



Financial Sanctions Guidance Proliferation Financing



Isle of Man
Government

Reiltys Ellan Vannin

Updated: March 2023

Contents	Page
1 Introduction	2
2 What is Proliferation?	3
3 What is Proliferation Financing?	4
4 Obligations to counter proliferation financing	5
5 FATF Standards	6
6 Other non-proliferation related measures	7
7 Government Departments and Agencies	8
8 Directions	10
9 Reporting Obligations	11
10 Other sources of information	12
11 Offences and Penalties	13
Annex Amendments to the Notice	14

1 Introduction

This guidance —

- outlines your obligations under **financial sanctions relating to proliferation financing**; and
- provides an **introduction to what is meant by proliferation and proliferation financing ("PF")**.

It is produced by the Customs and Excise Division of the Treasury, which is the competent authority for the implementation and enforcement of financial and trade sanctions in the Isle of Man.

The purpose of this guidance is to provide insight and guidance to Island businesses to counter the financing of proliferation of weapons of mass destruction ("WMD"), as well as providing guidance on which agencies may be consulted, or to which any suspicions should be notified.

The Notice is intended as a general guide and has no force in law. Those persons who think they may be affected by the provisions are advised to seek independent legal advice.

For general information and guidance on financial sanctions, including details of complex structures, ownership and control, licensing and challenging designations please see the General [guidance](#) published on the Customs and Excise website.

Privacy Notice

The Treasury collects information about you in order to administer taxation and carry out other functions for which it is responsible (e.g. National Insurance, customs and excise duties, property rates, social security benefits, state pensions and legal aid etc.), and for the detection and prevention of crime.

Whilst that information will primarily be provided by you, where the law allows we may also get information about you from other organisations, or give information about you to them. This may be to check the accuracy of the information provided, prevent or detect crime or protect public funds in other ways. These organisations may include other government departments, the police and other agencies.

To find out more about how we collect and use personal information, contact any of our offices or visit our website at:

<https://www.gov.im/about-the-government/departments/the-treasury/privacy-notice/>

2 What is Proliferation?

Following the decisions in UN Security Council Resolution 1540, proliferation can be defined as —

"the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of Chemical, Biological, Radiological or Nuclear (CBRN) weapons (weapons of mass destruction or WMD) and their means of delivery and related materials (including technologies and dual-use goods), in contravention of domestic law and/or international obligations."

Proliferation also encompasses the acquisition, supply and use of technology, goods, software, services or expertise.

The technology, goods, software, services or expertise may have a legitimate use as well as being capable of being used in proliferation (hence the term "dual-use" items). It is important to take a holistic approach when conducting any review or risk assessment, and bear in mind that goods, technology, services etc. may have a potential use for both a legitimate purpose or in proliferation. This means that any goods involved may not be included on any international or national control list.

Proliferation can take many forms, but ultimately it commonly involves the transfer or export of technology, goods, software, services or expertise that can be used in programmes involving nuclear, biological or chemical weapons, and their delivery systems - which may involve sophisticated technology, such as in long range missiles; or it may involve a relatively simple, or even crude, device (to produce, for example a "dirty bomb").

Proliferation poses a significant threat to global security. If appropriate safeguards are not established, maintained and enforced for sensitive materials, technology, services and expertise, they can —

- (a) become accessible to unauthorised or undesirable individuals and entities seeking to profit from acquiring and selling them on;
- (b) be used in weapon of mass destruction (WMD) programmes; or
- (c) find their way into the hands of terrorists.

It is important that proliferation may not be only in one direction. The country or organisation that would appear to be a recipient can also be a supplier. For example, North Korea obtained much of its expertise for use in its nuclear programme covertly from Pakistan (and the so-called "A Q Khan Network"), in return for missiles. This network was also involved in trading of bomb making designs and equipment to Iran and Libya.¹

¹ <https://rusi.org/explore-our-research/publications/commentary/aq-khan-dead-long-live-proliferation-network>

3 What is Proliferation Financing?

The Financial Action Task Force (FATF) provides the following definition of proliferation financing ("PF") —

"Proliferation financing" refers to:

the act of providing funds or financial services that are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.²

Proliferation financing can be —

- (a) terrorism financing - where it provides financial support to terrorist organisations that would want to acquire and/or use an WMD; or
- (b) financing from a state, or a state-controlled or state-sponsored entity with the aim of providing a state with a WMD, or to enhance, improve or replace an existing one

PF activity, in many cases, has the sole aim of generating access to foreign currency and the international financial system. It may look like a legitimate trading transaction. For this reason it is important to understand the full payment chain and consider how any trade may be used to enable illicit activity.

In complex structures PF may not necessarily be directly connected to the physical flow of goods. For example, PF can include, although not be limited to, the following —

- Financial transfers
- Provision of loans
- Ship mortgages and registration fees
- Insurance and re-insurance services
- Credit lines for shipment of illicit sensitive goods
- Trust and corporate services
- Acting as an agent for, to, or on behalf of someone else
- Facilitation of any of the above.

Involvement in proliferation or proliferation financing, even if inadvertent, carries the risk of severe reputational damage to institutions (and to the Island and its business community as a whole). Consequences can include the threat of companies and individuals being included on sanctions lists, or being denied access to banking and other services due to a perceived greater risk.

Therefore, measures to prevent, detect or mitigate potential involvement are important from a business and commercial perspective, as well as to achieve non-proliferation objectives.

4 Obligations to counter proliferation financing

United Nations measures

Although the Isle of Man is not a UN member in its own right, the UK's membership of the UN extends to the Island. There are 3 UN Security Council Resolutions, in particular, which the Isle of Man has an obligation to implement relevant to PF —

1. UN Security Council Resolution [1540 \(2004\)](#)³, in which it placed obligations on UN member states to —
 - (a) refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;
 - (b) adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;
 - (c) establish, develop, review and maintain appropriate effective national export and transshipment controls over such items, including appropriate laws and regulations to control export, transit, transshipment and re-export and controls on providing funds and services related to such export and transshipment such as financing, and transporting that would contribute to proliferation.
2. UN Security Council Resolution [1718 \(2006\)](#)⁴ concerning the Democratic People's Republic of Korea (DPRK); and
3. UN Security Council Resolution [2231 \(2015\)](#) endorsing the Joint Comprehensive Plan of Action on Iran.

United Kingdom measures

There are 2 Regulations, made under the Sanctions and Anti-Money Laundering Act 2018 which implement the UN measures in the UK —

- the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019⁵
- the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019⁶.

The UK has also implemented a sanctions regime on chemical weapons, the purposes of which are to deter the proliferation and use of chemical weapons —

- The Chemical Weapons (Sanctions) (EU Exit) Regulations 2019⁷.

³ The successor resolutions, as of 14 October 2022, to UNSCR 1540 (2004) are: 1673 (2006), 1810 (2008), 1977 (2011), 2055 (2012), 2325 (2016) and 2622 (2022).

⁴ The successor resolutions, as of 14 October 2022, to UNSCR 1718 (2006) are: 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017).

⁵ SI 2019/411, as amended.

⁶ SI 2019/461, as amended.

⁷ SI 2019/618, as amended.

Isle of Man measures

The Isle of Man has applied all the UK Regulations above by means of the following Regulations, made under the European Union and Trade Act 2019 —

- Democratic People's Republic of Korea Sanctions (Application) Regulations 2020⁸;
- Iran Sanctions (Nuclear) (Application) Regulations 2020⁹; and
- Chemical Weapons Sanctions (Application) Regulations 2020¹⁰.

5 FATF Standards

The [FATF Standards](#) establish international rules for the implementation of targeted financial sanctions relating to the prevention, suppression and disruption of proliferation of WMD and PF (TFS-PF). These are prescribed in the FATF Recommendations, interpretative notes and methodology.

- **Recommendation 1** (revised in October 2020) requires countries, financial institutions, designated non-financial businesses and professionals, virtual asset service providers, and non-profit organisations to identify and assess the risks of potential breaches, non-implementation or evasion of TFS-PF and to take action to mitigate them
- **Recommendation 2** (revised in October 2020) calls on cooperation and coordination of the relevant authorities to combat Money laundering, Terrorist financing and PF
- **Recommendation 7** requires 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 UNSC under Chapter VII of the Charter of the UN
- **Recommendation 15** (revised in June 2021) requires countries and financial institutions to conduct a PF risk assessment and establish mitigation in respect of virtual asset activities and service providers

FATF Guidance

[FATF - Guidance on Counter Proliferation Financing](#) provides non-binding guidance to facilitate both public and private sector stakeholders in understanding and implementing obligations.

[FATF - Guidance on Proliferation Financing Risk Assessment and Mitigation](#)

[FATF - Webinar on Proliferation Financing Risk Assessment and Mitigation](#)

The Treasury has published [guidance](#) on Proliferation Financing Risks which provides information on —

- PF risks and mitigating those risks
- “red flag” indicators and typologies of proliferation and PF
- links to PF case studies.

⁸ SD 2020/0502, as amended.

⁹ SD 2020/0477, as amended.

¹⁰ SD 2020/0452, as amended.

6 Other non-proliferation related measures

United Kingdom measures

- The [Export Control Act 2002](#) provides the legal framework for export controls and trade controls in relation to goods. There are 2 Orders which are particularly relevant —
 - the [Export Control Order 2008](#)¹¹ provides further detailed legislation with regard to export controls and trade controls, and forms part of the [UK Strategic Control List](#) of strategic military and dual-use items that require export authorisation
 - the [Export of Radioactive Sources \(Control\) Order 2006](#)¹² provides for export controls of radioactive goods
- Council Regulation [428/2009](#) (retained EU law) is the regime for the control of exports, transfer, brokering and transit of dual-use items
- The [Biological Weapons Act 1974](#) makes provisions to prohibit the development, production, acquisition and possession of certain biological agents and toxins, and of biological weapons
- The [Chemical Weapons Act 1996](#) makes provisions to promote the control of chemical weapons and of certain toxic chemicals and precursors
- The [Anti-Terrorism Crime and Security Act 2001](#) includes offences relating to the development, procurement and use of chemical, biological, radiological and nuclear weapons.

Isle of Man measures

- Export Control Order 2008 (Application) Order 2009¹³ applies the UK's Export Control Order 2008 to the Island
- Export of Radioactive Sources (Control) Order 2006 (Application) Order 2006¹⁴ applies the UK Order to the Island
- Council Regulation (EC) No 428/2009, the regime for the control of exports, transfer, brokering and transit of dual-use items, is retained EU law in the Island¹⁵
- Biological Weapons Act 1974 (Isle of Man) Order 1974¹⁶ extends the provisions contained in the UK Act to the Isle of Man
- Chemical Weapons Act 1996 (Isle of Man) Order 1998¹⁷ extends the provisions contained in the UK Act to the Isle of Man
- Part VIA of the [Anti-Terrorism and Crime Act 2003](#) provides for offences in relation to nuclear weapons.

Further information on export controls and trade controls can be found in the [Sanctions and Export Control](#) section of the Customs and Excise website.

¹¹ S.I 2008/3231, as amended.

¹² S.I 2006/1846, as amended.

¹³ SD 104/09, as amended.

¹⁴ SD 0589/06, as amended.

¹⁵ Council Regulation (EC) No 428/2009 was retained by SD 2019/0064, as amended by SD 2019/0376.

¹⁶ S.I 1974/1111

¹⁷ S.I 1998/2794

7 Government Departments and Agencies

The Isle of Man Government Departments and agencies that are involved in financial sanctions relating to proliferation are as follows:

Department/agency	Role
Treasury (Customs and Excise Division)	Competent authority for implementing UN and UK sanctions measures in the Island, issuing guidance and administering sanctions licence applications. Investigate and enforce breaches of financial sanctions, trade sanctions, export and trade controls.
Financial Intelligence Unit (FIU)	Authority to whom reports of frozen accounts, designated persons, suspicions & breaches must be made. Disseminates intelligence to Customs & Excise to investigate financial sanctions, export control and trade control issues.
Isle of Man Financial Services Authority (FSA)	Regulates financial service businesses on the Island and oversees Designated Non-Financial Businesses and Professions in respect of Anti-Money Laundering and Countering the Financing of Terrorism. Issues Anti-Money laundering guidance and undertakes compliance checks with regard to financial sanctions as part of the regulation and oversight of regulated businesses.
Gambling Supervision Commission	Regulates gambling activity on the Island and undertakes compliance checks with regard to financial sanctions as part of the regulation and oversight of regulated businesses. Issues Anti-Money laundering guidance for the gambling sector.
Department of Home Affairs	Responsible for publication of the Anti-Money Laundering and Countering the Financing of Terrorism Code , which places requirements on business in order to prevent money laundering and the financing of terrorism.

8 Directions

The Customs and Excise Division of the Treasury, as the competent authority, directs that **any funds and economic resources held for, or on behalf of, the individuals or entities named in the sanctions lists having effect in the Island must not be made available**, except under the authority of a licence in writing from the Treasury. See the [Financial Sanctions Guidance](#) for further information about the sanctions lists.

Any funds must be frozen and the details reported to the Financial Intelligence Unit.

All persons in business or a profession in the Island, including financial institutions, **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists.

If you know or have 'reasonable cause to suspect' that you are in possession or control of, or are otherwise dealing with, the funds or economic resources of a designated person you **must**:

- freeze them immediately;
- not deal with them or make them available to, or for the benefit of, the designated person, unless:
 - there is an exemption in the legislation that you can rely on; or
 - you have a licence;
- report them to the FIU (see section 7).

"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.

An asset freeze does not involve a change in ownership of the frozen funds or economic resources, nor are they confiscated or transferred to the Treasury for safekeeping.

Freezing of funds, other financial assets and economic resources means the prevention of any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Financial Intelligence Unit and co-operate in any verification of the information.

9 Reporting obligations

The Isle of Man measures require natural and legal persons to supply the FIU immediately with any information that would facilitate compliance with those measures. Any information provided will only be used for the purposes for which it was provided or received.

This requirement applies to natural and legal persons, entities and bodies in the Island or under IOM jurisdiction and not just to credit or financial institutions or to individuals working for them.

Examples of the kind of information that will facilitate compliance can be found in the table below.

Reporting Area	Example
Person is a designated person	<p>A customer or client of yours is a designated person.</p> <p>You must provide the FIU with any information you hold about the designated person by which they can be identified.</p>
Funds and economic resources	<p>You must include details of the nature and amount or quantity of any funds and economic resources held.</p> <p>Types of funds or economic resources can include (but are not limited to) —</p> <ul style="list-style-type: none">• antiques, artwork• cash, cheques, postal orders• bonds• cryptoassets• land, vehicles• precious metals or stones
Credits to frozen accounts	<p>Relevant institutions must inform the FIU without delay whenever it credits a frozen account where it receives funds transferred to it for the purpose of crediting that account. Relevant institutions do not need to inform the FIU when it credits an account with interest or other earnings.</p>

How to report

Reports of accounts and amounts frozen should be made using the online reporting system, THEMIS; however, if you do not have access to this reporting system, you should use the appropriate form on the [FIU website](#).

Financial Intelligence Unit contact details

Financial Intelligence Unit
PO Box 51
Douglas
Isle of Man
IM99 2TD

Telephone: +44 1624 686000

Email: fiu@gov.im

Legal privilege

The reporting requirements do not apply to information to which legal privilege is attached. However, it is expected that legal professionals would carefully ascertain whether legal privilege applies, and which information it applies to. The Treasury may challenge a blanket assertion of legal privilege where it is not satisfied that careful consideration has been made as to whether such privilege applies to all information.

Other reporting obligations

Your obligation to report to the FIU is in addition to any other reporting obligations you may have. These could include reporting required by your regulator (if you have one), or submitting Suspicious Activity Reports (SARs) to the FIU under the Proceeds of Crime Act 2008 or the Anti-Terrorism and Crime Act 2003.

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

10 Other sources of information

Other sources of information on proliferation and PF (including case studies) —

[FATF - Typologies Report on Proliferation Financing](#)

[Countering Proliferation Finance: An Introductory Guide for Financial Institutions](#), published by the Royal United Services Institute ([RUSI](#)).

[Project Alpha](#) - Centre for Science and Security Studies at King's College London. Comprehensive database of open-source PF case studies.

[James Martin Center for Nonproliferation Studies](#). Non-proliferation research

Center for a New American Security ([CNAS](#)). Proliferation reports

UNSC 1718 Sanctions Committee [Panel of Experts](#) reports

Jersey Financial Services Commission: [Comparison table](#) of Money-laundering, terrorist financing and proliferation financing

[Illicit Trade Networks - Volume 1](#) - Connecting the Dots, published by the Institute for Science and International Security

Stockholm International Peace Research Institute ([SIPRI](#)) Good Practice Guides —

[No. 1/2016](#) – Securing the supply chain through transport sector cooperation

[No. 2/2016](#) – Restricted parties and the transport sector

[No. 3/2016](#) – Proliferation Red Flags and the Transport Sector

[No. 4/2016](#) – Counterproliferation Good Practice for Freight Forwarders

[No. 5/2016](#) – Export Control Compliance and the Transport Sector

[No. 6/2016](#) – The Role of Transit and Trans-shipment in Counterproliferation Efforts

[No. 7/2016](#) – Counterproliferation – Information sources for transport sector

11 Offences and Penalties

In relation to financial sanctions regarding proliferation, the following are some examples of offences and penalties.

Offence Summary	Summary Conviction	Conviction on Information
Breach of financial sanctions	<ul style="list-style-type: none">• up to 12 months custody;• up to £10,000 fine;• or both	<ul style="list-style-type: none">• up to 7 years custody;• an unlimited fine;• or both
Circumventing the prohibitions	<ul style="list-style-type: none">• up to 12 months custody;• up to £10,000 fine;• or both	<ul style="list-style-type: none">• up to 7 years custody;• an unlimited fine;• or both
Breaching requirements of a Treasury licence	<ul style="list-style-type: none">• up to 12 months custody;• up to £10,000 fine;• or both	<ul style="list-style-type: none">• up to 7 years custody;• an unlimited fine;• or both
Breach of reporting obligations	<ul style="list-style-type: none">• up to 6 months custody;• up to £10,000 fine;• or both	N/A
Trade related offences	<ul style="list-style-type: none">• up to 12 months custody;• up to £10,000 fine;• or both	<ul style="list-style-type: none">• up to 10 years custody;• an unlimited fine;• or both

ANNEX
AMENDMENTS TO THE NOTICE

This notice was first published on 3 September 2018.

March 2023 Rewritten to improve reader experience and update reference material