



December 22, 2023

## **GUIDANCE TO LISTED ENTITIES SUBJECT TO TARGETED FINANCIAL SANCTIONS AND AFFECTED PERSONS ON APPLICATIONS FOR REVIEW OF FREEZING ORDERS FOR FINANCIAL CONSIDERATIONS AND ARRANGEMENTS**

### **1. Introduction**

This guidance document is intended to assist listed entities in understanding the implications of targeted financial sanctions (TFS) in reviewing court orders for the manner in which financial considerations and arrangements can be made. The document provides an overview of the relevant sections of the applicable laws within which the High Court of Trinidad and Tobago can make certain prohibitory orders, and the mechanisms through which persons, who are subject to as well as affected by freezing orders, can seek recourse from the High Court in respect to frozen property.

### **2. What is a listed entity?**

As a Member of the United Nations, Trinidad and Tobago is bound by the decisions of the United Nations Security Council (“UNSC”). These decisions are set out in United Nations Security Council Resolutions (UNSCRs) and include measures such as targeted financial sanctions to protect global peace and security. Targeted Financial Sanctions (TFS)<sup>1</sup> are measures imposed by the UNSC or relevant authorities to freeze assets and prevent the funds from being made available, directly or indirectly, to or for the benefit of designated persons and entities that are involved in terrorism, terrorism financing, or other threats to international peace and security. Several UNSCRs are aimed at protecting against the threats of terrorism, terrorism financing, proliferation financing and the proliferation of weapons of mass destruction that require countries to take specified measures against individuals and entities either:

- i. Identified by the United Nations Security Council or a specified subsidiary body; or
- ii. Identified by the country based on criteria determined by the United Nations Security Council. Such individuals and entities are referred to as “listed entities.”

### **3. What are the laws that set out listed entities?**

The specified measures as aforementioned must be taken in accordance with the laws of

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<sup>1</sup> Footnote 2 of the Financial Action Task Force (FATF) International Best Practices on TFS related to Terrorism and Terrorism Financing, June 2013 [INTERNATIONAL BEST PRACTICES \(fatf-gafi.org\)](https://www.fatf-gafi.org/publications/internationalbestpractices/)

the country. There are two (2) regimes under which entities can be listed in Trinidad and Tobago which are as follows:

(1) **the Anti-Terrorism Act, Chap. 12:07 (“the ATA”)**; and

(2) **via economic sanctions orders (“ESOs”) made under the Economic Sanctions Act, Chap. 81:05 (“ESA”)** which is the legal basis upon which Trinidad and Tobago can implement resolutions made by an international organisation of States, of which Trinidad and Tobago is a member, and which calls on its members to take economic measures against a foreign State. The following ESOs have been effected pursuant to Section 4 of the ESA:

- The Economic Sanctions (Implementation of United Nations Resolutions on the Democratic People’s Republic of Korea) Order, 2018<sup>2</sup> (“the DPRK ESO”);
- The Economic Sanctions (Implementation of United Nations Resolutions on the Islamic Republic of Iran) Order, 2023<sup>3</sup> (“the Iran ESO”); and
- The Economic Sanctions (Implementation of United Nations Security Council Resolution 2653 (2022) on the Republic of Haiti) Order 2023<sup>4</sup> (“the Haiti ESO”).

Specific guidance on each of the regimes established by the Anti-Terrorism Act, Chap. 12:07 and the ESOs made pursuant to the ESA can be found via the following links:

- [Guidance-to-Public-on-ATA.pdf \(agla.gov.tt\)](#)
- [Guidance-to-Public-on-PF---Final.pdf \(agla.gov.tt\)](#)

## 1. **ATA**

The ATA defines a “*listed entity*” as an entity declared to be a listed entity in accordance with Section 22B of the ATA. Pursuant to an application made via Section 22B(1A) of the ATA the High Court of Trinidad and Tobago, by way of an order made via Section 22B(3) of the ATA can declare an individual, a designated or legal entity to be a listed entity and freeze the property that is owned or controlled by the listed entity. This freezing order also extends to property that is wholly or jointly owned or controlled directly or indirectly by the listed entity or derived or generated from funds or other assets owned or controlled directly or indirectly by the listed entity.

Being designated as a listed entity has the legal effect of requiring that the property of the listed entity be immediately frozen. Consequently, this has the immediate effect of preventing access of affected persons to such property and prohibiting members of the

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<sup>2</sup> Legal Notice No. 184 of 2018

<sup>3</sup> Legal Notice No. 83 of 2023

<sup>4</sup> Legal Notice No. 168 of 2023

public from certain dealings and/or transactions with listed entities and their property. The ATA allows the High Court of Trinidad and Tobago to vary orders effected as necessary to allow for certain financial considerations and arrangements to be made in respect of a listed entity, that is not a designated entity<sup>5</sup>. In respect of a designated entity, it is important to note that permitting financial arrangements by way of variation of an order herein requires the prior consent or non-objection of the United Nations Security Council or respective Sanctions Committee.

The aforesaid considerations and arrangements include but are not limited to basic expenses inclusive of reasonable living expenses of the listed entity/individual and those of his dependents and fees or service charges for routine holding or maintenance of frozen funds or other property. The High Court may also include exceptions for payments that need to be made under certain contracts entered before the Order was issued. Further details on what financial considerations and arrangements can be made by the High Court are outlined in Section 22BA in the ATA.

## **2. ESOs made pursuant to the ESA**

Within the respective ESOs there are definitions of a listed entity that refer to the relevant sanctions lists. Pursuant to an application made via Section 3 of the respective ESOs the High Court of Trinidad and Tobago, by way of an order made via Section 4 of the ESOs can declare an individual, a designated or legal entity to be a listed entity and freeze the property that is owned or controlled by the listed entity. This freezing order also extends to property that is wholly or jointly owned or controlled directly or indirectly by the listed entity or derived or generated from funds or other assets owned or controlled directly or indirectly by the listed entity.

Being designated as a listed entity has the legal effect of requiring that the property of the listed entity be immediately frozen. Consequently, this has the immediate effect of preventing access of affected persons to such property and prohibiting members of the public from certain dealings and/or transactions with listed entities and their property. The respective ESOs allow the High Court of Trinidad and Tobago to vary orders effected as necessary to allow for certain financial considerations and arrangements to be made in respect of a listed entity, that is not a designated entity<sup>6</sup>. In respect of a designated entity, it is important to note that permitting financial arrangements by way of variation of an order herein requires the prior consent or non-objection of the United Nations Security Council or respective Sanctions Committee.

The aforesaid considerations and arrangements include but are not limited to basic expenses inclusive of reasonable living expenses of the listed entity/individual and those of his dependents and fees or service charges for routine holding or maintenance of frozen funds or other property. The High Court may also include exceptions for payments that need to be made under certain contracts entered before the Order was issued. Further details on what financial considerations and arrangements can be made by the High Court are outlined in Section 5 of the respective ESOs.

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<sup>5</sup> Designated entity means an individual or entity and their associates designated as terrorist entities by the Security Council of the United Nations, the 12267, 1989 and 2253 Committee or the 1988 Committee

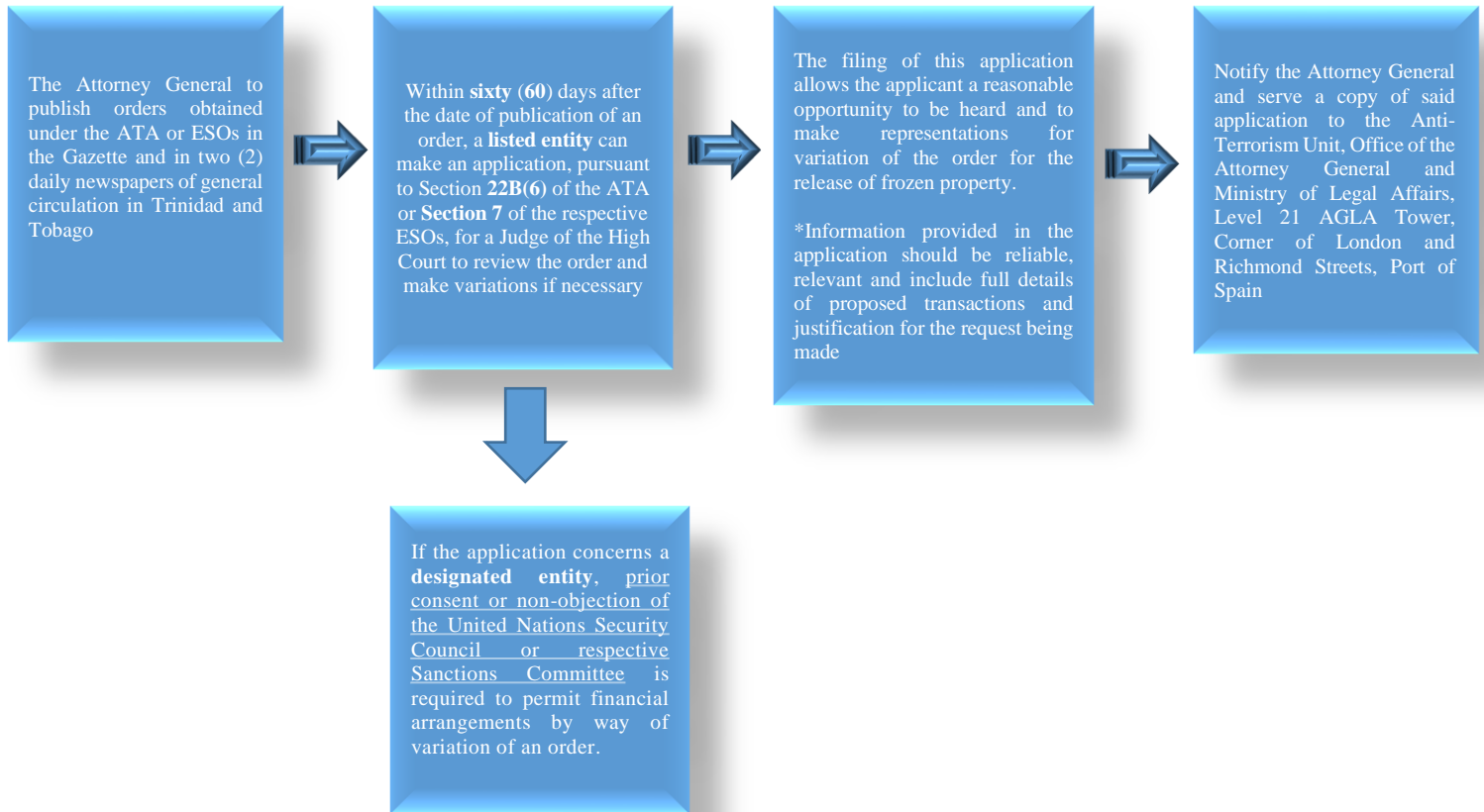
#### 4. Where can I find information on listed entities?

The ATA and the respective ESOs require the Financial Intelligence Unit of Trinidad and Tobago (FIUTT) and the Office of the Attorney General and Ministry of Legal Affairs (AGLA) to maintain and publish the respective lists of listed entities (“sanctions list”) containing as much identifier information as is available. These respective lists as last updated can be found via the following links:

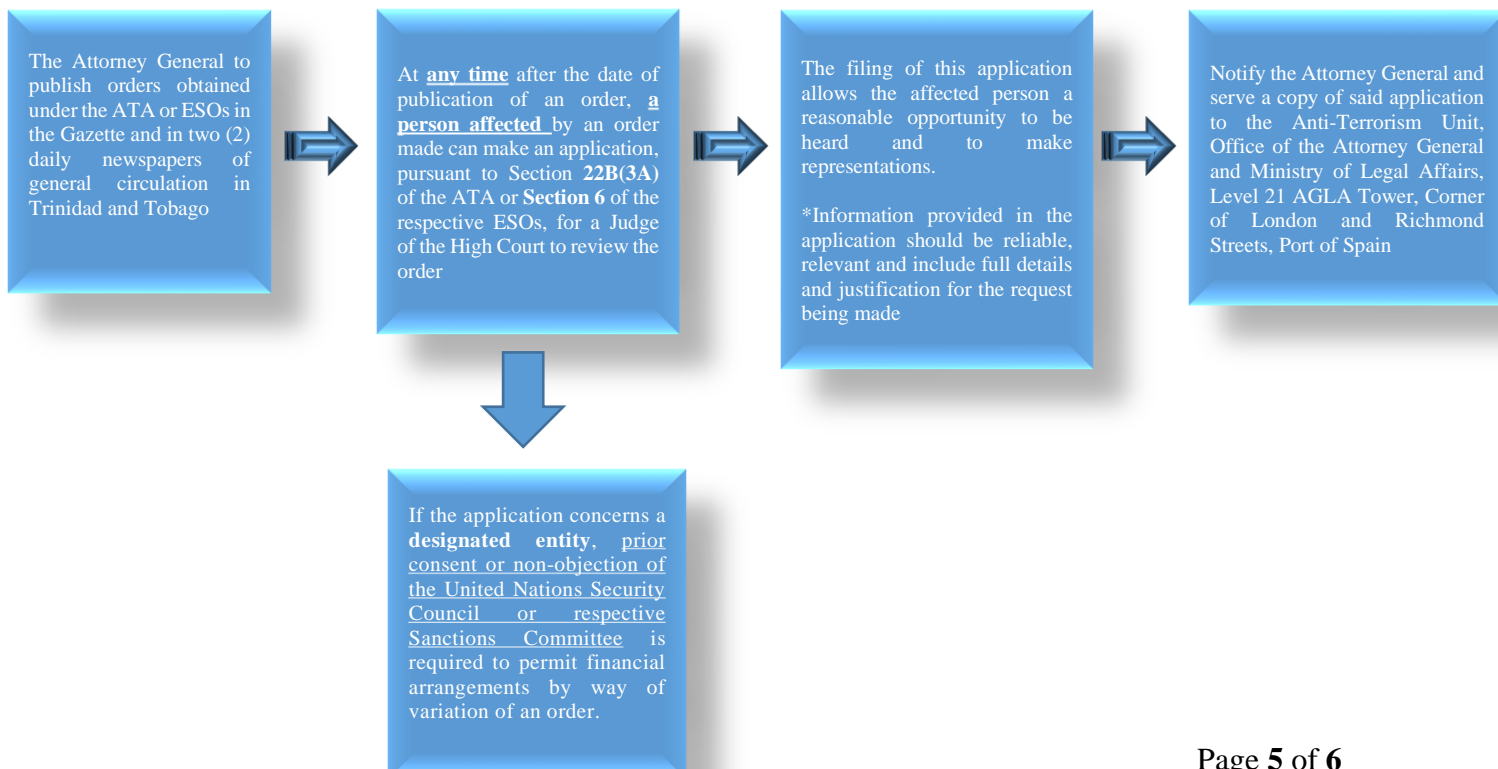
- <https://agla.gov.tt/wp-content/uploads/simple-file-list/ATU/Anti-Terrorism-Listings-and-De-listings-of-Entities-and-Individuals/Table-of-listings-and-delistings-June-7-2023.pdf>
- <https://fiu.gov.tt/about-us/publications/notices-and-high-court-orders-for-freezing-terrorist-funds/trinidad-and-tobago-consolidated-list-of-court-orders/>
- <https://agla.gov.tt/wp-content/uploads/simple-file-list/ATU/Proliferation-Financing-of-Weapons-of-Mass-Destruction/DPRK-LIST-REVISED-August-16-2023.pdf>
- <https://agla.gov.tt/wp-content/uploads/simple-file-list/ATU/Proliferation-Financing-of-Weapons-of-Mass-Destruction/TT-IRAN-Listed-Entities-March-13-2019.pdf>
- <https://agla.gov.tt/wp-content/uploads/simple-file-list/ATU/Anti-Terrorism-Listings-and-De-listings-of-Entities-and-Individuals/Haiti-Orders/Consolidated-Haiti-List-October-23-2023.pdf>

## 5. Applying for Review of an Order

### Route for a Listed Entity:



### Route for an Affected Person:



It is critical to note that unless the High Court of Trinidad and Tobago makes arrangements within the initial prohibitory order or thereafter varies an order accordingly, all property of a listed entity remains frozen and any dealings with same are not permitted. It is also important to note that any permissions or variations for listed entities who are also on one of the United Nations Sanctions Lists namely the:

- i) 1718(2006) List;
- ii) 1988(2011) List;
- iii) 2231(2015) List; or
- iv) Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List,

require the prior consent or non-objection of the United Nations Security Council or respective Sanctions Committee. The High Court will therefore ensure this is obtained before any order is granted.

## **6. Where can I get more information?**

For further information, please contact the Anti-Terrorism Unit, Office of the Attorney General and Ministry of Legal Affairs via the following contact information:

The Anti-Terrorism Unit,  
Office of the Attorney General and Ministry of Legal Affairs,  
Level 21 AGLA Tower,  
Cor. London & Richmond Streets, Port of Spain  
Tel: (868) 223-AGLA (2452)  
Fax: (868) 226-5145  
E-mail: [antiterrorismunit@ag.gov.tt](mailto:antiterrorismunit@ag.gov.tt)

**NOTICE:** This document has been prepared for information purposes only and does not relieve you of any obligation under the laws of Trinidad and Tobago. Members of the public should familiarize themselves with the Anti-Terrorism Act, the Economic Sanctions Act, the Iran ESO, the DPRK ESO and the Haiti ESO and all other relevant laws. This document is not intended as and does not constitute legal advice. Each case is unique and members of the public should seek the advice of a qualified attorney-at-law with respect to their particular case.