



Financial Action Task Force

Groupe d'action financière

## *FATF Guidance Document*

# International Best Practices Freezing of Terrorist Assets

*3 October 2003  
(revised 23 June 2009)*

**Please note that this document refers to the FATF Recommendations as last updated and published in October 2004, and does not yet take into account the 2012 revision of the FATF Recommendations.**

See [www.fatf-gafi.org/recommendations](http://www.fatf-gafi.org/recommendations) for the 2012 FATF Recommendations, including the conversion table from the old Recommendation to the new FATF Recommendation.

## International Best Practices - Freezing of Terrorist Assets

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## INTRODUCTION

**This document replaces the *International Best Practice – Freezing of terrorist assets*, which was published on 3 October 2003.**

1. FATF Special Recommendation III (SR III) consists of two parts. The first part requires jurisdictions to implement measures that will freeze or, if appropriate, seize terrorist-related funds or other assets without delay in accordance with relevant United Nations resolutions. The second part of SR III requires jurisdictions to have measures in place that permit a jurisdiction to seize or confiscate terrorist funds or other assets on the basis of an order or mechanism issued by a competent authority or a court.
2. SR III is intended, with regard to its first requirement, to assist jurisdictions in implementing the targeted financial sanctions<sup>1</sup> contained in the United Nations Security Council resolutions (UNSCRs) relating to the prevention and suppression of the financing of terrorist acts – UNSCR 1267 and its successor resolutions and UNSCR 1373 and any successor resolutions related to the freezing, or, if appropriate, seizure of terrorist assets.
3. This Paper sets out non-binding guidance based on updates in relevant UNSCRs and in response to challenges faced by jurisdictions in the implementation of the first requirement of SR III regarding the development and implementation of targeted financial sanctions. It supersedes the existing Best Practices Paper of October 2003.
4. This Paper does not address authorities and procedures of a counter-terrorist financing regime to *seize* funds or other assets or to *confiscate / forfeit* funds or other assets, although the process of searching for such funds or other assets may be identical in cases of freezing, seizure and confiscation or forfeiture.
5. Efforts to combat terrorist financing are greatly undermined if jurisdictions do not freeze the funds or other assets of designated persons quickly and effectively. Nevertheless, in determining the limits of or fostering widespread support for an effective counter-terrorist financing regime, jurisdictions must respect human rights, respect the rule of law and recognise the rights of innocent third parties. This Paper seeks to assist jurisdictions in developing and implementing targeted financial sanctions to prevent and suppress terrorist financing in accordance with relevant UNSCRs and in a manner consistent with these fundamental principles, through a robust and transparent targeted financial sanctions regime.

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<sup>1</sup> “Targeted financial sanctions” refers to those measures that jurisdictions undertake to implement the following economic and financial obligations pursuant to S/RES/1267(1999) and successor resolutions and S/RES/1373(2001): (i) freeze assets of persons designated pursuant to UNSCRs 1267 and successor resolutions and those that meet the criteria specified in UNSCR 1373; (ii) report any assets frozen to competent authorities; and (iii) prohibit unlicensed transactions or dealings with such designated parties.

## **Importance of an Effective Freezing Regime**

6. Effective freezing regimes are critical to combating the financing of terrorism and accomplish much more than freezing the terrorist-related funds or other assets present at any particular time. Effective freezing regimes also combat terrorism by:

- a) Deterring non-designated parties who might otherwise be willing to finance terrorist activity.
- b) Exposing terrorist financing “money trails” that may generate leads to previously unknown terrorist cells and financiers.
- c) Dismantling terrorist financing networks by encouraging designated persons to disassociate themselves from terrorist activity and renounce their affiliation with terrorist groups.
- d) Terminating terrorist cash flows by shutting down the pipelines used to move terrorist related funds or other assets.
- e) Forcing terrorists to use more costly and higher risk means of financing their activities, which makes them more susceptible to detection and disruption.
- f) Fostering international co-operation and compliance with obligations under UNSCR 1267 and UNSCR 1373.

## **I. Clear authorities and procedures for identifying and designating persons or entities**

### **A. *Minimum necessary elements***

7. The first paragraph of SRIII provides that “Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.” Such measures may be either judicial or administrative in nature. To meet the requirements of the international obligation under UNSCR 1373, as well as the requirements of SR III, the designation procedure should operate to:

- a) Provide for a decision to designate<sup>2</sup> a person or entity. The competent authority for making designation decisions can be executive or judicial.
- b) Apply a standard of proof in accordance with the Interpretative Note for SR III (INSR III) (that is, “reasonable grounds” or “reasonable basis”).
- c) Be able, where necessary, to operate ex parte the individual or entity whose designation is being considered.
- d) Provide for appropriate safeguards for the rights of designated individuals and entities (see Section II below).

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<sup>2</sup> “Designation” refers to the identification of an individual or entity that is subject to targeted financial sanctions pursuant to international obligations under UNSCR 1267 and successor resolutions and UNSCR 1373, including the legal determination that the relevant sanctions will be applied to the individual or entity and the public communication of that determination.

- e) Apply the asset freeze “without delay” to designated individuals or entities (see Section III below).
- f) Apply the asset freeze without prior notice to the designated individual or entity.
- g) Freeze all funds or other assets that are owned or controlled by the designated individual or entity, and not just those that can be tied to a particular terrorist act, plot or threat.
- h) Prohibit making any funds or other assets available, directly or indirectly, for the benefit of designated individuals or entities, subject to the considerations set out in UNSCR 1452, as amended by Resolution 1735.
- i) Require reporting of any assets frozen to competent authorities identified for this purpose.

8. Jurisdictions should consider submitting without delay to the UN Al-Qaida and Taliban Sanctions Committee requests for designation of those individuals or entities, in relation to which the relevant competent authority in that jurisdiction believes it has sufficient evidence to support the designation criteria provided for in UNSCR 1267 and subsequent relevant resolutions, including UNSCR 1617.

9. The effective implementation of these measures requires institutional arrangements allowing for close co-ordination among financial, intelligence and law enforcement authorities and the incorporation of the measures into the jurisdiction’s broader counter-terrorism policy. Jurisdictions should also have in place procedures to protect all source information, including intelligence and closed-source materials, used in the designation of individuals and entities as being subject to the asset freeze measures.

### ***B Judicial or administrative measures not conditional upon the existence of criminal proceedings***

10. The competent authority for making designation decisions can be administrative or judicial. Administrative procedures, for example, imply a decision by an officer of the executive based on information provided to that officer and published in an official document of record, such as a government gazette. The decision would be subject to the safeguards and review provisions of the jurisdiction’s administrative law. Judicial proceedings, for example, imply a mechanism where the case for designation is put before a judicial authority for evaluation *ex parte* the targeted individual or entity and where the freezing action takes the form of an enforceable order issued by that authority. This order will be of indeterminate duration unless successfully challenged by an affected party.

11. Measures to freeze terrorist assets may *complement* criminal proceedings against a designated individual or entity, but are not *conditional* upon the existence of such proceedings. The measures serve as a preventive or disruptive tool when criminal action is either not possible or not practical. This does not of course prevent freezing procedures as such forming a part of criminal procedures.

### ***C Evidentiary standards: reasonable grounds or basis***

12. For designations under UNSCR 1373, the competent authority of each jurisdiction will apply the legal standards of its own legal system regarding the kind and quantum of evidence for the determination that “reasonable grounds” or “reasonable basis” exist for a decision to designate an individual or entity and thus initiate an action under a freezing mechanism (see INSR III para 8(b)). This is the case irrespective of whether the proposed designation has been put forward on the relevant jurisdiction’s own motion or at the request of another jurisdiction.

13. For the effective implementation of an asset freeze, robust identifying information is essential.
14. At the extreme end of the scale, poor quality identifiers are an obstacle to the enforcement of an asset freeze. Single name identifiers in particular represent problems for enforcement.
15. Best efforts should therefore be made to ensure as much identifying information as possible is provided upon designation, and that such information be updated as more identifying data become available. Where operational imperatives allow, jurisdictions may consider postponing a designation in situations where there is insufficient identifying information, until further information is available.

**D Authorities to identify, designate and sanction**

16. To implement the asset freeze obligations under UNSCRs 1267 and 1373 and the requirements of SR III, there will be a need to engage a range of ministries (for example Foreign Affairs, Justice, Treasury, Finance, Central Bank, Interior or Public Safety) and agencies (for example security, intelligence, law enforcement, Financial Intelligence Unit).

17. Jurisdictions should have appropriate structures and procedures to ensure the effective implementation of the asset freeze mechanism. In this context, jurisdictions should, for example:

- a) Identify government agencies with the primary responsibilities for:
  - (i) Co-ordinating and, where necessary, promoting national implementation of the asset freeze obligations under UNSCR 1373 and UNSCR 1267, and the requirements of SR III.
  - (ii) Ensuring that a process, comprising key government stakeholders is in place for appropriate co-ordination (both within a jurisdiction and with other jurisdictions) and to provide strategic policy oversight and direction to promote the implementation process and overcome barriers to implementation<sup>3</sup>.
- b) Clearly identify which authorities have responsibility for each aspect of the designation procedure (and in the case of UNSCR 1267, submission of listing proposals to the Al-Qaida and Taliban Sanctions Committee where appropriate) and for the subsequent imposition, enforcement and monitoring of the asset freeze, to prevent duplication of roles or regulation amongst agencies.
- c) Ensure Ministries and agencies involved share a common understanding of their mandates, roles and responsibilities in complying with the obligations of UNSCR 1373 and UNSCR 1267, and the requirements of SR III and undertake regular exchange of information in accordance with domestic law.
- d) Establish clear lines of communication among these Ministries and agencies (taking into due consideration the procedural requirements of the investigation process) to enable a more holistic view to be taken of the range of counter terrorist tools at the disposal of the jurisdiction, and the appropriateness of their use in any given situation. For example:

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<sup>3</sup> Such a process could be achieved through existing co-ordination processes for related activities (such as broader AML/CFT co-ordination committees) or through a dedicated interagency process.

- (i) Among law enforcement intelligence, finance and home Ministries and agencies to ensure that there is access to all the necessary information to identify targets for designation.
- (ii) Among government Ministries and agencies in situations where an individual subject to related criminal proceedings is designated (for example, on or shortly after arrest for terrorist offences, or for a period following successful prosecution for terrorist offences and pending potential forfeiture actions, or maintained during or after a term of imprisonment).

### ***E Identifying targets for designation***

18. In order to comply with and fulfil the preventive intent of UNSCR 1267 and successor resolutions and S/RES/1373(2001), jurisdictions should be able to identify persons and entities that meet specific criteria for designation. Jurisdictions should have appropriate legal authorities and procedures, and a competent authority or authorities in place, to solicit and consider information from all relevant sources to identify, and to collect as much identifier information<sup>4</sup> as possible about, persons and entities that, based on reasonable grounds, or a reasonable basis to suspect or believe,<sup>5</sup> meet the criteria for designation in the relevant resolution.

19. The targeting process for designation should focus on those individuals and entities that represent key elements of terrorist support networks in order to obtain maximum impact in preventing and suppressing acts of terrorism.

### ***F Meaning of “without delay” in the context of designations***

20. In relation to Paragraph 1 of SR III, the obligation referred to is to freeze without delay funds or other assets of designated individuals and entities. The INSR III defines “without delay”, in relation to UNSCR 1373, to mean that assets should be frozen upon having “reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organization”.

21. “Without delay” must therefore be understood to apply also to the time taken to designate an individual or entity pursuant to UNSCR 1373.

22. INSR III goes on to interpret the need for international co-operation to prevent the flight or dissipation of terrorist-linked funds or other assets and to interdict and disrupt their flow swiftly.

23. To enhance co-operation amongst jurisdictions and expedite the processing of foreign designation requests, competent authorities in all jurisdictions are encouraged to share amongst themselves information on how the legal standard for designation is applied within their jurisdiction, with examples of the type and amount of information it will need to initiate action based upon a foreign designation request. This will enable the requesting jurisdiction to tailor its request to meet the standards of the requested jurisdiction.

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<sup>4</sup> Relevant identifier information may include, but is not limited to: alternate names and spelling, date of birth, place of birth, address, nationality, and identification or passport numbers.

<sup>5</sup> The reasonableness evidentiary standard for designation pursuant to SR III is important in meeting the preventive intent of targeted financial sanctions.

## **G**      *Use of intelligence and closed source material*

24.      Given the critical role intelligence plays in countering terrorist threats, key information supporting the designation of an individual or entity under terrorist asset freezing measures may often be intelligence sourced.

25.      On the basis of their respective legal systems, jurisdictions should consider strengthening legal authorities and mechanisms to permit the use and sharing of intelligence material in building each case for designation, taking into account the necessity to implement or maintain the designation, or to provide sufficient evidence before a court in case such a designation should be challenged.

26.      In relation to foreign designation requests, these mechanisms should be designed to enable a requesting country to provide the requested jurisdiction with as much information as possible to assist the requested jurisdiction in satisfying its own evidentiary standards for designation.

27.      Subject to domestic law enforcement and security sensitive considerations, jurisdictions should also consider putting in place measures to strengthen the use of intelligence material in court where necessary to defend designation decisions and to adequately protect sensitive information.

28.      These mechanisms should respect the rights of a designated individual or entity according to domestic and international law.

## **II.      Due Process: review, de-listing and unfreezing**

### **A**      *Notice of designation*

29.      All reasonable efforts should be made, by the designating state and (where appropriate or practicable) the state of residence, as soon as possible after the designation has taken effect, to inform designated individuals and entities directly of:

- a)      The designation and its implications, in order to prevent any unintentional breaches on the part of themselves or related third parties.
- b)      The review procedure and information on the de-listing process.
- c)      Publicly-releasable information concerning the reasons for designation.
- d)      Procedures to allow licensed access to funds (building on the model provided for in relation to designations under UNSCR 1267, as urged by the Security Council in UNSCR 1452) for basic expenses as soon as possible.

30.      Similarly, efforts should be made to inform individuals and entities designated by the UN Al-Qaida and Taliban Sanctions Committee under UNSCR 1267 of the existence of a focal point in the United Nations Secretariat to facilitate applications for de-listing under UNSCR 1267.



**B**      ***Review of designation, delisting and unfreezing***

1.      *Availability of, and timely procedure for, review of both national and supranational designations*

31.      Jurisdictions should have appropriate legal authorities and procedures to consider de-listing and unfreezing requests, where applicable, under UNSCR 1373 based upon satisfaction of certain criteria consistent with international obligations and applicable legal principles.

32.      To ensure procedural fairness, jurisdictions should make provision for any individual or entity to apply for a review of the designation from the designating authority, with the ability to seek further review of an adverse finding by the designating authority, to a review body, consistent with the jurisdiction's general principles of law.

33.      The designating authority and the relevant designated individual or entity should be entitled to make submissions to the review body. In accordance with the fundamental principles of the jurisdiction's legal system, hearings may be in public or private at the discretion of the review body, after hearing any submissions on this matter which the parties may wish to present.

34.      Final decisions of the review body should be public, but the review body should have the ability to exclude from its publicised findings, at its own motion or at the motion of the designating authority or applicant for review, any aspects of the decision which might raise significant privacy or security concerns. Such exclusions should take into account the rights of a designated individual or entity under domestic law and domestic laws and policies relating to transparency in decision making.

35.      Publication of the review body decisions would allow a body of jurisprudence to be developed which would, in turn, help promote better primary decision making with a view to reducing the need for review of those decisions. Publication could also be a means of drawing the private sector's attention to changes or updates to the list of designated individuals and entities consequent upon review decisions.

36.      A designated individual or entity should also be able to apply again for review on a periodic basis if their initial applications are unsuccessful.

37.      Jurisdictions should consider implementing procedures for the periodic review of designations based upon new information that has come to light regarding a designation or an application for review by a state affected by the designation.

2.      *Timely procedure for facilitating review of UNSC designations under UNSCR 1267 and successor resolutions*

38.      For persons and entities designated under UNSCR 1267, jurisdictions should have appropriate procedures to facilitate review in accordance with any applicable guidelines or procedures adopted by the Al-Qaida and Taliban Sanctions Committee, including those of the Focal Point mechanism established under UNSCR 1730.

3.      *Delisting and unfreezing under UNSCR 1373 and UNSCR 1267 and successor resolutions*

39.      For persons and entities designated under UNSCR 1373, jurisdictions should have appropriate legal authorities and procedures to delist, unfreeze the assets of, and remove the terms of sanctions against those parties that have for example credibly disassociated with the conditions and circumstances leading to their designation and / or no longer meet the criteria for designation.

40. For those persons and entities designated under UNSCR 1267 and successor resolutions, jurisdictions should have appropriate legal authorities and procedures to unfreeze the assets of and remove the terms of sanctions against those parties that have been delisted by the UN Al-Qaida and Taliban Sanctions Committee.

41. For persons or entities with the same or similar name as designated persons, who are inadvertently affected by a freezing mechanism, jurisdictions should develop and implement publicly known procedures to remedy the situation of such persons or entities in a timely manner upon verification that the person or entity involved is not a designated person.

### **III. Post-designation issues: Freezing and prohibiting dealing in funds or other assets of designated persons and entities**

#### ***A Scope of funds or other assets that are subject to freezing action***

42. The obligation expressed in UNSCR 1373 and UNSCR 1267, and the requirements of SR III to freeze funds or other assets is defined in the INSR III to cover financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets.

43. The scope of funds and other assets referred to is defined by the individuals and entities which own or control them, not by any particular connection between the funds and other assets and terrorism or a particular terrorist act. An asset freezing mechanism should apply to the range of funds and other assets described in paragraph 7(d) of the INSR III .

44. Jurisdictions should ensure that, if their asset freezing mechanism is set up in a way that links the ability to freeze to a definition of terrorism or terrorist financing in domestic criminal legislation, such definitions are broad enough to cover a freeze of all of the assets of any person or entity designated under UNSCR 1267 and UNSCR 1373.

45. Jurisdictions should take appropriate action to ensure that government authorities maintaining registries of title to specific types of property, or responsible for the disbursement of funds or other assets, are aware of the asset freezing action and take appropriate measures to implement the obligation according to the law of the jurisdictions.

#### ***B Freezing assets “without delay” on designation***

46. Once a decision is taken by the competent authority to designate an individual or entity, the application of the asset freezing mechanism to the designated individual, entity or asset should be simultaneous with the publication of the competent authority’s decision. This should be the case irrespective of whether the designation was made by a jurisdiction on its own motion or upon acceptance of a designation request from another jurisdiction.

47. In accordance with INSR III, the phrase “without delay”, for the purposes of UNSCR 1267, means, ideally, within a matter of hours of a designation by the Al-Qaida and Taliban Sanctions Committee.

## **C**      ***Communication strategy***

48. Whilst the private sector is legally required by relevant implementing legislation to comply with asset freeze obligations, jurisdictions need to be aware of the impact compliance with these laws has on their business activities, and seek to minimise the costs of compliance as far as possible.

49. Requirements should be clearly articulated to the private sector. This should include not just financial institutions, but also Designated Non Financial Businesses and Professions (DNFBPs) and high risk sectors that may not have had as much exposure to asset freeze measures, such as non-profit organizations (NPOs).

50. Effective implementation of the asset freeze obligation requires an efficient and effective communication strategy.

### ***1. Targeting the Strategy***

51. The asset freeze obligations in UNSCR 1373 and UNSCR 1267 apply, through relevant implementing legislation, to all natural and legal persons in the jurisdiction. The communication strategy should therefore incorporate efficient and effective methods for informing the private sector and general public of their obligations under the asset freezing mechanism.

52. The communication strategy should provide clear guidance to entities likely to hold targeted funds or other assets, which include, but go beyond, financial institutions.

53. In particular, the strategy should incorporate efficient and effective methods for informing high-risk sectors and DNFBPs of their obligations under the asset freezing mechanism.

54. Finally, the strategy may include senior level engagement with appropriate bodies representing business, industry and high risk sectors, as well as more informal engagement with individual institutions and sectors.

### ***2. Content of the Message***

55. The communication strategy should ensure the timely and broad public dissemination of:

- a) The existence of the asset freezing restrictions and the obligations they impose on the private sector within the jurisdiction (to identify, freeze / block, and report relevant funds or other assets, to subsequently prohibit unlicensed dealings with designated parties and to continue to check for transactions relating to the designated person or entity and the actions to be taken if funds or other assets or suspect transactions are discovered).
- b) The importance of complying with the asset freezing obligations (emphasising both the potential criminal and civil liabilities for non-compliance, as well as the reputational risks for financial institutions of being seen to be in breach).
- c) Information identifying all individuals and entities subject to the asset freezing mechanism (all current designation information under UNSCR 1373 as well as UNSCR 1267), through publication of a comprehensive list of all such individuals and entities.

- d) Actions taken under asset freezing mechanisms. The legal notice of a designation decision (both new designations and revocations) should be considered the first stage of this communication strategy.
- e) Clear points of contact within the government to which the private sector can direct any enquiries, including a mechanism for the private sector to request, after conducting appropriate due diligence, guidance on possible matches to designated entities and individuals.

3. *Means for conveying the message*

56. Jurisdictions should consider maintaining a Government internet site including up-to-date and comprehensive information on:

- a) The designation procedure and asset freezing mechanism.
- b) Texts of relevant laws.
- c) Comprehensive list of all individuals and entities currently subject to the asset freezing mechanism.
- d) The contact point for public inquiries.

57. Jurisdictions should consider an electronic subscription service for persons and organizations with a particular need to be kept informed of decisions to designate or revoke a designation, such as the financial sector and high risk industries.

**D** *Post-freezing reporting and investigation*

1. *Quality and utility of data*

58. Given the breadth of transactions covered by an asset freeze and the substantial number of entities subject to an asset freeze, the work involved for the private sector in ensuring they are compliant with an asset freeze is substantial. The more difficult it is to identify a person or entity from a sanctions list, the greater the burden on the private sector in ensuring compliance. This not only creates inefficiencies and lengthens the time it may take to detect breaches, but it will also reduce the goodwill of the private sector in implementing the measures. Just as poor quality identifiers increases the compliance burden on businesses, we should recognise that there will be a similar effect on law enforcement.

59. Jurisdictions should therefore regularly review and update lists of persons and entities subject to asset freeze measures, to provide the most current and accurate identifiers on listed persons. Jurisdictions with additional identifying data for persons or entities listed under UNSCR 1267 should make that data available to the 1267 Committee for possible amendment of the Consolidated List.

2. *Reporting matches and deconflicting false positives*

60. Where jurisdictions' asset freezing mechanisms require the reporting of possible matches, those making such reports should be encouraged to take reasonable measures to validate the accuracy of any matches to lists before reporting them to the relevant authority. In circumstances where the reporting entity does not meet the legal threshold to freeze the assets (and report to competent authorities),

jurisdictions should require the reporting entity to submit a suspicious transaction report to the financial intelligence unit.

61. Jurisdictions should assist the private sector in identifying false positives through publication of guidance on how to determine whether a potential match is an actual match and providing a clear point of contact to assist with deconflicting false positives. False positives are potential matches to listed persons, either due to the common nature of the name or due to ambiguous identifying data, which on examination prove not to be matches.

3. *Ensuring adequate compliance, controls, and reporting in the private sector*

62. Jurisdictions should work with the private sector in developing the following practices to: (a) facilitate co-operation and compliance by the private sector in identifying and freezing funds or other assets of designated persons, and (b) prevent designated persons from conducting financial or other transactions within their territories or through their financial institutions:

- a) Co-operate with the private sector generally and financial institutions in particular, especially those that are independently implementing programs to prevent potential terrorist financing activity or those that have come forward with potentially incriminating information, in investigating possible financial activity by a designated person;
- b) Ensure that financial institutions develop and maintain adequate internal controls (including due diligence procedures and training programs as appropriate) to identify the existing accounts, transactions, funds or other assets of designated persons;
- c) Ensure that financial institutions immediately freeze any identified funds or other assets held or controlled by designated persons;
- d) Ensure that financial institutions have the appropriate procedures and resources to meet their obligations under SR III;
- e) Ensure that financial institutions implement reasonable procedures to prevent designated persons from conducting transactions with, in or through them;
- f) Develop an effective monitoring system by a competent authority or a court with sufficient supervisory experience, authority and resources with a mandate to support the objectives set out in Paragraphs 62 (b), (c) and (d) above;
- g) Encourage, to the extent commercially reasonable, financial institutions to search or examine past financial activity by designated persons;
- h) Identify, assess compliance with, and improve as necessary client or customer identification rules used by financial institutions;
- i) Identify, assess compliance with, and improve as necessary record keeping requirements of financial institutions;
- j) Adopt reasonable measures to consider beneficial owners, signatories and power of attorney with respect to accounts or transactions held by financial institutions when searching for activity by designated persons, including any ongoing business relationships; and

- k) Harmonise counter-terrorist financing internal controls within each economic sector, as appropriate, with anti-money laundering programs.

63. For each DNFBP, there should be mechanisms for monitoring and ensuring compliance with asset freezing mechanisms, for instance through assignment of responsibility to relevant competent authorities or to senior responsible owners.

#### **IV. Designated individuals and entities: compliance and access to frozen assets**

##### ***A Resident designated individuals and entities***

64. In order to comply with human rights requirements whilst still ensuring that the asset freeze is maintained, strong relationships and robust cross government processes should be built and maintained. There should be:

- a) Communication among competent authorities (including, where relevant, prosecution services or other appropriate judicial authorities) and other relevant authorities (such as the police service or intelligence agencies) to ensure comprehensive monitoring of compliance with the terms of the asset freeze.
- b) Co-ordination between competent authorities and social welfare departments supporting a resident designated individual and his / her family.

##### ***B Clear domestic authorities and procedures to license the use of or dealing with frozen assets or the making of assets available to designated individuals or entities***

65. The asset freezing obligations under UNSCR 1267 provide for exemptions to be made to the asset freeze where necessary under specific circumstances. In UNSCR 1452, as amended by Resolution 1735, the Security Council urged Member States to take full account of these considerations also in their implementation of UNSCR 1373.

66. Where assets have been frozen under the resolutions, a clear process should be in place to ensure that, where necessary, exemptions can be authorised or licensed in a prompt manner. Effective decision making procedures at the domestic level should be supported by effective procedures for obtaining agreement from the relevant UNSC committee where required.

67. An authorisation regime needs to balance, for example:

- a) Realising the purpose for which the authorisation is granted (whether for basic expenses, extraordinary expenses, contractual payments or other authorisable grounds).
- b) Mitigating against the risks of authorised payments going to purposes other than those for which they were granted, including terrorist purposes.
- c) Minimising the burden on the financial sector.
- d) The operation of domestic law.

68. This process needs to be carefully managed to ensure that its application is consistent, transparent, reasonable and proportionate, with a clear audit trail as to why an authorisation was made, and if any conditions are attached to the exemption, how they were decided upon.

69. Jurisdictions should implement appropriate controls on the granting of authorisations to ensure that they are complied with, meet the terms of the specific exemption grounds under which they were granted, and do not result in diversion of funds for other, including terrorist, purposes.