

**GUIDELINES ON
TARGETED FINANCIAL SANCTIONS
FOR
SECURITIES MARKETS PARTICIPANTS**

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Acronyms/ Abbreviations

ALPA	Asset (Money) Laundering Prevention Act, 2008
ALPR	Asset (Money) Laundering Prevention Rules, 2024
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
FATF	Financial Action Task Force
FIU	Financial Information Unit
MoFA	Ministry of Foreign Affairs
MoHA	Ministry of Home Affairs
SEBON	Securities Board of Nepal
SMP	Securities Markets Participants
STR	Suspicious Transaction Reporting
TFS	Targeted Financial Sanctions
TFS-TF	Targeted Financial Sanctions- Terrorist Financing
TFS-PF	Targeted Financial Sanctions- Proliferation Financing
UN	United Nations
UN List	United Nations Security Council Consolidated List pursuant to the relevant United Nations Security Council Resolutions.
UNSC Sanctions Committee	United Nations Security Council Sanction Committee that oversees the compliance of United Nations Security Council Resolutions.
UNSC	United Nations Security Council
UNSCRs	United Nations Security Council Resolutions

"Domestic Terrorist List" means national terrorist list published by MoHA.

"Designated person" means individuals, groups, entities and undertakings listed in the UN List as well as Domestic Terrorist list.

"Sanction List" includes both UN Consolidated list and Domestic Terrorist List.

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Note: For the purpose of this guideline, Securities Markets Participants include- Stock Exchange, Central Depository Company, Merchant Banker, Stockbroker, Stock Dealer, Portfolio Manager, Mutual Fund Manager, Specialised Investment Fund Manager, Depository Participant, Credit Rating Agency, Investment Company

1. Overview of Targeted Financial Sanctions

The UNSC is one of the six principal organs of the UN and has the primary responsibility for the maintenance of international peace and security. It has 15 Members, and each Member has one vote. Under the Charter of the UN, all UN Members are obligated to comply with decisions of the Security Council.

By virtue of Article 41 of Chapter VII of the United Nations Charter and in order to fulfil its mission, the UNSC is empowered to take such measures as it deems appropriate. In certain cases, it can impose sanctions or even authorise the use of force to maintain or restore international peace and security. UNSC sanctions take a variety of forms and have different objectives, ranging from comprehensive economic and trade sanctions to more targeted measures such as arms embargoes, travel bans and financial or commodity restrictions. However, the main purpose of these sanctions is to support the political resolution of conflicts, promote the non-proliferation of nuclear weapons and combat terrorism.

Nepal, as a member of the UN, is mandated to implement UNSCRs, including those related to the UN's sanctions regimes. Consequently, through Chapter 6B. of ALPA, Nepal is implementing relevant UNSCRs on the suppression and combating of terrorism, terrorist financing and countering the financing of proliferation of weapons of mass destruction, in particular relating to TFS.

In addition, the FATF, the intergovernmental body responsible for setting international standards in the fight against money laundering (AML), countering the financing of terrorism (CFT) and financing of proliferation (FP), under Recommendations 6 and 7 of the FATF Standards, requires the implementation of TFS to comply with the UNSC Resolutions on the prevention and suppression of money laundering, terrorism and proliferation financing.

The term TFS refers to asset freezing and other financial prohibitions, agreed upon by the UNSC, to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated person.

So, as required by the FATF Recommendations, Nepal applies following two lists related to TFS, which consists of both TFS-TF and TFS-PF:

- a) UN Consolidated List
 - UNSCR 1267 (1999), 1988 (2011), 1989 (2011), and successor resolutions pertain to TFS-TF
 - UNSCR 1718 (2006), 2087 (2013), 2094 (2013), 2231 (2015) and 2270 (2016) pertain to TFS- PF
 - Other relevant UNSCR lists covered in the UN list

- b) Domestic Terrorist List
 - UNSCR 1373 (2001) pertain to TFS-TF

SMPs should note that, in accordance with the laws of Nepal, the Government also applies TFS by publishing a Domestic Terrorist List in accordance with UNSCR 1373 (2001). Such

publication is done by MoHA as per Rule 63(6) after approval from Council of Ministers as per Rule 63(5) of ALPR.

This Guideline serves as a guidance for SMPs in complying with their obligations regarding TFS. This Guideline is focused on the procedures to implement the UN and domestic TFS regime by all persons. This specifically relates to the prevention and suppression of terrorism and terrorist financing, and the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. SMPs are obliged to apply policies, procedures, systems and controls (PPSC) to screen their customers and their transactions against TFS to those sanctioned and referred in the UN List and the Domestic Terrorist List.

What are Targeted Financial Sanctions (TFS)?

The term 'targeted' sanctions mean that such sanctions are imposed against specific individuals or groups, or undertakings. The term 'financial' sanctions include both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of individuals, entities, groups, or organization who are sanctioned. In this context, TFS is targeted and financial in nature.

Types of financial sanctions

There are two main types of financial sanctions:

- a) **Asset freezing:** Freezing is the prohibition to transfer, convert, dispose, or move any funds or other assets that are owned or controlled by designated person. It includes:
 - The Freezing of funds and other financial assets and economic resources, and includes preventing their use, alteration, movement, transfer, or access.
 - The Freezing 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.
- b) **Prohibition to offer funds and services:** This means the prohibition to provide funds to, or render financial services or other services related to, any designated person.

As an example:

- For SMPs: a freezing measure can be suspending access to demat account or blocking transactions and prohibition to securities transaction or blocking the transfer of ownership of securities or prohibition to provide services such as management and advisory services related to buying or selling of securities etc.

2. Legal Framework

The following list comprises of the relevant laws and regulations for the purpose of implementing TFS measures.

Title	Issued	Relevant Part	Type
Asset (Money) Laundering Prevention Act, 2008	2008 (Amended 2024)	Chapter 6B.	Act
Asset (Money) Laundering Prevention Rules, 2024	2024	Chapter 6	Regulation

3. Purpose of Targeted Financial Sanctions (TFS)

The purpose of TFS is to deny designated person the means to violate international peace and security, support terrorism or finance the proliferation of weapons of mass destruction. To achieve this, it seeks to ensure that no funds, financial assets, or economic resources of any kind are available to designated person for so long as they remain subject to the restrictive measures.

SMPs should note that TFS restrictions published by the UN and the Domestic Terrorist List are subject to change. It is the obligation of SMPs to ensure relevant controls and procedures are in place to maintain relevant and up-to-date controls in order to effectively implement TFS restrictions. The updated Sanctions Lists are published on the website of Ministry of Home Affairs or is notified through appropriate medium and the UN website.

Who is the target of these measures?

The freezing measures, including the prohibition of making funds available, apply to:

- a) Any individual, group, or entity listed in the Domestic Terrorist List published by MoHA or listed by the UNSC in its Consolidated Sanctions List.
- b) Any entity, directly or indirectly owned or controlled by an individual or entity listed under a.
- c) Any individual or entity acting on behalf of or at the direction of any individual or entity listed under a) and b).

In cases where an asset owned or controlled in part or in full by a designated person and such asset continues to produce benefit, for example in the form of dividends or share or interest, the relevant portion of such benefit is also subject to freezing measures.

Where to find the updated Sanctions Lists?

The most updated information can be found in the following links:

- The UN Security Council has a Consolidated List of all the sanctioned individuals, groups, or entities by the UN Sanctions Committees (UN List). The link to this list is: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>
- Any individual or entity listed by MoHA (Domestic Terrorist List): The link to the Domestic Terrorist List: <https://www.moha.gov.np/page/targeted-sanction-list>

What does 'funds' mean?

As per Section 2(m) of ALPA, funds mean:

"funds" means financial assets, economic resources, property of every kind, whether tangible or intangible, movable or immovable, corporeal or incorporeal, however acquired, and any of the following instruments or resources, or accrued from or generated by such funds or other assets, and this term also includes legal documents, proof, certificates or instruments, in electronic or other form, evidencing title to, or interest in, such property, instruments or resources:

- (1) bank credits,
- (2) travelers cheques,
- (3) bank cheques,
- (4) money orders,
- (5) shares,
- (6) securities,
- (7) bonds,
- (8) drafts,
- (9) letters of credit,
- (10) any other economic or financial resources.

All types of funds or assets are subject to freezing measures. The funds can be categorized into the following types:

A. Assets

Non- exhaustive list of financial assets subject to sanctions are as follows:

- a) Cash, cheques, claims on money, drafts, money orders, bearer instruments, internet-based and other electronic or digital payment instruments, including virtual currencies.
- b) Deposits with financial institutions or other entities and balances on accounts, including but not limited to: (1) fixed or term deposit accounts, (2) balances on share trading accounts with banks, brokerage firms, or other investment trading accounts.
- c) Debts and debt obligations, including trade debts.
- d) Other accounts receivable, notes receivable, and other claims of money on others.
- e) Equity and other financial interest in a sole trader or partnership.
- f) Publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, and derivatives contracts.
- g) Interest, dividends, or other income on or value accruing from or generated by assets.
- h) Credit, right of set-off, guarantees, performance bonds or other financial commitments.
- i) Letters of credit, bills of lading, bills of sale and other documents evidencing an interest in funds or financial resources and any other instruments of export-financing.
- j) Insurance and reinsurance.

B. Economic resources

Economic resources subject to sanctions include assets of any kind, whether tangible or

intangible, movable, or immovable, actual or potential, which potentially may be used to obtain funds, goods, or services. Non- exhaustive list of economic resources are as follows:

- a) Land, buildings, or other real estate.
- b) Equipment, including computers, computer software, tools, and machinery.
- c) Office furniture, fittings and fixtures and other items of a fixed nature.
- d) Vessels, aircraft, and motor vehicles.
- e) Inventories of goods.
- f) Works of art, cultural property, precious stones, jewellery, or gold.
- g) Commodities, including oil, minerals, or timber.
- h) Arms and related material, including all items mentioned in the arms embargo, included but not limited to: weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical advice, assistance, or training related to military activities.
- i) Raw materials and components that can be used to manufacture improvised explosive devices or unconventional weapons, including but not limited to chemical components, detonating cord, or poisons.
- j) Patents, trademarks, copyrights, trade names, franchises, goodwill, and other forms of intellectual property; internet hosting or related services.
- k) Any other assets.

4. Obligations of SMPs to implement TFS regime

4.1 Requirements for maintenance of sanctions list

4.1.1 A SMP must put in place and implement policies and procedures to-

- a) keep itself updated with the various resolutions passed by the United Nations Security Council on TFS, in particular the list of countries and persons designated under the relevant UNSCR published on the UN website as and when there are new or subsequent decisions by the relevant UNSC Sanctions Committee; and
- b) maintain an updated and current database of names and particulars of designated persons in the UN Consolidated List to enable it to detect suspected persons or entities.

4.1.2 Explanatory notes in relation to maintenance of sanctions list are set out in Appendix I.

4.2 Requirement to conduct screening on customers

4.2.1 A SMP must conduct ongoing screening (manually or preferably through automated mechanism) to the following databases to identify possible matches with names in the Sanction List:

- a) Customers before conducting any transactions or entering a business relationship with any person.
- b) Existing customer databases.
- c) Names of parties to any transactions.
- d) Potential customers.

- e) Beneficial owners.
- f) Names of individuals or entities with direct or indirect relationships with them.
- g) Directors and/or agents acting on behalf of customers (including individuals with power of attorney).

Initial screening must be performed *prior* to the onboarding of a customer and/or facilitation of an occasional transaction. Thereafter, screening should be done daily at the institution's own initiative. Additionally, bulk or batch screening should be conducted, as and when appropriate.

4.2.2 A SMP must screen its entire customer database without delay when new names are listed in an UNSCR.

4.2.3 If there is a positive name match, a SMP must take reasonable and appropriate measures to verify and confirm the identity of its customer against the designated person.

Guidance

- (a) According to the standards prescribed by the FATF, "without delay" means, ideally within a matter of hours of a designation by the UNSC or its relevant Sanctions Committee. 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 the financing of proliferation of weapons of mass destruction.
- (b) A SMP is also advised to search, examine and analyse past financial activities of the designated person or related party, where relevant.
- (c) A SMP must always be wary of the possible use of among others, false identities, dual nationalities, multiple names and identities when performing name searches for each designated person to prevent unintended omissions.
- (d) A SMP is encouraged to undertake their own terrorism proliferation financing risk assessment, including the consideration of proliferation financing typologies, when reviewing transactions and customer information collected through their existing AML/CFT obligations and customer due diligence programmes, if applicable.

4.2.4 The range of information that constitute identifiers of designated person are as follows:

For natural person:

- Name
- Aliases/also known as/formerly known as
- Date of birth
- Nationality
- ID or passport information
- Last known address

For legal persons:

- Name(s)
- Aliases also known as/formerly known as
- Certificate of Registration (RC No.)
- Registered Address
- Address of branches
- Other information

4.2.5 The matching results would be potential match, confirmed match and false positive match which is shown in following table.

Potential Match	A potential match is when there is a partial match between identifiers in the Sanctions Lists with any information in SMP's databases, and SMP is unable to conclude a false positive or a confirmed match.	Example: SMP customer's name and DoB match with the identifiers of a designated person in the Sanctions Lists, but the nationality is different and there is a slight difference in the name spelling.
Confirmed Match	A confirmed match is when an individual, entity, or group matches all of the key identifiers published on the Sanctions Lists.	Example: SMP customer's name, nationality, and DoB fully match with the identifiers of a designated person in the Sanctions Lists, but the registered address is different.
False Positive Result	A false positive is a potential match to listed individuals, entities, or groups, either due to the common nature of the name or due to ambiguous identifying data, which on examination proves not to be a confirmed match.	Example: SMP customer's name matches with a designated person who is 40 years old according to the DoB identifier in the Sanctions Lists, but your customer is a 16-year-old high school student.

4.2.6 SMPs are required to obtain additional information and identification documents from the customer or a third party to ascertain whether a customer is a designated person in the case of similar names. Appropriate inquiry on false positive cases shall be facilitated by MoHA pursuant to Rule 67 of ALPR.

4.3 Apply Targeted Financial Sanctions:

4.3.1 In case of a confirmed match, following are the measures that must be implemented:

- a) Freeze all funds and/or assets without delay: SMPs must freeze, without delay (immediately or in any case within 24 hours) and without prior notice to the designated person, all the funds and/or:
 - i. Owned or controlled, wholly or jointly, directly, or indirectly, by a designated person.

- ii. Derived or generated from funds under item (i)
- iii. Of any individual or group or entity acting on behalf of or at the direction of any individual or entity under item (i).

The obligations to freeze shall not prevent additions to frozen accounts of:

- interest, profits, or other earnings due on the account; or
- of payments due under contracts, agreements or obligations agreed upon prior to the date on which the account has become subject to freezing, provided such additions are immediately frozen.

Any percentage of ownership must trigger a freezing measure in relation to the asset owned by the designated person. Equally, freezing measures must be implemented when there is any information or indication that there are funds and/or assets controlled (directly or indirectly) by the designated person.

Guidance

- (a) Funds, properties or accounts that are owned or controlled indirectly by the designated person includes situation where the designated person is a director of a customer. In such instance, once the SMP is satisfied that the director owns or controls directly or indirectly the funds, properties or accounts of the customer, the SMP is required to freeze.
- (b) The obligation to freeze funds, properties or accounts of a designated person continues until the person is delisted from the sanction lists. The freezing obligations remains even after the designated person passed away.
- (c) In cases where a designated person owns or controls funds or other financial assets or economic resources in which unlisted party also have a segregable interest, freezing measures must be implemented on the share owned or controlled by the designated person. For example, if a designated person owns or controls one percent of a legal entity, the freezing measure must be applied only on the share of the asset owned or controlled by the designated person.
- (d) If an asset is owned or controlled by a designated person and the interest owned or controlled by the designated person cannot be segregated, then the entire asset should be subjected to freezing. For example, a stock is owned by a designated person and by a person not subject to sanctions, then the demat account or that share must be frozen.
- (e) Notwithstanding the funds, properties or accounts are frozen, a SMP may continue receiving dividends, interests, or other benefits, but such benefits shall still remain frozen, so long as the designated person continue to be listed.
- (f) No outgoing payment should be made from the frozen funds, properties or accounts including payment of any fees or service charges for maintaining the frozen fund without prior written authorisation from the respective authority.

b) Prohibition of making funds and/or assets available: No person is permitted to provide funds and/or assets to or render financial services or other services related to, whether in whole or in part, directly or indirectly, or for the benefit of any designated person.

4.3.2 SMPs, while freezing funds and/or assets as per 4.3.1, must freeze demat account and/or trading account and/or other account maintained with them.

4.3.3 Stock exchange, stockbroker, mutual fund manager, specialised fund manager, credit rating agency, investment company have to inform central depository company immediately for confirmed match. After receiving information, central depository company has to search whether the designated person has maintained demat account or not and for positive match central depository company has to take measures as per 4.3.1.

4.4 Notification of freezing measure and/or attempted transactions:

4.4.1 SMPs must report within 3 days from taking any freezing, blocking or rejection measure with the designated persons to the SEBON. The SEBON then notifies the same to the Money Laundering and Revenue Investigation Division of Office of the Prime Minister and Council of Ministers (OPMCM) within 3 days of receipt of such information.

4.4.2 The form for reporting to the SEBON upon determination of a name match and actions taken by SMPs is set out in appendix II.

4.4.3 SMPs must submit a STR to FIU in the following circumstances:

- a) In the event of positive name matches arising from ongoing screening of their customer database involving designated person or person identified as related party to the designated person; and
- b) Where there is an attempted transaction by any of the designated person or its related party.

4.4.4 Asset freezing and prohibition measures have no time limit, i.e., the funds must remain frozen, and the prohibition to offer funds and services stands until the individual, group, or entity is removed from the Domestic Terrorist List or the UN List or until there is a freezing cancellation decision made by a competent authority or the UNSC.

5. Enforcement of TFS Guideline

SEBON has the legal capacity to supervise the implementation of this TFS guideline. Failing to comply with the TFS obligations shall result in consequences as mentioned in Section 29K of ALPA:

- SMPs are subject to administrative sanctions as mentioned in Section 7V of ALPA ranging from warning to revocation of license.
- SMPs are subject to financial sanction ranging from NPR 1 Million to 50 Million.

6. Requesting an exemption or permission to access frozen funds

A person affected by the freezing of all properties and funds due to his/her designation in the UN List or Domestic Terrorist List may submit an application as per Rule 72(1) of ALPR to the MoHA in the format as given in Schedule 8 of ALPR with a request to provide access to the frozen properties or funds required for the basic humanitarian need of himself/herself and family members.

MoHA may, if it finds that there is no alternative for basic expenses during the inquiry over the application, release reasonable and necessary frozen properties or funds for the following purposes:

- a) Expenses for daily foodstuffs, housing and health;
- b) Expenses for taxes and other fees for electricity, telephone, drinking water to per paid in accordance with the prevailing laws;
- c) Expenses for the education of children;
- d) Expenses for legal protection and judicial proceedings;
- e) Expenses for due protection of frozen properties or funds.

However, for a designee whose property and fund are frozen pursuant to the UN List, release shall be made as per decision made by relevant UNSC Sanctions Committee, which shall be facilitated by MoHA after receiving the application from the designee.

7. Procedure to cancel or lift the freezing measures

SMPs should be aware that the freezing procedures and other measures shall be lifted against an individual, group or entity under the following situations:

- After the inquiry by the MoHA it is concluded that the individual, group, or entity that has a name identical or similar to a designated person was only a false positive; or
- The designated person has been removed from the list by the relevant authorities.

Procedures set out in Rule 67 of ALPR shall be applicable in this regard.

Appendix I

Explanatory Notes in Relation to Maintenance of Sanction List

1. Subscribe/ Register/ Visit website

- a. SMPs should subscribe to UN list to receive automated email notifications from email below:

sc-sanctionslists@un.org

This registration is aimed to help SMPs to receive updated and timely information about the listing and de-listing of individuals or groups or entities in the UN List.

- b. SMPs shall subscribe to automated email/mobile notification mechanism or register themselves in the TFS portal (<https://tfs.moha.gov.np/auth/login>) operated by MoHA or visit their website in order to receive information on listing and de-listing of designated person.
- c. The delisting of any designated country or designated person under UNSCRs shall automatically take effect when the designated country or person is removed by the relevant UNSC Sanctions Committee.

Appendix II
Form of Reporting

UNSCR Number (If available) :

Date of UN Listing :

S.N.	UNSCR Permanent Ref No.	Customer Name	Address	Citizenship /Passport No.	Demat /Trading Account Number	Date Services Given	Account Frozen Date	Portfolio Balance	Related Parties	Remarks

Details of Securities Market Participants

Name of Securities Market Participant :

Compliance Officer :

Signature

Reporting Date :