

Treasury
Customs and Excise Division

Sanctions Notice 21

United Nations Sanctions
European Union Sanctions

Al-Qaida, the Taliban and ISIL (Da'esh)



July 2006
(updated to 3 August 2017)



Isle of Man
Government

Reilrys Ellan Vannin

About this Notice

This Notice draws attention in convenient form to legislation giving effect to UN or EU sanctions in the Isle of Man which place financial sanctions on certain named individuals and entities.

This Notice provides guidance on certain aspects only, and should be read in conjunction with any relevant orders or regulations.

The Treasury has appointed its Customs and Excise Division to act for the purposes of enforcing financial sanctions. Accordingly, certain powers have been provided to the Division.

Variations to the information in this Notice will be notified by means of news releases on the Isle of Man Government and Customs and Excise web pages, please see—
<http://www.gov.im/treasury/customs/sanctions.xml>

The current list of persons and entities subject to the sanctions covered by this Notice may be found at— http://www.hm-treasury.gov.uk/fin_sanctions_alqaida.htm

The information contained in this Notice is, unless the contrary is clearly stated, intended as general guidance.

Enquiries concerning this Notice should be addressed to the Sanctions Officer by—

- Fax (01624) 661725
- Email customs@gov.im
- Telephone (01624) 648138

- Post The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.



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For further information on sanctions in general, including how to deal with false positives, or when sanctions are lifted or persons delisted, see Sanctions Notice 26.

Sanctions Notice 32 deals with the granting of licences.

These Notices, and other information about sanctions and export and trade controls, may be found at -

<https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/sanctions-and-export-control/>

Directions

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds which held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Division.

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 and, if so, they should freeze the account, funds or economic resources and report their findings to the Division.

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

See also Sanctions Notices 22 (Terrorism) and 39 (Afghanistan).

Introduction

1. From 1999 the United Nations Security Council adopted various Resolutions relating to Afghanistan and the Taliban regime. These imposed a variety of restrictions on organisations and individuals connected with the Taliban.

Security Council Resolution 1333 (2000), inter alia, reminded countries of their obligation to implement measures imposed by the earlier Resolution 1267 (1999), including a freeze of assets and other financial assets.

2. Resolution 1333 (2000) was given effect in the Isle of Man by means of an Order-in-Council, the Afghanistan (United Nations Sanctions) (Isle of Man) Order 2001 [SI 2001 No. 394], which also implemented Resolution 1267 (1999) in the Island.
3. From time to time the UN Sanctions Committee reviews the list of entities and persons subject to a freeze of funds and other financial assets. The current list can be found at the link given on page 2 of this Notice.
4. Following a terrorist attack on the USA in September 2001 the UN adopted further measures, described below, and an extended freeze which covered funds and other financial assets of individuals and entities connected to Usama bin Laden and the Al-Qaida organisation.
5. In January 2004 the Security Council unanimously adopted a further Resolution 1526 (2004), which was intended to improve the sanctions regimes imposed on Usama bin Laden, the Taliban, Al-Qaida, and other individuals and groups associated with them.

The new Resolution extends the freezing of assets and resources to -

“undertakings and entities, including funds derived from property owned or controlled, directly or indirectly and ensure that neither those funds or any other

financial assets ... are made available, directly or indirectly for such person's benefit, by ... nationals or by any persons within ... territory".

6. SCR 1526 also improved controls on preventing entry or transit of individuals, and preventing the direct or indirect sale or supply of all arms and related materials.
7. In January 2002 the Security Council adopted new Resolutions 1388 (2002) and 1390 (2002).

These modified existing sanctions, and provided for a ban on the supply of arms and related material, technical assistance and training to persons listed as being members of, or associated with, Al-Qaida, the Taliban.

8. On 14 February 2002 a new Order-in-Council came into operation.

The Al-Qa'ida and Taliban (United Nations Measures) (Isle of Man) Order 2002 [SI 2002 No. 259] replaced the Afghanistan (United Nations Sanctions) (Isle of Man) Order 2001 and at the same time gave effect to UN Security Council Resolution 1390 (2002).

This recognised the changes that had taken place in Afghanistan, with the Taliban being deposed as the ruling regime. The Order prohibited the supply of arms and related material, and the provision of technical assistance and training to, and the freezing of the assets of, Usama bin Laden, members of Al-Qa'ida and the Taliban and their associates. The names of those affected by the Order are included in the lists which can be found at the link given on page 2 of this Notice.

9. In January 2004 the UN Security Council adopted new Resolution 1526 (2004). This aimed to improve and extend measures designed to prevent the flow of funds to Usama bin Laden, the Taliban, Al-Qaida, and individuals and entities associated with them. See paragraph 5 above for more details.
- 9A. Any natural person affected by inclusion on a sanctions list issued by the European Commission may make a request to the Commission for the grounds for their listing. This request should be sent to:

Council of the European Commission
General Secretariat
rue de la Loi 200
1049 Bruxelles
Belgium

It is also possible to challenge inclusion on the lists published by the Commission at the General Court of the UN.

- 9B. On 17 December 2009 the UN Security Council adopted Resolution 1904. This required states proposing entries on the relevant sanctions list to provide a narrative summarising the reasons for listing, to be published together with other relevant information on the UN Sanctions Committee website. It also created the post of the Office of the Ombudsman to assist in requests for removal from the Consolidated List of those individuals and entities subject to sanctions.

The Ombudsman was to deal with requests for removals from the Consolidated List, but *not* other sanctions lists.

- 9C. Persons and entities who are included on the list of those subject to sanctions in the Isle of Man because they are listed by the Sanctions Committee of the UN may petition that Committee for de-listing by contacting the Office of the Ombudsman at the UN Headquarters in New York.
- 9CA. On 4 February 2010 the UK Supreme Court handed down judgment in *HM Treasury v Ahmed and Others*, which involved several appeals against freezing orders made under the 2006 orders which implemented UN sanctions relating to terrorism and Al-Qaida and the Taliban.

In the judgment, article 3(1)(b) of the Al-Qaida and Taliban (United Nations Measures) Order 2006 ("the 2006 Order") was quashed because it did not provide those affected with the right of access to a court.

The Al-Qaida and Taliban (United Nations Measures) (Isle of Man) Order 2002 was based on a similarly-named UK order of 2002, and neither contained a provision exactly like article 3(1)(b) of the 2006 Order.

The Isle of Man's Al-Qaida and Taliban Order continued to have effect, with any person included in a direction issued by the Treasury under the Order designating persons to whom the sanctions measures should apply.

- 9CB. On 19 February 2011 the European Union (Al-Qaida and Taliban Sanctions) (Application) (Amendment) Order 2011 [SD 120/11] came into operation, and applied EC Regulations 561/2003/EC and 1286/2009/EC in the Isle of Man.

On 22 February 2011 the Al-Qaida and Taliban Sanctions Regulations 2011 [SD 121/11] replaced the previous 2008 Regulations [SD 942/08].

The applied EC Regulations amended Council Regulation (EC) No. 881/2002, which had been applied itself by SD 444/02, and allowed for certain exemptions to the sanctions regime (e.g. for humanitarian purposes), and revised the procedure for listing and delisting persons and entities.

EC Regulation 881/2002/EC replaced Council Regulation (EC) No. 467/2001 and implemented UN SCR 1390.

As a result of the above, the EU sanctions regime was given effect in the Island alongside the UN sanctions regime and ensured there were no significant differences between those regimes in place in the Isle of Man and the UK.

- 9D. On 17 June 2011 UN Security Council Resolution SCR 1988 (2011) split the Al-Qaida and Taliban sanctions regime into 2 groups - an Al-Qaida regime and a country-specific Afghanistan regime.
- 9E. On 22 September 2011, the European Union (Al-Qaida and Taliban Sanctions) (Application) (Amendment) (No. 2) Order 2011 [SD 779/11] applied Council Regulation (EU) No. 754/2011 in the Island. The applied EU Regulation reflected both UN SCR 1988 (2011) and 1989 (2011) including the split into a separate Al-Qaida

regime and a country-specific Afghanistan regime. The Regulation amended Regulation 881/2002 to only cover the Al-Qaida network. Afghanistan regime targets previously listed under 881/2002 were moved to Annex I of a different Regulation (Council Regulation (EU) No 753/2011).

- 9F. On 19 July 2013, the European Union (Al-Qaida Sanctions) Order 2013 [SD 271/13] came into operation in the Island. This Order revoked and replaced the 2002 and 2011 Orders with a single, consolidated one dealing with all amendments to EU Regulation 881/2002, up to and including Council Regulation (EU) No. 596/2013. At the same time a new set of implementing regulations, the Al-Qaida Sanctions Regulations 2013 [SD 272/13] came into operation. The new Order provided that the Treasury would publish a notification of any change to sanctions lists as soon as practicable after they were amended by the EU - this normally would be in the form of a news release issued by the Customs and Excise Division on the Government website.
- 9FA. Under the Terrorism and Other Crime (Financial Restrictions) Act 2014, an Act of Tynwald, "designated persons" are (subject to certain exceptions) liable to have their funds and other economic resources frozen. The term designated persons includes those subject to UN or EU sanctions relating to Al-Qaida or the Taliban or (with effect from 1 July 2017) ISIL (a.k.a. Islamic State or Da'esh).
- 9G. On 14 March 2016 the EU adopted Council Decision (CFSP) 2016/368 and Council Regulation (EU) 2016/363. The new Regulation amended Regulation 881/2002 with the effect of extending the scope of the restrictions in Regulation 881/2002 to the Islamic State in the Levant (or ISIL), also known as Da'esh. This followed the adoption by the UN of Security Council Resolution 2253 (2015).

At the same time, the amendment of Regulation 881/2002 also explicitly referred to -

- funds and resources held by a third party acting on behalf of a designated person, body or group;
 - the provision of Internet hosting and related services;
 - the payment of ransoms;
 - funds and economic resources provided in connection with the travel, transportation and lodging of designated persons; and
 - funds and economic resources linked, directly or indirectly, to the trade in oil and related products and facilities and other natural resources.
- 9H. On 11 April 2016, the European Union (Al-Qaida Sanctions) (Amendment) Order 2016 [SD No 2016/0137] came into effect. The Order applies in Island law, Council Regulation (EU) No 2016/363.
- On 11 April 2016, the Al-Qaida (Amendment) Regulations 2016 [SD No 2016/0138] came into effect. The Regulations amend the Al-Qaida Sanctions Regulations 2013 as these have effect in the Island.
- 9I. Council Regulation (EU) No 2016/1686 of 20 September 2016 imposed additional

restrictive measures directed against ISIL (Da'esh) and Al-Qaida, and persons associated with them. It allowed the EU to impose an asset freeze and travel ban on people and entities connected with ISIL or Al-Qaida, whereas previously the EU could only implement listings from the UN or EU Member States. It was intended to permit the targeting of those involved in financing, inciting or provocation in support of ISIL or Al-Qaida, and those travelling to or from the EU to support them, or to receive training. The new Regulation was applied in Island law by means of the European Union (ISIL and Al-Qaida Sanctions) Order 2017 [SD 2017/0073].

Instructions to institutions etc

10. Where individuals, organisations and entities are -
 - (a) subject to the UN or EU sanctions imposed on those connected with the Taliban, Al-Qaida or ISIL (Da'esh); and/or
 - (b) suspected of committing, or posing a significant risk of committing, or providing material support for, acts of terrorism.

All persons in business or a profession in the Island, including financial institutions, **MUST** -

- (a) check whether they maintain accounts for any of those individuals or organisations listed, and if so
 - (b) freeze the accounts and report findings to the Customs and Excise Division.
11. Regardless of whether any entity and/or person is named on a list notified by the Treasury, if any person or institution suspects that the funds of any customer or client is or may be used for facilitating, or providing material support for, acts of terrorism they must report their suspicions immediately to the Financial Intelligence Unit (FIU).
12. Any person, including any bank or other financial institution, which knows or suspects that a customer or other person identified in the Appendices to this Notice with which it has had business dealings has committed an offence under the Orders, must report the information on which its knowledge or suspicion is based to the Treasury's Customs and Excise Division as soon as reasonably practicable.

Failure to do so is an offence.

Provisions of the Orders

13. It is an offence to invite funds, or to receive or provide funds if it is known, or there is reasonable cause to suspect, the funds may be used for the purposes of terrorism, or the person or entity appears on a published list.
- 13A. The Treasury can serve a written notice on anyone to whom the measures apply, requiring them to furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the owner of those funds shall furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions.

Failure to furnish such information or documents without reasonable excuse is an offence.

14. It is an offence to make available any funds or financial or related services to, or for the benefit of, those involved in terrorism, or those controlled by them, or acting on their behalf.
15. The Treasury may issue a notice directing that funds should be frozen and may not be made available to any person except under the authority of a licence issued by the Treasury.
16. Any person who intentionally engages in activities designed to enable or facilitate the making available of funds shall be guilty of an offence.
17. It is an offence not to disclose to the Treasury information relating to those it has dealings with (since 10 October 2001), if it knows or suspects that that person is involved in any way in terrorism.

There is also legal cover for the disclosure of such information to the Treasury.

18. The Treasury may issue licences, which must be in writing, for the release of funds.
19. The Order also provides the Treasury with powers to obtain information, carry out enquiries etc.

Definition of funds and economic resources

20. "Funds" means financial assets and economic benefits of any kind, including (but not limited to) gold coin, gold bullion, 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; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing.

The definition is drawn so broadly as to include virtually all forms of asset, actual or potential. Therefore, it would be safest to assume that any dealings with persons, organisations or territories involved in terrorism and/or included in lists issued by the Treasury may be prohibited.

- 20A. Economic resources means assets of every kind, whether tangible or intangible, movable or immovable, (such as goods, property, or rights) which are not funds themselves but can be used to obtain funds, goods or services.

Frozen accounts

21. The sterling, foreign currency and gold bullion accounts of named parties included in lists issued by the Treasury and held in the Island by persons authorised by the Financial Supervision Commission will be blocked and designated as "Frozen

accounts”.

Funds held by advocates, accountants and others on behalf of such parties should be placed in a separate account that should be designated as a Frozen account.

Payments involving frozen accounts

22. The Treasury may issue licences, which must be in writing, for the release of funds.
- 22A. Council Regulation 881/2002, as amended with effect from 19 February 2011, allows for the release of funds or economic resources to cover—
- (a) basic expenses, including payment for rent, mortgage, foodstuffs etc;
 - (b) payment of reasonable professional fees and legal expenses;
 - (c) payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources; or
 - (d) other extraordinary expenses.
- Requests must be made to the Sanctions Officer, and any approval or refusal will be communicated in writing.
- 22B. Frozen accounts may have interest and other earnings added to them, and payments due under contracts, agreements or obligations that arose prior to the date that the person or entity became subject to sanctions and the account frozen. However, any such addition to the frozen account shall also be frozen.

Failure to provide information or providing false information

23. Failure or refusal to furnish information or documents without reasonable excuse is an offence. Intentionally furnishing false information or a false explanation, or damaging or disposing of a document in order to evade such a requirement, is an offence.
24. Providing false information to the Treasury is an offence, and providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence) is an offence.

Isle of Man Customs and Excise Website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases and links to relevant lists at <http://www.gov.im/treasury/customs/>

Details of Amendments

- 8 December 2008 New paragraph 25 added re European Communities (Al-Qaida and Taliban) (Enforcement) Regulations 2008.

10 March 2009	New paragraph 26 added re Focal Point for De-listing at UN Headquarters in New York
16 June 2009	New paragraph 27 added re requests for the grounds of listing under EU sanctions, and appeals against such listing
23 December 2009	Former paragraph 27 moved to become new paragraph 9A, and new paragraphs 9B and 9C inserted. These paragraphs are concerned with the procedure for appealing listing. Paragraph 26 deleted.
11 February 2010	New paragraph 26 added. Corrections made to pages 1 and 2 and paragraph 8.
28 February 2011	New paragraph 27 added and paragraph 25 amended.
16 March 2011	Paragraph 22 replaced, and new paragraphs 22A and 22B inserted.
26 September 2011	New paragraphs 9D and 9E inserted. New Sanctions Notice 39 prepared to take account of split between Al-Qaida and Taliban and Afghanistan sanctions regimes.
22 July 2013	New paragraph 9F inserted to reflect the coming into operation of SD 271/13 and SD 272/13.
25 November 2015	New "directions" substituted on page 4; and reference to FCU in paragraph 11 amended; new paragraph 13A inserted.
15 March 2016	Title and other changes made to reflect amendment of EU Regulation 881/2002 by Regulation 2016/363, including explicit reference to ISIL/Da'esh. Paragraphs 25 to 29 omitted (with paragraphs 26 and 27 being renumbered as paragraphs 9CA and 9CB). New paragraphs 9G and 20A inserted and paragraph 10 amended.
20 May 2016	New paragraph 9H inserted to reflect the coming into operation of SD 2016/0137 and SD 2016/0138.
10 February 2017	New paragraph 9I re Regulation 2016/1686/EU inserted.
10 March 2017	Mention of Sanctions Notices 26 and 32 added on page 3.
23 June 2017	New paragraph 9FA inserted re "designated persons" under the Terrorism and Other Crime (Financial Restrictions) Act 2014; and paragraph 10 replaced.
3 August 2017	Amendments made to make clear that not only financial institutions are subject to reporting requirements of the sanctions.

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