

# COUNTER PROLIFERATION FINANCING



## GUIDELINES ON THE IMPLEMENTATION OF TARGETED FINANCIAL SANCTIONS UNDER THE UNITED NATIONS (FINANCIAL PROHIBITIONS, ARMS EMBARGO AND TRAVEL BAN) SANCTIONS ACT 2019

August 2020

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Issued by the National Sanctions Secretariat under  
Section 7(2)(f) of the United Nations (Financial Prohibitions, Arms Embargo and  
Travel Ban) Sanctions Act 2019 on 25 August 2020

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## Abbreviations and terms

List of abbreviations and frequently used terms in the guidelines:

- CPF - Counter-proliferation financing
- WMD - Weapons of mass destruction
- DPRK - Democratic People's Republic of Korea (North Korea)
- UN - United Nations
- UNSC - United Nations Security Council
- AML - Anti-money laundering
- CFT - Combatting the financing of terrorism
- TFS - Targeted financial sanctions
- FATF - Financial Action Task Force
- FIAMLA - Financial Intelligence and Anti-Money Laundering Act 2002
- The Sanctions Act - United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019
- ESAAMLG - Eastern and Southern Africa Anti-Money Laundering Group
- FIU - Financial Intelligence Unit
- NSC - National Sanctions Committee
- NSSec -National Sanctions Secretariat

## 1: Introduction

### Rationale

1. As an international financial centre Mauritius is committed to protecting its financial services sector from abuse by illicit actors engaging in proliferation financing and other proliferation efforts. All natural and legal persons in Mauritius should exercise caution and vigilance in order to ensure that they do not in any way whatsoever support individuals or organisations which are subject to United Nations Security Council (UNSC) proliferation-related sanctions under UNSC Resolutions 1718 (2006) related to the Democratic People's Republic of Korea (DPRK), 2231(2015) related to the Islamic Republic of Iran, and their successor resolutions.
2. The Financial Action Task Force (FATF) requires States to implement targeted financial sanctions related to proliferation financing under Recommendation 7.
3. Mauritius, being a member of the United Nations (UN) and having endorsed the FATF Standards as a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), enacted the *United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act* (the Sanctions Act) in May 2019. The Sanctions Act provides the legal framework for the implementation of UN sanctions as adopted by the UNSC under Chapter VII of the UN Charter. This legislation also implements the requirements of the FATF regarding targeted financial sanctions under Recommendation 7.
4. Section 7 of the Sanctions Act establishes the National Sanctions Secretariat (NSSec) which is the focal point for UN sanctions related matters, including targeted financial sanctions related to proliferation financing. It supports the work of the National Sanctions Committee (NSC) which is established under section 4 of the Sanctions Act. Among others, the NSC is the competent authority for-
  - a. proposing to the relevant UN Sanctions Committee targets for designation;
  - b. making decisions in relation to the declaration of a person or entity pursuant to UNSC 1373(2001);
  - c. coordinating and promoting effective implementation of the obligations under the United Nations Security Council Resolutions in Mauritius;
  - d. coordinating the development of, review and implement national policies and activities for the effective implementation of UNSC Resolutions;
  - e. coordinating international cooperation in the cross-border implantation of the UNSC Resolutions between Mauritius and other countries and foreign counterpart agencies; and
  - f. approving guidelines developed by the National Sanctions Secretariat.

## Scope of guidelines

5. These guidelines have been issued by the NSSec under section 7(2)(f) of the Sanctions Act to assist reporting persons with the implementation of the restrictive measures, in particular the financial prohibitions prescribed under the Sanctions Act.
6. The term “reporting persons” is defined in the Financial Intelligence and Anti-Money Laundering Act (FIAMLA) and comprises-
  - a. Banks and other financial institutions licensed by the Bank of Mauritius or the Financial Services Commission;
  - b. a credit union;
  - c. a professional accountant, public accountant and member firm under the Financial Reporting Act;
  - d. a law firm, foreign law firm, joint law venture, foreign lawyer, under the Law Practitioners Act;
  - e. an attorney;
  - f. a barrister;
  - g. a notary;
  - h. a person licensed to operate a casino, a hotel casino, as a horse racing organiser, the Mauritius National Lottery, a limited payout machine, a sweepstake, as a local pool promoter, as the agent of a local pool promoter, a gaming house, a gaming machine, as a totalisator, as a bookmaker and interactive gambling under the Gambling Regulatory Authority Act;
  - i. a dealer in jewellery, precious stones or precious metals;
  - j. an Agent in land and/or building or Estate Agency under the Local Government Act;
  - k. a Land Promoter and Property Developer under the Local Government Act;
  - l. a company service provider.
7. These guidelines do not in any way whatsoever constitute legal advice, and should be read in conjunction with relevant national legislation, international standards, and guidelines issued by individual supervisory agencies. Reporting persons should seek independent legal advice on their obligations under the Sanctions Act.

## Contact details

8. For all enquiries, reports and requests associated with the implementation of counter proliferation financing controls and targeted financial sanctions please email the NSSec:

[nssec@govmu.org](mailto:nssec@govmu.org)

<http://nssec.govmu.org/>

## 2: Proliferation financing

### What is proliferation?

9. Proliferation refers to the development and use of nuclear, chemical, or biological weapons and their delivery systems – also referred to as weapons of mass destruction (WMD) – by state or non-state actors in violation of international agreements and export control regimes.
10. In Mauritius, “proliferation” is defined under section 2 of the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA) and means-
  - a. the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer, export, transshipment or use of –
    - i. nuclear weapons
    - ii. chemical weapons
    - iii. biological weapons
    - iv. such materials, as may be prescribed, which are related to nuclear weapons, chemical weapons or biological weapons; or
  - b. the provision of technical training, advice, service, brokering or assistance related to any of the activities specified in paragraph (a).

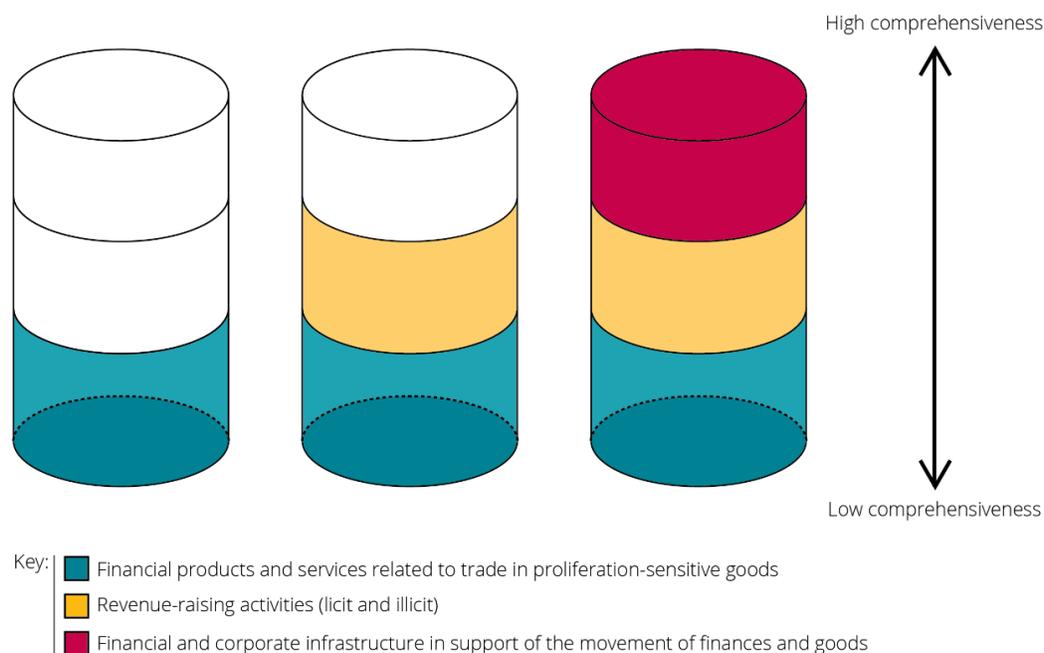
### What is proliferation financing?

11. State and non-state actors may access and use the formal financial system, as well as informal methods of value transfer, to raise funds, conduct payments to procure materials and goods needed for proliferation, and engage in other illicit financial activities connected to proliferation efforts. Proliferation financing therefore facilitates the movement and development of proliferation-sensitive goods and WMD programmes and can therefore contribute to global instability and may ultimately result in a loss of life.
12. Section 2 of the FIAMLA defines “proliferation financing”, in relation to a person, as a person who –
  - a. makes available an asset;
  - b. provides a financial service; or
  - c. conducts a financial transaction; and  
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 regardless of whether the specified activity occurs or is attempted;
13. Proliferation financing is therefore more than simply the payment and financial services in direct support of the procurement of goods and development of WMD. It can also include:
  - The raising of funds and revenue-generating activities to fund proliferation efforts. With regards to the DPRK in particular, the UNSC has assessed that funds

generated from revenue-raising activities and illicit financial networks may be used for the development of WMD by the DPRK.

- the financial and corporate networks and services that sustain these activities. These financial networks and activities may not be directly connected to the physical transfer of WMD-related goods but enable proliferators to access and use the global financial system.

14. It may therefore be useful to think of proliferation financing as three categories of activities that should be considered as part of counter-proliferation financing (CPF) efforts.



*Source: 'Guide to Conducting a National Proliferation Financing Risk Assessment', Royal United Services Institute 2019*

15. Proliferating actors who have been designated or listed by the UNSC use complex networks of front companies and diversion techniques borrowed from the world of money laundering to access the global financial system and circumvent increasingly stringent counter-proliferation financing (CPF) sanctions measures. However, whereas money laundering is a circular process deployed by criminals to conceal the illicit origin of the proceeds of crime, sanctions are about the individuals to whom funds are made available (designated persons and entities) or the purposes for which they are being used (proliferation).
16. It is therefore important that proliferation financing is considered as distinct from other types of financial crime and other types of sanctions compliance.
17. While tools used to combat AML/CFT and screening tools for sanctions will be very important for detecting proliferation financing, this may ignore typologies and trends that are unique to proliferation financing.

### 3: Targeted Financial Sanctions Obligations

18. The UNSC has imposed sanctions to prevent and counter the proliferation of WMD, and its financing. This includes targeted financial sanctions against specific persons and entities that have been identified as being connected to the proliferation of WMD. All UN member states are required to implement these measures.
19. Recommendation 7 of the FATF Standards requires countries to implement proliferation-related targeted financial sanctions (TFS) made under UNSC Resolutions without delay.

***FATF Recommendation 7***

*Countries should implement targeted financial sanctions to comply with United Nations Security Council resolutions relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. These resolutions require countries to freeze without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.*

20. On 29 May 2019, the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019 was enacted, enabling the Government of Mauritius to implement TFS imposed by the UNSC.
21. Reporting persons should not rely solely on these guidelines for legal advice, but closely consult the Sanctions Act in full, as well as any explanatory notes issued by the Government of Mauritius.

### Scope of Targeted Financial Sanctions

22. In response to identified WMD proliferation threats, the UNSC currently imposes TFS related to proliferation under the following sanctions regimes:

Islamic Republic of Iran – UNSC Resolution 2231 (2015) replaced all previous UNSC Resolutions related to Iran and WMD proliferation, and imposes assets freeze measures against certain individuals and entities. The assets freeze measures will apply until October 2023 or earlier as provided in the UNSCR.

The 2231 List contains the names of the persons and entities listed under UNSC Resolution 2231.

Democratic People’s Republic of Korea (DPRK) – UNSC Resolution 1718 (2006) and all successor resolutions related to the DPRK.

The 1718 List contains the names of the persons and entities currently listed related to DPRK.

23. Mauritius TFS prohibitions are contained in Section 23 and Section 24 of the Sanctions Act.

*Under Section 23, no person shall deal with the funds or other assets of a listed party, including:*

- a) All funds and other assets that are owned or controlled by the listed party,*
- b) Those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by the listed party;*
- c) Funds or other assets derived or generated from funds or other assets owned or controlled, directly or indirectly, by the listed party, and*
- d) Funds or other assets of a party acting on behalf of, or at the direction of, the listed party.*

*Under Section 24, no person shall make any funds or other assets or financial or other related services available, directly or indirectly, or wholly or jointly, to or for the benefit of :*

- a) A listed party;*
- b) A party acting on behalf, or at the direction, of a listed party; or*
- c) An entity owned or controlled, directly or indirectly, by a listed party.*

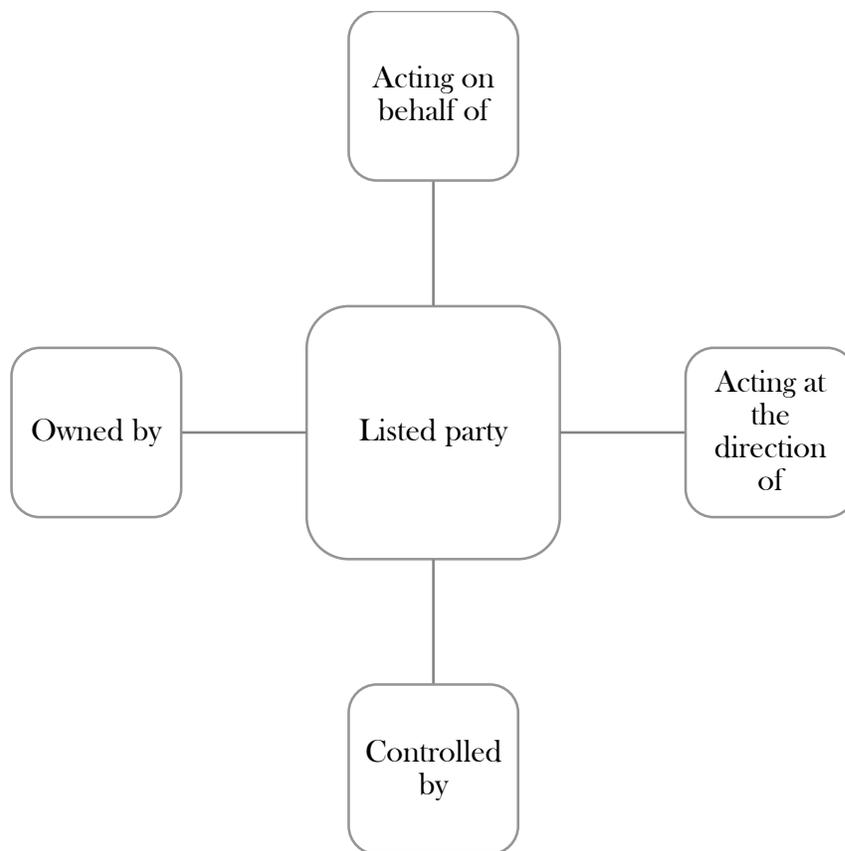
24. It is important to note that TFS provisions are applicable to persons and entities specifically listed on the 1718 or 2231 List, as well as those who are:

- Acting on behalf of or at the direction of listed persons or entities.
- Owned or controlled by listed persons or entities.

25. As a result, TFS implementation should not only focus on the names of persons and entities listed on UNSC lists, but also identify the persons and entities linked to them.

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<sup>1</sup> Please note that Section 23(2) of the Sanctions Act states that “Where a prohibition is in force, nothing shall prevent any interest which may accrue, or other earnings due, on the accounts held by a listed party, or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the prohibition, provided that any such interest, earnings and payments continue to be subject to the prohibition.”



26. In addition, UNSC Resolution 2270 on DPRK also requires the freezing of any funds, other financial assets and economic resource that are owned or controlled, directly or indirectly, by:
- entities of the Government of the DPRK or the Worker’s Party of Korea, or
  - by persons or entities acting on their behalf or at their direction, or
  - by entities owned or controlled by them,
- that a State determines are associated with the DPRK’s nuclear or ballistic missile programmes or other activities prohibited by relevant UNSC resolutions.
27. Reporting persons should also be aware of the definitions of ‘funds’, ‘assets’ and ‘economic resources’, as they may determine, and potentially expand, the scope of TFS implementation beyond just financial transactions and funds.
28. Under section 2 of the Sanctions Act, “funds or other assets” means –
- a. any assets, including, but not limited to, financial assets, economic resources and property of every kind, whether tangible, intangible, movable or immovable, however acquired;
  - b. legal documents or instruments in any form –

- i. including electronic or digital, evidencing title to, or interest in, such funds or other assets; and
- ii. including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit;
- c. any interest, dividends or other income on or value accruing from or generated by such funds or other assets, virtual or digital currencies, including crypto currencies;
- d. any other assets which potentially may be used to obtain funds, goods or services;

“Economic resources” includes assets of every kind, whether movable, immovable, tangible, intangible, actual or potential, which are not funds but potentially may be used to obtain funds, goods or services, such as –

- a. land, buildings and other real estate;
- b. equipment, including computers, computer software, tools, and machinery;
- c. office furniture, fittings and fixtures and other items of a fixed nature;
- d. vessels, aircraft and motor vehicles;
- e. inventories of goods;
- f. works of art, precious stones, jewellery and gold;
- g. commodities, including oil, minerals and timber;
- h. patents, trademarks, copyrights, trade names, franchises, goodwill and other forms of intellectual property;
- i. internet hosting and other related services used for the support of listed parties;
- j. arms and related materiel;
- k. direct and indirect trade in oil and refined products, modular refineries and related material, including chemicals and lubricants and other natural resources;
- l. any other assets, whether tangible, intangible, actual or potential;

29. UNSC Resolution 2270 establishes that, specifically for the DPRK, the definition of ‘economic resources’ includes vessels. The UN 1718 Sanctions Committee maintains separate lists of designated vessels which are similarly subject to asset freezing actions.<sup>2</sup>
30. Despite the expanded scope of which persons and entities, and what funds and assets, are covered by TFS implementation, there are also important exceptions to TFS which should be consulted. This includes the ability for a listed party to access assets under limited circumstances, including the provision of basic living expenses, or extraordinary expenses if approved by UNSC committees. For UNSC Resolution 2231 on Iran, certain payments due under contracts entered prior to a party being listed can also be approved. See Section 4 below for more details.

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<sup>2</sup> <https://www.un.org/securitycouncil/sanctions/1718/materials/list-of-designated-vessels>

## Arms embargo and travel ban

31. In addition to the freezing of funds and other assets and prohibition on making funds and other assets available, targeted financial sanctions also impose an arms embargo and travel ban.
  - a. **Arms embargo:** In Mauritius, any person is prohibited from supplying, selling, or transferring, directly or indirectly, arms and related material to a designated party or listed party. This includes weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned as well as technical advice, assistance, or training related to military activities. This also applies whether the conduct is carried out in Mauritius or by Mauritian nationals living abroad, or by anyone using flag vessels or aircraft from Mauritius.
  - b. **Travel ban:** Any listed party, other than a listed party who is a citizen or resident of Mauritius, shall not be allowed entry into, or transit through, Mauritius.

## Supervision

32. The NSSec is the focal point for UN sanctions related matters, including coordinating and promoting effective implementation of the obligations under the UNSC resolutions in Mauritius.
33. The NSSec has, under section 18(1) of the Sanctions Act, the responsibility to immediately give public notice of any changes to any UN sanctions lists, including the 1718 and 2231 Lists. This includes new designations, changes to existing designations, and removed designations. The process for dissemination and consultation of sanctions lists is detailed in Section 4 of these guidelines.
34. As outlined in Section 40(3) of the Sanctions Act, individual supervisory authorities shall supervise and enforce compliance by reporting persons over whom they exercise supervisory control or oversight with the requirements imposed under the Sanctions Act. Supervisory authorities may develop additional guidelines relevant to the reporting persons they supervise. It is important that reporting persons consult both these guidelines issued by the National Sanctions Secretariat, as well as any guidance issued by their supervisory authority.
35. Relevant supervisory authorities are listed in the table below:

Supervisory Authority	Licensees
<b>Attorney General</b>	<ul style="list-style-type: none"> <li>• Law Firms, foreign law firm, joint law venture, foreign lawyer, under the Law Practitioners Act</li> </ul>
<b>Bank of Mauritius</b>	<ul style="list-style-type: none"> <li>• Bank</li> <li>• Non-Bank Deposit Taking Institutions</li> <li>• Cash dealers</li> <li>• Licensees under the National Payment Systems Act</li> </ul>
<b>Financial Intelligence Unit</b>	<ul style="list-style-type: none"> <li>• Attorney</li> <li>• Barrister</li> <li>• Notary</li> <li>• Dealer in jewellery, precious stones or precious metals</li> <li>• Agent in Land and/or Building or Estate Agency under the Local Government Act</li> <li>• Land Promoter and Property Developer under the Local Government Act</li> </ul>
<b>Financial Services Commission</b>	<ul style="list-style-type: none"> <li>• An institution or a person, as the case may be, licensed, registered or authorised under – (a) section 14, 77, 77A or 79A of the Financial Services Act; (b) the Insurance Act, other than an insurance salesperson; (c) the Securities Act; (d) the Captive Insurance Act; or (e) the Trusts Act</li> </ul>
<b>Gambling Regulatory Authority</b>	<ul style="list-style-type: none"> <li>• Person licensed to operate a casino, a hotel casino, as a horse racing organiser, the Mauritius National Lottery, a limited payout machine, a sweepstake, as a local pool promoter, as the agent of a local pool promoter, a gaming house, a gaming machine, as a totalisator, as a bookmaker and interactive gambling under the Gambling Regulatory Authority Act</li> </ul>
<b>MIPA</b>	<ul style="list-style-type: none"> <li>• Professional accountant, public accountant and member firm under the Financial Reporting Act</li> </ul>
<b>Registrar of Companies</b>	<ul style="list-style-type: none"> <li>• Company Service Provider</li> </ul>
<b>Registrar of Cooperatives</b>	<ul style="list-style-type: none"> <li>• A credit union under the Co-operatives Act</li> </ul>

## 4: Implementation by reporting persons

36. As stated in Section 41 of the Sanctions Act, reporting persons are required to implement internal controls and other procedures to effectively comply with their obligations under the Act, including counter proliferation financing obligations.
37. The Sanctions Act also establishes several reporting obligations and authorisation mechanisms which reporting persons must implement. The internal controls and procedures required for implementation are outlined in this section.

### *Dissemination and consultation of sanctions lists*

38. The NSSec has, under section 18(1) of the Sanctions Act, the responsibility to immediately give public notice of any changes to any UN sanctions lists, including the 1718 and 2231 Lists. This includes new designations, changes to existing designations, and removed designations.
39. All updates to sanctions lists are posted on the NSSec's website: <http://nssec.govmu.org>.
40. Reporting persons have a responsibility to monitor and immediately implement any changes to UN sanctions lists and must not deal<sup>3</sup> or release funds and other assets accordingly.
41. Sanctions lists may also be consulted directly with the UNSC (see Annex 2), or with the Financial Intelligence Unit (FIU) who acts upon the direction of the NSSec. Under section 18(1)(b) of the Sanctions Act, the FIU must disseminate the public notice issued by the National Sanctions Secretariat, UN sanctions lists as well as any changes thereto to the supervisory authorities, the investigatory authorities, the reporting persons and any other relevant public or private agency registered with the FIU.

## Sanctions Screening

42. Sanctions apply to all clients and transactions, and there is no minimum financial limit or other threshold for when to conduct screening. Section 25 of the Sanctions Act requires that when a party is listed as a listed party, every reporting person shall, immediately, verify whether the details of a listed party match with the particulars of any customer, and if so, to identify whether the customer owns any funds or other assets in Mauritius.
43. All customers and transactions must therefore be screened against sanctions lists for potential matches.

### *Customer screening*

44. Reporting entities must have a system in place to screen customers during on-boarding and through the life cycle of the customer relationship. This also includes directors and

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<sup>3</sup> Under section 2 of the Sanctions Act the term "deal" includes to sell, supply, lease, transfer, convert, dispose, move, use or withdraw.

beneficial owners of corporate customers, and any other parties with access to the account. At a minimum, screening should take place when establishing a new relationship, and at regular intervals either upon a trigger event (change in directors or ownership) or when a sanctions list changes.

### *Transaction monitoring*

45. Each incoming and outgoing transaction should similarly be screened for a potential match with sanctions lists. Screening prior to completing a transaction is known as real-time screening and is the most widely used.
46. In transaction monitoring, some of the most common screening data points include:
  - Parties involved (remitter, beneficiary, other financial institutions involved in the transaction, intermediaries)
  - Vessels and International Maritime Organization (IMO) numbers (unique identifier number assigned to each vessel) – especially relevant for DPRK.
  - Bank names, bank identifier codes (BIC) and other routing codes
  - Free text fields (e.g. payment reference)
47. Attention should be given to those data points within the transactional process where information could be modified or removed to undermine screening controls, for example evidence that information has been stripped from the transaction, or the transaction exhibits signs of sanctions evasion techniques. An overview of common sanctions evasion techniques employed by proliferators is outlined further below in this section.

### *Sanctions Match and Resolving False Positives*

48. Screening is the comparison of one string of text against another to detect similarities which would suggest a potential match. If a match is detected, and a reporting person maintains accounts, or otherwise holds or controls funds and other assets for listed parties (or anyone owned or controlled by listed parties, or acting on their behalf of for their benefit), reporting persons should immediately:
  - Not deal with those funds and other assets.
  - Not make funds and other assets available to or for the benefit of listed parties.
  - Investigate further as detailed below.
49. If an alert is generated with a potential match, this is not an automatic indication of a sanctions violation. It should be confirmed or discounted with additional information gained through further investigation.

50. Determining a true match can often prove difficult due to a range of variables including language, spelling, abbreviations, and aliases. UN sanctions lists are provided with other identifying information to assist in the identification of a true match or false positive.

## Reporting obligations and procedures

### Sanctions Reports

51. If a true match is identified by a reporting person, it must immediately submit a report to the National Sanctions Secretariat, and in some cases also to its relevant supervisory authority. The specific reporting obligations contained in the Sanctions Act are outlined below.
52. Reports may be completed using the template which can be downloaded from the NSSec website: <http://nssec.govmu.org>
53. Reports must be submitted to the following email address: [nssec@govmu.org](mailto:nssec@govmu.org)

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
<b>Section 23(4)- Notification of compliance with prohibition to deal requirement</b>	<p>Details of any funds or other assets subject to a prohibition to deal under section 23(1) of the Act must be immediately reported to the National Sanctions Secretariat in terms of section 23(4) of the Act. The report must provide-</p> <ul style="list-style-type: none"> <li>a) Details of the funds or other assets against which action was taken in accordance with section 23(1) of the Act;</li> <li>b) The name and address of the listed party;</li> <li>c) Details of any attempted transaction involving the funds or other assets, including - <ul style="list-style-type: none"> <li>i. The name and address of the sender</li> <li>ii. The name and address of the intended recipient</li> <li>iii. The purpose of the attempted transaction</li> <li>iv. The origin of the funds or other assets</li> <li>v. Where the funds or other assets were intended to be sent</li> </ul> </li> </ul>	<p>Failure to comply with this requirement is an offence under section 45 of the Act. See section 45 of the Act below</p>

	Reporting persons can use the template provided on the NSSec website.	
<b>Section 25- Reporting Obligations</b>	1 - Where a party is listed as a listed party, every reporting person shall, immediately, verify whether the details of the listed party match with the particulars of any customer, and if so, to identify whether the customer owns any funds or other assets in Mauritius, including the funds or other assets referred to in section 23(1) of the Sanctions Act.	Failure to comply with this requirement is an offence under section 45 of the Sanctions Act.
	2 - a) Where funds or other assets or no funds or other assets are identified by the reporting person, the reporting person shall make a report to the National Sanctions Secretariat.  b) Where a report is made under paragraph (a), the reporting person shall, in addition, report same to its relevant supervisory authority.	Under section 25(3) of the Sanctions Act, any person who fails to comply with subsection (2)(a) or (b) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees and to a term of imprisonment not exceeding 10 years.

### *Suspicious Transaction Reports*

54. In addition, Section 39 of the Sanctions Act states that any information related to a listed party shall be immediately submitted by the reporting person to the FIU<sup>4</sup> or by any other person in writing to the FIU.

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
<b>Section 39 - Reporting of suspicious information</b>	Any information related to a listed party which is known to - (a) a reporting person, shall be immediately submitted by the reporting person to FIU in accordance with section 14 of the FIAMLA; or (b) any other person, transmitted forthwith by that person, in writing, to FIU.	See section 45 of the Sanctions Act.

### Authorisations and exemptions

<sup>4</sup> Reporting persons should submit any such information to the FIU via the GoAML platform and are reminded that pursuant to Section 14C of the FIAMLA, every reporting person or auditor must register with the FIU. In this respect, reporting persons should also refer to the FIAML Regulations 2019.

55. There are important exceptions to TFS which should be consulted. This includes the ability for a listed party to access assets under limited circumstances, including the provision of basic living expenses, or extraordinary expenses if approved by UNSC committees, as well as the rights of bona fide third parties. These provisions are outlined in Sections 29 and 30 of the Sanctions Act.
56. Section 23(3) of the Sanctions Act also has a specific exemption relating to Iran. It states that the National Sanctions Committee may authorise the listed party to make any payment due under a contract, an agreement or an obligation entered prior to the listing of such party.
57. All authorisation and exemption requests should be submitted to the National Sanctions Secretariat: [nssec@govmu.org](mailto:nssec@govmu.org)

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
<b>Section 23(3) - Payments Under Prior contracts (Iran)</b>	Where a party is listed pursuant to UNSC Resolution 2231, the National Sanctions Committee may authorise the listed party to make any payment due under a contract, an agreement or an obligation entered prior to such listing, provided that the National Sanctions Committee is satisfied certain criteria is fulfilled (including that the contract is not related to items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services prohibited under UNSC Resolution 2231, and payments are not directly or indirectly received from, or made to, a person or entity subject to the measures in Paragraph 6 of Annex B to UNSC 2231).	
<b>Section 29- Rights of Bona Fide Third Parties</b>	<p>Any prohibition under the Sanctions Act applies without prejudice to the rights of bona fide third parties. A bona fide third party may in accordance with the provisions under section 29 of the Sanctions Act apply to the NSC to exclude his interest from the prohibition.</p> <p>Pursuant to section 29(5) of the Sanctions Act, any person who holds, controls or has in his custody or possession funds or other assets of a bona fide third party shall immediately comply with an application granted under section 29(3) of the Act.</p>	Any person who fails to comply with section 29(5) of the Sanctions Act, shall, commit an offence and shall on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

<b>Section 30 - Application to Use Funds or Other Assets of Listed Party</b>	Section 30 of the Sanctions Act provides for the release of funds subject to a prohibition under sections 23 and 24 of the Act, which are necessary for basic expenses or for extraordinary expenses, if approved by the relevant UN Sanctions Committees.	
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## Effective Implementation of Targeted Financial Sanctions

### *Understanding Sanctions Evasion*

58. Listed parties will rarely - if ever - show up in a transaction but will instead make use of complex networks of front companies and intermediaries to conceal their involvement in a financial transaction.
59. The UN Panel of Experts established pursuant to UNSCR 1874 (2009) highlighted that the DPRK continues to access international banking channels in violation of UN sanctions, mainly by using third-party intermediaries. It is therefore crucial that reporting persons consider how listed parties may indirectly gain access to funds or financial services.
60. Reporting persons should familiarise themselves with common sanctions evasion techniques of proliferators to effectively implement TFS related to proliferation, and ensure that no funds, other assets or economic resources are made available to designated persons and entities, as well as anyone acting on behalf of or at the direction of designated persons and entities, or owned or controlled by them.
61. Common sanctions evasion techniques used by proliferators include:
  - a. The use of aliases and falsified documentation to hide involvement of listed party.
  - b. Bank accounts owned by nationals not from a proliferating country, who act as financial representatives on behalf of listed parties from the proliferating country.
  - c. Offshore, front and shell companies to hide beneficial ownership information, and the involvement of listed parties.
  - d. Listed parties entering joint ventures with non-listed companies.
  - e. Use of diplomatic staff bank accounts, on behalf of listed parties and proliferating countries.
  - f. Use of virtual currencies by listed parties to circumvent the formal financial system and evade sanctions.
  - g. Conduct cyber-attacks against financial institutions and crypto currency exchanges to raise funds and evade sanctions.
62. Situations that may indicate sanctions evasion include:
  - a. Customers linked to high-risk countries or business sectors.

- b. Customers who have unnecessarily complex or opaque beneficial ownership structures, or have frequent changes in directors, beneficial owners, or signatories (especially within short time from account opening).
- c. Customers who have previously had dealings with individuals or entities designated for proliferation by the UNSC.
- d. Customers who have entered into joint venture or cooperation agreements with listed parties, including the sharing of address with a listed party.
- e. Customers involved in trading, brokering or intermediary services, and carrying out business inconsistent with normal business practices or with significant changes in business activities.
- f. Transactions that are unusual, lack an obvious economic or lawful purpose, are complex or large or might lend themselves to anonymity.
- g. Transactions or trade with countries known to be exploited by proliferation financing regimes or neighbouring countries to proliferation financing regimes.
- h. Transactions involving correspondent banks known to facilitate payments for proliferating regimes or within high risk jurisdictions.

63. Reporting persons can also refer a number of other sources including:

- a. Annex A of the Financial Action Task Force Guidance on Counter Proliferation Financing (2018), for a list of situations that may indicate proliferation financing activities.
- b. The UN Panel established pursuant to UNSCR 1874 provides detailed information on the DPRK's procurement and related proliferation financing activities, and includes the names of entities and individuals involved in these activities. Some of these entities and individuals may not have been sanctioned formally by the UN, but still maintain a significant involvement in procurement and proliferation financing activities.
- c. There are also several non-governmental sources that can be consulted for advice on proliferators' evasive patterns, including detailed case studies on proliferators' use of the formal financial system.

A list of useful sources of information is contained in Annex 2.

## 5: Annexes

### Annex I: Summary of Domestic Obligations and Penalties

The below table describes all relevant domestic obligations that reporting persons must be aware of and implement, as well as the sanctions that may be imposed on reporting persons if they do not comply.

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
<b>Section 23(1)- prohibition to deal with funds or other assets of a listed party</b>	Mauritius implements the assets freeze measures under the UNSC resolutions through section 23(1) of the Sanctions Act. Where a dissemination is made under section 18(1) of the Act, the prohibition to deal with the funds and other assets of a listed party under section 23(1) of the Act applies immediately. The term “deal” is defined under section 2 of the Act and includes to sell, supply, lease, transfer, convert, dispose, move, use or withdraw.	A person who fails to comply with section 23(1) of the Sanctions Act is, on conviction liable to a fine not exceeding 5 million rupees or twice the amount of the value of the funds or other assets, whichever is greater, and to imprisonment for a term of not less than 3 years.
<b>Section 23(2) - Interest</b>	Where a prohibition is in force, nothing shall prevent any interest which may accrue, or other earnings due, on the accounts held by a listed party, or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the prohibition, provided that any such interest, earnings and payments continue to be subject to the prohibition.	A person who fails to comply with section 23(2) of the Act is, on conviction liable to a fine not exceeding 5 million rupees or twice the amount of the value of the funds or other assets, whichever is greater, and to imprisonment for a term of not less than 3 years.
<b>Section 23(3) - Payments Under Prior contracts (Iran)</b>	Where a party is listed pursuant to UNSC Resolution 2231, the National Sanctions Committee may authorise the listed party to make any payment due under a contract, an agreement or an obligation entered prior to such listing, provided that the National Sanctions Committee is satisfied certain criteria is fulfilled (including that the contract is not related to items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services prohibited	

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
	<p>under UNSC Resolution 2231, and payments are not directly or indirectly received from, or made to, a person or entity subject to the measures in Paragraph 6 of Annex B to UNSC 2231).</p>	
<p><b>Section 23(4)- Notification of compliance with prohibition to deal requirement</b></p>	<p>Details of any funds or other assets subject to a prohibition to deal under section 23(1) of the Sanctions Act must be immediately reported to the NSSec in terms of section 23(4) of the Sanctions Act. The report must provide-</p> <ol style="list-style-type: none"> <li>a) Details of the funds or other assets against which action was taken in accordance with section 23(1) of the Act;</li> <li>b) The name and address of the listed party;</li> <li>c) Details of any attempted transaction involving the funds or other assets, including - <ol style="list-style-type: none"> <li>i. The name and address of the sender</li> <li>ii. The name and address of the intended recipient</li> <li>iii. The purpose of the attempted transaction</li> <li>iv. The origin of the funds or other assets</li> <li>v. Where the funds or other assets were intended to be sent</li> </ol> </li> </ol> <p>Reporting persons can use the template provided on the NSSec website.</p>	<p>Failure to comply with this requirement is an offence under section 45 of the Sanctions Act. See section 45 of the Act below</p>
<p><b>Section 24- Prohibition on making funds or other assets available to a listed party</b></p>	<p>Pursuant to the UNSCRs, UN Member States also have to ensure that no funds or other assets are made available, by their nationals or by persons within their territory directly or indirectly, to or for the benefit of a listed party. This requirement is implemented under section 24 of the Sanctions Act which reads as follows-</p> <p>No person shall make any funds or other assets or financial or other related services available, directly or indirectly, or wholly or jointly, to or</p>	<p>In accordance with section 24(2) of the Act, any person who contravenes subsection(1) shall commit an offence shall, on conviction be liable to a fine not exceeding 5 million rupees or twice the amount of the value of the funds or other assets, whichever is the greater and to imprisonment for a term not less than 3 years.</p>

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
	for the benefit of a listed party, a party acting on behalf, or at the direction of a listed party; or an entity owned or controlled directly or indirectly, by a listed party.	
<b>Section 25- Reporting Obligations</b>	1 - Where a party is listed as a listed party, every reporting person shall, immediately, verify whether the details of the listed party match with the particulars of any customer, and if so, to identify whether the customer owns any funds or other assets in Mauritius, including the funds or other assets referred to in section 23(1) of the Sanctions Act.	Failure to comply with this requirement is an offence under section 45 of the Sanctions Act. See section 45 of the Act below
	2 - a) Where funds or other assets or no funds or other assets are identified by the reporting person, the reporting person shall make a report to the NSSec.  b) Where a report is made under paragraph (a), the reporting person shall, in addition, report same to its relevant supervisory authority.	Under section 25(3) of the Sanctions Act, any person who fails to comply with subsection (2)(a) or (b) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees and to a term of imprisonment not exceeding 10 years.
<b>Section 29- Rights of Bona Fide Third Parties</b>	Any prohibition under the Sanctions Act applies without prejudice to the rights of bona fide third parties. A bona fide third party may in accordance with the provisions under section 29 of the Sanctions Act apply to the NSC to exclude his interest from the prohibition. Pursuant to section 29(5) of the Sanctions Act, any person who holds, controls or has in his custody or possession funds or other assets of a bona fide third party shall immediately comply with an application granted under section 29(3) of the Sanctions Act.	Any person who fails to comply with section 29(5) of the Sanctions Act, shall, commit an offence and shall on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.
<b>Section 30 - Application to Use Funds or Other Assets of Listed Party</b>	Section 30 of the Sanctions Act provides for the release of funds subject to a prohibition under sections 23 and 24 of the Sanctions Act, which are necessary for basic expenses or for extraordinary expenses, if	

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
	approved by the relevant UN Sanctions Committees.	
<b>Section 33 – Mistaken Identity</b>	In the case that a party with the same or similar name as a listed party, that is a false positive, section 33 of the Sanctions Act sets out the procedure for deconflicting false positives. Where a case of false positive is established, any person who holds, controls or has in his custody or possession the funds or other assets of any such party shall release those funds or other assets immediately.	Any person who fails to release the funds or other assets under section 33(5) of the Sanctions Act shall commit an offence and shall on conviction be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.
<b>Section 34 – Lapse of freezing order or prohibition</b>	(1) Where the name of a listed party has been removed from the relevant United Nations Sanctions List – (a) any prohibition against the listed party under this Act shall lapse with immediate effect; and (b) any reporting person or any other person who holds, controls or has in his custody or possession any funds or other assets of the listed party, shall immediately unfreeze those funds or other assets.	Any person who fails to comply with subsection (1)(b) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.
<b>Section 35 - Arms embargo</b>	Under section 35 of the Sanctions Act, it is an offence if any person supplies, sells or transfers, directly or indirectly to a listed party, arms or related material or all types, as well as technical advice, assistance or training related to military activities.	Any person who commits an offence under section 35 of the Sanctions Act is, on conviction, liable to a fine not exceeding 10 million rupees and imprisonment for a term of not less than 5 years.
<b>Section 39 – Reporting of suspicious information</b>	Any information related to a listed party which is known to – (a) a reporting person, shall be immediately submitted by the reporting person to FIU in accordance with section 14 of the FIAMLA; or	See section 45 of the Sanctions Act below

Relevant obligation in Sanctions Act	Description	Sanctions for non-compliance
	(b) any other person, transmitted forthwith by that person, in writing, to FIU.	
<b>Section 40(3)- Supervision by supervisory authorities</b>	A supervisory authority shall supervise and enforce compliance by reporting persons over whom they exercise supervisory control or oversight with the requirements imposed under this Act.	Where it appears or is represented to the any supervisory authority that any reporting person has refrained from complying or negligently failed to comply with any requirement under this Act, the supervisory authority may take, against the reporting person, any action which it may be empowered to take under the relevant enactments.
<b>Section 41- Internal controls</b>	A reporting person shall implement internal controls and other procedures to enable it to effectively comply with their obligations under this Act.	See section 45 of the Sanctions Act below and section 40(3) above.
<b>Section 45 - Offences</b>	Any person who contravenes this Act shall commit an offence and shall, on conviction, be liable, where no specific penalty is provided, to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 10 years.	

## Annex 2: Sources of information

### UNSC 1718 (DPRK) Sanctions Committee

- 1718 Sanctions List of designated persons and entities related to DPRK: <https://www.un.org/securitycouncil/sanctions/1718/materials>
- Lists of designated vessels: <https://www.un.org/securitycouncil/sanctions/1718/materials/list-of-designated-vessels>
- Overview of exemptions to assets freeze measures: <https://www.un.org/securitycouncil/sanctions/1718/exemptions-measures/assets-freeze>
- Guide to humanitarian exemption requests: <https://www.un.org/securitycouncil/sanctions/1718/exemptions-measures/humanitarian-exemption-requests>

### UNSC 2231 (Iran) Sanctions Committee

- 2231 Sanctions List of designated persons and entities related to UNSC Resolution 2231: <https://www.un.org/securitycouncil/content/2231/list>
- Overview of exemptions to assets freeze measures: <https://www.un.org/securitycouncil/content/2231/assets-freeze-exemptions>

### International guidance and typologies

- The UN Panel of Experts on DPRK was set up to monitor the implementation of UN sanctions, including TFS. The panel issues bi-annual reports that provide the most comprehensive overview of sanctions evasion techniques: [https://www.un.org/securitycouncil/sanctions/1718/panel\\_experts/reports](https://www.un.org/securitycouncil/sanctions/1718/panel_experts/reports)
- FATF Typologies Report on Proliferation Financing (2008): <http://www.fatf-gafi.org/publications/methodsandtrends/documents/typologiesreportonproliferationfinancing.html>
- FATF Guidance on Counter Proliferation Financing - The Implementation of Financial Provisions of United Nations Security Council Resolutions to Counter the Proliferation of Weapons of Mass Destruction (2018): <http://www.fatf-gafi.org/publications/financingofproliferation/documents/guidance-counter-proliferation-financing.html>

### Free think tank and NGO resources

- RUSI guidance papers on Proliferation Financing for financial institutions, including specific guidance for insurance companies and cryptocurrency industry: <https://rusi.org/projects/counter-proliferation-finance>

- Dr. Jonathan Brewer, Study of Typologies of Financing of WMD Proliferation, Final Report (2017), King's College London: <https://www.kcl.ac.uk/news/final-report-typologies-of-proliferation-finance>
- Dr. Jonathan Brewer, The Financing of WMD Proliferation, CNAS (2018): <https://www.cnas.org/publications/reports/the-financing-of-wmd-proliferation>

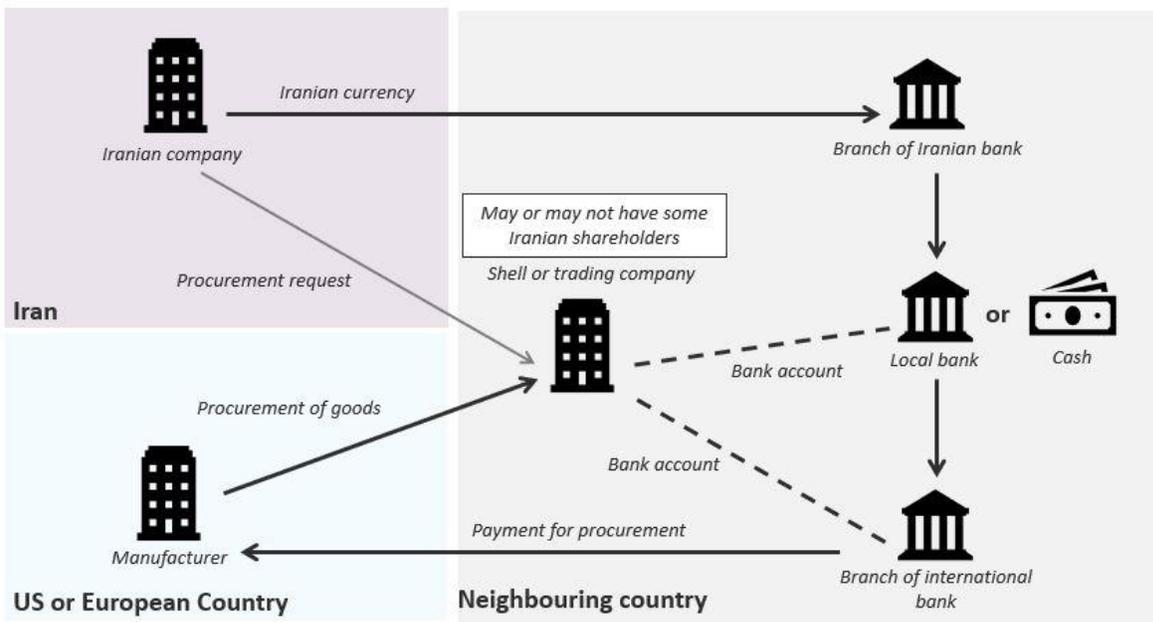
## Annex 3: Case studies

### Case Study I: Possible financial transaction pattern in support of the procurement of proliferation-sensitive goods

The following example of a possible scenario by which a proliferator may finance its procurement activities was included in the June 2014 report by the Panel of Experts established pursuant to UNSCR 1737 (2006) on Iran. The hypothetical scenario demonstrates how shell and trading companies, as well as the combination of branches of Iranian banks in third countries and international banks could be used to finance proliferation-related procurement activities. A transaction through a local bank or a transfer of value through cash can be used to obfuscate the connection of the funds to sanctioned entities, allowing the assets to enter and move around the international financial system with greater ease.

*One scenario described to the [UN Panel of Experts] suggested that trading and shell companies could place orders for goods from the United States or Europe, acting on behalf of Iranian companies, but with the orders making no reference to the Islamic Republic of Iran. To pay for the orders, the Iranian companies would transfer funds to a branch of an Iranian bank in a neighboring State. Funds are then transferred from that branch to an account held by the trading or shell company at a branch of an international bank in the State concerned, but in a way that obscures the Iranian bank's role. The transfer could take place in cash or through the trading or shell company's account with a local, non-Iranian intermediary bank. The international bank thereby has no information that the transaction has any Iranian connection. The trading or shell company can then instruct that payments be made to the bank account of the companies in the United States or Europe that supply the goods. (S/2014/394, par. 71)*

**Example of financial transaction for procurement of proliferation-sensitive goods**



Source: UNSC, S/2014/394; graphic produced by the Royal United Services Institute

## **Case Study II: Proliferation financing activities concealed through a legitimate business**

This example involves a case from Singapore, where a shipping company allowed a North Korean shipping company to access its bank account as its own. The case highlights how several red flags of sanctions evasion was missed: the sharing of addresses with the North Korea diplomatic mission, the non-declaration of vessel information in transactions, the absence of invoices or other details, the general irregularity of transactions that did not fit the business profile of the shipping company, or the regular withdrawal of bulk cash.

*In July 2013, Panama Canal authorities detained a North Korean vessel, the Chong Chon Gang (CCG), while it was transiting from Cuba to North Korea. Canal authorities found a shipment of arms and related materials concealed under other cargo. The CCG was operated and managed by Ocean Maritime Management Company Ltd (OMM), one of the largest North Korean shipping companies. Costs connected with the voyage of the CCG were paid by Chinpo Shipping Company (Private) Limited, based in Singapore.*

*The North Korean Embassy in Singapore used the business as a postal address. Chinpo hosted OMM staff at its offices and used its bank account to manage funds on behalf of OMM. Monies due to OMM (for example, freight charges) were paid into the account. Monies were remitted from the account at OMM's request, for example to North Korean vessel owners (who were not able to set up their own bank accounts because of sanctions), or on their behalf for supplies, port charges or other disbursements, or from one North Korean ship owner to another. Over three years, 605 remittances took place, totalling more than \$40 million, all related to North Korean vessels. Chinpo was effectively operating as a remittance business, although it had no licence to do so from Singapore authorities. Once a year, a North Korean diplomat with access to the Chinpo account would withdraw up to \$500,000 in bank notes to carry out of the country. Chinpo tried to hide its involvement with North Korean companies by removing the names of North Korean vessels and other identifying details from remittance forms and email correspondence, and payments from Chinpo's account took place in the absence of invoices or other details.*

(Adapted from 'Countering Proliferation Finance: An Introductory Guide for Financial Institutions', RUSI, 2017).

## **Case Study III: Possible financial transaction pattern in support of the procurement of proliferation-sensitive goods**

This case study, outlined in 'Typologies of Financing of WMD Proliferation' by Dr. Jonathan Brewer at King's College London (based on information supplied to the report's author by a European Union Member State) demonstrates how financial centres - in this case, Luxembourg and Dubai - may be used to handle the flow of funds from proliferator-linked bank accounts to manufacturers of sensitive goods, all located within the same financial centre. The use of front companies in jurisdictions with opaque corporate registries - in this case, the British Virgin Islands - to obfuscate the ultimate beneficial owner of assets is also highlighted; the use of such obfuscation tactics may have complicated efforts by financial institutions to identify the ultimate beneficiary of the funds from the Luxembourg accounts of the Iranian customers - a broker of Iranian nationality.

*Procurement by Iran from suppliers in an EU Member State: The investigation of this case took place in 2011/2012, but related transactions can be traced back to 2009.*

*A broker was involved who was an Iranian and EU national, with a residence in an EU member state and a bank account in the EU member state. The broker was registered in the British Virgin Islands (BVI) and operated through a front company. This front company could be linked by the Authorities to at least one Iranian company. The front company held an account at a domestic bank in Dubai and also had a bank account in a Balkan state, an EU member.*

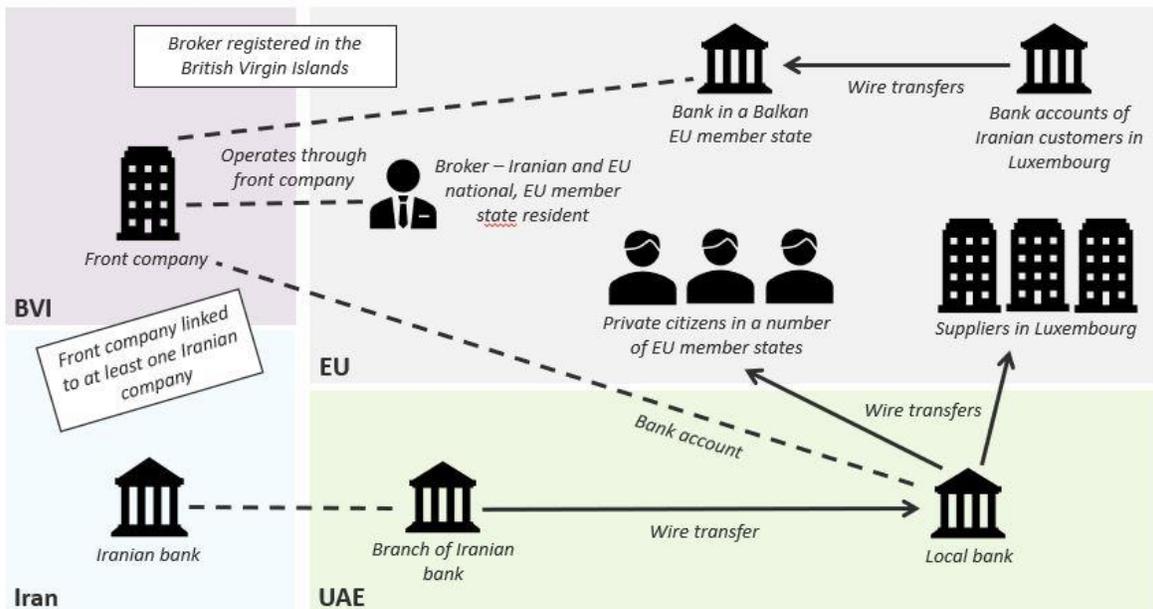
*An Iranian bank was the source of funds. Payment was initiated by a branch of this bank in Dubai in the form of a wire transfer to the account of the front company in Dubai. Funds were transferred from this account to suppliers in Luxembourg and also to private persons in several EU member states.*

*Investigators found no evidence that dual-use goods were involved in any of the financial transactions, but they suspected that the mechanism could be used for proliferation finance.*

*Iranian customers holding bank accounts in Luxembourg also wired money to the European account of the BVI-based broker. The channels were used more than once in some cases (when European suppliers were involved) and sometimes only once (when private persons were involved).*

(Jonathan Brewer, ‘Study of Typologies of Financing of WMD Proliferation: Final Report’, King’s College London, 13 October 2017, pp. 98-99)

**Example of financial transaction that could be used for procurement of proliferation-sensitive goods**



Source: Jonathan Brewer, ‘Study of Typologies of Financing of WMD Proliferation’, Final Report, 13 October 2017, King’s College London; graphic recreated and adapted by the Royal United Services Institute.

Developed with support from

