



The Government of the Republic of Trinidad and Tobago
Ministry of the Attorney General and Legal Affairs

THE ANTI-TERRORISM UNIT

GUIDANCE TO THE PUBLIC ON OBLIGATIONS AND RIGHTS IN RESPECT OF THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

INTRODUCTION

This document is intended to assist members of the public in understanding their obligations and rights under the laws governing the proliferation of weapons of mass destruction (WMDs).

THE LAW

On December 14, 2018 the President of Trinidad and Tobago enacted two pieces of subsidiary legislation in accordance with the section 4 of the Economic Sanctions Act, Chap. 81:05:

- The Economic Sanctions (Implementation of United Nations Resolutions on the Democratic People's Republic of Korea) Order, 2018, ("the DPRK Order")(by Legal Notice No.184 of 2018); and
- The Economic Sanctions (Implementation of United Nations Resolutions on the Islamic Republic of Iran) Order, 2018 ("the Iran Order")(by Legal Notice No. 185 of 2018).

The Iran and DPRK Orders were enacted to fulfill Trinidad and Tobago's international obligations, including under relevant Resolutions of the United Nations Security Council and to address this substantial threat to both domestic and international peace and security. These regimes relate to the WMD programmes of these two countries which have been prohibited by the United Nations.

It is important to note that **there are obligations under the Iran and DPRK Orders that apply to all members of the public**, not only financial institutions and listed businesses. The Orders also set out the rights of persons who are affected by the Orders. Financial institutions and listed businesses have additional responsibilities under this legislation, which is covered in guidance documents issued by the Financial Intelligence Unit and other relevant supervisors.

WHAT DO THE IRAN AND DPRK ORDERS DO?

The Iran and DPRK Orders establish a judicial mechanism by which specific persons and entities involved in or related to the WMD programmes of Iran and DPRK are identified (“listed entities”); their property is frozen; their access to property is otherwise restricted; and they are denied access to the financial system. To achieve this the Iran and DPRK Orders also set out prohibitions with respect to members of the public dealing with such listed entities or their property.

WHO ARE LISTED ENTITIES?

The United Nations Security Council publishes two lists identifying persons and entities who are involved in or are related to the WMD programmes of Iran and DPRK prohibited by the United Nations:

- “The 2231 List” for Iran which can be found at the following link: <https://www.un.org/securitycouncil/content/2231/list>. All the persons and entities on the 2231 List are “listed entities” for the purposes of the Iran Order; and
- “The 1718 List” for DPRK which can be found at the following link: <https://www.un.org/securitycouncil/sanctions/1718/materials>. All the persons and entities on the 1718 List are “listed entities” for the purposes of the DPRK Order.

The UN regularly updates these lists with additional identifier information about each listed entity as it becomes available.

WHY ARE LISTED ENTITIES IMPORTANT?

Both the Iran and DPRK Orders provide for the Attorney General to obtain an order of the High Court against a listed entity freezing his/its property. The Iran and DPRK Orders also prohibit members of the public from certain dealings with listed entities and their property.

HOW DO I KNOW IF THERE IS A FREEZING ORDER AGAINST A LISTED ENTITY?

The Ministry of the Attorney General publishes on its website every order obtained from the High Court under the Iran and DPRK Orders in respect of listed entities or related persons. This includes freezing orders, amendments to such orders and revocations of such orders. The Attorney General also publishes each such order in the Gazette and two daily newspapers within seven (7) days of the order being granted.

ARE THE INDIVIDUALS OR ENTITIES NAMED IN FREEZING ORDERS ALWAYS LISTED ENTITIES?

No. While the majority of freezing orders will be made against listed entities (identified by the United Nations on the 2231 List or the 1718 List), the Iran and DPRK Orders also allow for freezing orders to be made against:

- an individual or entity acting on behalf of or at the direction of a listed entity; or
- an individual or entity that is owned or controlled directly or indirectly by the listed entity.

HOW DO I PROPERLY IDENTIFY A PERSON IN A COURT ORDER OR A LISTED ENTITY?

The freezing order of the High Court is usually prepared containing as much identification information as is available in respect of the person against whom it has been made. This often includes names; aliases; dates of birth; place of birth; past and present addresses; passport, identification or driver's licence numbers; and relationships to other listed entities or persons of interest.

Where the freezing order has been made against a listed entity, the order will include a unique **permanent reference number** used by the United Nations to identify the listed entity. For example, for Iran "IRi. 987" for individuals and "IRe. 654" for entities. For DPRK "KPi. 987" for individuals and "KPe. 654" for entities.

Members of the public should use the permanent reference number to cross-reference the freezing order with the 2231 List or the 1718 List as appropriate to obtain the most up-to-date identifier information available. You can also contact the Anti-Terrorism Unit, Ministry of the Attorney General via the contact information below or the Financial Intelligence Unit if further clarification is needed.

WHAT DOES A FREEZING ORDER MEAN?

A freezing order prevents any affected property from being sold, transferred or otherwise disposed of. Money in bank accounts or similar accounts cannot be accessed unless specifically provided for by the Court. The Court may however order certain specific exceptions to cater for living expenses and other ordinary and extraordinary expenses. A listed entity against whom a freezing order has been made may contact the Anti-Terrorism Unit, Ministry of the Attorney General if such an exception is required.

WHAT PROPERTY IS COVERED BY A FREEZING ORDER?

All property of a listed entity or other person against whom a freezing order is made is covered. Both the Iran and DPRK Orders define property as follows:

"property" includes–

(a) funds or assets of any kind, whether tangible or intangible, moveable or immovable, however acquired;

(b) legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, assets, including but not limited to–

(i) bank credits;

(ii) payment cards;

(iii) payment instruments;

(iv) travelers' cheques;

(v) bank cheques;

(vi) money orders;

(vii) shares;

(viii) securities;

(ix) bonds;

(x) drafts; or

(xi) letters of credit;

- (c) precious stones, including diamonds, rubies, sapphires, or emeralds, whether in a treated or untreated state;*
- (d) precious metals, including gold, silver or platinum, whether in a manufactured or unmanufactured state;*
- (e) oil and other natural resources, and their refined products, modular refineries and related material; and*
- (d) other property which may be used to obtain funds, goods or services,*

whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property.”

WHAT OTHER PROHIBITIONS APPLY?

Both the Iran and DPRK Order include several prohibitions against dealing with listed entities; entities owned or controlled, directly or indirectly by a listed entity; or an entity acting on behalf of, or at the direction of a listed entity. These include:

- dealing in property that is owned or controlled whether directly or indirectly by one of the above individuals or entities;
- entering into a financial transaction in respect of property whether directly or indirectly with respect to one of the above individuals or entities;
- providing financial or related services in respect of property with respect to one of the above individuals or entities;
- making available property or financial or related services, whether directly or indirectly to one of the above individuals or entities;
- knowingly providing or collecting property, whether directly or indirectly, with knowledge that such property is to be used in whole or in part by one of the above individuals or entities; and
- dealing in property, knowingly providing or making available property or collecting property for the benefit of a listed entity.

Breach of these prohibitions constitute criminal offences under the Economic Sanctions Act. These prohibitions are however subject to any exceptions set out in a freezing order of the High Court.

WHAT IF I AM MISTAKEN FOR A LISTED ENTITY OR I AM AN INNOCENT THIRD-PARTY AFFECTED BY A FREEZING ORDER?

Both the Iran and DPRK Orders allow a person affected by a freezing order to apply to the High Court for a review of the order. This includes a person with the same or similar name to a listed entity as well as bona fide third-parties acting in good faith affected by a freezing order.

HOW CAN A LISTED ENTITY APPLY TO BE REMOVED FROM THE UN 2231 LIST OR 1718 LIST?

Both the Iran and DPRK Orders provide that where an individual or entity who has been placed on either the 2231 List or the 1718 List respectively, wishes to have his name removed from the list he may-

- himself petition the Focal Point for De-Listing, for the removal of his name from the List; or
- apply to the Attorney General to petition the Focal Point for De-Listing, for the removal of his name from the List.

Applications to the Attorney General should be made in writing to:

The Attorney General,
Ministry of the Attorney General and Legal Affairs,
Level 21 AGLA Tower,
Cor. London & Richmond Streets,
Port of Spain.

Applications should include in the subject “**UNITED NATIONS SANCTIONS – DE-LISTING**” and should include contact information by which you can be easily reached.

WHAT HAPPENS WHEN A FREEZING ORDER IS REVOKED OR THE UN REMOVES AN INDIVIDUAL OR ENTITY FROM THE LIST?

The Ministry of the Attorney General publishes on its website, as well as the Gazette and two daily newspapers, every order of the High Court revoking a freezing order. When an order is revoked the funds are no longer frozen and there are no longer any restrictions on transactions involving the property of the individual or entity. Similarly, where the UN removes a name from the 2231 List or the 1718 List respectively, the prohibitions contained in the DPRK and Iran Orders no longer apply.

WHERE CAN I GET MORE INFORMATION?

For further information please contact the Anti-Terrorism Unit, Ministry of the Attorney General via the following contact information:

The Anti-Terrorism Unit,
Ministry of the Attorney General and Legal Affairs,
Level 21 AGLA Tower,
Cor. London & Richmond Streets,
Port of Spain
Tel: (868) 223-AGLA (2452) ext. 3800
Fax: (868) 226-5145
E-mail: antiterrorismunit@ag.gov.tt

NOTICE

This document has been prepared for information purposes only and does not relieve you of any obligation under the laws of Trinidad and Tobago. Members of the public should familiarize themselves with the Economic Sanctions Act, the Iran Order and DPRK Order and all other relevant laws. This document is not intended as and does not constitute legal advice. Each case is unique and members of the public should seek the advice of a qualified attorney-at-law with respect to their particular case.