

GUIDELINES ON ACTIONS TO BE TAKEN BY COMPETENT AUTHORITIES FOR IMPLEMENTATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTION NO. 1373

1. INTRODUCTION:

This Guidelines is issued by National Counter Terrorism Authority (NACTA) for the relevant authorities in various divisions, ministries, agencies and other organizations across Pakistan on the implementation of United Nations Security Council Resolutions (UNSCR)1373. The objective of the Guidelines is to ensure better understanding of the provisions of UNSCR 1373 and the national legal framework related to its implementation. The Guidelines aims to foster a common understanding that each relevant department, agency, institution, etc. has an equal obligation for implementation of UNSCR 1373 as envisaged in the Resolution. Like all other countries, Pakistan is under legal obligation to implement the UNSCR 1373, on account of being responsible member of the United Nations.

The Guidelines has been designed to assist officials from all relevant institutions to understand the steps their respective organizations need to undertake for effective implementation of the UNSCR 1373. The Guidelines focuses on international obligations to give effect to UNSCR 1373 and the FATF requirements in relation to implementation. The nature and scope of these obligations, the national legal framework empowering agencies to take actions for compliance, the coordination and communication arrangements and the specific actions required by each department or agency; all these are being discussed in this Guidelines. The Guidelines can be used to raise awareness amongst the officials in each relevant department, agency, or organization, etc. concerning the actions required to implement the notifications issued by the Ministry of Interior or Provincial Home Departments to give effect to UNSCR 1373 with respect to the proscribed organizations or persons respectively.

2. WHAT THE AUTHORITIES SHALL LEARN AFTER READING THIS GUIDELINE:

a)	understand why Pakistan is required to act upon the UNSCR 1373;
b)	know their responsibilities in implementing the UNSCR 1373
c)	understand the application of national legislation that empowers the Authorities to implement the Resolution;
d)	ensure that administrative arrangements are in place for implementing UNSCR 1373; and
e)	achieve necessary awareness on the reporting obligations of the respective departments and organizations on UNSCR 1373.

3. OPERATIONAL CAPACITY OF THE INSTITUTIONS IN IMPLEMENTING UNSCR 1373:

The Guidelines also provides information in order to assist or strengthen the capacity of government agencies and other organizations through increased knowledge of what is required for effective implementation of the UNSCR 1373. The officials may identify additional capacity building requirements for their agency during the course of implementation of the provisions of the requisite notifications and other legislative obligations. Such development needs should be reported to the Financial Monitoring Unit, Ministry of Interior and Provincial Home Departments which may assist agencies to identify bilateral and multilateral opportunities of technical assistance to build the required capacity within the relevant departments and organizations in Pakistan. The authorities and organizations themselves are also obliged to take necessary measures in this regard.

4. DEFINITIONS:

The following definitions of the Anti-Terrorism Act, 1997 shall specifically apply in this Guidelines:

- 1) **Freeze**” means to prohibit the transfer, conversion, disposition or movement of any money or other property.
- 2) **Government**” means the Federal Government or, as the case may be, the Provincial Government.
- 3) **Money**” includes coins or notes in any currency, postal orders, money orders, bank credits, bank accounts, letter of credit, travelers’ cheques, bank cheques, bankers draft, in any form, electronic digital or otherwise and such others kinds of monetary instruments or documents as the Federal Government may by order specify.
- 4) **Seize** means to take custody or control of money or other property in order to prohibit its transfer, conversion, disposition or movement.
- 5) **Property** means property of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes shares, securities, bonds and deeds and instruments evidencing title to, or an interest in, property of any kind and money.
- 6) **Terrorist Property** means: -
 - (i) (a) money or other property which is used or is likely to be used for the purposes of terrorism (including any resources of an organization concerned in terrorism or a terrorist];
(b) proceeds of the commission of acts of terrorism;
(c) proceeds of acts carried out for the purposes of terrorism; and
 - (ii) In sub-section (i) above;
 - (a) a reference to proceeds of an act, includes reference to any property which wholly or partly, and directly or indirectly represents the proceeds of the act (including payments of other rewards in connection with the commission); and

(b) the reference to an organization's resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organization and includes assets of any kind, whether tangible or intangible, movable or immovable, and legal documents or instruments in any form, whether written, electronic or digital, and shares, securities, bonds, drafts and letters of credit.

7) **Proscribed Organization** means any organization which is listed in the First Schedule under section 11B of ATA.

8) **Proscribed Person** means any individual who is listed in the Fourth Schedule under section 11EE of ATA.

5. THE UNITED NATIONS SECURITY COUNCIL:

Under the Charter of the United Nations, the Security Council has primary responsibility for the maintenance of international peace and security. Under the Charter, all Member States are obligated to comply with the Security Council decisions. The Security Council takes the lead in determining the existence of a threat to the peace or act of aggression. It calls upon the Parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. In some cases, the Security Council can resort to imposing sanctions or even authorize the use of force to maintain or restore international peace and security. The United Nations Security Council resolutions are formal expressions of the opinion or will of the members of the United Nations Security Council. They generally consist of two clearly defined sections; a) preamble part, and b) operative part. The preamble paragraphs generally present the considerations on the basis of which action is taken, an opinion is expressed or a directive is given – they give background and set the scene for the operative part. The operative paragraphs, on the other hand, state the opinion of the Security Council or the action to be taken by UNSC committees or Member States.

6. BRIEF OVERVIEW OF INTERNATIONAL SANCTIONS REGIME:

a. International Convention for the Suppression of the Financing of Terrorism:

This Convention, adopted by the General Assembly of United Nations in Resolution 54/109 of 9th December, 1999 and ratified by Pakistan provides that¹:

“Any person commits an offence within the meaning of the Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the Convention; or

¹ International Convention for the Suppression of the Financing of Terrorism 1999 <http://www.un.org/law/cod/finterr.htm>

- (b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.”

It further provides that each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in the Convention. Each State Party shall further ensure that legal entities liable as above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

b. United Nations Security Council Resolution (UNSCR) 1267:

The United Nations sanctions regime against designated persons and organizations was first established by Resolution UNSCR 1267 (1999) by imposing a number of measures against Al-Qaida associated individuals and entities. This sanctions regime has further been strengthened through a number of subsequent resolutions. The measures required to be implemented by states in accordance with these resolutions include asset freeze, travel ban and arms embargo in respect of individuals designated by the UN Sanctions Committee. The resolutions further provide procedures for listing and de-listing of individuals, access to funds for basic and extraordinary expenses, protection of rights of third parties, amongst other issues.

c. United Nations Security Council Resolution (UNSCR) 1373:

In the wake of September 11, 2001 terrorist attacks, United Nations Security Council further reinforced its sanctions regime by adopting UNSCR 1373 (2001), which requires countries, *inter alia*, to put into place mechanisms enabling the designation of terrorist organizations and persons associated with terrorism at the national level and the consequent application of immediate sanctions.

d. FATF Recommendations:

Recommendation 5: Countries should criminalize terrorist financing on the basis of the Terrorist Financing Convention, and should criminalize not only the financing of terrorist acts but also the financing of terrorist organizations and individual terrorists even in the absence of a link to a specific terrorist act or acts.

Recommendation 6: Countries should implement targeted financial sanctions regimes to comply with United Nations Security Council resolutions relating to the prevention and suppression of terrorism and terrorist financing. The resolutions

require countries to freeze without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either

- (i) designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 (1999) and its successor resolutions; or
- (ii) designated by that country pursuant to resolution 1373 (2001).

7. The United Nations Security Resolution 1373:

The United Nations Security Resolution 1373 provides that all States shall²:

- i. **Prevent and suppress** the financing of terrorist acts;
- ii. **Criminalize** the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;
- iii. **Freeze without delay** funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;
- iv. **Prohibit** their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

Note: This Resolution gives Member States authority to designate the persons and entities that should have their assets frozen. These proscriptions are made by states and not by the United Nations Security or its 1267 Committee.

8. Pakistan's Legal Framework for Implementation of UNSCR 1373:

In order to combat terrorist financing and fulfill its obligations under UNSCR 1373, Pakistan relies on a number of legal provisions contained in the Anti-Terrorism Act, 1997. These provisions vary from proscription of organizations and persons, freezing and

² https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf

seizure of assets, etc., to criminalizing different forms of terrorist financing and other required measures.

Anti-Terrorism Act, 1997 under 6(7), 11H, 11I, 11J, 11K and 11N criminalize offence of terrorist financing and specific provisions 11B, 11C, 11CC, 11D, 11E, 11EE, 11O, 11OO and 11P are concerning procedures for implementation of UNSCR 1373 (2001).

a. Criminalize the Financing of Terrorism:

The UNSCR 1373 requires from member states to criminalize the financing of terrorism as offence under the domestic laws. Pakistan has already criminalized all possible terrorist financing offences in the Ant-Terrorism Act, 1997. All these offences have also been included in the list of predicate offences in the Anti- Money Laundering Act, 2010. The various provisions to this affect in the ATA, 1997 are summarized as under;

S. No.	Section of ATA, 1997	Subject	Provision
1.	6	Terrorism	The term "terrorist" includes an individual who has been concerned in the commission, preparation, facilitation, funding or instigation of acts of terrorism;
2.	11-H	Funds raising	<ul style="list-style-type: none"> i. A person commits an offence if he invites another to provide money or other property, and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism. ii. Similarly, person commits an offence if he receives money or other property, and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism. iii. Also, a person commits an offence if he provides money or other property; and knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.
3.	11-I	Use and possession	A person commits an offence if he uses money or other property for the purposes of terrorism; or possesses money or other property; and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
4.	11-J	Funding Arrangements	A person commits an offence if he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another; and has reasonable cause to suspect that it will or may be used for the purposes of terrorism.
5.	11-K	Money Laundering	A person commits an offence if he enters into or becomes concerned in any arrangement which facilitates the retention or control, by or on behalf of another person, of terrorist property by concealment, by removal from the jurisdiction, by transfer to nominees, or in any other way.

6.	11-N	Punishment under Sections 11H to 11K	Any person who commits an offence under sections 11H to 11K, shall be punishable on conviction with imprisonment for a term not less than five years and not exceeding ten years and with fine.
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b. Freezing and Confiscation of Terrorist Assets, Provisional Measures and Confiscation under UNSCR 1373:

The UNSCR 1373 requires all states to **freeze without delay funds and other financial assets or economic resources** of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.;

The Financial Action Task Force under its definition section provides that the phrase '**without delay**' means, ideally, within a matter of hours of a designation by United Nations Security Council (e.g. the 1267 Committee)³. For the purposes of UNSCR 1373(2001), the phrase without delay means upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organization. In both cases, the phrase without delay should be interpreted in the context of the need to prevent the flight or dissipation of funds or other assets which are linked to terrorists, terrorist organizations, those who finance terrorism, and to the financing of proliferation of weapons of mass destruction, and the need for global, concerted action to interdict and disrupt their flow swiftly.

Anti-Terrorism Act 1997 under section 11B, 11E, 11EE, 11EEEE, 11O, 11OO and 11P of ATA 1997 empower Pakistan s' implementing agencies to freeze and confiscate terrorist assets, provisional measures and confiscation which are required under UNSCR 1373

S.No	Section of ATA 1997	Subject	Provision
1	11B	Proscription of Organization	The Federal Government may list an organization as a proscribed organization in the First Schedule if there are reasonable grounds to believe that it is concerned in terrorism; or owned or controlled, directly or indirectly, by any individual or organization proscribed under ATA; or acting on behalf of, or at the direction of, any individual or organization proscribed under ATA.
2	11E	Measure to be taken against a Proscribed Organization	<ul style="list-style-type: none"> • Where any organization is proscribed, amongst other measures to be taken by Federal Government-, <ul style="list-style-type: none"> • its offices, if any, shall be sealed. • All literature, posters, banner, or printed, electronic, digital or other material shall be seized; and • publication, printing or dissemination of any press statements, press conferences or public utterances by or on

³ <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

			<p>behalf of or in support of a proscribed organization shall be prohibited.</p> <ul style="list-style-type: none"> • The office bearers, activists, or the members or the associates of the proscribed organization may be liable to- <ul style="list-style-type: none"> • shall not be issued any passport or allowed to travel abroad; • no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to such persons or issue the credit cards to such persons; • arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith in the nearest Police Station. No fresh license to such persons for any kind of weapons shall be issued. • The Proscribed Organization shall submit all accounts of its income and expenditure for its political and social welfare activities and disclose all funding sources to the competent authority designated by Federal Government.
3	11EE	Proscription of Person	<p>The Federal Government may list a person as a proscribed person in the Fourth Schedule of ATA,1997 if there are reasonable grounds to believe that such person is concerned in terrorism, an activist, office bearer on an associate of an organization kept under observation under section 11D or proscribed under section 11B, and in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organization proscribed under the ATA 1997.</p>
4	11EEEEE	Prohibition on Disposal of Property	<ul style="list-style-type: none"> • If during the course of investigation, the police officer or Joint Investigation Team has sufficient evidence to believe that any property which is subject matter of investigation is likely to be removed transferred or otherwise disposed, such officer or the team may direct the owner or any person who is, for the time being, in possession thereof not to remove, transfer or otherwise dispose of such property before an order of appropriate authority for its seizure is obtained. • Any contravention of the order shall be punishable with rigorous imprisonment which may extend to two years, or with fine, or with both.
5	11O	Seizure, Freeze and Detention	<ul style="list-style-type: none"> • On proscription made under section 11B or 11EE— <ul style="list-style-type: none"> ○ the money or other property owned or controlled, wholly or partly, directly or indirectly, by a proscribed organization or proscribed person shall be frozen or seized, as the case may be; ○ the money or other property derived or generated from any aforementioned property shall be frozen or seized, as the case may be; ○ no person shall use, transfer, convert, dispose of or remove such money or other property with effect from proscription; and ○ within forty-eight hours of any freeze or seizure, the person carrying out the freeze or seizure shall submit a report

			<p>containing details of the property and the persons affected by the freeze or seizure to such office of the Federal Government as may be notified in the official Gazette.</p> <ul style="list-style-type: none"> Any person who violates the above provisions shall be liable to penalty of fine not exceeding ten million rupees and the legal person violating the provision shall be liable to penalty of fine not exceeding ten million rupees and its every director, officer or employee found guilty of the violation shall be punished in terms thereof. <ul style="list-style-type: none"> On an application by any affected person, Federal Government shall inquire into the ownership and control of any money or other property that has been frozen or seized and, if it is satisfied that the money or other property has inadvertently been frozen or seized, the same shall be ordered to be released No prosecution, suit or other proceedings shall lie against the government or any other person complying or purporting to comply with the provision done in good faith to effect freeze seizure.
6	1100	Access to Services, Money or other Property	The Federal Government may permit a person to make available to a proscribed organization or proscribed person such services, money or other property as may be proscribed, including such money as may be required for meeting necessary medical and educational expenses and for subsistence allowance.
7	11P	Attachment of a Terrorist Property	<ul style="list-style-type: none"> An investigating officer may apply to a court for an order for attachment of a terrorist property. Any cash attached under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture.

9. Implementation of Assets Freezing and Seizure to make Compliance of UNSCR 1373:

The detailed step wise procedures under Anti-terrorism Act 1997 starting from proscription order to freezing and seizure of assets in order to make compliance with UNSCR 1373 has been given as under.

Step 1: Proscription Notification:

i. Organizations:

The Competent Authority to notify an organization as a proscribed organization is the Ministry of Interior (Moi) . The Moi may include an organization in the First Schedule of ATA 1997 in the light of provisions of section 11B of the Act. The updated lists of proscribed organizations can be accessed on NACTA's website at <https://nacta.gov.pk>

ii. Persons:

Similarly, the Competent Authority to notify an individual as a proscribed person is the Ministry of Interior. However, vide SRO No. (1)/2014 dated 29th October 2014, Ministry of Interior has delegated the power and functions as specified in section

11EE of the ATA to respective Provincial Home Secretaries and the Chief Commissioner Islamabad Capital Territory. The lists of proscribed persons are updated by the respective Home Departments and can also be accessed on NACTA's website at <https://nacta.gov.pk>

Step 2: Authorities for Compliance of the Notification:

Authority	Action to be Taken
Ministry of Interior	<ul style="list-style-type: none"> • Immediately notify the proscription order of proscribed organization to all concerned federal and provincial departments/ organizations through mail, fax and emails to implement it without delay as required under the UNSCR 1373 • Enforce and monitor the actions taken under UNSCR 1373 by respective organizations • Freeze and Seizure of Property (Movable and Immovable) under section 110 ATA 1997 • Keep updated data with respect to assets frozen/seized etc.
Home Departments / Chief Commissioner ICT	<ul style="list-style-type: none"> • Issue notification of proscribed persons and forward it to Mol, SBP, SECP, Passport and Immigration Authority, FIA, provincial departments concerned with implementation of the actions envisaged in UNSCR 1373 and Chief Secretaries/ Provincial Home Secretaries of other provinces, AJK and GB through mail, fax and emails to implement it without delay as required under the UNSCR 1373. • The Chief Secretaries/ Home Secretaries of other provinces, AJK and GB and Chief Commissioner ICT will also forward the proscription notification to their respective relevant provincial departments through mail, fax and emails to implement it without delay as required under the UNSCR 1373. • All Home Departments and Chief Commissioner ICT will ensure that implementation has been carried out without delay and share progress made with respect to implementation of proscription notifications with the province from where notification has been issued, under intimation to Ministry of Interior and NACTA. • All Home Departments and Chief Commissioner ICT will comply with directions and instructions of the Ministry of Interior for implementation of the UNSCR 1373. • Keep updated data with respect to assets frozen/seized etc. and provide updated information regarding all actions taken

	under UNSCR 1373 to MoI and NACTA on monthly basis
National Counter Terrorism Authority	Keep updated data with respect to assets frozen/seized etc. under UNSCR 1373 to be received from MoI and Home Departments
State Bank of Pakistan	<ul style="list-style-type: none"> • Immediately notify the proscription order to all banks/DFIs/MFBs. • Issue direction to all banks /DFIs/MFBs to freeze accounts of proscribed organization and individuals without delay. • No loan facility or financial support to be provided.
Security Exchange Commission of Pakistan	<ul style="list-style-type: none"> • Immediately notify the proscription order to all financial entities under its supervision. • Issue direction to freeze without delay the accounts, funds and other financial assets or economic resources of the proscribed person or organization. • Any corporate entity, including non-banking financial companies, stock exchange, clearing house, or a depository company shall freeze and shall not transfer any share, debenture, bond, unit, or any other instrument of investment of proscribed organization and person.
All Banks/DFIs/MFBs/N POs/other financial institutions, etc.	<ul style="list-style-type: none"> • Freeze without delay the bank accounts, funds and other financial assets or economic resources of the proscribed person or organization. This includes all money or articles of value deposited with banks or financial institutions or placed in their safe lockers belonging to the proscribed person or organization. • No loan facility or financial support to be provided to proscribed person or organizations.
All Provincial Departments	<ul style="list-style-type: none"> • To comply with directions issued under proscription notification by Ministry of Interior or Home Departments to freeze and seize without delay property of proscribed organizations/ individuals under section 110 of ATA, 1997 and for compliance of UNSCR 1373 • To freeze without delay funds and other financial assets or economic resources of proscribed persons; and of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities. • To implement any other instructions of MoI or Home Departments as regards implementation of UNSCR 1373
District Intelligence Committees	<ul style="list-style-type: none"> • To hold regular meetings of District Intelligence Committee comprising representatives from Police, Intelligence agencies,

	<p>CTDs and Special Branch to identify the person or organizations to be placed on the 4th schedule in accordance with the provisions of section 11EE of the ATA 1997.</p> <ul style="list-style-type: none"> • To make recommendations to the Home Departments for placement of such persons on the 4th Schedule
District Administration	<ul style="list-style-type: none"> • To comply with directions issued under proscription notification by Ministry of Interior or Home Departments / Chief Commissioner ICT to freeze and seize without delay property of proscribed organizations/ individuals under section 110 of ATA, 1997 and for compliance of UNSCR 1373. • To freeze without delay funds and other financial assets or economic resources of proscribed persons; and of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities. • To implement any other instructions of the Home Departments as regards implementation of UNSCR 1373.
Provincial and District Revenue Authorities	<ul style="list-style-type: none"> • To comply with directions issued under proscription notification by Ministry of interior or Home Departments / Chief Commissioner ICT to freeze and seize without delay property of proscribed organizations/ individuals under section 110 of ATA, 1997 and for compliance of UNSCR 1373. • All the provincial revenue authorities shall freeze/seize without delay the immovable assets of proscribed persons and organizations. • An immovable property may also be frozen by way of avoiding or restraining the transfer, or creation of an encumbrance over such property.
Provincial CTDs	<ul style="list-style-type: none"> • To implement all the requirements under section 11EE of ATA, 1997 which relates to Police and LEAs. • To check and probe the assets of IV-Scheduler or prescribed organizations, their members and their immediate family members, parents, spouse, children through police or any government or other agencies. • To monitor and keep surveillance over activities of such persons through police or any other government agencies or any other person. • Any other obligation under ATA, 1997.

Notwithstanding the above, all the relevant departments, institutions, organizations, etc. shall prohibit any person and entity

from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.

Step 3: Freezing of Bank and Financial Accounts:

In case of proscribed organizations, the Ministry of Interior (MoI) issues the notification which is endorsed to the State Bank of Pakistan (SBP) and Securities Exchange Commission of Pakistan (SECP) for freezing of the bank accounts or other financial accounts of the organization. In case of individual proscribed by the Home Departments or Chief commissioner ICT, the notification providing necessary particulars of the person shall also be directly endorsed to State Bank of Pakistan (SBP) and Securities Exchange Commission of Pakistan (SECP), both through mail and emails, for freezing of the bank accounts or other financial accounts of the person. The bank and other financial accounts in both the cases are immediately frozen by respective financial institutions without delay.

The SBP in its Guidelines on Compliance of Government of Pakistan's Notifications issued under United Nations Security Council (UNSC) Resolutions clearly provides that SBP circulates the notifications of proscribed entities/individuals to its regulated entities for taking necessary action⁴. These SROs/Notifications, in addition to other requirements, require banks/DFIs/MFBs: "to freeze without delay the bank accounts, funds and other financial assets or economic resources, including funds derived from property owned or controlled, directly or indirectly by a listed/proscribed individual/ entity." The SBP also advises its regulated entities to report details of such frozen assets and other action, taken in compliance with the relevant SRO/Notification to SBP within the stipulated time.

Step 4: Freezing of Immovable Properties:

The UNSCR 1373 requires countries to freeze without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either (i) designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 (1999) and its successor resolutions; or (ii) designated by that country pursuant to resolution 1373 (2001). FATF Recommendations under its definition section has defined property as the assets of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in such assets. The authorities to implement UNSCR 1373 have been discussed above.

As per 110 of ATA, 1997 which includes the money or other property owned are controlled wholly are partly, directly or indirectly, shall be frozen are seized. The

⁴ <http://www.sbp.org.pk/bprd/2017/CL4-Annex.pdf>

money or other property shall be frozen or seized. No person shall use transfer, convert, dispose of or remove such money or other property w.e.f. prosecution. Within 48 hours of any freeze or seizure, the concerned person shall submit a report containing details of the property and the person effected by this to the Federal Government.

Step 5: Freezing of other Facilities and Activities:

There may be instances that the proscribed persons or organizations are engaged in various social, religious or charitable activities on the eve of their proscription. These activities may fall in the purview of various provincial government departments. Moreover, these proscribed persons or organizations may be holding various assets, including physical infrastructure and other moveable assets, for conducting such activities. In such circumstances, the provincial governments may appoint manager or administrator in consultation with Ministry of Interior to administer and manage such facilities and activities.

10. Property to be Frozen or Seized:

UNSCR 1373, paragraph 1, provides that property to be frozen or seized of entities are to be owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.

Section 110 of ATA,1997 empowers the competent authority to freeze or seize, as the case may be, the money or other property owned or controlled, wholly or partly, directly or indirectly, by a proscribed organization or proscribed person, including the money or other property derived or generated from any such property frozen or seized. Hence, any money, cash, securities, bearer instruments of values, articles of values and document of title or ownership of properties relating to proscribed organization or person may also be seized.

11. Preventive Measures to be Taken by Financial Institutions, NPOs and Non-Financial Businesses and Professions:

- a. **UNSCR 1373 under paragraph 1 (d)** provides all States to prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons. The UNSCR 1373 is both preventive and punitive in nature. On the same analogy, the Anti- Terrorism Act 1997 contains various provisions which empowers the

agencies to prohibit and prevent the proscribed organizations and persons and deprive them from the financial resources and services.

- b. Section 11EEE of ATA,1997** empowers the Federal Government to direct the arrest and detention in custody of proscribed person as may be satisfied, and may, extend from time to time, the period of such detention for a total period not exceeding twelve months.
- c. Section 11L of ATA, 1997** provides that a person may disclose to a police officer a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property; or any matter on which the suspicion is based.

12. De-Freezing of Assets:

The ATA, 1997 provides legal procedure for unfreezing of assets under its section 11U which states that the Federal Government may, by notification in the official Gazette, at any time remove any organization or person from the First Schedule or Fourth Schedule, as the case may be, on the basis that no reasonable ground for proscription exists. On cancellation or the proscription under this Act, any money or other property that has been frozen or seized shall be released in a timely manner. The competent authority to remove any organization or person from the First Schedule or Fourth Schedule is Ministry of Interior and the Provincial Home Department, respectively.

13. International Cooperation:

In cases where investigation reveals nexus between offence committed by a proscribed organization or individual in Pakistan with a foreign entity or individual, the Ministry of Interior (upon request from relevant LEAs) would forward the Mutual Legal Assistance (MLA) request to Ministry of Foreign Affairs for onward submission to the concerned foreign government through proper diplomatic channels.

When requesting another country to give effect to the actions initiated under the freezing mechanisms of AT A 1997, the Ministry of Interior would provide as much identifying information, and specific information supporting the designation, as possible to Ministry of Foreign Affairs, who would share it with the concerned foreign government through proper diplomatic channels. Similarly, such an incoming request from a foreign government would be forwarded to Ministry of Interior by Ministry of Foreign Affairs after receipt of formal request through proper diplomatic channels.

While preparing MLA request, the Law Enforcement Agencies (LEAs) would provide, inter alia, description of the legal basis upon which the request is made e.g bilateral treaty, multilateral convention, or scheme or in the absence thereof, on the basis of reciprocity. The LEAs would further provide summary of the relevant facts of the case including, to the extent possible, full identification details of the alleged offender (s). The General Checklist for preparing MLA requests for appropriate use of LEAs is as under.

- **Legal basis for the request:** A description of the legal basis upon which the request is made e.g bilateral treaty, multilateral convention or scheme or, in the absence thereof, on the basis of reciprocity.

- **Summary of the relevant facts** of the case including, to the extent possible, full identification details of the alleged offender (s)
- **Description of the offence and applicable penalty:** A description of the offence and applicable penalty, with an excerpt or copy of the relevant parts of the law of the requesting State.
- **Description of the evidence/assistance requested:** A description in specific terms of the evidence or other assistance requested.
- A clear and precise explanation of the **linkage between the investigation, prosecution or proceedings and the assistance sought** i.e. describing how the evidence or other assistance sought is relevant to the case.
- A **description of the procedure** to be followed by the authorities of the requested State in executing the request to ensure that the request achieves its purposes, including any special procedures to enable any evidence obtained to be admissible in the requesting State and reasons why the procedures are required.
- **Presence of officials from the requesting State in executing of request:** An indication as to whether the requesting State wishes its officials or other specified persons to be present at or participate in the execution of the request and the reason why this is requested.
