

Sri Lanka's Regulatory Framework
for Targeted Financial Sanctions
(TFS) on Proliferation Financing of
Weapons of Mass Destruction
(PF-WMD)

What we are going to discuss;

- ▶ What is United Nations Security Council Resolution (UNSCR)
- ▶ What are Targeted Financial Sanctions (TFS)
- ▶ What is Proliferation Financing of Weapons of Mass Destruction (PF-WMD)
- ▶ UNSCRs which are relevant to Financial Institutions
- ▶ Legal framework for countering PF-WMD
- ▶ Consequences of non-compliance

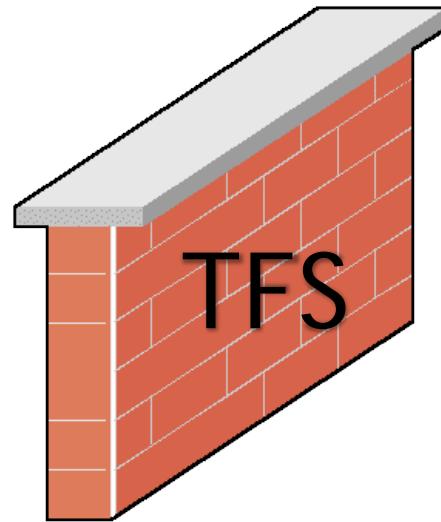
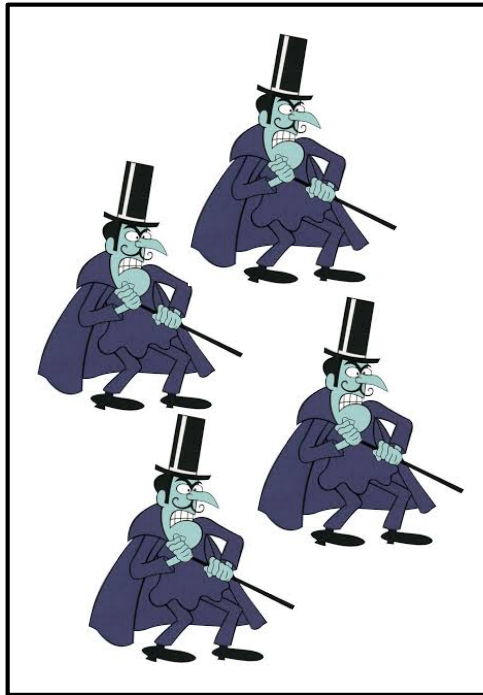
What is United Nations Security Council Resolution (UNSCR)?

- ▶ UN Security Council - Global Policeman
- ▶ Binding Obligatory Orders
- ▶ Famous for imposing sanction measures on countries (and individuals)
- ▶ Financial sanction measures are relevant to Financial Institutions



What are Targeted Financial Sanctions (TFS)?

- ▶ List of “bad actors” who threaten the world peace
- ▶ The lists are updated by the Security Council regularly
- ▶ UN member countries can't do financial dealings with such designated individuals and entities.



What is Proliferation Financing of Weapons of Mass Destruction (PF-WMD)?

- ▶ Providing funds for the rapid construction of WMD and their means of delivery
 - ▶ WMD - Chemical/Biological/Radio Active/Nuclear (CBRN)
 - ▶ Means of Delivery - Ballistic Missiles, Cruise Missiles, Combat Aircraft, Drones etc.
- ▶ State actors (governments) and non-state actors (individuals and organizations)
- ▶ Closely associated with science and technological research projects
- ▶ Separate UNSCRs for state and non-state actors
- ▶ Currently, North Korea (DPRK) and Iran have been designated as state actors



UN Security Council's Approach to Counter PF-WMD

- ▶ Global approach under UNSCR 1540 (2004) and its successor resolutions (Non-state actors)
- ▶ Country-specific approach under UNSCR 1718 (2006) and UNSCR 2231 (2015) and their successor resolutions (State actors)

UNSCRs which are Relevant to FIs

- ▶ Relevant because they are associated with TFS regimes
- ▶ UNSCR 1718 and related resolutions
 - ▶ North Korea related individuals and entities - *State Actors*
- ▶ UNSCR 2231 and related resolutions
 - ▶ Iran related individuals and entities - *State Actors*
- ▶ UNSCR 1540 and related resolutions
 - ▶ Individuals and organizations (no list!) - *Non-state Actors*

Sri Lanka's Regulations for Countering the PF-WMD

- ▶ United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017 (for UNSCR 1718)
- ▶ United Nations (Sanctions in relation to Iran) Regulations No. 1 of 2018
- ▶ United Nations (Sanctions relating to Proliferation of Nuclear, Chemical or Biological Weapons) Regulations of 2017 (for UNSCR 1540)

United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017

- ▶ To freeze the funds and other assets of North Korean individuals and entities (including the government)
- ▶ Secretary of the Defense is the Competent Authority (CA), and the FIU is facilitating the implementation process
- ▶ CA has gazetted the first list of designated individuals, entities and items - *regulations 4 & 19*
- ▶ Institutions cannot facilitate any service for the usage of designated items by North Korean persons - *regulations 4 & 7*
- ▶ Institutions cannot facilitate any financial service for the usage of vessels by North Korean persons - *regulations 6 & 12*

United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017 (Contd.)

- ▶ All institutions shall immediately freeze funds and other assets of designated individuals and entities. Funds to a frozen account will stay frozen - *regulations 8, 9, 19, 20, 21*
- ▶ Institutions cannot facilitate trade with North Korean persons - *regulation 11*
- ▶ Institutions cannot maintain financial relationships with North Korean FIs - *regulation 14*
- ▶ Only one account for North Korean diplomatic missions or consular post - *regulation 18*
- ▶ Inform the CA and the FIU after freezing - *regulation 28*

United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017 (Contd.)

- ▶ Inform the customer after freezing and informing FIU & CA - *regulation 29*
- ▶ Don't tip off the customer - *regulation 30*
- ▶ CA may grant a special authorization to permit the use of frozen funds and assets - *regulation 31*
- ▶ Imprisonment and/or fine for non-compliance - *regulation 34*

United Nations (Sanctions in relation to Iran) Regulations No. 1 of 2018.

- ▶ Less stricter than DPRK regulations (only focused on implementing the TFS provisions)
- ▶ Secretary of the Defense is the Competent Authority (CA), and the FIU is facilitating the implementation process
- ▶ Immediately freeze funds and other assets of designated individuals and entities - *regulation 9*
- ▶ Funds to a frozen account will stay frozen - *regulations 10*
- ▶ Don't tip off the customer - *regulation 11*

United Nations (Sanctions in relation to Iran) Regulations No. 1 of 2018 (Contd.)

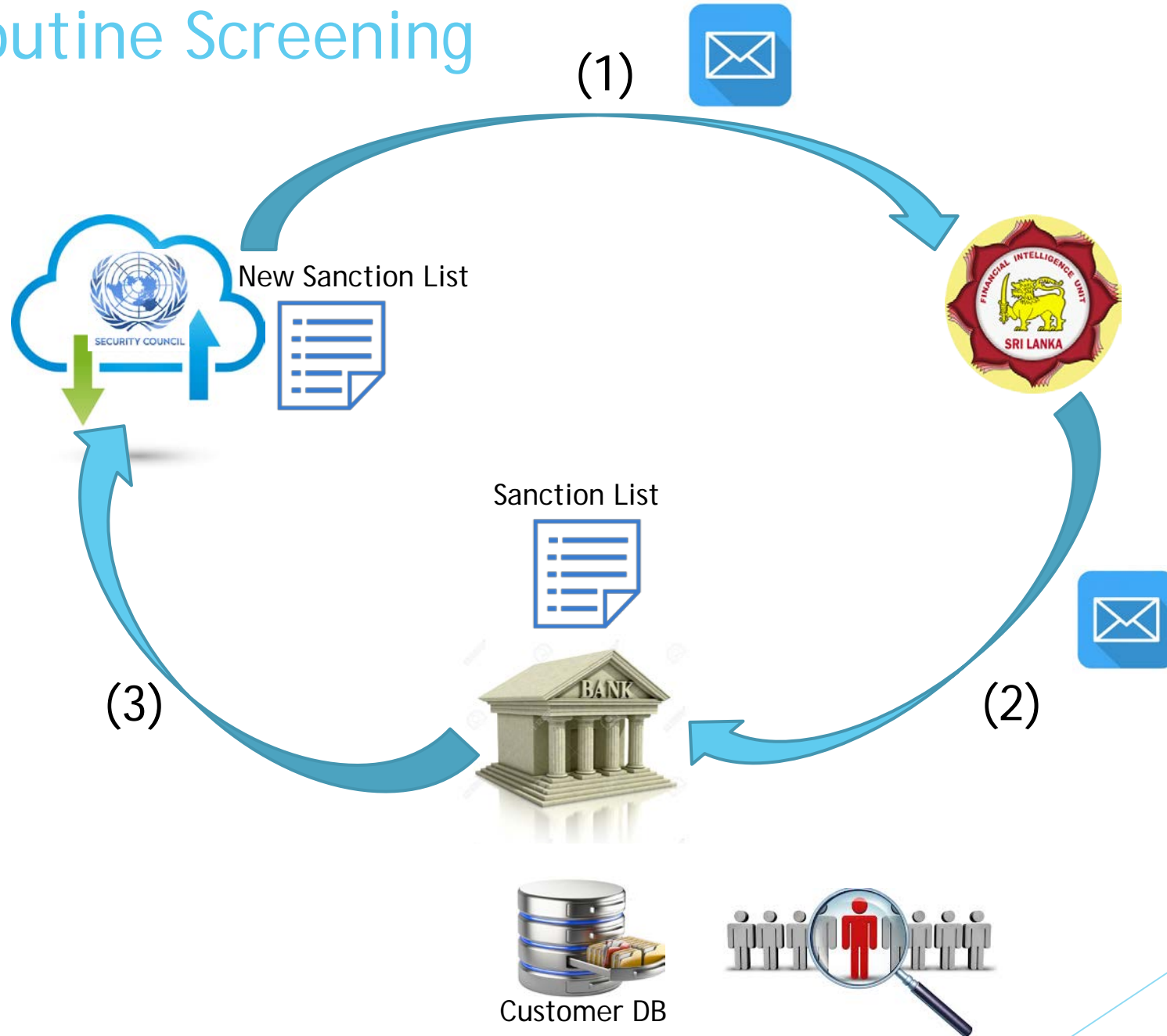
- ▶ Imprisonment and/or fine for non-compliance - *regulation 12*
- ▶ Mistaken identities can apply to CA - *regulation 13*
- ▶ Inform the CA and the FIU after freezing - *regulation 14*
- ▶ CA may grant a special authorization to permit the use of frozen funds and assets - *regulation 15*
- ▶ Indemnity for good faith actions - *regulation 22*

United Nations (Sanctions relating to Proliferation of Nuclear, Chemical or Biological Weapons)

Regulations of 2017 (for UNSCR 1540)

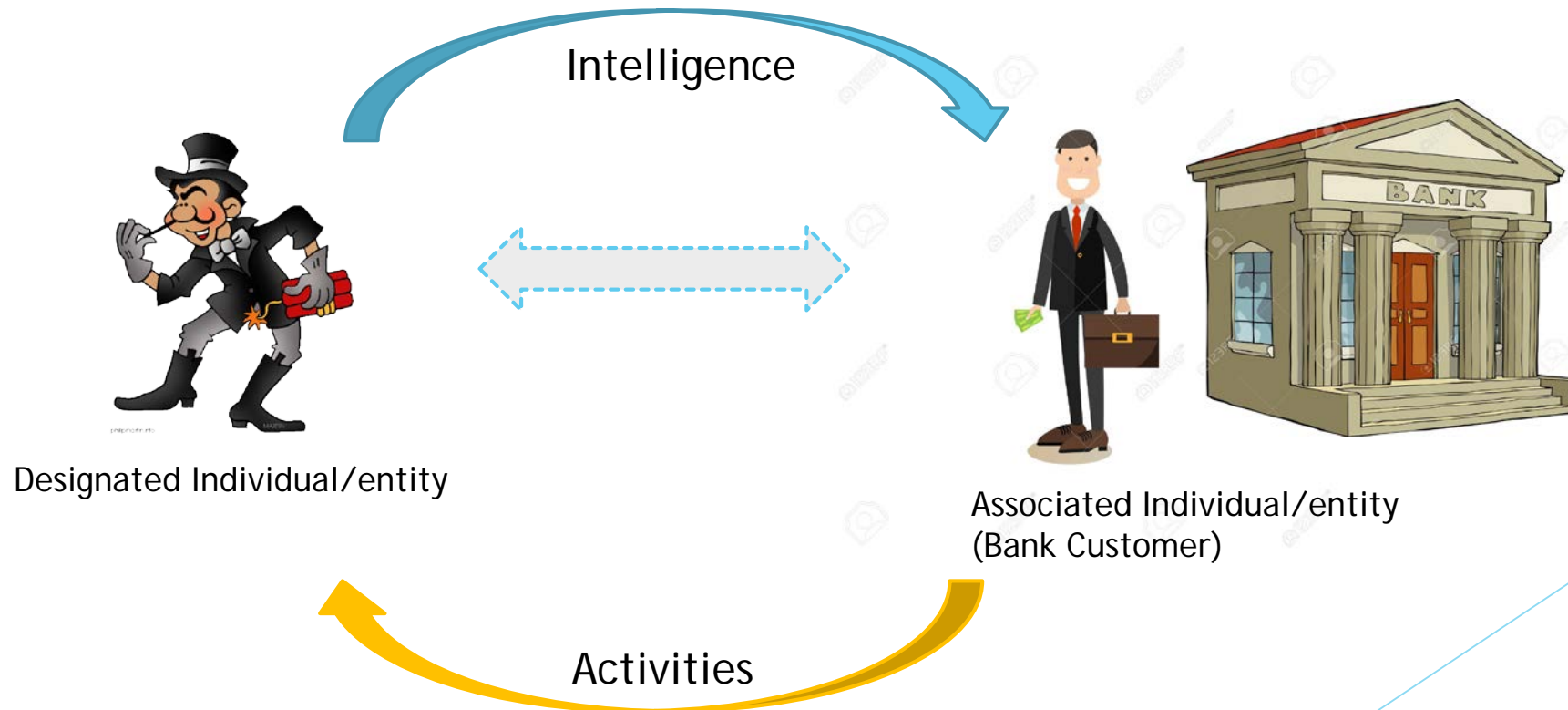
- ▶ Dealing with WMD and their means of delivery, as well as assisting to such dealings, is a criminal offence - *regulation 3*
- ▶ Providing financial and economic assets or services for WMD related activities is a criminal offence - *regulation 4*
- ▶ Dealing with WMD related materials (dual use items) within Sri Lanka for peaceful purposes shall be done in accordance with relevant written law - *regulation 5*
- ▶ Engaging in export/transit/trans-shipment/re-export of dual use items within Sri Lanka for peaceful purposes shall be done in accordance with relevant written law - *regulation 6*
- ▶ To be complemented with Regulations to effectively implement the Strategic Trade Control (STC) mechanisms will be issued in the future.

Routine Screening



Screening Mechanism - Practical Approach

- ▶ Only a 'dumb' proliferator would have accounts in his/her name and transact using his/her name
- ▶ Therefore for effectiveness, Institutions have to move from 'List Based Screening' to 'Activity Based Screening'



What are the Activities ?

- ▶ Transactions involve person or entity in foreign country of proliferation concern or diversion concern (Iran, North Korea, Syria, Afghanistan, Iraq, Turkey, Azerbaijan, etc.)
- ▶ Customer activity / end user information does not match business profile
- ▶ A freight forwarding firm is listed as the product's final destination
- ▶ Shipment of goods to a technically incompatible country
- ▶ Shell companies
- ▶ Exchanging goods between companies of same owners or management
- ▶ Circuitous route of shipment (if available) / transactions
- ▶ Shipment of goods inconsistent with normal geographic trade patterns

What are the Activities ?

- ▶ Declared value of shipment seems under-valued compared to the shipping cost
- ▶ Inconsistencies of trade documents information
- ▶ Wire instructions or payments from/due to parties not identified on the original LOC or other documents
- ▶ Involvement of a small trading, brokering or intermediary company carrying out inconsistent businesses
- ▶ Involvement of a university in a country of proliferation concern
- ▶ Use of personal accounts to purchase industrial items

How to Show Your Implementation ?

- ▶ Policy documents include TFS implementation mechanisms (list updating, screening, alert management, freezing, unfreezing, reporting etc.)
- ▶ Employee training / awareness raising programs
- ▶ Internal audit reports
- ▶ Logs to show TFS implementation mechanisms
- ▶ Maintaining up to date CDD information on customers

Consequences of Non-compliance

- ▶ Imprisonment and/or fines
- ▶ Reputational damage
- ▶ Suspension of business



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