



**GUIDELINES ON
IMPLEMENTATION OF TARGETED FINANCIAL
SANCTIONS ON TERRORISM FINANCING**

Table of Contents

PART A IMPLEMENTATION OF TARGETED FINANCIAL SANCTIONS (TFS) ON TERRORISM FINANCING (TF)	3
1. Introduction	3
2. Relationship with Existing Policies	3
3. Non Compliance	4
4. Compliance Date	4
5. General	4
6. Targeted Financial Sanctions Screening and Freezing Compliance	6
(a) Maintenance of List	6
(b) Screening of Customers – Specified Entities	8
(c) Screening of Customers – Related and Third Parties	9
(d) Freezing, Blocking and Rejecting Customers	12
7. Reporting Requirements	15
(a) Reporting upon Determination of a Match (for both UNSCRs and Domestic Lists) – Specified entities and related parties	15
(b) Periodic reporting on a match (for both UNSCRs and Domestic Lists)	16
(c) Variation to periodic reporting	16
(d) Attempted transaction	17
(e) False Positive	17
8. Exemption from Asset Freezing and Others	18
9. Summary Of Implementation On Targeted Financial Sanctions On Terrorism Financing	20
PART B FREQUENTLY ASKED QUESTIONS	21
(a) APPENDIX I	20
(b) APPENDIX II	21
(c) REFERENCE APPENDIX I	22
(d) REFERENCE APPENDIX II	23
(e) APPENDIX III	24

PART A IMPLEMENTATION OF TARGETED FINANCIAL SANCTIONS (TFS) ON TERRORISM FINANCING (TF)

1. Introduction

1.1 Malaysia implements its obligations relating to TFS on TF under the relevant United Nations Security Council Resolutions (UNSCRs) mainly through the legislative provisions in Part VIA of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA), subsidiary legislation made by the Minister of Home Affairs (MOHA) pursuant to sections 66B (Domestic List) and 66C (adoption of the list of persons and entities designated pursuant to UNSCRs or UNSCRs List) and all AML/CFT guidelines, directives, circulars or any information relating to complement the implementation of TFS on TF issued by Labuan FSA pursuant to the relevant Labuan laws and pursuant of Section 66E of AMLA.

2. Relationship with Existing Policies

2.1 The requirements aim to provide explanation on the existing requirements and detail guidance with reference of implementation under Part B of AML/CFT requirements for “**Combating the Financing of Terrorism**” and shall be read together with the reporting institutions existing AML/CFT Guidelines as per each sector below:

- Guidelines on AML/CFT– Banking Sector (Paragraph 29.1 - 29.9)
- Guidelines on AML/CFT–Trust Company Sector (Paragraph 25.1 - 25.9)
- Guidelines on AML/CFT– Insurance and Takaful Sectors (Paragraph 25.1 - 25.9)
- Guidelines on AML/CFT– Capital Market and Other Business Services (Paragraph 25.1 - 25.9)

2.2 This guidance also shall be read together with other relevant policy documents, circulars and directives issued by Labuan FSA relating to the compliance with AML/CFT requirement from time to time unless it was stated otherwise.

3. Non Compliance

3.1 Any person who fails to comply with the Guidelines may be guilty of an offence punishable under Section 4B of the Labuan Financial Services Authority Act 1996 and/or section 66E of Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

4. Compliance Date

4.1 Compliance to the requirements outlined in this guideline shall take effect immediately, unless otherwise specified by the Labuan FSA.

5. General

5.1 The table below summarizes the distinguishing components of the various UNSCRs, provisions of AMLA, subsidiary legislation made by the Minister of Home Affairs and any circular/directive/information from Labuan Financial Services Authority.

	UNSCRs List	Domestic List
UNSC Resolution	<ul style="list-style-type: none"> • UNSCR 1267 (1999)/ 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh) Al-Qaida and Associated Individuals Groups Undertakings and Entities and other subsequent Resolutions (ISIL (Da'esh) Al-Qaida List). • UNSCR 1988 (2011) concerning the Taliban and the 	UNSCR 1373(2001)

	subsequent Resolutions (Taliban List).	
AMLA provision	Section 66C	Section 66B
Subsidiary Legislation (Gazette Order)	<ul style="list-style-type: none"> • Anti-Money Laundering and Anti-Terrorism Financing (Security Council Resolution) (Al-Qaida and Taliban) (Amendment) Order 2011 (P.U.(A) 402/2011) and its successor Resolutions; • Anti-Money Laundering and Anti-Terrorism Financing (Security Council Resolutions) (Al-Qaida and Taliban) (Amendment) Order 2014 (P.U.(A) 255/2014); and • Other subsidiary legislation made under section 66C of the AMLA which may be issued by the Ministry of Home Affairs from time to time. 	<ul style="list-style-type: none"> • Anti-Money Laundering and Anti-Terrorism Financing (Declaration of Specified Entities and Reporting Requirements) Order 2014 (P.U.(A) 93/2014); • Anti-Money Laundering and Anti-Terrorism Financing (Declaration of Specified Entities and Reporting Requirements) (Amendment) Order 2014 (P.U.(A) 301/2014); and • Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities (Declaration of Specified Entities and Reporting Requirements) (Amendment) Order 2016 (P.U.(A) 234/2016); • Other subsidiary legislation made under section 66B of the AMLA which may be issued by the Minister of Home Affairs from time to time.



Note:

The Sanctions Committee in relation to terrorism was initially established pursuant to **Resolution 1267 (1999)**, which imposed a limited air embargo and assets freeze on the Taliban. Over time, the regime evolved and the measures were expanded to include targeted assets freeze, travel ban and arms embargo against designated individuals and entities. On 17 June 2011, the Security Council unanimously adopted **Resolutions 1988 (2011)** and **1989 (2011)**. With the adoption of these resolutions, the Security Council decided that the list of individuals and entities subject to the measures would be split in two. The Committee was henceforth known as the Al-Qaida Sanctions Committee, mandated to oversee implementation of the measures against individuals and entities associated with Al-Qaida. A separate Committee was established pursuant to **resolution 1988 (2011)** to oversee implementation of the measures against individuals and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan. On 17 December 2015, the Security Council unanimously adopted resolution **2253 (2015)**. With the adoption of this resolution, the Security Council decided to expand the listing criteria to include individuals and entities supporting the Islamic State in Iraq and the Levant (ISIL).

	Examples of good practices	Examples of poor practices
Policies and procedures	<ul style="list-style-type: none"> • Documented policies and procedures are in place, which clearly set out the reporting institution's approach to complying with its legal and regulatory requirements in relation to TFS on TF regime. • Group-wide policies for the TFS on TF screening established on group basis, to ensure that business unit's policies and procedures reflect at the very least the minimum requirements set out in group policy. • Effective procedures in place for screening against the Domestic and UNSCR Lists (TFS on TF lists) that are commensurate with the nature of business, products, services, channels and customer served. • Clear, simple and well understood escalation procedures to enable staff to promptly escalate TFS concerns for management's attention. 	<ul style="list-style-type: none"> • No policies or procedures in place for complying with the legal and regulatory requirements of the TFS on TF regime. • Internal audits of procedures carried out by persons with responsibility for oversight of TFS on TF procedures, rather than by an independent party.

6. Targeted Financial Sanctions Screening and Freezing Compliance

(a) Maintenance of List

Subsidiary Legislation (Gazette Order)

P.U. (A) 255 – 10 September 2014

Paragraph 2: The Anti-Money Laundering and Anti-Terrorism Financing (Security Council Resolutions) (Al-Qaida and Taliban) Order 2011 [P.U. (A) 402/2011] which is referred to as the "principal Order" in this Order, is amended –

- (a) In the definition of "listed entity", by inserting after the words "in the 1267 List" the words "and 1988 List";

listed entity" means an entity specified in the 1267 List and 1988 List

Note: This paragraph of the subsidiary legislation expands the requirements for TFS on TF to include the Taliban List under UNSCR 1988.

Paragraph 2(c) amends the previous P.U.(A) 402/2011 which previously referred 1267 List as "the Consolidated List of entities established and maintained by the 1267 Committee with respect to Al-Qaida, Usama Bin Laden and Taliban, and other individuals, groups, undertakings and entities associated with them" by inserting after

the words "associated with them" the words "which is updated by the 1267 Committee and made available on the official website of the United Nations at <http://www.un.org>".

"1267 List" means the Consolidated List of entities established and maintained by the 1267 Committee with respect to Al-Qaida, Usama Bin Laden and Taliban, and other individuals, groups, undertakings and entities associated with them **which is updated by the 1267 Committee and made available on the official website of the United Nations at <http://www.un.org>**.

Note: This amendment to the paragraph of the subsidiary legislation provides for an **automatic application** of the UNSCR lists by making reference to the updated list in the UN website.

- 6.1 A reporting institution must take note that Amendment Order 2014 (P.U. (A) 255/2014) provides for an automatic application of the UNSCR lists by making reference to the updated list in the UN website.
- 6.2 Accessibility of the list shall be well-encompassing including making them available to the outsourced service providers or agents.
- 6.3 As there is no pre-determined timetable for updating of the UNSCR lists by the relevant Sanctions Committees, reporting institutions are advised to update their database on names of specified entities, at a minimum, at every one week intervals. Nonetheless, reporting institutions are also advised to consider risks and context when deciding on the policy on the frequency of updating of their database on the UNSCR lists; where high risk scenario would warrant more frequent updating of the database.
- 6.4 Reporting institutions are required to keep updated with the Domestic List as soon as the subsidiary legislation is published in the Gazette by the Ministry of Home Affairs.
- 6.5 Reporting institutions may also consolidate their database with the other countries unilateral¹ lists, issued by other jurisdictions to aid their risk assessments.

¹ Examples of such list include the US's Office of Foreign Assets Control (OFAC) list, European Union's Financial sanctions list, and Australia's Department of Foreign and Trade sanction list

- 6.6 Reporting institutions may also consider electronic subscription services in ensuring that an updated list is maintained. However, the responsibility of ensuring that the list is up-to-date and sufficiently robust remains with the reporting institution.
- 6.7 Reporting institutions shall consider submitting STR if there are positive name matches with individuals or entities listed in other unilateral lists and must submit STR if they suspect the transactions by these individuals involves money laundering or terrorism financing activities.
- 6.8 The delisting of any specified entities under UNSCR List, shall automatically take effect when the specified entities are removed by the relevant Sanction Committees lists.
- 6.9 The delisting of specified entities under the Domestic List, shall take effect upon publication for the removal of such specified entities through subsidiary legislation published in the Gazette.

(b) Screening of Customers – Specified Entities

Subsidiary Legislation (Gazette Order)	P.U. (A) 402 – 5 December 2011 – UNSCRs List
Paragraph 8(1): The reporting institution shall, within thirty days of the coming into operation of this Order or any amendment to the First Schedule, determine that the reporting institution is in the possession or control of the property owned or controlled by or on behalf of the listed entity	
Subsidiary Legislation (Gazette Order)	P.U. (A) 93 – 7 April 2014 – Domestic List
Paragraph 3(1): The reporting institution shall, within thirty days of the coming into operation of this Order or the coming into operation of any amendment to the First Schedule, determine that the reporting institution is in possession or control of any of the property owned or controlled by or on behalf of the specified entities.	

Circular	16 April 2014
Requirements under Circular “Freezing of Funds pursuant to Anti-Money Laundering and Anti-Terrorism Financing (Declaration of Specified Entities and Reporting Requirements Order 2014 – PUA 93/2014)” dated 16 April 2014:	
Reporting Institutions are required to determine that they are in possession or control of the property owned or controlled by or on behalf of the entity and report upon determination to Labuan FSA and thereafter for every six months intervals	

- 6.10 The principle in relation to screening of customer is applicable when reporting institutions are required to undertake customer due diligence and

on-going customer due diligence as provided by the relevant AML/CFT Guidelines.

6.11 Reporting institutions are required to screen their entire customer base within reasonable time to prevent dissipation of funds of the specified entities or related parties.

6.12 For insurance sector, screening of customers are to be undertaken at various stage of transaction which is summarised in the table below:

Proposal	Underwriting	Policy Issuance	In-force	Before Pay-out
Sanction screening on all new or potential customers when CDD is required in accordance with AML/CFT - Insurance and Takaful Sector			Regular name screening on all existing customers and within reasonable time after new names are specified.	Name screening must be conducted before any payments are made for claims, withdrawal or surrender.

(c) Screening of Customers – Related and Third Parties

6.13 Reporting institutions shall undertake further screening and analysis on specified entities which properties or accounts are jointly owned and/or indirectly controlled by the specified entities.

6.14 Reporting institutions shall conduct further customer due diligence checks on parties related to frozen accounts including checking on control and conduct of the frozen accounts and other related or third parties accounts connected to specified entities.

Example:

Transactions and relationships of related parties may include beneficial owners, signatories, power of attorney relationships, guarantors, nominees, trustees, assignees, payors and others

6.15 The requirements for customer due diligence on legal persons and legal arrangements and beneficial owners in the respective provisions under the AML/CFT Guidelines should be applied in determining the funds are directly or indirectly owned or controlled.

6.16 Reporting institutions are also advised to screen the names of the beneficiary of wire transfers and make an assessment whether such transaction should be blocked or rejected.

6.17 Reporting institutions are also advised to search, examine and analyse past financial activities of the specified entities, related or third parties.

Example:

Bank X, conducted screening of its entire customer base following a listing of designated entities under section 66B. Upon finding a match, the bank discovered that several transactions were made which linked to various third party individuals and entities that had made multiple transactions with the designated entities. The bank undertook further assessments and analysed linkages between the accounts and reported such transactions as suspicious transactions.

Third parties, in this context, may include parties suspected financiers or other parties where relationship between the specified entities and the third parties are not immediately clear. Such situation may include transfers or transactions from non-profit organisations, remittance from unrelated party from conflict areas and others.

**Note:**

The Al-Qaida Sanctions Committee (now ISIL (Da'esh) Al-Qaida Sanction Committee) provides for the scope of the phrase “funds derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction” in the following manner:

- Funds or other financial assets or economic resources made available to or for the benefit of a listed party are not always held directly by them; they may be held by others on the listed party's behalf or acting at the listed party's direction. In this case Member States must ensure that any funds or negotiable benefit arising from this property is also frozen. In identifying such funds and benefits, Member States should be alert to the possibility that property owned or controlled indirectly by the listed party may not

be immediately visible, and that the listed party may have arranged the indirect ownership or control in order to conceal an interest in the property.

Source: *Assets Freeze: Explanation Of Terms as approved by the Al-Qaida Sanctions Committee on 24 February 2015* : https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/eot_assets_freeze_-_english.pdf

	Examples of good practices	Examples of poor practices
Screening during on-boarding of customers	<ul style="list-style-type: none"> • Use of an effective screening system appropriate to the nature, size and risk of the reporting institution's business. • Screening against the TFS on TF lists at the time of on-boarding of customer before providing any services or undertaking any transactions for a customer. • Comprehensive screening directors and beneficial owners of corporate customers. • Comprehensive analyses of relationship and transactions in relation to related or third-parties. • The use of „fuzzy matching“ where automated screening systems are used. • Where a commercially available automated screening system is implemented, making sure that there is a full understanding of the capabilities and limits of the system. 	<ul style="list-style-type: none"> • Screening retrospectively, rather than at the time of customer on-boarding. • Screening only on notification of a claim on an insurance policy, rather than during the customer on-boarding process. • Relying on outsourcing agencies or third parties screen customers against the TFS on TF lists without taking reasonable steps to ensure that they are doing so effectively. • Assuming that CDD checks include screening against the targeted sanctions lists. • Failure to screen Malaysia-based customers on the assumption that there are no Malaysia-based persons or entities on the targeted sanctions lists or failure to screen due to any other misconception. • Failure to screen directors and beneficial owners of legal persons, legal arrangements and/or third-party payees where adequate information is available. • Large institutions with millions of customers using manual screening, increasing the likelihood of human error and leading to matches being missed. • IT systems that cannot flag potential matches clearly and prominently. • Reporting institutions calibrating their screening rules too narrowly or too widely so that they, for example, match only exact names with the targeted sanctions lists or generate large numbers of resource intensive false positives. • Regarding the implementation of a commercially available sanctions screening system as a panacea, with no further work required by the reporting institution.

		<ul style="list-style-type: none"> • Failure to tailor a commercially available automated screening system to the reporting institution's requirements.
<p>Ongoing screening</p>	<ul style="list-style-type: none"> • Screening of the entire customer base within a reasonable time following updates to the TFS on TF lists. • Ensuring that customer data used for ongoing screening is up to date and correct. • Processes that include screening for customers' accounts or transaction which are also indirectly owned or controlled as well as third-party payees. • Processes that include screening changes to corporate customers' data (e.g. when new directors are appointed or if there are changes to beneficial owners). • Regular reviews of the calibration and rules of automated screening systems to ensure they are operating effectively. • Automated screening systems calibrated in accordance with the reporting institution's risk appetite, rather than the settings suggested by external software providers. • Systems calibrated to include „fuzzy matching“, including name reversal, digit rotation and character manipulation. • Flags on matches in systems prominently and clearly identified. • Controls that require referral to relevant compliance staff prior to dealing with flagged individuals or entities. 	<ul style="list-style-type: none"> • No ongoing screening of customer databases or transactions. • Failure to screen directors and beneficial owners of legal persons and/or third-party payees where adequate information is available. • Failure to review the calibration and rules of automated screening systems, or failure to set the calibration in accordance with the reporting institution's risk appetite. Flags on matches in systems that are dependent on staff looking for them. • Controls on systems that can be overridden without proper authorization and referral to compliance.

(d) Freezing, Blocking and Rejecting Customers

<p>Subsidiary Legislation (Gazette Order)</p>	<p>P.U. (A) 402 – 5 December 2011 (UNSCRs List)</p>
<p>Paragraph 4 (1) : The funds of the listed entity, including those in the Al-Qaida organization and the funds derived or generated –</p> <p>(a) from property owned or controlled directly or indirectly by listed entity; or</p> <p>(b) by any undertaking owned or controlled directly or indirectly by the listed entity,</p> <p>shall be frozen without delay.</p> <p>Paragraph 5: Any person who, except under the authority of the Minister of Home Affairs as specified under subsection 66B(10), makes any funds available to or for the benefit of the listed entity commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding one year or both.</p>	



Note:

According to the FATF, the “**without delay**” application of TFS on TF is defined **to be ideally within a matter of hours** of a designation by the United Nations Security Council or its relevant Sanctions Committees. The phrase 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, terrorists’ organisations and terrorist financiers.

6.18 The frozen funds or accounts may continue receiving dividends, interests, bonus or other benefits. However, such benefits must remain frozen as long as the individuals or entities continue to be listed.

6.19 No payment out should be made without the approval of Minister of Home Affairs.

6.20 Freezing, blocking and rejection of customers in relation to other countries’ unilateral lists depends on contractual relationships that reporting institutions may have with its counterparties from which the unilateral list originates. This may include correspondence relationship, remittance services and terms of contractual relationship with customers. Reporting institutions are advised to consider risk and context when deciding on freezing, blocking and rejecting customers based on other unilateral lists.



Note:

According to the Al-Qaida Sanctions Committee (now ISIL (Da'esh) Al-Qaida Sanction Committee), the term “freeze” refers to:

- Freeze of funds and other financial assets and economic resources includes **preventing their use, alteration, movement, transfer or access, unless allowed under the specific exemption procedures under UNSCR 2161 (2014)2.**
- Freeze of economic resources also includes preventing their use to obtain funds, goods, or services in any way, including, but not limited to, by selling, hiring or mortgaging them.
- The term “freeze” does not mean confiscation or transfer of ownership. Whatever person or State body is responsible for regulating frozen assets should make reasonable efforts to do so in a manner that does not result in their undue deterioration, provided that this does not conflict with the overall intention behind the freezing action - to deny listed individuals, groups, undertakings and entities the financial means to support terrorism.
- In cases where a listed party owns or controls funds or other financial assets or economic resources in which unlisted persons also have a segregable interest, for example as joint-owners or employees, the

freeze is directed against that share of the asset owned or controlled by the listed party. In such cases, Member States should ensure that the listed party is not able to exercise its interest in the asset directly or indirectly, including by issuing instructions regarding any benefit, financial or otherwise, that may accrue from the asset. If an asset is owned or controlled by a listed party and an unlisted party and the interest owned or controlled by the unlisted party cannot be segregated, the entire asset should be subject to the freeze.

- In cases where an asset owned or controlled in part or in full by a listed party continues to produce benefit, for example in the form of dividends or interest, Member States should ensure that the relevant portion of such benefit is also frozen.

Source: *Assets Freeze: Explanation Of Terms as approved by the Al-Qaida Sanctions Committee on 24 February 2015* : https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/eot_assets_freeze_-_english.pdf

	Examples of good practices	Examples of poor practices
Treatment of freezing	Clear policies and procedures in dealing with frozen accounts.	<ul style="list-style-type: none"> • Allowing payment out without application to and approval by the Minister of Home Affairs. Note that, this is a contravention of the law. • Denying payment of interest, bonus or other benefits into the frozen account.

7. Reporting Requirements

(a) Reporting upon Determination of a Match (for both UNSCRs and Domestic Lists) – Specified entities and related parties

7.1 Reporting institutions are required to **report on determination** that reporting institutions are **in possession** of property owned or controlled by or on behalf of the listed entity, directly or indirectly to the following authorities:

	Authority	Source of obligation
i)	Relevant regulatory and supervisory authorities	<ul style="list-style-type: none"> Section 66D(2) of the AMLA Section 66E of the AMLA Respective paragraphs of AML/CFT Guidelines
ii)	Financial Intelligence and Enforcement Department, Bank Negara Malaysia (as suspicious transaction reports (STR))	Respective paragraphs of AML/CFT Guidelines
iii)	Inspector-General of Police	Section 66B(3)(d) of the AMLA

7.2 The form for reporting to the **relevant regulatory and supervisory authorities** and **Inspector- General of Police upon determination** of a name match is **attached in Appendix I**.

7.3 Further details and analysis on customer due diligence and on-going customer due diligence information, transactions and past financial activities by specified entities and third or related parties are advised to be submitted as **suspicious transaction report**.

	Examples of good practices	Examples of poor practices
Reporting	<ul style="list-style-type: none"> Reporting promptly once match has been found to the relevant authorities and subsequent periodic reporting. Reporting on third or related parties and relevant transactions with specified entities as suspicious transaction report. 	<ul style="list-style-type: none"> Delay in determination and periodic reporting. Provision of conflicting information on previously reported matches. Incomplete information submitted when reporting specified entities and third or related parties. Not reporting

	<ul style="list-style-type: none"> Complete and comprehensive analyses provided as STR on specified entities and third or related parties. 	<p>STR on the specified entity and third or related parties</p> <ul style="list-style-type: none"> STR which contains the same information submitted as determination (as per part 7(a)) or periodic reporting (as per part 7(b)) to regulatory and supervisory authorities (with no additional analysis).
--	---	---

(b) Periodic reporting on a match (for both UNSCRs and Domestic Lists)

Subsidiary Legislation (Gazette Order)	P.U. (A) 402 – 5 December 2011
<p>Paragraph 8(2): The reporting institution shall report the determination under sub-paragraph (1) to the relevant regulatory and supervisory authority within thirty days after the determination and thereafter for every six months interval.</p>	

7.4 The periods of reporting (6 months intervals) for both lists are as follows:

	UNSCRs List	Domestic List
Intervals	Every 15 January and 15 July	Every 15 May and 15 November

7.5 The specific form of periodic reporting to regulatory and supervisory authorities is attached in **Appendix II**.

(c) Variation to periodic reporting

7.6 Interval reporting should only be applicable to reporting institutions that hold accounts of customers. No periodic reporting is required for reporting institutions that do not hold accounts of customers.

7.7 All reporting institutions that are subject to the AML/CFT Guidelines are required to submit periodic reporting forms to Labuan FSA regardless whether there is no match in their database.

(d) Attempted transaction

7.8 Reporting institutions are to report as suspicious transaction any attempted transactions undertaken by specified entities or related parties in the case of joint accounts. This may include any transaction that is subsequently rejected or blocked, incomplete in the event of failure to satisfactorily to complete customer due diligence and attempt for redemption of assets where repayment has been fulfilled.

(e) False Positive

7.9 Reporting institutions shall require additional information and identification documents (which previously may have not been obtained) and from the customer or a third party (e.g. Suruhanjaya Syarikat Malaysia for legal persons) to ascertain whether a customer is a specified entity in the case of similar names.

7.10 Reporting institutions may forward queries to respective supervisory authorities to ascertain whether or not the customer is a specified entity in the case of similar names.

7.11 Any query submitted to supervisory authorities may be accompanied by additional information, copies of identification documents and the reporting institutions assessments.

7.12 If reporting institution's customers feel that their accounts have been mistakenly frozen or transactions have been mistakenly rejected or blocked, the reporting institution may advise their **customers to contact** the Ministry of Home Affairs to verify the false positive match.

	Examples of good practices	Examples of poor practices
Treatment of potential target matches	<ul style="list-style-type: none"> • Procedures for investigating whether a potential match is an actual target match or a false positive. • Procedures for freezing accounts where an actual target match is identified. • Procedures for reporting to the relevant authorities promptly of any confirmed matches. • Procedures for notifying senior management of target matches and cases where the reporting institution cannot determine whether a potential match is the actual target on the TFS on TF lists. • A clear audit trail of the investigation of potential target matches and the decisions and actions taken, such as the rationale for deciding that a potential target match is a false positive. 	<ul style="list-style-type: none"> • No procedures in place for investigating potential matches with the TFS on TF list. • Discounting actual target matches incorrectly as false positives due to insufficient investigation. • No audit trail of decisions where potential target matches are judged to be false positives.

8. Exemption from Asset Freezing and Others

8.1 Reporting institutions may also advise customer or related party of the frozen accounts, blocked or rejected transactions to submit any query or appeal for variation to the frozen accounts, delisting or any other matters to the Ministry of Home Affairs.

8.2 Reporting institutions will be given further instruction by the supervisory authorities should any payment for basic expenses or other expense is approved by the Minister of Home Affairs.

8.3 The contact point for the Ministry of Home Affairs in relation to TFS on TF is:

Secretary General
Ministry of Home Affairs
Level 10, Block D1, Complex D 62546 Putrajaya
(Attn.: Security and Public Order Division)

Tel: 03-8886 8000 ext. 8064, 8543, 8055, 3453

Fax: 03-8889 1763

E-mail: amlcft@moha.gov.my

Website: <http://www.moha.gov.my/index.php/en/maklumat-perkhidmatan/membanteras-pembiayaan-keganasan2/menu-utama>

- 8.4 For reference only, all main subsidiary legislations namely P.U.(A) and P.U.(B) also can be accessed from the Attorney General's Chambers at its e-Federal Gazette portal. The portal is an official portal for publication of all Malaysia federal legislation http://www.federalgazette.agc.gov.my/eng_main/main_carian_tarikh.php .
- 8.5 The Designated Compliance Officer needs to keep track with any latest information in relation to the implementation of the TFS on the Anti-Money Laundering and CFT Compliance section at the Labuan FSA official website on frequent basis.

**Labuan Financial Services Authority
17th July 2017 (Monday)**

9. Summary Of Implementation On Targeted Financial Sanctions On Terrorism Financing

NO	DETAIL	TASKS
1	MAINTAIN LIST	<ul style="list-style-type: none"> • Frequency of updating list • Accessibility of list • Other unilateral lists • Electronic subscription • Delisting
2	SCREEN CUSTOMERS, RELATED AND THIRD PARTIES	<ul style="list-style-type: none"> • Timing of screening • New and existing customers • Screening beyond customers to include related and third parties (directly and indirectly) • Analysis of transactions
3	FREEZE, BLOCK AND REJECT	<ul style="list-style-type: none"> • Freezing without delay • Treatment of frozen accounts • Treatment of other unilateral sanctions list
4	REPORT	<ul style="list-style-type: none"> • Reporting to regulatory and supervisory authorities • Reporting of suspicious transactions • Reporting of Royal Malaysia Police • 6 Monthly periodic reporting
5	EXEMPTION	Contact point of Ministry of Home Affairs

PART B FREQUENTLY ASKED QUESTIONS

Question	Answer
MAINTANENCE OF LIST	
1. Is there any consolidated list for individuals and entities specified under section 66B of the AMLA?	<p>The subsidiary legislation issued under section 66B of the AMLA usually amends the previous subsidiary legislation. As such there is no consolidated list.</p> <p>Reporting institutions are required to maintain an internal list of all individuals and entities specified under section 66B specified in all the subsidiary legislations published in the Gazette.</p>
2. Does the delisting of individuals and entities from UNSCR lists automatically remove them from the Domestic List?	No. Removal from UNSCR lists does not automatically mean that the entity is removed from the Domestic List.
SCREENING OF CUSTOMERS	
3. When should the names of customers be screened against the TFS on TF lists?	Reporting institutions are required to screen the names of customers when CDD requirement applies.
REPORTING	
4. Do reporting institutions need to report to the regulatory and supervisory authority if there is a name match in the system with its customer who had fully redeemed his unit trust prior to being specified and thereafter no longer having a relationship with the reporting institution?	Reporting institutions are required to search, examine and analyse past financial activities of the specified entities and related parties. Should reporting institutions ascertain that there is a ground of suspicion; an STR should be filled to the FIED, Bank Negara Malaysia and also AML/CFT unit, Labuan FSA
5. If Ministry Of Home Affairs (MOHA) has just gazetted a new Order under 1373 (Domestic List). When is the exact due date for reporting institutions to fulfil their requirement to report on their determination to	<p>For any new Gazette Order issued by MOHA, reporting institutions need to:</p> <p>(a) report back to Labuan FSA whether or not they are in possession or control of any property of the specified person</p>

<p>Labuan FSA?</p>	<p>or classed of persons; and (b) Provide the detail of the possession (example Appendix I).</p> <p>Should there be any name match, reporting institutions need to freeze immediately the assets without delay and refer to the Reporting Requirements - (a)Reporting upon Determination of a Match (for both UNSCRs and Domestic Lists) – Specified entities and related parties on this Guidelines.</p> <p>The due date is before the thirtieth day of the coming into operation of the new Order (or within the duration of 30 days). Example, Order P.U.A 234/2016 issued on 5th September 2016. The final submission to report back to Labuan FSA is before 4th October 2016.</p>
<p>6. If the customer listed in the targeted financial sanction lists is a signatory to a company who maintains account with the financial institution, does the financial institution need to also declare details of other signatories and directors of the said company?</p>	<p>Yes, as related party. The reporting institution is to further assess the accounts and transactions and may also report STR should it merit such submission.</p>
<p>7. Does a “NIL” report required for periodic reporting to Labuan FSA where there are no matches to the list?</p>	<p>Yes. NIL periodic reporting is required for reporting institutions that hold accounts. For reporting institutions that undertake one-off transaction which no account is maintained, it is not required to submit six monthly periodic reporting.</p>
<p>8. Does the requirement to submit STRs extend to foreign branches and subsidiaries in relation to domestic list?</p>	<p>Reporting institutions and financial groups are required to ensure that their foreign branches and subsidiaries apply AML/CFT requirements in a manner that is consistent with the AML/CFT requirements in Malaysia, to the extent that host country laws and regulations permit. As such, reporting institutions need to assess the requirements applicable to the foreign branches and subsidiaries on the need for reporting STRs in the host country. Reporting</p>

	institutions needs to assess whether the home country domestic listing is a factor for STR submission. Reporting institutions foreign branches shall also submit STR to FIED, BNM and AML/CFT unit, Labuan FSA to the extent provided by the laws of the host country.
FREEZING ACCOUNTS, BLOCKING OR REJECTING OF TRANSACTIONS	
9. Is there any need for the reporting institution to freeze hire purchase account if the guarantor is a match against the sanction lists?	<p>The hire purchase account should not be frozen, as it is a loan account, which must continue to be serviced. However, when the repayment is completed, the property or vehicle must not be redeemed or transferred.</p> <p>The reporting institution is required to establish the relationship of the specified entity as the guarantor of the vehicle loan, i.e. whether the specified entity is possession or control of the property when repayment is completed and subsequent redemption of the vehicle.</p>
10. Could a reporting institution transfer any funds from a frozen account to the Registrar of Unclaimed Moneys under the Unclaimed Moneys Act 1965?	Funds are to remain frozen so long the specified entities remained listed. No dealing with the funds allowed including transferring the funds to the Registrar of Unclaimed Moneys.
11. Are reporting institutions permitted to credit payment in favour of the specified entities into their frozen accounts?	Yes. Reporting institutions are permitted to credit payments in favour of specified entities to their frozen accounts, so long as the additional amounts are also subject to the assets freeze.
12. Does a reporting institution have to freeze the account if the specified entity is the director/signatory of the company?	Yes. The company account needs to be frozen too when the reporting institution assess whether the designated entity owns or controls directly or indirectly of the company funds in question.
13. Are reporting institutions allowed to inform the customer why the	All Gazette Orders are public information. As such, reporting

institutions froze their account, blocked the transaction or rejected the customer?	institutions are allowed to inform the customer on the reason why the account is frozen transaction is blocked or customer is rejected.
14. Could a reporting institution deduct fees or service charges for routine holding or maintenance of frozen funds?	The reporting institution could deduct fees or service charges for routine holding or maintenance of frozen funds by making an application to the Ministry of Home Affairs for property belonging to specified entities under section 66B.
15. Must reporting institutions continue freezing funds (and reporting) of specified entities in the event of their death?	Freezing of funds and periodic reporting must continue until the specified entities are delisted.
JOINT ACCOUNT	
16. Does the reporting institution have to freeze joint accounts?	Yes. Joint accounts need to be frozen. The second joint account holder may ask for recourse from the Ministry of Home Affairs.
17. Does the second joint account holder, whose name is not listed in the sanction lists, required to be reported? If the answer is yes, does the reporting institution also need to declare any relationship the second joint account holder may have with the reporting institution?	Yes. The reporting institution is required to fill in the form in the related party column in the case of supervisory reporting (Form in Appendix I). In addition, reporting institutions should assess and analyse the related parties' transactions vis-à-vis specified entities. Should the reporting institution assess the relationship between the second joint account holders with the specified entities as suspicious, the reporting institution must report the case with relevant information as STR to FIED, Bank Negara Malaysia and also AML/CFT Unit, Labuan FSA.
CREDIT FACILITIES / LOAN	
18. Are reporting institutions permitted to receive payments for any outstanding loans or other credit facilities into the loan/ credit	Yes. Reporting institutions are permitted to receive payments into the specified entities credit or loan accounts.

accounts of the specified entities?	However, should the payment is for the purchase of assets, the assets should remain frozen even after the full settlement of the financing facilities i.e. No change of name to the designated entity name or a third party.
19. Could a reporting institution foreclose any property in the event of non-payment of loans?	The reporting institution shall not foreclosed any property with unserviced or unpaid financing before making an application to the Minister of Home Affairs (and with subsequent court process).
CLOSURE OF ACCOUNT	
20. Could a reporting institution close any account that is deemed to be delinquent (or non-payment of premium for the case of insurance)?	The reporting institution could only close any account or terminate insurance policy that are deemed to be delinquent or non-payment by making an application to Ministry of Home Affairs.
21. Could a reporting institution liquidate or dispose any property if the specified entity failed to repay the amount borrowed?	No property could be liquidated or disposed off when there is failure in repayment. The reporting institution may seek recourse from the Ministry of Home Affairs in order to dispose such property.
INSURANCE	
22. Would it be possible for insurers to dispense payment to a third party e.g. medical purposes, car repairs etc. for sanction individuals or related insured parties?	No payment should be made from frozen policies/ accounts. However, the insured party could apply for variation from the Ministry of Home Affairs to enable payment for medical purposes or other reasons provided under the AMLA.
23. Does the reporting obligation also apply to reinsurer companies?	The obligation to freeze, reject and block transactions and to report on specified entities apply to all persons.

(a) APPENDIX I

- 1) **E-mail to:**
AML/CFT Unit, Labuan FSA at aml@labuanfsa.gov.my
- 2) **Adressed to:**

Ketua Polis Negara

- (a) u/p : Pasukan Siasatan Jenayah Pengubahan Wang Haram dan Pembiayaan Keganasan
Urusetia Pejabat Ketua Polis Negara, Tingkat 23, Menara 238, Jalan Tun Razak, 50400, Kuala Lumpur
- (b) u/p : Bahagian E8,Cawangan Khas
Tingkat 24, Menara 2, Ibu Pejabat Polis Bukit Aman, 50560, Kuala Lumpur

RE: REPORTING OF DETERMINATION AND THE FREEZING OF FUNDS PURSUANT TO THE ANTI-MONEY LAUNDERING, ANTI-TERRORISM FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ACT 2001 AND ITS SUBSIDIARY LEGISLATION

Circular / Gazette Reference No.: _____

Circular / Gazette Reference Date: _____

Match with Specified Individual / Entity (YES / NO) : _____

If YES, please fill-up the details in the form below.

No	Name	Address	NRIC / Passport No.	Institution Name (E.g. Islamic, Investment, Insurance) - if reporting done on group basis	Branch maintaining the account/ facility	Account No.	Account Facility/ Financial Services Type	Date financial services given (DD/MM/YYYY)	Account / Facility Status before it being frozen	Date account frozen (DD/MM/YYYY)	Balance as at...		Related Parties	Remarks
											• Banking (CR)/ • Insurance (Sum Insured)	• Banking (DR)/ • Insurance (Premium Received)		
1														
2														
3														

Reporting Institution Details:

Reporting Institution Name : _____

Contact Person : _____

Designation : _____

Tel & Fax No. : _____

E-mail : _____

Reporting Date : _____

(b) APPENDIX II

E-mail to:

AML/CFT Unit, Labuan FSA at aml@labuanfsa.gov.my

RAHSIA

RE: **REPORTING OF DETERMINATION AND THE FREEZING OF FUNDS PURSUANT TO THE ANTI-MONEY LAUNDERING, ANTI-TERRORISM FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ORDERS**

Circular / Gazette Reference No.: _____

Circular / Gazette Reference Date: _____

Match with Specified Individual / Entity (YES / NO) : _____

If YES, please fill-up the details in the form below.

No	Name	Address	NRIC / Passport No.	Institution Name (E.g. Islamic, Investment, Insurance) - if reporting done on group basis	Branch maintaining the account/ facility	Account No.	Account Facility/ Financial Services Type	Date financial services given (DD/MM/YYYY)	Account / Facility Status <u>before it being frozen</u>	Date account frozen (DD/MM/YYYY)	Balance as at...		Related Parties	Remarks
											• Banking (CR)/ • Insurance (Sum Insured)	• Banking (DR)/ • Insurance (Premium Received)		
1														
2														
3														

Reporting Institution Details:

Reporting Institution Name : _____

Contact Person : _____

Designation : _____

Tel & Fax No. : _____

E-mail : _____


Reporting Date : _____

RAHSIA

(c) REFERENCE APPENDIX I.

Kindly provide the head subject of the email as per below for submission of Appendix I to Labuan FSA:

To aml@labuanfsa.gov.my

CC/BCC 

Subject : Name of Labuan Entity - UNSCR List - Determination

Name of your entity,
Example:
ABC Labuan Ltd

Reference to the submission either

- 1) **UNSCR list**, OR
- 2) **Domestic List**

Example of Subject

ABC Labuan Ltd – UNSCR List - Determination

OR

ABC Labuan Ltd- Domestic List – Determination

IF it is a requirement for **any latest or new Gazette Order** under Domestic list, kindly provide as per example below:

Name of Entity – Domestic List- Determination (new Order)

ie ABC Labuan Ltd – Domestic List – Determination **PUA234/2016**

Send

  Tt **B** *I* **A**        Saved at 4:59 PM

(d) REFERENCE APPENDIX II

Kindly provide the subject of the email as per below for submission of Appendix II to Labuan FSA:

To aml@labuanfsa.gov.my

CC/BCC

Subject : Name of Labuan Entity - UNSCR List - Interval 15 January (year of Submission) - NIL

Name of your entity,

Example:

ABC Labuan Ltd

Reference to either

1) **UNSCR list**, OR

2) **Domestic List**

Example of Subject

ABC Labuan Ltd – UNSCR List;

OR

ABC Labuan Ltd- Domestic List

a) Example for UNSCR list:-

- ABC Labuan Ltd – UNSCR List – Interval **15 January** 2017; Or

- ABC Labuan Ltd- UNSCR List - Interval **15 July** 2017

***15 January and 15 July** is the due date for 6 months periodic reporting for UNSCR List*

b) Example for Domestic List:-

- ABC Labuan Ltd – Domestic List – Interval **15 May** 2017; Or

- ABC Labuan Ltd- Domestic List - Interval **15 Nov** 2017

***15 May and 15 Nov** is the due date for 6 months periodic reporting for Domestic List*

Should there be no name match, kindly stated “NIL” for both UNSCR List Or Domestic List i.e .

- ABC Labuan Ltd – UNSCR List- Interval 15 January 2017 – NIL

- ABC Labuan Ltd – UNSCR List- Interval 15 July 2017 - NIL

- ABC Labuan Entity – Domestic List – Interval 15 May 2017 – NIL

- ABC Labuan Entity – Domestic List – Interval 15 Nov 2017 – NIL

Should there be any name match, reporting institutions need to freeze immediately the assets without delay and refer to the Reporting Requirements - [\(a\)Reporting upon Determination of a Match \(for both UNSCRs and Domestic Lists\) – Specified entities and related parties](#) on this Guidelines

Send



Saved at 3:30 PM

(e) APPENDIX III

CROSS REFERENCE TO EXISTING AML/CFT GUIDELINES BY EACH SECTOR

(A) No	EXISTING REQUIREMENTS					Further explanation on Guidelines on Implementation of TFS on TF
	Guidelines on AML/CFT– Banking Sector	Paragraphs*	Guidelines on AML/CFT– Trust Company Sector	Guidelines on AML/CFT– Insurance and Takaful Sectors	Guidelines on AML/CFT– Capital Market and Other Business Sectors	
1	27.1.1	Reporting institutions are required to implement programmes to mitigate against ML/TF, which correspond to its ML/TF risks and size of business.	23.1.1	23.1.1	23.1.1	Cross-reference Existing (Refer to paragraph 2.1)
2	29.2	Reporting institutions are required to keep updated with the various resolutions passed by the United Nations Security Council (UNSC) on counter terrorism measures in particular the UNSC Resolutions 1267 (1999), 1373 (2001), 1988 (2011) and 1989 (2011) which require sanctions against individuals and entities belonging or related to the Taliban and the Al-Qaida organisation.	25.2	25.2	25.2	Cross-reference 6. Targeted Financial Sanctions Screening and Freezing Compliance (a) Maintenance of the List (Refer to paragraphs 6.1-6.4)
	29.3	Reporting institutions are required to maintain a list of individuals and entities (the Consolidated List) for this purpose. The updated UN List can be obtained at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml	25.3	25.3	25.3	
	29.4	Reporting institutions are required to maintain a database of names and particulars of listed persons in the UN Consolidated List and such orders as may be issued under sections 66B and 66C of the AMLATFA by the Minister of Home Affairs.	25.4	25.4	25.4	
	29.5	Reporting institutions shall ensure that the information contained in the database is updated and relevant, and made easily accessible to its employees at the head office, branch or subsidiary.	25.5	25.5	25.5	

* Where reference to requirements or guidance from the AML/CFT Guidelines on AML/CFT– Banking Sector is quoted, the corresponding requirements or Guidelines in AML/CFT – Trust Company Sector, Guidelines in AML/CFT – Insurance and Takaful Sectors, Guidelines in AML/CFT – Capital Market and Other Business Sectors are also referred to as simplified in the table above.

(B) EXISTING REQUIREMENTS						
	Guidelines on AML/CFT-Banking Sector	Paragraphs*	Guidelines on AML/CFT-Trust Company Sector	Guidelines on AML/CFT-Insurance and Takaful Sectors	Guidelines on AML/CFT-Capital Market and Other Business Sectors	Further explanation on Guidelines on Implementation of TFS on TF
3	29.9	Reporting institutions may also consolidated their database with the other recognized lists of designated persons or entities issued by other jurisdictions	25.9	25.9	25.9	<p>Cross-reference</p> <p>6. Targeted Financial Sanctions Screening and Freezing Compliance</p> <p>(a) Maintenance of the List (Refer to paragraphs 6.5-6.9)</p>
4	29.6	Reporting institutions are required to conduct checks on the names of new customers, as well as regular checks on the names of existing customers, and potential customers, against the names in the database. If there is any name match, reporting institutions are required to take reasonable and appropriate measures to verify and confirm the identity of its customer. Once confirmation has been obtained, reporting institutions must immediately: <ul style="list-style-type: none"> (a) freeze without delay the customer's funds or block the transaction (where applicable), if it is an existing customers; (b) reject the potential customers, if the transaction has not commenced; (c) submit a suspicious transaction report; and (d) inform the relevant supervisory authorities as the case may be. 	25.6	25.6	25.6	<p>Cross-reference (I)</p> <p>(d) Freezing, Blocking and Rejecting Customers (Please refer to Paragraphs 6.18 - 6.20)</p> <p>Cross-reference (II)</p> <p>7. Reporting Requirements</p> <p>(a) Reporting upon Determination of a Match (for both UNSCRs and Domestic Lists) – Specified entities and related parties (Refer to Paragraphs 7.1-7.3)</p>
5	29.7	Reporting institutions are required to submit a suspicious transaction report when there is an attempted transaction by any of the persons listed in the Consolidated List or orders made by the Minister of Home Affairs under sections 66B or 66C of the AMLA.	25.4	25.4	25.4	<p>Cross-reference</p> <p>(d) Attempted transaction (Refer to Paragraph 7.8)</p>
6	29.8	Reporting institutions are required to ascertain potential matches with the Consolidated List to confirm whether they are true matches to eliminate “false positives”. The reporting institutions are required to make further inquiries from the customer or counter-party (where relevant) to assist in determining whether the match is a true match.	25.8	25.8	25.8	<p>Cross-reference</p> <p>(e) False Positive (Refer to paragraph 7.8)</p>