

FAQ for Implementation of the Counter-Terrorism Financing Act (Insurance Enterprises)

Acknowledged by the Financial Supervisory Commission per letter No. Jin-Guan-Bao-Zong-Zi-1110418005 dated June 21, 2022

Q&A
I. General Rules
<p>1. The Counter-Terrorism Financing Act requires financial institutions to report and freeze the properties or property interests of designated sanctioned individuals, legal persons or entities (referred to as “designated sanctioned persons” hereunder). Where to find the latest sanctions list or information on related measures?</p> <p>Answer:</p> <p>1. The sanctions list is published on the counter terrorist financing website of the Ministry of Justice (https://www.aml-cft.moj.gov.tw/) and the Investigation Bureau, Ministry of Justice (“MJIB”) (https://www.mjib.gov.tw/mlpc). The sanctions list covers mainly four types of individuals, legal persons or entities:</p> <ol style="list-style-type: none">(1) Individuals, legal persons or entities implicated in acts or plans that are carried out to intimidate the public or coerce the government, foreign governments, institutions, or international organizations by causing death or injury of unspecified persons, in connection with certain criminal offenses set forth in the subparagraphs, Paragraph 1, Article 8 of the Counter-Terrorism Financing Act;(2) Individuals, legal persons or entities required to be put on the sanctions list in accordance with an international treaty or agreement on the prevention of terrorist financing or the relevant United Nations resolutions;(3) Individuals, legal persons, or entities designated by the relevant UNSCRs and any successor resolution on TF ; and(4) Individuals, legal persons, or entities designated by the relevant UNSCRs and any successor resolution on the prevention of proliferation of weapons of mass destruction. <p>2. Other measures relating to the Counter-Terrorism Financing Act (e.g. delisting, making reservations for expenses or making specific payments) are also posted on the MJIB counter terrorist financing website.</p>
<p>2. How often is the sanctions list updated?</p> <p>Answer:</p> <p>The sanctions list will be frequently updated. But there are no fixed dates for the updates. Financial institutions are advised to visit the counter terrorist financing website often and subscribe to RSS to obtain the watchlist update in a timely manner. Financial institutions can also use the email notification service of MJIB.</p>
<p>3. What does “property or property interest” mean?</p> <p>Answer:</p>

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1. In the Counter-Terrorism Financing Act, “property” and “property interest” are mentioned together. The meaning of “property” should be comparable to the “property” mentioned in the Criminal Code in connection with property crimes. That is, it should be in principle a thing with property value. “Property interest” could be interpreted as “rights or interests other than the property itself that carry all economic values.”
2. Examples of property or property interest include cash, checks, bills of exchange, bank deposits, savings accounts, notes, stocks, bonds, coupons, mortgages, liens or other secured property rights, warehouse receipts, bills of lading, depository receipts, sales orders, or any other ownership certificates or bond obligations, loans or credit extended, options, negotiable instruments, commercial acceptance bills, accounts payable, insurance policies, safe deposits and contents therein, annuities, or any financial service of similar nature.

4. If a financial institution has questions on the application of Counter-Terrorism Financing Act and relevant regulations, which government agency can it make inquiry with?

Answer:

If a financial institution has question on the application of relevant regulations, it can call the Ministry of Justice, which is the competent authority for the Counter-Terrorism Financing Act (02) 2191-0189 or the Financial Supervisory Commission, which is the central competent authority (02) 8968-0899 or make inquiry by mail, fax or any other feasible means. With regard to the application procedure and method, please contact MJIB.

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5. How often should a financial institution check whether a customer is on the sanctions list?

Answer:

A financial institution can set its own checking frequency based on its internal policies and risk assessment results. Keep in mind, however, that if a financial institution fails to effectively identify and freeze the property or property interest of a target account (of a terrorist, for example), there could be serious consequences that the financial institution may face disciplinary actions pursuant to the Counter-Terrorism Financing Act and related financial regulations and negative publicity.

6. When a domestic financial institution discovers that an account transaction or financial dealing of its overseas branch/subsidiary has a situation provided under Paragraph 3, Article 7 of the Counter-Terrorism Financing Act, is the financial institution required to report the finding to ROC authority? Does the Regulations Governing Reporting on the Properties or Property Interests and Locations of Designated Sanctioned Individuals or Entities by Financial Institutions (referred to as the “Regulations” hereunder) apply in such a case?

Answer:

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<p>When a domestic financial institution discovers through business relationship that an account transaction or financial dealing of its overseas branch/subsidiary has a situation provided under Paragraph 3, Article 7 of the Counter-Terrorism Financing Act, the financial institution is not required to report the matter to MJIB, but should ensure compliance with local laws and regulations.</p>
<p>7. What is the relationship between reporting on designated sanctioned persons and suspicious transaction reporting?</p> <p>Answer:</p> <p>Where the ultimate beneficiary or transaction party is a terrorist or terrorist group as advised by the Financial Supervisory Commission, Executive Yuan based on information provided by foreign governments, or a terrorist organization identified or investigated by an international organization against money laundering; or where funds involved in the transaction is suspicious or there is reasonable cause to suspect that the transaction is linked with a terrorist activity, terrorist organization or financing of terrorism, a financial institution shall verify the identity of the customer and keep the transaction record, and file a suspicious transaction report (STR) thereof with the MJIB.</p> <p>The time when a financial institution discovers that a customer or transaction party is a designated sanctioned person may not be the time when the transaction takes place. Thus the reporting requirement under the Counter-Terrorism Financing Act and the criteria for determining whether to file a suspicious transaction report under the Money Laundering Control Act and the required information to be reported differ under the two acts. The reporting matters should be handled as required separately that making a report according to the former does not mean the institution is not required to file a report according to the latter and vice versa.</p>
<p>8. What should a financial institution do when it suspects that a customer's transaction involves a designated sanctioned person but cannot be sure because of incomplete data?</p> <p>Answer:</p> <p>When a financial institution cannot confirm whether a transaction party is a designated sanctioned person due to incomplete data, it should halt the transaction before a confirmation is made. Meanwhile the financial institution should confirm again with the customer to determine whether the transaction party concerned (i.e. insurance applicant) is a designated sanctioned person under the Counter-Terrorism Financing Act. If a positive identification is made, the institution should decline the transaction and freeze related proceeds and make a report to MJIB in accordance with the Counter-Terrorism Financing Act.</p>
<p>9. When a financial institution holds or manages the property or property interests of a customer whose beneficial owner is a designated sanctioned person, should the institution freeze the customer account or make a report according to Article 7 of the Counter- Terrorism Financing Act?</p> <p>Answer:</p> <p>When a financial institution holds or manages the property or property interests of a customer whose beneficial owner is a designated sanctioned person, the institution needs not freeze the customer's</p>

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account assets in accordance with to Article 7 of the Customer-Terrorism Financing Act for the customer is not a designated sanctioned person. Still the institution should make a report to MJIB.
<p>10. When a financial institution holds or manages the property or property interests of a designated sanctioned person, it should promptly report the case and freeze the customer assets in accordance with Paragraph 1, Article 7 of the Counter-Terrorism Financing Act. But what should the institution do if it finds that it is necessary to retain some funds to cover management expenses, pay the debts to the financial institution or other third parties, or make offsets, or take other timely actions in association with the account?</p> <p>Answer:</p> <p>(1) When there are needs to pay necessary expenses or debts, make offsets or take other actions in association with the property or property interests of a designated sanctioned person held or managed by a financial institution, the financial institution may proceed after making a request and obtaining the approval of the terrorism financing review committee in accordance with Article 6 of the Counter-Terrorism Financing Act.</p> <p>(2) If any of the aforementioned actions is necessary when a financial institution makes a report to MJIB in accordance with Paragraph 3, Article 7 of the Counter-Terrorism Financing Act, the institution may provide relevant information in the fields of “Potential third-party rights and obligations”, “Taxes assessment”, and “Immediate actions needed” of the case report form. MJIB will promptly submit the report to the terrorism financing review committee for decision.</p> <p>(3) Please see Section III –Freezing Practices of this Q&A for explanations of account or assets freeze.</p>
II. Reporting of Properties or Property Interests of Designated Sanctioned Persons
<p>1. When a financial institution makes a report in accordance with Paragraph 3, Article 7 of the Counter-Terrorism Financing Act, does the action constitute a breach of its legal obligation of confidentiality to the customer?</p> <p>Answer:</p> <p>No. Pursuant to Paragraph 4, Article 7 of the Counter-Terrorism Financing Act, a financial institution making report on the properties or property interests and location of designated sanctioned persons discovered through business is exempted from its legal obligation of confidentiality.</p>
<p>2. Is there a dollar amount threshold for reporting properties or property interests under the Counter-Terrorism Financing Act?</p> <p>Answer:</p> <p>No. Properties or property interests that require reporting should be reported in accordance with the Counter-Terrorism Financing Act, regardless of dollar amount involved.</p>
<p>3. How do financial institutions make a report?</p> <p>Answer:</p> <p>A financial institution should fill out a case report form (fill in the name of reporting institution and the name of contact person on the cover page of the report and affix the chop of institution thereon) and</p>

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<p>enclose relevant information, then send the report to MJIB by mail. If it is necessary to file the report by other means, the institution can contact the MJIB for more information. Address: No. 74, Zhonghua Road, Xindian District, New Taipei City, 23914 Fax: (02)29131280 Email : amld@mjib.gov.tw and confirm by phone Telephone: (02)29189746</p>
<p>4. For staff who make a report to MJIB after learning the property or property interest of a designated sanctioned person or the location of such property through business, should they be ordered to keep the reporting confidential and prevent the leakage of the reported information and the news? Answer: When an insurance company discovers the property or property interest of a designated sanctioned person or the location of such property through business and makes a report to MJIB, its staff shall observe Paragraph 3, Article 9 of the Model Guidelines for Life Insurance Enterprises' Anti-Money Laundering and Countering Terrorism Financing Policies and Procedures and Paragraph 3, Article 9 of the Model Guidelines for Non-Life Insurance Enterprises' Anti-Money Laundering and Countering Terrorism Financing Policies and Procedures that they should keep the reporting information confidential and shall be subject to criminal liability if the staff is implicated in leakage.</p>
<p>5. If a financial institution did not make any report in a year, should it still submit an annual report to MJIB? Answer: Pursuant to Subparagraph 3, Article 3 of the Regulations Governing Reporting on the Properties or Property Interests and Locations of Designated Sanctioned Individuals or Entities by Financial Institutions, financial institutions shall produce an annual report according to the format set out by MJIB as of December 31 every year (the “settlement record date”). The report shall state all properties or property interests of designated sanctioned persons managed or held by the financial institution as of the settlement record date and the report shall be submitted to the MJIB for recordation before March 31 the following year. If a financial institution has frozen and managed the properties or property interests of any designated sanctioned persons in the previous year, the institution is still required to provide an annual report for the year even though there are no new cases to report.</p>
<p>III. Freezing Practices</p>
<p>1. How do we explain to a customer if we freeze customer’s funds or reject a transaction? Answer: An insurance company may notify its customer that it has frozen his/her funds or rejects a transaction in accordance with the Counter-Terrorism Financing Act. The customer may apply for delisting, reserving funds for expenses or approval to make specific payments with funds in the frozen account in accordance</p>

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with Article 5 or Article 6 of the Counter-Terrorism Financing Act.
<p>2. What should we do if a designated sanctioned person tries to buy an insurance policy from us? Should we take the money?</p> <p>Answer:</p> <p>Pursuant to Subparagraph 3, Paragraph 1, Article 7 of the Counter-Terrorism Financing Act, an insurance company may not collect or provide any property or property interests for designated individuals, legal persons or entities. Thus an insurance company may not enter into an insurance contract with any designated sanctioned person. In addition, if an insurance company holds or controls any property or property interest of a designated sanctioned person, it must immediately freeze such property or property interest. In short, when an insurance company processes the application of a designated sanctioned person to purchase a policy and receives advanced premium payment, the insurance company should refuse to underwrite the policy and immediately freeze the payment without returning it to the applicant.</p>
<p>3. What should an insurance company do if a customer instructs wire transfer of insurance proceeds to a designated sanctioned person?</p> <p>Answer:</p> <p>The insurance company should freeze the funds and make a report to MJIB.</p>
<p>4. What should an insurance company do if it discovers during the policy period that a policyholder is a designated sanctioned person?</p> <p>Answer:</p> <p>Pursuant to Subparagraph 1, Paragraph 1, Article 3 of the Regulations Governing Reporting on the Properties or Property Interests and Locations of Designated Sanctioned Individuals or Entities by Financial Institutions, once a customer becomes a designated sanctioned person, the insurance company should, after learning the case, immediately submit a report to its responsible officer for approval, and then make a report to MJIB in two (2) business days afterwards.</p>
<p>5. If the insured of an insurance policy is a designated sanctioned person, when the insured passes away and a person who is not a designated sanctioned person claims benefit, can the insurance company pay the claim?</p> <p>Answer:</p> <p>If the applicant and the insured of an insurance policy are the same person and a designated sanctioned person under the Counter-Terrorism Financing Act, when the insured passes away and the beneficiary who is not a sanctioned person claims benefit, the insurance company should not pay the claim to the non-sanctioned person until after the beneficiary or the family of the designated sanctioned person has applied to and obtained approval from the Ministry of Justice.</p>
<p>6. When an insurance company discovers that an insurance applicant is a designated sanctioned person, can it notify the applicant that his policy is frozen?</p> <p>Answer:</p> <p>Yes, an insurance company can notify a designated sanctioned person that his policy is frozen.</p>

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7. Can an insurance company suggest a designated sanctioned person to stop paying premiums or indicate that the company will not accept additional premiums in the notice of policy freeze to the designated sanctioned person?

Answer:

An insurance company can indicate in the notice that “Pursuant to the Counter-Terrorism Financing Act, our company is required to freeze all of your insurance policies issued by us and prohibit you from making any transfer, change, disposition, use, or engaging in any other activities that may change the value of your policy. If you have any question, please contact the Ministry of Justice.” The insurance company should also refer to the measures and restriction procedures decided by the terrorism financing review committee and explain to the customer accordingly.

8. If a borrower is a designated sanctioned person, how should an insurance company handle the credit or loan agreement with the borrower? How should the collateral be handled?

Answer:

- (1) The insurance company should immediately report the case to MJIB in accordance with the Counter-Terrorism Financing Act and describe in the case report form main legal rights and obligations under the credit or loan agreement and the credit extension status. If collateral is involved (whether or not it is provided by the designated sanctioned person), the insurance company should also describe the collateral and scope of rights.
- (2) The insurance company should stop the performance of all lending activities associated with the credit or loan agreement (e.g. allowing loan drawdown or disbursement).
- (3) If the insurance company intends to exercise its right over the collateral, it should apply for and obtain the approval of Ministry of Justice before auctioning, offsetting the collateral or taking other actions on the collateral. In addition, if it is necessary for the insurance company to obtain ground of execution in order to auction or dispose the collateral, it should first obtain the ground of execution before applying for the approval of Ministry of Justice in accordance with Paragraph 1, Article 6 of the Counter-Terrorism Financing Act.

9. In a compulsory execution process, if the debtor (including the owner of collateral) subject to compulsory execution is a designated sanctioned person, what should an insurance company do as a creditor?

Answer:

- (1) In a court’s compulsory execution process following the request of an insurance company, if the debtor subject to compulsory execution is a designated sanctioned person, the insurance company should apply for and obtain the approval of Ministry of Justice as soon as possible in accordance with Paragraph 1, Article 6 of the Counter-Terrorism Financing Act.
- (2) At the same time, the insurance company should notify the court that the subject matter of compulsory execution should be frozen before the terrorism financing review committee gives its approval according to Paragraph 1, Article 6 of the Counter-Terrorism Financing Act and request

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<p>the court to hold the compulsory execution process. The insurance company should ask the court to proceed with the execution process after obtaining the approval of Ministry of Justice.</p>
<p>10. Under a trust structure, who are subject to the freeze provisions of the Counter-Terrorism Financing Act?</p> <p>Answer:</p> <p>Pursuant to Paragraph 1, Article 7 of the Counter-Terrorism Financing Act, an insurance company should freeze the property or property interest of a designated sanctioned person. Property interest under the trust structure established according to the Trust Act should include all rights and interests to claim administration, disposal, benefits and control of trust property in accordance with the Trust Act. Thus when the settlor, trustee, trust supervisor, or trust beneficiary of a trust or other persons who can have effective control over the trust property is a designated sanctioned person, the insurance company should freeze the trust property.</p>
<p>11. Who are subject to “freeze” according to Paragraph 1, Article 7 of the Counter-Terrorism Financing Act?</p> <p>Answer:</p> <p>An insurance company should freeze the property or property interest (including insurance contract) of an applicant, insured, beneficiary or payer who is on the sanctions list published by the Ministry of Justice pursuant to Paragraphs 1 ~ 3, Article 7 of the Counter-Terrorism Financing Act.</p>
<p>12. What is the validity of an insurance contract after an insurance company “freezes” it in accordance with Paragraph 1, Article 7 of the Counter-Terrorism Financing Act?</p> <p>Answer:</p> <p>The validity of an insurance contract that has been frozen by an insurance company in accordance with Paragraph 1, Article 7 of the Counter-Terrorism Financing Act will be in inactive state that unless with the permission of the Ministry of Justice, the insurance company may not collect renewal premiums, make any payment thereon, or make automatic premium loan / reduced paid-up insurance / contract cancellation / change of contract / policy loan, etc. pursuant to Paragraph 1 of the same article.</p>
<p>13. If neither the applicant, insured nor beneficiary of an insurance policy is on the sanctions list published by the Ministry of Justice but one of their family members (e.g. spouse, parent, child) is a designated sanctioned person, what should the insurance company do after learning about it?</p> <p>Answer:</p> <p>If neither the applicant, insured nor beneficiary of an insurance policy is a designated sanctioned person published by the Ministry of Justice, the insurance company needs not “freeze” the policy or “report” the case. However if the insurance company determines based on objectively available information that the applicant, insured or beneficiary of an insurance policy holds or manages the properties or property interests of a designated sanctioned individual, legal person or entity by way of authorization, appointment, trust or other reasons, the insurance company should freeze the policy and report the case in accordance with Paragraphs 2 and 3, Article 7 of the Counter-Terrorism Financing Act and the</p>

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Regulations Governing Reporting on the Properties or Property Interests and Locations of Designated Sanctioned Individuals or Entities by Financial Institutions.
<p>14. If a customer (including group insurance customers) is on the sanctions list, can the insurance company reveal related sanction information to its solicitors?</p> <p>Answer:</p> <p>Since the sanctions list and related information are public information, the insurance company can explain the situation when its solicitor asks about it.</p>
<p>15. If an insurance contract is frozen, can the insurance company answer the question when the applicant, an interested party to the insurance contract or the person-in-charge of the group insurance application asks about policy related matters?</p> <p>Answer:</p> <p>The insurance company can answer inquiries about the contents of an insurance contract.</p>
<p>16. When a group insurance applicant or the insured, beneficiary or payer of a group insurance is on the sanctions list, should properties or property interests (including insurance contract) involved be frozen in accordance with Paragraph 1, Article 7 of the Counter-Terrorism Financing Act?</p> <p>Answer:</p> <p>(1) If the group insurance applicant or payer is on the sanctions list, properties or property interests involved should be frozen in accordance with Paragraph 1, Article 7 of the Counter-Terrorism Financing Act.</p> <p>(2) If only an insured or a beneficiary of a group insurance is on the sanctions list, only the part of the group policy that concerns the sanctioned insured or beneficiary should be subject to freeze.</p>
<p>17. If the applicant, insured, beneficiary or payer of an insurance policy is involved in a proliferation financing transaction, and at the same time, a designated sanctioned person according to the Counter-Terrorism Financing Act, what should the insurance company do with regard to reporting procedure? Does the reporting and policy freeze procedure under Paragraph 3, Article 7 of the Counter-Terrorism Financing Act apply?</p> <p>Answer:</p> <p>For designated sanctioned persons under the Counter-Terrorism Financing Act, insurance companies are required to carry out the policy freeze and reporting procedure in accordance with Paragraph 1 and Paragraph 3, Article 7 of the Counter-Terrorism Financing Act. However if the person reported is involved in other punishable offences that the case could offer other valuable financial intelligence, the insurance company should still evaluate the specifics of each individual case to determine whether to file a suspicious transaction report.</p>
<p>18. If an insurance company stops making all kinds of payment on a policy because the recipient is on the sanctions list, should the company still make payment to cover the minimum living expense of the recipient?</p> <p>Answer:</p>

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<p>An insurance company should in principle stop making all types of payment on an insurance policy when the recipient is on the sanctions list. If the recipient needs insurance payment to cover living expenses, he or she can apply to the Ministry of Justice for approval.</p>
<p>19. If an insurance company has filed a report with MJIB when it discovers the applicant of an investment-linked insurance policy is on the sanctions list but has been approved by the Ministry of Justice to continue the collection of renewal premiums, what should the insurance company do after collecting the renewal premium?</p> <p>Answer:</p> <p>With regard to the part of premium paid by the designated sanctioned person that covers the cost of insurance (insurance expense) and policy fee, the insurance company may deduct necessary fees from the frozen account only after obtaining approval from the Ministry of Justice. As for the policyholder's investment account, the insurance company should immediately freeze it and make a notation thereon, and file a report with MJIB in accordance with Paragraph 3, Article 7 of the Counter-Terrorism Financing Act.</p>
<p>20. When the asset linked to an investment-linked insurance policy distributes income and the policy clauses provide that the customer has the option to receive the distribution in "cash" or "reinvest the distribution in the originally linked product or other financial products", and when the policyholder of such an investment-linked insurance is on the sanctions list, what should the insurance company do?</p> <p>Answer:</p> <ol style="list-style-type: none"> (1) The insurance company should act in accordance with Subparagraph 2, Paragraph 1, Article 7 of the Counter-Terrorism Financing Act. That is, it shall not make transfers, changes, dispositions, use of, or taking any other acts which may change the quantity, quality, value or location of any property or property interests of the designated sanctioned person. (2) If the designated sanctioned person has agreed to collect the distribution in cash, the insurance company should immediately freeze the cash payment and make a notation thereon. (3) If the designated sanctioned person has agreed to collect the distribution by "reinvest the distribution in the originally linked product or other financial products", the insurance company should immediately stop the reinvestment transaction, freeze the distribution in cash and make a notation thereon.