Under Part 2, Subsection 1 of the PFPA “entity” includes any unincorporated body, group, association, organisation, institution or arrangement.

¹⁷ Under Section 2, Subsection 1 of the CTA, “entity” means a person, group, trust, partnership, or fund, or an unincorporated association or organisation.

legislation, and with drafting the relevant licence for the approval and signature of the Governor (as applicable).

15. The Governor has delegated functions to the Attorney General to:
 - (a) receive licence applications and reports under the U.K. Sanctions Regime;
 - (b) coordinate the publication of Overseas Territories Sanctions Orders; and
 - (c) issue and enforce general and specific licences under the U.K. Sanctions Regimes subject to the approval of the Governor, and with the consent of the Secretary of State.

16. The Governor has also deemed the Attorney General as an authorised officer for the purposes of implementing, monitoring compliance with and detection of sanctions by requesting information, inspecting records, disclosing information as appropriate.

17. The aforementioned powers and functions delegated to the Attorney General are executed by the Virgin Islands Sanctions Unit (“SU”).

Financial Investigation Agency (“FIA”)

18. The Financial Investigation Agency is the reporting authority of the VI with responsibility for receiving, obtaining, investigating, analysing, exchanging and disseminating financial intelligence and other information which relates, or may relate, to a financial offence or the proceeds of a financial offence, and for assisting the AGC in providing information in response to requests for legal assistance from a relevant authority in a foreign jurisdiction¹⁸.

19. Under section 4 of the Financial Investigation Agency Act 2003, as amended (“FIA Act”), the FIA is also designated as the receiver of all disclosures of information which are required to be made pursuant to any financial services legislation or other enactment relevant to the performance of its functions. This includes suspicious activity/transactions reports and disclosures from foreign authorities. On its own volition or upon receipt of a request, (whether through the Governor, AG, FSC or others) from a domestic competent authority, foreign financial investigation authority or law enforcement authority, including domestic law enforcement authorities such as the Royal Virgin Islands Police Force, the FIA may also:
 - order in writing any person to refrain from permitting or completing any transaction for a period not exceeding seventy-two (72) hours; and/or
 - order in writing any person to freeze the bank account or a payment to a person for a period not exceeding five (5) days if satisfied that the request relates to the proceedings of a financial offence or a suspicion of such an offence.

20. The FIA is also the supervisory authority for DNFBPs and NPOs. DNFBPs are designated as relevant businesses under the Anti-Money Laundering Regulations (“AMLR”) and Non-Financial Business (Designation) Notice (“DNFBP Notice”) and are supervised for AML/CFT/CPF compliance under both the AMLR and Anti-Money laundering and Terrorist Financing Code of Practice (“AMLTFCOP”). NPOs are registered under the Non-Profit

¹⁸ The Financial Investigation Agency Act S. 4(1) sets out the functions of the Agency

Organisations Act, 2012 (“NPO Act”) and supervised for AML/CFT/CPF compliance pursuant to powers granted under that Act and the AMLTFCOP.

21. Compliance under the AMLTFCOP encompasses the requirement to ensure compliance with the Sanctions Orders under the sanctions regime. For example, requisite customer due diligence requires that NPOs determine whether a donor which seeks to contribute to an NPO is a person/entity placed on any UN, European Union or other similar institution’s list of persons who are linked to terrorist financing or against whom a ban, sanction or embargo subsists.
22. The compliance framework also requires the FIA to provide the necessary guidance by ensuring that for example, DNFBPs conduct risk-based assessments to determine whether the origin of funds or source of wealth relates to a jurisdiction on which there is currently an embargo or a relevant sanctions regime. This may require further measures to be undertaken and a report filed with the FIA, who will liaise with the Governor to determine the scope of the embargo, sanction or restriction, which may or may not necessarily relate to financial prohibitions.
23. The FIA is responsible for ensuring that persons and entities under its supervision are made aware of all applicable international targeted financial sanctions and any other local designations or directions in force, as well as their responsibilities for sanctions screening and reporting. In addition, the FIA is responsible for publishing **Orders in Council** and any relevant amendments. These Orders are disseminated to the FIA by the SU, and may be found on:

<http://www.fiabvi.vg/Sanction-Orders>.

24. The Governor has delegated certain specific investigative and enforcement powers to the FIA under the UK Sanctions Regime.
25. The Governor has delegated power to the FIA to publish and keep up to date a list of designated persons, which can be found on its website. The FIA also publishes the list of Orders-in-Council and relevant amendments.

The Financial Services Commission (“FSC”)

26. The Financial Services Commission (“FSC”) was established in 2002 pursuant to the Financial Services Commission Act, 2001 (“FSC Act”). The FSC is an autonomous regulatory authority in the VI with responsibility for the regulation, supervision and inspection of financial institutions, as well as those undertaking trust and company management services known as trust and company service providers (“TCSPs”).
27. The FSC’s remit extends to Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) matters pursuant to section 4 of the FSC Act. This includes the requirement to monitor compliance by regulated entities (and by such other persons who are under its supervision) with the AMLTFCOP, the AMLR, The Terrorism United Nations and Other Measures (Overseas Territories) Order 2001, The Anti-Terrorism (Financial and Other Measures) (Overseas Territories) Order 2002, The Counter-Terrorism Act, 2021 (as amended) (“CTA”), Proliferation Financing (Prohibition) Act, 2021 (as amended) (“PFPA”) and with such other acts, Orders in Council, regulations, codes, sanctions or guidelines relating to money laundering, financing of terrorism, proliferation financing as may be prescribed.
28. The following regulated activities make up the financial services sectors:

- a) **Insurance** – includes the provision of insurance productions and related services covering insurance brokers, insurance agents, insurance loss adjusters and insurance managers.
 - b) **Banking** – includes the provision of general banking services including loans, savings accounts, and fixed deposits.
 - c) **Fiduciary Services (TCSPs)** – includes the provision of trustee services, company management business, registered office and registered agent services, directorships and nominee services.
 - d) **Investment Business** – includes services related to the dealing or arranging of deals in investments, managing investments, providing investment advice, providing custodial or administration services with respect to investments, operating an investment exchange, or acting as an investment adviser or investment manager.
 - e) **Financing and Money Services Business** – includes the provision of credit under financing agreements, leasing of property under a financing lease, provision of money transmission services, cheque cashing services, currency exchange services, the issuance, sale or redemption of money orders or traveller’s cheques, as well as the provision of lending in the peer-to-peer (P2P) FinTech market, including peer-to-business (P2B) and business-to-business (B2B) markets.
 - f) **Insolvency Services** – includes appointments as administrators, administrative receivers, interim supervisors, supervisors, provisional liquidators, liquidators or bankruptcy trustees.
 - g) **Virtual Assets Services Providers (VASPs)** – includes the provision of services relating to the issuance, offer or sale of a virtual asset, virtual assets custody services and virtual assets exchanges.
29. The FSC may also, where it holds a suspicion in relation to a transaction or activity, file a report with the FIA. The filing of such a report would require the FIA to perform its own analysis and investigation of the suspicious transaction or activity and, where there is a suspicion of a breach of a financial sanctions order, make a referral to the SU if sufficient information exists to warrant such action.
30. As with the FIA, compliance under the relevant sanctions legislation encompasses the requirement to ensure that relevant entities comply with all applicable international targeted financial sanctions and any other local designations or directions that are in force, as well as their responsibilities for sanctions screening and reporting.
31. The FSC must therefore ensure that relevant entities (among others) maintain adequate:
- policies and procedures in relation to sanctions compliance;
 - systems and internal controls for sanctions screening, monitoring and reporting; and
 - systems for ongoing staff training.
32. The Governor has delegated power to the FSC to publish and keep up to date a list of designated persons, which can be found on its website. The FSC also publishes the list of Orders-in-Council and relevant amendments.
33. These Orders are disseminated to the FSC from the SU and may be found at:

<https://www.bvifsc.vg/international-sanctions/about-sanctions>

34. It should be noted that all relevant businesses, entities or professionals under the supervision of the FSC or FIA are also required to conduct regular checks of the VI Official Gazette, the FIA or FSC websites to note any new lists on the UN and UK sanctions and embargo regimes, including modifications thereto and take appropriate action where necessary.

Financial Crimes Unit (FCU) of the Royal Virgin Islands Police Force (RVIPF)

35. The RVIPF FCU plays a critical role in investigation of economic crimes that have connections to the Virgin Islands. This responsibility encompasses a range of serious offenses, including but not limited to:
- (i) Money Laundering Investigations: The FCU examines financial activities that aim to disguise the origins of illegally obtained money, making it appear legitimate. This often involves a complex web of transactions that the unit seeks to unravel.
 - (ii) Terrorist Financing Investigations: The FCU also targets the flow of funds that may be used to support terrorist organizations or activities. This includes scrutinizing various financial channels to prevent potential threats to national and international security.
 - (iii) Breaches of Financial Sanctions: The FCU is vigilant about enforcing financial sanctions tied to terrorist financing and proliferation financing. It ensures compliance with existing regulations and investigates any violations.
36. The FCU frequently collaborates on parallel investigations with other divisions within the RVIPF to enhance the effectiveness of their operations. Additionally, the FCU engages with various agencies and organisations including the FIA, Interpol, and other regional and international law enforcement bodies. These collaborations are essential in addressing financial offenses that might take place within or across the boundaries of the Virgin Islands.
37. Furthermore, the FCU coordinates intelligence sharing with the FIA, which is vital for certain investigations. By maintaining robust communication and cooperation with other investigative bodies, the FCU strengthens its capacity to combat financial crimes effectively and uphold the integrity of the financial system within the Virgin Islands.

Foreign, Commonwealth & Development Office (FCDO)

38. The FCDO is the lead government department for the UK on sanctions policy including all international sanctions regimes and designations. The FCDO is responsible for negotiating all international sanctions for the UK and its overseas territories, including the Virgin Islands. Additionally, any licence sought to be granted by the Governor regarding UK sanctions must first get the approval of the Secretary of State.

Office of Financial Sanctions Implementation (OFSI)

39. OFSI, is the authority responsible for implementing the UK’s financial sanctions on behalf of HM Treasury. They undertake investigations and enforcement of civil breaches of financial sanctions.¹⁹

3. Financial Sanctions in Force in the Virgin Islands

40. The VI are essentially subject to the same international sanctions obligations that are applicable in the UK. As a British Overseas Territory (OT), the VI must implement all international sanctions that are extended to it through legislative action by the UK government. The Foreign, Commonwealth & Development Office (“FCDO”) is responsible for the UK’s overall sanctions policy, including legislating and making designations under the majority of sanctions regimes. The FCDO publishes the UK sanctions list which provides details of those individuals, entities, aircrafts designated, as well as ships specified, under sanctions regimes that are established using the powers in SAMLA 2018 (including designations made under the UN regimes) for the different types of sanctions measures, including financial, immigration, trade and transport.
41. HM Treasury’s Office of Financial Sanctions Implementation (“OFSI”) provides a consolidated list of all individuals and entities subject to **financial** sanctions under SAMLA 2018 financial sanctions measures and other UK legislation. It is the UK’s Government policy to ensure that its OTs are legally and practically enabled to implement the sanctions adopted by the UN and sanctions regimes established in the UK, in order to ensure compliance with international obligations and policy commitments. In this regard, all sanctions measures come into force in OTs as soon as they come into force in the UK. Legally, designations come into force as soon as they are made. All new or amended OICs are published in the VI Official Gazette.
42. The list of regimes that are subject to financial sanctions is available on the FSC’s and FIA’s website respectively:
- [Sanctions By Regime | British Virgin Islands Financial Services Commission \(bvifsc.vg\)](#)
 - [British Virgin Islands Financial Investigation Agency > International Sanctions > Sanctions by Regime \(fiabvi.vg\)](#)
43. The SU also publishes Sanctions Orders in Force (including amendments) in the Government of the VI Official Gazette via:
- <https://eservices.gov.vg/gazette>
44. Under FATF Recommendations 6 and 7, countries are required to implement targeted financial sanctions regimes to comply with UNSCRs relating to the prevention and suppression of terrorism and terrorism financing, such as UNSCR 1267 (1999) and its successor resolutions UNSCR 1373 (2001); and UNSCRs related to the prevention, suppression and disruption of the proliferation of weapons of mass destruction (“WMD”). These resolutions require countries to freeze *without delay* the funds or other assets of, and to ensure that no funds and other assets are

¹⁹ [UK financial sanctions general guidance - GOV.UK](#)

made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.

45. Therefore, in the context of the Territory and the requirement to comply with relevant UNSCRs, the current OICs extended to the VI through which the VI implements targeted financial sanctions outlined in UK sanctions regulations are as follows:

UNSCR	Corresponding UK Regulation	Order in Council
1267 (1999)	The Afghanistan (Sanctions) (EU Exit) Regulations 2020;	The Afghanistan (Sanctions) (Overseas Territories) Order 2020
	The ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019	The ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (Overseas Territories) Order 2020 ²⁰
1373 (2001)	The Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019	The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020
1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017), 2397 (2017)	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019;	The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2020 ²¹
2231(2015)	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019	The Iran (Sanctions) (Nuclear) (Overseas Territories) Order 2020

46. The VI also implements and enforces UNSCRs 1267, 1373, 1718 and 2231 without delay through:
- The CTA; and
 - The PFPA.
47. Under the CTA (Sections 38 and 40) and the PFPA, the VI can make interim and final designations thereby imposing its own financial sanctions and restrictions. The PFPA defines a “designated person or entity” under s2(1) to include designations made or extended by the Governor or designations *made by the UN Security Council or its Committees pursuant to a resolution in relation to a designated country*. The CTA defines “*designated terrorist entity*” to

²⁰ This Order implements in those territories the travel ban imposed by paragraph 1(b) of United Nations Security Council Resolution 2368 (2017) (“UNSCR 2368”) in relation to all persons included on the ISIL (Da'esh) and Al-Qaida Sanctions list created pursuant to UNSCRs 1267 (1999), 1333 (2000), 1989 (2011), 2083 (2012), and 2161 (2014) and 2253 (2015) (“the ISIL (Da'esh) and Al-Qaida Sanctions list”) (which is implemented in the United Kingdom by way of section 8B of the Immigration Act 1971). - Legislation.gov.uk

²¹ The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2020 implements the travel ban imposed by paragraph 8(e) of United Nations Security Council Resolution 1718 (2006) (“UNSCR 1718”) in relation to persons designated by the Security Council or its Committee (which is implemented in the United Kingdom by way of section 8B of the Immigration Act 1971).

include designations made or extended by the Governor, entities listed under UNSCRs 1267 (1999) and 1989 (2011), 1988 (2011), 1718 (2006), 2231 (2015); designations made by HM Treasury pursuant to applicable UK laws and an entity included in the list provided by Article 2(3) of Council Regulation (EC) 2580/2001 of 27 September, 2001, as well as an entity whose activity directly involves acts terrorism and financing of terrorism.

48. In addition, the VI implements targeted financial sanctions as specified in the various OICs,
49. including those specifically related to the financing of terrorism and proliferation. For instance, section 6 of the Anti-Terrorism (Financial and Other Measures) (Overseas Territories) Order, 2002 prohibits persons from providing money or other property for the purposes of terrorism and defines “person” to include “*any corporation, either aggregate or sole, and any club, society, association or other body, of one or more persons*”. Thus, financing of terrorist organisations and the financing of individual terrorists is covered by this broad definition.
50. The above legislation may be respectively found on the Sanctions webpages of the FIA and FSC websites as follows:

<https://www.fiabvi.vg/International-Sanctions;>

<https://www.bvifsc.vg/international-sanctions/about-sanctions>

What do Financial Sanctions Measures Involve?

51. Financial sanctions may take many forms in accordance with how they are to be used in response to a given situation. The most common types of financial sanctions include:
 - **Targeted asset freezes** – these apply to named individuals, entities and organisations, restricting access to funds and economic resources. A designated person subject to an asset freeze will be listed on the following consolidated list:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>
 - **Restrictions on a wide variety of financial markets and services** – these can apply to named individuals, entities and bodies, specified groups and also entire sectors. Such restrictions have taken the form of:
 - investment bans;
 - restrictions on access to capital markets;
 - directions to cease banking relationships and activities;
 - requirements to notify or seek authorisation prior to certain payments being made or received; and
 - restrictions on the provision of financial, insurance, brokering or advisory services or other financial assistance.
 - **Directions to cease all business** - these measures specify the type of business and can apply to a specific person, group, sector or country.

Who Must Comply with Financial Sanctions?

52. In the Virgin Islands, UN and UK financial sanctions, as extended to the VI²², apply to:

- Any person in the Virgin Islands;
- Any person who is a British citizen, a British Overseas Territories citizen, a British subject, a British National (Overseas) or a British protected person who is ordinarily resident in the Virgin Islands even if the sanction has not yet been extended to the Territory;
- A body incorporated or constituted under the law of the Territory; and
- Any person onboard a ship or aircraft that is registered in the Territory²³

53. In addition, UK financial sanctions also apply to:

- All persons within the Territory of the VI²⁴ and territorial sea of the UK and to all UK citizens, wherever they are in the world;
- All individuals and legal entities in or undertaking activities within the VI who must comply with UN and UK financial sanctions that are in force in the VI.

“WITHOUT DELAY” implementation of UN listings

Under the UK’s autonomous sanctions regime, where listings are made under a new UN Security Council resolution or sanctions committee, such new listings will have effect in UK law via regulations made under the SAMLA. These regulations are extended to the Virgin Islands through OICs. The FCDO will publicise the new UN listings; OFSI will add all those subject to financial sanctions to the Consolidated List. Upon receipt of the updated notice from OFSI, the FSC and FIA will publish and disseminate without delay, the financial sanctions notice received from OFSI.

Other Autonomous Sanctions

54. The VI does not provide guidance on compliance with non-UN/UK sanctions regimes. Since there is no legislative basis, they are not applicable in the VI. Notwithstanding, some non-UN/UK sanctions regimes have far-reaching extra-territorial effect.

²² Note that conduct or activity which takes place outside of the Territory by a person subjected to the Jurisdiction of the Territory, can be caught by sanction regimes being implemented in the relevant jurisdiction where the activity took place. Also, such person may be investigated and prosecuted by relevant authorities in the Territory for breach of sanctions with respect to activity/conduct which took place outside of the Territory.

²³ Temporary Regulations applications - S. 8(a)(b)- The Policing and Crime Act (Financial Sanctions) (Overseas Territories) Order, 2017.

²⁴The Counter-Terrorism (Sanctions)(Overseas Territories) Order 2020, Schedule 2, Art. 2 “(2) *In the application of these Regulations to a particular British overseas territory, the expression “the Territory” means that territory.*”

OFAC/US Sanctions²⁵

55. United States (“US”) obligations have reputational implications for the VI. For example, the US has implemented regulations which apply extraterritorial jurisdiction to the activities of foreign financial institutions that participate in certain transactions that involve sanctioned countries, and any party, either foreign or domestic, that provides goods or services to any Specially Designated Nationals (SDN) listed on the OFAC list. ***The effect of the US regulations is that an overseas company which supplies any person on the OFAC SDN List may itself be added to that list. Therefore, any VI person or entity is asked to exercise caution when undertaking business, which may have a sanctions implication.***
56. For the avoidance of doubt, extraterritorial jurisdiction means that even if an institution is not operating, incorporated or constituted in the United States, OFAC sanctions may still apply. Institutions should be particularly mindful of OFAC sanctions if they:
- a. employ United States citizens or permanent aliens;
 - b. transact in US dollars or pass through a US payments transfer chain;
 - c. enter into transactions involving United States operations or accounts; or
 - d. have United States offices, subsidiaries, branches or agencies or a relationship with a United States firm.
57. If you know or have reasonable cause to suspect that you are dealing with an SDN listed on the OFAC SDN list, you should contact OFAC at the U.S. Department of Treasury at the following link:
<https://home.treasury.gov/policy-issues/financial-sanctions/contact-ofac>
58. If you are unsure of your reporting obligations, you should seek independent legal advice.

4. Financial Sanctions Obligations and Restrictions

Who is Subject to Financial Sanctions?

The UK Sanctions List

59. The FCDO publishes the UK Sanctions List, which provides details of those designated under regulations made under the Sanctions Act. This list also details which sanctions measures apply to these persons or ships, and in the case of UK designations, provides a statement of reasons for the designation²⁶. The list may be found on their website:
<https://www.gov.uk/government/publications/the-uk-sanctions-list>.

²⁵ US sanctions are administered by two agencies, the Office of Foreign Assets Control (OFAC) which handles licensing and oversight of the economic sanctions, and the Bureau of Industry and Security (BIS) which handles licensing of certain exports and re-exports of US-origin technology and goods, or foreign manufactured goods using US technology.

²⁶ [The UK Sanctions List - GOV.UK](https://www.gov.uk/government/publications/the-uk-sanctions-list)

The Consolidated list

60. OFSI publishes a list of all those subject to financial sanctions imposed by the UK which it keeps updated. A consolidated sanctions list of the most up-to-date designations for financial sanctions, sanctioned entities and sanctioned regimes may be found on their website:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

Searching the list

You can search for financial sanctions targets who are subject to an asset freeze or financial restrictions under the Russia regulations by using the OFSI Consolidated List Search. Enter the details that you want to find results for into the search box. This could be any of the details listed below under ‘Using the list’. You can also specify in your search:

- which regime the designated person is listed under,
- if they are an individual or an entity, and;
- whether they are subject to an asset freeze or specific capital market restrictions.

To adjust the type of results you see, you can also:

- group your results by group ID – this means that you can view all aliases and related entries in one place, and;
- turn on fuzzy search and increase the fuzzy distance – this will find accurate results relating to your search and increase the chances of finding the correct match, even where your search term is misspelt or missing information.

The information on the search database is updated alongside the Consolidated List. Use of the search function does not remove your obligation to undertake appropriate due diligence in respect of financial sanctions targets.

Downloading the list

A full list of designated persons/entities is available in various formats in the links above. This includes a format that allows you to download the information on to your own system.

Using the list

The list provides information to help you decide whether you are dealing with someone who is subject to sanctions. It lists:

- full name
- any known aliases
- honorary, professional or religious titles

- date of birth
- place of birth
- nationality
- passport details
- national identification numbers (e.g. ID cards, Social Security Numbers, etc.)
- address
- any additional information that may be useful (e.g. nicknames, details of family, etc.)
- title of the financial sanctions regime under which the designated person is listed
- the date when the designated person was added to the list by HM Treasury
- when the information regarding the designated person/entity was last updated by HM Treasury
- a unique ID reference number relating to the designated person/entity.

How to Get UK Sanctions List and Consolidated List Updates?

FCDO & OFSI Updates

61. The FCDO publishes Notices describing changes to the UK Sanctions List on GOV.UK:

<https://www.gov.uk/government/publications/the-uk-sanctions-list>

62. You can subscribe to the FCDO's e-alerts for updates and details on designations by utilising the below link:

<https://public.govdelivery.com/accounts/UKFCDO/subscriber/new>

63. OFSI publishes Notices describing changes to financial sanctions on GOV.UK:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

64. You can subscribe to the OFSI for the UK Consolidated List and to receive email updates whenever a new Notice is published by utilizing the below link:

<https://public.govdelivery.com/accounts/UKHMTREADS/subscriber/new>

65. The FIA:

- Publishes on its webpage a notification with a link to the latest UK Consolidated List which reflect updates whenever a new Notice is published:

[British Virgin Islands Financial Investigation Agency > International Sanctions > UK Sanctions List \(fiabvi.vg\)](#)

66. The FSC:

- Publishes on its webpage a notification with a link to the latest UK Consolidated List which reflect updates whenever a new Notice is published:

[UK Sanctions List | British Virgin Islands Financial Services Commission \(bvifsc.vg\)](#)

Financial Sanctions Regime Updates:

67. When the SU, FIA and FSC receive a notice from FCDO advising of a change to a financial sanction's regime:

- The SU:
 - Disseminates to all of the relevant government agencies (including the FSC and FIA) and shares with the Gazette to be published;
- The FIA:
 - updates its Sanctions webpage by publishing the latest FCDO Financial Sanctions Notice which reflect the changes to the sanctions regime;

<https://www.fiabvi.vg/International-Sanctions>

- Sends an email notification to the relevant businesses, entities and professions under its supervision (i.e. DNFBPs and NPOs) that contains: the relevant updated information; and sets out obligations the supervised entities *must* follow to comply with the sanctions notice.
- The FSC:
 - updates its Sanctions webpage by publishing the latest FCDO Financial Sanctions Notice which reflect the changes to the sanctions regime:

<https://www.bvifsc.vg/international-sanctions/about-sanctions>

- Sends an email notification to the relevant businesses, entities and professions under its regulatory supervision (i.e. registered agents, financial institutions, etc.) that contains the relevant updated information; and sets out obligations the supervised entities *must* follow to comply with the sanctions notice.

What You Are Required To Do (Asset Freeze Obligations and Prohibition on Dealing with Assets)

68. You are **prohibited** from carrying out certain activities, including making any funds, economic resources, or financial or other related services, available, directly or indirectly, wholly or jointly, to or for the benefit of designated persons²⁷ or entities; or behaving in a manner which is non-compliant with the requirements under the financial sanctions legislation, if financial sanctions apply.

²⁷ A Designated person – is a person subject to financial sanctions. Refer to Glossary.

69. As it pertains to the UK Sanctions Regimes as extended to the VI, if you know or have “**reasonable cause to suspect**²⁸” that you are in possession or control of, or are otherwise dealing with funds or economic resources owned, held or controlled by a designated person you must²⁹:
- freeze them
 - not deal with them or make them available to, or for the benefit of, the designated person, unless:
 - there is an exception in the legislation
 - they have been issued a licence from the Governor.
 - report them to the SU, using a Compliance Reporting Form.
70. Note however, as it pertains to VI domestic legislation, there is a strict prohibition on dealing with an asset, and in some cases additional provisions as it regards its applicability.
71. For the PFPA, there is a strict prohibition on dealing with an asset that is owned, controlled or held, directly or indirectly by a designated person or entity, on behalf of a designated person or entity or at the direction of a designated person or entity. Similarly, there is a strict prohibition on making assets available directly or indirectly, wholly or jointly to a designated person or entity, to a person or entity owned or controlled by a designated person or entity, to a person or entity acting on behalf of a designated person or entity or for the benefit of a designated person or entity.
72. For the CTA, if a person is in possession or control of funds or economic resources which the person knows or has reasonable cause to suspect that the designated terrorist entity is dealing with such funds or economic resources, such assets should be frozen without delay and without providing prior notice. Additionally, a person shall not be reckless as to whether the designated terrorist entity is dealing with the funds or economic resources outlined in the prohibition on designated terrorist entities.

What Does an Asset Freeze Do?

73. Where a financial sanction takes the form of an asset freeze, it generally prohibits:
- dealing with the frozen funds or economic resources belonging to or owned, held or controlled by a designated person;
 - making funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person; and
 - engaging in actions that, directly or indirectly, circumvent the financial sanctions prohibitions.

Other Prohibitions in Respect Of A Designated Person

74. There may be other asset/financial prohibitions in respect of designated persons under the UK Sanctions Regimes as extended to the VI by the OICs. A person should thoroughly review each applicable legislation relevant to the Designated Person.

²⁸ **Reasonable cause** to suspect refers to an objective test that asks whether there were factual circumstances from which an honest and reasonable person should have inferred knowledge or formed a suspicion.

²⁹ Schedule 4 paragraph 2 Counter Terrorism Act 2021 and all other UK Sanctions Regulations under the Orders in Council.

75. Under the CTA, a person shall not make funds, financial services or other related services or economic resources available, directly or indirectly, wholly or jointly to a designated terrorist entity or for the benefit of a designated terrorist entity. These prohibitions do not apply to anything done under the authority of a licence granted by the Governor. In the case of anything done outside of the VI – such activity must be carried out under the authority of a licence granted under the law of the place where the prohibited conduct occurred (provided the law corresponds with the relevant provisions of the CTA).

Asset Freezing Terminology to Know

76. **Funds**³⁰ generally means financial assets and benefits of every kind, including (but not limited to):

- cash, cheques, claims on money, drafts, money orders and other payment instruments;
- deposits with relevant institutions or other persons, balances on accounts, debts and debt obligations;
- publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative contracts;
- interest, dividends and other income on or value accruing from or generated by assets;
- credit, rights of set-off, guarantees, performance bonds and other financial commitments;
- letters of credit, bills of lading and bills of sale;
- documents showing evidence of an interest in funds or financial resources; and
- any other instrument of export financing.

77. **Economic resources**³¹ generally means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services. This includes but is not limited to:

- Previous metals or stones
- antiques
- vehicles
- property

78. **Goods**³² generally means items, materials and equipment.

79. **Virtual assets**³³ (i.e. digital assets) are covered by the definition of “funds” and “economic resources” set out in section 60 of the SAMLA. Accordingly, these assets are captured under the financial sanctions restrictions.

³¹ Section 60(2) of the UK’s Sanctions and Anti-Money Laundering Act 2018

³² [UK financial sanctions general guidance - GOV.UK](#)

³³ “Virtual Asset” is also defined under Regulation 2 of the Anti-Money Laundering (Amendment) Regulations, 2022

- 80. Dealing with funds**³⁴ generally means to move, transfer, alter, use, allow access to, or deal with in any way that would result in any change in the funds' volume, amount, location, ownership, possession, character, destination, or any other change that would enable use, including portfolio management, i.e. the management of securities (shares, bonds, etc.) and other assets.
- 81. Dealing with economic resources**³⁵ generally means using the economic resources to obtain funds, goods, or services in any way, including, but not limited to, selling, hiring or mortgaging the resources. It is not prohibited for a designated person to use their own economic resource for normal personal consumption. However, a designated person is not permitted to sell or use the economic resources to generate funds (e.g. by selling the car or using it for a taxi or courier business) without a licence.
- 82. Making available funds or economic resources, directly or indirectly, to a designated person** – if a person makes funds available (directly or indirectly) to a designated person, or economic resources are made available (directly or indirectly) that would likely be exchanged, or used in exchange, for funds, goods or services by the designated person, this may constitute a criminal offence.
- 83. Making available funds or economic resources for the benefit of a designated person** – if funds or economic resource are made available for the benefit of a designated person and the designated person obtains, or is able to obtain, a “significant financial benefit” from the funds or economic resources, this may constitute a criminal offence. In this instance, financial benefit includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.
- 84. Financial services**³⁶ means any service of a financial nature, including (but not limited to):
- (a) insurance-related services consisting of:
 - i. direct life assurance;
 - ii. direct insurance other than life assurance;
 - iii. reinsurance and retrocession;
 - iv. insurance intermediation, such as brokerage and agency;
 - v. services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
 - (b) banking and other financial services consisting of:
 - i. accepting deposits and other repayable funds;
 - ii. lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
 - iii. financial leasing;
 - iv. payment and money transmission services (including credit, charge and debit cards, travelers' cheques and bankers' drafts);
 - v. providing guarantees or commitments;
 - vi. financial trading (as defined in paragraph 85 below);
 - vii. participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;

³⁴ Part 4 of the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019; the same definitions are found in other regulations under the Sanctions Anti-Money Laundering Act, 2018, as extended with modifications and implemented in the Virgin Islands through Overseas Territories Orders in Council.

³⁵ *ibid*

³⁶ Section 60(3) of the UK's Sanctions and Anti-Money Laundering Act 2018

- viii. money brokering;
- ix. asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- x. settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
- xi. providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
- xii. providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).

85. In subsection (b) (vi) above, “**financial trading**” means trading for own account or for account of customers, whether on an investment exchange, in an over-the counter market or otherwise, in—

- (a) money market instruments (including cheques, bills and certificates of deposit)
- (b) foreign exchange;
- (c) derivative products (including futures and options);
- (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
- (e) transferable securities; and
- (f) other negotiable instruments and financial assets (including bullion).

Obligations to adhere to information requests.

86. Under sanctions regulations as extended and modified by the OIC,³⁷ an authorised officer³⁸ has the power to require the provision of information³⁹ or the production of documentation or goods in your possession or control which may be required for the purpose of:

- monitoring compliance with or detecting evasion of any provision of financial sanctions regulations including licensing and reporting conditions and obligations;
- detecting or obtaining evidence of the commission of an offence;
- establishing the nature and amount or quantity of funds or economic resources, owned, held or controlled by or on behalf of a designated person or entity;
- establishing the nature and amount or quantity of funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person or entity;
- establishing the nature of any financial transactions entered into by a designated person or entity; or
- cooperating with any international investigation.

³⁷ Article 19 -24 Schedule 2 of The Afghanistan (Sanctions) (Overseas Territories) Order 2020 and all other Overseas Territories Orders

³⁸ “*authorised officer*” is defined under Schedule 2 of all Overseas Territories Orders and may be found in the Glossary.

³⁹ For a complete list of the authorised officer’s powers to request information, please refer to the legislation underpinning each particular financial sanctions regime.

87. The power to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection.
88. Person(s)/relevant entities subject to a request for information from an authorized officer, are required to comply with the form and timeframe as specified in the request.
89. Under Schedule 4, paragraphs 14, 15 and 16 of the CTA, the Governor has similar requesting powers.
90. Under Section 39 of the PFPA, the FIA has powers to request information and provide documents, and where such is requested, a person shall comply with requests made pursuant to that section.
91. Failure to comply with a request for information, including the provision of timely responses, providing false documentation, destroying documents, and obstruction in the exercise of powers under the Order is an offence and may result in criminal prosecution.
92. For a complete list of the authorised officer’s powers to request information, please refer to the legislation underpinning each particular financial sanctions regime.

**BREACHING SANCTIONS REQUIREMENTS MAY
RESULT IN CRIMINAL PROSECUTION OR
MONETARY PENALTY.**

5. Ownership and Control⁴⁰

Clarity around the ownership and accountability of the risk

93. If a person, entity, or ship is designated, their name will be recorded on the Consolidated List. An asset freeze and some financial services restrictions will apply to entities (meaning a body of persons corporate or unincorporated, or any organisation or association, or combination of persons) that are owned or controlled, directly or indirectly, by a designated person. Those entities may not be designated in their own right, so their names may not appear on the Consolidated List. However, those entities are similarly subject to financial sanctions.

Ownership and Control

94. An entity is owned or controlled directly or indirectly by another person or entity where any of the following circumstances apply:

⁴⁰ OFSI- UK Financial Sanctions– General Guidance for Financial Sanctions under the SAMLA, page 17

- The person holds (directly or indirectly) more than 50% of the shares or voting rights in an entity;
- The person has the right (directly or indirectly) to appoint or remove a majority of the board of directors of the entity; or
- It is reasonable to expect that the person would be able to ensure the affairs of the entity are conducted in accordance with the person's wishes. By way of examples, this could include the following:
 - Appointing, solely by exercising one's voting rights, a majority of the members of the administrative, management or supervisory bodies of an entity, who have held office during the present and previous financial year;
 - Controlling alone, pursuant to an agreement with other shareholders in or members of an entity, a majority of shareholders' or members' voting rights in that entity;
 - Having the right to exercise a dominant influence over an entity, pursuant to an agreement entered into with that entity, or to a provision in its Memorandum or Articles of Association, where the law governing that entity permits its being subject to such agreement or provision;
 - Having the right to exercise a dominant influence referred to in the point above, without being the holder of that right (including by means of a front company);
 - Having the ability to direct another entity in accordance with one's wishes. This can be through any means, directly or indirectly. For example, it is possible that a designated person may have control or use of another person's bank accounts or economic resources and may be using them to circumvent financial sanctions.

95. If any of the above criteria are met, and the person who owns or controls the entity is also a designated person, then financial sanctions will also apply to that entity in its entirety (meaning these assets should also be frozen). The prohibitions on making funds or economic resources available directly or indirectly to a designated person, also prohibit making them available to an entity who is owned or controlled, directly or indirectly, by the designated person.

Ownership and Control Example Relating to Entities

Example: Entity X is not listed on OFSI's Consolidated List. However, due diligence checks reveal that the majority owner of Entity X is designated Entity Y.

Since the ownership and control criterion have been met, Entity X is also subject to the same restrictions as designated Entity Y.

Ownership and Control Example Relating to Individuals

Example: Person A (an individual) is not listed on OFSI's Consolidated List. However, due diligence checks reveal that Person A is a family member or a friend of designated Person B and there is evidence that Person B is using Person A to enter into transactions.

Since Person B is in control of Person A, Person A is also subject to the same restrictions as designated Person B.

Minority Interest

96. If a designated person has a minority interest in another legal person or entity, that legal person or entity may not necessarily be subject to financial sanctions if the ownership and control criterion has not been met. It will be necessary to consider whether a designated person is in control. If they are, then the ownership and control criteria will be met.
97. Nevertheless, there must be ongoing monitoring to determine whether there have been any changes to the interest held by a designated person where it has increased to 50% or more, (or a majority interest is held) at which point financial sanctions will also apply to that legal person or entity.

Joint Interests

98. For the purposes of the asset freeze, a designated person is considered to own funds/economic resources even if they are owned jointly with another person, or where the designated person only owns part of said funds/economic resources. In addition, a designated person is considered to own funds/economic resources where the designated person's ownership consists of any interest (whether legal or equitable).
99. Furthermore, if two or more persons hold shares or rights jointly, each person will be treated as owning those shares or rights. This also applies to joint arrangements where all holders of shares or rights exercise their rights jointly. In such circumstances, all parties subject to the joint arrangement are considered as owning those shares or rights.
100. The above should be considered when evaluating the shares or voting rights a person may have in an entity. Where such arrangements or the above wording applies, the jointly owned assets (funds/economic resources) should be frozen in their entirety.

Aggregation

101. When making an assessment on ownership and control, the VI do not simply aggregate different designated persons' holdings in a company, unless, for example, the shares or rights are subject to a joint arrangement between the designated parties or one party controls the rights of another. Consequently, if each of the designated person's holdings falls below the 50% threshold in respect of share ownership and there is no evidence of a joint arrangement or that the shares are held jointly, the company would not be directly or indirectly owned by a designated person.
102. It should be noted that ownership and control also relates to holding more than 50% of voting rights, the right to appoint or remove a majority of the board of directors and it being reasonable to expect that a designated person would be able in significant respects to ensure that the affairs of a company are conducted in accordance with their wishes. If any of these apply, the company could be controlled by a designated person.

6. YOUR REPORTING RESPONSIBILITIES

Reporting Obligations

- 103.** Financial sanctions obligations under the existing sanctions legislations (SAMLA and OICs, CTA and PFPA) require all relevant firms, natural and legal persons, entities and bodies to inform the SU as soon as practicable, if they know or have reason to suspect a person is designated or has committed offences that do not ‘facilitate compliance’ with the regulations through which the VI implements targeted financial sanctions. In some circumstances, the relevant firm must also inform the SU of details of funds or economic resources held by it.
- 104.** The sanctions legislation sets out specific reporting obligations for businesses, entities and professionals that are referred to as a “**relevant firm**”, “**reporting entity**”, “**relevant institution**”, “**relevant business**”.
- 105.** The requirement to comply with the reporting obligations applies to the relevant firm, relevant business, entity or profession that is:
- A body registered, incorporated or constituted under the laws of the VI or any part of the Territory and regulated by the FSC;
 - A body registered, or constituted under the laws of the VI or any part of the Territory and supervised by the FIA; and
 - any person on board a ship or aircraft that is registered in the Territory.

Relevant Firm

- 106.** The definition of a **relevant firm** is set out in the OICs under each sanctions regime. In general, a relevant firm⁴¹ is defined as:
- a) a relevant institution*;
 - b) an undertaking that by way of business—
 - (i) operates a currency exchange office,
 - (ii) transmits money (or any representation of monetary value) by any means, or
 - (iii) cashes cheques that are made payable to customers;
 - c) a firm or sole practitioner that provides to other persons, by way of business—
 - (i) accountancy services,
 - (ii) advice about tax affairs,
 - (iii) auditing services,
 - (iv) legal or notarial services, or
 - (v) trust or company services;
 - d) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
 - e) the holder of a licence to operate a casino in the Territory⁴²;

⁴¹ The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, Schedule 2, as it relates to Regulation 22 as extended by this OIC provides an example. This definition is also found in all other Overseas Territories OIC.

⁴² No licenses to operate a casino in the Virgin Islands have been issued. However, the definition of a relevant firm may also apply to a person or firm that is authorised by the Gaming and Betting Control Commission to operate under the Virgin Islands Gaming and Betting Control Act, 2020.

- f) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—
 - (i) articles made from gold, silver, platinum or palladium, or
 - (ii) precious stones or pearls.
- Note that a ‘relevant institution’ for the purposes of the OIC means a person domiciled in the Territory that would satisfy the threshold conditions for permission to carry on regulated activity under Part 4A of the Financial Services and Markets Act 2000(a) if it had its registered office/head office in the UK.

107. Accordingly, relevant firms and businesses have a responsibility to ensure that they implement appropriate risk-based mechanisms, policies and procedures to assess their applicants/customers and their business and business relationships to determine whether they are any sanctions imposed by the UN and UK (as extended to the Virgin Islands as Sanctions Orders by the UK through Orders in Council) or by virtue of the VI Domestic sanctions regime that are applicable, to which they need to comply.

Reporting Entity⁴³

108. “Reporting entity” has the meaning referred to in section 61(3) of the CTA:

- a) a person that is engaged in a relevant business as defined under regulation 2(1) of the Anti-Money Laundering Regulations, 2008;
- b) a non-financial business that is designated under the Non-Financial Business (Designation) Notice, 2008;
- c) a non-profit organisation within the meaning of section 2 of the Non-Profit Organisations Act, 2012; and
- d) any other person that is required to comply with the CTA, the Proceeds of Criminal Conduct Act, the Anti-money Laundering Regulations, the Anti-Money Laundering and Terrorist Financing Code of Practice and any other code, guideline, practice direction or directive that are issued by the Financial Services Commission or the Financial Investigation Agency

109. There are specific reporting obligations to the FIA for a “*reporting entity*” as covered under Part VII, Section 61 of the CTA with respect to suspicious activities/transactions relating to property and entities involved in terrorist activity.

Relevant Institution

110. The definition of Relevant Institution for the purposes of the CTA is defined as a person that is engaged in a Relevant Business and for the avoidance of doubt, it includes a person that is regulated by the FSC by virtue of applicable legislation provided in the FSC Act and non-financial business designated under the Non-Financial Business (Designation) Notice, 2008.

⁴³ The definition of “Reporting Entity” may be found in the Glossary

Relevant Business

111. A **relevant business** or profession is defined under Regulation 2(1) of the Anti-Money Laundering Regulations (as amended). A full list of businesses and professions which fall under the relevant business definition may be found in the Glossary.

How to Report

To the Attorney General (through the SU)

112. A Compliance Reporting Form (“CRF”) must be completed when making a report to the SU (Annex II). The CRF should be used when reporting suspected designated persons, any assets which have been frozen, and suspected breaches of financial sanctions and should be e-mailed to: sanctions@gov.vg.

113. A fillable version of the CRF may also be found on the FIA and FSC websites respectively:

<https://www.fiabvi.vg/International-Sanctions/Guidance-and-Forms>

<https://www.bvifsc.vg/international-sanctions/about-sanctions>

114. All reports to the SU that involve a designated person should include the Group ID reference number. The Group ID is a unique identifier for a designated person which can be found in their entry on the Consolidated List:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>

To the FIA

115. All reports to the FIA should be made utilising the Suspicious Activity/Transactions Reporting Form or such form or in such manner as provided for in the CTA.

What Must a Relevant Firm/Business or Profession Report?

Under SAMLA and OIC – Reporting to the Attorney General (through the SU)

116. If you are a relevant firm, business, or profession you are required to report to the SU as soon as practicable:

- (a) details of a person known or reasonably suspected by you to:
 - be a designated person; or
 - have committed offences under financial sanctions legislation;
- (b) the information, or other matter on which your knowledge or suspicion is based, if it came to you in the course of conducting business and any information it holds about the person by which the person can be identified;

- (c) funds or economic resources known or reasonably suspected to be held for a designated person, and the information or other matter on which the knowledge or cause for suspicion is based came to it in the course of carrying on its business.

117. Where you know or have reasonable cause to suspect that you are dealing with a designated person or entity **and** that person or entity is a customer of your relevant firm or business, then you are required to submit a Compliance Reporting Form to the SU, and in your reporting **must** include:

- The nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion;
- information on which the knowledge or suspicion is based (including any potential or confirmed matches); and
- any information you hold about the person by which the person can be identified.

118. Examples of the type of information that are required to be reported are set out in the Table below:

Examples of information to be reported	
A designated person or entity	<p>A customer or client of a relevant firm or business is a known or suspected designated person or entity.</p> <p>In addition to providing the SU with any information held regarding the designated person/entity that enables identification of them, if the designated person is a customer/client then the SU must also be informed about the nature, amount and quantity of any funds and/or economic resources held on behalf of the customer/client at the time this knowledge or suspicion arose.</p>
Offences	<p>While exact offences will vary according to the relevant legislation, it can include:</p> <ul style="list-style-type: none"> ▪ Making funds or economic resources available to a designated person or entity (except where a licence has been issued by the Governor) ▪ Dealing with any funds, economic resources which have been frozen, or actions or attempted transactions undertaken; ▪ details of activities taken to circumvent an asset freeze; and ▪ breaches of licensing conditions.
Funds and economic resources	<p>Details must be provided regarding the nature, amount or quantity of any funds and economic resources held by your firm or business.</p> <p>Funds or economic resources may include, but are not limited to:</p>

	<ul style="list-style-type: none"> ▪ cash ▪ cheques ▪ crypto assets ▪ bond futures ▪ precious metals or stones ▪ vehicles ▪ antiques
Where there have been credits to frozen accounts	<p>A relevant firm/business must inform the SU immediately:</p> <ol style="list-style-type: none"> i. Of the details of any frozen account(s) which have been credited, or funds transferred into an account of a designated person or a legal person/entity acting on behalf of a designated person where a licence has not been issued by the Governor; ii. Of the details, where applicable, of any frozen account(s) which have been credited with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account. <p>NOTE: a relevant institution/firm does not need to inform the SU when it credits an account with interest or other earnings.</p>

Other Reporting Obligations

Under the CTA (Reporting to the Governor and FIA)

Reporting to the Governor (through the SU)

119. There are also specific reporting obligations to the Governor for a ‘relevant institution’ in accordance with Schedule 4 of the CTA. The relevant institution is to report on its:

- Knowledge or reasonable suspicion that an entity: - (i) is a designated terrorist entity; or (ii) has committed an offence under any provision of sections 5, 7 to 10 and 12 to 31 of the CTA; and
- Information or other matter on which the knowledge or suspicion is based came to it in the course of its trade, profession, business or employment and any information it holds about the person by which the person can be identified.

120. If a relevant institution informs the SU that it knows or has reasonable cause to suspect that a person is a designated terrorist entity **and** that entity is a customer of the institution, the relevant institution **must** also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.

121. The Relevant Institution must also report on any action taken in accordance with the prohibitions under the CTA and report on any transaction attempted by a designated terrorist entity to deal with funds, economic resources or other assets.
122. Regarding funds and economic resources, the Relevant Institution must inform the SU without delay if it credits a frozen account held or controlled, directly or indirectly, by a designated terrorist entity, in circumstances where certain exceptions apply under the CTA⁴⁴.

Reporting to the FIA – Regarding Suspicious Activities/Transactions and Suspicions relating to property regarding entities involved in terrorist activity.

123. In addition to reporting to the SU, a relevant firm, business, or reporting entity is obligated to report to the FIA⁴⁵ any actions it has taken in respect of a suspected breach of sanctions by a designated person/entity (including any assets which have been frozen) or actions taken in respect of a de-listed person/entity, (including details of any assets which have been unfrozen). In this regard, relevant firms, businesses and reporting entities are required to maintain their requisite reporting obligations and/or to also submit Suspicious Activity/Transaction Reports (SARs/STRs) to the FIA. (See also “Compliance and Enforcement”).
124. Pursuant to Part VII, Sections 60 and 61 of the CTA, relevant firms, relevant businesses, professionals and reporting entities are required to report to the FIA any suspicious activities /transactions relating to:
- Those seeking to engage and engaging in terrorist financing and terrorist acts;
 - Property owned or controlled, directly or indirectly by a designated terrorist entity; and
 - Property derived or generated from any property of the kind specified above.
125. A person who knows or suspects, or has reasonable grounds for knowing or suspecting, through the course of his trade, profession, business or employment that:
- a) another person is engaged in the financing of terrorism;
 - b) or another person is seeking to engage in one or more terrorist acts,
- must** report such information to the FIA as soon as reasonably practicable*⁴⁶ after it comes to his attention in accordance with section 55 of the Anti-Money Laundering and Terrorist Financing Code of Practice.
126. A reporting entity or other person in possession or immediate control of property that the reporting entity or other person suspects on reasonable grounds is or may be a property that is owned or controlled directly or indirectly by a designated terrorist entity or property derived or generated from any property of that kind, **must** as soon as is reasonably practicable* after forming that suspicion report it to the FIA in accordance with section 61 of the CTA.

Under the PFPA (Reporting to FIA)

127. Pursuant to Part IV of the PFPA, a person⁴⁷ is required to report to the FIA as soon as reasonably practicable if they hold an asset or assets suspected of being owned, controlled or held on behalf

⁴⁴ See Schedule 4 section 8 of CTA, 2021

⁴⁵ The Anti-Money Laundering Terrorist Financing Code of Practice –Section 13; Section 17; and Section 18

⁴⁶ Reasonably practicable means filing within a few days, no more than 5 working days from the date the suspicion was formed- Section 60(7) of the CTA 2021

⁴⁷ This includes relevant firms, relevant businesses and reporting entities.

of, or at the direction of a designated person or entity⁴⁸. Detailed guidance on the time frame is provided in Section 34(1) of the PFPA.

128. The reporting should include details of the asset, name and address of the owner or controller of the asset and details of any attempted transaction at any time involving the asset. Further particulars of what should be included in the report regarding the attempted transaction can be found in Section 34(2) of the PFPA.

Additional obligations on Financial Institutions or DNFBP's regarding suspicious transactions

129. Financial Institutions or DNFBP's should also report on suspicious activity. Note that this reporting on suspicious activity is **in addition** to the reporting on the asset.
130. This reporting obligation is engaged where a financial institution or DNFBP knows, suspects or has reasonable grounds to suspect, that information that is known to it may-
- (a) be relevant to the detection, investigation or prosecution of a person for money laundering, terrorist financing or any related offence;
 - (b) be relevant to the detection, investigation or prosecution of a person for conduct prohibited under the PFPA or by a counter-proliferation Resolution; or
 - (c) concern proceeds of criminal conduct.

The report should include the particulars provided for in the PFPA, and should be made as soon as in reasonably practicable and, in any case within 5 working days from the date the suspicion first arose.

131. There are also enhanced reporting obligations where the following must be reported⁴⁹:
- any financial transaction made or attempted where that financial transaction involves a designated country person or entity,
 - an account opened or attempted to be opened by a designated country person or entity,
 - an asset which came under management or was requested to come under management and that asset is owned or controlled by a designated country person or entity;
 - the existence of a company, joint venture or other ownership or control structure which could be used to evade a prohibition under the PFPA or any measure contained in a designated country Resolution.
132. Furthermore, where a person knows of any dealing or attempted dealing in an asset or the making available of an asset, the person shall make a report to the FIA⁵⁰:
- (i) In the case of a dealing or attempted dealing in an asset, by identifying the designated person or entity who owns, controls or holds the asset; on whose behalf the asset is owned, controlled or held; and at whose direction the asset is owned controlled or held; and
 - (ii) In the case of the making available of an asset, by identifying the designated person or entity to whom the asset is to be made available; the person or entity owned or controlled by a designated person to whom the asset is to be made available; the person

⁴⁸ Reporting obligations relating to designated person(s) suspected PF activities are set out in Part IV, Sections 32 through 37 of the PFPA;

⁴⁹ Enhanced reporting obligations as set out in Part IV, Section 37 of the PFPA

⁵⁰ Section 37 (1A) of the PFPA.

or entity acting on behalf of a designated person or entity to whom the asset is to be made available; and the designated person or entity for whose benefit the asset is to be made available.

- 133.** For avoidance of doubt, all relevant entities and professionals are subject to the requirements under the AML/CFT regime⁵¹, including the obligation to ensure that there are established internal control procedures and reporting mechanisms. In addition to the general reporting obligations to which relevant entities are subject, and where there is reasonable cause for suspicion, all relevant entities are required to report any suspected breaches in relation to targeted UN or UK financial sanctions to the Governor.
- 134.** Save for information that comes to the attention of a professional legal adviser in privileged circumstances, failure to comply with the reporting obligations set out in the relevant legislation constitutes an offence which may result in criminal prosecution. Such reporting obligations are *in addition to* any other non-financial sanctions reporting obligations to which the relevant entity/institution may be subject (i.e. the filing of suspicious activity/transaction reports to the FIA, etc.).
- 135.** If you are unsure of your reporting obligations, you should seek independent legal advice.

Best Practices for a Relevant Firm, Business or Professional

Risk Assessment/Sanctions Screening/Monitoring

- 136.** A relevant firm, business, entity or professional should:
- have documented policies and procedures in place to comply with sanctions obligations which should be reviewed and endorsed by senior management, including the Board, Partners or any other executive committee in place;
 - Periodically review the list of countries and persons designated under the UNSCRs, and the UK consolidated list which is published on the OFSI, FSC and FIA websites; and
 - develop a risk profile to determine the potential risk that an applicant for business or a customer poses and the best way to manage and mitigate any identified risks in relation to that assessment.
- 137.** In this regard, risk assessments should be undertaken taking into consideration the following non-exhaustive list of risk factors:

⁵¹ The AML/CTF regime comprises the Anti-Money Laundering and Terrorist Financing Code of Practice as amended, Anti-Money Laundering Regulation as amended, The Proceeds of Criminal Conduct Act, 1997 as amended, Financial Investigation Agency Act, 2003 as amended, The Terrorism (United Nations and Other Measures (Overseas Territories) Order 2001, The Anti-terrorism (Financial and Other Measures) (Overseas Territories) Order 2002, The Counter Terrorism Act, 2021; and The Proliferation Financing (Prohibition) Act, 2021.

- Country/Geographic Risk⁵² - whether the country of origin is under any established sanction, embargo or other restriction or whether any such sanction, embargo or restriction is specifically imposed on the customer;
- customer, products and activities⁵³;
- sales and distribution channels;
- complexity and volume of transactions;
- processing and systems;
- operating environment;
- screening processes of intermediaries;
- charities and other non-profit organisations⁵⁴; and
- any other relevant sanctions regulations.

Sanctions Screening⁵⁵

138. Relevant entities should determine reasonable and proportionate due diligence and have adequate mechanisms, systems and controls to ensure effective sanctions screening (which includes ownership and control information and the activities undertaken by each customer).
139. All relevant staff should be trained and assessed on how to comply with established financial sanctions compliance procedures. Such procedures should be recorded, audited and updated.
140. *Before* engaging in a business relationship or providing any services or undertaking any customer transactions, the names of customers, including beneficial owners and directors of corporate customers, or applicants for business should be screened against the consolidated list to ensure that you are not dealing with a designated person or entity.
141. Sanctions screening should be conducted wherever possible at the commencement of any business relationship and also be undertaken for existing customers and business relationships on an ongoing basis whenever the Consolidated List is updated, and according to the risk profile of existing customers and business relationships. Relevant entities should consider the use of automated screening software to identify whether the name of an applicant for business, existing customer, client, or business relationship matches a designated name on the consolidated list.

Monitoring

142. There should be ongoing checks and monitoring of the Consolidated List on the OFSI website, the FIA website or FSC website to note any new listing on the UN and UK sanctions and embargo regimes, including modifications thereto.

⁵² Countries are considered high risk countries where they are subject to sanctions, embargos or similar restrictive measures imposed by the UN or other regional and international organisations to which the Virgin Islands is a member or associate member; or of which the UK is a member, and such sanctions, embargos or similar measures have been extended to the Virgin Islands by an Order in Council or through the exercise of any Royal Prerogative. The scope of the embargo, sanction or other restriction may not necessarily relate to financial prohibitions.

⁵³ where the origins of funds or source of wealth relates to a jurisdiction on which there is currently an embargo, sanction or restriction imposed by the UN or UK

⁵⁴ Some charities or non-profit organisations engage in cross-border activities which may *not* be subject to adequate or effective sanctions screening measures

⁵⁵ Refer to Appendix IV- *Additional Considerations for Effective Sanctions Screening*

It is your responsibility to ensure that you are receiving financial sanctions notifications of changes to the Consolidated List on a timely basis.

- 143.** If you are a relevant firm or business, entity or profession and at any time know or have reasonable cause to suspect that you are in possession or control or are otherwise dealing with the funds or economic resources of a designated person or entity, you **MUST**:
- (i) verify whether you maintain any accounts or any funds or economic resources of the designated person or entity;
 - (ii) immediately freeze the funds and or economic resources which are owned or controlled, whether directly or indirectly, by the designated person or entity;
 - (iii) refrain from entering into any financial transactions or providing financial services, financial assistance or making economic resources available directly or indirectly to:
 - the designated person or entity or any third party except under the authority of a licence granted by the Governor.
 - (iv) immediately report this information to the SU by completing and submitting the CRF as soon as possible.
- 144.** Where you have already reported details of accounts, economic resources or other funds held frozen for designated persons or entities, you are not required to report these details again.
- 145.** If there are details of any other involvement with a listed individual or entity, directly or indirectly, or of any attempted transactions involving those individuals or entities, this should be reported to the SU.
- 146.** Any failure to comply with financial sanctions legislation, or to seek to circumvent provisions is a criminal offence and may result in prosecution.

Record Keeping

- 147.** You are responsible for retaining records of any potential matches to names on sanctions lists, irrespective of whether the match is a true match or a false positive. Records should be maintained for a period of at least five years from the date the business relationship ended or the transaction was completed in respect of any match including:
- the information or other grounds which triggered the match (i.e. activities of customers and transactions⁵⁶ on which sanctions are imposed);
 - any further checks or enquiries undertaken;
 - the relevant applicable sanctions regime;

⁵⁶ Anti-Money Laundering Terrorism Financing Code of Practice – Section 45(1)(f), (g) and (h)

- the person(s) involved, including any members of compliance or senior management who authorised treatment of the match as a false positive;
- the nature of the relationship with the person or entity involved, including attempted or refused transactions;
- subsequent action taken (i.e. freezing accounts);
- if you consulted with, or filed a report with the SU;
- the outcome of the reporting (i.e. whether an investigation was undertaken, whether a licence authorised by the Governor was issued and in what capacity etc.)

7. EXCEPTIONS AND LICENSING

148. The following sections provide a general overview of the standard exceptions and licensing grounds found in the sanctions regimes, as extended and modified to VI, that can allow otherwise prohibited transactions and activities to take place in some circumstances. The grounds may vary from regime to regime so it is important that you check the relevant, up-to-date legislation.

149. A licence is a written authorisation from the Governor which permits an act that would otherwise breach prohibitions imposed by financial sanctions.

Exceptions

150. An exception to a prohibition applies automatically in certain defined circumstances and does not require you to obtain a licence from the Governor.

A. Crediting frozen accounts

151. Asset Freezing legislation permits without a licence:

- a relevant institution to credit a frozen account with interest or other earnings due on the frozen account, so long as those funds are frozen immediately;
- a person to transfer funds to a relevant institution for crediting a frozen account with any payments due to a designated person under contracts, agreement or obligations that were concluded or arose before the date the person became sanctioned; and
- a relevant institution to credit a frozen account with payments from a third party, provided that the incoming funds are also frozen and the third party informs the SU of the transaction immediately without delay.

B. Independent person holding legal or equitable interest in frozen funds or economic resources⁵⁷

152. The OICs create an exception to allow independent persons to transfer their legal or equitable interests in frozen funds or economic resources to another person, where immediately before the transfer all the provisions in 1-4 below are present:

⁵⁷ “Exceptions and licences” provisions of UK Sanctions Regulations

1. The independent person is not a designated person;
2. The independent person holds the interest in the funds or economic resources;
3. The independent person does not hold the interest jointly with a designated person; and
4. The independent person is not owned or controlled, directly or indirectly by a designated person.

Licensing Overview

153. The Governor can only issue licences (with the consent of the FCDO Secretary of State in respect of the SAML A sanctions regimes) where there are specific and relevant licensing grounds to do so, and where the specific conditions in the grounds have been met. The available grounds can be found in the legislation underpinning each particular financial sanctions regime:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

154. The Governor will only consider licensing those activities that fall within the licensing grounds set out in the relevant Sanctions Order. When considering making an application, you may wish to seek legal advice.

155. The Governor may also attach strict reporting conditions to a licence. Such licensing conditions apply safeguards to ensure that funds or economic resources can be made available to designated persons or entities in a way that protects against abuse of the sanctions regime. In this way, appropriate conditions facilitate the granting of a licence that it might otherwise not be possible to grant. A failure to comply with these reporting requirements may result in the revocation, suspension or termination of a licence or further restrictions.

156. The conditions that would apply to licences reflect two broad policy objectives:

- to ensure that designated persons or entities do not have access to large amounts of cash, which can be more easily diverted to the sanctioned activity; and
- to ensure that there is a reasonable audit trail to address risks such as terrorist financing, and that the FIA, through delegated authority granted by the Governor, can monitor compliance with the terms of the licence and identify if any breaches of the legislation have occurred.

157. A licence will not be issued retrospectively and the granting of a licence will be considered on a case-by-case basis and on its own merits. It should not be assumed that a licence will be granted or will allow you to engage in any activities prohibited by financial sanctions until you have received an appropriate licence. Therefore, you must not continue to carry out any action(s) which are not authorised by a licence.

158. It is a criminal offence to deal with funds that should be frozen or make economic resources available to a designated person or entity without an appropriate licence.

Licensing Grounds

159. The legal basis under which a licence may be issued depends on the legislation which underpins each particular financial sanctions regime. Some licensing grounds cannot be applied to persons designated by the U.N., however the legal basis is set out in the relevant OIC underpinning each particular financial sanctions regime. The following are some common grounds for issuing a licence under an OIC:⁵⁸

- Basic needs of a designated person or dependent family member(s);
- reasonable professional fees and disbursements for the provision of legal services;
- fees and service charges for routine holding or maintenance of frozen funds or economic resources;
- extraordinary expenses;
- extraordinary situations;
- satisfying prior obligations under a contract or pre-existing judicial decisions that arose prior to the designation of the person/entity;
- humanitarian assistance activity;
- diplomatic missions; and
- divestment.

Applying for a Licence

160. If a person, entity relevant firm, business or profession wishes to conduct otherwise prohibited activity for the benefit of a designated person or entity, they must submit a licence application to the SU in the first instance. Before they do so, they should seek independent legal advice on whether they have just cause to apply. It is expected that legal and professional advisers will have fully considered the relevant law and formed a view about an application prior to submitting the application. It is not for the SU to advise whether a licence is needed or what ground the licence should be applied under.

161. In keeping with international best practices, specificity regarding the transaction to be authorised is key in achieving compliance with licensing requirements. When applying for a licence, a person, entity, relevant firm, business or profession, must provide evidence to support an application which fully demonstrates that all of the criteria of the relevant licensing grounds (where applicable) have been met. A completed application is one where all the information is received that would enable a decision to be made about whether there is a legal basis to grant a licence.

162. Licence applicants must therefore be prepared to provide complete details and evidence of the proposed transactions, (in addition to any other relevant information) required to process any licence application(s) which will assist the SU and ultimately the Governor in considering an application, including, inter alia, the:

- amount or sums of an intended payment
- intended purpose of the transaction/funds
- intended payment route(s)
- sender and receiver of funds, including any intermediaries and beneficiaries
- how the funds will be accounted for

⁵⁸ OFSI Financial sanctions – General Guidance for financial sanctions under SAMLA pages 28-30

- explanation of the reasonableness of any proposed payment (where relevant)

163. Incomplete applications will be returned to applicants and it is therefore in an applicant's interest to complete the application in line with the requirements.

Licensing Timelines

164. Licence applications should be submitted to the SU well in advance of the date from which the licence is required, along with comprehensive supporting information. It should be noted that failure to submit a complete application (which includes all relevant, or requested, supporting documentation) will result in delays to the licence application process.

The SU aims to review all new licencing applications as soon as possible, and will prioritise cases at times of high demand. Humanitarian cases will be prioritised. If there are particular aspects of your application that you believe make your case urgent, the reasons/rationale should be clearly stated in the application.

Submitting a Licence Application

165. In applying for a licence, applicants should complete and submit applications to the SU by email at sanctions@gov.vg. Forms can be found online on both the [FSC](#) and [FIA](#)'s website. The SU does not charge a fee for licence applications.

Information which applicants will generally be required to provide includes the following:

- applicant's name, contact details and role in the transaction;
- the licensing ground(s) being relied upon in the application including supporting arguments;
- full information on the parties involved in the proposed transaction, e.g. the designated person/parties or entity to whom the licence would be granted;
- amount of funds/value and nature of any economic resources;
- name of financial institution(s) involved (e.g. remitter, correspondent, beneficiary);
- the ultimate beneficiary of the transaction;
- the complete payment route including account details;
- the amount (or estimated amount) of the proposed transaction.

166. Applicants are encouraged to always refer to the up-to-date version of the legislation that imposes the relevant sanction regime. Links to these can be found on the relevant financial sanctions regime pages:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

Tips For Applicants⁵⁹

- 1) Read this guidance and up-to-date version of the relevant legislation;
- 2) Identify the appropriate licensing ground(s);
- 3) Use the licence application form on the FIA or FSC webpages (you may wish to seek legal advice to support this process);
- 4) Provide a clear description of the payment chain and all the parties involved;
- 5) Ensure that all relevant information and supporting evidence is included with the application;
- 6) Apply for the licence as early in advance as possible. It may take several weeks to process an application, particularly during times where the demand is high;
- 7) Be available to fully engage with the Governor's Office regarding your application; and
- 8) Where applicable, ensure that your bank is aware of any potential transactions.

167. Knowingly or recklessly providing false or misleading information in any licence application is taken very seriously. Doing so may result in a criminal prosecution. Any licence granted based on false or misleading information will be void from the date it was granted.

Licensing Procedures

Issuing a Licence

- 168.** You should not engage in any activities prohibited by financial sanctions until you have received an appropriate licence.
- 169.** Upon receipt of the completed application you will receive an acknowledgement from the SU. The SU will then review the application to determine whether it includes all necessary information. If the SU is satisfied that the application meets requirements under the applicable OIC, a recommendation will be made to the Governor and a draft of the licence will be prepared, in consultation with the applicant.
- 170.** Although the Governor is the licensing authority in the VI, the Governor may issue a financial sanctions licence only with consent of the UK Secretary of State.
- 171.** The Governor may also need to notify, or in some cases seek approval from the relevant United Nations Sanctions Committee, via the FCDO, before issuing a licence. As noted above, this process may affect the timeline for the issuance of the licence.
- 172.** On the grant, variation or revocation of a licence, the SU will give written notice to the person, category of persons or entity to whom the licence applies. In cases involving a general licence or licence granted to a category of persons, the SU shall take such steps as deemed appropriate to publish the grant, variation or revocation of the licence.

⁵⁹ OFSI Financial sanctions – General guidance for financial sanctions under the SAMLA page 34

Amending a Licence

173. Where an individual or institution wishes to make an amendment, variation or extension to a licence, they must contact the SU for approval as soon as it is apparent that a change is required, and provide the relevant, full and supporting information for the request. This also requires the consent of the Secretary of State.
174. Where multiple amendments need to be made to a single licence, these should be grouped together into a single request.
175. Last-minute amendment(s), variations or extensions may not necessarily be authorised within the requested timeframe.
176. The Governor cannot extend a licence that has expired. Any applicant holding an expired licence will have to apply for a replacement licence. In this regard, as with any new application, the Governor will require full supporting information and a rationale for each proposed payment. All licence holders are responsible for identifying any amendments to a licence that may be required and accordingly submit the relevant application or amendment request.
177. **Licence Holders must not carry out any action(s) which are not authorised by a valid licence.** For example, if a licence has expired or a cap has been reached on permitted spending, further performance of the prohibited activity may not be lawful.
178. Any such actions will be considered a breach of financial sanctions and may result in a criminal prosecution or monetary penalty.

Refusal of a Licence

179. If the Governor refuses to issue a licence, the proposed transaction or activities may not be lawful. Where the Governor has refused to issue a licence, the reason(s) for such refusal will be provided to the applicant in writing.
180. If the Secretary of State refuses to consent to the issuance of a licence, the proposed transaction or activities may not be lawful. Where the Secretary of State has refused to issue a licence, the reason(s) for such refusal will be provided to the applicant in writing.
181. Where a licence has been refused, an applicant seeking the licence has the following options:
- request that the Governor or Secretary of State review the decision;
 - re-apply with new or additional supporting evidence;
 - re-apply under a different ground (where applicable);
 - seek judicial review of the decision; or
 - seek further legal advice.

Complying with a Licence

182. Any conduct outside the terms of the licence (i.e. the use of a different payment route, or payments in excess of the approved payment cap, etc.) is a breach of financial sanctions and is a criminal offence.

Reporting under a Licence

- 183.** A licence issued by the Governor contains a requirement to comply with any notification provisions (i.e. reporting conditions, restrictions, etc.) within a prescribed timeframe. Failure to comply with reporting conditions on a licence is a criminal offence and may result in revocation, suspension, termination or further restriction being added to the licence.

Existing licences issued under previous regimes

- 184.** Any specific licence issued by the Governor under an OIC that was in effect immediately prior to the coming into force of the UK Regulations made under SAMLA will continue to have effect as if it had been issued by way of Regulations under SAMLA. Such an existing licence will be treated as if it had been issued under the relevant OIC. In this regard, an existing licence issued by the Governor will continue to remain valid, until it expires or is suspended or revoked by the Governor.

Travel to the Virgin Islands

- 185.** It is expected that all designated persons who are not subject to a travel ban and who are planning to visit the VI will apply for an appropriate licence from the Governor authorising any proposed use of funds or economic resources in order to support themselves while in the country.
- 186.** If a visa application is also required, the licence application should include a request for permission to pay any visa application fees. The granting of a licence does not guarantee that the person will be granted a visa.
- 187.** The requirement to obtain a licence before travelling may also apply to non-designated persons visiting the VI who are funded, in whole or in part, by a designated person.
- 188.** All designated person(s), or persons funded in whole or in part by a designated person, must hold a valid licence for the duration of their stay to allow the use of or access to funds or economic resources, while in the VI.
- 189.** If no valid licence is held, such person(s) may be in breach of sanctions regulations, which may result in carinal prosecution.

8. COMPLIANCE AND ENFORCEMENT

- 190.** The VI's Sanctions regime provides for and enables the relevant authorities to take the necessary action (among others) to freeze the funds of designated persons and entities. Failure to comply with restrictions and prohibitions in relation to sanctions imposed under the Statutory Instruments (as extended to VI and modified by relevant OICs) applicable to the VI and CTA and PFPA constitutes an offence which may result in the imposition of penalties or imprisonment when a conviction is secured.

- 191.** In the VI, the Governor has overarching responsibility for the enforcement of SAMLA and OICs and to ensure compliance by relevant entities.
- 192.** As supervisory authorities, the FIA and the FSC are responsible for monitoring the compliance of relevant institutions, businesses, and professions under their supervision to ensure that they meet the requirements under the AMLTFCOP⁶⁰ and any other relevant applicable legislation. In this regard, such entities are required to have an effective system of internal controls which provides appropriate policies, processes and procedures to ensure compliance with sanctions obligations and which forestall and prevent risks associated with ML, TF and PF under the targeted financial sanctions regime.
- 193.** Section 1A of the PCCA and section 4 the FIA Act 2003, as amended, requires the FIA to monitor compliance with anti-terrorism financing and anti-proliferation financing regulations. Pursuant to section 38(2) of the PFFPA, the FIA also has responsibility for giving directions where actions are to be taken in respect of TFS relating to PF.
- 194.** The PCCA also gives the FSC and the FIA the power to impose administrative penalties for non-compliance of the provisions of the AMLTFCOP including breach of targeted financial sanctions, and/or failure to submit a report in the proper form.

Approach to Financial Sanctions Compliance

- 195.** The approach used by the FSC and the FIA in addressing financial sanctions compliance determines how breaches are assessed. Such approach covers the whole lifecycle of compliance in respect of financial sanctions.
- 196.** The FSC and FIA endeavor to take a holistic approach to support those seeking to comply with the Territory's financial sanctions regime and to raise the level of financial compliance awareness. This is effected by way of:
- promoting compliance, publicising financial sanctions, and engaging with the private sector;
 - enabling compliance by making it easier to comply, and providing customers with guidance and alerts to help them fulfil their own compliance responsibilities; and
 - responding to non-compliance, by intervening to disrupt attempted breaches and by tackling breaches effectively.
- 197.** Such actions are taken to change behaviour, directly preventing future non-compliance by the individual and more widely through the impact of compliance and enforcement actions.
- 198.** While a decision to pursue a criminal prosecution for breaches of financial sanctions ultimately rests with the FCU and the ODPP, the FIA and FSC will consider the following when initially considering the course of action to take:
- whether the breach was self-disclosed fully and promptly;
 - the level of cooperation with any inquiries; and
 - any action being taken to improve future compliance.

⁶⁰ Anti-Money Laundering and Terrorist Financing Code of Practice

199. It is important to ensure that sanctions breaches are reported in a timely manner in order to assist the GO, SU, FIA, FSC and FCU in preventing further breaches, and protecting the integrity of the sanctions regime, as well as assisting law enforcement in tackling serious crime.

Reporting a Suspected Breach of Financial Sanctions

200. Reporting obligations are provided in **Chapter 6** of these Guidelines under “*Your Reporting Responsibilities*”. Where you know or have reasonable cause to suspect that a breach has occurred, this must be reported to the SU as soon as practicable.
201. The CRF is also available to report suspected breaches to the SU and may be found on the following websites:

<https://www.fiabvi.vg/International-Sanctions/Guidance-and-Forms>
<https://www.bvifsc.vg/international-sanctions/about-sanctions>

Offences

202. The offences related to sanctions breaches will depend on the particular SIs as extended to VI and modified by the OICs and relevant sanctions legislation, the CTA and PFPFA. While this list is not exhaustive, such offences may include:
- making funds or economic resources available to a designated person or entity (except where an exemption applies or under licence);
 - dealing with funds or economic resources that must be frozen (except where an exemption applies or under licence);
 - failing to comply with reporting obligations;
 - activities that circumvent an asset freeze; and
 - breaches of licensing conditions.

Penalties for Breaches of Financial Sanctions

203. Breaches of financial sanctions are considered to be a serious criminal offence. Under the OIC, breaches of UN/UK financial sanctions carry a maximum penalty of up to seven years imprisonment on indictment and on summary conviction to imprisonment for a term not exceeding six months or a maximum fine of UK £5,000 or its equivalent in US Dollars⁶¹.
204. Under s. 27(4) of the PCCA, a person who contravenes a provision under the AMLTFCOP commits an offence and is liable on summary conviction to a fine not exceeding USD \$200,000 or a term of imprisonment of three years or both. Additionally, the FSC and FIA also have the power to impose administrative penalties not exceeding USD \$150,000 per breach for non-compliance with the provisions of the AMLTFCOP on those entities under their respective supervisory remit⁶².
205. Schedule 4 of the AMLTFCOP provides a list of offences and corresponding administrative penalties. For example, where an entity or individual fails to make a report where there has been a breach of targeted financial sanctions, or fails to submit a report in the proper form, the penalty

⁶¹ These penalties are also applicable under the Policing and Crime Act (Financial Sanctions) (Overseas Territories) Order, 2017

⁶² Section 27(7) of the Proceeds of Criminal Conduct (Amendment) Act, Revised Edition, January 2020.

imposed may be up to USD\$60,000⁶³. Further, where an individual⁶⁴ fails to comply with reporting requirements or fails to report a SAR/STR, such an offence attracts a penalty of up to USD\$80,000⁶⁵.

- 206.** Under section 47 of the PFPA, the FIA also has the power to impose civil penalties (not exceeding \$100,000) or such amount as it considers appropriate on a person who fails to comply with directions and reporting obligations and authorisations. In addition, under Schedule 3 of the PFPA, a fine of up to \$100,000 may be imposed for failure to immediately comply with a requirement imposed by direction issued by the Governor⁶⁶.
- 207.** The FSC also has the power to impose administrative penalties to licensees for breaches of the AMLTFCOP. By way of example, a licensee that fails to carry out customer due diligence and record keeping measures⁶⁷, or fails to establish and maintain a written and effective system of internal controls to forestall and prevent ML, TF and PF⁶⁸ may receive a penalty of up to \$100,000 (for a corporate body) or \$80,000 (for an individual).
- 208.** Other breaches under the CTA can attract imprisonment of up to 7 years and/or fines of up to \$250,000⁶⁹.

9. Designations

- 209.** The Governor of the VI is the competent authority with responsibility for proposing persons or entities for designations under existing sanctions regimes (where applicable), including the UN imposed financial sanctions, UK's domestic sanctions regime and VI's domestic sanctions regime.

UN Designations

- 210.** While the Governor of the Virgin Islands can identify or propose designations under UNSCR 1267, 1989 etc., as an OT, the VI is reliant upon the UK to make any proposals to the relevant UN Sanctions Committee.
- 211.** Upon receipt of the Designation Impact Assessment ("DIA"), which is the form to be utilized when proposing a target for financial sanctions designation, the Governor will share with AGC for consideration. The designations are then proposed by the Governor to the FCDO through the UK Mission to the relevant Sanctions Committees in accordance with their respective guidelines.
- 212.** If designation is agreed and added to the UN sanctions, VI authorities will follow the timely notification process set out above.

⁶³ Sections 55 (1) and (2) of Schedule 4 of the AMLTFCOP

⁶⁴ An individual includes a DNFBP or an NPO under the supervisory remit of the FIA

⁶⁵ Sections 18 (1) of Schedule 4 of the AMLTFCOP

⁶⁶ Section 61(4) of Schedule 3 of the PFPA

⁶⁷ Sections 4A (3), (5), (6) and (8) of Schedule 4 of the AMLTFCOP

⁶⁸ Section 11 of Schedule 4 the AMLTFCOP

⁶⁹ Schedule 4 of CTA for details on offences

Domestic designations – UNSCR 1373

213. In relation to national designations, the Governor is the competent authority for making final designations under the regulations as extended to VI and modified by the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020⁷⁰. The Governor must consult with the Secretary of State, however, prior to making a final designation.
214. The Governor may make a final designation where it is reasonable to suspect that a person is an “**involved person**” as defined under regulation 6(2) of the Counter-Terrorism (Sanctions) (EU Exit) Regulations, 2019. However, prior to making a final designation, the Governor will, in practice, seek advice from AGC for immediate consideration.
215. Under regulation 6(2) of the Counter-Terrorism (Sanctions) (EU Exit) Regulations, 2019, an “**involved person**” means a person who:
- (a) is or has been involved in terrorist activity;
 - (b) is owned or controlled directly or indirectly (within the meaning of Regulation 7) by a person who is or has been so involved;
 - (c) is acting on behalf of or at the direction of a person who is or has been so involved; or
 - (d) is a member of, or associated with, a person who is or has been so involved.
216. Pursuant to regulation 6(3) the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019, involvement in terrorist activity includes:-
- (a) being responsible for, engaging in or providing support for, the commission, preparation or instigation of acts of terrorism;
 - (b) providing financial services, or making available funds or economic resources, for the purposes of terrorism;
 - (c) facilitating, promoting or encouraging terrorism;
 - (d) providing or receiving training for the purposes of terrorism;
 - (e) travelling or attempting to travel from or into the relevant Territory for the purposes of terrorism;
 - (f) carrying out recruitment activities for a person involved in terrorism;
 - (g) being responsible for, engaging in, being complicit in, providing support for, or promoting, the abduction, enslavement, forced marriage or rape of, or sexual violence against, persons outside the relevant Territory on behalf of, or in the name of, a person who is involved in terrorism;
 - (h) supporting or assisting any person who is known or believed by the person concerned to be involved in any activity mentioned in sub-paragraphs (a) to (g); or
 - (i) being involved in assisting the contravention or circumvention of any relevant provision.

The Counter-Terrorism Act, 2021

217. After consultation with the UK Secretary of State, the Governor as the competent authority may make interim and final designations under Part IV, sections 38, 40 or Part VI of the CTA. The circumstances under which the Governor may make a final designation are also provided in sections 38, 40 or Part VI of the CTA.

⁷⁰ Articles 4 through 7 of The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020

218. Any person that wishes to propose a person/entity for designation, shall submit their proposal and supporting information to the Sanctions Coordinator of the SU. The SU will thereafter initiate the relevant processes to review the request to designate.
219. Once a sufficient case is found to recommend the designation of the person/entity to the Governor, the Sanctions Coordinator will send the DIA and supporting documentation to the Governor for determination.
220. The Governor shall make a determination on the recommendation within 4 days of receipt from the SU on whether to send the recommendation forward to the UK Secretary of State.

Notification of Domestic Designation

221. Where the statutory test is met and the Governor designates an individual or entity, their name(s) will be posted to the “Virgin Islands Consolidated List of Domestic Designated Persons” on the FIA and FSC sanctions webpages. The target and supervisory authorities are notified in the manner prescribed previously in Chapter 4 under “Financial Sanctions Notices Updates”. The VI Official Gazette will also be instructed to issue a publication of Financial Sanctions Notices Updates.

Request for Designation by Another Country

222. The process for domestic designation can also be used by the Governor to make designations at the request of other countries, provided that the statutory test in the relevant OIC is met.
223. For example, pursuant to the modifications of the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 by the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, the Governor may make a final designation where it is reasonable to suspect that a person is an “*involved person*” as defined in Regulation 6(2)⁷¹.
224. Designation is not automatic upon receipt of a request. When a target for proposal has been identified, the requesting country would have to provide the reasons for proposing financial sanctions against the person/entity by completing a DIA Form⁷². This will record the reasons for the proposed designation and the relevant substantiating evidence to support the designation. The completed DIA Form should be sent to the SU, where it will be vetted to ensure it is complete and provides the necessary information for the Governor to progress the request.
225. Requesting countries are strongly advised to provide as much **open-source information** as possible when completing the DIA form. Applicants should consider the relevant legislation in its entirety when making an application to ensure the statutory test under the provisions of the relevant OIC are met.
226. The Governor’s Office will liaise with the FCDO as needed during this process. The FCDO Sanctions Directorate will assess the DIA information from both a legal and policy standpoint in deciding whether the proposed measures should be pursued.

⁷¹ The Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019

⁷² The Designation Impact Assessment Form may be found in Appendix III of these Guidelines and separately on the FSC and FIA websites in fillable format.

10. DELISTING

Delisting and Challenging Designations

- 227.** Delisting is the process by which the name of a designated person or entity is removed from the sanctions list. Delisting is appropriate in circumstances where the criteria for the listing of a person or entity are no longer met. It may also be appropriate where there is evidence of a mistaken listing, subsequent changes in the facts, and emergence of further evidence, death of a listed person or the liquidation of a listed entity.
- 228.** A designated person/entity or a third party⁷³ can make a delisting request with the relevant supporting information⁷⁴. The financial sanctions remain in place while the challenge or request is being considered.
- 229.** When a decision is reached that supports the case for removing an individual or entity from a UN, UK or domestic listing, that entity or individual is removed from the relevant sanctions list⁷⁵. The process for removing the name of an individual or entity which has been designated, is set out under the below sub-heading titled “How to Make a Delisting Request”.

How to Make a Delisting Request

UN Listings

- 230.** Under section 25 of SAMLA, persons subject to designation have the right to request that the UK Government use its best endeavours to secure their removal from the relevant UN list.
- 231.** To challenge a UN Listing, a person/entity⁷⁶ inscribed on the sanctions list of one of the Security Council sanctions committees, or a person acting on their behalf can submit delisting requests either through the Governor, who would then forward the request to FCDO Sanctions Directorate, or directly through one of the applicable UN delisting agencies (the Office of the Ombudsperson or the UN Focal Point). This may include designations pursuant to UNSCRs 1267/1988, 1989, 1718, 2231 and 2368; and designations pursuant to UNSCR 1373. Delisting requests to the Governor should be copied to the FIA.

⁷³ The Governor may also propose a delisting of his own accord, where appropriate. The same process would be followed as set out under ‘How to make a Delisting Request’

⁷⁴ The Governor may also propose a delisting where appropriate. The same process would be followed as set out under “How to Make a Delisting Request”.

⁷⁵ UK and UN sanctions will be reflected on the OFSI consolidated list and where the Governor has revoked a VI designation listing this change would be reflected on the FSC and FIA sanctions webpages under the “Virgin Islands Domestic Consolidated List of Designated Persons”, with notification in the manner previously prescribed under “Financial Sanctions Notices Updates” (see **Chapter 4**).

⁷⁶ This includes a “relevant” person or entity which is defined as : a) Any person in the Virgin Islands b) Any person elsewhere who is a British citizen, a British Overseas Territories citizen, a British subject, a British National (Overseas) or a British protected person who is ordinarily resident in the Virgin Islands and c) A body incorporated or constituted under the laws of the Virgin Islands d) any person on board a ship or aircraft that is registered in the Territory.

232. Through the FCDO, the Governor, may propose to the relevant UNSC Committee, that a person/entity be de-listed from the sanctions list maintained by that UNSC Committee where the Governor is of the view that the person/entity no longer meets the criteria for designation⁷⁷. The Governor may also establish procedures for delisting and unfreezing of the funds and other resources of a person/entity who no longer meets the criteria for designation⁷⁸. The Financial sanctions listing will continue to remain in place while the request is being considered.

233. The following contact details should be utilised to petition the Governor:

Address: Virgin Islands Sanctions Unit
Attorney General's Chambers
TTT Buildings, Wickhams Cay I,
Road Town, Tortola,
British Virgin Islands

General Enquiries: 1-284-468-2960

E-mail: sanctions@gov.vg

234. Alternatively, requests which seek to challenge or remove a designation from a UN listing under the ISIL (Da'esh) & Al-Qaida Sanctions List can be made directly by submitting a delisting petition to the UN Office of the Ombudsperson to the ISIL (Da'esh) & Al-Qaida (1267/1989/2253/2368) Sanctions Committee⁷⁹. The contact details for the Office of the Ombudsperson are as follows:

Office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee
Room DC2-2206
United Nations
New York, NY 10017
United States of America
Tel: +1 212 963 8226
E-mail: ombudsperson@un.org

235. Information about the Office of the Ombudsperson and the particulars for delisting procedures may be found on the UN's website:

<https://www.un.org/sc/suborg/en/node/189>

236. With the exception of the sanctions issued under ISIL (Da'esh) & Al-Qaida (1267/1989/2253/2368) Sanctions List and with respect to all other UN listings, a request may be sent to the **UN Focal Point for Delisting** as follows:

Address: Focal Point for De-listing
Security Council Subsidiary Organs Branch

⁷⁷ Section 11(1)(b) of the CTA, 2021

⁷⁸ Section 11(5)(a)(b) of the CTA, 2021

⁷⁹ "Procedures for Delisting" – UN Security Council Subsidiary Organs – Security Council Committee Pursuant to Resolutions (1267(1999)1989 (2011) and 2253 (2015) Concerning ISIL (Da'esh) & Al-Qaida and Associated Individual Groups, Undertakings and Entities - https://www.un.org/sc/suborg/en/sanctions/1267/faq_sanctions_list/procedures-for-delisting

Room DC2 0853B
 United Nations
 New York, N.Y. 10017
 United States of America
 Telephone: +1 917 367 9448
 Fax: +1 212 963 1300
 Email: delisting@un.org

237. More information about the focal point is available on the UN’s website as follows:

<https://www.un.org/sc/suborg/en/sanctions/delisting>

UK Listings⁸⁰

238. In order to challenge a listing under the UK domestic regimes, section 23 of SAMLA provides, that a designated person (other than a person designated under a UN list), has the right to request a revocation or variation of the designation.

239. If a person or entity is designated under the Sanctions and Anti-Money Laundering Act, 2018 and wish to request the review of the designation or the removal of name from the listing, the GOV.UK website provides guidance and relevant forms for completion on the following link:

<https://www.gov.uk/government/publications/making-a-sanctions-challenge-how-to-seek-variation-or-revocation-of-a-sanctions-designation/making-a-sanctions-challenge-how-to-seek-a-variation-or-revocation-of-a-sanctions-designation>.

240. Completed forms should be sent to the SU at the email address listed in foregoing paragraphs.

The Virgin Islands Listings under UNSCR 1373

241. To delist a Virgin Islands designation made under UNSCR 1373, a designated person or entity or third party should submit a petition for delisting to the SU. The Governor can recommend and revoke a designation, where he has the relevant information to do so, in consultation with the UK Secretary of State.

242. Where the Governor and the UK Secretary of State are in agreement with the petition, the Governor will revoke a final designation pursuant to the regulations as extended to VI and modified by the Counter-Terrorism (Sanctions) (Overseas Territories) Order, 2020 or Part VI, section 55 of the CTA and inform the former designee.

243. The revocation of a Virgin Islands designation listing would be posted in the “Virgin Islands Domestic Consolidated List of Designated Persons” on the FIA and FSC financial sanctions webpages. In addition, the FIA and FSC as supervisory authorities will inform their respective supervised entities of delisting updates and send targeted information to supervised entities known or suspected to be holding targeted funds and assets of delisted persons/entities. Please refer to “Notification of domestic designation” above.

⁸⁰ Office of Financial Sanctions Implementations – Financial Sanctions Guidelines- “Challenging Designations” UK Listings page 36

244. To challenge a designation pursuant to UNSCR 1373, a designated person may appeal any such decision to the VI Supreme Court.

False Positives

245. A “false positive” occurs where:

- the potential match to a listed person or entity, either due to the common nature of the name or due to vague identifying data, has been determined to *not* be a match after a thorough investigation;
- Where (for e.g.) a person or entity is wrongfully subject to sanctions measures (such as an asset freeze), and they assert that they are not the intended target.

246. Even with the use of sanctions screening and filtering software, false positives can present challenges when determining whether or not a person/entity is a match from the designated Sanctions List. Circumstances do occur where a person/entity that was not the intended target of sanction measures has had their accounts frozen due to false positive matches.

247. A person or entity that has had their funds or economic resources frozen because they have been inadvertently targeted, should⁸¹:

- contact the relevant firm, business or profession where the assets have been frozen and request an explanation, including clarification for why the person/entity is believed to be a target match on the Consolidated Sanctions List; and
- provide to the relevant firm, business or profession, documentation which evidences the identity of the person/entity and a detailed explanation which sets out precisely why they are not the person/entity designated on the consolidated sanctions list.

248. Where this issue of whether or not the person/entity is in fact the designated person/entity, cannot be resolved, then the FIA should be informed.

The Role of the FIA

249. Under the delegated authority issued by the Governor, the FIA will examine the evidence provided and the relevant circumstances surrounding the issue to determine the way forward. The possible scenarios and respective outcomes are as follows:

- where the FIA has determined that the person/entity concerned *is not* the designated person/entity from the sanctions list, they will inform the relevant institution and person/entity of their findings. The relevant institution should take the steps necessary to unfreeze the funds or economic resources of the person/entity and thereafter inform the FIA of the action undertaken;

⁸¹ It is important to note that the burden of proof concerning the determination of “false positives” is on the person or entity.

- where the FIA has determined that the person/entity concerned *is* the designated person/entity from the sanctions list, they will inform the relevant institution and person/entity of their findings and the asset freeze will remain in effect;
- where the FIA is unable to make a determination as to whether the person/entity concerned correctly matches the designated person/entity from the sanctions list, they will inform the SU of the circumstances and indeterminate findings with respect to the person/entity. If the claim is found to have merit, the SU will liaise with the FCDO to request an authoritative finding in relation to the identity of the person/entity. Upon receipt of a response from the SU, the FIA will inform the relevant institution and person/entity of the results.

Unfreezing Assets for Delisted Persons/Entities

250. The obligation to freeze funds or assets no longer exist in circumstances where:

- the Sanctions Committee for UNSCRs 1267/1988, 1989, 1718 and the Security Council pursuant to UNSCR 2231 have taken the decision to delist any individual/entity pursuant to UNSCR 1373;
- the Minister considers that the required conditions are not met in respect of a relevant designation, and has taken the decision to revoke the designation⁸².

251. In this regard, where an OFSI Financial Sanctions Notice has been issued, which confirms that a person/entity has been removed from the Consolidated List, then the following measures must be undertaken by the relevant institution:

- a) determine whether any of the assets held on account are the assets of any person/entity who has been removed from the Consolidated List and ensure that they are no longer subject to an asset freeze;
- b) *remove* the name of the person/entity from the institution's list of persons/entities subject to financial sanction;
- c) *unfreeze* the assets of the person/entity (as applicable) and re-activate all relevant accounts;
- d) *notify* the person/entity that the assets are no longer subject to an asset freeze; and
- e) *immediately* notify the FIA and the FSC of the actions which have been undertaken upon completion.

11. National AML/CFT Governance

252. The Territory's AML/CFT framework includes several coordinating and domestic advisory bodies whose mandates vary, but which all play an important role in the Territory's AML/CFT architecture. Collectively, these bodies are very important policy development institutions in the

⁸² Section 22 (1)(2)(3) of the Sanctions and Anti-Money Laundering Act, 2018.

Territory's efforts in reviewing and reforming its AML/CFT policies and activities, including those relative to sanctions, in order to provide appropriate responses to ML/TF risks.

National AML/CFT Coordinating Council (NAMLCC)

- 253.** The National Anti-Money Laundering and Countering the Financing of Terrorism Coordinating Council (“NAMLCC”) was approved by the Cabinet of the VI in 2016 and enshrined into law in 2021 pursuant to s.26B of the PCCA. NAMLCC serves as the Territory's national coordinating body on AML/CFT/CPF issues in accordance with Recommendation 2 of the FATF recommendations, in addition to providing policy guidance on all AML/CFT/CPF issues relating to or affecting the Territory. NAMLCC is a high-level institution chaired by the Premier of the Virgin Islands which ensures the highest political commitment to the implementation process and the remediation of vulnerabilities and weaknesses found as a consequence. It is responsible for driving the national AML/CFT/CPF architecture by developing and coordinating strategies to ensure that the Virgin Islands responds to money laundering and terrorist financing threats and other issues in an effective manner and ensuring compliance with all relevant standards.
- 254.** The overall structure of the NAMLCC consist of other bodies whose work feeds into the Coordinating Council. These bodies include:

Joint Anti-Money Laundering and Terrorist Financing Advisory Committee

- 255.** The Joint Anti-Money Laundering and Terrorist Financing Advisory Committee (“JALTFAC”) is a statutory body established under section 27A of the Proceeds of Criminal Conduct Act (“PCCA”) and has responsibility for advising the FSC on “*initiatives for the prevention and detection of money laundering and terrorist financing*”.⁸³ The FSC is required to encourage dialogue with the private sector with a view to establishing a broad-based understanding and awareness of issues concerning ML/TF as well as promoting the exchange of information on ML/TF matters.⁸⁴ Subject to subsection 4 of section 27A, the Managing Director of the FSC serves as a member and Chairman of JALTFAC.
- 256.** JALTFAC Members are selected from both the private and public sectors. Membership is by individual appointment and members are selected according to their qualifications and involvement in key financial services sectors, and key government departments with a nexus to money laundering and terrorist financing. Private sector membership of JALTFAC comprises representation from the Mutual Funds Sector, Legal Practitioners Sector, Trust and Corporate Services Sector/ Registered Agents Sector,⁸⁵ Accountants Sector, Banking Sector and the Insurance Sector. Public sector membership of JALTFAC comprises representation from, the Royal Virgin Islands Police Force, the Attorney General's Chambers, the Financial Investigation Agency, Her Majesty's Customs, The BVI Post Office, the Ministry of Finance and the Financial Services Commission⁸⁶.
- 257.** In order to discharge its functions, JALTFAC is required to meet to discuss pertinent AML/CFT/CPF issues, especially current and emerging international developments and, with its

⁸³ See section 27A (1) of the PCCA.

⁸⁴ Section 51 of the AMLTFCOP.

⁸⁵ According to the licensee type issued, only certain Trust and Corporate Services Sectors are permitted to conduct Registered Agent Services.

⁸⁶ JALTFAC Annual Report, 2017.

mixed composition of public and private sector representatives, it is a key institution in the Territory’s overall AML/CFT/CPF strategy for effectively combating ML/TF/PF.

Inter-Governmental Committee (IGC) on AML/CFT Matters

258. The Inter-Governmental Committee (“IGC”) is established pursuant to the powers granted to the FSC and FIA under the AMLTFCOP⁸⁷ and serves as a mechanism for “creating, enhancing and promoting public awareness of issues relating to money laundering and terrorist financing” and fostering cooperation between key public bodies involved in the fight against, or that have some nexus to, ML/TF/PF activities, through a system of dialogue and the sharing of information amongst its members. This system of dialogue includes the promotion of cooperation and information exchange between agencies in order to detect and prevent ML/TF/PF; the rendering of necessary assistance to each other in respect of each other’s law enforcement or regulatory functions; and the promotion of cooperation with foreign regulatory, administrative and law enforcement officials in relation to any ML, TF or TF matter⁸⁸.

The Council of Competent Authorities

259. The Council of Competent Authorities (“CCA”) was established by Cabinet in March 2017 and enshrined into law pursuant to ss.10A, 10B and 10C of the Criminal Justice (International Cooperation) Act in 2021. It is comprised of the Heads of the Territory’s five Competent Authorities (CAs), namely the AGC; the FIA, the FSC; the International Tax Authority (“ITA”) and the GO. Each CA has a statutory responsibility for ensuring cooperation in specific areas – the AGC and FIA on law enforcement issues, the FIA and the FSC on regulatory and supervisory issues and the ITA on tax matters, and the GO on sanctions and extradition matters.

260. The role of the CCA is to facilitate coordination between the Territory’s CAs relative to the execution of domestic and international cooperation matters and other relevant AML/CFT/CPF issues relating to or affecting the Territory, including but not limited to:

- (i) The development of policies and guidelines to advise the Cabinet on current and emerging developments on international cooperation matters, including making recommendations for necessary reforms;
- (ii) The coordination of domestic and international cooperation matters and other relevant AML/CFT issues which relate to or affect the Territory;
- (iii) Acting as a sanctions coordinating body;
- (iv) Ensuring that all stakeholders are aware of their inter-agency obligations as well as international cooperation matters and other relevant AML/CFT issues which relate to or affect the Territory;
- (v) Taking steps to ensure that financial institutions and relevant entities in the VI are compliant with AML/CFT measures established locally, regionally and internationally.

261. More specifically, the Sanctions Committee, a sub-committee of the CCA functions to assist with the coordination of the effective implementation and enforcement of international and domestic sanctions matters.

⁸⁷ See section 50 (1) of the AMLTFCOP.

⁸⁸ Section 50 (2) of the AMLTFCOP.

The Committee of Law Enforcement Agencies

262. The Committee of Law Enforcement Agencies (“CLEA”) was established by Cabinet in March 2017. It comprises the Heads of the Territory’s law enforcement agencies, namely, the FIA, the Royal Virgin Islands Police Force (“RVIPF”), the Office of the Director of Public Prosecutions (“ODPP”), His Majesty’s Customs (“HMC”) and the Department of Immigration.
263. The CLEA was established to ensure greater coordination and collaboration in the fight against money laundering, terrorist financing and other organized crime through intelligence sharing the joint pursuit and apprehension of criminals and the disruption of criminal activity. Its establishment is an important measure in avoiding loopholes in the fight against ML, TF and PF.

Financial Crimes Unit (Royal Virgin Islands Police Force)

264. The Financial Crimes Unit (“FCU”) is the unit within the RVIPF with responsibility for investigating all financial crimes with links to the Territory. This includes money laundering investigations, terrorist financing investigations and breaches of financial sanctions associated with terrorist financing and proliferation financing. The FCU also conducts parallel investigations with other units of the RVIPF, FIA, Interpol and other regional and international law enforcement authorities, as it relates to financial offences that may occur in or from within the Territory. In addition, it coordinates intelligence sharing with the FIA with respect to certain investigations.

12. GLOSSARY - DEFINITIONS

“**Asset Freeze**” is a type of financial sanction. Under an asset freeze it is generally prohibited to:

- Deal with frozen funds or economic resources, belonging to or owned, held or controlled by a designated person;
- Make funds or economic resources available, directly or indirectly, to, or for the benefit of a designated person;
- Engage in actions that directly or indirectly circumvent the financial sanctions prohibitions

“**Authorised officer**” means, in relation to the Territory—

- (i) a police or customs officer of that Territory,
- (ii) an investigating officer of the Financial Investigation Agency,
- (iii) a person or agency authorised by the Governor for the purposes of exercising any power conferred under any Order, whether generally or in a particular case, or
- (iv) any person acting under the authority of a person falling within sub-paragraph (i) to (iii);

“**Consolidated List**” A list that is comprised of all asset freeze targets listed under the UK autonomous financial sanctions legislation and UN Sanctions. Individuals or entities listed are known as *designated persons*.

“Designated Person(s)”

- (i) A natural or legal person, group or entity subject to specific UN or UK financial sanctions, restrictive measures, ban or embargo directed against certain persons and entities with a view to combating terrorism;
- (ii) In reference to ISIL (Da’esh) & Al-Qaida Sanctions Regimes refers to individuals, groups, undertakings and entities as designated by the Committee of the Security Council established pursuant to UNSCR 1267 (1999) and 1989 (2011) as being individuals associated with Al-Qaida, or entities and other groups or undertakings associated with Al-Qaida;
- (iii) Individuals, groups, undertakings and entities as designated by the Committee of the Security Council established pursuant to UNSCR 1988 (2011) as being Taliban, as well as other individuals, groups, undertakings and entities as being associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan;
- (iv) refers to any natural or legal person or entity designated by countries or supra-national jurisdiction pursuant to UNSCR 1373(2001)
- (v) refers to any individual, natural or legal person or entity designated for the application of targeted financial sanctions pursuant to UNSCR 1718 (2006) (The Democratic People’s Republic of Korea -Sanctions) - or by the Security Council established pursuant to resolution 1718 (2006) and any future successor resolutions.
- (vi) refers to any natural or legal person or entity designated for the application of targeted financial sanctions pursuant to UNSCR 2231(2015) – (Iran - Ballistic missile-related transfers and activities) and any future successor resolutions by the UN Securities Council.
- (vii) Refers to any individual, natural or legal person or entity designated for the application of targeted financial sanctions pursuant to the CTA and PFPA.

“Designation”

Refers to the identification of a person, individual or entity that is subject to targeted financial sanctions pursuant to:

- United Nations Security Council Resolution 1267 (1999) and its successor resolutions;
- United Nations Security Council Resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and publicly communicating that determination;
- United Nations Security Council Resolution 1718 (2006) and any future successor resolutions;
- United Nations Security Council Resolution 2231(2015) and any future successor resolutions;
- Any future Security Council Resolutions which impose targeted financial sanctions in the context of the financing of proliferation of weapons of mass destruction; and
- UK autonomous sanctions legislation

“High risk countries” means countries which

- (a) are subject to sanctions, embargos or similar restrictive measures imposed by the United Nations or other regional or international organisation of which the Virgin Islands is a member or associate member, or of which the United Kingdom is a member and the sanctions, embargos or similar measures have been extended to the Virgin Islands by an Order in Council or through the exercise of any Royal Prerogative.
- (b) satisfy any of the risk qualifications outlined in the AML/CFT Code of Practice;
- (c) the Commission identifies and provides in a list published in the *Gazette* as representing high risk countries; or
- (d) the Commission identifies in an advisory or a warning issued pursuant to the Financial Services Commission Act as having significant weaknesses in its anti-money laundering anti-terrorist financing or anti-proliferation financing systems, or as engaging in or promoting activities that are considered detrimental to public interest;

“Non-Profit Organisation”

has the meaning assigned to it under section 2 of the Non-Profit Organisation Act.

“Professional”

means a person, not otherwise functioning as a body corporate, partnership or other similar body, who engages in a relevant business within the meaning of regulation 2 (1) of the Anti-money Laundering Regulations, or engages in a business that is designated as a non-financial business by the Commission in the Non-financial Business (Designation) Notice, 2008;

“Entity”

- (a) a person that is engaged in a relevant business within the meaning of regulation 2 (1) of the Anti-money Laundering Regulations, and, for the avoidance of doubt, it includes a person that is regulated by the Financial Services Commission by virtue of any regulatory legislation provided in Part 1 of Schedule 2 of the Financial Services Commission Act, 2001;
- (b) a non-financial business designated by the Commission in the Nonfinancial Business (Designation) Notice, 2008;
- (c) A **relevant entity** may also apply to:
 - (i) Any person in the Virgin Islands;
 - (ii) Any person elsewhere who is a British citizen, a British Overseas Territories citizen, a British subject, a British National (Overseas) or a British protected person who is ordinarily resident in the Virgin Islands;
 - (iii) A body incorporated or constituted under the laws of the Virgin Islands; or
 - (iv) Any person on board a ship or aircraft that is registered in the Territory.

“regulated person” means a person who is licensed or registered to carry on a relevant business;

“relevant business” means

- (a) banking business or trust business within the meaning of the Banks and Trust Companies Act;
- (b) the business of providing category A or category B insurance business or acting as an insurance intermediary within the meaning of the Insurance Act, Revised Edition 2020;
- (c) the business of company management within the meaning of the Company Management Act;
- (d) investment business or business as a mutual fund or a private investment fund within the meaning of the Securities and Investment Business Act, 2010; (Substituted by S.I. 19/2018 and amended by S.I. 86/2019)
- (e) without prejudice to paragraphs (a) and (c), the business of acting as a trust or company service provider for the purpose of providing any of the following services to a third party—
 - (i) acting as a formation agent of legal persons;
 - (ii) acting (or arranging for another person to act) as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, partnership or any other legal person or arrangement;
 - (iv) acting (or arranging for another person to act) as a trustee, protector or administrator of a trust or settlement;
 - (v) acting (or arranging for another person to act) as a nominee shareholder for another person;
- (f) the business of providing remittance service of Telegraphic Money Order under the Post Office (Telegraph Money Order) Rules, 1934 or money order under the Post Office Rules, 1976;
- (g) financing business or money services business within the meaning of the Financing and Money Services Act, 2009; (Substituted by S.I. 19/2018)
- (h) the provision of services to clients by legal practitioners, notaries public or accountants which involve transactions concerning any of the following activities—
 - (i) buying and selling of real estate;
 - (ii) managing of client money, securities or other assets;
 - (iii) management of bank, savings or securities accounts;
 - (iv) organization of contributions for the creation, operation or management of companies; and
 - (v) creation, operation or management of legal persons or arrangements, or buying and selling of business entities;
- (i) the business of acting as a real estate agent when engaged in a transaction for a client concerning the buying and selling of real estate;
- (j) the business of dealing in precious metals or precious stones when such transaction involves accepting a cash payment of \$15,000 or more or the equivalent in any other currency;
- (k) the business of the business of gaming and betting within the meaning of the Virgin Islands Gaming and Betting Control Act, 2020, No. 14 of 2020 when a transaction involves accepting a cash payment of \$3,000 or more or the equivalent in any other currency;
- (l) carrying on the business of a cooperative society registered under the Co-operative Societies Act, Cap. 267; and

- (m) the business of carrying on or providing virtual assets service when a transaction involves virtual assets valued at \$1,000 or more.

- “relevant person”** means a person carrying on relevant business.
- “reporting entity”** For the purpose of reporting suspicious activities and transactions related to property regarding entities involved in terrorist activity under Part VII and Schedule 3 of the CTA, a reporting entity includes:
- (a) a person that is engaged in a relevant business as defined under regulation 2(1) of the Anti-Money Laundering Regulations, 2008;
- (b) a non-financial business that is designated under the Non-financial Business (Designation) Notice, 2008;
- (c) a non-profit organisation within the meaning of section 2 of the Non-Profit Organisations Act, 2012; and
- (d) any other person that is required to comply with this Act, the Proceeds of Criminal Conduct Act, the Anti-money Laundering Regulations, the Anti-Money Laundering and Terrorist Financing Code of Practice and any other code, guideline, practice direction or directive that are issued by the Financial Services Commission or the Financial Investigation Agency.
- “terrorist”** refers to a person who: –
- (a) commits or attempts to commit, a terrorist act by any means directly or indirectly, unlawfully and willfully; (b) participates as an accomplice in terrorist acts or the financing of terrorism; (c) organises or directs others to commit terrorist acts or the financing of terrorism; or (d) contributes to the commission of terrorists acts or the financing of terrorism by an individual or a group of persons acting with a common purpose where the contribution is made intentionally: – (i) with the aim of furthering the terrorist acts or the financing of terrorism; or (ii) with the knowledge of the intention of the individual or group of persons to commit the terrorist act or the financing of terrorism.
- “Terrorist act”** A terrorist act is where a person: -
- (a) with the intent to induce terror in a civilian population, compels or forces a Government or an international organisation to do or abstain from doing any act or intimidates the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause, does any act which he intends to cause, creates the likelihood of causing, or is likely to cause:
- i. loss of human life or serious bodily harm to one or more persons;
 - ii. a serious risk to the health or safety of the public or a section of the public;
 - iii. destruction of, or serious damage to, property of great value or importance, or major economic loss, or major environmental damage;
 - iv. the intentional or reckless introduction or release of a disease-bearing organism; or
 - v. prejudice to national security or serious disruption of public safety including disruption in the provision of emergency services, to any computer or electronic system or to the provision of services directly

related to banking communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure.

- (b) Threatens to commit a terrorist act;
- (c) takes any preparatory steps for the purpose of committing a terrorist act; or
- (d) coerces, encourages, entices, or incites another person to commit a terrorist or terrorist related offence.

“Terrorist financing” The financing of terrorist acts, and of terrorists and terrorist organizations.

“Without Delay” The phrase *without delay* means, ideally, *within a matter of hours* of a designation by the United Nations Security Council or its relevant Sanctions Committee (e.g. the 1267 Committee, the 1988 Committee, the 1718 Sanctions Committee or the 1737 Sanctions Committee). For the purposes of S/RES/1373(2001), The phrase *without delay* means upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organisation. In both cases, the phrase *without delay* should be interpreted in the context of the need to prevent the flight or dissipation of funds or other assets which are linked to terrorists, terrorist organisations, those who finance terrorism, and to the financing of proliferation of weapons of mass destruction, and the need for global, concerted action to interdict and disrupt their flow swiftly.

APPENDIX I



Office of the Governor

Asset freeze and trust services prohibitions licence application form

This form should be used by individuals or entities seeking a licence from the **Governor of the Virgin Islands** to allow an activity or transaction to take place that would otherwise be prohibited under asset freezing measures implemented by way of the UK Overseas Territories Orders. The Government Official Gazette website lists all of the United Nations (UN) sanctions regime-related Overseas Territories Orders in force in Virgin Islands.

This form should **not** be used for export control licence applications or other non-asset-freeze matters.

Licence applications can be legally and/or commercially complex, and in certain circumstances require clearance or prior notification internationally (e.g. UN level). There is a requirement for the Governor to seek consent from the Secretary of State prior to the issue of any licence under the Order. This is to enable the Foreign and Commonwealth Development Office to complete any approval or notification process at the international level prior to consenting to the issue of the licence by the Governor, thereby **complying with the UK's international obligations**.

The time it will take for the Secretary of State to decide on whether to consent to the licence will vary according to the international exemption procedure to be followed. Accordingly, you should apply at least four weeks before a licence is needed and preferably even further in advance if practicable. It is not for the Governor to decide on whether a licence is required. You may wish to consider taking independent legal advice before applying for a licence.

The Governor can only issue a licence where there are grounds to do so. These grounds will be set out in the relevant legislation. In each application consideration should be given to the grounds on which the licence is sought and reference should be made to the relevant licensing ground as set out in the relevant legislation. Applications which do not do so will be returned with a request that a suitable licensing ground be added.

Where referencing 'trusts' in this application form this means 'trusts or similar arrangements' and where referencing 'beneficiaries/settlors/trustees' we also mean persons who hold similar positions in similar arrangements.

Ongoing Monitoring and Reporting

Licences issued by the Governor may be unconditional or may come with conditions that require information to be reported within a specific time frame. These will likely include reporting every time a transaction is made under the licence.

A failure to comply with these reporting requirements may result in the **revocation, suspension or termination** of a licence or **further restrictions** being included in it. It may also result in a criminal prosecution or monetary penalty.

The completed form should be submitted via e-mail to: sanctions@gov.vg.

PART 1 – UNDER WHICH REGIME IS THE LICENCE IS SOUGHT

<p>The Order under which the application is made /Name of regime in respect of which a licence is sought (Russia, Libya, etc.)</p>	
<p>URGENCY Please provide any details that may help us determine the urgency of the case (e.g. deadlines, impact on your business if a licence cannot be granted by a given date).</p>	

PART 2 – DETAILS OF THE APPLICANT

<p>Date of application</p>		
<p>Name of applicant (Individual / Company Name etc.)</p>		
<p>Are you/is your company a “designated person” (that is, subject to an asset freeze), or owned or controlled by a designated person? If so, please provide details</p>	<p>YES NO</p>	
	<p>Nature of business</p>	
	<p>Address</p>	
	<p>Contact Name</p>	
	<p>Telephone number</p>	
	<p>Email address</p>	

<p>If you/your company are not a “designated person”, please indicate what your involvement is with the proposed activity for which you are seeking a licence.</p>	<p>Contact on behalf of a Designated Person</p>	
	<p>Contact and no designated person</p>	
<p>If you/ your company are not a “designated person”, please provide the details of any designated persons involved in this application.</p>		
<p>Are any persons involved in this application also a “designated person” under the Russia (Sanctions) (EU Exit) Regulations 2019 as extended to the British Virgin Islands with modifications (the ‘Modified Regulations’) by the Russia (Sanctions) (Overseas Territories) Order 2020 in relation to the prohibition on providing trust services?</p>	<p>YES</p>	<p>NO</p>
<p>Is your application for a new licence or an amendment to an existing licence? If your application is for an amendment to an existing licence, please also provide the licence number and attach a copy to your application.</p>		

PART 3 – ABOUT THE LICENCE SOUGHT

<p>Does your application relate to the provision of trust services or similar arrangements prohibited under the Russia (Sanctions) EU Exit Regulations 2019 as extended to the British Virgin Islands with modifications (the ‘Modified Regulations’) by the Russia (Sanctions) (Overseas Territories) Order 2020?</p> <p>Tick as appropriate. Where referencing 'trusts' this means 'trusts or similar arrangements' and where referencing</p>	<p>No (If no, please complete Parts 3.1, 4-7, 8)</p>	
	<p>Yes (If yes, please complete Parts 3.2, 4, 7-8)</p>	

<p>'beneficiaries/settlors/trustees' we also mean persons who hold similar positions in similar arrangements.</p>		
<p>Part 3.1 - For applications not involving trust services</p>		
<p>Licence required to release frozen funds or economic resources, or make them available, directly or indirectly, to or for the benefit of a designated person, to meet:</p> <p>PLEASE TICK WHICHEVER APPLIES</p> <p>Applicants should consider whether the derogation is (i) applicable under the regime for which they are applying and in relation to the proposed transaction(s) and (ii) applicable to UN designated persons.</p>	<p>Basic needs of the designated individual or their dependent family members</p>	
	<p>Basic needs of the designated entity</p>	
	<p>Reasonable professional fees for the provision of legal services and/or reasonable expenses associated with the provision of legal services</p>	
	<p>Reasonable fees or reasonable service charges arising from the routine holding or maintenance of frozen funds or economic resources</p>	
	<p>Extraordinary expenses of a designated person</p>	
	<p>Extraordinary situations</p>	
	<p>Humanitarian assistance activity</p>	
	<p>Diplomatic missions etc</p>	
	<p>Obligations of a designated person (whether arising under a contract, agreement or otherwise)</p>	
	<p>The implementation or satisfaction of a judicial, administrative or arbitral decision or lien</p>	
<p>Other (please specify)</p>		
<p>Have you consulted the Virgin Islands General Licences to identify whether your transaction is permitted under an existing General Licence? (Tick as appropriate).</p>	<p>Yes – there is no active General Licence applicable</p>	

	<p>Yes – there is an active General Licence which might apply/applies to part of the transaction (please also provide an explanation)</p>	
	<p>No – I have not consulted Virgin Islands active General Licences</p>	
<p>Specify the legal basis for licensing – see note 4 (i.e. the relevant Overseas Territories Order, article and paragraph).</p>		
<p>Please give the number(s) of any licence(s) already received by the applicant.</p>		
<p>Please indicate if there is a parallel licence (granted or submitted) in another jurisdiction and provide details.</p>		
<p>Part 3.2 - For applications involving the provision of trust services</p>		
<p>Licence required to provide trust services to a Designated Person or a Person Connected with Russia:</p> <p>PLEASE TICK WHICHEVER APPLIES</p> <p>Applicants should consider whether the derogation is applicable in relation to the proposed activity.</p>	Extraordinary situations	
	Humanitarian assistance activity	
	Medical goods or services	
	Food	
	Diplomatic missions etc.	
	Safety and soundness of a firm	
	Financial regulation	
	Financial stability	
	Unauthorised unit trust schemes	
<p>Specify the legal basis for licensing – see note 4 (i.e. the relevant Overseas Territories Order, article, and paragraph).</p>		

<p>Please give the number(s) of any licence(s) already received by the applicant, (if applicable)</p>	
<p>Is your application for a new licence or an amendment to an existing licence? If your application is for an amendment to an existing licence, please also provide the licence number and attach a copy to your application.</p>	

PART 4 – OVERVIEW

<p>Set out the details of the transaction(s) to be licensed or the direction to be issued and your connection to it. What is the prohibited act that the licence is for?</p>	
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PART 5 – DETAILS OF THE TRANSACTIONS(S) CONCERNED

<p>Date of Contract</p>		
<p>Date of the intended transaction(s).</p>		
<p>Description of funds, goods or services to be supplied or obtained.</p>		
<p>Are the goods or services for humanitarian purposes (e.g. delivering or facilitating the delivery of assistance, including medical supplies, food, the provision of electricity, or other humanitarian purposes)?</p>	<p>YES</p>	<p>NO</p>
<p>Value of the goods or services to be supplied or obtained.</p>		
<p>Names of the parties to the contract.</p>	<p>Seller / supplier</p>	
	<p>Buyer / customer</p>	
	<p>Agent / broker / other intermediary</p>	

Is the end user different to the contract customer?	YES	NO
Is the end user owned or controlled by a designated person?	YES	NO
Do you know or have reasonable suspicion that the funds, goods or services will be used by a designated person, or by a person acting on their behalf or at their direction, or by entities owned or controlled by them?	YES	NO
Dates of any transactions / shipments / payments already made.		
Dates of any future transactions / shipments/ payments.		

PART 6 – BANKING DETAILS (FOR LICENCES SOUGHT UNDER AN ASSET FREEZE)

Method of payment (e.g. cash, cheque, bank transfer, confirmed or unconfirmed letter of credit, or other method).		
The banks (including correspondent, intermediary and confirming banks, if applicable) through which payment will be made. Please include details such as account numbers.	Correspondent bank	
	Intermediary bank	
	Confirming or advisory bank	
Are payment instructions / funds available for this payment?	YES	NO

PART 7 – TRUST DETAILS (FOR LICENCES SOUGHT UNDER THE RUSSIA REGIME IN RELATION TO TRUST SERVICES)

Trust location and Registered Office/business address/ correspondence address/ administrative address, and which type of location applies	
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Persons operating or managing the trust. Please include their name(s) and address(es).	
The participants to the trust. (Include names, addresses and bank account details where applicable and indicate when the participant became a party to the trust).	Beneficiaries
	Trustees
	Settlers
	Protectors
	Any other relevant persons (include name(s), address(es) and an overview of how they are connected)
Type of trust.	
Purpose of the trust.	
Value and type of assets held in the trust.	
Date the trust was set up and any predetermined end dates	

PART 8 – Further details

Please provide any additional background information or explanation that would help the Virgin Islands Sanctions Unit consider your application.	
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You must provide evidence to support an application and demonstrate that all criteria of the relevant licensing ground (where applicable) have been met. Please provide below a list and an explanation of your supporting evidence.

Document name	Explanation of document/relevance to application

PART 9 – Confirmation of information

I confirm that the above information is true to the best of my knowledge and belief. I will inform the Virgin Islands Sanctions Unit if there are any changes to this information.

Signed:

Dated:

NOTES

The form comprises the following parts:

- a. **Part 1** asks for the name of the regime under which the licence is sought – this will be the regime under which sanctions otherwise apply. You should refer to any special factors effecting the urgency of your application here.
- b. **Part 2** asks for the details of the person on whose behalf the licence is sought and of a person to contact (who should be familiar with the transaction involved).
- c. **Part 3** is about the licence sought – the type of licence sought. Please note that the Governor can only issue a licence if there is a legal basis to do so. The grounds for issuing a licence are found in the UK Regulation imposing sanctions.
- d. **Parts 4 and 5** are about the transaction or activity involved. Please make it clear if a payment is a one-off or if it will be repeated. If regular or repeat payments are involved, please explain how often those payments will be made.
- e. **Part 6** is about the banking details of the transaction.
- f. **Part 7** is about a licence sought under the prohibitions against providing trust services under regulation 18C of The Russia (Sanctions) (EU Exit) Regulations 2019 as extended to the British Virgin Islands with modifications (the ‘Modified Regulations’) by the Russia (Sanctions) (Overseas Territories) Order 2020.
- g. **Part 8** provides the applicant with an opportunity to add any additional background. You should also attach and list any additional documents you are sending that will make it easier for the Virgin Islands Sanctions Unit to understand the application. For example, where a licence is sought on the basis that a contract was entered into before sanctions were imposed it is essential to provide a copy of that contract.
- h. **Part 9** requires the applicant to confirm that the information being submitted is true to the best of his/her knowledge and belief; and will inform the Virgin Islands Sanctions Unit if there have been any changes.

Attorney General’s Chambers
Virgin Islands Sanctions Unit
TTT Building, Wickhams Cay I,
Road Town, Tortola,
Virgin Islands

Email: sanctions@gov.vg

APPENDIX II

COMPLIANCE REPORTING FORM

- (a) This form should be used to report all compliance-related information to the Virgin Islands Sanctions Unit, Attorney General’s Chambers including information regarding suspected designated persons (Part B); assets you have frozen (Part C); and suspected breaches of financial sanctions (Part D).
- (b) Please note that the information you provide may be shared for the purpose of facilitating or ensuring compliance with financial sanctions regulations.
- (c) Annexes 2 and 3 to this form provide key terms and information to assist you in completing your report.
- (d) Your detailed financial sanctions reporting and compliance obligations are described in the relevant sanctions legislation, and a general overview of reporting obligations found in the Financial Sanctions Guidelines. You should consult this guidance prior to completing this form. You should note that for some businesses there is a legal obligation to report, and that not doing so is a criminal offence.
- (e) Please ensure that when you complete this form, you believe that the facts and information provided in this form are accurate and true to the best of your knowledge.
- (f) You should note that a criminal offence may be committed if you contravene any of the prohibitions in respect of the financial sanctions regime(s) detailed in part 12 below, or you intentionally participate in activities knowing that the object or effect of them is to circumvent any of those prohibitions or enables or facilitates the contravention of any of those prohibitions.
- (g) Please email completed forms, including any associated documents to:
sanctions@gov.vg with “SUSPECTED DESIGNATED PERSON”, “FROZEN ASSETS”, or “SUSPECTED BREACH” as applicable in the subject line.

If you are unsure of your compliance or reporting obligations under financial sanctions, you should seek independent legal advice.

PART A: GENERAL INFORMATION

Please complete this part of the form and indicate what you are reporting on.

1. Person submitting this report	
a. Name (Inc. title)	
b. Job title	
c. Company / organisation	
d. Type of Reporting Entity	
e. Address	
f. Contact number(s)	
g. Email address	

2. Date of Report
[DD - MM - YYYY]

3. Are you submitting this form on behalf of a third party? (Tick box) e.g. you are a law firm, agent or guardian representing someone	Yes	
	No	
If yes, please provide the third party's contact details, including their Group ID if they are a designated person.		

4. What are you reporting? (Tick all applicable)	
Suspected designated person [please complete Part B of this form]	
Frozen assets [please complete Part C of this form]	
Suspected breach [please complete Part D of this form]	

PART B: REPORTING A SUSPECTED DESIGNATED PERSON

This part should be used to report your knowledge or suspicion that an individual, business or organisation is a designated person and therefore subject to financial sanctions. Please complete a separate form for each designated person on whom you are reporting.

5. Suspected designated person (including persons owned or controlled by them)	
a. Group ID from the consolidated list	
b. Name of the designated person as given on the consolidated list	
c. Name of the person/entity if owned/controlled by a designated person	
6. Information on which your knowledge or suspicion is based	
a. What has caused you to know or suspect that the person you are reporting on is a designated person (or is owned/controlled by one)?	<i>Please provide as much detail as possible, including your relationship with the person, what information you hold and how it came to you.</i>

<p>b. Please provide any information not already on the consolidated list by which the designated person can be identified</p>	<p><i>e.g. new aliases, dates of birth, addresses, passport numbers, additional trading names, etc.</i></p>
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Your report should include information by which a designated person can be identified. For example, aliases or alternative identities that could be used to evade sanctions.

If you are also reporting that you have frozen the assets of a designated person, please complete Part C of this form. If you are also reporting a suspected breach of financial sanctions, please complete Part D of this form.

PART C: INFORMATION ON FROZEN ASSETS

This part should be used to report that you have frozen the assets of a designated person. Please complete a separate form for each designated person whose assets you have frozen.

If you know or suspect that a person is a designated person, please complete Part B of this form. If you are also reporting a breach of financial sanctions, please complete Part D of this form.

<p>7. Designated person (DP)</p>	
<p>a. Group ID from the consolidated list</p>	
<p>b. Name of the designated person as given on the consolidated list</p>	
<p>c. Name of the person/entity if owned/controlled by a designated person</p>	
<p>d. Date of Asset Freeze(s)</p>	

8. Please provide information on all funds and economic resources you have frozen (For definitions and guidance on what to include please see Annex2.)

Part D: INFORMATION ABOUT A SUSPECTED BREACH

This part should be used to report any suspected or known breach of financial sanctions. Please complete one form for each overarching activity. Multiple transactions/transfers relating to an overarching activity may be listed in one form.

Your report should include all known details in relation to the suspected breach activity. Additional supporting material should be attached to your submission and noted in section 22. Where information is not known or not applicable, please state.

9. Who do you suspect has committed, or has attempted to commit, the suspected breach? Please provide details

10. Summary of facts

Including the date(s) the suspected breach (or breaches) was discovered, how it was discovered, and the series of actions that led to a suspected breach taking place (where known).

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11. Does this information relate to a suspected completed, or suspected attempted, breach?

Tick box

Completed	
Attempted (<i>including blocked or rejected activity</i>)	

12. Financial sanctions regime(s) under which the suspected breach has occurred

The list of all financial sanctions regimes in effect in the UK can be found on OFSI's on GOV.UK:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidatedlistsand-releases>

Additionally, the list of all financial sanctions regimes in effect in the Virgin Islands can be found on the following:

Financial Investigation Agency:

<https://www.fiabvi.vg/International-Sanctions/Sanctions-Orders-in-Force>

Financial Services Commission:

<https://www.bvifsc.vg/international-sanctions/about-sanctions>

<p>a. Financial sanctions regime(s)</p>	
<p>b. Act/Regulation(s) <i>(if known)</i></p>	
<p>c. Relevant section(s), article(s), regulation(s) suspected of having been breached <i>(if known)</i></p>	

DETAILS OF SUSPECTED BREACH

See Annex A for a description of what can constitute funds, economic resources, and financial services.

13. What does the suspected breach involve: (Tick all applicable boxes).

Funds	
Describe, in full, the type(s) of funds involved.	
Economic resource(s)	
Describe, in full, the economic resource(s) involved.	
Financial Services	
Describe, in full, what the financial services are, including how and when they were provided.	
Licence conditions	

<p>Give the licence condition(s) and describe, in full, how you suspect it has been breached. Please include the licence no.</p>	
<p>Trust Services</p>	
<p>Describe, in full, what the trust services involve, including how and when they were provided (also see section 21 below).</p>	
<p>Reporting obligations</p>	
<p>Give the reporting obligation and describe, in full, how you suspect it has been breached. Please include the licence no. where relevant.</p>	
<p>14. Total value of the suspected breach (actual or estimated) Please provide this information in the currency that was used at the time of the transfer (or provide an estimated value in USD if unknown).</p>	

15. Method(s) of payment and/or transfer

e.g. bank transfer, cash, cheque, money order, internet/electronic, or physical asset transfer – road, rail, air, sea, etc..

16. Remitter/sender information

Please provide full information on the remitter/sender of the funds and/or economic resources, including: dates, goods involved, amount(s), currencies, account names, account numbers and sort codes, bank details, and nationalities of payers, dates of birth, where known.

If more space is required, please complete Annex 1 (A1), or attach supporting documents with your submission.

17. Intermediary information

Please provide any information you have on intermediaries involved in the activity, including: role in transfer, name(s), date of birth, company registration information, country of operation/nationality, address/location, account name, account number and sort code and bank details, where known.

If more space is required, please complete Annex 1 (A2), or attach supporting documents with your submission.

18. Ultimate beneficiary information

Please provide information on the ultimate beneficiaries of the funds and/or economic resources, including: name, account name, account number and sort code, bank details, residential/company address, date of birth and nationality, where known.

If more space is required, please complete Annex 1 (A3) or attach supporting document(s) with your submission.

19. Please list all external parties who have been made aware that this information is being passed to the Virgin Islands Sanctions Unit, including any designated persons

20. Has this matter been reported to any other authority? If so, please provide their contact details.

21. Trust services details	
Please provide information on the trust location including registered office/business address/ correspondence address/ administrative address, and which type of location applies.	
Address of the trust service provider	
Type of trust	
Purpose of the trust	
Type and value of asset held in the trust Date the trust was set up and pre-determined end dates	
Please provide information relevant to the breach being reported on detailing: participants to the trust including names; addresses; bank account details; and indicate the date when the participant became a party to the trust.	Beneficiaries
	Trustees
	Settlers
	Protectors
	Any other relevant persons (include name(S), address(es) and an overview of how they are connected.
If more space is required, please complete X, or attach supporting documents (for example a copy of the trust deed) with your submission.	

22. Details of Suspected Breach	
Date Breach Suspected	
Date Breach Discovered	

22. Other relevant information		
Please provide any other information you think will help us understand what has happened.		
23. Are you providing any supporting documents? Please include any documents that support the information provided, such as bank statements, transaction reports, copies of licences, paperwork, contracts, etc. including those from other jurisdictions.	Yes	
	No	

Please list the supporting documents you are providing.

Annex 1

Additional remittances *(for Section 15 Remitting information)*

A1. Additional remittance information

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Additional intermediaries involved *(for Section 16 Intermediary information)*

A2. Additional intermediaries

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Additional beneficiaries involved *(for Section 17 Ultimate beneficiary/beneficiaries information)*

A3. Additional beneficiaries

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Annex 2

This Annex describes some of the common terms used in financial sanctions legislation.

DESIGNATED PERSONS

A designated person is an individual, entity or body, listed under EU or UK legislation as being subject to financial sanctions.

The list of designated persons can be found on the UK Sanctions List

<https://www.gov.uk/government/publications/the-uk-sanctions-list>Note that the financial sanctions also apply to persons and entities that are **owned or controlled**, directly or indirectly, by a designated person. Those persons or entities may not be designated in their own right, so their name may not appear on the consolidated list. However, those persons or entities are similarly the subject of the financial sanctions. For more information on ownership and control see OFSI's Guide to Financial Sanctions.

FUNDS

Funds means financial assets and benefits of every kind, including but not limited to:

- cash, cheques, claims on money, drafts, money orders and other payment instruments;
- deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- loans and mortgages;
- publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- interest, dividends or other income on or value accruing from or generated by assets;
- credit, right of set-off, guarantees, performance bonds or other financial commitments;
- letters of credit, bills of lading, bills of sale;
- documents evidencing an interest in funds or financial resources;
- any other instrument of export-financing.

ECONOMIC RESOURCES

Economic resources mean assets of every kind, whether tangible or intangible, movable or immovable, (such as goods, property, or rights) which are not funds themselves but which can be used to obtain funds, goods or services.

GROUP ID

All reports to OFSI involving a designated person should include their 'Group ID' reference number. The Group ID is a unique identifier for a designated person which can be found in their entry on the consolidated list.

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

FINANCIAL SERVICES

Financial services mean any service of a financial nature, including, but not limited to:

- insurance-related services consisting of:
 - direct life assurance;
 - direct insurance other than life assurance; ○ reinsurance and retrocession;
 - insurance intermediation, such as brokerage and agency;
 - services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

- banking and other financial services consisting of:
 - accepting deposits and other repayable funds;
 - lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
 - financial leasing;
 - payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);
 - providing guarantees or commitments;
 - financial trading (as defined below);
 - participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
 - money brokering;
 - asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
 - settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
 - providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
 - providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).

- “Financial trading” means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in:
 - money market instruments (including cheques, bills and certificates of deposit);
 - foreign exchange;
 - derivative products (including futures and options);
 - exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);

- transferable securities;
- other negotiable instruments and financial assets (including bullion).

TRUST SERVICES

‘Trust services’ are defined as:

- the creation of a trust, or similar arrangement;
- the provision of a registered office, business address, correspondence address, administrative address for a trust or similar arrangement;
- the operation or management of a trust or similar arrangement; or
- acting or arranging for another person to act as a trustee of a trust or similar arrangement.

Trust services are provided ‘for the benefit of’ a person (“B”) where -

- (a) B is a beneficiary of a trust or similar arrangement
- (b) B is referred to as a potential beneficiary in a document from the settlor relating to a trust or similar arrangement (such as a letter of wishes), or
- (c) Having regard to all the circumstances, B might reasonably be expected to obtain, or to be able to obtain, a significant financial benefit from the trust or similar arrangement.

Annex 3

Frozen accounts

All reports of frozen accounts should include the following information:

- Name of financial institution holding the account
- Account name
- Details of the account holder
- Date account frozen
- Type of account
- Account number
- Sort code (where relevant)
- Credit balance
- Debit balance
- Currency
- Date account opened
- Any other relevant information relevant to the freezing of the account

Frozen payments / transactions

All reports of frozen payments or transactions should include the following information:

- Details of the institution/person who has frozen the transaction
- Details of their role in the transaction
- Date of transaction (Inc. amount and currency)
- Date transaction frozen
- All relevant account details (originator, intermediaries, beneficiary)
- Details of the originator of the transaction (name, address, etc.)
- Details of the originating financial institution (name, address, etc.)
- Details of any intermediary financial institutions (name, address, etc.)
- Details of the beneficiary of the transaction (name, address, etc.)
- Details of the beneficiary financial institution (name, address, etc.)
- Any additional information found in the originator-to-beneficiary or bank-to-bank information
- Any other additional information relevant to the freezing of the transaction, including the payment instruction where available

APPENDIX III

Designation Impact Assessment Form (DIA)

DESIGNATION IMPACT ASSESSMENT (DIA)

This form must be completed for all listing proposals of individuals or entities, under existing sanctions regimes (also use for listing requests from other countries. For guidance on completing this form, please liaise with the FCDO Sanctions team(sanctions@fcdo.gov.uk) or Sanctions@gov.vg The form should be signed off by the Governor of the Overseas Territory, Head of FCDO Sanctions team and FCDO Legal Directorate.

Proposal

The answers given to the five questions below should be used as the basis for formally proposing designations to the UN Security Council

Any information given in the below five questions could be disclosed to UN Security Council Member States.

	<p>Name of sanctions regime</p>
	<p>Full name of the individual or entity to be listed (including aliases) and any identifying information</p> <p><i>Enter as much accurate identifying (biometric or otherwise) information as possible to ensure effective implementation of the measures. Policy officers should be aware that incorrect information may lead to unintended consequences and an increase in the legal risk.</i></p> <p>Example: Russian National Commercial Bank, also known as RNBC Plc. – Registered in Russia and Crimea, Last known address: Apartment 1A. ABC Street, Crimea</p>
	<p>Cut and paste the relevant listing criteria from UN Secretary Council Resolution Decision here.</p> <p><i>This should be the criteria that you are using to capture this proposed individual or entity named above.</i></p> <p>Example: Council Regulation 269/2014 “On 17 March 2014, the Council adopted Decision 2014/145/CFSP providing for travel restrictions and for the freezing of funds and economic resources of certain persons responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, including actions on the future status of any part of the Territory which are contrary to the Ukrainian Constitution, and natural or legal persons, entities or bodies associated with them. Those natural or legal persons, entities and bodies are listed in the Annex to that Decision.”</p>

Links/ references to evidence (including data of information collected, do not use hyperlink, copy and paste the URL)

Provide the evidence that substantiates the reasons for listing. It is important that policy officers keep a record of evidence, including screenshots of websites in case they are removed. A newspaper article from a reputable outlet will be seen as more robust than one from an unfamiliar website. Evidence that is in a different language must be translated. A machine translation is sufficient to inform the decision-making but in the event of a legal challenge a translation from a reputable source would be required.

If the evidence is classified, you will need to provide adequate unclassified evidence to support the classified evidence and this proposal.

Example: Guardian article on Russian aggression, invasion in Ukraine – 11/05/2014

<http://www.guardian.co.uk/articleonukraine>

Date document cleared and approved with FCDO Sanctions Section and Legal Directorate

Impact Assessment

Any information given below will not be shared with UN Security Councils

1	<p>How will this listing contribute to the UK’s overall country (or Terrorist) strategy?</p> <p><i>Describe how this listing ties with the UK or OTs overarching objectives for the country in question. You may want to mention some of the non-sanction, UK diplomatic measures that compliment this listing.</i></p>
2	<p>How will you measure the listings effectiveness at meeting the objectives of the sanctions regime? When and how should these individuals/entities be delisted</p> <p><i>Describe the indicators that you will monitor and your delisting criteria.</i> Policy officers must review all UK proposals as stipulated in the UNSCR/Council Decision/Regulation – this is typically an annual process, but can be triggered should there be adequate evidence to suggest the individual/entity should no longer be listed.</p>
3	<p>What consultation have you undertaken in relation to this proposal?</p> <p><i>Stakeholder consultation is crucial.</i></p> <p><i>Consider all the teams, posts, departments across the UK (where relevant OTs) Government that may be affected as a result of this listing.</i></p> <p><i>The UK HM Treasury should be consulted on proposed financial sanctions.</i> <i>The UK Department for International Trade (DIT) for proposed trade sanctions.</i></p> <p><i>Information from NGOs can also help but be careful to avoid disclosing sensitive information about possible sanctions targets while negotiations are still ongoing.</i> <i>(Sanctions Section, Legal Advisors, BE Moscow, HM Treasury, Defence Intelligence etc.)</i></p>
4	<p>Briefly describe how you can confirm that there is sufficient information to provide a reasonable and credible basis for the listing?</p> <p>The standard of proof applied is whether there is “reasonable suspicion” that the individual or group meets the criteria for designation at this present time. What other evidence in addition to that stated in the above Proposed section (but that which you may not wish to share with the UN Security Council), is available to support the reasons you have outlined for this listing.</p>

APPENDIX 4

Glossary of Acronyms

AML	Anti-Money Laundering (AML)
AMLR	Anti-Money Laundering Regulations
AMLTFCOP	Anti-Money laundering and Terrorist Financing Code of Practice
ATC4 2001	Anti-Terrorism, Crime and Security Act 2001
(AT(FOM)(OT)O)	Anti-Terrorism (Financial and Other Measures) (Overseas Territories) Order, 2002
AG	Attorney General
AGC	Attorney General Chambers
B2B	Business-to-business
CA	Competent Authorities
CCA	Council of Competent Authorities
CFATF	Caribbean Financial Action Task Force
CFT	Countering the Financing of Terrorism
CPF	Counter Proliferation Financing
CRF	Compliance Reporting Form
CTA 2008	Counter Terrorism Act 2008
DIA	Designation Impact Assessment
DNFBPs	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FCU	Financial Crimes Unit
FIs	Financial Institutions
FIA	Financial Investigation Agency – FIA
FIA Act	Financial Investigation Agency Act 2003
FSC	Financial Services Commission
FSC Act	Financial Services Commission Act, 2001
FCDO	Foreign, Commonwealth & Development Office
GO	Governor’s Office
IGC	Inter-Governmental Committee
ITA	International Tax Authority
JALTFAC	Joint Anti-Money Laundering and Terrorist Financing Advisory Committee
NAMLCC	National AML/CFT Coordination Council
DNFBP Notice	Non-Financial Business (Designation) Notice
NPOs	Non-Profit Organisations
NPO Act	Non-Profit Organisations Act, 2012
OFSI	Office of Financial Sanctions Implementation
OIC	Orders in Council
OT	British Overseas Territory
P2B	Peer-to-business
P2P	Peer-to-peer

PCCA	Proceeds of Criminal Conduct Act 2000
PFPA	Proliferation Financing (Prohibition) Act, No. 20 of 2021
RVIPF	Royal Virgin Islands Police Force
SAMLA	Sanctions and Anti-Money Laundering Act 2018
TCSPs	Trust and Company Service Providers
UNSC	United Nations Security Council
UNSCRs	United Nations Security Council Resolutions