Financial Reporting Authority

Portfolio of Legal Affairs

Financial Sanctions Guidance

General Guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018 (SAMLA)

December 2021

This Financial Sanctions guidance is produced by the Financial Reporting Authority (FRA), part of the Portfolio of Legal Affairs. The Governor of the Cayman Islands is the competent authority for the implementation of financial sanctions in the Cayman Islands; however, pursuant to the Governor's delegation, the FRA is responsible for carrying out certain functions with respect to the implementation of targeted financial sanctions for terrorism, terrorist financing, proliferation and proliferation financing in the Cayman Islands (as noted under the "Financial sanctions in force in the Cayman Islands" below).

The Guidance provides important information outlining your obligations under financial sanctions, including the approach to licensing and compliance issues.

This guidance is general in nature so you should also refer to the relevant, up-to-date legislation as well as any other relevant guidance issued by competent authorities or sector specific guidance where it is available.

This guidance does not constitute legal advice. As appropriate you should consider obtaining independent legal advice to assist in understanding your legal obligations in order to ensure your compliance with the Cayman Islands' sanctions regime.

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Table of Contents

A. National AML/CFT/CPF Governance 4

B. Financial Sanctions Overview 8

C. Financial Sanctions Obligations and Restrictions 16

D. Ownership and Control 23

E. Your Reporting Responsibilities to the FRA 27

F. Exceptions and Licensing 35

G. Compliance and Enforcement 44

H. Designations 48

I. Delisting and Challenging Designations 51

J. GENERAL GLOSSARY 57

A. National AML/CFT/CPF Governance

Anti-Money Laundering Steering Group (AMLSG)

1) The AMLSG is established by sec. 5(1) of the Proceeds of Crime Act (2020 Revision) (POCA) and is the governing body responsible for the general oversight of anti-money laundering (AML), counter financing of terrorism (CFT) and counter proliferation financing (CFP) policy in the Cayman Islands.

Anti-Money Laundering Unit (AMLU)

2) The AMLU is the secretariat for the AMLSG, and also chairs the Inter-Agency Coordination Committee (IACC). The priorities of the Anti-Money Laundering Unit are to:
    - Coordinate the AML/CFT/CFP National Risk Assessment (NRA) on behalf of the AMLSG and provide information on the results of the risk assessment to all relevant competent authorities and self-regulatory bodies (SRBs), financial Institutions and DNFBPS;
    - Coordinate and prepare for mutual evaluations conducted by the Caribbean Financial Action Task Force (CFATF) and follow-up actions;
    - Oversee the implementation of new legislation or amendments to existing AML/CFT/CFP legislation; and
    - Act as the central agency for the collection, compilation of AML/CFT data and statistics.

Inter-Agency Co-ordination Committee (IACC)

3) The (IACC) is established under sec. 5 (3A) POCA and is the body responsible, at the operational level, for the implementation of AMLSG policies; inter-agency cooperation and coordination with respect to AML, CFT and CFP; and coordinating the assessment of national money laundering, terrorism financing, and proliferation financing risks.

4) The IACC has a critical role in the implementation of targeted financial sanctions as it will be involved in the assessing and proposing of persons or entities for

designation in circumstances where the Governor exercises the power to make designations under The Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 as extended to the Cayman Islands with modifications by The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 and Schedule 4A of the Terrorism Act (2018 Revision) (TA).

Financial Reporting Authority (FRA)

5) The FRA is the Cayman Islands' Financial Intelligence Unit (FIU) with responsibility for receiving, requesting, analysing and disseminating disclosures of financial information concerning the proceeds of criminal conduct or suspected proceeds of criminal conduct, in order to counter money laundering (ML), terrorism, and the financing of terrorism or suspicions of any of those crimes. In 2017 the FRA assumed the responsibility for ensuring the implementation of targeted financial sanctions with respect to terrorism, terrorism financing (TF), proliferation, proliferation financing (PF), and other restrictive measures related to AML, CFT and CFP from and within the Cayman Islands. Thus, the post of the Sanctions Coordinator (SC) was created to carry out this mandate.

Sanctions Coordinator (SC)

6) The SC of the FRA plays a critical role in the implementation and enforcement of these targeted financial sanctions and other restrictive measures, and in developing and enhancing the jurisdiction's AML/CFT/CFP regime, while ensuring ongoing compliance with international standards and best practices. .

Financial Crimes Investigation Unit (FCIU)

7) The FCIU is the unit within the Royal Cayman Islands Police Service (RCIPS) with responsibility for investigating all domestic financial crimes within the Cayman Islands. This includes ML investigations, with the exception of ML related to corruption as a predicate offence, which is dealt with by the Anti-Corruption Commission (ACC), and TF investigations. The FCIU also conducts parallel investigations with other sections of the RCIPS.

Cayman Islands Bureau of Financial Investigations (CIBFI)

8) The CIBFI is also a unit within the RCIPS and was established in March 2020 with a remit to proactively seek trans-national offending that is consistent with the risk profile of the jurisdiction, which include stand-alone money laundering, third party money laundering, and complex financial investigations in cases where Cayman Islands entities are used to facilitate trans-national offending.

Cayman Islands Monetary Authority (CIMA)

9) Under the Monetary Authority Act (2020 Revision) (MAA), one of CIMA's four principal functions is its regulatory function, which includes an obligation to monitor compliance with applicable sanctions obligations, including the requirements under the Anti-Money Laundering Regulations ("AMLRs"). CIMA therefore ensures that persons or entities under its regulatory laws are aware of applicable international targeted financial sanctions and any local designations or directions that are in force as well of their responsibilities for sanctions screening and reporting. CIMA's AML/CFT Division ("AMLD") is responsible for developing and implementing the Authority's anti-money laundering/counter financing of terrorism supervisory and regulatory strategy. The AMLD is a specialist supervisory division dedicated to the monitoring and supervision of entities under its remit for compliance with AML and CFT requirements.

Department of Commerce and Investment (DCI)

10) DCI is central in providing the necessary framework conducive to a successful business environment through its licensing, regulatory and enforcement functions. In March 2017 and July 2019, DCI was designated as the supervisory authority to monitor compliance with the AMLRs for dealers in precious metals and stones, real estate agents and property developers respectively.

The General Registry (GR)

11) The Registrar of non-profit organisations (NPOs) is the competent authority for the AML/CFT supervision of the NPOs and has the appropriate regulations and

enforcement powers in place to safeguard NPOs from abuse. The Non-Profit Organisation Act (NPO Act) and associated Regulations came into force on August 1, 2017 and imposed a stringent set of disclosure requirements on those entities registered as NPOs.

Cayman Islands Institute of Professional Accountants (CIIPA)

12) CIIPA is a full member of the International Federation of Accountants (IFAC) and a self-regulatory body. In December 2017, CIIPA was designated as the supervisory authority for accounting firms. CIIPA is responsible for registering all accounting firms, monitoring and acting to ensure compliance with the AMLRs for those firms carrying out relevant financial business.

Cayman Islands Legal Practitioners Association (CILPA)

13) In February 2019, CILPA a self-regulatory organisation (SRO), was designated a Supervisory Authority of firms of attorneys-at-law (including sole practitioners) in the Cayman Islands. CILPA Council constituted a sub-committee, the Cayman Attorneys Regulation Authority (CARA), to which it delegated its supervisory functions.

Proliferation Inter-Agency Group (PIAG)

14) PIAG is a sub-committee of the IACC which was established by the AMLSG in April 2019 to provide a more focused approach on the implementation of PF-related matters. The SC is the Chairperson and members are representatives from CIMA, AMLU, FRA, DCI, GR, FCIU, the Office of the Director Public Prosecution (ODPP), Customs & Border Control (CBC), the Ministry of Financial Services and Commerce (MFSC), the Maritime Authority of the Cayman Islands, and the Ministry of Finance and Economic Development (FED). The core purpose of PIAG is to ensure coordination and cooperation in the area of PF and to help equip Financial Institutions (FIs) and Designated Non-Financial Business and Professions (DNFBPs) with a better understanding of PF risks in order to successfully mitigate against those risks.

B. Financial Sanctions Overview

1. What are sanctions?

15) Sanctions are used as a foreign policy tool as part of a broader political and diplomatic strategy to achieve a desired outcome from a target country or regime. They are usually agreed and coordinated at an international level, in particular by the United Nations Security Council. They may include travel, arms, financial and trade restrictions against the individuals and entities that are subject to the restrictions.

16) The primary aim of all United Nations (**UN**) sanctions, as set out in Chapter VII of the UN Charter, is to implement decisions by its Security Council for the maintenance of international peace and security.

2. Why do we have financial sanctions[1]?

17) Financial sanctions are restrictions put in place by the UN or United Kingdom (**UK**) to achieve a specific foreign policy or national security objective. They can:

- limit the provision of certain financial services
- restrict access to financial markets, funds and economic resources.

18) Financial sanctions are usually imposed to:

(a) **Coerce** a regime, or individuals within a regime, into changing their behaviour (or aspects of it), by increasing the cost on them to such an extent that they decide to cease the offending behaviour;

(b) **Constrain** a target by denying them access to key resources needed to continue their offending behaviour, including the financing of terrorism or nuclear proliferation;

(c) **Signal disapproval,** stigmatising and potentially isolating a regime or individual, or as a way of sending broader political messages nationally or internationally; and/or

[1] OFSI Financial sanctions – general guidance under SAMLA page 5

(d) **Protect the value of assets** that have been misappropriated from a country, until they can be repatriated.

3. Who makes and implement sanctions?

19) **The UN** imposes financial sanctions and requires member states to implement them through Resolutions passed by the UN Security Council (UNSC)[2].

The UK imposes and implements financial sanctions through a combination of statutory instruments (UK regulations) and primary legislation.[3]

20) **The Cayman Islands** can impose its own financial sanctions and restrictions under The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, Terrorism Act (2018 Revision) (**TA**) and the Proliferation Financing (Prohibition) Act (2017 Revision) (**PFPA**).

4. Financial sanctions in force in the Cayman Islands

21) The financial sanctions in force in the Cayman Islands are essentially the same as those imposed in the UK. The Foreign, Commonwealth & Development Office (**FCDO**) publishes the **UK sanctions list** which provides details of those individuals, entities and ships designated under sanctions regimes set up using the powers in SAMLA (including designations made under the UN regimes) for the different types of sanctions measures including financial, immigration, trade and transport.

22) HM Treasury's Office for Financial Sanctions Implementation (**OFSI**) [4] provides a **consolidated list** of all individuals and entities subject to financial sanctions under SAMLA financial sanctions measures and other UK legislation (e.g. ATCSA).

23) The UK's sanctions framework changed as a result of the UK's exit from the European Union and at the end of the transition period on 31 December 2020 new regulations were made under the powers of the SAMLA to replace (with substantially the same effect) EU sanctions regimes. New Overseas Territories

[2] The UN website provides further information on financial sanctions: https://www.un.org/sc/suborg/en/sanctions/information
[3] SAMLA; Counter Terrorism Act 2008 (CTA 2008); and Anti-Terrorism, Crime and Security Act 2001 (ATCSA 2001)
[4] OFSI is the competent authority for the implementation of financial sanctions in the UK.

Orders in Council (OOIC) have been passed to extend UK sanctions regulations with modifications. It is the UK's Government policy to ensure that the OTs are legally and practically enabled to implement the sanctions agreed at the UN and in the UK, in order to ensure compliance with international obligations and policy commitments. Thus all designations made under UN and UK sanctions measures have immediate effect in the Cayman Islands once the OOIC come into force. All new or amended OOIC's are gazetted in the Cayman Islands.

24) There are currently 34 regimes that are subject to financial sanctions in the UK that are in force in the Cayman Islands. The list is also available on the FRA's website http://fra.gov.ky/sanctions-regimes/

25) The Governor of the Cayman Islands is the competent authority for implementation of financial sanctions measures and under each OOIC has certain powers and duties in relation to the administration of these measures. Such powers and duties include:

- Power to grant vary and revoke both specific and general licences, subject to the UK Secretary of State consent;
- Power to issue directions;
- Duty to publish a list of designated persons and keep the lists up to date;
- Power to authorise persons to exercise various enforcement and evidence gathering powers;
- Power to delegate any of the Governor's functions. Effective November 15 2017, the Governor of the Cayman Islands, delegated the function of receiving certain reports to the FRA.

26) The Financial Action Task Force (FATF) [5] recommendations 6 & 7 require each country to implement targeted financial sanctions[6] (TFS) to comply with the United

[5] FATF is the inter-governmental body, established by the G7 in 1989, which sets the global standards for combating money laundering, terrorist financing and proliferation financing (the FATF Standards). The Cayman Islands is a member of the Caribbean Financial Action Task Force (CFATF), an associate member of the FATF.
[6] The term targeted financial sanctions means both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated persons and entities.

Nations Security Council resolutions (UNSCRs) relating to the prevention and suppression of terrorism and terrorist financing, such as UNSCR 1267(1999) and its successor resolutions, and UNSCR 1373(2001); and the prevention, suppression and disruption of proliferation of weapons of mass destruction (WMD) and its financing. These resolutions require countries to freeze without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.

27) The current OOICs that give effect to targeted financial sanctions in the Cayman Islands are:

- For UNSCR 1267, The Afghanistan (Sanctions) (EU Exit) Regulations 2020 as extended to the Cayman Islands with modifications by The Afghanistan (Sanctions) (Overseas Territories) Order 2020, and The Isil (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 as extended to the Cayman Islands with modifications by The Isil (Da'esh) and Al-Qaida (United Nations Sanctions) (Overseas Territories) Order 2020.
- For UNSCR 1373, The Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 as extended to the Cayman Islands with modifications by the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 and The Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 as extended to the Cayman Islands with modifications by the Counter-Terrorism (International Sanctions) (Overseas Territories) Order 2020
- For UNSCRs 1718 and 2231 The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 as extended to the Cayman Islands with modifications by The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2020, and The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 as extended to the Cayman Islands with modifications by the Iran (Sanctions) (Nuclear) (Overseas Territories) Order 2020 respectively.

28) The Cayman Islands also implements and enforces UNSCRs 1267, 1718 and 2231 without delay through the TA and PFPA. The TA defines a designated person in Schedule 4A paragraph 2 and by definition, such designations are automatically adopted as recognised by the UN. Similar to the TA, section 2 of the PFPA defines a designated person as including any subsidiary or other entity owned or controlled by that person, to whom Security Council anti-proliferation financing measures relate. UNSCR 1373 is also implemented by the TA.

Table 1: Government Departments and Agencies in the Cayman Islands' Sanctions Framework

Departments	Responsibility
UK Foreign Commonwealth and Development Office (FCDO)	• Responsible for the UK's international sanctions policy, including all international sanctions regimes and designations. • Negotiates all international sanctions for the Cayman Islands.
The Governor	• Competent authority for implementing financial sanctions (certain functions delegated to the FRA and the Financial Secretary). • Responsible for making designations under the Counter-Terrorism OOIC and the TA (including at the request of another country).
Anti-Money Laundering Steering Group (AMLSG)	• The body responsible for the general oversight of anti-money laundering (AML), counter financing of terrorism (CFT) and counter proliferation financing (CFP) policy in the Cayman Islands.
Inter-Agency Co-ordination Committee (IACC)	• Responsible, at the operational level, for the implementation of AMLSG policies; inter-agency cooperation and coordination with respect to AML, CFT and CFP. • Assessing and proposing of persons or entities for designation.
Supervisory Authorities: • Cayman Islands Monetary Authority (CIMA) • Department of Commerce and Investment (DCI) • The Cayman Attorneys Regulation Authority (CARA)	• Regulate relevant institutions, relevant businesses and professions. Can enforce administrative fines for regulatory breaches.

• Cayman Islands Institute of Professional Accountants (CIIPA)	
The Financial Reporting Authority (FRA)	• Coordinating the implementation of financial sanctions. • Designated body to receive financial sanctions reports as delegated by the Governor. • Receiving and analysing SARs. • Monitor compliance with anti-terrorism financing and anti-proliferation financing. • Monitor persons operating in the financial sector for the purpose of securing compliance with requirements of any directions given under the PFPL. • Issue directions under the PFPL to any relevant persons; and persons operating in the financial sector. • Empowered to impose civil penalties for failure to comply with requirements under the PFPL.
Customs and Border Control (CBC)	• Implements trade sanctions and embargoes, and travel bans • Controls shipment at border, provides licence and expertise on dual-use goods
Financial Crime Investigation Unit(FCIU)/ Cayman Islands Bureau of Financial Investigations(CIBFI)	• Investigates and enforces breaches of financial sanctions

5. Types of financial sanctions?

29) Financial sanctions may take many forms as they are developed in response to a given situation. Types of financial sanctions commonly used are:

- **Targeted asset freezes -** apply to named individuals and entities restricting access to funds and economic resources. An individual or entity subject to an asset freeze will be listed on OFSI's consolidated list:

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

- **Restrictions on a wide variety of financial markets and services** - can apply to named individuals and entities, specified groups and also entire sectors. Such restrictions have taken the form of:
  - investment bans;

- restrictions on access to capital markets;
- directions to cease banking relationships and activities;
- requirements to notify or seek authorisation before certain payments are made or received; and
- restrictions on provision of financial, insurance, brokering, advisory services or other financial assistance.

- **Directions to cease all business** – can apply to a specific person, group, sector or country.

6. Who needs to comply with financial sanctions?

30) All individuals and legal entities in or undertaking activities within the Cayman Islands must comply with the UN and UK financial sanctions that are in force in the Cayman Islands. Financial sanctions also apply to a 'Territory person' [7] wherever they are in the world, as well as to ships and aircrafts registered in the Cayman Islands.

31) Any person in breach of an obligation under a relevant sanctions measure will be guilty of an offence and liable to a maximum of seven years imprisonment, a fine or both.

'WITHOUT DELAY' implementation of UN listings

Under the UK's autonomous sanctions regime, where listings are made under a new UN Security Council resolution or sanctions committee, they will have effect in UK law via regulations made under SAMLA. These regulations are extended with modifications to the Cayman Islands. The FCDO will publicise the new UN listings and OFSI will add all those subject to financial sanctions to the Consolidated List. The FRA will publish and disseminate, without delay, the financial sanction notice received from OFSI.

[7]Regulation 2 The Afghanistan (Sanctions) (EU Exit) Regulations 2020 and Article 2 of The Afghanistan (Sanctions) (Overseas Territories) Order 2020 and in all other OOICs.

7. United States sanctions?

32) The FRA does not provide guidance on compliance with foreign sanctions; however, some foreign sanctions like those of the Office of Foreign Assets Control (OFAC) of the US Department of Treasury, have far-reaching extra-territorial effect, and may still be applicable. Therefore you should be mindful of OFAC sanctions if:

i. The ownership of your business is by a United States corporation

ii. goods originate from that country (if importing goods)

iii. you are dealing in their currency

iv. have United States offices, subsidiaries, branches or agencies or a relationship with a United States institution

33) Failure to comply with OFAC sanctions could expose you to criminal or civil liability in the United States.

34) If you plan to transact in US dollars or work with US persons or companies, check that you comply with OFAC/US sanctions.

- Remember to consider “owned and controlled by” scenarios.
- Consider filing a SAR to the FRA, if applicable
- You may need a licence from OFAC.
- Seek legal advice

C. Financial Sanctions Obligations and Restrictions

1. Who is subject to financial sanctions?

1.1 UK

35) OFSI publishes the '**consolidated list'** of all asset freeze targets subject to UN Sanctions and those listed under the UK autonomous financial sanctions legislation. The individuals and entities listed are known as "designated persons". The consolidated list is maintained by OFSI with a direct link on the fra.gov.ky financial sanctions webpage.

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

36) OFSI provides the Consolidated List to assist persons and businesses to comply with financial sanctions and aims to update the Consolidated List within one working day for all new UN and UK listings coming into force in the UK, and within three working days for all other amendments.

37) OFSI also publishes a separate list of entities subject to specific capital market restrictions that are not contained on the Consolidated List[8].

38) For further information on the restrictions that apply to these entities please see the Ukraine (Sovereignty and Territorial Integrity) regime page on GOV.UK:

https://www.gov.uk/government/publications/financial-sanctions-ukraine-sovereignty-andterritorial-integrity

1.2 The Cayman Islands Sanctions List

39) The FRA will publish on its financial sanctions webpage a "**Cayman Islands Domestic Consolidated List of Designated Persons by the Governor**" whenever the Governor makes a final designation under the Counter-Terrorism

[8] OFSI Financial sanctions – general guidance under SAMLA page 11

(Sanctions) (Overseas Territories) Order 2020 and TA. The list will be maintained by the FRA.

2. How to use the Consolidated List

40) The Consolidated List contains valuable information to help you decide whether you are dealing with a designated person. Information on an individual may include:

- Full name
- aliases
- date of birth
- nationality
- passport details
- last known address
- employment or role

41) You can perform a simple search of the Consolidated List and where the name of an individual or entity you are dealing with matches one or more entries on the Consolidated List, this is known as a **name match**. However, this does not necessarily mean that the individual or entity you are dealing with is the same one on the list. If you are satisfied that this is the case, you do not need to take further action.

42) If the individual or entity you are dealing with matches all the information on the Consolidated List, this is likely to be a **target match**.

43) If you have reviewed all of the information on the Consolidated List against all of the information that you have about the person or entity and you are still unsure as to whether you have a target match, you should contact the FRA for assistance.

44) Where you have a target match, the required steps to take will depend on the specific sanctions that apply to the target. Asset freezes are outlined below in paragraphs 50-60.

3. How to get updates to the Consolidated List

OFSI updates

45) OFSI publishes Notices describing changes to financial sanctions on GOV.UK: https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases. You can subscribe to OFSI to receive email updates whenever a new notice is published by clicking on the link here: https://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new

FRA updates

46) When the FRA receives a notice from OFSI advising of a change to a financial sanctions regime, the FRA:

- Converts the notice to a FRA Notice which includes: use of the FRA letter head; changing licence to be from the Governor; changing reporting to the FRA, reference to Guidance by the FRA; enquiries to be made to the SC at financialsanctions@gov.ky.
- Publishes the FRA notice on the FRA website at http://fra.gov.ky/financial-sanctions/
- Sends an automated email to all online subscribers, contacts for regulated entities that have been provided by their respective supervisor, designated contacts at local law enforcements agencies, supervisory authorities to share with their supervised entities, self-regulated bodies, and to other government agencies.

47) You can subscribe to receive email updates from the FRA whenever a new notice is published by clicking on the 'Subscribe to sanctions notices' on http://fra.gov.ky/financial-sanctions/.

4. Restrictions and prohibitions

48) You are prohibited from carrying out certain activities or behaving in a certain way if financial sanctions apply, for example prohibitions on making funds or economic

resources available directly or indirectly to or for the benefit of a designated person, also prohibit making them available to an entity that is owned or controlled, directly or indirectly by the designated person.

49) You should always refer to the up-to-date version of the legislation imposing the specific financial sanctions which apply in your case to understand exactly what is prohibited. Prohibitions are interpreted widely, which means a wide range of actions will be considered by the FRA when assessing if a breach of financial sanctions has occurred.

5. Asset freezes

5.1 What does an asset freeze do?

50) If the financial sanction is in the form of an asset freeze, it is generally prohibited to:

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

5.2 What are you required to do?

51) If you **know** or have "**reasonable cause to suspect**"[9] that you are in possession or control of, or are otherwise dealing with funds or economic resources owned, held or controlled by a designated person you must:

- freeze the funds or economic resources
- not deal with them or make them available to, or for the benefit of, the designated persons, unless:
    - there is an exception in the legislation you can rely on

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

- you have been issued a licence from the Governor
- report them to the FRA (see Section E)

WARNING!

BREACHING SANCTIONS REQUIREMENTS MAY RESULT IN CRIMINAL PROSECUTION.

5.3 Asset freezing terminology

52) **Funds**[10] - generally means financial assets and benefits of every kind, including (but not limited to):

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

[10] Section 60(1) of the UK's Sanctions and Anti-Money Laundering Act 2018

53) **Economic resources**[11] - generally means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but may be used to obtain funds, goods or services. This includes but is not limited to:

- precious metals or stones
- antiques
- vehicles
- property

54) **Goods** generally means items, materials and equipment.

55) **Crypto assets** are covered by definitions of "funds" and "economic resources" above and are therefore caught by the financial sanctions restrictions.

56) **Dealing with funds**[12] includes where a person: moves, transfers, alters, uses, or allows access to the funds; or deals with funds in any way that would result in any change in the funds' volume, amount, location, ownership, possession, character, destination; or makes any other change that would enable use, including portfolio management and other assets.

57) **Dealing with economic resources**[13] - means using the economic resources for exchange of funds, goods, or services in any way, including, but not limited to, by selling, hiring or the mortgaging resources. A designated person is not prohibited from using their own economic resources for personal consumption.

58) **Making available funds or economic resources, directly or indirectly, to a designated person**[14] - if funds or economic resources are made available (directly or indirectly) to a designated person, that would likely be exchanged, or used in exchange, for funds, goods, or services, this may constitute a criminal offence.

59) **Making available funds or economic resources for the benefit of a designated person** – if funds or economic resource are made available for the benefit of a

[11] Section 60(2) of SAMLA
[12] Part 3 of the Afghanistan (Sanctions) (EU Exit) Regulations 2020 and the other regulations under the Sanctions Anti-Money Laundering Act 2018, as extended with modifications and implemented in the Cayman Islands through Overseas Orders in Council.
[13] ibid
[14] ibid

designated person and they obtain, or are able to obtain, a “significant financial benefit” from the funds or economic resources, this may constitute a criminal offence. Financial benefit includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.

60) **Financial services** – pursuant to Schedule 4A paragraph 38 of the TA means services provided by the regulated sector. Schedule 4A paragraphs 14 and 15 provide restrictions on the provision of financial services.

6. Other financial restrictions

61) Financial sanctions regimes may include other restrictions in addition to asset freezes. Where these exist, they will be listed on the individual regime pages on GOV.UK:

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

D. Ownership and Control

62) If a person or entity is designated, their name will be recorded on the Consolidated List. However, an asset freeze and some financial services restrictions will also apply to entities that are owned or controlled, directly or indirectly, by a designated person. The entities may not be designated in their own right, so their name may not appear on the Consolidated List. However, those entities are similarly the subject of the financial sanctions.[15]

1. Ownership and Control[16]

63) An entity is owned or controlled directly or indirectly by another person in any of the following circumstances:

- The person holds (directly or indirectly) more than 50% of the shares or voting rights in an entity;
- The person has the right (directly or indirectly) to appoint or remove a majority of the board of directors of the entity; or
- It is reasonable to expect that the person would be able to ensure the affairs of the entity are conducted in accordance with the person's wishes. For example, this could include:
    - Appointing, solely by exercising one's voting rights, a majority of the members of the administrative, management or supervisory bodies of an entity, who have held office during the present and previous financial year;
    - Controlling alone, pursuant to an agreement with other shareholders in or members of an entity, a majority of shareholders' or members' voting rights in that entity;

[15] OFSI Financial sanctions – general guidance under SAMLA page 17
[16] OFSI Financial sanctions – general guidance under SAMLA page 17-18

- Having the right to exercise a dominant influence over an entity, pursuant to an agreement entered into with that entity, or to a provision in its Memorandum or Articles of Association, where the law governing that entity permits its being subject to such agreement or provision;
- Having the right to exercise a dominant influence referred to in the point above, without being the holder of that right (including by means of a front company);
- Having the ability to direct another entity in accordance with one's wishes. This can be through any means, directly or indirectly. For example, it is possible that a designated person may have control or use of another person's bank accounts or economic resources and may be using them to circumvent financial sanctions.

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

Ownership and Control example relating to entities[17]

For example, **Entity X** is not listed on OFSI's Consolidated List. However, your research shows that the majority owner of **Entity X** is designated **Entity Y**.

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

[17] OFSI Financial sanctions – general guidance under SAMLA page 18

Ownership and Control example relating to individuals[18]

For example, **Person A** (an individual) is not listed on OFSI's Consolidated List. However, your research shows that **Person A** is a family member or friend of designated **Person B** and there is evidence that **Person B** is using **Person A** to enter into transactions.

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

2. Minority Interest

65) When a designated person has a minority interest in another legal person or entity this may not necessarily mean that financial sanctions also apply to them as the ownership criterion has not been met.

66) However, you should remain vigilant to any changes in the stake held by the designated person in case it increases to greater than 50% (or the designated person obtains a majority interest) at which point financial sanctions will also apply to that legal person or entity.

67) It is also important for you to consider whether a designated person is in 'control' of another legal person or entity. As financial sanctions apply in this situation even where a designated person may only possess a minority interest.

3. Joint interest

68) For the purposes of the asset freeze a designated person will be taken to own funds/economic resources even if they are owned jointly with another person, or where the designated person only owns part of them. Additionally, a designated person is taken to own funds/economic resources where the designated person's ownership consists of any interest (whether legal or equitable).

69) If two or more persons hold shares or rights jointly, each person will be treated as owning those shares or rights. This also applies to joint arrangements where all

[18] ibid

holders of shares or rights exercise their rights jointly. In such case, all parties subject to the joint arrangement are considered as owning those shares or rights.

70) You should consider the above when evaluating the shares or voting rights an individual may have in an entity.

71) Where the wording above applies, the jointly owned funds/economic resources should be frozen in their entirety.

E. Your Reporting Responsibilities to the FRA

1. General obligations to report

72) Financial sanctions obligations under the legislation (OOICs, TA and PFPA) require all natural and legal persons to inform the FRA as soon as practicable, with any information that would 'facilitate compliance' with the legislation.

2. Who must report?

73) The sanctions legislation set out specific reporting obligations for businesses and professions that are referred to as a "**relevant institution**[19]" and "**relevant firms**[20]".

2.1 Relevant institution

74) Pursuant to Paragraph1 of Schedule 4 A of the TA, a relevant institution includes-

- a body or person who is part of the regulated sector; or
- a person conducting relevant financial business, as defined in the POCA, who is not subject to monitoring by the Cayman Islands Monetary Authority for compliance with money laundering regulations. See **Annex 1** for activities falling within the definition of relevant financial business.

2.2 Relevant firm

75) Under the OOIC the following are relevant firms[21]:

a) a relevant institution - meaning a person that has permission under Part 4A of the UK Financial Services and Markets Act 2000 (Permission to carry on regulated activities);

b) an undertaking that by way of business –

(i) operates a currency exchange office,

[19] Paragraph1 of Schedule 4 A of the TA
[20] Article 16 &17 of The ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (Overseas Territories) Order 2020, and in other OOICs
[21] Article 17 of The ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (Overseas Territories) Order 2020 and other OOICs

(ii) transmits money (or any representation of monetary value) by any means, or

(iii) cashes cheques that are made payable to customers;

(c) a firm or sole practitioner that provides to other persons, by way of business -

(i) accountancy services,

(ii) advice about tax affairs,

(iii) auditing services,

(iv) legal or notarial services, or

(v) trust or company services;

(d) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;

(e) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging -

(i) articles made from gold, silver, platinum or palladium, or

(ii) precious stones or pearls.

3. What must relevant institution/ firm report?

76) If you are a relevant institution/relevant firm, you are required to report to the Governor (through the FRA) as soon as practicable if[22]: –

(a) you know or have a reasonable cause to suspect that a person

(i) is a designated person;

(ii) has committed an offence under the legislation.

(b) the information, or other matter on which the knowledge or cause for suspicion is based, if it came to you in the course of carrying on your business.

[22] Article 17 The Afghanistan (Sanctions) (Overseas Territories) Order 2020 and in other OOICs and the Schedule 4A paragraph 20 of the TA

77) When reporting to the FRA you **must** include:[23]

- the information or other matter on which the knowledge or suspicion is based; and
- any information you hold about the individual or designated person by which the customer can be identified.

78) If you know or have reasonable cause to suspect that a person is a designated person, and that person is a customer of your institution or firm, you must also state the nature and amount or quantity of any funds or economic resources held by you for the customer[24].

79) Any information provided to the FRA will only be used for the purposes for which it is received.

80) If you are unsure of any of your reporting obligations, you should seek independent legal advice.

Table 2: Examples of information to be reported[25]

A designated person or entity	A customer or client of yours is known or suspected designated person or entity. In addition to providing the FRA with any information you hold about the designated person/entity that enables identification of them, if the designated person is a customer/client you must also inform the FRA about the nature, amount and quantity of any funds and or economic resources held on behalf of the customer/client at the time this knowledge or suspicion arose.
Funds and economic resources	Details must be provided regarding the nature, amount or quantity of any funds and economic resources held by your firm. Funds or economic resources may include, but are not limited to:

[23] ibid
[24] ibid
[25] OFSI Financial sanctions – general guidance under SAMLA page 21

	• cash • cheques • crypto assets • bond futures • precious metals or stones • vehicles • antiques
Credits to frozen accounts	A relevant institution/firm must inform the FRA immediately whenever it credits a frozen account where it receives funds transferred to it for the purpose of crediting that account. *a relevant institution/firm does not need to inform the FRA when it credits an account with interest or other earnings.

4. How to report

81) A Compliance Reporting Form (CRF) which is available at https://fra.gov.ky//forms-documents/#74-91-wpfd-financial-sanctions-forms must be completed when making a report to the FRA. The CRF should be used when reporting suspected designated persons, assets you have frozen, and suspected breaches of financial sanctions and should be emailed to financialsanctions@gov.ky, and can also be sent by mail to the FRA[26].

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

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

[26] 4th Floor – Government Administration Building, 133 Elgin Avenue, George Town, Box 1054, Grand Cayman KY1-1102, Cayman Islands

5. Responsibilities of relevant institutions/firms

83) As a relevant institution/ firm you must have adequate policies and procedures to comply with the sanctions measures, which should be properly documented, reviewed and endorsed by senior management, including the Board.

84) You should determine your risk profile with reference to the following non-exhaustive list of risk factors:

- customer, product and activities,
- distribution channels,
- complexity and volume of transactions,
- processing and systems,
- operating environment,
- screening processes of intermediaries, and
- geographical risk.

85) You should also determine reasonable and proportionate due diligence and screening measures to understand your customers (including ownership and control information) and the activities undertaken by each customer. Due diligence and screening should be commensurate with the nature of the transaction or activity concerned and the likelihood that it may otherwise give rise to an infringement of sanctions. Due diligence should be conducted wherever possible at the commencement of any business relationship and thereafter on an ongoing basis. The frequency of screening will depend on factors such as the type of customer, business relationship, product or transaction.

86) You should also have systems and controls in place to prevent any participation in prohibited activities with designated or listed persons and restricted goods and services etc. It is also important for all relevant staff to be trained, and assessed, on how to comply with the established sanctions compliance procedures.

87) Before engaging in a business relationship or providing a financial service you should screen the names of your customers, including the beneficial owners, against the Consolidated List to ensure you are not dealing with a designated

person. You should also check the Consolidated List against your existing customers on an ongoing basis in the event of updates.

88) It is your responsibility to ensure that you are receiving financial sanctions notifications on a timely basis of changes to the Consolidated List. Upon receipt of a Financial Sanctions Notice advising of an addition of an individual or entity to the Consolidated List, and If you know or have reasonable cause to suspect that you are in possession or control or are otherwise dealing with the funds or economic resources of a designated person, you **MUST**:

- immediately freeze such accounts, and other funds, or economic resources and any funds which are owned controlled by the designated person;
- refrain from dealing with the funds or assets or making them available (directly or indirectly) to such person unless licensed by the Governor ;
- Immediately report any findings to FRA at financialsanctions@gov.ky, together with any additional information that would facilitate compliance with Regulation;
- Provide any information concerning the frozen assets of designated persons to the FRA at financialsanctions@gov.ky by completing and submitting the Compliance Reporting Form (CRF) to the FRA as soon as practicable. Information reported to the FRA may be passed on to other regulatory authorities or law enforcement.

89) Where you have already reported details of accounts, other funds or economic resources held frozen for designated persons, you are not required to report these details again.

90) If there are details of any other involvement with a listed individual or entity, directly or indirectly, or of any attempted (or suspected attempted) transactions involving those individuals or entities, this should also be reported to the FRA.

91) Failure to comply with financial sanctions legislation or to seek to circumvent any provision is a criminal offence which may result in criminal prosecution (See Penalties below).

6. Record Keeping

92) You should maintain records of any potential matches to names on sanctions lists - whether the match turns out to be a true match or a false positive (see false positives below).

93) You should, as a minimum, keep the following information about any match –

- the information or other grounds which triggered the match (e.g., a "hit" provided by screening software);
- any further checks or enquiries undertaken;
- the sanctions regime;
- the person(s) involved, including any members of compliance or senior management who authorised treatment of the match as a false positive;
- the nature of the relationship with the person or entity involved, including attempted or refused transactions;
- subsequent action taken (e.g., freezing of funds);
- if you consulted with, or filed a report with the FRA.

94) Failure to comply with your reporting obligations, as set out in the relevant legislation, constitutes an offence, which may result in a criminal prosecution.

7. Powers to require information from you

95) Under the OOICs[27], an authorised officer has powers to require you to provide information or produce any document or goods in your possession or control which he may require: for the purpose of:

- establishing the nature and amount or quantity of funds or economic resources, owned, held or controlled by or on behalf of a designated person,
- establishing the nature and amount or quantity of funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person
- establishing the nature of any financial transactions entered into by a designated person

[27] Article 19 -24 Schedule 2 of The Afghanistan (Sanctions) (Overseas Territories) Order 2020 and all other OOIC.

- monitoring compliance with or detecting evasion of any provision of financial sanctions regulations including licensing and reporting conditions and obligations
- detecting or obtaining evidence of the commission of an offence

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

97) The power to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection.

98) Where such a request is made, you must comply with it within such time and in such manner as may be specified in the request.

99) Under Schedule 4A paragraph 21(5) of the TA, the Governor has similar requesting powers.

100) Failure to comply with a request for information, including providing false information, destroying documents or, otherwise intentionally obstructing the Governor when exercising these powers, is an offence and may result in a criminal prosecution.

8. Other reporting obligations

101) Your obligation to report is in addition to any other non-financial sanctions reporting obligations you may have. These could include reporting required by your supervisors (CIMA, DCI, CARA or CIIPA), or submitting Suspicious Activity Reports (SARs) to the FRA under the POCA.

102) Reporting to your supervisor or submitting a SAR to the FRA, does not meet your reporting obligations under the financial sanctions regimes. If you have information to report regarding financial sanctions, this must be sent to the FRA at financialsanction@gov.ky or by mail.

103) If you are unsure of your reporting obligations, you should seek independent legal advice.

F. Exceptions and Licensing

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

105) A licence is a written authorisation from the Governor with the consent (consult for licence granted under the TA) of the UK Secretary of State, permitting the otherwise prohibited transactions. For UK Treasury designations under Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, the Governor must consult with the UK Treasury, before issuing any licence.

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

1. Crediting frozen accounts

107) Asset freezing legislation permits you to make the following payments without the need for a licence from the Governor:

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

2. Independent person holding legal or equitable interest in frozen funds or economic resources

108) The OOIC[28] creates an exception to allow independent persons to transfer their legal or equitable interests in frozen funds or economic resources to another person, where immediately before the transfer all the provisions in 1-4 below are present:

1. The independent person is not a designated person;
2. The independent person holds the interest in the funds or economic resources;
3. The independent person doesn't hold the interest jointly with a designated person; and
4. The independent person isn't owned or controlled, directly or indirectly by a designated person (see Section D for meaning of owned or controlled).

Licensing overview

109) The Governor can only issue licences where there are specific and relevant licensing grounds to do so, and where the specific conditions in the grounds have been met. The available grounds can be found in the legislation underpinning each particular financial sanctions regime:

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

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

111) The licence will contain strict reporting conditions, requiring you to provide the Governor with proof of purchase etc. A failure to comply with these reporting requirements may result in the revocation, suspension or termination of a licence or further restrictions being included in it. It may also result in a criminal prosecution.

[28] Article 12 Schedule 2 of The Afghanistan (Sanctions) (Overseas Territories) Order 2020 and all other OOIC.

112) A licence will not be issued retrospectively and the granting of a licence will be considered on a case by case basis. You should not assume that a licence will be granted or engage in any activities prohibited by financial sanctions until you have received an appropriate licence.

113) **If you are dealing with funds that should be frozen or make economic resources available to a designated person without an appropriate licence, you will commit a criminal offence.**

114) It is also an offence for you to knowingly or recklessly provide false or misleading information in any licence application. Any such licence granted is void from the time it was granted. Doing so may result in a criminal prosecution.

3. Licensing grounds

4.1 Overseas Orders in Council (OOIC)

115) Some common licensing grounds for obtaining a licence in the Cayman Islands are set out below. Some licensing grounds cannot be applied to persons designated by the United Nations, however, the exact grounds available can be found in the UK legislation/OOIC underpinning each particular financial sanctions regime. The Governor will carefully scrutinise all applications made to assess whether they fall under the relevant licensing grounds.

Common licensing grounds[29].

1. Basic needs of a designated person, and in the case of an individual any financially dependent family members;
2. Reasonable professional fees and disbursements for the provision of legal services.
3. Routine maintenance of frozen funds or economic resources;
4. Extraordinary expenses;
5. Prior obligations under a contract or pre-existing judicial decisions that arose prior to the designation of the person/entity; and.
6. Humanitarian assistance activity etc.

[29] OFSI Financial sanctions – general guidance under SAMLA page 26-28

4.2 Terrorism Act

116) The TA contains a broad licensing ground such that the prohibitions in the TA do not apply to anything done under a licence granted by the Governor.

4. Applying for a licence

117) You must provide evidence to support an application and demonstrate that all criteria of the relevant licensing grounds (where applicable) have been met. A completed application is one where all the information is received that would enable a decision to be made about whether there is a legal basis to grant a licence. Incomplete applications will be sent back, or you will be asked for additional information until the Governor is satisfied that your application can be considered complete.

118) The Governor (through the FRA) will endeavour to assist applicants who contact us to understand the licensing process as well as evidentiary requirements. However, we cannot provide legal advice and applicants should consider taking independent legal advice before applying, especially for complicated matters.

119) The Governor expects that legal and professional advisers will have fully considered the relevant law and formed a view about an application before approaching the Governor for guidance or submitting an application.

120) The Governor does not charge a fee for licences.

5.1 Submitting a licence application

121) Applicants should use the online form available at: https://fra.gov.ky//forms-documents/#74-91-wpfd-financial-sanctions-forms to apply for a licence from the Governor and submit completed application to the Governor via financialsanctions@gov.ky.

122) Information applicants will generally be required to provide includes:

- the licensing ground(s) being relied upon in the application including supporting arguments;
- full information on the parties involved in the proposed transaction, e.g.:

- the designated person(s);
- any financial institution(s) involved (e.g. remitter, correspondent, beneficiary);
- the ultimate beneficiary of the transaction.

- the complete payment route including account details;
- the amount (or estimated amount) of the proposed transaction.

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

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

Tips for applicants[30]

1) Read this guide and the up-to-date version of the relevant legislation
2) Identify the appropriate licensing ground.
3) Use the licence application form on the FRA's website (you may wish to seek legal advice to support this process).
4) Provide a clear description of the payment chain and all parties involved.
5) Ensure that all relevant information and supporting evidence is included within the application.
6) Apply for the licence at least 6 weeks in advance.
7) Be available to fully engage with the Governor regarding your application.
8) Where applicable, make sure your bank is aware of the situation.

124) In line with international best practice, the Governor's view is that specificity in licensing regarding the transaction to be authorised is key in achieving compliance with financial sanctions. Licence applicants should therefore be prepared to provide full details of transactions relevant to any licence application(s), including

[30] OFSI Financial sanctions – general guidance under SAMLA page 32

all parties, sums and payment routes involved directly or indirectly in the proposed transaction(s) in addition to any other relevant information which will assist the Governor in considering an application.

125) Knowingly or recklessly providing false or misleading information in any licence application is taken very seriously. Doing so may result in a criminal prosecution.

5.2 Counter-terrorism regimes

126) If you seek a licence under either the ISIL (Da'esh" and Al-Qaida (United Nations) regime, the Counter-Terrorism (International Sanctions) regime, the Counter-Terrorism (Sanctions) regime, or the TA, you should email the Governor via (financialsanctions@gov.ky) setting out the full details of the proposed transaction.

5.3 Licensing timeframes

127) It is anticipated that a licence application will be considered within 6 weeks of receipt of a completed application; however, this does not mean that a licence will necessarily be issued within 6 weeks. Failure to submit a complete application (including all relevant or requested supporting documentation) will result in delays to your application being processed.

128) **You should not engage in any activities prohibited by financial sanctions until you have received an appropriate licence.**

5.3.1 Urgent and humanitarian cases

129) The Governor will prioritise urgent and humanitarian cases. If a request is urgent, please indicate this in your application, and explain why.

4.3.2 Notification and approvals

130) The Governor may issue a financial sanctions licence only with consent (consult for licence granted under the TA) of the UK Secretary of State. See paragraph 105 for details under which OOIC the Governor has to consult with the UK Secretary of State or UK Treasury.

131) The Governor may also need to notify, or in some cases seek approval from, the relevant United Nations Sanctions Committee, via the FCDO, before issuing a licence. These requirements as set out in the relevant UN Security Council Resolutions, lengthen the processing time for such licence applications and may in some cases prevent a licence from being issued.

132) On the grant, variation or revocation of a licence, the Governor will give written notice to the person, category of persons or entity. In cases involving a general licence or licence granted to a category of persons, the Governor shall take such steps as deemed appropriate to publish the grant, variation or revocation of the licence.

5. Amending a licence

133) Requests for an amendment, variation or extension of a licence should be submitted to the Governor via financialsanctions@gov.ky as soon as it is apparent that a change is required. Full supporting information and arguments should be provided.

134) It is anticipated that an amendment request will be considered within 4 weeks of receipt.

135) The Governor cannot extend a licence that has expired. If you hold a licence that has expired you cannot apply for its extension, you will have to apply for a replacement licence. As with any new licence application, the Governor will require full supporting information and a rationale for each proposed payment. It is your responsibility as a licence holder, to identify any amendments to a licence that may be deemed necessary and submit an application or amendment request accordingly.

136) **You must not carry out any action(s) which are not authorised by a valid licence. For example, if a licence has expired or you have reached a cap on permitted spending, further activity may not be lawful**.

137) **Any such actions will be considered a breach of financial sanctions and may result in a criminal prosecution**.

6. Refusal of a licence

138) If the Governor refuses to issue a licence, the proposed transaction or activities will not be lawful. The Governor will write to the applicant giving reasons for refusing the application.

139) The Governor may also refuse an application if the applicant does not require a licence for the proposed transaction or activities (See Crediting frozen accounts above).

140) If an application for a licence is refused, the applicant has the following options:

- appeal to the Governor to review the decision;
- re-apply with new or supplementary evidence or new supporting arguments;
- re-apply under a different derogation (where applicable); and
- seek judicial review of the decision
- Under the TA (schedule 4A paragraph 28), an applicant can apply to the Grand Court for a review of the decision.
- You may wish to seek independent legal advice before taking the matter further.

7. Complying with a licence

141) Any conduct outside the terms of the licence, such as use of a different payment route or payments in excess of a specific payment cap, is a breach of financial sanctions, and is a criminal offence.

8. Reporting under a licence

142) A licence issued by the Governor contains a requirement for specified information to be reported to the Governor within a prescribed time frame. A failure to comply with reporting requirements may result in the revocation, suspension or termination of a licence or further restrictions being added to the licence. Failing to report is a criminal offence.

9. Existing licences issued under previous regimes

143) Any specific licence issued by Governor that was in effect immediately prior to the entry into force of the UK Regulations made under SAMLA and by extension with modifications the relevant OOICs, will continue to have effect after the entry into force of the OOIC. Such an existing licence will be treated as if it had been issued under the relevant OOICs. This means that you can continue to rely on existing licence issued by Governor, until it expires.

10. Travel to the Cayman Islands

144) The FRA expects all designated persons who are not subject to a travel ban and who are planning to visit the Cayman Islands to apply for an appropriate licence from the Governor authorising any proposed use of funds or economic resources in order to support themselves while in the country.

145) If a visa application is also required, the licence application should include a request for permission to pay any visa application fees. The granting of a licence does not guarantee that the person will be granted a visa.

146) The requirement to obtain a licence before travelling may also apply to non-designated persons visiting the Cayman Islands who are funded, in whole or in part, by a designated person.

147) The FRA works closely with other parts of government to ensure that designated persons travelling to the Cayman Islands have an appropriate licence for the duration of their stay in the Cayman Islands.

148) Anyone dealing with funds that should be frozen, or who makes economic resources available to a designated person without an appropriate licence will be committing an offence, which may result in a criminal prosecution.

149) If you are a designated person, you must hold a valid licence for the duration of your stay to allow the use of or access to funds or economic resources, while in the Cayman Islands.

150) If no valid licence is held, you may be in breach of sanctions regulations

G. Compliance and Enforcement

151) Section 4 (ea) of POCA provides for the FRA to monitor compliance with anti-terrorism financing and anti-proliferation financing regulations. Pursuant to section 3 of the PFPA, the FRA also has responsibility for giving directions where actions are to be taken in respect of TFS relating to PF. Also, by virtue of section 29 of the PFPA, the FRA shall take appropriate measures to monitor persons operating in the financial sector for the purpose of securing compliance with requirements of any directions given under the PFPA.

152) The Supervisory Authorities for relevant institutions, businesses or professions (CIMA, DCI, CARA and CIIPA) are responsible for monitoring compliance with the AMLRs. In particular one of the requirements of regulation 5 of the AMLRs, requires persons carrying out relevant financial business to implement procedures for the ongoing monitoring of business relationships or one-off transactions for the purposes of preventing, countering and reporting money laundering, terrorist financing and proliferation financing and such procedures allowing for the identification of assets subject to targeted financial sanctions applicable in the Cayman Islands. The AMLRs provide for administrative fines to be imposed on firms in breach (Regulation 55R(2)) which shall be determined based on whether classed as minor, serious or very serious as prescribed in Schedule 2 of the Regulations.

1. FRA's approach to compliance

153) The FRA's assessment of breaches is informed by our overall approach to financial sanctions compliance. This approach covers the whole lifecycle of compliance in respect of financial sanctions. The FRA endeavours to take a holistic approach to support those seeking to comply and to raise the level of financial compliance awareness. The FRA will effect this by:

- promoting compliance, publicising financial sanctions, and engaging with the private sector;

- enabling compliance, by making it easier to comply, and providing customers with guidance and alerts to help them fulfil their own compliance responsibilities;
- responding to non-compliance, by intervening to disrupt attempted breaches and by tackling breaches effectively.

154) These actions are intended to change behaviour, directly preventing future noncompliance by the individual and more widely through the impact of compliance and enforcement actions.

155) The FRA can respond to a breach of financial sanctions in several ways, depending on the case. The steps that could be taken in response to a breach include:

- issuing correspondence requiring details of how a party proposes to improve their compliance practices.
- issuing a warning letter (e.g. if a person simply falls below a high standard and acted quickly to remedy cause of breach).
- referring relevant institutions, business or professions to their relevant supervisors in order to improve their compliance with financial sanctions.
- imposing a civil penalty under the PFPA.
- referring the case to FCIU/CIBFI for criminal investigation and potential prosecution

156) While a decision to pursue a criminal prosecution for breaches of financial sanctions ultimately lies with the FCU/CIBFI and the ODPP, the FRA will consider the following when initially considering the course of action to take:

- whether the breach was self-disclosed fully and promptly
- the level of cooperation with any inquiries
- any action being taken to improve future compliance.

2. Reporting a suspected breach of financial sanctions

157) Your reporting obligations to the FRA are set out in Section E ‘Your Reporting Responsibilities’ in this guide. Where you know or have reasonable cause to

suspect that a breach has occurred, this must be reported to the FRA as soon as practicable.

3. Offences

158) Offences will depend on the particular legislation (OOICs, TA or PFPA), but can include:

- making funds or economic resources available to a designated person (except where an exception applies or under licence)
- dealing with funds or economic resources that must be frozen (except where an exemption applies or under licence)
- failing to comply with reporting obligations
- activities that circumvent an asset freeze
- breaches of licensing conditions

4. Penalties for breaches of financial sanctions

159) Breaches of financial sanctions are considered to be a serious criminal offence. Offences under the OOICs relating to UN/UK financial sanctions carry, after conviction on indictment, a maximum of seven years' imprisonment or a fine or both or, on summary conviction, imprisonment for a term not exceeding six months or a fine not exceeding £5,000 or its equivalent in the Cayman Islands dollars or both.

160) Similarly offences under Schedule 4A of the TA carry, after conviction on indictment, a maximum of seven years' imprisonment or a fine or both or, on summary conviction, a fine of CI$10,000, or a maximum of twelve months' imprisonment or both.

161) Under section 2D of the PFPA the FRA has the power to impose civil penalties of such amount as it considers appropriate on a person who fails to comply with freezing and reporting obligations of any frozen funds or economic resources. Also under section 19 of the PFPA, the FRA has the power to impose civil penalty of such amount as it considers appropriate (not exceeding $40,000) on a person who fails to comply with a requirement imposed by direction or a condition of a

licence. A person who fails to comply with a freezing obligation or requirement imposed by a direction is also liable on summary conviction to a fine of $50,000, or on conviction on indictment, to a fine of CI$70,000, or imprisonment for a term of three years, or to both. A person who fails to comply with a reporting obligation is liable on summary conviction to a fine of $10,000.

H. Designations

162) The FCDO negotiates all international sanctions for the UK and its overseas territories, including the Cayman Islands. The FCDO is also the competent authority in the UK for proposing designations to the UN via the UK Mission to the UN. The Governor of the Cayman Islands is the competent authority that has responsibility for proposing persons or entities for designations under: existing sanctions regimes; the Cayman Islands' domestic sanctions regime; at the request of another country. However, operationally the SC of the FRA will be responsible for coordination of the designation process and communication should be sent to the FRA at financialsanctions@gov.ky.

Domestic designations under UNSCR 1373

1. The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020

163) For a national designation, the Governor is the competent authority for making final designations under the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020[31]. However before making a final designation the Governor must consult the UK Secretary of State.

164) The Governor may make a final where it is reasonable to suspect that a person is an "involved person"

An involved person as defined in Regulation 6 (2) the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 means a person who-

(a) is or has been **involved in terrorist activity**,

(b) is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,

(c) is acting on behalf of or at the direction of a person who is or has been so involved, or

(d) is a member of, or associated with, a person who is or has been so involved.

[31] Articles 4-7 The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020

165) Involvement in terrorist activity pursuant to 6 (3) the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 includes-

(a) being responsible for, engaging in or providing support for, the commission, preparation or instigation of acts of terrorism;

(b) providing financial services, or making available funds or economic resources, for the purposes of terrorism;

(c) facilitating, promoting or encouraging terrorism;

(d) providing or receiving training for the purposes of terrorism;

(e) travelling or attempting to travel from or into the relevant territory for the purposes of terrorism;

(f) carrying out recruitment activities for a person involved in terrorism;

(g) being responsible for, engaging in, being complicit in, providing support for, or promoting, the abduction, enslavement, forced marriage or rape of, or sexual violence against, persons outside the relevant territory on behalf of, or in the name of, a person who is involved in terrorism;

(h) supporting or assisting any person who is known or believed by the person concerned to be involved in any activity mentioned in sub-paragraphs (a) to (g); or

(i) being involved in assisting the contravention or circumvention of any relevant provision.

2. Terrorism Act **(2018 Revision)**

166) The Governor is also the competent authority for making final designations under TA (paragraph 3 Schedule 4A) and may do so, after consultation with the UK Secretary of State.

167) Paragraph 3 (2) and ((3) Schedule 4A of the TA stipulates the circumstances under which the Governor may make a final designation of a person.

3. Request for designation by another country

168) The Governor can make domestic designation at the request of other countries, either under the provisions in the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 or TA, provided the statutory test is met.

169) Designation is not automatic upon receipt of a request. The requesting third country has to provide the reasons for proposing financial sanctions against the person as well as the evidence to support the designation. They are also required to give a commitment to provide updated information for each annual case review.

4. Notification of domestic designation

170) Where a final designation is made by the Governor, the name of the designated person or entity will be added to the “Cayman Islands Domestic Consolidated List of Designated Persons by the Governor” on the FRA financial sanctions webpage within one business day of written notice being delivered to the designated person. A detailed “General Notice of Final Designation” will also be published on the financial sanctions webpage and the distribution to supervisory authorities etc., will be notified in the manner previously prescribed in ”FRA updates” (see “How to get updates to the Consolidated List” under section C - Financial Sanctions Obligations and Restrictions).

I. Delisting and Challenging Designations

1. Delisting designated persons

171) Designated persons and entities who are subject to financial sanctions can challenge their listing by making a request for delisting. The financial sanctions will remain in place while the challenge or request is being considered.

172) When a decision is reached that supports the challenge for a UN or UK listing or a revocation under the Counter-Terrorism Regulations, the listed individual or entity is removed from the FCDO UK sanctions list and the OFSI Consolidated List of financial sanctions targets (if relevant). OFSI will communicate the delisting.

173) The revocation of a Cayman Islands designation listing would result in the FRA reflecting the change in the "Cayman Islands Domestic Consolidated List of Designated Persons by the Governor" on the FRA financial sanctions webpage, with notification in the manner previously prescribed under "FRA updates".

2. When to request delisting

174) Delisting is considered appropriate wherever the criteria for listing under the applicable regimes are no longer met. Some examples include: evidence of mistaken listing, a relevant subsequent change in facts, emergence of further evidence, and death of a listed person or the liquidation of a listed entity.

2.1 False positives

175) Where a "false positive" occurs, i.e. where a person or entity is wrongfully subject to sanctions measures (such as an asset freeze), and they assert that they are not the intended target.

176) False positives are potential matches to listed persons or entities, either due to the common nature of the name or due to ambiguous identifying data, which on examination prove not to be matches.

177) Distinguishing between designated and non-designated persons or entities may be difficult even with additional identifiers. In some cases the funds of a

person/entity that was not the intended target of the restrictive measures will be frozen due to identifiers that match with those of a designated person/entity. As a precautionary measure, you should refrain from entering into a business relationship with any person or entity that the available identifiers match, unless it is clear that it is not the same as the designated person or entity.

178) If a person/entity whose funds or economic resources are frozen claims that they are not the intended target of the restrictive measures, they should first contact the relevant institution that froze the assets, requesting an explanation, including why the relevant institution believes the person is a target match on the consolidated list. The burden of proof concerning determination of a question of a 'false positive' rests with the person/entity, who should submit documentary evidence to the relevant institution of their identity and a detailed statement as to why they are not the listed person/entity. If the relevant institution or the person/entity, after using all the available sources cannot resolve the issue as to whether a customer is in fact the designated person/entity, then both should inform the FRA.

179) Where the FRA concludes, after examination of all relevant facts and circumstances, that the person/entity concerned is not the designated person/entity, they will inform the relevant institution and/or the person/entity of the finding. The relevant institution should therefore take steps to unfreeze the funds or economic resources immediately and also inform the FRA of the action taken as soon as practicable.

180) Where the FRA concludes, after examination of all relevant facts and circumstances, that the person/entity concerned is the designated person/entity, they will inform the relevant institution and/or the person/entity of the finding. The asset freeze will therefore remain in place.

181) In cases where the FRA is not able to establish the correctness of the claim of mistaken identity, and the claim is not manifestly unfounded, they will inform OFSI and request provision of an authoritative finding regarding the person's identity.

Upon receipt, the FRA will communicate the authoritative finding to the relevant institution and/or person/entity.

3. How to make a delisting request?

3.1 . UN listings

182) Pursuant to section 25 of SAMLA, persons subject to the designation have the right to request the UK Government use its best endeavours to secure their removal from the relevant UN list.

183) To challenge a UN listing, a person/entity can submit delisting requests either through the Governor or directly through one of the applicable UN delisting agencies (the Office of the Ombudsperson or the UN Focal Point). De-listing requests to the Governor should be sent via the FRA.

184) Requests for delisting submitted to the Governor are initially assessed by the FRA, and if supported by the Governor, the delisting petition will be submitted to the FCDO. The FCDO will ultimately decide whether to take the delisting forward to the relevant UN Sanctions Committee or the Security Council.

To petition the Governor, you should contact the FRA at:

Address: The Sanctions Coordinator
Financial Reporting Authority
BOX 1054
Grand Cayman KY1-1102
Cayman Islands
Telephone: 345-244-2394
Email: financialsanctions@gov.ky

185) Alternatively, for UN listings under ISIL (Da'esh) and Al-Qaida sanctions regime, a petition for delisting can be made to the UN Office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee.

Address: Office of the Ombudsperson
Room DC2 2206

United Nations
New York, NY 10017
United States of America
Telephone: +1 212 963 2671
Email: ombudsperson@un.org

186) For more information about the Office of the Ombudsperson please see the UN's website: https://www.un.org/sc/suborg/en/node/189

187) For all other UN listings, request should be sent to the UN focal point for delisting.

Address: Focal Point for Delisting
Security Council Subsidiary Organs Branch
Room DC2 0853B
United Nations
New York, N.Y. 10017
United States of America
Telephone: +1 917 367 9448
Email: delisting@un.org

188) More information about the focal point is on the UN's website: https://www.un.org/sc/suborg/en/sanctions/delisting

3.2 UK listings

189) Section 23 of SAMLA enables a designated (other than a person designated under a UN list), the right to request a revocation or variation of the designation. .

190) If you have been designated or listed under SAMLA and wish to request the revocation, variation or review of your designation or the removal of your listing, you should complete a **Sanctions Review Request Form: Designated persons and UN listed persons.**

191) This form is used to request reviews, revocations, variations or removals. Guidance on how to request variations or revocation of a sanctions designation or review of a UN listing can be obtained here.

192) Once you have completed the form, you should send to the Governor via the FRA at:

The Sanctions Coordinator
Financial Reporting Authority
BOX 1054
Grand Cayman KY1-1102
Cayman Islands
Email: financialsanctions@gov.ky

193) A person in disagreement with a request decision may apply to the UK courts for a review.

3.3 The Cayman Islands listings under UNSCR 1373

194) Designated person or entities should submit a petition for delisting to the Governor. Following an assessment of the petition, where in agreement with the delisting, the Governor will consult with the UK Secretary of State. Where they are in agreement with the petition, the Governor will revoke a final designation pursuant to the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 or Schedule 4A paragraph 6 of the TA.

195) The revocation of a Cayman Islands designation listing would result in the FRA reflecting the change in the "Cayman Islands Domestic Consolidated List of Designated Persons by the Governor" on the FRA financial sanctions webpage, and notifying designated person/entity and the supervisory authorities as under "Notification of domestic designation" above.

196) Where the Governor declines the delisting petition, the designated person may appeal any such decision to the Grand Court.

4. What you must do upon notification of Delisting

197) Where the UNSCRs 1267/1989, 1988, 1718 Sanctions Committees and the Security Council pursuant to UNSCR 2231, delist any person/entity or a person/entity has been delisted pursuant to UNSCR 1373, the obligation to freeze no longer exists. The funds or assets that have been frozen must therefore be unfrozen.

198) You must immediately on receipt of the Financial Sanction Notice advising of the removal of a person and/or entity from the Consolidated List –

- Check whether you have frozen assets of any person or entity removed from the Consolidated List;
- Verify that the person or entity is no longer subject to an asset freeze;
- Remove the person or entity from your institution's list of persons/entities subject to financial sanction;
- Un-freeze the assets of the person or entity and where necessary re-activate all relevant accounts;
- Send advice to the person or entity that the assets are no longer subject to an asset freeze;
- Advise the FRA of the actions taken as soon as practicable.

J. GENERAL GLOSSARY

Disclaimer: The following is a general description of the terms used throughout this guide. Please see the most recent version of the relevant legislation for the exact terms used in context. If you are in doubt about any of the below, please contact the FRA or seek independent legal advice.

Asset freeze	A type of financial sanction. Under an asset freeze it is generally prohibited to: • deal with the frozen funds or economic resources, belonging to or owned, held or controlled by a designated person • make funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person • engage in actions that, directly or indirectly, circumvent the financial sanctions prohibitions
Competent Authority	Refers to all public authorities (This includes financial supervisors established as independent non-governmental authorities with statutory powers) with designated responsibilities for combating money laundering and/or terrorist financing. In particular, this includes the FCIU/CIFBI(the authorities that have the function of *investigating and/or prosecuting* money laundering, associated predicate offences and terrorist financing, and seizing/freezing and confiscating criminal assets); the FIU (authorities receiving reports on cross-border transportation of currency & BNIs; and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and DNFBPs with AML/CFT requirements). Self-Regulating Bodies (SRBs) are not to be regarded as competent authorities.
Cayman Legislations	Legislations implementing financial sanctions in the Cayman Islands, Overseas Orders in Council, Terrorism Act (2018

	Revision), and the Proliferation Finance and Prohibition Act (2017 Revision).
Consolidated List	A list maintained by OFSI containing designated persons subject to financial sanctions.
Dealing with economic resources	Generally, means using economic resources to obtain funds, goods, or services in any way, including (but not limited to) by selling, hiring or mortgaging them.
Dealing with funds	Generally, means moving, transferring, altering, using, accessing or otherwise dealing with funds in any way which would result in any change to their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
Designated Person (DP)	A person subject to financial sanctions.
Economic resources	Generally, means assets of every kind – tangible or intangible, movable or immovable – which are not funds but may be used to obtain funds, goods or services.
Exception	Generally found in financial sanctions legislation. An exception to a prohibition applies automatically in certain defined circumstances and does not require you to obtain a licence.
FRA	The Financial Reporting Authority is part of the Portfolio of Legal Affairs. Cayman Islands competent authority for implementation of financial sanctions
Funds	Generally, means financial assets and benefits of every kind, including but not limited to: • cash, cheques, claims on money, drafts, money orders and other payment instruments; • deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; • publicly- and privately - traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts

	• interest, dividends or other income on or value accruing from or generated by assets; • credit, right of set-off, guarantees, performance bonds or other financial commitments; • letters of credit, bills of lading, bills of sale; and • documents showing evidence of an interest in funds or financial resources.
Goods	Generally, means items, materials and equipment
Licence	A written authorisation from the Governor permitting an otherwise prohibited act.
Name match	The situation where a person you are dealing with partially matches the details of a designated person on the Consolidated List. Unlikely to be a target match.
OFSI	Office of Financial Sanctions Implementation. Part of HM Treasury and the UK's competent authority for implementing financial sanctions.
Ownership	The possession of more than 50% of the proprietary rights of an entity or having a majority interest in it. Includes both direct and indirect ownership.
Person	Can be a natural person (an individual), or a legal person, body or entity.
Reasonable cause to suspect	Refers to an objective test that asks whether there were factual circumstances from which an honest and reasonable person should have inferred knowledge or formed the suspicion.
Statutory Instruments (Sis)	Also referred to as secondary, delegated or subordinate legislation. A form of legislation that allows an Act of Parliament to be subsequently brought into force or amended without Parliament having to pass a new Act. For financial sanctions, SIs

	generally implement enforcement powers for directly applicable UK regulations.
Target Match	The situation where the person you are dealing with matches the details of a designated person on the Consolidated List. Likely to be a confirmed match for that person
UK Sanctions List	A list of all designated persons subject to UK sanctions. The list is maintained by FCDO.
Virtual Assets	This term refers to any digital representation of value that can be digitally traded, transferred or used for payment or investment purposes[32]. Statutory definitions of "funds" and "economic resources" are wide, thus virtual assets are considered to be covered by these definitions and are therefore caught by the financial sanctions restrictions.
Without delay	The phrase without delay means, ideally, within a matter of hours of a designation by the United Nations Security Council or its relevant Sanctions Committee (e.g., the 1267 Committee, the 1988 Committee, the 1718 Sanctions Committee). For the purposes of S/RES/1373(2001), the phrase without delay means upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organisation. In both cases, the phrase without delay should be interpreted in the context of the need to prevent the flight or dissipation of funds or other assets which are linked to terrorists, terrorist organisations, those who finance terrorism, and to the financing of proliferation of weapons of mass destruction, and the need for global, concerted action to interdict and disrupt their flow swiftly.

[32] FATF guidance for a risk-based approach to virtual assets and VASPs.

Annex 1

Proceeds of Crime Act (2020 Revision) - Schedule 6

Activities falling within the Definition of "Relevant Financial Business"

Any activity related but not limited to —

1. Acceptance of deposits and other repayable funds from the public.
2. Lending.
3. Financial leasing.
4. Money or value transfer services.
5. Issuing and managing means of payment (e.g., credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money).
6. Financial guarantees and commitments.
7. Trading in —
   (a) money market instruments (cheques, bills, certificates of deposit, derivatives etc.);
   (b) foreign exchange;
   (c) exchange, interest rate and index instruments;
   (d) transferable securities; or
   (e) commodity futures trading.
8. Participation in securities issues and the provision of financial services related to such issues.
9. Advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings.
10. Money broking.
11. Individual and collective portfolio management and advice.

12. Safekeeping and administration of cash or liquid securities on behalf of other persons.

13. Safe custody services.

14. Financial, estate agency (including real estate agency or real estate brokering), legal and accounting services provided in the course of business relating to —

(a) the sale, purchase or mortgage of land or interests in land on behalf of clients or customers;

(b) management of client money, securities or other assets;

(ba) organization of contributions for the creation, operation or management of companies;

(c) management of bank, savings or securities accounts; and

(d) the creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

14A. Undertaking property development within the meaning set out in section 2 of the Trade and Business Licensing Act (2019 Revision) and the subsequent sale of that property without using a real estate agent or broker.

14B. Undertaking property investment without using a real estate agent or broker.

15. The services of listing agents and broker members of the Cayman Islands Stock Exchange as defined in the CSX Listing Rules and the Cayman Island Stock Exchange Membership Rules respectively.

16. The conduct of securities investment business.

17. Dealing in precious metals or precious stones, when engaging in a cash transaction that is equivalent to fifteen thousand United States dollars or more.

18. The provision of registered office services to a private trust company by a company that holds a Trust licence under section 6(5)(c) of the Banks and Trust Companies Act (2020 Revision).

19. Otherwise investing, administering or managing funds or money on behalf of other persons.

20. Underwriting and placement of life insurance and other investment related insurance.

21. Providing virtual asset services.

22. Operating a single-family office.