



ANTI-MONEY LAUNDERING COUNCIL

REGULATORY ISSUANCE NO. 4

Series of 2020

Subject: Freeze Order for Potential Target Matches under the United Nations Security Council Consolidated Lists (Targeted Financial Sanctions)

In accordance with Sections 11 and 22 of Republic Act No. 10168, also known as the Terrorism Financing Prevention and Suppression Act of 2012 (TFPSA), this Regulatory Issuance and accompanying Sanctions Guidelines related to terrorism and terrorism financing are hereby promulgated.

Chapter 1 GENERAL PROVISIONS

Section 1. Title and Purpose.

1.1. This Regulatory Issuance was promulgated, in accordance with Section 11 of the TFPSA and AMLC Resolution No. TF-01 and TF-02, Series of 2012, to assist covered persons in the implementation of the targeted financial sanctions requirements.

This Issuance is general in nature. Covered persons should also refer to the relevant, up-to-date legislation and rules, as well as specific AMLC issuances where it is available. Please note that each case will be considered on the facts and the specific legal requirements that apply.

Section 2. State Policies.

This Issuance is pursuant to the following State Policies under the TFPSA:

- (a) To protect life, liberty and property from acts of terrorism and to condemn terrorism and those who support and finance it; and to recognize it as inimical and dangerous to national security and the welfare of the people; and to make the financing of terrorism a crime against the Filipino people, against humanity and against the law of nations.
- (b) To recognize and to adhere to international commitments to combat the financing of terrorism, specifically to the *International Convention for the Suppression of the Financing of Terrorism*, as well as other binding terrorism related resolutions of the United Nations Security Council (UNSC), pursuant to Chapter 7 of the United Nations (UN) Charter.

- (c) To reinforce the fight against terrorism by preventing and suppressing the commission of said offenses through freezing and forfeiture of property or funds while protecting human rights.

Section 3. Definition of Terms.

For purposes of this Issuance, the following terms are hereby defined as follows:

- (a) **“Anti-Money Laundering Council”** (AMLC) refers to the Philippines’ central anti-money laundering/counter-terrorism financing authority and financial intelligence unit, which is the government instrumentality mandated to implement the AMLA and TFPFA. It also refers to the official name of the Council, which is the governing body of the said government agency.

For purposes of this IRR, the government agency shall be referred hereafter as the “AMLC”, while the governing body shall be referred hereafter as the “Council”.

- (b) **“Covered Person”** refers to the covered persons, as defined under Republic Act No. 9160, also known as the Anti-Money Laundering act of 2001, as amended (AMLA), and its implementing rules and regulations.
- (c) **"Dealing, with regard to property or funds"** refers to receiving, acquiring, transacting, representing, concealing, disposing, converting, transferring or moving, using as security or providing financial services.
- (d) **“Designated Persons”** refers to:
 - (1) Any person or entity designated as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable UNSC Resolution or by another jurisdiction or supra-national jurisdiction;
 - (2) Any organization, association, or group of persons proscribed pursuant to Section 17 of the Human Security Act (HSA) of 2007; or
 - (3) Any person, organization, association, or group of persons whose property or funds, based on probable cause are subject to seizure and sequestration under Section 39 of the HSA of 2007.¹

¹ Rule 3.a.5, Implementing Rules and Regulations of the Terrorism Financing Prevention and Suppression Act of 2012 (R.A. No. 10168) or TF-IRR.

- (e) **“Freeze Order”** (FO) refers to the order of the Council for asset freezing to block or restrain specific properties or funds that are owned or controlled by a designated person from being transacted, converted, concealed, moved, or disposed. Examples of such freeze orders are AMLC Resolution Nos. TF-01 and TF-02 issued in 2012.
- (f) **“Human Security Act”** (HSA) refers to Republic Act No. 9372.
- (g) **“Making available property or funds, financial services or other related services to designated persons, organizations, associations or groups of persons”** shall mean making or capacitating such designated persons, organizations, associations or groups of persons to obtain benefit or benefits from property or funds, or financial services or other related services.
- (h) **“Name Match”** refers to an individual or entity a person whose name matches with a name in the *UNSC Consolidated List*.
- (i) **“Persons”** refers to any natural or juridical person.
- (j) **“Property or Fund”** refers to financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, traveler’s cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends, or other income on or value accruing from or generated by such funds or other assets.
- (k) **“Potential Target Match”** refers to an individual or entity whose identity matches most, but not all, of the identifier information provided in the *UNSC Consolidated List*.
- (l) **“Targeted Financial Sanctions”** (TFS) refers to both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of *designated persons*.²
- (m) **“Target Match”** refers to an individual or entity whose identity matches all the identifier information and is identified to be the *designated person* in the *UNSC Consolidated List*.
- (n) **“Terrorism Financing Prevention and Suppression Act”** (TFPSA) refers to Republic Act No. 10168.

² FATF Methodology Glossary, p. 161.

- (o) “UNSC Consolidated List” refers to under integrated list of individuals and entities designated under UNSC Resolution No. 1267/1989 (*Al Qaeda Sanctions List*) and UNSC Resolution No. 1988 (*Taliban Sanctions List*).

Chapter 2 TARGETED FINANCIAL SANCTIONS

Section 4. Legal Basis.

Implementation of TFS is mandated under paragraph 3, Section 11 (*Authority to Freeze*) of the TFPSA, which provides:

SEC. 11. Authority to Freeze. – The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to issue an ex parte order to freeze without delay: (a) property or funds that are in any way related to financing of terrorism or acts of terrorism; or (b) property or funds of any person, group of persons, terrorist organization, or association, in relation to whom there is probable cause to believe that they are committing or attempting or conspiring to commit, or participating in or facilitating the commission of financing of terrorism or acts of terrorism as defined herein.

...

*Notwithstanding the preceding paragraphs, the AMLC, consistent with the Philippines’ international obligations, **shall be authorized to issue a freeze order** with respect to property or funds of a designated organization, association, group or **any individual to comply with binding terrorism-related Resolutions**, including Resolution No. 1373, of the UN Security Council pursuant to Article 41 of the Charter of the UN. **Said freeze order shall be effective until the basis for the issuance thereof shall have been lifted.** During the effectivity of the freeze order, an aggrieved party may, within twenty (20) days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection.*

Section 5. Purposes of TFS.

- 5.1. TFS are restrictions put in place by the UN and the UNSC, a supra-national jurisdiction (e.g. European Union), another jurisdiction or by the Philippine government to achieve a specific foreign policy or national security objective. They can limit the provision of certain financial services, and/or restrict access to financial markets, funds and economic resources.

5.2. Financial sanctions are generally imposed to:

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

Section 6. Types of TFS.

TFS come in many forms as they are developed in response to a given situation. The TFPSC provides two (2) types of TFS:

- (a) *Targeted Asset Freeze*.³ This applies to named individuals, entities and bodies, restricting access to funds and economic resources. Someone subject to an asset freeze will be listed on the Consolidated List or proscribed and posted under the AMLC or the Anti-Terrorism Council (ATC) websites.
- (b) *Prohibition against Dealing*.⁴ Prohibits any person from:
 - (1) dealing, directly or indirectly, in any way and by any means, with any property or funds that he knows or has reasonable ground to believe is owned or controlled by a *designated person*, organization, association or group of persons, including funds derived or generated from property or funds owned or controlled, directly or indirectly, by a *designated person*, organization, association or group of persons; or
 - (2) makes available any property or funds, or financial services or other related services to a *designated person*, organization, association or group of persons.

³ Section 11, TFPSC.

⁴ Section 8, Ibid.

“Dealing” with a designated person or entity is a criminal offense under Section 8 of the TFP SA, penalized with imprisonment (reclusion temporal in its maximum period to reclusion perpetua) and a fine of not less than Five Hundred Thousand Pesos (Php500,000.00) nor more than One Million Pesos (Php1,000,000.00).

Section 7. AMLC Freeze Order to Implement TFS.

The Council has issued two (2) freeze orders to implement the TFS against individuals and entities listed in the *UNSC Consolidated List*:

- (a) AMLC Resolution No. TF 01⁵, Series of 2012 (for *Al-Qaeda Sanctions List*).
- (b) AMLC Resolution No. TF-02⁶, Series of 2012 (for *Taliban Sanctions List*).
- (c) AMLC Resolution Nos. TF-25 and 26, Series of 2020

Section 8. Directive and Coverage of the Freeze Orders under AMLC Resolution Nos. TF-01 and TF-02, Series of 2012.

- 8.1. The freeze orders direct all covered persons and relevant government agencies to freeze and preserve without delay property or funds, including related accounts, that are maintained or registered with, possessed or controlled by them, if any, which belong to any of the persons, organizations, associations or group of persons mentioned in the *UNSC Consolidated List*.
- 8.2. The freeze orders cover not only those listed at the time of the issuance of AMLC Resolution Nos. TF-01 and TF-02, Series of 2012, but also those included in the subsequent updates, modifications and amendments to the *UNSC Consolidated List*.

The *Consolidated List* and the updates thereto may be downloaded from the UNSC website (<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>) or on the AMLC website (<http://www.amlc.gov.ph/un-sanctions-list/al-qaeda> and <http://www.amlc.gov.ph/un-sanctions-list/taliban>).

⁵ Annex A.

⁶ Annex B.

Section 9. Who Needs to Comply with the TFS.

AMLC Resolution Nos. TF-01 and TF-02, Series of 2012, direct the following to comply with the TFS (freeze order and prohibition against dealing) imposed on the individuals and entities under the *UNSC Consolidated List*:

- (a) Covered persons⁷;
- (b) Relevant government agencies (e.g. Land Transportation Office, Land Registration Authority, Register of Deeds, Maritime Industry Authority [MARINA], and the Civil Aviation Authority of the Philippines); and
- (c) The general public, regarding the prohibition against dealing⁸.

Chapter 3 SUBJECTS OF TARGETED FINANCIAL SANCTIONS

Section 10. Subjects of TFS.

TFS shall be implemented against the funds or properties of persons:

- (a) designated in the *UNSC Consolidated List*;
- (b) proscribed under the HSA of 2007⁹ (e.g. the Abu Sayyaf Group);
- (c) subject to seizure and sequestration under Section 39 of HSA; and
- (d) subject to freeze orders pursuant to UNSC 1373.¹⁰

⁷ As defined under the AMLA and its IRR.

⁸ Under Section 8 of the TFPISA.

⁹ An entity designated by a foreign jurisdiction or supra-national jurisdiction may be proscribed as a terrorist group in the Philippines and subject to financial sanctions:

“Rule 22. e. Other designations. - Pursuant to Sec.54 (7) of the HSA of 2007 and consistent with the national interest, all requests for designations made by another jurisdiction or supra-national jurisdiction shall be referred by the DFA to the ATC to determine if proscription under Sec.17 of the HSA of 2007 is warranted and, if so, the ATC shall correspondingly commence proscription proceedings.”

¹⁰ Rule 15.b (iv), TF-IRR.

The *UNSC Consolidated List* and the updates thereto may be downloaded from the UNSC website (<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>) or on the AMLC website (<http://www.amlc.gov.ph/un-sanctions-list/al-qaeda> and <http://www.amlc.gov.ph/un-sanctions-list/taliban>).

Section 11. Using the UNSC Consolidated List.

11.1. The *UNSC Consolidated List* contain a range of information to aid the identification of *designated persons*. For an individuals, this can include their:

- (a) aliases;
- (b) date of birth;
- (c) passport details;
- (d) nationality;
- (e) last known address; and
- (f) employment or government role.

11.2 Name and Target Matches

Situation	Assessment
<p>You have a name match for a person who is a Filipino national listed as a member of the Abu Sayyaf Group (ASG) based in Basilan and involved in kidnapping for ransom.</p> <p>However, the person you are dealing with is a European foreign exchange student.</p>	<i>Name match</i>
<p>You have a name match for an Indonesian identified as a foreign terrorist fighter.</p> <p>However, the man you are dealing with is a regular bank client with a different date of birth.</p>	<i>Name match</i>
<p>You have a close name match for a person subject to a terrorist asset freeze and they have</p>	<i>Potential target match.</i>

<p>a similar date of birth but a different address.</p>	<p>You may have identified a new <i>alias</i> being used to circumvent financial sanctions.</p> <p>Subject to the rules and guidelines prescribed herein, funds actually received or in the possession of the covered person shall be frozen.</p>
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11.3 Freeze of Potential Target Matches

Apart from filing an STR, covered persons should, inform the AMLC on the same day the freeze is implemented, through email to the secretariat@amlc.gov.ph, copy furnish the Executive Director, that a freeze has been implemented pursuant to these guidelines. Said information shall be accompanied by the following details:

- a. The subject’s account name, number and amount frozen;
- b. The subject’s entry under the relevant Consolidated List; and
- c. The date and time the freeze or hold order is implemented.

The AMLC, within 36 hours from receipt of the information, shall confirm the propriety of the freeze.

If no confirmation is received within the said 36-hour period, the freeze shall be automatically lifted.

Chapter 4 FILING OF DETAILED RETURN BEFORE AMLC

Section 12. Filing of Detailed Return; Contents

There are three (3) instances wherein covered persons are required to file a return:

- a. When there is a target match, i.e., the subject person or entity fully matches the description in the Consolidated List, covered persons shall file a detailed electronic return within 24 hours from effecting the freeze.
- b. In cases where there is merely a potential target match, covered persons shall file a detailed electronic return within 24 hours from receipt of the AMLC's confirmation (See 11.3 above).

c. For cases where the AMLC directs the freeze of the funds and other assets of a person or entity who, although not specifically included in the Consolidated List, was nevertheless found to be acting for and in behalf of or under the direction of those designated under the Consolidated List. United Nations Security Council Resolution No. 1988, par.1(a), covered persons shall file the detailed electronic return within 24 hours from receipt of the AMLC Resolution to freeze.

In all of the above instances, the detailed electronic return (E-return)¹¹ shall specify the following information:

For covered persons:

1. The account number(s);
2. The name(s) of the account owner(s) or holder(s);
3. The time of freezing of all subject accounts;
4. The balance of the account as of the time of freezing;
5. The related accounts, if any, including the balance thereof as of the time of freezing; and
6. Explanation as to the ground for the identification of related accounts.

For relevant government agencies:

1. The nature and description of the property;
2. The name(s) of the owner(s) and/or holder(s) of the property;
3. The mode and date of acquisition of the property by the owner(s); and
4. The location of the property.

Chapter 5 MISCELLANEOUS PROVISIONS

Section 13. Awareness-raising and Capacity-building Programs.

- 29.1. The Executive Director of the AMLC, or in his absence, the Officer-in-Charge, shall adopt measures or improve existing mechanisms, including coordination and cooperation with relevant government agencies and private stakeholders, to effectively implement TFS, in accordance with the TFPSA and this Issuance.
- 29.2. Covered persons shall ensure that their relevant internal or external stakeholders are aware and skilled in implementing TFS related to terrorism and terrorism financing.

¹¹ See: AMLC Registration and Reporting Guidelines (ARRG)

Section 14. Transitory Provision.

14.1. Without prejudice to the immediate implementation of this Issuance upon effectivity, covered persons shall update or formulate their respective Money Laundering/Terrorism Financing Prevention Program (MTPP), as follows:

- (a) *For existing covered persons:* update their MTPP six (6) months from effectivity of this TFSG-TF.
- (b) *For new covered persons:* formulate their MTPP within six (6) months from issuance of license by, or registration with, their respective Supervising Authorities¹², or the relevant government agencies.

Section 15. Separability Clause.

If any provision of this Issuance or the application thereof to any person or circumstance is held to be invalid, the other provisions of this Issuance, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 16. Effectivity Clause.

This Regulatory Issuance shall take effect fifteen (15) days after the completion of its publication in the Official Gazette or in a newspaper of general circulation, and filing before the Office of the National Administrative Register, University of the Philippines, Diliman, Quezon City.

For the AMLC:

(ORIGINAL SIGNED)
MEL GEORGIE B. RACELA
Executive Director

28 May 2020.

¹² As defined under the AMLA and its IRR.