



REQUESTS FROM OR TO ANOTHER COUNTRY FOR A TERRORISM DESIGNATION

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POLICY

Under Article 45A of SAFL, the Minister for External Relations must promptly determine whether to designate a person under Part 4 of SAFL in response to a request made by another territory or country (“an overseas country”).

Where the MER reasonably suspects and/or reasonably believes that a person with a connection to an overseas country should be subject to a measure equivalent to a designation under Part 4 of SAFL, the Minister will request that the overseas country take said measure and provide as much give a reason for the request and provide as much information as possible in support of that request.

This Policy is written in compliance with FATF Recommendation 6 and Immediate Outcome 10.

DEFINITIONS

- “FATF” means the Financial Action Task Force
- “FIU” means the Jersey Financial Intelligence Unit
- “FSIU” means the Financial Sanctions Implementation Unit
- “JFCU” means the Joint Financial Crimes Unit Operations Unit
- “LOD” means the Law Officers’ Department (Civil Division)
- “Minister” means the Minister for External Relations
- “Overseas Country” means any territory or country other than Jersey
- “SAFL” means the Sanctions and Asset Freezing (Jersey) Law 2019
- “UN” means the United Nations
- “UNSC” means the United Nations Security Council
- “UNSCR” means a United Nations Security Council Resolution

BACKGROUND AND PURPOSE

FATF Recommendation 6 (targeted financial sanctions related to terrorism & terrorist financing) states that the competent authority (in this instance, the Minister) must make a terrorism-related asset-freezing designation at the request of an overseas country if it is satisfied, according to applicable legal principles for targeted financial sanctions, that a requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designated person meets the criteria for designation.

Effective procedures for making and handling requests with regard to making a terrorism designation under Part 4 of SAFL, or equivalent, are vital for enhancing co-operation amongst countries in combatting terrorist financing and fostering international compliance with obligations under relevant sanctions regimes.

PART A. PROCEDURE – REQUEST FROM AN OVERSEAS COUNTRY TO DESIGNATE A PERSON OR ENTITY UNDER PART 4 OF SAFL

1. RECEIPT OF REQUEST

Requests for designation may be sent to the Minister, as competent authority for financial sanctions implementation, via the FSIU, for consideration. It is possible that requests might be received through other channels. In any event, the request and any accompanying information must be referred to the Minister at the earliest opportunity.

2. ACKNOWLEDGE THE REQUEST

Upon receipt of the request and any accompanying information, the request should be acknowledged in writing by the FSIU, and the requestor advised that the Minister will consider the request as soon as is reasonably practicable.

SAFL requires the Minister to respond to the overseas country with a decision within 7 days.

3. INFORM

If not already aware, the LOD and the FIU must be notified of the request at the earliest opportunity. An extraordinary meeting of the Terrorist Financing Operational Working Group may also be called.

4. CONSIDER INTERIM DESIGNATION

As a matter of course, the Minister may first consider making an interim designation¹ in the interests of ensuring that the assets of a person or entity linked to terrorism are frozen as soon as possible. This will allow up to an additional 30 days to establish whether the Minister can make a final designation.

5. INFORMATION GATHERING

If necessary, the Minister may consult with/request further information from the requestor, relevant financial institutions², and/or with the relevant Jersey authorities and/or those of any other country (as appropriate) in order to gather more information to assist with making a decision on the request.

FSIU should ensure that it gathers as much information as possible on the proposed designated person or entity to allow the Minister to:

1. Accurately identify the person or entity subject to the request; and
2. Take an informed view as to whether the person or entity should be subject an asset-freezing measures.

In particular, the requestor should provide:

- ✓ The full name of the person or entity, along with any known aliases;
- ✓ All known personal details (including date of birth, nationality, current residence, and any other known addresses);

¹ which has a lower evidentiary burden than a final designation.

² as provided for under [Article 33\(5\)](#) of SAFL.

- ✓ The details of any known or suspected link between the person or entity and any other designated person or entity;
- ✓ A statement of case, detailing the basis for the request and the grounds on which the requestor considers that the person or entity should be subject to asset freezing measures; and
- ✓ Any other information or documentation that would support the request.

6. STATEMENT OF CASE

The statement of case should provide as much detail as possible to support the reasonable grounds and/or reasonable basis on which the Minister is requested to take measures against the proposed person or entity. It should be supported by as much evidence as the requestor is able to provide while remaining compliant with any applicable data protection and information sharing laws.

The MER operate *ex parte* and is not obliged to notify the subject of the proposal prior to complying with, or denying, a request for a terrorism designation.

7. ASSESS GROUNDS FOR REQUEST OR PROPOSAL

In assessing whether to make a designation under Part 4 of SAFL (it is in part through Part 4 of SAFL that Jersey implements the requirements for UNSCR 1373 (2001)), the Minister:

- a) must consider whether they have a reasonable suspicion or belief that the person is an “involved person” under Article 18 of SAFL; and
- b) considers that it is appropriate that financial restrictions should be applied in relation to the person for purposes connected with –
 - (i) protecting members of the public (whether in Jersey or elsewhere) from terrorism;
 - (ii) preventing terrorism (whether in Jersey or elsewhere); or
 - (iii) otherwise complying with resolution 1373 (2001) of the UN Security Council.

Involved Person³

The Minister must determine whether there are reasonable grounds, or a reasonable basis, to suspect⁴ or believe⁵ that the person or entity to which the request relates is an involved person. An involved person means a person who:

- is or has been involved in terrorist activity;
- is an entity owned or controlled (directly or indirectly) by a terrorist entity or a person who is or has been involved in terrorist activity;
- is acting on behalf of or at the direction of a terrorist entity or person who is or has been involved in terrorist activity; or
- is a member of or has pledged allegiance in any way to or is otherwise associated with, a terrorist entity or a person who is or has been involved in terrorist activity.

“Terrorism”, “act of terrorism” and “terrorist entity” are defined in the Terrorism (Jersey) Law 2022. “Terrorist activity” is defined in Article 18 of SAFL.

³ The terms “involved person” and “terrorist activity” are defined in [Article 18 of SAFL](#). The terms “terrorism” and “act of terrorism”, and “terrorist entity” have the same meaning as given in the [Terrorism \(Jersey\) Law 2002](#).

⁴ in the case of an interim terrorism designation.

⁵ in the case of a final terrorism designation.

If one or more of the above criteria are met, the person or entity may be considered an ‘**involved person**’ for the purposes of SAFL.

It is important to note that under Articles [45A\(5\)](#) and [45B\(6\)](#) the Minister may operate *ex parte* in respect of a terrorism asset-freeze designation. Therefore, when considering whether to make a designation, the Minister is not obliged to inform the subject under consideration.

8. INFORM LOD AND REQUEST ADVICE

The Minister must inform the LOD when an interim designation is under consideration and provide a copy of the relevant request and accompanying information.

The LOD will, as soon as reasonably practicable, provide a view on:

- ✓ The *prima facie* legal validity of the request and the potential grounds for making an interim designation;
- ✓ The sensitivity of any information accompanying the request;
- ✓ Whether the human rights of the person to whom the request relates have been taken into consideration; and
- ✓ Whether further information is required and, if so, what further information.

9. RECORD DECISION

The Minister must formally record in writing the decision to make, or not to make, an interim designation and the reasons behind the decision.

10. INFORM AND PUBLISH

The Minister must advise the requestor in writing of the decision to make, or to not make, an interim designation at the earliest opportunity.

If not already aware by virtue of their participation in the decision-making process, the Minister should also inform the LOD the FIU of the decision.

The Minister must take steps to publicise the interim designation, if one is made, on the same day. The procedure is the same for both interim and final designations. Further guidance for this step can be found below under **Publication of Interim or Final Terrorism Designation**.

These actions must be done simultaneously; the designated person must not be given notice in advance of publication.

11. ASSESS WHETHER A PROPOSAL SHOULD BE MADE TO THE RELEVANT UNSC COMMITTEE

In addition to considering whether to make an interim or final terrorism designation, the Minister should also consider whether an asset-freeze proposal should be made to the relevant UNSC Committee.

- The Security Council Committee established pursuant to resolution 1988(2011), otherwise known as the [1988 Sanctions Committee](#), the designation criteria are set out in paras 1-2 of resolution 2255 (2015) and summarised here:

“Acts or activities indicating that an individual, group, undertaking or entity is eligible for designation include:

- Participating in the financing, planning, facilitating, preparing or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of;
 - Supplying, selling or transferring arms and related material to; Recruiting for; Or
 - Otherwise supporting acts or activities of, those designated and other individuals, groups, undertakings, and entities associated with the Taliban in constituting a threat to the peace, stability, and security of Afghanistan.”
- The Security Council Committee established pursuant to resolutions 1267 (1999) 1989 (2011) and 2253 (2015 concerning Islamic State in Iraq and the Levant (Da’esh), Al-Qaida and associated individuals, groups, undertakings and entities (otherwise known as the [ISIL \(Da’esh\) and Al-Qaida Sanctions Committee](#)), the designation criteria are set out in paras 2-4 of UNSCR 2610 (2021) and are summarised [here](#):

“Acts or activities indicating that an individual, group, undertaking or entity is associated with ISIL (Da'esh) and Al-Qaida include:

- Participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of;
- Supplying, selling or transferring arms and related material to;
- Recruiting for;
- or otherwise supporting acts or activities of, ISIL (Da'esh), Al-Qaida or any cell, affiliate, splinter group or derivative thereof.”

Procedure for making requests to the UN for a Terrorism Designation

See the procedure [“Making Requests to the UN for a Terrorism Designation”](#), and the [Memorandum of Understanding between the FCDO and FSIU Concerning Proposals for Listing and Requests for De-Listing from the United Kingdom and United Nations Sanctions Measures in relation to the Bailiwick of Jersey](#).

12. EXPIRY OF INTERIM DESIGNATION

An interim designation expires either 30 days after it is made, or when a final terrorism designation is made – whichever is earlier.

When the interim designation expires, the Minister must:

- ✓ Give written notice of the expiry to the designated person; and
- ✓ Take reasonable steps to advise all other persons who were informed of the designation under Article 24 of SAFL (see below under **Publication of Interim or Final Terrorism Designation**).

The MER cannot renew an interim terrorism designation or make more than one interim designation in relation to the same person based substantially on the same evidence.

FINAL DESIGNATION

13. INFORM LOD AND REQUEST ADVICE

The Minister must inform the LOD when a final designation is under consideration and provide a copy of the relevant request and accompanying information.

The LOD will, as soon as reasonably practicable, provide a view on:

- ✓ The *prima facie* legal validity of the request and the potential grounds for making a final designation;
- ✓ The sensitivity of any information accompanying the request;
- ✓ Whether the human rights of the person to whom the request relates have been taken into consideration; and
- ✓ Whether further information is required and, if so, what further information.

14. ASSESS

The Minister should assess the request and accompanying information, along with the advice of the LOD and the recommendation of the FSIU and must determine, as soon as reasonably practicable, whether there is a reasonable basis or reasonable grounds to believe that the person or entity is an involved person (see definition above).

TER If the Minister reasonably believes that the person is an involved person and that he considers it appropriate to apply financial restrictions for the purposes set out at 7.b) above, the Minister may make a final terrorism designation.

15. RECORD DECISION

The Minister must formally record in writing the decision to make, or not to make, a final designation and the reasons behind the decision.

16. INFORM

The Minister must advise the requestor in writing of the decision to make, or not to make, a final designation at the earliest opportunity.

17. PUBLISH

The Minister must take steps to publicise the final designation, if one is made, on the same day. Further guidance for this step can be found below under, **Publication of Interim or Final Terrorism Designation**.

18. REVIEW OF FINAL DESIGNATION

Under Article 23 of SAFL, a final terrorism designation of a person remains in effect until it is revoked under Article 25, except that its effect is suspended during a period when the person is a designated person under a provision of SAFL other than Article 20 or 22.

The Minister must –

- (a) keep a final terrorism designation under review;
- (b) reconsider at least once in every calendar year, after that in which the designation is first made, whether there are still grounds under Article 22 for the designation; and
- (c) revoke the designation if satisfied that there are no longer any grounds for it under Article 22, whether as a result of consideration under sub-paragraph (a) or (b) or otherwise.

If, under (c) above or otherwise, the Minister revokes a designation, nothing in Article 23 prevents the Minister from designating the person again under any power in SAFL.

If the final terrorism designation is revoked, the Minister must:

- ✓ Give written notice of the expiry to the designated person; and
- ✓ Take reasonable steps to advise all other persons who were informed of the designation under Article 24 of SAFL (see below under **Publication of Interim or Final Terrorism Designation**).

PUBLICATION OF INTERIM OR FINAL TERRORISM DESIGNATION

19. INTERIM AND FINAL DESIGNATIONS

Where the Minister makes a designation of a person or entity, the Minister must:

- ✓ Give written notice of the designation to the person; and
- ✓ Take steps to publicise the designation on the same day.

The Minister may either publicise a designation generally, or restrict publication only to certain persons as the Minister considers appropriate.

In considering whether to restrict publication, the Minister must consider:

- Whether the designated person is an individual under the age of 18; and
- Whether publication should be restricted:
 - In the interests of the security of Jersey or any other country or territory;
 - For reasons connected with the prevention or detection of serious crime; or
 - In the interests of justice.

If one or more of the above conditions are satisfied, then the Minister may only inform such persons as the Minister considers appropriate. Otherwise, the designation must be publicised generally.

Before taking a decision on whether to restrict the publication of a designation, the MER must take advice from the LOD and the FIU.

The Minister must formally record in writing the decision and the reasons behind either restricting, or not, the publication of a designation.

20. CONDITIONS FOR RESTRICTING PUBLICATION NO LONGER APPLY

If any of the above conditions on restricting the publication of a designation no longer apply, and the designation is still in effect, the Minister must:

- ✓ Inform the designated person in writing of this fact; and
- ✓ Take steps to publicise the designation generally.

21. URGENT DECISIONS ON PUBLICISING AN INTERIM DESIGNATION

If the need to make a decision on publicising an interim designation is urgent, then the Minister may proceed to make a decision without taking advice or consulting with the LOD if it would be impracticable to do so.

The LOD and the FIU should all be advised of the decision at the earliest opportunity.

An urgent decision around publicising a terrorism designation, without consulting with the LOD or FIU, can only be taken with respect to an interim designation, and not a final designation.

22. METHOD OF PUBLICATION

Unless restricted only to appropriate persons, a terrorism designation must be publicised generally in the form of a Financial Sanctions Notice posted on the Jersey Gazette.

23. VARIATION OR REVOCATION OF INTERIM OR FINAL TERRORISM DESIGNATIONS

The Minister may vary or revoke a designation at any time.

It is possible that requests for variation or revocation of a designation may be received by the person subject to an interim or final terrorism designation, or a person acting on their behalf.

In such case you should refer to the procedure [add name of relevant procedure].

Where a terrorism designation is revoked, the unfreezing takes effect immediately, and the relevant notices must be issued on the same day the unfreezing was made.

Where a terrorism designation is varied or revoked, the Minister must:

- ✓ Give written notice of the variation or revocation to the designated person;
- ✓ Take reasonable steps to advise all other persons who were informed of the designation under Article 24 of SAFL (see above under **Publication of Interim or Final Terrorism Designation**); and
- ✓ Formally record decisions and reasons in writing.

PART B. PROCEDURE – REQUEST TO AN OVERSEAS COUNTRY TO TAKE MEASURES EQUIVALENT TO DESIGNATION UNDER PART 4 OF SAFL

1. IDENTIFY THE COMPETENT AUTHORITY

The FSIU must take steps to establish contact with the competent authority for terrorism designations. As a general rule, the most appropriate first point of contact will generally be one of the below:

- ✓ The relevant Financial Intelligence Unit or equivalent (Financial Intelligence Agency, Financial Intelligence Authority, etc);
- ✓ The interior ministry (otherwise called the ministry of interior affairs, or ministry of home affairs) responsible for law enforcement and intelligence services;
- ✓ The foreign ministry (otherwise called ministry of foreign affairs, or ministry of home affairs) if they hold a counter-terrorism mandate; or
- ✓ The relevant competent authority for sanctions.

Contact with the Financial Intelligence Units of other jurisdictions **must** be done via the FIU.

2. PREPARE THE REQUEST

The request should contain as much information as possible on the proposed designated person or entity to allow the authority jurisdiction to:

1. Accurately identify the person or entity subject to the request; and
2. Take an informed view as to whether the person or entity should be subject to local terrorism asset-freezing measures.

In particular, the request must:

- ✓ Provide the full name of the person or entity, along with any known aliases;
- ✓ Provide all known personal details (including date of birth, nationality, current residence, and any other known addresses);
- ✓ Provide the details of any known or suspected link between the person or entity and any other designated person or entity; and
- ✓ Provide a statement of case, detailing the basis for the request and the grounds on which the Minister considers that the person or entity should be subject to asset-freezing measures.

If the measure which is equivalent to designation under Part 4 of SAFL is known, then reference to this measure should be made in the request.

3. STATEMENT OF CASE

The statement of case should provide as much detail as possible to support the reasonable grounds and/or reasonable basis on which the Minister is requesting the country to take measures against the proposed person or entity. It should be supported by as much evidence as the Minister is permitted to share under relevant data protection and confidentiality provisions.

For the avoidance of doubt, the Minister must not disclose any information which:

- Would contravene the [Data Protection \(Jersey\) Law 2018](#); or
- Is prohibited by Part 2 of the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#).

4. CONTACT COMPETENT AUTHORITY

Once the request has been prepared, it should be sent to the relevant contact at the competent authority by secure means.

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