



HONG KONG MONETARY AUTHORITY  
香港金融管理局

Our Ref: B10/1C  
B1/15C

31 January 2018

The Chief Executive  
All Authorized Institutions

Dear Sir/Madam,

**Anti-Money Laundering/Counter-Terrorist Financing: United Nations Sanctions**

I am writing in relation to Chapter 6 of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing and further to our letter of 17 August 2017 on *Combating Financing of Weapons of Mass Destruction Activities*. This letter further elaborates the expectations of the Hong Kong Monetary Authority (HKMA) on actions that should be taken by authorized institutions (AIs) regarding sanctions imposed by the United Nations Security Council (UNSC) and articulates enhanced ways in which the HKMA will communicate with AIs on this subject.

***Expected regulatory standards***

The UNSC from time to time imposes sanctions on countries, entities and individuals deemed to be engaged in activities including terrorism, proliferation of weapons of mass destruction (WMD) and corruption. UNSC sanctions resolutions may also target activities, such as trade in certain commodities, which are deemed to support such activities or governments and regimes engaging in them. The UNSC also issues lists of individuals, entities, vessels, etc. that are subject to sanctions.

United Nations sanctions are generally implemented in Hong Kong via regulations under the United Nations Sanctions Ordinance (UNSO) (Cap.537), except for UNSC Resolution 1373 relating to terrorism which is covered by the United Nations (Anti-Terrorism Measures) Ordinance (UNATMO) (Cap.575). A designation by a Committee of the UNSC of a person as a terrorist or terrorist

associate or of property as terrorist property is effected through specification by the Chief Executive under UNATMO. Sanctions lists are published and updated via notices in the Government Gazette pursuant to the relevant legislation. The HKMA publishes links to these notices on its website and requires AIs to screen all new designations against their client lists as soon as practicable whenever there are such updates.

In practice, there is likely to be a time gap between issuance of new or revised sanctions resolutions and/or sanctions lists, and their implementation in Hong Kong. We would remind AIs that whether or not UNSC sanctions resolutions or sanctions lists have been implemented through Hong Kong legislation, there are offences under existing money laundering and terrorist financing laws that are relevant. For example:

- (a) it is an offence under section 4 of the Weapons of Mass Destruction (Control of Provision of Services) Ordinance (Cap.526) (WMDO) for a person to provide any services where he believes or suspects, on reasonable grounds, that those services will or may assist the development, production, acquisition or stockpiling of weapons of mass destruction in Hong Kong or elsewhere;
- (b) it is an offence under section 25 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap.405) (DTROP) and the Organized and Serious Crimes Ordinance (Cap.455) (OSCO) for a person to deal with any property knowing or having reasonable grounds to believe it to represent any person's proceeds of drug trafficking or of an indictable offence<sup>1</sup> respectively;
- (c) section 25A of the DTROP and the OSCO as well as sections 12 and 14 of the UNATMO make it an offence if a person fails to disclose, as soon as it is reasonable for him to do so, his knowledge or suspicion of any property that directly or indirectly, represents a person's proceeds of, was used in connection with, or is intended to be used in connection with, drug trafficking, an indictable offence<sup>1</sup> or is terrorist property respectively;
- (d) section 15 of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap.615) (AMLO) specifies that an AI must, in any situation that by its nature may present a

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<sup>1</sup> Section 25(4) of OSCO stipulates that an indictable offence includes conduct outside Hong Kong which would constitute an indictable offence if it had occurred in Hong Kong. So, for example, where it is shown that the relevant property came from some identifiable acts committed overseas, it will be caught by section 25(1) if such conduct constituted an indictable offence in Hong Kong, irrespective of the legal position in the jurisdiction where such conduct took place.

high risk of money laundering or terrorist financing, take additional measures to mitigate the risk of money laundering or terrorist financing. Section 5(5) and (6) of the AMLO makes it a criminal offence if an AI knowingly, or with the intent to defraud the HKMA, contravenes the above provision.

Inclusion of a country, individual, entity or activity in a UNSC sanctions resolution or sanctions list may constitute grounds for knowledge or suspicion for the purposes of relevant money laundering and terrorist financing laws, thereby triggering statutory (including reporting) obligations as well as offence provisions

AIs should therefore ensure that countries, individuals, entities and activities included in UNSC sanctions resolutions and sanctions lists are included in their sanctions screening databases as soon as practicable after they are promulgated by the UNSC and regardless of whether the relevant sanctions have been implemented in Hong Kong via UNSO or otherwise. Screening should include transactions, including trade transactions:

- (a) taking place in or linked to countries included in the sanctions resolutions (high-risk jurisdictions);
- (b) involving individuals or entities named in UNSC sanctions resolutions or sanctions lists, whether as customers or related parties; or
- (c) involving activities named in UNSC sanctions resolutions or sanctions lists.

In addition, AIs should ensure that they fulfil their obligations with regard to customer due diligence (including enhanced due diligence), transaction monitoring and record keeping under Schedule 2 to the AMLO, and suspicious transaction reporting under OSCO, UNATMO or DTROP. AIs should also be alert to the risk of inadvertently committing offences including those of providing services under section 4(1) of the WMDO and dealing in proceeds of an indictable offence or drug trafficking under section 25(1) of OSCO or section 25(1) of DTROP respectively.

### ***Early alerts***

While at present AIs generally meet legal and regulatory expectations through the use of commercially available screening databases which update sanctions promptly, to help enhance the effectiveness of AIs' screening and other actions with regard to UNSC sanctions, the HKMA will, with effect from the date of this letter, also issue alerts to AIs whenever new or revised sanctions resolutions or sanctions lists relating to terrorism, terrorist financing or WMD proliferation are

promulgated by the UNSC. AIs are also advised to refer to the UNSC Sanctions Committee website (<https://www.un.org/sc/suborg/en/sanctions/information>) regularly for other relevant new or revised sanctions resolutions or sanctions lists promulgated by UNSC.

AIs are reminded that it is each AI's own legal and regulatory obligation to ensure that UNSC sanctions resolutions and sanctions lists are incorporated into screening databases, whether internal or provided by external vendors, as soon as practicable after promulgation by the UNSC. In particular, AIs should review that all existing sanctions resolutions and sanctions lists issued by the UNSC before the date of this letter have been included in their screening databases, making reference to the UNSC Sanctions Committee website. A list of sanctions containing measures not yet enacted in Hong Kong under the United Nations Sanctions Ordinance at the date of this letter, with relevant URLs, is attached.

Should you have any questions regarding this letter, you may contact Mr. Kipling Chang on 28781737.

Yours faithfully,

Carmen Chu  
Executive Director (Enforcement and AML)

**Reference links :**

1. Resolution 2270:  
[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2270%282016%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2270%282016%29)
2. Resolution 2321:  
[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2321%282016%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2321%282016%29)
3. Resolution 2371:  
[http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2371%282017%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2371%282017%29)
4. Resolution 2375:  
[https://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2375%282017%29](https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2375%282017%29)
5. Resolution 2397:  
[https://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2397%282017%29](https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2397%282017%29)