

Treasury  
Customs and Excise Division

## Sanctions Notice 22

United Nations Sanctions  
European Union Sanctions

Terrorism and the Financing of Terrorism



February 2012  
(Updated to 19 July 2016)



**Isle of Man**  
Government

*Reilrys Ellan Vannin*

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## About this Notice

This Notice draws attention in convenient form to the Orders and Regulations made under the United Nations Act 1946 and the European Communities (Isle of Man) Act 1973, and designations under the Terrorist Asset-Freezing Etc Act 2010, which place financial sanctions on certain named individuals and entities.

This Notice provides guidance on certain aspects only of the Orders, Regulations and designations, and should be read in conjunction with relevant Orders and Regulations (including Orders making designations).

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

The list of persons and entities subject to the sanctions may be found at:  
[http://www.hm-treasury.gov.uk/fin\\_sanctions\\_index.htm](http://www.hm-treasury.gov.uk/fin_sanctions_index.htm)

Enquiries concerning this Notice should be addressed to the address given below and marked for the attention of the Sanctions Officer.

Enquiries may also be made by -

- facsimile transmission (01624 661725)
- Email ([customs@gov.im](mailto:customs@gov.im))
- Telephone (01624 648138)

The address for any enquiries or applications relating to this Notice is -

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.



**Isle of Man**  
**Government**

*Reiltys Ellan Vannin*

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## Directions to all Financial Institutions

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds 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.

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 21 (Al-Qaida, the Taliban and ISIL (Da'esh)) and 39 (Afghanistan).

## Introduction

1. On 28 September 2001 the UN adopted Security Council Resolution 1373 (2001). This instructed States to take the necessary steps to freeze funds of entities and/or persons suspected of committing, or posing a significant risk of committing, or providing material support for, acts of terrorism.
2. Measures adopted under Resolution 1373 (2001) are in addition to any financial and other sanctions adopted under Resolutions targeting specific individuals, states, territories and organisations.
3. On 10 October 2001 an Order-in-Council, the Terrorism (United Nations Measures) (Isle of Man) Order 2001 [SI 2001 No. 3364] came into force. This Order gave effect to Resolution 1373 (2001) in Island law.
4. In January 2002 the Security Council adopted new Resolution 1388 (2002) and 1390 (2002).

This 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.

5. The European Union also adopted similar sanctions measures by means of Council Regulation 2580/2001/EC of 27 December 2001. This Regulation was applied in the Island, as part of the Island's law, by the European Communities (Terrorism Measures) Order 2002 [SD 111/02].

Generally, the lists of individuals and entities affected by the Regulation will mirror those affected by the UN measures.

6. On 28 November 2008 the European Communities (Terrorism Measures) (Enforcement) Regulations 2008 [SD 941/08] came into operation. These Regulations provided specific offences, penalties and information powers and complement SD 111/02.
7. In a Notice issued by the Council of the EU on 23 December 2009 (Official Journal OJ C315) it was announced that persons, groups and entities seeking a statement of reasons why they are included on the sanctions lists could apply to the Council of the European Union (Attn: CP 931 designations), Rue de la Loi 175, B-1048 Brussels, Belgium. The Notice also invited requests for reconsideration of inclusion at regular reviews of the lists, and reminded those affected of their right to take their case to the General Court of the European Union.
8. On 17 December 2009 the UN Security Council adopted Resolution 1904. This required states proposing entries on the 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.

9. Persons and entities who are included on the list of those subject to sanctions in the Isle of Man because they are included on the Consolidated List 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.
- 9A. If included on a sanctions list because of designation by the EU those affected can apply to the General Secretariat of the Council of the European Union for a statement of reasons for their inclusion on the EU list. They can also appeal their listing and any asset freeze etc before the Court of Justice of the European Union.
- 9B. Part 4 of the Terrorism and Other Crime (Financial Restrictions) Act 2015, from 1 January 2015, introduced a means whereby a person affected by a designation, direction, freezing order etc under Part 2 of that Act (and therefore concerned with terrorism, proliferation or money laundering) or designated pursuant to the Al-Qa'ida and Taliban (United Nations Measures) (Isle of Man) Order 2002 can appeal the decision of the Treasury in the High Court.
10. 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.

The Supreme Court quashed the Terrorism (United Nations Measures) Order 2006 as exceeding the powers granted by section 1 of the United Nations Act 1946. Whilst the Terrorism (United Nations Measures) (Isle of Man) Order 2001 was not included in the judgment, it is likely that if it had been it too may have been quashed.

11. On 10 February 2010 the Terrorist Asset-Freezing (Temporary Provisions) Act 2010 came into force. This UK Act provided for the continued effect of a number of orders

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in council that gave effect to UN terrorism sanctions, including the Terrorism (United Nations Measures) (Isle of Man) Order 2001. The Act meant that -

- there was no break in application of the Order between 4 February and 10 February;
- any direction or licence issued under the Order continued to have effect;
- new directions and licences could continue to be issued;
- any prohibition or restriction imposed continued to have effect; and
- any assets frozen under the Order should remain frozen.

This Act was replaced by the Terrorist Asset-Freezing Etc Act 2010 (see paragraph 12).

12. On 17 March 2011 an Order-in-Council brought into operation in the Island Part 1 (and Part 1 of Schedule 2) of the Terrorist Asset-Freezing Etc Act 2010 of Parliament. This Act was concerned with the implementation of the asset-freezing measures against persons either listed by the Treasury for the purposes of Part 1 of that Act, or listed under Council Regulation (EC) No. 2580/2001. The Act also permitted temporary, interim designation if the Treasury reasonably suspected that a person is involved in terrorism, and such an interim designation could last for up to 30 days.

The Act also deals with licences, offences, and powers for the Treasury to obtain and exchange information; appeals and reviews of designations and directions to and by the High Court; and for extra territorial offences conducted wholly or partly outside the Island.

The Schedule to the Act revoked the Terrorism (United Nations Measures) (Isle of Man) Order 2001.

However, on 1 January 2015 the Terrorism and Other Crime (Financial Restrictions) Act 2014 repealed the Terrorism (Finance) Act 2009 and replaced both it and the relevant parts of the Terrorist Asset-Freezing Etc Act 2010 mentioned above.

13. Persons designated under the 2001 Order were to be regarded, after 17 March 2011, as being duly designated under the new Act as extended to the Island. With the replacement of the Terrorist Asset-Freezing Etc Act 2010 by the Terrorism and Other Crime (Financial Restrictions) Act 2014, persons designated under either (or both) the 2001 Order and/or the 2010 Act were to be regarded, after 1 January 2015, as being duly designated under the new Act.
- 13A. On 24 September 2014, the UN Security Council adopted UN SCR 2178. This condemned "violent extremism" and called on Member States to prevent the "recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning of, or participation in terrorist acts". This action followed concern over the activities of the Islamic State in Iraq and the Levant (ISIL) and similar bodies. The Resolution called on Member States to prevent entry or transit through their territories of an individual where there was credible information of their terrorist-related

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intentions, and called on airlines to provide passenger lists for this purpose.

### **Instructions to financial institutions etc**

14. The policy of the Treasury is to maintain its lists of individuals and entities -
- (a) subject to the UN sanctions; and
  - (b) suspected of committing, or posing a significant risk of committing, or providing material support for, acts of terrorism,

so that they correspond with lists published by HM Treasury in the UK.

Financial institutions **MUST** -

- (a) check whether they have a customer or a client, or maintain accounts for, any of the individuals or organisations listed, and if so
- (b) freeze the accounts and report findings to the Customs and Excise Division.

If there are details of 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 Customs and Excise Division.

15. Regardless of whether any entity and/or person is named on a list notified by the Treasury or published by HM 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). This includes details of any attempted transactions by a client or customer, or a prospective customer or client.

### **Provisions of the Orders**

16. 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.
17. 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.
18. The Treasury may issue a notice directing that funds should not be frozen and may not be made available to any person except under the authority of a licence issued by the Treasury.
19. Any person who intentionally engages in activities designed to enable or facilitate the making available of funds shall be guilty of an offence.
20. It is an offence for an institution not to disclose to the Treasury information relating to those it had 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

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of such information to the Treasury.

21. The Treasury may issue licences, which must be in writing, for the release of funds.
22. 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.

### **Definition of funds**

23. "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 on 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, you should assume that any dealings with persons, organisations or territories involved in terrorism and/or included in lists issued by the Treasury may be prohibited.

- 23A. 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**

24. 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 Services Authority (FSA) 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**

25. Payments from Frozen accounts are prohibited unless a written licence has been granted by the Treasury.



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26. ...

27. ...

### **Ransom payments**

28. The anti-terrorism and sanctions legislation of the Island makes it illegal to make payments to terrorists and terrorist organisations or for the purposes of terrorism, either directly or indirectly.

In particular, payments made to those individuals, undertakings and entities included on the Al-Qaida Sanctions List for the purpose of ransoms would be illegal, regardless of how or by whom the ransom is paid.

The prohibitions have extra-territorial effect, meaning that an offence can be committed by Island persons or legal entities, even if the activity takes place outside the Island.

However, a clear distinction may be made between payments of ransom to terrorists, or for the purpose of terrorism, and those which may be made for reasons of other forms of criminality, such as piracy at sea.

Businesses and individuals are advised to exercise extreme caution in respect of any transactions that involve the payment of ransoms. Any relevant information should be reported to Customs and Excise, if potential sanctions issues are involved, or the FIU.

You should also be aware that a request to become involved in a transaction involving the payment of a ransom could give rise to knowledge or suspicion, or reasonable grounds for knowledge or suspicion that someone is involved in criminal activity or terrorist financing, in which case a disclosure should be made to the FIU.

### **What is “proliferation financing”**

29. Proliferation financing can be -
- a. terrorism financing which provides financial support to terrorist organisations that would want to acquire and/or use a WMD; or
  - b. financing from a state or state-controlled or sponsored entity with the aim of providing a state with a WMD, or to enhance, improve or replace an existing one.
30. Proliferation financing is an important element in both of these and, as with international criminal networks, proliferation support networks use the international financial system to carry out transactions and business deals. Unscrupulous persons may also take advantage of the potential profits to be made by facilitating the movements of sensitive materials, goods, technology and expertise, providing seemingly legitimate front organisations or acting as representatives or middlemen.

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## 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

9 October 2014	New paragraph 13A re UN SCR 2178 inserted.
5 May 2015	Paragraphs 12 and 13 amended to mention the effect of the Terrorism and Other Crime (Financial Restrictions) Act 2015 from 1 January 2015; and new Annex detailing sample offences and penalties added.
30 June 2015	New paragraph 28 re ransom payments inserted.
21 July 2015	New paragraphs 9A and 9B re possible appeal mechanism to the EU and the High Court inserted.
22 July 2015	New paragraph 29 re proliferation inserted and index added.
25 November 2015	New "directions" added on page 4, paragraph 22 replaced and paragraphs 26 and 27 omitted, and references to FSC and FCU amended.
5 February 2016	Paragraphs 14 and 15 amended to make reference to the need to report attempted transactions etc.
2 March 2016	Paragraph 14 amended to explicitly include reference to a customer or client.
15 March 2016	New paragraph 23A inserted and paragraph 28 amended.
19 July 2016	Paragraph 29 substituted and new paragraph 30 added.

## Annex

### Sample offences and penalties under Terrorism and Other Crime (Financial Restrictions) Act 2014 (TOCFRA)

Offence	Summary Conviction	Conviction on Information
<b>Dealing with funds or economic resources owned, held or controlled by a designated person</b> TOCFRA 44	Up to 12 months custody; Up to £5,000 fine; or Both	Up to 7 years custody; An unlimited fine; or Both
<b>Making funds or financial services available to designated person</b> TOCFRA 45	Up to 12 months custody; Up to £5,000 fine; or Both	Up to 7 years custody; An unlimited fine; or Both
<b>Making funds or financial services available for benefit of designated person</b> TOCFRA 46	Up to 12 months custody; Up to £5,000 fine; or Both	Up to 7 years custody; An unlimited fine; or Both
<b>Making economic resources available to designated person</b> TOCFRA 47	Up to 12 months custody; Up to £5,000 fine; or Both	Up to 7 years custody; An unlimited fine; or Both
<b>Making economic resources available for benefit of designated person</b> TOCFRA 48	Up to 12 months custody; Up to £5,000 fine; or Both	Up to 7 years custody; An unlimited fine; or Both
<b>Intentionally participating in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent any prohibitions, or to enable or facilitate the contravention of any such prohibition relating to a designated person</b> TOCFRA 49	Up to 12 months custody; Up to £5,000 fine; or Both	Up to 7 years custody; An unlimited fine; or Both
<b>For the purpose of obtaining a licence, knowingly or recklessly, providing information that is false in a material respect, providing or producing a document that is not what it purports to be, or failing to comply with a condition of a licence</b> TOCFRA 51	Up to 12 months custody; Up to £5,000 fine; or Both	Up to 2 years custody; An unlimited fine; or Both

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