

# ***Counter-Proliferation Financing***

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2022 WEBINAR FOR LEGAL PROFESSIONALS

*8 JULY 2022*



Commerce and Economic Development Bureau  
The Government of the Hong Kong Special Administrative Region

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# *Content*

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1. Weapons of mass destruction, proliferation financing and targeted financial sanctions
2. Counter-proliferation financing legislative framework in Hong Kong
3. Obligations of legal professionals
4. Proliferation financing risk assessment in Hong Kong

# 1

## Weapons of Mass Destruction, Proliferation Financing and Targeted Financial Sanctions

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# *What are weapons of mass destruction (WMDs)?*

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- Definition provided by the United Nations (UN) –



Source: <https://www.un.org/disarmament/wmd/>

# *What is proliferation financing (PF)?*

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- Definition provided by the Financial Action Task Force (FATF) –

*... the act of providing funds or financial services that 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 and related materials (including both technologies and dual use goods used for non-legitimate purposes)...*

Source: <https://www.fatf-gafi.org/media/fatf/documents/reports/Status-report-proliferation-financing.pdf>

# *What is targeted financial sanction (TFS)?*

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- FATF's Recommendation 7 – “TFS related to Proliferation” –
  - Requires jurisdictions to implement TFS to comply with UN Security Council (UNSC) Resolutions relating to the prevention of proliferation of weapons of mass destruction

*... to freeze, without delay, the **funds or other assets** of, and to ensure that no funds and other assets are made available to, and for the benefit of, **any person or entity designated** by the United Nations Security Council...*

Source: <https://www.fatf-gafi.org/media/fatf/documents/reports/Status-report-proliferation-financing.pdf>

- Full application of requirements under Recommendation 7 is mandatory regardless of risk level

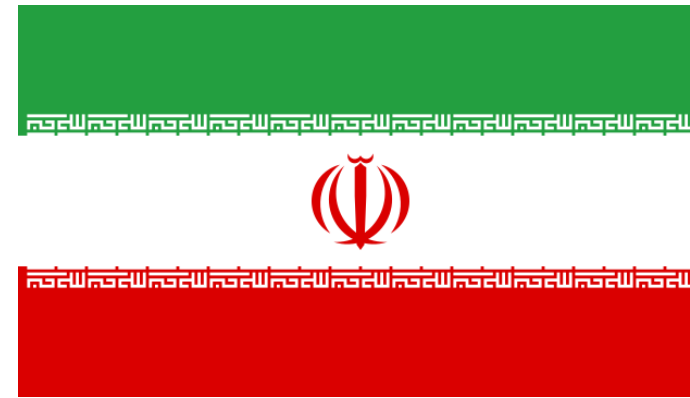
# *What is targeted financial sanction (TFS)?*

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- At the FATF level, TFS related to proliferation covers the following countries –



**The Democratic People's Republic of Korea  
(The DPRK)**



**Iran**



# *What is targeted financial sanction (TFS)?*

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- TFS related to proliferation covers persons or entities designated by the UNSC committees related to the DPRK and Iran

| Countries       | Designated persons | Designated entities | Last update on  |
|-----------------|--------------------|---------------------|-----------------|
| <b>The DPRK</b> | 80                 | 75                  | 30 June 2020    |
| <b>Iran</b>     | 23                 | 61                  | 17 January 2016 |

Sources: <https://www.un.org/securitycouncil/sanctions/1718/materials> and <https://www.un.org/securitycouncil/content/2231/list>

# 2

## Counter-proliferation Financing Legislative Framework in Hong Kong

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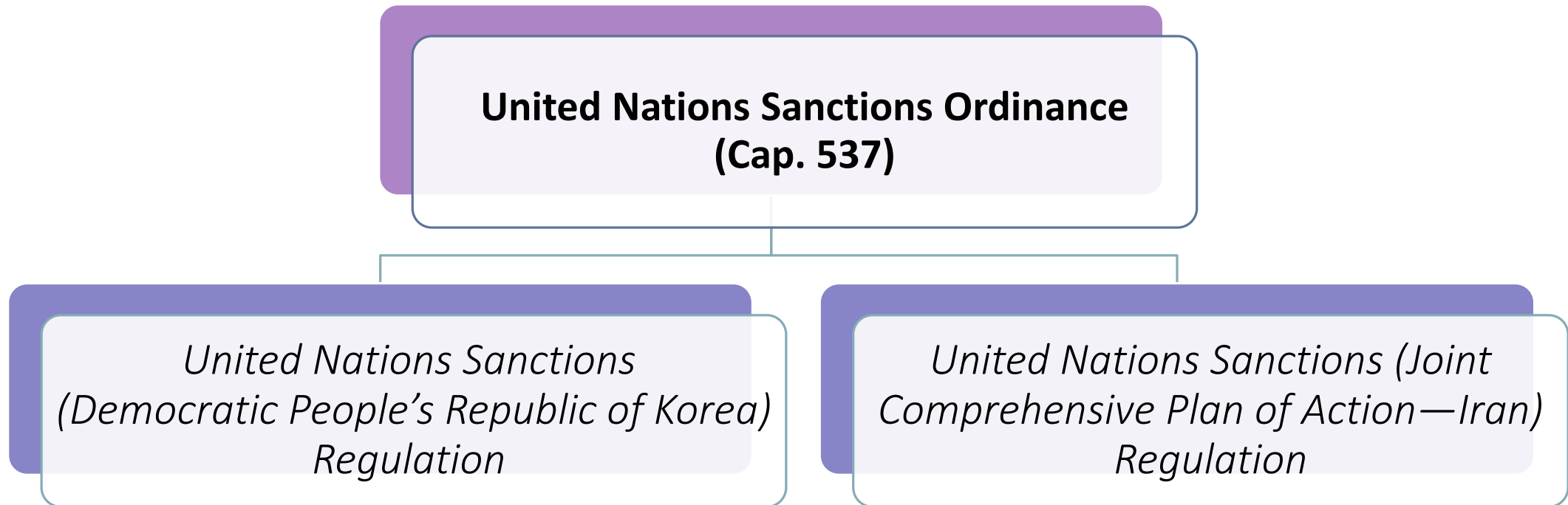
# *Relevant legislation*

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**Weapons of Mass Destruction (Control of Provision of Services) Ordinance  
(Cap. 526)**

# Relevant legislation

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Sources: [https://www.elegislation.gov.hk/hk/cap537AE!en?INDEX\\_CS=N](https://www.elegislation.gov.hk/hk/cap537AE!en?INDEX_CS=N) and [https://www.elegislation.gov.hk/hk/cap537BV!en?INDEX\\_CS=N](https://www.elegislation.gov.hk/hk/cap537BV!en?INDEX_CS=N)

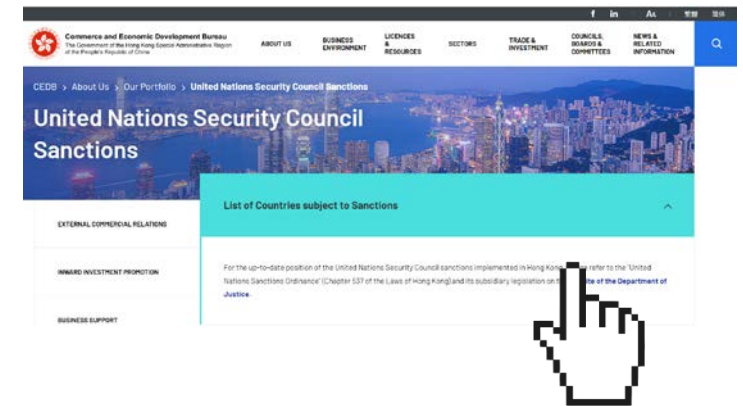
## *Relevant legislation*

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- For example, according to the United Nations Sanctions (Democratic People's Republic of Korea) Regulation –
  - Except authorised, **NOT** to make available to, or deal with funds, other financial assets or economic resources of:
    - a) individuals or entities designated by the UNSC;
    - b) individuals or entities acting on behalf of, or at the direction of (a); and
    - c) entities owned or controlled by (a) or (b)

# Updating of sanctions lists

- When the UNSC updates its sanctions lists, the Commerce and Economic Development Bureau will accordingly publish the updated list on website (for the DPRK), or in the Gazette (for Iran)
- Once the updated lists are published, the relevant TFS is in force in Hong Kong
- Anyone who contravenes the relevant requirements is liable to a fine and maximum imprisonment for 7 years



<https://www.cedb.gov.hk/en/policies/united-nations-security-council-sanctions.html>

# 3

## Obligations of Legal Professionals

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# *Sanction evasion by designated persons/entities*

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- Use of shell or front companies
- Dummy accounts
- Fraudulent intermediaries
- Fraudulent businesses



# *Obligations of legal professionals*

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- Except authorised, never establish any business relationship with designated persons or entities (or those acting on the behalf, etc.)
- Maintain compliance and implement effective, regular screening system
  - Up-to-date database
  - Adequate, timely customer due diligence
  - Conduct enhanced due diligence if necessary
  - Adequate record keeping
  - Adequate transaction screening and monitoring

# *Obligations of legal professionals*

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- If there is any suspicion, consider submitting a suspicious transaction report (STR) to the Joint Financial Intelligence Unit (JFIU)

# *Signs requiring attention*

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- Customer Profile
  - At due diligence stage, do they appear in sanctions lists or negative news?
  - Are they acting on someone's behalf and also reluctant in providing additional information when queried?
  - Did they provide vague or incomplete information about their commercial activities during on-boarding due diligence?
  - Are they affiliated with a university or research institution, and involved in the trading of dual-use goods or goods subject to export control?

# *Signs requiring attention*

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- Transaction Activities
  - Are the transactions unrelated to the firm's stated business profile?
  - Are the originator and beneficiary of a transaction a person or an entity domiciled in a country of proliferation concern (i.e. the DPRK and Iran)?
  - Do the transactions involve dual-use goods, goods subject to export control or complex equipment? If so, do the customers have congruent technical background or stated line of activity?

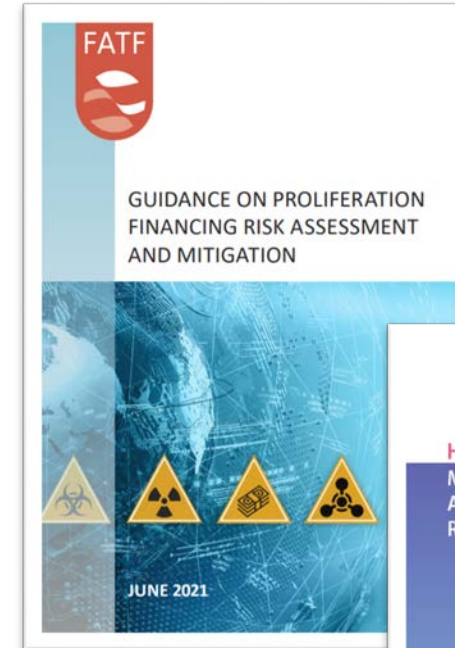
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## Proliferation Financing Risk Assessment in Hong Kong

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# PF risk assessment

- FATF published a *Guidance on PF Risk Assessment and Mitigation* in June 2021
- The Government published on 8 July 2022 the new *Hong Kong Money Laundering and Terrorist Financing Risk Assessment Report*, which includes a separate chapter on PF risks



# Reference materials

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- Website of the Commerce and Economic Development Bureau – Page on UNSC sanctions  
<https://www.cedb.gov.hk/en/policies/united-nations-security-council-sanctions.html>
- *Hong Kong Money Laundering and Terrorist Financing Risk Assessment Report*  
<https://www.fstb.gov.hk/fsb/aml/en/risk-assessment.htm>
- *Guidance on PF Risk Assessment and Mitigation* by FATF (June 2021)  
<https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Proliferation-Financing-Risk-Assessment-Mitigation.pdf>
- *Guidance on Counter PF* by FATF (February 2018)  
<https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Countering-Proliferation-Financing.pdf>

# Thank you



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