

To

The CEO's of All Insurance Companies

**Sub: Guidelines for implementation of Section 51A of Unlawful Activities
(Prevention) Amendment Act (UAPA), 2008**

Financial Action Task Force (FATF) has issued nine special recommendations to combat the financing of terrorism. These special recommendations when combined with the FATF forty recommendations on money laundering set out the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts. The nine special recommendations require countries to implement fully the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism, particularly the United Nations Security Council Resolution 1373.

2. Legislation in India to deal with the implementation of the United Nations Security Council (UNSC) Resolutions, takes the form of the Unlawful Activities (Prevention) Act (UAPA), 1967. UAPA amended in 2008 now covers various UNSC Resolutions, including UNSC 1267 and UNSC 1373 which require member countries inter alia, to take action against certain terrorists and terrorist organizations; take measures to combat international terrorism; etc. An updated list of individual and entities which are subject to various sanction measures as approved by Security Council Committee established pursuant to UNSC 1267 can be accessed in the United Nations website at <http://www.un.org/sc/committees/1267/consolist.shtml>.

3. By virtue of Section 51A of UAPA, the Central Government is empowered to freeze, seize or attach funds of and/or prevent entry into or transit through India any individual or entities that are suspected to be engaged in terrorism. To implement the said section an order reference F. No. 17015/10/2002-IS-VI dated 27th August, 2009 has been issued by the Government of India ([Copy annexed](#)). The salient aspects of the order with particular reference to Insurance Sector are detailed in the following paras.

4. IRDA would appoint a UAPA Nodal Officer for the purposes of implementation of the said order in the insurance sector and his contact details would be intimated shortly. A consolidated list of all the UAPA Nodal Officers of various agencies governed by the order will be circulated every year and on every change in the list, on receipt of the same from Ministry of Home Affairs.

5. It may be recalled that vide clause 3.1.1 (vi) of the Master Circular dated 24th November 2008 on AML guidelines, insurers have been advised not to enter into a contract with a customer whose identity matches with any person with known criminal background or with banned entities and those reported to have links with terrorists or terrorist organizations. It is hereby, advised that a list of individuals and entities subject to UN sanction measures under UNSC Resolutions (hereinafter referred to as 'designated individuals/entities') would be circulated to the life and general insurance companies through the respective Councils, on receipt of the same from the Ministry of External Affairs

(MEA). This is in addition to the list of banned entities that were circulated to the insurers till date.

6. Accordingly, insurers are advised to maintain an updated list of designated individuals/entities (as indicated in para 5 above) in electronic form and run a check on the given parameters on a regular basis to verify whether designated individuals/ entities are holding any insurance policies with the company.

7. Procedure for freezing of insurance policies of 'designated individuals/entities':-

In case any matching records are identified, the procedure required to be adopted is as follows:

- a. Insurance companies shall immediately and in any case within 24 hours from the time of identifying a match, inform full particulars of the insurance policies held by such a customer on their books to the Joint Secretary (IS-I), Ministry of Home Affairs, at Fax No.011-23092569 and also convey over telephone on 011-23092736. The particulars apart from being sent by post should necessarily be conveyed on e-mail id: jsis@nic.in.
- b. The insurance companies shall also send a copy of the communication mentioned in 7 (a) above to the UAPA Nodal Officer of the State/UT where the account is held, IRDA and FIU-IND.
- c. In case, the match of any of the customers with the particulars of designated individuals/entities is beyond doubt, insurance companies would prevent designated individuals/entities from conducting any transactions, under intimation to the Joint Secretary (IS-I), Ministry of Home Affairs at Fax no. 011-23092569 and also convey over telephone on 011-23092736. The particulars apart from being sent by post should necessarily be conveyed on e-mail id: jsis@nic.in.
- d. The insurance companies shall file a Suspicious Transaction Report (STR) with FIU-IND in respect of the insurance policies covered by paragraph 7 (a) above, carried through or attempted, in the prescribed format (as per the Master Circular on Anti Money Laundering Guidelines dated 24th November 2008) .
- e. On receipt of the particulars of suspected designated individual/entities IS-I Division of MHA would cause a verification to be conducted by the State Police and/or the Central Agencies so as to ensure that the individuals/entities identified by the insurance companies are the ones listed as designated individuals/entities and the insurance policies, reported by insurance companies are held by the designated individuals/entities.
- f. In case, the results of the verification indicate that the insurance policies are owned by or are held for the benefit of the designated individuals/entities, an order to freeze these insurance policies under section 51A of the UAPA would be issued within 24 hours of such verification and conveyed electronically to the concerned office of insurance company under intimation to IRDA and FIU-IND.
- g. The said order shall take place without prior notice to the designated individuals/entities.

8. Procedure for unfreezing of insurance policies of individuals/entities inadvertently affected by the freezing mechanism, upon verification that the individual/ entity is not a designated individual/entity:-

- a. Any individual or entity, if they have evidence to prove that the insurance policies, owned/held by them has been inadvertently frozen, shall move an application giving the requisite evidence, in writing, to the concerned insurance companies.
- b. The insurance companies shall inform and forward a copy of the application together with full details of the insurance policies inadvertently frozen as given by any individual or entity, to the Nodal Officer of IS-I Division of MHA within two working days.
- c. The Joint Secretary (IS-I), MHA, the Nodal Officer for IS-I Division of MHA shall cause such verification as may be required on the basis of the evidence furnished by the individual/entity and if he is satisfied, he shall pass an order, within 15 working days, unfreezing the insurance policies owned/held by such applicant, under intimation to the concerned insurance company. However, if it is not possible for any reason to pass an Order unfreezing the assets within 15 working days, the Nodal Officer of IS-I Division shall inform the applicant.

9. Implementation of requests received from foreign countries under U.N. Security Council Resolution 1373 of 2001

- a. U.N. Security Council Resolution 1373 obligates countries to freeze without delay the funds or other assets 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 or other assets, derived or generated from property owned or controlled, directly or indirectly, by such persons and associated persons and entities.
- b. To give effect to the requests of foreign countries under U.N. Security Council Resolution 1373, the Ministry of External Affairs shall examine the requests made by the foreign countries and forward it electronically, with their comments, to the UAPA Nodal Officer for IS-I Division for freezing of funds or other assets.
- c. The UAPA Nodal Officer of IS-I Division of MHA, shall cause the request to be examined, within 5 working days, so as to satisfy itself that on the basis of applicable legal principles, the requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee is a terrorist, one who finances terrorism or a terrorist organization, and upon his satisfaction, request would be electronically forwarded to the Nodal Officer in IRDA. The proposed designee, as mentioned above would be treated as designated individuals/entities.
- d. Upon receipt of the requests by these Nodal Officers from the UAPA Nodal Officer of IS-I Division, the list would be forwarded to insurance companies and the procedure as enumerated at paragraphs 6 and 7 above shall be followed.

- e. The freezing orders shall take place without prior notice to the designated persons involved.

Communication of Orders under Section 51A of Unlawful Activities (Prevention) Act

10. IRDA would communicate all Orders under section 51A of UAPA relating to insurance policies, to all the insurance companies after receipt of the same from IS-I Division of MHA.

11. This circular is being issued in exercise of powers conferred under section 14 (1) (q) of the Insurance Regulatory and Development Authority Act, 1999.

12. Insurance Companies shall ensure strict compliance with the contents of this circular and the provisions of the UAPA, and the Government order dated 27th August 2009.

(C.R. Muralidharan)
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