



Frequently Asked Questions (FAQs) on Targeted Financial Sanctions (TFS) Obligations

**Banking Policy & Regulations Department
STATE BANK OF PAKISTAN**

Disclaimer

The Frequently Asked Questions (FAQs) are intended to provide clarification to Regulated Entities (REs) on common queries in relation to the Regulation-4 (Targeted Financial Sanctions under UNSC Act, 1948 and ATA, 1997) of SBP's Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation Financing (AML/ CFT/ CPF) Regulations.

These FAQs have been issued with the concurrence of relevant authorities i.e. the Ministry of Foreign Affairs and the Ministry of Interior, and are not intended to replace any requirements stipulated under the relevant laws, rules or regulations.

Moreover, the FAQs are not intended to be exhaustive and do not constitute legal advice or have any legal merit on the subject. In the event of any inconsistency between these FAQs and any laws, rules or regulations, the provisions of such laws, rules or regulations shall prevail.

1. Are Targeted Financial Sanctions (TFS) obligations applicable on all financial institutions regulated by SBP?

Yes. The TFS obligations under *United Nations (Security Council) Act, 1948* (UNSC Act) and the *Anti-Terrorism Act, 1997* (ATA) are applicable on all financial institutions in Pakistan, including those regulated by SBP.

2. What is the expectation from the phrase “to freeze, without delay” provided in Regulation-4 of the SBP’s AML/ CFT/ CPF Regulations?

As per Section II (2.4.1.1.i.i.) of the Ministry of Foreign Affairs’ (MOFA) *Guidelines on the Implementation of UNSC Resolutions concerning TFS, Travel Ban, and Arms Embargo* and MOFA *Guidelines on the Implementation of the UNSC Resolutions concerning TFS on Proliferation Financing*, “without delay” is to be generally interpreted as within 24 hours.

3. If a designated/ proscribed person is granted exemption under UNSC Act, 1948 or ATA, 1997 by the relevant authorities, does the person remain designated/ proscribed?

Yes. The person will remain designated/ proscribed until the time that the designation or proscription is removed. During this time, all sanctions measures will remain intact except the specific transactions that have been exempted under the provisions of Section 1100 of the *ATA, 1997* or exempted under Article 18 of the *UNSC (Freezing and Seizure) Order, 2019*.

4. Can the designated/ proscribed person who is allowed exemption withdraw the monthly stipulated amount cumulatively?

No. Cumulative withdrawal is not allowed. The exempted amount allowed to a designated/ proscribed person is approved by the relevant authorities after careful consideration of the expenditure requirements of the designated/ proscribed person. Hence, only the exempted amount can be withdrawn by the designated/ proscribed person each month, even if the exempted amount is not withdrawn by the designated/ proscribed person in the previous month.

5. Can designated/ proscribed person who is allowed exemption withdraw funds from the frozen account without receiving any fresh deposit/ credit in their account?

Yes. The designated/ proscribed person who is allowed exemption may withdraw funds from the frozen account without receiving any fresh deposit/ credit in his/ her account, provided, that there are sufficient funds available in the account at the time of withdrawal. SBP REs are required to ensure that the withdrawn amount along with all relevant bank charges, Federal Excise Duty (FED) and/ or withholding taxes does not exceed the exempted amount.

6. Can SBP REs issue debit card to designated/ proscribed person to whom exemption has been allowed, to withdraw funds from the frozen account?

SBP REs may issue debit cards to designated/ proscribed persons allowed exemption, only if the RE has systems and controls in place to ensure that the use of the card remains within the restrictions provided in the respective SRO/ Notification.

7. In case screening of database leads to potential match with designated person, what are the actions required from the SBP RE?

As per Section II (2.4.1.1.i.v. & 2.4.1.1.i.vi.) of the MOFA *Guidelines on the Implementation of UNSC Resolutions concerning TFS, Travel Ban, and Arms Embargo* and Section II (4.6.1.1(a)vi.) of MOFA *Guidelines on the Implementation of the UNSC Resolutions concerning TFS on Proliferation Financing*, SBP RE is required to immediately place a temporary freeze on the assets of the potential match and convey this information to SBP for onwards sharing with the focal point at the Ministry of Interior for verification.

8. Which are the relevant authorities for verification of potential match under ATA, 1997?

Depending on the basis for proscription, the relevant authorities are as under:

Sanctions Regime	Authority
Schedule-I of ATA, 1997	Secretary, Ministry of Interior
Schedule-IV of ATA, 1997	Home Secretary of the relevant province or Chief Commissioner, ICT

9. How often are the sanctions lists under UNSC Act, 1948 and ATA, 1997 updated?

There is no specific interval for updating the lists of designated or proscribed persons. The lists are updated every time changes are made to the lists, be it addition, deletion, amendment or retention. SBP REs are required to ensure that all changes are effectively implemented without delay.

10. What source of information should the RE use for freezing/ unfreezing of assets frozen under the Fourth Schedule of ATA, 1997?

The consolidated list of proscribed individuals is available publicly on NACTA's website at the following link: <https://nacta.gov.pk/pp/>. This list is updated by the relevant proscribing authorities immediately as and when a change is made to the list, and a system generated email is circulated to all SBP REs.

11. In case of foreign inward remittance, SBP REs may have originators' name only and foreign correspondent may not have information regarding our domestic sanctions lists (Schedules under the ATA, 1997), as they are not legally binding on those jurisdictions. What is the responsibility of SBP REs in such a scenario?

Para 6 of Regulation-11 of SBP's *AML/CFT/CPF Regulations* requires SBP REs to adopt risk-based internal policies, procedures and controls for identifying and handling incoming wire transfers that are not accompanied by complete originator or beneficiary information.

In case of foreign inward remittance, where no information can be made available other than the originator name for screening against the domestic sanctions list, the RE shall make the decision to execute or terminate the transaction based on its internal policies, procedures and controls developed in compliance with aforementioned regulation. However, the decision and its basis should be properly documented.

12. Who are "associates" of Designated/ Proscribed Persons?

While the UN sanctions regime, in general, uses the words "*associated individual/entity*" "*those acting on behalf of*" or "*at the direction of*" designated persons/ entities, the UNSC resolutions, per se, do not define these terminologies.

The UNSC Resolutions, especially the ones related to sanctions measures, as a rule of thumb, are drafted so as to cover the widest possible range of individuals/ entities to extensively cover the funds for terrorist and proliferation financing and to freeze them so as to render these funds/ assets non-useable for terrorist/ proliferation related activities. In principle, the spirit and purpose of these terminologies are important factor in establishing relationships that may form the basis of imposing sanctions.

13. Should an individual be construed/ considered as an associated individual under the Sanctions regime merely on basis of familial/ blood relationship with a designated/ proscribed person?

Para 6 of Regulation-4 of SBP's *AML/CFT/CPF Regulations* requires SBP REs to identify individuals and entities acting on behalf of, or at the direction of designated/ proscribed persons using risk screening databases, watch lists, publically known information or linkages on the basis of Government or regulatory sources, reliable media information, or regulated entity's own analysis, etc. However, a person, merely on the basis of his/ her relationship with the designated/ proscribed person, which is a naturally ascribed status, cannot be penalized.

14. If an account of an entity is frozen based upon designation/ proscription, should the personal bank accounts of directors/ members of that entity be also frozen?

In case it is established that a person is a member of a designated/ proscribed entity and is a director/ member working in the entity, his/ her personal accounts are liable to be frozen as he/ she will fall under the definition of "a person acting on behalf of" the designated/ proscribed entity.

15. Whether Form "B" referred in UNSC (Freezing and Seizure) Order, 2019 also needs to be sent to an account holder affected by the freezing under ATA, 1997?

No. There is no legal requirement to send the notice provided in *UNSC (Freezing & Seizure) Order, 2019*, (i.e. Form-B), for freezing under *ATA, 1997*. However, it is advisable to inform the reason of freezing to the customer.

16. Are REs permitted to receive payments for any outstanding loans or other credit facilities into the loan accounts established before designation/ proscription?

Yes. REs are permitted to receive payments into the designated/ proscribed person's credit or loan accounts, as the accounts are frozen only for the purpose of withdrawals.

17. Can REs exercise the right of set off the debts in frozen accounts?

No. Debit is not allowed in frozen funds until otherwise permitted in accordance with the relevant laws.

18. Which authorities should the designated or proscribed person approach to obtain exemptions for use of funds frozen under the UNSC Act, 1948 or ATA, 1997?

Depending on the basis for freezing of funds, the relevant authorities are as under:

Sanctions Regime	Authority	Relevant Law
UNSC sanctions pertaining to terrorism financing (e.g. UNSCR 1267, 1988, etc.)	Director General (CT), Ministry of Foreign Affairs	Article 16 of the UNSC (Freezing & Seizure) Order, 2019
UNSC sanctions pertaining to proliferation financing (e.g. UNSCR 1718, 2231, etc.)	Director General (ACDIS), Ministry of Foreign Affairs	
Schedule-I of ATA, 1997	Secretary, Ministry of Interior	Section 11OO of ATA, 1997
Schedule-IV of ATA, 1997	Home Secretary of the relevant province or Chief Commissioner, ICT	

19. Which authorities should the affected person/ account holder approach for de-freezing of funds claimed to be inadvertently frozen under the UNSC Act, 1948 or ATA, 1997?

In case of freezing after proscription under *ATA, 1997*, the affected person is required to submit an application to the Federal Government for inadvertent freezing under Section 11O(4) of *ATA, 1997*.

Further, in case of freezing of account under the *UNSC Act, 1948*, MOFA guidelines provide that for inadvertent freezing, an affected person is required to submit

application to the concerned RE, which depending on the basis of freezing of funds, shall forward it to the relevant authority, as mentioned in the table below:

Sanctions Regime	Authority	Relevant Law/ Guidelines
UNSC sanctions pertaining to terrorism financing (e.g. UNSCR 1267, 1988, etc.)	Section Officer (Petition), Ministry of Interior	Section II (2.4.7) of MOFA <i>Guidelines on Implementation of UNSC Resolutions concerning TFS, Travel Ban, and Arms Embargo</i>
UNSC sanctions pertaining to proliferation financing (e.g. UNSCR 1718, 2231, etc.)		Section II (4.6.4) of MOFA <i>Guidelines on the Implementation of the UNSC Resolutions concerning TFS on Proliferation Financing</i>
Schedule-I of ATA, 1997	Secretary, Ministry of Interior	Section 11O(4) of ATA, 1997/ Para 11 of NACTA's <i>Guidelines on Action to be taken by Competent Authorities for Implementation of United Nations Security Council Resolution -1373</i>
Schedule-IV of ATA, 1997	Home Secretary of the relevant province or Chief Commissioner, ICT	

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