

Frequently Asked Questions on Targeted Financial Sanctions

FAQs for Reporting Entities

1. What Mongolian laws govern targeted financial sanctions?

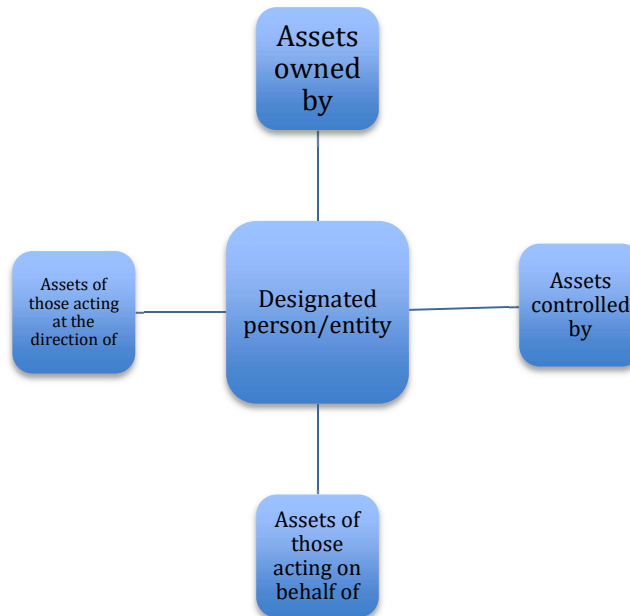
Targeted financial sanctions concerning terrorism and proliferation are currently implemented under two laws:

- The primary law is the Anti-Terrorism Law.
- The Anti-Money Laundering and Counter-Terrorism Financing Law also contains some obligations relevant to reporting entities specified under that Law.

The Regulation for Implementing United Nations Security Council Resolutions Relating to Financial Sanctions, issued under the Anti-Terrorism Law provides further details.

2. What are my obligations under targeted financial sanctions?

- You must:
 - Freeze all assets under your possession or control that are wholly or jointly, directly or indirectly owned or controlled by:
 - A person or entity designated by the United Nations Security Council or the Government of Mongolia
 - A person or entity acting behalf of a designed person or entity
 - A person or entity acting at the direction of a designated person or entity.



- You must:
 - Submit a report of any asset freezes, and any attempted transactions related to frozen assets, to Financial Information Unit

(fiu@mongolbank.mn) and General Intelligence Agency (amltf@gia.gov.mn) within 24 hours.

- You must not:
 - Make any asset (wholly or jointly, directly or indirectly) available to, or for the benefit of:
 - A person or entity designated by the United Nations Security Council or the Government of Mongolia
 - A person or entity owned or controlled by a designated person or entity
 - A person or entity acting behalf of a designed person or entity
 - A person or entity acting at the direction of a designated person or entity.
- You must not:
 - Make a *financial service* available to, or for the benefit of:
 - A person or entity designated by the United Nations Security Council or the Government of Mongolia under a United Nations Security Council Resolution related to terrorism
 - A person or entity owned or controlled by a terrorism-related designated person or entity
 - A person or entity acting behalf of a terrorism-related designed person or entity
 - A person or entity acting at the direction of a terrorism-related designated person or entity.

3. Where can I find a list of designated persons and entities?

You can find lists of designated persons and entities on the United Nations Sanctions website or on the General Intelligence Agency website.

United Nations Sanctions Consolidated List:
<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>

GIA Consolidated List: [www.gia.gov.mn/consolidated-list]

The lists contain a range of identifying information regarding a designated person or entity.

Designations and de-listings occur frequently so you should refer to the lists as often as needed to ensure you comply with your obligations.

4. What if I need help verifying whether a person or entity is a designated person or entity?

You may seek verification assistance if you are unable to determine whether a person or entity is a designated person or entity. You can send a request for verification assistance to Financial Information Unit (fiu@mongolbank.mn) and General Intelligence Agency (amltf@gia.gov.mn).

You should note that in cases of doubt, it would be prudent to freeze assets while awaiting verification. A pending verification request does not absolve you of your obligation to freeze assets.

5. What is an “asset”?

“**Asset**” means funds, property, financial resources and economic resources of every kind, whether tangible or intangible, corporeal or incorporeal, moveable or immovable, actual or potential, however acquired, including all of the following:

- cash
- virtual or digital currencies, including crypto-currencies
- bank credits, travellers cheques, bank cheques, money orders
- precious metals and precious stones
- real property, chattels and vessels
- shares, securities, bonds and drafts
- rights of set-off, guarantees, performance bonds, and other financial commitments
- letters of credit, bills of lading and bills of sale
- instruments of export financing
- natural resources
- labour resources such as crew services
- any other economic resources that may be used to obtain funds, goods or services
- legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, or right to claim an asset
- any interest, dividend, income or value accruing from, generated by, or derived from an asset.

6. What is meant by “freezing” an asset?

“Freeze” means to prevent the sale, supply, lease, transfer, conversion, disposition, movement or use of an asset.

7. What is meant by ownership and control of an asset?

Ownership is when a person owns more than 25% of the legal interest a legal person. For example, if a person owns 26% of shares in a company, then they are an owner of that company. Ownership also requires you to consider the ultimate beneficial ownership. For example, if company B is the owner of 26% of shares in company A, then you are required to identify the individual who ultimately owns company B.

Control refers to means of control other than legal ownership. Control can be established by way of agreements, arrangements or understandings. Some examples of control are:

- having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity
- having appointed solely as a result of the exercise of one’s voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or 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 a legal person or entity, a majority of shareholders’ or members’ voting rights in that legal person or entity
- having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law

governing that legal person or entity permits its being subject to such agreement or provision.

It is also possible to demonstrate control or use of a natural person's bank account or economic resources. Examples could include a designated person registering assets in the name of associates or family members, or using non-designated persons' bank accounts to hold funds and facilitate transfers.

8. Can I obtain an authorisation to deal with frozen assets or to make assets or financial services available to a designated person or entity?

A designated person or entity, or a person or entity holding frozen assets, may apply for an authorisation to deal with frozen assets or to have access to assets or financial services. Applications for authorisation can be made to Financial Information Unit (fiu@mongolbank.mn) and General Intelligence Agency (amltf@gia.gov.mn).

Authorisations can be made under the following grounds:

- The assets or financial services are required to meet basic expenses
 - The assets or financial services are required to meet extraordinary expenses
 - The assets or financial services are required to meet prior contractual obligations
 - The authorisation is otherwise consistent with grounds stated in relevant United Nations Security Council Resolutions.
- “Basic expense” includes an expense necessarily incurred for any of the following purposes:
 - obtaining foodstuffs
 - paying rent or mortgage
 - obtaining medicine or medical treatment
 - paying taxes
 - paying insurance premiums
 - paying utility charges
 - paying reasonable professional fees
 - paying reasonable expenses associated with the provision of legal services
 - paying fees or service charges that are in accordance with the laws of Mongolia for the routine holding or maintenance of a frozen asset.
 - “Extraordinary expense” means any payment that is not a basic expense or a contractual obligation that the Agency considers:
 - to be necessary
 - does not violate the provisions of a relevant United Nations Security Council Resolution; and
 - has been approved by the United Nations Security Council or its Committees.
 - “Contractual obligation” means an obligation whereby a payment is required under a contract or agreement made before the date of the person or entity's designation and where the payment required does not violate the provisions of a relevant United Nations Security Council Resolution.

9. What will happen if I do not comply with targeted financial sanctions obligations?

The Government of Mongolia takes compliance with targeted financial sanctions very seriously. You may face penalties for non-compliance, including administrative fines. If you are a regulated entity, non-compliance with sanctions obligations may also affect your licence or registration.

10. Are there other helpful resources I can access online?

Mongolian Government resources

- General Intelligence Agency – www.gia.gov.mn
- Financial Information Unit – www.mongolbank.mn
- Financial Regulatory Commission – www.frc.mn

Resources by United Nations and other Bodies

- United Nations Sanctions
 - <https://www.un.org/securitycouncil/sanctions/information>
- Financial Action Task Force:
 - <https://www.fatf-gafi.org>
- Asia/Pacific Group on Money Laundering:
 - www.apgml.org
- Eurasian Group:
 - <https://eurasiangroup.org>

Resources on proliferation financing

- Security Council Panel of Experts Reports:
 - https://www.un.org/securitycouncil/sanctions/1718/panel_experts/reports
- Guidance on proliferation financing obligations:
 - <https://fatf-gafi.org/publications/financingofproliferation/documents/guidance-counter-proliferation-financing.html>
 - <https://rusi.org/publication/other-publications/countering-proliferation-finance-model-law-second-edition>
- Proliferation financing typologies reports:
 - <https://projectalpha.eu/final-report-typologies-of-proliferation-finance/>
 - <https://www.fatf-gafi.org/publications/methodsandtrends/documents/typologiesreportonproliferationfinancing.html>
- Proliferation financing risk assessment guides:
 - <https://rusi.org/publication/other-publications/guide-conducting-national-proliferation-financing-risk-assessment>
 - <https://www.cnas.org/press/press-release/the-financing-of-wmd-proliferation-conducting-risk-assessments>

11. Who can I contact if I have further questions?

- Financial Information Unit (e-mail: fiu@mongolbank.mn)
- General Intelligence Agency (e-mail: amltf@gia.gov.mn)

FAQs for Banking and Money Transfer Services Sectors

12. Can I close or transfer the accounts of a designated person or entity?

You will require an authorisation to close or transfer an account of a designated person or entity.

13. Can I credit payments from third parties to a frozen account?

You may be permitted to credit payments from a third party to a frozen account under certain circumstances; however, those payments must also be frozen. You should contact Financial Information Unit (e-mail: fiu@mongolbank.mn), General Intelligence Agency (e-mail: amltf@gia.gov.mn) for advice and authorisation on crediting frozen accounts with third party payments before doing so.

14. Can I apply interest to the account of a designated person or entity?

You can credit interest to a frozen account without an authorisation so long as that interest is also frozen.

15. Can I correct errors in accounts?

If the account was opened prior to designation, and the terms and conditions of operating the account permit you to correct errors, you can make corrections without an authorisation. You must ensure that any credits to accounts as a result of corrections are also frozen. You should advise Financial Information Unit (e-mail: fiu@mongolbank.mn), General Intelligence Agency (e-mail: amltf@gia.gov.mn) of the transaction immediately.

16. Can I give a designated person or entity a credit or debit card?

You must freeze existing accounts and credit cards of a designated person or entity. An authorisation is required to provide access to a new credit or debit card. You should consider whether any authorisations are in place to allow the use of the cards within certain limits and whether you have the systems and controls in place to enable you to satisfy yourself that the use of the card/s will be restricted to what is permissible under the authorisation.

17. How do I treat funds being transferred from a designated person or entity, based outside Mongolia to a non-designated person or entity in Mongolia?

Funds that have come from a designated person or entity based outside Mongolia must be frozen on arrival in Mongolia, or in a Mongolian financial institution anywhere in the world.

18. How do sanctions apply to a safety deposit box?

You must freeze safety deposit boxes or secure storage facilities owned, controlled or held by a designated person or entity. This is because a safety deposit box or secure storage facilities may be an economic resource of, or be used to hold funds or economic resources belonging to, a designated person or entity.

You should notify Financial Information Unit (e-mail: fiu@mongolbank.mn), General Intelligence Agency (e-mail: amltf@gia.gov.mn) that you hold such a safety deposit box or secure storage facility for a designated person or entity. Where the contents are not known, the report to Financial Information Unit (e-mail: fiu@mongolbank.mn), General Intelligence Agency (e-mail: amltf@gia.gov.mn) should make that clear. Boxes do not need to be opened or searched before a report is made.

A designated person or entity should not have access to their safety deposit box or secure storage facilities without an authorisation.

FAQs for Insurance Sector

19. Who is responsible for sanctions compliance in an insurance chain?

Each business to whom Mongolia's sanctions laws apply is responsible for their own compliance with financial sanctions.

Insurers, re-insurers and underwriters

You should undertake reasonable enquiries to identify whether the underlying clients or claimants may be designated persons or entities. You should also consider your arrangements with introducers and other parties to:

- maximise the level of information provided when providing cover
- make appropriate use of that identifying information in designing your sanctions compliance systems and controls.

Where insurance is provided through an agent, broker, introducer or delegated authority, you should satisfy yourself that the third party's systems and controls are sufficient to mitigate the Mongolian sanctions risks. This could include:

- making specific reference to sanctions compliance in their terms of business with introducers
- reviewing sanctions compliance policies
- requiring positive affirmations from their introducers on their financial sanctions systems and controls.

Agents and brokers

Given that you usually deal directly with clients, you should be well placed to obtain sufficient information to conduct appropriate sanctions checks against clients and insurance beneficiaries when cover is issued. The specific requirements that an insurer or underwriter applies to you in respect of sanctions compliance are a matter for the parties to contract.

20. I provide pensions and related products to an employer so may not know who the relevant employees are. How can I comply with sanctions?

Depending on the precise arrangements, it is likely that the contract is with the employer and the employer will provide the benefits to the employees in line with their contracts of employment. You should initially focus on the employer when conducting your sanctions checks. Where specific employees are drawn to your attention, for example, for special underwriting or the direct payment of benefits, you are expected to conduct sanctions checks on the employee details.

21. What should I do if a person becomes designated after I have agreed to insure them?

A designation does not necessarily void any insurance cover. You should report the insurance cover immediately to Financial Information Unit (e-mail: fiu@mongolbank.mn), General Intelligence Agency (e-mail: amltf@gia.gov.mn) and seek further advice. You will require an authorisation before making any payment on a claim to a designated person or entity.

22. Can I provide temporary access to assets, such as accommodation or a vehicle in response to an insurance claim?

You will require an authorisation. You may be granted an authorisation if the asset is:

- of limited duration, for example, less than one week
- for personal consumption, for example, personal use of a vehicle rather than business use.

FAQs for Legal Sector

23. Can I provide legal advice or act for a designated person or entity?

Yes, you can provide legal advice to, or act for, a designated person or entity but you cannot receive any payment for that advice without obtaining an authorisation. Payment of legal fees or expenses by a designated person or entity using frozen funds or by a third party on behalf of the designated person or entity is prohibited as this involves dealing with frozen funds or making funds available indirectly to, or for the benefit of, a designated person or entity.

Authorisation can be obtained for payment only of reasonable legal fees for legal services provided to a designated person or entity. You are advised to seek authorisation in advance of providing substantive legal services in order for you to have early certainty as to the fees that will be recoverable whilst the designated person or entity remains listed.

Certain legal services, such as the provision of company formation services, may constitute the provision of “financial services”, which are prohibited under certain United Nations Security Council Resolutions related to terrorism.

24. Do I have to freeze my client’s money?

You must freeze any assets owned or controlled by the client, which are in your possession. If you hold money on account for a person or entity who is designated after you are instructed by them, you may move the funds from a pooled client account to a designated client account in Mongolia to freeze the funds.

25. Do I need an authorisation if the legal services for the designated person or entity are being paid for by a non-designated person or entity?

You will need to seek an authorisation. You should carefully consider how you establish the retainer, and in whose name you hold the funds, as this will have a bearing on whether any excess funds on account can be returned to the payer at the end of the retainer.

26. What fees and disbursements can be authorised?

Under an asset freeze, authorisations can only cover payment of reasonable legal fees and disbursements related to the provision of legal services. The authorisation grounds do not permit payments for any other services, even if these have been paid for by a law firm. These restrictions apply even if a third party is paying for the legal fees.

27. What are considered ‘reasonable’ legal fees and disbursements?

It is for you to demonstrate to Financial Information Unit (e-mail: fiu@mongolbank.mn), General Intelligence Agency (e-mail: amltf@gia.gov.mn) that the legal fees and disbursements are reasonable. You should:

- provide an estimate of the likely fees
- break down how these will be charged in the application
- identify significant disbursements, such as payments for counsel and expert witnesses.

28. How does legal professional privilege apply to my reporting obligations?

The reporting obligations do not require you to provide information that is subject to legal professional privilege. Legal professionals should approach their disclosure obligations with rigour and carefully consider where legal professional privilege applies, and to what information. Financial Information Unit and General Intelligence Agency will challenge any blanket claims of privilege where we are not satisfied that such careful consideration has been made.