



ANGUILLA'S FINANCIAL SANCTIONS GUIDELINES



General Guidance For Financial Sanctions

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Contents

	Page
Introduction	3
National AML/CFT/PF Governance	4
Financial Sanctions	8
Financial Sanctions – Obligations of Relevant Institutions	14
Licencing	22
Delisting	27
Enforcement	29
Offences	31
Getting Updates	33
Annex 1 – Licence Application Form	34
Glossary	41

1. INTRODUCTION

This document provides guidance on your obligation(s) in relation to financial sanctions and designation.

The Governor is the competent authority in Anguilla for the implementation of financial sanctions. The Governor may delegate or authorize the delegation of his or her functions. If there is a delegation, a notice of that delegation will be placed in the Gazette and posted on the websites of the Government of Anguilla (GoA), Anguilla Financial Services Commission (FSC) and Financial Intelligence Unit (FIU).

This guidance is produced in collaboration with the following competent authorities for the implementation and enforcement of financial sanctions in Anguilla: Attorney General's Chambers (AGC), Anguilla Financial Services Commission and the Financial Intelligence Unit with support of HE the Governor in the discharge of the duties under the Sanctions regimes.

The purpose of these guidelines is to assist businesses and professionals in meeting and complying with their obligations under financial sanctions, including consideration for how licensing and compliance issues should be addressed.

The UK Sanctions and Anti-Money Laundering Act 2018 (Sanctions Act) provides for the power to make sanctions regulations. A number of sanctions regulations have been made and have been extended to Anguilla, with modifications, through implementing Orders in Council (Orders). Designations may be made for the purpose of the regulations. The Governor has the power to make designations under the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 and to proscribe terrorist organisations under the Prevention of Terrorism Ordinance, as amended.

Sanctions measures are subject to change. Persons should refer to the relevant gazetted financial sanction orders, legislation, and financial notices issued. Institutions should ensure that a risk-based approach is implemented to guard against all risks associated with persons or entities named in the financial sanctions.

At the date of this publication, there has been no case law in Anguilla on the implementation of sanctions.

It should be noted that these guidelines do not serve as legal advice. These guidelines should be read in conjunction with the Sanctions Order and all other relevant legislation. Independent legal advice should be sought if you are unsure of your obligations in any given case.

2. NATIONAL AML/CFT/PF GOVERNANCE

The Territory's AML/CFT framework includes several co-ordinating and domestic authorities whose mandates vary, but all play an important role in the Anguilla's AML/CFT architecture. These authorities are instrumental policy development and operational institutions in the Anguilla's efforts in ensuring technical compliance and effectiveness with the jurisdictions AML/CFT policies and activities in order to provide appropriate responses to the jurisdictions ML/TF/PF risks profile. These bodies all make up the Anguilla's National Anti-Money Laundering Committee ("ANAMLC").

2.1 *Anguilla's National Anti-Money Laundering Committee ("ANAMLC")*

Anguilla's National Anti-Money Laundering Committee is responsible for co-ordinating and developing an efficient and robust Anti-Money Laundering, Countering Terrorist Financing and Proliferation Financing (AML/CFT and PF) regime which protects the national and global interest while ensuring compliance and effectiveness to international standards relevant to AML/CFT and combating the proliferation of weapons. This is in accordance with Recommendation 2 of the FATF recommendations as well as the provision of policy guidance on all AML/CFT issues relating to or affecting the Anguilla.

The Committee comprises of representatives from various competent authorities in Anguilla, namely:

- Attorney General's Chambers, as Chair;
- Anguilla Financial Services Commission;
- Ministry of Finance;
- Financial Intelligence Unit;
- Royal Anguilla Police Force;
- Customs Department;
- Inland Revenue Department;
- HM Governor's Office
- Immigration Department; and
- Registry of Commercial Activities.

The mandate of the ANAMLC is:

1. Prepare, develop and follow up on national strategy to prioritize the combating of associated predicate offences as well as the detection and prevention of money laundering, terrorist financing and the financing of proliferation in Anguilla which are informed by the national risks identified.
2. The development of a national plan of action in relation to combating money laundering, terrorist financing and the financing of proliferation, and the participation of Anguilla in the international effort against money laundering,

terrorist financing and the financing of proliferation which are informed by the national risks identified.

3. The development of policies to combat money laundering, terrorist financing and the financing of proliferation which are informed by the national risks identified.
4. To make proposal in relation to legislative and regulatory amendment to address gaps and deficiencies in the AML/CFT and PF regime.
5. The development of policies, procedures and guidelines in coordination with the competent authorities, and the monitoring of their implementation.
6. Determining and assessing the risks and vulnerabilities of the jurisdiction.
7. Facilitating the exchange of information and coordination among the various bodies represented in the Committee concerning the development and implementation of AML/CFT and PF policies and activities.
8. Collecting and analysing statistics and other information provided by the Competent Authorities to assess the effectiveness of their function in combating Money Laundering, Terrorism Financing, and Proliferation Financing.
9. Proposing the Implementation of Regulations covering the work of the Committee.
10. To ensure that the results or findings of a NRA will be implemented in the AML/CFT strategy, policy and procedure as well as any risk-based approach for all Competent Authority with the committee. This will include update and revision to such AML/CFT and PF strategy, policy and procedure after revision of the NRA.
11. The periodical review and update of policies and strategies developed and implemented by the Committee.
12. Cooperation, coordination and the sharing of information between members of the committee concerning AML/CFT and PF matters shall be conducted in a timely manner that is compatibility with Data Protection and Privacy rules and other similar provisions.
13. Other duties to be determined by the ANAMLC to ensure that Anguilla remains an active member of CFATF.

The respective Governmental Departments and Agencies that make up the ANAMLC and are directly and indirectly involved in the financial sanctions process are denoted in the table below with their respective roles.

Department	Role
Governor	<ul style="list-style-type: none"> • Competent authority with responsibility for the implementation of financial sanctions measures. • Receipt and implementation of Orders in Council related to financial sanction measures. • Power to grant, vary, revoke licences; publication of certain lists; the power to delegate any of the Governor's functions.
Anguilla Financial Services Commission	<ul style="list-style-type: none"> • Governed by the Financial Services Commissions Act, RSA ch F28 • Has the responsibility for regulation, supervision and inspection of all financial services within Anguilla. • Monitors compliance with regulated entities with the relevant legislation. • Publishes on its website the list of Overseas Territories sanctions in force and relevant amendments.
Immigration Department	<ul style="list-style-type: none"> • Protects the borders of Anguilla. • Ensures only those persons with legal rights to visit, reside and work are on Anguilla. • Investigates complaints or reports that are immigration related. • Implements travel bans.
Customs Department	<ul style="list-style-type: none"> • Enforces breaches of trade sanctions
Attorney General's Chambers	<ul style="list-style-type: none"> • Drafts relevant legislation related to sanctions list to give them effect. • Provides support to the Governor's Office (ensures that

	<p>the licencing requests meet the legislative requirements etc).</p> <ul style="list-style-type: none"> • Prosecutes and enforces breaches of financial sanctions and the freezing of accounts, property or assets where applicable.
Financial Intelligence Unit	<ul style="list-style-type: none"> • Receives disclosures. • Investigates and works in conjunction with the Attorney General's Chambers to enforce breaches of financial sanctions and the freezing of accounts, property or assets where applicable.

3. FINANCIAL SANCTIONS

3.1 *What are Financial Sanctions?*

Financial Sanctions are prohibitive measures put in place by a government to prevent businesses, financial institutions or individuals from carrying out transactions and/or financial services with a designated person or entity. The person or entity is known as a “target”. Financial sanctions are implemented at varied levels, including preventing the movement of funds and or the freezing of assets.

3.2 *What are Targeted Financial Sanctions?*

The Financial Action Task Force (FATF) indicates that “the term targeted financial sanctions means both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated persons and entities.”¹ These targeted financial sanctions are established through the United Nations Security Council Resolutions (UNSCRs or resolutions). Countries “implement the targeted financial sanctions regimes to comply with the United Nations Security Council resolutions (UNSCRs or resolutions) relating to the prevention and suppression of terrorism, terrorist financing”² and proliferation financing.

The following resolutions are applicable to targeted financial sanctions:

- **Resolution 1267** was adopted in 1999: obligates jurisdictions to freeze funds and other financial assets or economic resources owned or controlled by persons or organizations connected to Al- Qaida and the Taliban.
- **Resolution 1373** was adopted in 2001: obliges all member states to freeze funds and financial assets or economic resources used to finance terrorism.
- **Resolution 1718** was adopted in 2006: refers to the prevention, suppression and disruption of proliferation of weapons of mass destruction and proliferation financing as it relates to the Democratic People’s Republic of Korea. This establishes the obligation of jurisdictions to implement sanctions against individuals or entities that support activities relating to proliferation with the Democratic People’s Republic of Korea
- **Resolutions 1988 and 1989** were adopted in 2011: these resolutions established two separate Sanctions Committees, dealing with Al-Qaida and Taliban respectively.

¹ Targeted Financial Sanctions related to Terrorism and Terrorist Financing (Recommendation 6), International Best Practices, Financial Action Task Force June 2013 pg. 3

² Targeted Financial Sanctions related to Terrorism and Terrorist Financing (Recommendation 6), International Best Practices, Financial Action Task Force June 2013 pg. 3

- **Resolution 2253** was adopted in 2015: this expands the listing criteria to include individuals and entities supporting the so-called Islamic State in Iraq and the Levant (ISIL or Da'esh).

3.3 *Types of Financial Sanctions*

Financial sanctions are developed and implemented at varied levels depending on the situation at the time. In recent times financial sanctions issued surround three main types, namely:

- **Targeted asset freezes:** these apply to named individuals and entities restricting access to funds and economic resources. Someone subject to an asset freeze in the UK will be listed on OFSI's consolidated list:
- **Restrictions on a wide variety of financial markets and services:** these can apply to named individuals and entities, specified groups, or entire sectors. To date these have taken the form of:
 - investment bans
 - restrictions on access to capital markets
 - directions to cease banking relationships and activities
 - requirements to notify or seek authorisation prior to certain payments being made or received
 - restrictions on the provision of financial, insurance, brokering or advisory services or other financial services.
- **Directions to cease all business:** these will specify the type of business and can apply to a specific person, group, sector or country.

3.4 *Why Impose Financial Sanctions?*

Financial Sanctions are implemented for political, social and economic reasons with the aim of maintaining stability and economic growth and are imposed on a designated person or entity for the following purposes:

1. **To Coerce** a regime, or individuals within a regime, into changing their behaviour (or aspects of it) by increasing the cost on them to such an extent that they decide to cease the offending behaviour;
2. **To Constrain** a target by denying them access to key resources needed to continue their offending behaviour, including the financing of terrorism or nuclear proliferation;
3. **To Signal disapproval**, stigmatising and potentially isolating a regime or individual, or as a way of sending broader political messages nationally or internationally; and/or

4. **To Protect the value of assets** that have been misappropriated from a country until these assets can be repatriated.

3.5 *How sanctions are imposed?*

Sanctions in Anguilla are imposed through the United Nations Security Council Resolutions (UNSCRs) and the United Kingdom. Typically, UNSCRs requires member states to implement these resolutions without delay. Under international law, UNSCRs are adopted under Chapter VII of the United Nations Charter and are legally binding on all members states including the United Kingdom (UK).

However, the resolutions do not have automatic application in UK law; to have effect they must be implemented by UK domestic legislation. To ensure that its Overseas Territories (OTs), one of which Anguilla is, can implement the sanctions agreed in the UN, the UK makes an implementing Order in Council under the United Nations Act 1946, which is extended to the OTs in the form of a Sanctions Order. Sanctions Orders are published in the Anguilla Gazette.

The Order in Council or Statutory Instruments grants the HM Governor the power to grant, vary and revoke licences (which permit the conduct of specified activities otherwise not permitted under the relevant Orders-in-Council); the duty to publish certain lists; and power to delegate any of the Governor's functions.

The UK makes Statutory Instruments (UK Regulations) to impose penalties for any breach of EU regulations and to obtain, provide and use information relating to the operation of these regulations. In special circumstances, the UK can impose its own financial sanctions and restrictions under the following legislation (collectively the 'domestic regime'):

- Sanctions and Anti-Money Laundering Act 2018 (SAML 2018)
- Terrorist Asset-Freezing etc. Act 2019
- Counter Terrorism Act 2008
- Anti-Terrorism, Crime and Security Act 2001 (ATCSA 2001)

3.6 *'Without delay' Implementation of UN listing*

The SAML 2018 allows for UN designations of persons or entities subject to financial sanctions to have effect via sanctions regulations which become effective in Anguilla through sanctions orders. The Foreign, Commonwealth and Development Office (FCDO) publicizes UN listing and sends a notice to HE The Governor. The UK Office of Financial Sanctions Implementation (OFSI) adds those subject to financial sanctions to the Consolidated List. Within hours of the listing, notices will be issued. The notices will be placed on GoA, FSC and FIU's websites and emailed to FIs,

DNFBPs and public sector stakeholders. This ensures that the sanctions are published without delay.

As a UK OT, Anguilla implements all sanctions adopted by the UN Security Council through Sanctions Order which are applicable to Anguilla and reflect the UNSCRs. The Sanctions Orders are sent to the Governor's Office and thereafter sent to the AGC for preparation of the relevant notices, publication and dissemination of same.

Sanctions Order have been implemented in respect of all the current UN Sanctions Regimes, as follows:

- 1) The Afghanistan (Sanctions)(Overseas Territories) Order 2020
- 2) The Central African Republic (Sanctions)(Overseas Territories) Order 2020
- 3) The Democratic People's Republic of Korea (Sanctions)(Overseas Territories) Order 2020
- 4) The Democratic Republic of Congo (Sanctions)(Overseas Territories) Order 2020
- 5) The Iran (Sanctions)(Nuclear) (Overseas Territories) Order 2020
- 6) The Iraq (Sanctions) (Overseas Territories) Order 2020
- 7) The ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (Overseas Territories) Order 2020
- 8) The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (Overseas Territories) Order 2020
- 9) The Lebanon (Sanctions) (Overseas Territories) Order 2020
- 10) The Libya (Sanctions) (Overseas Territories) Order 2021.
- 11) The Mali (Sanctions) (Overseas Territories) Order 2020
- 12) The Republic of Guinea-Bissau (Sanctions)(Overseas Territories) Order 2020
- 13) The Somalia (Sanctions) (Overseas Territories) Order 2020
- 14) The South Sudan (Sanctions) (Overseas Territories) Order 2020
- 15) The Sudan (Sanctions) (Overseas Territories) Order 2020
- 16) The Syria (United Nations Sanctions)(Cultural Property)(Overseas Territories) Order 2020
- 17) The Yemen (Sanctions)(Overseas Territories) Order 2020
- 18) The Nicaragua (Sanctions) (Overseas Territories) Order 2020
- 19) The Nicaragua (Sanctions) (Overseas Territories) (No. 2) Order 2020
- 20) The Venezuela (Sanctions) (Overseas Territories) Order 2020
- 21) The Burundi (Sanctions) (Overseas Territories) Order 2020
- 22) The Burma (Sanctions) (Overseas Territories) Order 2020
- 23) The Guinea (Sanctions) (Overseas Territories) Order 2020
- 24) The Bosnia & Herzegovina (Sanctions) (Overseas Territories) Order 2020
- 25) The Republic of Belarus (Sanctions) (Overseas Territories) Order 2020
- 26) The Zimbabwe (Sanctions) (Overseas Territories) Order 2020
- 27) The Counter-Terrorism (International Sanctions) (Overseas Territories) Order 2020
- 28) Chemical Weapons(Sanctions) (Overseas Territories) Order 2020

- 29) The Russia (Sanctions) (Overseas Territories) Order 2020
- 30) The Cyber (Sanctions) (Overseas Territories) Order 2020
- 31) The Iran Sanctions (Human Rights) (Overseas Territories) Order 2020
- 32) The Sanctions (Overseas Territories) (Amendment) Order 2020
- 33) The Sanctions (Overseas Territories) (Revocations) Order 2020
- 34) The Turkey (Sanctions) (Unauthorised Drilling Activities in the Eastern Mediterranean) (Overseas Territories) Order 2020

3.7 *Domestic Financial Sanctions and Restrictions*

The UK can impose its own financial sanctions and restrictions through its own domestic legislation. SAMLTA allows the UK to adopt its own sanctions regulations to maintain compliance with UNSCRs.

The UK also has a process through the FCDO by which it issues sanctions outside of the UNSCRs. These orders were enacted to give effect to the measures adopted by the UK against specified regimes and include:

1. The Chemical Weapons (Sanctions)(Overseas Territories) Order 2020
2. The Counter-Terrorism (International Sanctions)(Overseas Territories) Order 2020
3. The Counter-Terrorism (Sanctions)(Overseas Territories) Order 2020
4. The Cyber (Sanctions) (Overseas Territories)(No. 2) Order 2020
5. The Bosnia and Herzegovina (Sanctions)(Overseas Territories) Order 2020
6. The Burma (Sanctions)(Overseas Territories) Order 2020
7. The Burundi (Sanction)(Overseas Territories) Order 2020
8. The Global Anti-Corruption Sanctions (Overseas Territories) Order 2021
9. The Guinea (Sanctions)(Overseas Territories) Order 2020
10. The Iran (Sanctions)(Human Rights)(Overseas Territories) Order 2020
11. The Misappropriation (Sanctions)(Overseas Territories) Order 2020
12. The Myanmar (Sanctions)(Overseas Territories) Order 2021
13. The Nicaragua (Sanctions)(Overseas Territories) (No.2) Order 2020
14. The Republic of Belarus (Sanctions)(Overseas Territories) Order 2020
15. The Russia (Sanctions)(Overseas Territories) Order 2020
16. The Syria (Sanctions)(Overseas Territories) Order 2020
17. The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions)(Overseas Territories) Order 2020
18. The Venezuela (Sanctions)(Overseas Territories) Order 2020
19. The Zimbabwe (Sanctions)(Overseas Territories) Order 2020.

The UK lists are maintained by HM Treasury.

3.8 *Who is a designated person or entity?*

A designated person or entity is one subject to financial sanctions and found on the Consolidated List.

3.9 *Who needs to comply with Financial Sanctions?*

UK financial sanctions (financial sanctions and target financial sanctions) apply to all persons within the territory, overseas territories and territorial sea of the UK and to all UK persons, wherever they are in the world.

Therefore,

- All individuals and legal entities who are within or undertake activities within the Anguilla must comply with UK financial sanctions that are in force.
- All Anguillian nationals and legal entities established under Anguilla law, including their branches, must also comply with UK financial sanctions that are in force, irrespective of where their activities take place.

Non-compliance with your obligations under the Orders will result in the commission of an offence for which you may be liable to a maximum for seven (7) years' imprisonment, a fine or both.

4. FINANCIAL SANCTIONS – OBLIGATIONS OF RELEVANT INSTITUTIONS

4.1 *Who is responsible for overseeing your sanctions obligations?*

The Governor is responsible for administering the financial sanctions. However, the Governor may delegate or authorize the delegation of any of his or her functions under the Order, to any person or class or description of persons he or she approves. Administratively, the Governor undertakes that responsibility with the assistance of the Attorney General's Chambers.

The Sanctions Order also allow the Governor to confer powers on an authorized officer for the purpose of implementing the order. In the orders, "authorized officer" is defined as –

- (a) A police or customs officer; or
- (b) A person authorized by the Governor for the purpose of this Schedule, whether generally or in a particular case.

Where there has been a delegation of power by the Governor, this will be Gazetted and the GoA, FSC, and FIU will publish a notice on its website.

You must comply with a lawful request made by the Governor, a person to whom he or she has delegated any power to or an authorized officer, which is done in furtherance of the Sanctions Orders.

4.2 *Examination of Lists and Notifications*

You are expected to regularly examine the lists and in particular, the UK's Consolidated List.

4.3 *The Consolidated List*

The UK OFSI maintains a consolidated list of all designated persons subject to financial sanctions under UN and UK legislation. The Consolidated List provides information to help you decide whether you are dealing with someone subject to sanctions. Those lists are applicable to Anguilla by virtue of the Sanctions Orders. Anguilla currently does not maintain its own separate lists but GoA, FSC, and FIU provides links to the UN and UK lists on their websites. If Anguilla issues a separate list, it will be posted on the listed websites.

The Consolidated List can be found at :

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

The Consolidated List contains a range of information to aid the identification of designated persons. For an individual this can include:

- aliases
- date of birth

- passport details
- nationality
- last known address
- employment or role

4.4 *Name and Target Matches*

You may find that the name of an individual or entity you are dealing with matches one or more entries on the Consolidated List. This is known as a **name match**. However, it does not necessarily mean that the individual or entity you are dealing with is the same one on the list. If you are satisfied that the person or entity is not the same as the one on the list, you do not need to take further action.

If the individual or entity you are dealing with matches all the information on the Consolidated List, this is likely to be a **target match**. In this instance, you must make a report to the Governor and FIU, in accordance with AML/CFT laws and take the required freezing action. If after reviewing the information on the consolidated list, you still have uncertainties regarding whether a target match is made, you should contact the Governor's Office and make a report to the FIU.

If having consulted the Consolidated List you are still unsure on whether you have a target match, you can contact OFSI for assistance.

4.5 *Verification of Matches*

Where freezing action has been taken as a result of a name or match or potential target match, in your report to the Governor, you may request that the match is verified against the list of designated persons. The Governor will review the information provided and endeavor to provide a response with the findings within 48 hours. If the Governor requires further information from you to verify whether the match was made, this will be communicated to you. If the Governor, verifies that no match is made, that the person or entity involved is not a designated person or entity, you may unfreeze the assets.

4.6 *Keeping updated*

As OFSI issues its notices, the AGC issues a corresponding Financial Sanctions Notice to FSC, FIU and other stakeholders. FSC and FIU issues alerts to the relevant stakeholders. The notices are posted on the relevant websites and disseminated within 24 hours.

OFSI publishes notices describing changes to financial sanctions on the GOV.UK website and notifies its subscribers by email whenever a new notice is published. You can subscribe to OFSI to get alerts at: <https://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new>

4.7 *UK and Anguilla Designations*

The Governor is the competent authority in Anguilla for making domestic designations pursuant to the Counter-Terrorism (Sanctions)(Overseas Territories) Order 2020. The Counter-Terrorism (Sanctions)(Overseas Territories) is applicable to Anguilla. The Counter-Terrorism (Sanctions)(Overseas Territories) Order 2020 provides that persons or entities designated by the UK Treasury are automatically designated persons in Anguilla.

Where it is necessary for the Governor to make a designation, it is done by an objective consideration of facts and information to determine whether there are reasonable grounds to suspect that the person or entity is involved in terrorist activity, or are owned or controlled directly or indirectly by a person involved in terrorist activity or is acting on behalf of or at the direction of such a person or is a member of, or associated with, a person who is or has been so involved. The Governor will also consider the likely significant effects of the designation on that person. The Governor in making the designation does so on the basis of national security and that it is necessary to protect the public from terrorism.

The designation cannot be made unless the Secretary of State has been consulted.

Upon making a designation pursuant to the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, the Governor will take steps to publicise the designation generally unless one or more of the conditions contained in the Order exists for restricting the general publication. If such conditions do exist, then he must inform persons as he considers appropriate of the designation and the contents of the statement of reasons. Within hours of the making of a designation, a notice will be issued and placed on the GoA, FSC and FIU's websites and emailed to relevant stakeholders.

4.8 *What must you do?*

Before engaging in a business relationship or providing a financial service you should screen the names of your customers, including the beneficial owners, against the Consolidated List to ensure that you are not dealing with a designated person. You should also check the Consolidated List against your existing customers on an ongoing basis in the event of updates.

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

- freeze them;
- not deal with them or make them available to, or for the benefit of, the designated person unless:
 - there is an exception in the legislation that you can rely on; or

- you have a licence from the Governor; and
- report them to FIU.

4.9 *Effect of Listing and Designations*

Upon receipt of a Financial Sanctions Notice advising of the addition of a person/entity to the consolidated list, and if you know or have reasonable cause to suspect that such a person or entity is your client, financial sanctions must be taken against the person or entity without delay.

4.10 *Asset Freezes*

Where the financial sanction is an asset freeze, you are generally prohibited from:

- dealing with the frozen funds or economic resources, belonging to or owned, held or controlled by a designated person;
- making funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person; and
- engaging in actions that, directly or indirectly, circumvent the financial sanctions prohibitions.

All persons, natural and legal, within Anguilla, must immediately take action to the freezing of funds and economic resources or other assets of designated persons or entities. Persons are also prohibited from making funds, financial services or economic resources available directly or indirectly, wholly or jointly, for the benefit of designated persons or entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and person and entities acting on or behalf of, or at the direction of, designated persons or entities. 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 Governor for safekeeping.

The freezing action extends to all funds or other assets owned or controlled directly or indirectly by a designated person or entity or funds or other assets of a person who is acting on behalf of or at the direction of a designated person or entity. If you know or have 'reasonable cause to suspect'³ that you are in possession or control of, or are otherwise dealing with, the funds or economic resources of a designated person you must take the freezing action and submit a Terrorist Property Report to the FIU, in accordance with AML/CFT laws and acting under a delegation from the Governor, unless there is an exemption in the Sanctions Orders or Counter-Terrorism

³ "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. In making the assessment of suspicion you may consider your knowledge of the customer or client's business, financial history and background. Reasonable grounds or suspicion will depend on your internal compliance regime, assessment, evaluation and Customer Due Diligence (CDD) information.

(Sanctions)(Overseas Territories) Order 2020 that can be relied upon or have received a licence from the Governor.

You must keep records of potential and actual matches of designated persons and of the actions which you took in respect of the name match or target match.

Failure to adhere to the freezing requirement results in the commission of an offence.

4.11 Ownership and Control

4.11.1 Ownership

If a person is a designated person their name will be recorded on the Consolidated List. However, an asset freeze and some financial services restrictions will also apply to entities that are owned or controlled, directly or indirectly, by a designated person. Those entities may not be designated in their own right, so their name may not appear on the consolidated list. However, those entities are similarly subject to financial sanctions.

Anguilla adopts the position of the UK OFSI. The key criterion to assessing whether a legal person or entity is owned by another legal person or entity is the possession (directly or indirectly) of more than 50% of the shares or voting rights of an entity or having the right (directly or indirectly) to appoint or remove a majority of the board of directors of the entity or it is reasonable to expect that the person would be able to ensure the affairs of the entity are conducted in accordance with the person's wishes. If any of this criterion is met, and the owner or controller of the entity is also a designated person, then financial sanctions will also apply to the entity in its entirety and the entity would also be subject to an asset freeze. The position is the same in respect of the prohibitions on making funds or economic resources available directly or indirectly to a designated person.

'Owned' is interpreted to include both direct and indirect ownership. If the ultimate beneficial ownership of an entity rests with a designated person (for example, they own a corporate body which owns another corporate body), the view will be taken that all entities that are part of the ownership chain are subject to financial sanctions.

4.11.2 Control

In line with UK guidance, the satisfaction of at least one of the following criteria is sufficient to establish whether a legal person or entity is controlled by another legal person or entity, alone or pursuant to an agreement with another shareholder or other third party:

- 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;
- Having the power to exercise the right to exercise a dominant influence referred to in the point above, without being the holder of that right (including by means of a front company);
- Having the ability to direct another entity in accordance with one's wishes. This can be through any means, directly or indirectly. For example, it is possible that a designated person may have control or use of another person's bank accounts or economic resources and may be using them to circumvent financial sanctions.

The UK's Financial Sanctions Guideline-General guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018 can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/961516/General_Guidance_-_UK_Financial_Sanctions.pdf

4.12 Reporting and Responding to Requests for Information

The FSC will monitor compliance with financial sanctions for the various supervised entities as part of their oversight process.

4.13 When Should You Make a Report?

You must disclose information to the Governor (or the FIU, acting under a delegation from the Governor) where you know or suspect that a person is a designated person or has committed offences relating to making funds and economic resources available to or for the use or benefit of designated persons, which came to you in the course of your business.

When informing the Governor, you must state—

- a) the information or other matter on which the knowledge or suspicion is based;
- b) any information you hold about the customer by which the customer can be identified; and

c) if the customer is a designated person, the nature and amount or quantity of any funds or economic resources held by you for the customer since the customer first became a designated person.

The Governor may also make requests for information. A request may include a continuing obligation to keep the Governor informed as circumstances change, or on such regular basis as the Governor may specify. The disclosure must be done as soon as reasonably practicable after that information or other matter comes to its attention. In practice this should mean within hours.

You must also inform the Governor, as soon as practicable⁴, if you credit specified payments to a frozen account.

The reporting obligation does not extend to information which is subject to legal professional privilege. Legal professionals must carefully ascertain whether legal privilege applies, and which information it applies to.

Anything done by you in compliance with the Sanctions Order will not be treated as a breach of any restriction imposed by statute or otherwise.

If you fail to comply with these reporting obligations, you have committed an offence and may be liable to conviction.

4.14 Does Submitting a SAR Satisfy the Reporting Obligation

Please note that reporting to your regulator or submitting a SAR does not meet your reporting obligations under financial sanctions. If you have information to report regarding financial sanctions, this must be sent to the Governor.

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

4.15 Targeted Financial Sanctions restrictions – Asset Freeze

Targeted financial sanctions require the freezing of “all funds and other financial assets and economic resources.” These include but are not limited to the list provided below:

- Cash, cheques, claims on money, drafts, money orders, bearer instruments, internet - based payment instruments such as virtual currencies and other payment instruments;
- Deposits with financial institutions or other entities and balances on accounts, including but not limited to: (1) fixed or term deposit accounts, (2) balances on share trading accounts with banks, brokerage firms or other investment trading accounts;

⁴ In practice this means within hours.

- Debts and debt obligations, including trade debts, other accounts receivable, notes receivable, and other claims of money on others;
- Equity and other financial interest in a sole trader or partnership;
- Publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- Interest, dividends or other income on or value accruing from or generated by assets;
- Credit, right of set - off, guarantees, performance bonds or other financial commitments;
- “Letters of credit, bills of lading, bills of sale; notes receivable and other documents evidencing an interest in funds or financial resources and any other instruments of export - financing;
- Insurance and reinsurance.

“Economic resources” should be understood to include assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, which potentially may be used to obtain funds, goods or services, such as:

- Land, buildings or other real estate;
- Equipment, including computers, computer software, tools, and machinery;
- Office furniture, fittings and fixtures and other items of a fixed nature;
- Vessels, aircraft and motor vehicles;
- Inventories of goods;
- Works of art, cultural property, precious stones, jewellery or gold;
- Commodities, including oil, minerals, or timber;
- Arms and related materiel, including all items mentioned in the arms embargo at paragraph 1 (c) of resolution 2161 (2014);
- Raw materials and components that can be used to manufacture improvised explosive devices or unconventional weapons, including but not limited to chemical components, detonating cord, or poisons;
- Patents, trademarks, copyrights, trade names, franchises, goodwill, and other forms of intellectual property;
- Internet hosting or related services;
- Any other assets.

Persons are prohibited from carrying on certain activities or behaviours if financial sanctions apply. Reporting Entities should always refer to the up-to-date version of the legislation imposing the specific financial sanctions which applies in any case to understand exactly what is prohibited.

OFSI interprets prohibitions widely. This means that while we will not seek to draw in activities that clearly fall outside of a prohibition, OFSI will consider a wide range of actions when assessing if a breach of financial sanctions has taken place.

5. LICENSING

5.1 Overview

The licensing process allows access to frozen funds in a way that protects against terrorist financing risks in specified circumstances contained in the Sanctions Orders and the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020.

Under the Sanctions Orders, the Governor acts with the consent of the Secretary of State and has power to grant, vary or revoke licenses in respect of several activities that are otherwise prohibited. The requirement for the Governor to seek the Secretary of State's consent, allows the FCDO to carry out any approval or notification process contained in the international exemption procedure which is to be followed.

In considering whether to issue a licence, the Governor will assess whether the relevant licensing grounds have been met. Licenses may only be granted in line with the specific grounds in respect of each sanction regime. The grounds may vary from regime to regime, so it is important that you check the relevant, up-to-date Sanctions Order. Only the activities that fall within the licensing grounds of the Sanctions Order will be considered.

The activities that may be allowed in respect of funds and economic resources of designated persons include –

a) payment of basic expenses of designated persons and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines, medical treatment, taxes, insurance premiums and public utility charges. This does not mean that a designated person is allowed to continue the lifestyle or business activities they had before they were designated.

b) payment of reasonable professional fees and expenses associated with the provision of legal services. The fees must be reasonable, and payments of fees and disbursements must relate specifically to the provision of legal advice or involvement in litigation or dispute resolution.

c) payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources. Re-design, refurbishment or redevelopment to improve value is generally not covered.

d) payment of necessary extraordinary expenses. The necessity for the payment will have to be justified. It must be unanticipated and it cannot be used where other grounds are more suitable or as a way of avoiding the clear limitations of those other grounds.

e) satisfaction of a judicial or administrative or arbitral decision made prior to the date on which the Order comes into force and not for the benefit of a designated person. The judgment/decision must have been given before the date of designation and cannot be for the benefit of a designated person.

f) payment by a designated person of sums due under a contract or agreement entered into prior to the date on which the person was designated, or under an obligation that arose for the designated person prior to that date, provided that the payment is not directly or indirectly received by a designated person.

5.2 Licensing under Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020

Under Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, the Governor may grant licenses in respect of any of the prohibited activities contained in the Order. Before making a license under the Counter-Terrorism (Sanctions) (Overseas Territories) Order, the Governor must consult The UK authorities. Licenses in respect of persons or entities designated by the UK Treasury or listed under resolution 1373 (2001) adopted by the Security Council of the United Nations on 28th September 2001 (“resolution 1373”), require consultation with the UK Treasury. In respect of any designations made by the Governor under the Counter-Terrorism (Sanctions) (Overseas Territories) Order, consultation with the Secretary of State is required.

Licences cannot be issued retrospectively. You must not assume that a licence will be granted or engage in any activities prohibited by financial sanctions until you have received an appropriate licence. If you have carried out an act that required a licence, without having obtained one beforehand, you may have committed an offence and may be subject to prosecution.

The Governor may also attach conditions to a licence. Licence conditions acts as safeguards to ensure that funds or economic resources made available to designated persons are not used for terrorist financing.

5.3 The Licensing Process

5.3.1 The Sanctions Orders

Applications for licenses should be made in writing to the Governor and supported by evidence which meets the criteria for the relevant licensing ground(s) and provide the basis to grant the licence. Incomplete applications will be sent back, or you will be asked for additional information until the Governor is satisfied that you have provided all with required information for a complete application. The application form provided should be used in respect of licenses under the Sanctions Orders. (See **ANNEX 1 for the Licence Application Form**)

Applicants will generally be required to provide:

- the licensing ground(s) being relied upon in the application including supporting arguments;
- full information on the parties involved in the proposed transaction, e.g. the:
 - designated person(s)
 - any financial institution(s) involved (e.g. remitter, correspondent, beneficiary)
 - ultimate beneficiary of the transaction
- the complete payment route including account details; and
- the amount (or estimated amount) of the proposed transaction.

If you require legal advice regarding making an application and completing the form, you should seek independent legal advice. It is expected that your attorney will fully consider the relevant up-to-date version of the Sanctions Order. Links to these can be found on the relevant financial sanctions regime pages:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

Once the Governor is satisfied that all the required information has been provided, the request, along with details of any conditions which the Governor proposes to include in the license, will be submitted in writing to the FCDO Sanctions Team. The consent of the Secretary of State is required prior to the issue of any license under a Sanctions Order. The application and other relevant information will be forwarded to the FCDO for onward forwarding to the relevant UN Sanctions Committee.

5.3.2 Licensing Timeframe

The requirement for the Governor to seek the Secretary of State's consent and the involvement of the FCDO Sanctions Team, means that it is not possible to specify the exact time that will be involved in the licensing process. However, a response on the application should be provided to you within four (4) weeks. If there is a delay in the processing or consideration of the application, you will be advised of such within the four (4) weeks. Delays may be occasioned if you did not provide all the required information to satisfy the criteria for a licence.

5.3.3 Urgent Cases

There may also be occasions that call for urgency. In completing the application, the circumstances giving rise to the urgency must be provided in the body of the form.

5.3.4 Notifications and Approvals

If consent is given to grant a licence, the licence will specify the acts authorised by it. The licence may be general or granted to a particular person or entity or to a category

of persons. It may be subject to conditions, and of indefinite duration or subject to an expiry date.

You will receive notice of any decision to grant the license. If the licence is made to a particular person, then written notice will be sent to the person's last known address, or where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting the notice to its registered or principal office. Where a general license is granted, the Governor will take such steps as he or she considers appropriate to publicise the grant, variation or revocation of the licence. In practice this may be done by Gazetting and/or publication on the GoA, FSC, and FIU websites.

Knowingly or recklessly providing information that is false in a material respect or providing or producing a document that is not what it purports to be, to obtain a licence is an offence. Any such licence granted will become void from the time it was granted. Failure to comply with any condition imposed by the licence is also an offence.

5.3.5 Variations and Amendments

Requests for an amendment, variation or extension of a licence should be submitted in writing to the Governor as soon as it is apparent that a change is required. Full supporting information and arguments should be provided.

Subject to the provision of all necessary information, written variation requests to the Governor will be considered within four (4) weeks of receipt. If there is a delay in the consideration of the application for variation, the applicant will be advised of such within the four (4) weeks.

5.3.6 Refusal of a Licence

If the Governor refuses to issue a licence, the proposed transaction or activities will not be lawful. The Governor will write to the applicant giving reasons for refusing the application.

The Governor may also refuse an application if the proposed transaction or activity does not require a licence.

If the Governor decides to refuse to grant, a license, the applicant may –

- ask the Governor to re-consider his decision;
- re-apply with new or supplementary evidence or new supporting arguments; or
- seek to judicially review the decision.

The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 specifically provides that an application for judicial review may be made to the Supreme Court (High Court for the purposes of Anguilla) where the Governor refuses to grant a licence.

5.3.7 Complying with a Licence

Non-compliance with the conditions in a licence or acting outside of the scope of the licence will result in the commission of an Offence for which you may be liable to a maximum of seven years imprisonment, a fine or both.

5.3.8 Reporting Conditions

A condition that may be contained in the licence is a requirement to report information to the Governor within a specific time frame. Conditions placed in each licence may vary. However, failure to comply with these reporting requirements may result in the revocation, suspension or termination of a licence or further restrictions being included in the licence.

5.3.9 Exemptions – Crediting Frozen Accounts

The Sanctions Orders makes provision for exemptions or exceptions from the prohibition regarding dealing with funds and economic resources of designated persons. Activities involving making credits to frozen accounts which fall within a specified exemption under the orders are exempted automatically and there is no requirement for the Governor to grant a licence to allow the doing of that activity.

The activities that may be permitted all relate to crediting frozen accounts. This means that once the funds go into the account they also become frozen. Monies that may be paid into frozen accounts generally include:

- interest or other earnings due on the account
- payments due under contracts, agreements or obligations that were concluded or arose before the designated person was so designated; or
- funds transferred into the account

The specific exemptions that may be available varies depending on the sanctions regime.

Where a financial institution credits any frozen account with funds from a third party, without delay, it must inform the Governor.

6. DELISTING

Designated persons are able to challenge their listing and request their delisting. The financial sanctions will remain in place while the challenge or request is being considered.

The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 extends with modifications provisions of the Sanctions and Anti-Money Laundering Act 2018 –

- a) section 22 (power to vary or revoke designation made under regulations);
- b) section 23 (right to request variation or revocation of designation);
- c) section 24 (periodic review of certain designations);
- d) section 38 (court review of decisions);
- e) section 39 (court reviews: further provision).

Where a delisting is made, a Financial Sanctions Notice will be made. OFSI issues a notice in respect of UN or UK listings and the AGC issues a corresponding Financial Sanctions Notice which is sent to the FSC, FIU and other stakeholders. The FSC sends out AML Alerts advising of delisting or removal from the lists. The notices and/or alerts are posted on websites the GoA, FSC and FIU websites and disseminated to the financial business by the FSC within 24 hours.

6.1 *When to request Delisting*

De-listing is considered appropriate wherever the criteria for listing under the applicable regimes are no longer met. Some examples include: evidence of mistaken listing, a relevant subsequent change in facts, emergence of further evidence, death of a listed person or the liquidation of a listed entity.

6.2 *What you must do upon notification of Delistings?*

In the event that the UN Sanctions Committees and/or the Security Council delists any person/entity or a person/entity has been de-listed pursuant to UNSCR 1373, the obligation to freeze no longer exists. The funds or assets that have been frozen must therefore be unfrozen.

On receipt of the Financial Sanction Notice advising of the removal of a person and/or entity from the Consolidated List, you must immediately –

- ❖ Check whether you have frozen assets of any person or entity removed from the Consolidated List;
- ❖ Verify that the person or entity is no longer subject to an asset freeze;
- ❖ Remove the person or entity from your institution's list of person's/entities subject to financial sanction;
- ❖ Un-freeze the assets of the person or entity and where necessary re-activate all relevant accounts;

- ❖ Send advice to the person or entity that the assets are no longer subject to an asset freeze; and
- ❖ Advise the Governor of the actions taken as soon as practicable.

6.3 *UN Listings*

For UN listings under the ISIL (Da'esh) and Al-Qaida (UNSCR 1267/1989) sanctions regime, a petition for delisting can be made to the UN Office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee. For more information about the Office of the Ombudsperson please see the UN's website:

<https://www.un.org/sc/suborg/en/node/189>

For all other UN listings, a request should be sent to the UN focal point for delisting. More information about the focal point is available on the UN's website:

<https://www.un.org/sc/suborg/en/sanctions/delisting>

Alternatively, if you are an Anguillian or a resident of the Anguilla or an entity incorporated or otherwise established in Anguilla, you can petition the Governor, who, following an assessment of the petition, will submit the delisting petition to the UK Government, who will decide whether to take the delisting forward to the relevant UN Sanctions Committee or the Security Council.

6.4 *UK Listings*

For UK listings under the domestic regimes there are avenues for appeal and judicial review within the specific legislation under which the designation is made.

For further information, including eligibility to apply for a variation or revocation of a designation, submitting a sanction challenge form and other information, consult the Foreign, Commonwealth and Development Office guidance.

6.5 *Designations by the Governor*

Designations under the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 may be revoked at any time and Designated persons may make a request to the Governor for delisting. The designation cannot be revoked unless the Secretary of State has been consulted. Any decision of the Governor in respect of the making, varying, renewal of, or the refusal to revoke or vary, a designation may be appealed by application to the Supreme Court (High Court in Anguilla) by the designated person.

7. ENFORCEMENT

7.1 *Evidence and Information Gathering*

The evidence and information gathering provisions of most Sanctions Orders are found in the Schedules included in the Sanctions Order.

The Governor may make requests for information or production of documents from designated persons, financial institutions or any person in the country regarding the funds and economic resources of designated persons in accordance with the provisions in the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020.

The Sanctions Orders contain general enforcement and evidence gathering provisions to ensure compliance with the orders that may be carried out by officers authorized by the Governor. These include powers of authorized officers to:

- Request information or production documents;
- Enter and search premises, under a search warrant;
- Inspect and seize anything found during a search;
- Search any person found on the premises entered under a search warrant;
- Take copies of any document; and
- If necessary, use reasonable force in the exercise of the powers.

The power to require information or produce documents for inspection includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection by you.

If a request is made to you, you must comply with it within such time and in such manner as may be specified in the request.

The Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 specifically provides that a request may include a continuing obligation for you to keep the Governor informed as circumstances change, or on such regular basis as the Governor may specify.

The Governor can disclose information received or obtained by him to the persons and for the purposes specified in the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020.

If you fail comply with these reporting obligations, you will have committed an offence and may be liable to conviction.

8. OFFENCES

Depending on whether the offending act is against a requirement in the Sanctions Orders or the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020, you will commit an offence if you -

- ❖ deal with funds or economic resources belonging to, or owned, held or controlled by, a designated person;
- ❖ make funds and economic resources available to or for the use or benefit of designated persons;
- ❖ fail to comply with reporting obligations;
- ❖ intentionally participate in an activity, knowing it was designed to circumvent the freezing obligations or to enable or facilitate the contravention of any of those obligations;
- ❖ without reasonable excuse, refuse or fail within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made for information; or
- ❖ knowingly or recklessly give any information, or produce any document, which is false in any material particular in response to such a request.

9. PENALTIES

Breaches of financial sanctions are a serious criminal offence. Offences under the Sanctions Orders carry a maximum of seven years' imprisonment on indictment or a fine may be imposed or both and, on summary conviction, to a maximum of six months' imprisonment or a fine not exceeding the equivalent of £5,000 or both.

If convicted of an offence under the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 you will be liable on indictment to a maximum of seven years' imprisonment or to a fine or both and, on summary conviction, to a maximum of twelve months' imprisonment or a fine not exceeding the equivalent of £5,000 or both.

10. GETTING UPDATES

For updates on financial sanctions, resources are provided below;
OFSI publishes notices describing changes to financial sanctions on GOV.UK:
<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

OFSI notifies its subscribers by email whenever a new notice is published. To subscribe for e-alerts, click here:

<https://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new>

ANNEX 1 – LICENCE APPLICATION FORM



Governor's Office
Anguilla

Licence Application Form

The form below sets out the minimum information required by the **Governor's Office** in order to process application by individuals or entities seeking a licence to allow for an activity or transaction to take place that would otherwise be prohibited under asset freezing measures in Sanction Orders. You may be contacted for additional information. This form should be used for all licence applications relating to sanctions implemented by way of the United Kingdom Overseas Territories Orders. The Government Gazette's website lists all of the United Nations and European Union sanction regime related to the United Kingdom Overseas Territories Orders which are extended to Anguilla.

This form should **not** be used for export control licence applications or other non-asset-freeze matters.

Licence applications can be legally and/or commercially complex, and in certain circumstances require clearance or prior notification internationally (e.g. UN level). There is a requirement for the Governor to seek consent from the Secretary of State prior to the issuance of any licence under the Order. This is to enable the Foreign and Commonwealth Office to complete any approval or notification process at the international level prior to consenting to the issuance of a licence by the Governor, thereby **complying with the UK's international obligations**.

Please note that the application process requires clearance or prior notification from international authorities (e.g. at the UK or UN level). Therefore, the time it will take for the Foreign Secretary to decide whether to consent to the licence will vary according to the international exemption procedure to be followed. Accordingly, you should apply at least four weeks before a licence is needed and preferably even further in advance if practicable. You may wish to consider taking independent legal advice before applying for a licence.

The Governor can only issue a licence where there are grounds to do so. These grounds will be set out in the relevant Sanctions Order. In each application consideration should be given to the grounds on which the licence is sought and reference should be made to the relevant licensing ground as set out in the relevant Sanctions Order. Applications which do not make reference to the relevant licensing ground will be returned with a request that a suitable licensing ground be added.

Ongoing Monitoring and Reporting

Licences issued by the Governor's Office may be unconditional or may come with conditions that require information to be reported within a specific time frame. These will likely include reporting every time a transaction is made under the licence.

A failure to comply with these reporting requirements may result in the **revocation, suspension or termination** of a licence or **further restrictions** being included in it. It may also result in a criminal prosecution or monetary penalty.

The completed application forms should be submitted to:

H.E. The Governor
Governor's Office,
Old Ta, AI-2640
Anguilla
Phone: (264) 497-2621

PART 1 – REGIME UNDER WHICH LICENCE IS BEING SOUGHT

Name of Order/regime under which the application is made: (Egypt, Libya, etc.)

URGENCY

Please provide any details that may help us determine the urgency of the case (e.g. deadlines, impact on your business if a licence cannot be granted by a given date).

PART 2 – DETAILS OF APPLICANT

Date of Application _____

Name of Applicant (to whom the licence will be granted)
(Individual/Company name etc.) _____

Are you/is your company a “designated person” (that is, subject to an asset freeze), or owned or controlled by a designated person? *If so, please provide details*

YES	NO
-----	----

Nature of business: _____

Address: _____

Contact Name: _____

Telephone number: _____

Email Address: _____

PART 3 – DETAILS ABOUT THE LICENCE BEING SOUGHT

Name of Designated Person: _____

Licence required to release frozen funds or economic resources, or make them available, directly or indirectly, to or for the benefit of a designated person, to meet:-

PLEASE TICK WHICHEVER APPLIES

Note: Those grounds marked * are licensing grounds only relating to the release of frozen funds. Funds or economic resources cannot be made available to listed persons under those licensing grounds.

Basic expenses of the designated person or his or her dependent family members

Legal Fees: Reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services

Routine maintenance of funds/assets: payments of fees or service charges for the maintenance of frozen funds or economic resources

Extraordinary expenses

*Obligations due under a contract or agreement entered into, or an obligation which arose prior to the designation of the person or entity in question

*Obligations arising in connection with certain judicial, administrative or arbitral liens, decisions or judgments

Other (please specify, including relevant legislation reference)

Specify the legal basis for licensing – see note 4 (i.e. the relevant Overseas Territories Order, article and paragraph). Please give the licence number(s) of any licence(s) already received by the applicant, (if applicable).

Specify the legal basis for licensing – see note 4 (i.e. the relevant Overseas Territories Order, article and paragraph). Please give the licence number(s) of any licence(s) already received by the applicant, (if applicable).

PART 4 – OVERVIEW

Briefly outline the transaction and your role in it.	_____
What is the prohibited act that the licence is for?	_____

PART 5 – DETAILS OF THE TRANSACTION(S) CONCERNED

Date of the intended transaction(s): _____

Description of funds, goods or services to be supplied or obtained: _____

(Individual/Company name etc.) _____

Are the goods or services for humanitarian purposes (e.g. delivering or facilitating the delivery of assistance, including medical supplies, food, the provision of electricity, or other humanitarian purposes)? YES NO

(If 'Yes' please explain the humanitarian purpose fully.) _____

Value of the goods or services to be supplied or obtained: _____

Names of the parties to the contract:	Seller / supplier _____
	Buyer / customer _____
	Agent / broker / other intermediary _____

Is the end user different to the contract customer? YES NO

If 'Yes' please provide details of the end user (if known) _____

Is the end user owned or controlled by a designated person? YES NO

If 'Yes' please provide details of the ownership or control _____

Do you know or have reasonable suspicion that the funds, goods or services will be used by a designated person, or by a person acting on their behalf or at their direction, or by entities owned or controlled by them? YES NO

If 'Yes' who is the individual or entity _____

Dates of any transactions / shipments / payments already made. _____

Dates of any future transactions / shipments/ payments. _____

PART 6 – BANKING DETAILS

Method of payment (e.g. cash, cheque, bank transfer, confirmed or unconfirmed letter of credit, or other method) _____

The banks (including correspondent, intermediary and confirming banks, if applicable) through which payment will be made. Please provide a/c numbers if they are available:

Correspondent bank _____

Intermediary bank _____

Confirming or advisory bank _____

Are payment instructions/funds available for this transaction? YES NO

PART 7 – FURTHER DETAILS

Please provide any additional background information or explanation that would be helpful for the Governor to have.

You may wish to submit copies of documents that support your application or help us to understand it. Please indicate below if additional documentation has been provided and list attachments.

	Yes		No	
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PART 8 – CONFIRMATION OF INFORMATION

I confirm that the above information is true to the best of my knowledge and belief. I will inform the Governor of the Anguilla if there are any changes to this information.

Signed.....

Dated.....

NOTES

Please read these notes before completing the form.

1. This form is designed to be used for all financial sanction's regime.
2. Licences can only be issued where there is a legal basis to do so. The legal basis will usually be set out in the relevant Overseas Territory Order that established the sanctions regime in question.
3. The form has been developed with commercial arrangements in mind (i.e. sales of goods or services etc.). It should be adapted and used (for example) for gifts or humanitarian transactions where funds, goods or services are donated. Whatever the nature of the arrangements please provide a full explanation of what is happening and how much and who is involved.

The form is in EIGHT (8) parts:

- a. Part 1 asks for the name of the regime under which the licence is sought – this will be the regime under which sanctions otherwise apply. You should refer to any special factors effecting the urgency of your application here.
- b. Part 2 asks for the details of the person on whose behalf the licence is sought and of a person to contact (who should be familiar with the transaction involved).
- c. Part 3 is about the licence sought – the type of licence sought. Please note that the Governor can only issue a licence if there is a legal basis to do so. The grounds for issuing a licence are found in the EU Regulation imposing sanctions.
- d. Parts 4 and 5 are about the transaction involved. Please make it clear if a transaction is a one-off or if it will be repeated. If regular or repeat payments are involved, please explain how often those payments will be made.
- e. Part 6 is about the banking details of the transaction.
- f. Part 7 provides the applicant with an opportunity to add any additional background. You should also attach and list any additional documents you are sending that will make it easier for the Governor to understand the application. For example, where a licence is sought on the basis that a contract was entered into before sanctions were imposed it is essential to provide a copy of that contract.
- g. Part 8 requires the applicant to confirm that the information being submitted is true to the best of his/her knowledge and belief; and will inform the Governor if there have been any changes

GLOSSARY

Asset freeze – A type of financial sanction. Under an asset freeze it is generally prohibited to:

- deal with the frozen funds or economic resources, belonging to or owned, held or controlled by a designated person
- make funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person
- engage in actions that, directly or indirectly, circumvent the financial sanctions prohibitions.

Consolidated list – list maintained by OFSI containing designated persons subject to financial sanctions.

Dealing with economic resources – generally means using economic resources to obtain funds, goods, or services in any way, including (but not limited to) by selling, hiring or mortgaging them.

Dealing with funds – generally means moving, transferring, altering, using, accessing or otherwise dealing with funds in any way which would result in any change to their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.

Designated person (DP) – a person subject to financial sanctions.

Economic resources – generally means assets of every kind – tangible or intangible, movable or immovable – which are not funds, but may be used to obtain funds, goods or services.

Exception – generally found in financial sanctions legislation.

Funds – generally means financial assets and benefits of every kind, including but not limited to:

- 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
- publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives
- interest, dividends or other income on or value accruing from or generated by assets
- credit, right of set-off, guarantees, performance bonds or other financial commitments

- letters of credit, bills of lading, and bills of sale
- documents showing evidence of an interest in funds or financial resources
- any other instrument of export financing.

Goods – generally means items, materials and equipment.

Licence – a written authorisation from OFSI permitting an otherwise prohibited act.

Name match – the situation where a person you are dealing with partially matches the details of a designated person on the Consolidated List. Unlikely to be a target match.

OFSI – Office of Financial Sanctions Implementation, which is part of HM Treasury.

Ownership – the possession of more than 50% of the proprietary rights of an entity or having a majority interest in it. Includes both direct and indirect ownership.

Person – can be a natural person (an individual), or a legal person, body or entity.

Proscription – The Home Secretary's power to proscribe (ban) an organisation under the Terrorism Act 2000.

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.

Statutory instruments (SIs) – a form of legislation which allow the provisions of an Act of Parliament to be subsequently brought into force or altered without Parliament having to pass a new Act. They are also referred to as secondary, delegated or subordinate legislation.

Target Match – the situation where the person you are dealing with matches the details of a designated person on the Consolidated List. Likely to be a confirmed match for that person.

UK regulations – See Statutory instruments.

UK Sanctions List – list maintained by FCDO of all designated persons subject to sanctions by the UK.