VANUATU FINANCIAL
SERVICES COMMISSION

TARGETED FINANCIAL SANCTIONS

Guideline for Company and Trust Services Providers (CTSPs)

1. Introduction & Authority

The Vanuatu Financial Services Commission (VFSC) is the statutory authority mandated to regulate and supervise licensees under the *Company and Trust Services Providers Act No. 8 of 2010* (the CTSP Act). Section 60 of the CTSP Act explicitly empowers the Commission to issue Guidelines setting out the kinds of systems, procedures, record-keeping, and measures those licensees must put in place and operate in the course of their business to establish sound principles of operation and protect the public.

Consequently, the VFSC possesses the sole regulatory right to create and issue these Guidelines for the safeguard of Company and Trust Service Provider (CTSP) Licensees. An effective Targeted Financial Sanctions (TFS) regime is absolutely critical to combating the financing of terrorism and the proliferation of weapons of mass destruction (WMD).

These Guidelines serve to ensure that all licensed CTSPs protect their businesses from systemic abuse, minimize regulatory exposure, and maintain the untarnished reputation of Vanuatu as a compliant and secure international financial center.

Objective of the Guideline

The core purpose of this Guideline is to assist CTSP licensees in understanding and effectively complying with their legal obligations regarding Targeted Financial Sanctions relating to **Terrorism Financing (TFS-TF)** and **Proliferation Financing (TFS-PF)**. To achieve this, the Guideline establishes mandatory, risk-based operational requirements that must be applied across all business operations, including screening mechanisms, freezing mechanisms, mandatory risk-based controls, and reporting processes.

Statutory Enabling Authority under the CTSP Act

The legal authority to issue this compliance framework is driven directly by **Section 60 (Guidelines)** of the CTSP Act. Specifically, the Guideline falls under the scope of two key subsections:

- **Section 60(1)(b):** Authorizes the Commission to issue Guidelines determining *"the kinds of systems, procedures, record keeping and measures that should be put in place and operated by a licensee in the course of its business."* This provides the direct mandate for enforcing screening, freezing, and control mechanisms.
- **Section 60(1)(d):** Grants a broader power to issue Guidelines regarding *"any other matter the Commission regards as necessary to establish sound principles of business,"* establishing a firm legal baseline for targeting compliance risks like international financial sanctions.

Scope of Application

This Guideline applies strictly to all Company and Trust Service Providers licensed under Section 15 of the CTSP Act, including holders of:

- Company and Trust Service Provider Licenses (CTSP Licenses) authorizing both company and trust services;
- General Company Service Provider Licenses (General CSP Licenses) authorizing comprehensive company services;
- Limited Company Service Provider Licenses (Limited CTSP Licenses);
- Director's Licenses issued to individuals acting as directors by way of business; and
- Special Trust Licenses issued for the administration of customary land.

The scope encompasses all client relationships (both domestic and international), beneficial owners, controllers, directors, corporate structures, express trusts, and occasional transactions handled by the licensee.

2. Key Definitions

For the purposes of this Guideline, the following terms shall have the meanings assigned under the *United Nations Financial Sanctions Act No. 6 of 2017*:

TERM	DEFINITION UNDER ACT NO. 6 OF 2017
Designated Person or Entity	Any individual, group, undertaking, or entity designated by the United Nations Security Council (UNSC) or the relevant Vanuatu national authority as being subject to targeted financial sanctions.
Property / Funds	Assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form evidencing title to or interest in such assets.

Freezing	The prohibition to transfer, convert, dispose of, or move any funds or other assets on the basis of, and for the duration of, an action initiated by the United Nations Security Council or a competent national authority.
Proliferation Financing (TFS-PF)	The act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling, or use of nuclear, chemical, or biological weapons and their means of delivery.
Terrorism Financing (TFS-TF)	The provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, to carry out terrorist acts or by a terrorist or terrorist organization.

3. Main Obligations of CTSP Licensees

All CTSP Licensees must establish and maintain effective controls to ensure compliance with Targeted Financial Sanctions relating to Terrorism Financing (TFS-TF) and Proliferation Financing (TFS-PF) under the *United Nations Financial Sanctions Act No. 6 of 2017.*

Screening Requirements

CTSP Licensees must screen all customers, beneficial owners, settlors, trustees, protectors, directors, shareholders, nominee shareholders, nominee directors, controllers, authorized signatories, trust beneficiaries, and any other connected parties associated with or to the applicant or client.

Screening must occur:

- **Before Establishing a Business Relationship:** Prior to accepting a client, forming a company, establishing a trust, or providing any CTSP service.
- **Prior to Conducting Transactions:** Before executing any significant transaction or corporate action.
- **On an Ongoing Basis:** Screening must be conducted continuously and at a minimum whenever sanctions lists are updated, customer information changes, beneficial ownership changes occur, trust parties change, or a risk event is identified.
- **Against Relevant Sanctions Lists:** Including the United Nations Consolidated Sanctions List, lists issued under the UNFSA, and any sanctions notices issued by the Sanctions Secretariat or VFIU.

Freezing Obligations

A CTSP must immediately freeze without delay any property owned, controlled, directly or indirectly held, or otherwise connected to a designated person or entity. This obligation applies regardless of the value of the property, whether it is held directly or indirectly, or through a company, trust, nominee arrangement, or legal structure.

Based on the *United Nations Financial Sanctions Act No. 6 of 2017*, freezing and prohibitions are primarily governed by **Section 11 (Prohibition against dealing with property)**:

- **Mandatory and Immediate Freezing (Prohibition on Dealings):** Under Section 11(1) and Section 11(2), it is a strict criminal offence for any person to deal with property knowing or being reckless as to whether the property is owned, controlled, or held by or on behalf of a designated person or entity. Legally, this creates an immediate obligation to freeze the property by completely stopping any transfer, conversion, disposition, or movement.

- **Indirect, Full, or Joint Structures:** Section 11(1) explicitly states the prohibition applies if the property is *"owned, controlled or held, directly or indirectly, wholly or jointly, by or on behalf of or at the direction of a designated person or entity"*.
- **Broad Definition of Property:** This matches the Act's statutory definition of "property" in Section 1, which includes assets of every kind—tangible or intangible, corporeal or incorporeal—and explicitly covers bank credits, shares, securities, bank cheques, and any legal or equitable interest, whether full or partial.
- **Supplementary Reporting Obligation:** Additionally, Section 11(6) enforces that if a designated structure attempts to provide property to a reporting entity (such as a CTSP) for transfer, the entity must hold (freeze) the property and file a report under section 16.

Prohibited Activities

Under the *United Nations Financial Sanctions Act No. 6 of 2017*, the following specific restrictions apply to CTSPs:

1. **Dealing with property belonging to or controlled by a designated person or entity:** Section 11(1) makes it a strict criminal offense to deal with such property. Section 11(6) explicitly commands that if a designated person/entity provides property to a CTSP, the entity must not transfer that property and must hold it.
2. **Providing corporate services, trust services, or administrative services to a designated person or entity:** Section 12(1)(a) prohibits making a "financial service" available to a designated person or entity. Section 2(c), 2(d), and 2(e) explicitly define "financial service" to include company and trust services within the meaning of the CTSP Act, such as forming, registering, or managing an entity; acting as a director, secretary, or partner; and providing a registered office or business address.
3. **Making funds, assets, economic resources, trust property, company property, or financial services available:** Section 12(1)(a) & (b) prohibits making property or a financial service available directly, indirectly, wholly, or jointly to (or for the benefit of) a designated person or entity. Property includes currency, financial assets, economic resources (including natural and human resources), and legal documents.
4. **Assisting any person in circumventing sanctions measures:** Section 13 explicitly states that Sections 28, 29, 30, 31, 34 and 35 of the *Penal Code Act [CAP 135]* apply to all offences under this Act. These sections govern complicity, aiding, abetting, counseling, and procuring an offense, thereby criminalizing any active assistance or facilitation.

Avoiding Reckless Dealings & Inference of Knowledge

A CTSP must not engage in conduct that could reasonably result in facilitating access to property by a designated person.

- **Prohibition on Facilitating Access:** Section 12(1)(a) and (b) prohibits making property or financial services available where it is directly or indirectly for the benefit of a designated target. Section 12(4)(a) and (b) criminalizes facilitating this access even if done recklessly rather than with absolute certainty.

- **Inference of Knowledge from Objective Factual Circumstances:** Under Section 11(5) and Section 12(3), knowledge may be legally inferred from objective factual circumstances. A corporate and trust service provider cannot shield itself behind willful blindness. If surrounding objective facts indicate that a transaction or structure would facilitate access to assets for a sanctioned target, knowledge is legally presumed.

4. Reporting Obligations

Where a CTSP identifies a true sanctions match, frozen property, attempted transactions involving designated persons, or suspected sanctions evasion, the CTSP must report the matter to the Sanctions Secretariat (VFIU) within the timeframe prescribed by law and **no later than five (5) working days** after identification. Reports must be submitted using the prescribed reporting forms issued by the Sanctions Secretariat.

> **Statutory Framework (Section 16 of Act No. 6 of 2017):**
> - **Mandatory Reporting:** Any person who holds, possesses, or controls property of a designated person/ entity must report it directly to the Sanctions Secretariat.
> - **Strict Legal Timeframe:** Section 16(2) commands that the report must be provided as soon as is reasonably practicable, and in any event within 5 working days.
> - **Reporting Attempted Transactions:** Section 16(3)(c) details that reports must include details of any attempted transaction involving the property (names, purpose, origin/destination).
> - **Use of Prescribed Forms:** Reports must be provided in the specified form (The Designated Sanctions Property Reporting Form).

5. Handling Sanctions Matches

True Match Workflow

Where screening confirms that a customer, beneficial owner, trust party, company officer, or connected person is a designated person, the CTSP must execute the following workflow immediately:

Step 1: Immediate Asset Freezing

Freeze all property, funds, accounts, trust structures, and corporate assets immediately without prior notice to the client or connected parties.

Step 2: Service Suspension

Cease all ongoing business operations, company administration, trust management, or transaction executions related to the designated profile.

Step 3: Secure Isolation

Place a strict lock and administrative block on corporate records and systems to avoid accidental transfers or unauthorized alterations.

Step 4: Statutory Reporting

File a formal Sanctions Match Report to the Sanctions Secretariat (VFIU) within five (5) working days using the official reporting forms.

Official Forms & Templates under the Act:

- **The Designated Sanctions Property Reporting Form:** Utilized under Section 16 for reporting holdings, possessions, controls, or attempted transactions.
- **Form under Section 15:** Application for authorisation to use or deal with property or make property or a financial service available (used if a legal exception for basic/extraordinary expenses is processed).
- **Template L:** Application for Certificate of Acknowledgement of False Positive Identification.

Compliance Reminder: This statutory report must be filed directly to the Sanctions Secretariat within 5 working days regardless of whether a standard Suspicious Transaction Report (STR) or Suspicious Activity Report (SAR) is separately submitted to the VFIU under the AML/CTF framework.

Potential Matches, False Positives, & Escalation

- **Potential Match:** Where screening produces a possible match, the CTSP must conduct enhanced verification procedures, obtain additional identifying information, escalate the matter internally, and refrain from releasing assets or completing transactions until resolved.
- **False Positive:** Where a match is determined not to relate to the designated person, the CTSP must record the basis for its determination, retain supporting evidence, maintain an audit trail, and obtain a Certificate of Acknowledgement of False Positive Identification where appropriate.
- **Escalation:** Any uncertain or unresolved case must be referred to the Sanctions Secretariat for guidance.

6. Record Keeping

CTSP Licensees must maintain comprehensive records relating to sanctions compliance in a secure manner, readily retrievable, protected from unauthorized alteration, and retained for a **minimum period of six (6) years** or such longer period as may be required by law. Section 25B(3) of the CTSP Act explicitly mandates that a licensee must retain core structural and relationship information for a minimum of at least 6 years after the licensee ceases to provide trust services.

RECORD TYPE	REQUIRED DOCUMENTATION ELEMENTS
Customer Screening	Initial screening results, ongoing screening logs, rescreening activities, and watchlist update records.
Match Investigation	Logs of potential matches, documented true matches, detailed false positive determinations, and internal escalation decisions.
Reporting Records	Formal reports submitted to the Sanctions Secretariat, correspondence with authorities, official requests for guidance, and authorizations received.

Freezing Records	Granular details of frozen property, precise dates and times of freezing actions, internal management approvals, and all subsequent actions taken.

7. Penalties for Non-Compliance

Failure to comply with the *United Nations Financial Sanctions Act No. 6 of 2017* may result in severe criminal, civil, and regulatory sanctions:

- **Knowledge-Based Offences:** Knowingly dealing with frozen property, making property available, or providing prohibited services results in significant fines and imprisonment.
- **Reckless Conduct:** Recklessly facilitating prohibited dealings carries substantial penalties, including imprisonment and monetary fines.
- **Failure to Report:** Failure to report a sanctions match or frozen property constitutes a serious offence.

> **Criminal Fines for Failure to Report (Section 16):**
> - Intentional Failure: Fine up to **VT 25 million** for natural persons or **VT 125 million** for bodies corporate.
> - Reckless Failure: Fine up to **VT 15 million** for individuals or **VT 75 million** for corporate entities.

- **Regulatory Action by VFSC:** The VFSC may take supervisory or enforcement measures including directions, corrective action orders, enhanced supervision, administrative sanctions, licence suspension, or licence revocation under the CTSP Act.

8. Compliance Programme Requirements

Every CTSP Licensee must incorporate Targeted Financial Sanctions controls into its AML/CTF Compliance Programme, including at a minimum:

- **Sanctions Risk Assessment:** A documented assessment identifying sanctions risks arising from customers, beneficial owners, jurisdictions, trust structures, corporate structures, and services offered.
- **Screening Procedures:** Documented operational procedures covering initial screening, ongoing screening, match investigation, escalation, and reporting.
- **Internal Controls:** Appropriate governance arrangements including designated compliance responsibility, management oversight, independent review functions, and audit trails.
- **Staff Training:** Regular training programmes covering UN sanctions obligations, identification of designated persons, screening systems, reporting obligations, and asset freezing procedures, conducted **at least annually**.
- **Independent Review:** The sanctions compliance framework should be reviewed periodically to ensure effectiveness, adequacy, regulatory compliance, and alignment.
- **Board and Senior Management Oversight:** Directors and senior management remain ultimately responsible for ensuring the CTSP maintains an effective sanctions compliance programme and adequate resources.

9. Sources and Legislative References

- United Nations Financial Sanctions Act No. 6 of 2017
- Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014
- Company and Trust Service Providers Act No. 8 of 2010
- United Nations Security Council Resolutions relating to Targeted Financial Sanctions
- VFIU Guidance Notes on the United Nations Financial Sanctions Act

10. Conclusion & Inquiries

Compliance with Targeted Financial Sanctions is a non-negotiable legal imperative for all Company and Trust Service Providers in Vanuatu. Proactive screening, rigorous beneficial ownership verification, and swift freezing protocols form the bedrock of defensive risk mitigation. Licensees must treat proliferation and terrorist financing risks as unique, distinct hazards, ensuring that their compliance infrastructure scales appropriately with the size, complexity, and geographic footprint of their client portfolios.

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Issued and Authorized By

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