

UNITED NATIONS



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### **Assets Freeze: Explanation of Terms**

1. The assets freeze, as set out in paragraph 1 (a) of resolution 1822 (2008), applies to the individuals, groups, undertakings and entities whose names are referred to in the Consolidated List of Al-Qaida, the Taliban and their associates. It requires Member States to:

Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly for such persons' benefit, or by their nationals or by persons within their territory

2. The purpose of the assets freeze is to deny listed individuals, groups, undertakings and entities the means to support terrorism. To achieve this it seeks to ensure that no funds, financial assets or economic resources of any kind are available to them for so long as they remain subject to the sanctions measures.
3. The assets freeze applies to all assets owned or controlled by listed individuals, groups, undertakings and entities. It also applies to the funds that derive from property that they own or control, directly or indirectly, or that are owned or controlled by persons acting on their behalf or at their direction.
4. Exemptions to the assets freeze may be granted in accordance with paragraphs 1 and 2 of resolution 1452 (2002), as amended by resolution 1735 (2006). The procedures for exemptions are set out in section 10 of the Committee's guidelines; available on the Committee's website at:  
[http://www.un.org/sc/committees/1267/pdf/1267\\_guidelines.pdf](http://www.un.org/sc/committees/1267/pdf/1267_guidelines.pdf). The Committee has provided further guidance on this point in a fact sheet which can be found on the Committee's website under "Exemptions" at:  
[http://www.un.org/sc/committees/1267/fact\\_sheet\\_assets\\_freeze.shtml](http://www.un.org/sc/committees/1267/fact_sheet_assets_freeze.shtml).

*“Freeze”*

5. *Freeze* of funds and other financial assets includes preventing their use, alteration, movement, transfer or access, unless with the specific authorisation of the Committee. *Freeze* of economic resources includes preventing their use to obtain funds, goods, or services in any way, including, but not limited to, by selling, hiring or mortgaging them. *Freeze* does not mean confiscation or transfer of ownership. Whatever person or State body is responsible for regulating frozen assets should make reasonable efforts to do so in a manner that does not result in their undue deterioration, provided that this does not conflict with the overall intention behind the freezing action - to deny listed individuals, groups, undertakings and entities the financial means to support terrorism.
6. In cases where a listed party owns or controls funds or other financial assets or economic resources in which unlisted persons also have a segregable interest, for example as joint-owners or employees, the freeze is directed against that share of the asset owned or controlled by the listed party. In such cases, States should ensure that the listed party is not able to exercise its interest in the asset directly or indirectly, including by issuing instructions regarding any benefit, financial or otherwise, that may accrue from the asset.
7. In cases where an asset owned or controlled in part or in full by a listed party continues to produce benefit, for example in the form of dividends or interest, States should ensure that the relevant portion of such benefit is also frozen. However, pursuant to paragraph 6 of resolution 1822 (2008), States are permitted to credit payments in favour of listed parties to their frozen accounts, so long as the additional amounts are also subject to the assets freeze.
8. Should the Committee remove a name from its List, any assets that have been frozen solely as a result of the listing are no longer subject to the assets freeze.

*“Funds and other financial assets or economic resources”*

9. As confirmed by paragraph 4 of resolution 1822 (2008), the assets freeze applies to “financial and economic resources of every kind” used for the support of Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings, or entities associated with them.
10. *Funds and other financial assets* should be understood to include, but not be limited to:
  - a. cash, cheques, claims on money, drafts, money orders, bearer instruments, and other payment instruments;
  - b. deposits with financial institutions or other entities and balances on accounts, including but not limited to: (1) fixed or term deposit accounts, (2) balances on share trading accounts with banks, brokerage firms or other investment

vehicles; and (3) balances on all types of money market and foreign exchange trading accounts;

- c. debts and debt obligations, including trade debts, other accounts receivable, notes receivable, and other claims of money on others;
- d. equity and other financial interest in a sole trader or partnership;
- e. publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- f. interest, dividends or other income on or value accruing from or generated by assets;
- g. credit, right of set-off, guarantees, performance bonds or other financial commitments;
- h. letters of credit, bills of lading, bills of sale; notes receivable and other documents evidencing an interest in funds or financial resources and any other instruments of export-financing;
- i. insurance and reinsurance.

11. *Economic resources* should be understood to include, assets of every kind, whether movable or immovable, tangible or intangible, actual or potential, which are not funds but potentially may be used to obtain funds, goods or services, such as:

- a. land, buildings or other real estate;
- b. equipment, including computers, computer software, tools, and machinery;
- c. office furniture, fittings and fixtures and other items of a fixed nature;
- d. vessels, aircraft and motor vehicles;
- e. inventories of goods;
- f. works of art, precious stones, jewelry or gold;
- g. commodities, including oil, minerals, or timber;
- h. arms and related materiel, including all items mentioned in the arms embargo at paragraph 2(c) of resolution 1390 (2002);

- i. patents, trademarks, copyrights, trade names, franchises, goodwill, and other forms of intellectual property;
- j. internet hosting or related services;
- k. any other assets, whether tangible or intangible, actual or potential.

*“[F]unds derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction”*

12. Funds and other financial assets or economic resources made available to or for the benefit of a listed party are not always held directly by them; they may be held by others on the listed party’s behalf or acting at the listed party’s direction. In this case States must ensure that any funds or negotiable benefit arising from this property is also frozen. In identifying such funds and benefits, States should be alert to the possibility that property owned or controlled indirectly by the listed party may not be immediately visible, and that the listed party may have arranged the indirect ownership or control in order to conceal an interest in the property.

*“[E]nsure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly for such persons’ benefit, or by their nationals or by persons within their territory”*

13. States must ensure that neither their nationals, nor anyone located within their territory (regardless of nationality) or under their jurisdiction, makes any funds, financial assets or economic resources available for the benefit of a listed party, whether directly or indirectly, for so long as the party remains subject to the sanctions measures.
14. This obligation applies to funds or other financial assets or economic resources identified (by the private sector or by regional, national, or local authorities) as directed to, collected for, or otherwise for the benefit of a listed party. This obligation prohibits the transfer of such assets at any time they can be identified as pertaining to a listed party.
15. The Security Council in Resolution 1617 strongly urged all Member States to implement the comprehensive, international standards embodied in the Financial Action Task Force’s (FATF) Forty Recommendations on Money Laundering and the FATF Nine Special Recommendations on Terrorist Financing, Special Recommendation III of which pertains to freezing and confiscating terrorist assets.<sup>1</sup>

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<sup>1</sup> The FATF published on 23 June 2009 an International Best Practices Paper entitled “Freezing of Terrorist Assets,” available at [www.fatf-gafi.org](http://www.fatf-gafi.org), providing guidance on the asset freezing component of Special Recommendation III.