



ANTI-MONEY LAUNDERING COUNCIL

REGULATORY ISSUANCE NO. 2

Series of 2021

Subject: **Amendments to Certain Provisions of AMLC Regulatory Issuance No. 4, Series of 2020**

By the authority vested in me by the Anti-Money Laundering Council (AMLC), pursuant to AMLC Resolution No. 31, Series of 2021, the following amendments to certain provisions of AMLC Regulatory Issuance (ARI) No. 4, Series of 2020, also known as “Freeze Order for Potential Target Matches under the United Nations Security Council Consolidated Lists (Targeted Financial Sanctions)”, are hereby issued.

Section 1. Chapter 1 (*General Provisions*), Sections 1 and 2 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

“Section 1. Title and Purpose.

- 1.1. This set of guidelines shall be known as the “Targeted Financial Sanctions Guidelines”.
- 1.2. This Regulatory Issuance is promulgated to assist covered persons and the public in the implementation of the targeted financial sanctions requirements.

x x x.

Section 2. State Policies.

This Issuance is pursuant to the following State Policies under the TFPSA:

- (a) x x x.
- (d) To extend cooperation, consistent with Philippines’ foreign policy, in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed, as well as in the implementation of targeted financial sanctions related to the financing of the proliferation of weapons of mass destruction, terrorism, and terrorism financing, pursuant to the resolutions of the United Nations Security Council.”

Section 2. Chapter 1 (*General Provisions*), Section 2 of ARI No. 4, Series of 2020 is hereby amended by inserting new paragraphs and the remaining paragraphs are alphabetically relettered accordingly:

“Section 2. Definition of Terms.

For purposes of this Issuance, the following terms are hereby defined as follows:

- (a) x x x.
- (c) **“Anti-Terrorism Act of 2020”** (ATA) refers to Republic Act No. 11479 and its Implementing Rules and Regulations (IRR).
- (d) **“Anti-Terrorism Council”** (ATC) refers to the Council created under Section 45 of the ATA of 2020.

x x x

- (g) **“Designated Persons”** refers to:
 - (1) x x x;
 - (2) Any person, organization, association, or group of persons designated under paragraph 3, Section 25 of the ATA; and
 - (3) Any person or entity designated under United Nations Security Council Resolution Nos. 1718 (2006) and 2231 (2015).

- (h) **“Freeze Order”** (FO) refers to x x x.

Examples of such freeze orders are AMLC Resolution Nos. TF-01 and TF-02 issued in 2012 and TF-33 and 34 issued in 2020.

x x x

- (j) **“Name Match”** refers to an individual or entity whose name matches with a name in the *UNSC Consolidated List* and any list of designations made by the ATC under Section 25 of the ATA.

x x x

- (m) **“Potential Target Match”** refers to an individual or entity whose identity matches most, but not all, of the identifier information provided in the *UNSC Consolidated List* and any list of designations made by the ATC under Section 25 of the ATA.
- (n) **“Proliferation of Weapons of Mass Destruction”** refers to the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of weapons of mass destruction, in contravention of national laws or, where applicable, international obligations.
- (o) **“Proliferation of Weapons of Mass Destruction Financing/Proliferation Financing”** (PF) refers to an action or circumstances when a person:
 - (1) makes available an asset; or
 - (2) provides a financial service; or
 - (3) conducts a financial transaction; and the person knows that, or is reckless as to whether, the asset, financial service or financial transaction is intended to, in whole or in part, facilitate proliferation of WMD in relation to UNSC Resolution Nos. 1718 of 2006 and 2231 of 2015.
- (p) **“Strategic Trade Management Act”** (STMA) refers to Republic Act No. 10697.
- (q) **“Strategic Trade Management Office”** (STMO) refers to the bureau under the administrative supervision of the Department of Trade and Industry (DTI) which serves as the executive and technical agency of the national government for the establishment of the management systems for the trade in strategic goods.
- (r) **“Targeted Financial Sanctions”** (TFS) refers to:
 - (1) *For TFS related to terrorism and TF:* both asset freezing and prohibition to prevent funds or other assets from being made available, directly or indirectly, for the benefit of *designated persons* and those proscribed under Section 26 of the ATA.
 - (2) *For TFS related to PF:* both asset freezing and prohibition to prevent funds or other assets from being made available, directly or indirectly, for the benefit of any individual, natural or legal persons or entity

designated pursuant to UNSC resolutions and its designation process

- (s) **“Target Match”** refers to an individual or entity whose identity matches all the identifier information and is identified to be the *designated person* in the *UNSC Consolidated List* and any list of designations made by the ATC under Section 25 of the ATA.
- (t) **“United Nations Security Council”** (UNSC) refers to the principal organ of the United Nations that has primary responsibility for the maintenance of international peace and security.
- (u) **“UNSC Consolidated List”** refers to the integrated list of individuals and entities designated under UNSC Resolutions Nos. 1267/1989/2253 (*Al Qaeda/Daesh/ISIL Sanctions List*), 1988 (*Taliban Sanctions List*), 1718 (2005) (*Democratic People’s Republic of Korea*) and 2231 (2015) (*Islamic Republic of Iran*).
- (v) **“Weapons of Mass Destruction”** (WMD) refers to chemical, biological, radiological, or nuclear weapons which are capable of high order of destruction or causing mass casualties. It excludes the means of transporting or propelling the weapon where such means is a separable and divisible part from the weapon.”

Section 3. Chapter 2 (*Targeted Financial Sanctions*), Section 4 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

**“Chapter 2
TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TF**

Section 1. x x x.

Section 4. Legal Basis.

4.1. Implementation of TFS is mandated under paragraph 3, Section 11 (*Authority to Freeze*) of the TFP SA, which provides:

x x x

4.2 Further, in the implementation of Section 36 of the ATA, Rules 7.8, 8.8 and 8.9 of the ATA IRR provide as follows:

Rule 7.8. Effects of permanent order of proscription

Membership of an individual in a proscribed or outlawed group of persons, organization, or association is punishable under Section 10 of the Act. The proscribed group of persons, organization, or association shall likewise be subject to targeted financial sanctions as herein provided.

[...]

Rule 8.8. Sanctions Freeze Order or Targeted Financial Sanctions Based on International Obligations.

x x x [T]he AMLC, consistent with the Philippines' international obligations, shall be authorized to issue a sanctions freeze order with respect to property or funds of a designated organization, association, group or any individual, to comply with the binding terrorism-related resolutions, including UNSC Resolution No. 1373 pursuant to Article 41 of the UN Charter.

The property or funds referred to in the immediately preceding paragraph shall include all property or funds:

- (a) That are owned or controlled by the subject of designation and is not limited to those that are directly related or tied to a particular terrorist act, plot or threat.
- (b) That are wholly or jointly owned or controlled, directly or indirectly by the subject of designation.
- (c) Derived or generated from funds or other assets owned or controlled, directly or indirectly by the subject of designation.
- (d) Of persons or entities acting on behalf or at the direction of the subject of designation.

Rule 8.9. Effectivity of the Sanctions Freeze Order

The sanctions freeze order shall take effect immediately upon publication in the AMLC website and shall remain in effect until the basis for issuance thereof shall have been lifted.

- 4.3. The AMLC shall adopt a mechanism for immediately communicating the sanctions freeze order to the public, the financial sector, and the designated non-financial businesses and professions.”

Section 4. Chapter 2 (*Targeted Financial Sanctions*), Section 6 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

“Section 6. Types of TFS.

TFS come in many forms as they are developed in response to a given situation. There are two (2) types of TFS:

- (a) *Targeted Asset Freeze.* x x x.
- (b) *Prohibition against Dealing.* x x x:”

Section 5. Chapter 2 (*Targeted Financial Sanctions*), Section 7 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

“Section 7. AMLC Resolutions/Freeze Orders to Implement TFS.

The Council has issued the following freeze orders to implement the TFS against individuals and entities listed in the *UNSC Consolidated List* and those designated by the ATC.

- (a) AMLC Resolution No. TF 01, Series of 2012 (*for Al-Qaeda Sanctions List*);
- (b) AMLC Resolution No. TF-02, Series of 2012 (*for Taliban Sanctions List*);
- (c) AMLC Resolution No. TF-25, Series of 2020 (*Sanctions Guidelines*);
- (d) AMLC Resolution No. TF-26, Series of 2020 (*for Potential Target matches under the UNSCR Consolidated List*);
- (e) AMLC Resolution No. TF-33, Series of 2020 (*for CPP/NPA*); and
- (f) AMLC Resolution No. TF-34, Series of 2020 (*for Islamic State in Iraq and Syria in South-East Asia et al*).”

Section 6. Chapter 2 (*Targeted Financial Sanctions*), Section 8 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

“Section 8. Directive and Coverage of the Freeze Orders.

- 8.1. The freeze orders direct all covered persons and relevant government agencies to freeze without prior notice and preserve without delay property or funds, including related accounts, that are maintained or registered with, possessed or controlled by them, if any, which belong to any of the persons, organizations, associations or group of persons mentioned in the *UNSC Consolidated List*, those designated by the ATC under Section 25 and proscribed by the Court of Appeals under Section 26 of the ATA.
- 8.2. The freeze orders also cover those persons or entities included in the subsequent updates, modifications and amendments to the *UNSC Consolidated List*, as well as those designated by the ATC under Section 25 and those proscribed by the Court of Appeals under Section 26 of the ATA.”

Section 7. Chapter 2 (*Targeted Financial Sanctions*), Section 9 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

“Section 9. Who Needs to Comply with the TFS.

The following are directed to comply with the TFS (freeze order and prohibition against dealing) imposed on the individuals and entities under the *UNSC Consolidated List* and any list of designations made by the ATC under Section 25 and proscriptions made by the Court of Appeals under Section 26 of the ATA:

x x x

Section 8. Chapter 3 (*Subjects of Targeted Financial Sanctions*), Section 11 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

“Section 11. Using the UNSC Consolidated List.

- 11.1. x x x.

11.2. Name and Target Matches

Situation	Assessment
X X X	X X X
X X X	X X X
You have a close name match for a person, whose identifier information matches most of those either in the UNSC Consolidated List, ATC designated list or proscribed by the Court of Appeals, subject to a terrorist financing or proliferation financing asset freeze.	<p><i>Potential target match.</i></p> <p>You may have identified a new <i>alias</i> being used to circumvent financial sanctions.</p> <p>Subject to Section 11.3 of this regulatory issuance, funds actually received or in the possession of the covered person shall be frozen.</p>

11.3. x x x.

11.4. **Scope of the asset freeze.** The assets freeze applies to all property or funds owned or controlled by designated individuals, groups, undertakings and entities, including those wholly or jointly owned or controlled, directly or indirectly by the designee. It also applies to the funds derived from property that they own or control, directly or indirectly, or that are owned or controlled by persons acting on their behalf or at their direction.

Section 9. Chapter 4 (*Filing of Detailed Return Before the AMLC*), Section 12 of ARI No. 4, Series of 2020 is hereby amended to read as follows:

“Section 12. Filing of Detailed Return; Contents

There are three (3) instances wherein covered persons are required to file a return:

- (a) When there is a target match, i.e., the subject person or entity fully matches the description in the Consolidated List, list of designation or proscription, covered persons shall file a detailed electronic return within 24 hours from effecting the freeze.
- (b) x x x.
- (c) For cases where the AMLC directs the freeze of the funds and other assets of a person or entity who, although not specifically included in the Consolidated List, was nevertheless found to be acting for and in behalf of or under the direction of those designated under the

Consolidated List, list of designation or proscription, covered persons shall file the detailed electronic return within 24 hours upon discovery.

X X X

Section 10. A new Chapter 5 (*Administrative Remedies*) is hereby inserted to read as follows:

**“Chapter 5
ADMINISTRATIVE REMEDIES**

Section 13. Lifting of the freeze order; Mistaken Identity. Any person whose property or funds have been subject of a sanctions freeze order by reason of having a similar name as the subject of designation may apply for the lifting of the sanctions freeze with the AMLC by submitting relevant government-issued identification documents or other relevant documents that would show the true identity of the aggrieved party. The procedure shall be published in the AMLC website.

Section 14. Request for Delisting from the Consolidated List. The AMLC may motu proprio or upon request of a designated person file a petition for delisting with the appropriate committee of the UNSC. The petition for delisting may also be filed directly by the designated person pursuant to the Guidelines¹ and procedures² established by the appropriate UNSC committee.

Section 15. Request for Delisting from ATC Designations.

- 15.1. A designated party or its assigns or successors-in-interest may file a verified request for delisting before the ATC within fifteen (15) days from publication of the designation.
- 15.2. A request for delisting may be filed as often as the grounds therefor exist. However, no request for delisting may be filed within six (6) months from the time of denial of a prior request for delisting.
- 15.3. The request shall set forth the grounds for delisting, as follows:
 - (a) mistaken identity;
 - (b) relevant and significant change of facts or circumstance;
 - (c) newly discovered evidence;
 - (d) death of a designated person;
 - (e) dissolution or liquidation of designated organizations, associations, or groups of persons; or

¹ <https://www.un.org/securitycouncil/sanctions/1267/committee-guidelines>.

² <https://www.un.org/securitycouncil/sanctions/1718/materials/procedures-delisting> and <https://www.un.org/securitycouncil/sanctions/delisting/procedures-0/de-listing-requests>.

- (f) any other circumstance which would show that the basis for designation no longer exists.

15.4. For designations made upon request of a foreign jurisdiction or supranational jurisdiction, the request for delisting shall be accompanied by proof of delisting by the foreign jurisdiction or supranational jurisdiction.”

Section 11. A new Chapter 6 (*Authorized Dealings and Exemptions*) is hereby inserted to read as follows:

“Chapter 6 AUTHORIZED DEALINGS AND EXEMPTIONS

Section 16. Authorized Dealings. The effect of a freeze order is to block or restrain a specific property or funds from being transacted, converted, concealed, moved, or disposed of without affecting the ownership thereof. Once a freeze order is effected, persons are prohibited from dealing with the subject property or funds unless the transactions would qualify as “authorized dealings” such as the following:

- (a) Payments falling under humanitarian exemptions, as provided herein; or
- (b) Payments necessary to satisfy a judicial, administrative or arbitral judgment rendered or lien encumbered, prior to the date of designation or listing of the designated persons, organizations, associations or groups of persons.

Section 17. Crediting Frozen Accounts. Crediting frozen accounts generally permits a person to make the following payments into a frozen account without the need for a prior authorization, so long as the funds involved are payments of:

- (a) interest or other earnings due on frozen deposit accounts or other assets, provided that, interest or other earnings due thereon shall similarly be frozen once received; or
- (b) obligations under a valid contract entered into before the accounts or other assets were frozen by reason of the account holder's designation.

The provision on authorized dealings is interpreted to allow a relevant institution to credit a frozen account with payments from a third party, provided that the incoming funds are also frozen and that it informs the AMLC is informed of the transaction without delay.

Section 18. Humanitarian Exemptions from Asset Freeze. A designated person or entity may file with the appropriate UNSC Committee, directly or through the AMLC, a request for basic and extraordinary expenses exemptions Guidelines³ and procedures⁴ established by the appropriate UNSC committee.

Section 19. Humanitarian Exemptions under the ATA. The person whose property or funds have been frozen under any freeze order may, upon a verified request before the ATC, withdraw such sums as the ATC determines to be reasonably necessary for monthly family needs and sustenance, including for the services of counsel and the medical needs of such person and his/her immediate family.⁵

Section 12. A new Chapter 5 (*Targeted Financial Sanctions Related to PF*) is hereby inserted to read as follows:

**“Chapter 7
TARGETED FINANCIAL SANCTIONS RELATED TO PF**

Section 20. TFS related to PF.

20.1. The Council shall issue TFS to implement the relevant UNSC Resolution relating to the prevention, suppression and disruption of proliferation of WMD and PF:

- (a) UNSC Resolution No. 1718 (2006);
- (b) UNSC Resolution No. 2231 (2015); and
- (c) Successor resolutions and other UNSC Resolutions related to proliferation of WMD and PF.

20.2. The relevant provisions of the preceding Chapters, including, but not limited to, the *Use of the Consolidated List* and *Request for Delisting*, related to implementation of TFS related to terrorism and TF shall apply to the implementation of TFS related to PF insofar as they are not inconsistent with this Chapter.

Section 21. Effect and Coverage of TFS.

21.1. *Ex Parte Freeze without Delay.*

³ <https://www.un.org/securitycouncil/sanctions/1267/committee-guidelines>.

⁴ <https://www.un.org/securitycouncil/sanctions/1718/exemptions-measures/humanitarian-exemption-requests> and <https://www.un.org/securitycouncil/content/2231/assets-freeze-exemptions>.

⁵ Rule 8.12, ATA-IRR.

The TFS shall require all persons, including private individuals and entities, to freeze the following within a matter of hours from the time that the designation and the freeze order is published in the AMLC website:

- (a) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular act, plot or threat of proliferation of WMD and PF;
- (b) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;
- (c) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; and
- (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities.

All persons shall block or restrain specific properties or funds that are owned or controlled by a designated person from being transacted, converted, concealed, moved, or disposed.

21.2. *Prohibition against Dealing.*

The TFS shall prohibit any person or entity from making any funds or other assets available for the benefit of designated persons or entities, unless licensed, authorized or otherwise notified in accordance with the relevant UNSC Resolutions.

Section 22. Effectivity of the TFS.

The TFS shall be effective until the basis for its issuance has been lifted.

Section 23. Duties of Covered Persons and Other Individuals or Entities relating to TFS.

23.1 For covered persons and concerned government agencies:

- (a) To immediately upon receipt or knowledge of the TFS issued by the AMLC, implement *ex parte* freeze without delay consistent with Section 21.1 hereof, and submit detailed return in accordance with Section 12 hereof.

- (b) To report to the AMLC any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSC Resolutions, including attempted transactions.

23.2. For covered persons and other individuals or entities:

In addition to the duties under Section 24.1 hereof, to permit the addition to the accounts frozen pursuant to UNSC Resolution Nos. 1718 (2006) or 2231 (2015) of interest or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of said resolutions. Provided, that any such interest, other earnings and payments continue to be subject to these provisions and are frozen.

Section 24. Authorizations to Make Payments Due Under Prior Contracts.

- 24.1. Designated persons or entities may apply to the AMLC for an authorization to make payment due under a contract entered into prior to the listing of such person or entity.
- 24.2. The Council may grant an authorization to the designated persons or entities subject to the following conditions:
 - (a) The STMO has determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in UNSC Resolution No. 2231 (2015) and any future successor resolutions;
 - (b) The STMO has determined that the payment is not directly or indirectly received by a person or entity subject to the measures in paragraph 6 of Annex B (*Statement*) to UNSC Resolution No. 2231 (2015); and
 - (c) The AMLC has submitted prior notification to the UNSC of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, ten (10) working days prior to such authorization.
- 24.3. The designated persons or entities shall file a verified application, together with the required clearances or certifications, in accordance with Section 25.2

(a) and (b) hereof, to the AMLC for an authorization to make payment due under prior contracts. The application shall be filed at:

Anti-Money Laundering Council
5/F EDPC Building, Bangko Sentral ng Pilipinas Complex
A. Mabini Street, Malate
Manila

Section 25. Remedy of the Aggrieved Party.

During the effectivity of the TFS, the aggrieved party may, within twenty (20) days from issuance, file, before the Court of Appeals, a petition to determine the basis of the TFS, according to the Principle of Effective Judicial Protection; *Provided*, that the person whose property or funds have been frozen may withdraw such sums as the Council determines to be reasonably needed for monthly family needs and sustenance, including the services of counsel and the family medical needs of such person, and in compliance with the conditions set out in UNSC Resolution Nos. 1718 (2006) and 2231 (2015).

Section 26. Lifting of the TFS Based on Mistaken Identity.

Any person whose property or funds have been subject of the TFS by reason of having a similar name as the subject of designation may apply for the lifting of the TFS with the AMLC by submitting relevant government-issued identification documents or other relevant documents that would show the true identity of the aggrieved party.

Section 27. Civil Forfeiture of Assets related to PF.

The AMLC, if circumstances warrant, may initiate a civil forfeiture proceeding, in accordance with Rule 12 (Civil Forfeiture) hereof, to preserve the assets related to PF and to protect it from dissipation.

Section 28. No Injunction against TFS.

No court shall issue a temporary restraining order or a writ of injunction against any TFS, except the Court of Appeals or the Supreme Court.

Section 29. Notice of Designation and Delisting Mechanism.

29.1. *Request for Delisting.*

- 29.1.1. The AMLC may motu proprio or upon request of a designated person file a petition for delisting with the appropriate UNSC committee.

- 29.1.2. The AMLC shall post the updated UNSC procedures for delisting and access to frozen funds setting forth the web links and addresses of the relevant UNSC Committee responsible for acting on delisting requests and access to frozen funds.
- 29.1.3. The petition for delisting may also be filed directly by the designated person pursuant to the rules established by the appropriate UNSC Committee.

29.2. *Notice of Delisting.*

Where persons, organizations, associations, or groups of persons are delisted by the UNSC or its appropriate sanctions committee, the AMLC shall post in its website a notice that that the person, organization, association, or group of persons has been delisted.

29.3. *Posting, Publication, Dissemination, and Notice of Designation.*

- 30.3.1. The AMLC shall publish and/or post a link to the specific list of designated persons or entities under UNSC Resolution Nos. 1718 (2006) and 2231 (2015) and their successor resolutions in the official website of the AMLC.
- 30.3.2. The AMLC shall adopt a mechanism for immediately communicating designations and provide clear guidance, to the covered persons and other persons or entities that may be holding targeted funds or other assets, on their obligations in taking action under the TFS.

Section 30. Safe Harbor.

No administrative, criminal, or civil proceedings shall lie against any person or entity for acting in good faith when implementing the TFS as provided under pertinent UNSC Resolutions.”

Section 13. A new Chapter 8 (*Sanctions*) is hereby inserted to read as follows:

**“Chapter 8
SANCTIONS**

Section 31. Administrative Sanctions. Any violation of this Issuance and Guidelines issued pursuant thereto shall be subject to administrative sanctions pursuant to Section 1, Rule 26 of the AMLA IRR. The institution of

administrative proceedings is without prejudice to the filing of criminal complaints, if warranted.

Section 14. The remaining chapters, sections, and paragraphs are renumbered accordingly.

Section 15. Effectivity Clause.

This Regulatory Issuance shall take effect immediately after the completion of its publication in a newspaper of general circulation.

For the AMLC:

ORIGINAL SIGNED
MEL GEORGIE B. RACELA
Executive Director

31 January 2021.