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Terrorism Designations FAQs

MEDIA NOTE

OFFICE OF THE SPOKESPERSON

FEBRUARY 27, 2018

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Fact Sheet

Office of the Spokesperson

Washington, DC

February 27, 2018

1. What are the different types of terrorism designations for groups and individuals?

There are two main authorities for terrorism designations of groups and individuals. Groups can be designated as *Foreign Terrorist Organizations* under the Immigration and Nationality Act. Under Executive Order (E.O.) 13224, a wider range of entities, including terrorist groups, individuals acting as part of a terrorist organization, and other entities such as financiers and front companies, can be designated as *Specially Designated Global Terrorists* (SDGTs).

2. What is the difference between an FTO and E.O. 13224 designation?

There are several differences between these two designation authorities. For example, while both FTO and E.O. 13224 designations trigger an asset freeze, the FTO designation imposes immigration restrictions on members of the organization simply by virtue of their membership, whereas E.O. 13224 restricts travel for persons who meet the criteria contained within the order. In addition, the FTO designation triggers a criminal prohibition on knowingly providing material support or resources to the designated organization. Another difference is that only E.O. 13224 designations provide the Department of the Treasury the derivative authority to designate additional individuals or entities providing support to already designated individuals or entities.

3. What are the consequences of FTO and E.O. 13224 designations?

Executive Order:

- ◆ With limited exceptions set forth in the Order, or as authorized by the Treasury Department's Office of Foreign Assets Control (OFAC), all property and interests in property of designated individuals or entities that are in the United States or that come within the United States, or that come within the possession or control of U.S. persons, are blocked.
- ◆ With limited exceptions set forth in the Order, or as authorized by OFAC, any transaction or dealing by U.S. persons or within the United States in property or interests in property blocked pursuant to the Order is prohibited. This includes, but is not limited to, making or receiving any contribution of funds, goods, or services to or for the benefit of designated individuals or entities.
- ◆ Any transaction by any U.S. person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions in the Order, is prohibited. Any conspiracy formed to violate any of the prohibitions is also prohibited.

- ◆ Civil and criminal penalties may be assessed for violations.

Foreign Terrorist Organization:

- ◆ It is a crime for a person in the United States or subject to the jurisdiction of the United States to knowingly provide “material support or resources” to or receive military-type training from or on behalf of a designated FTO.
- ◆ Representatives and members of a designated FTO, if they are aliens, are inadmissible to and, in certain circumstances removable from, the United States.
- ◆ Except as authorized by the Secretary of the Treasury, any U.S. financial institution that becomes aware that it has possession of or control over funds in which an FTO or its agent has an interest must retain possession of or control over the funds and report the funds to Treasury.

4. Who can designate FTOs and SDGTs?

The Department of State is authorized to designate FTOs and SDGTs, while the Department of the Treasury has the authority to designate only SDGTs. Both departments pursue these designations in cooperation with the Department of Justice.

5. What are the criteria for designation?

The Secretary of State designates **Foreign Terrorist Organizations** in accordance with section 219 of the Immigration and Nationality Act. The legal criteria for designating a group as a Foreign Terrorist Organization are:

- ◆ The organization must be a foreign organization;
- ◆ The organization engages in terrorist activity or terrorism or retains the capability and intent to engage in terrorist activity or terrorism; and
- ◆ The terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.

Under **Executive Order 13224**, the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, may designate foreign individuals or entities that he determines have committed, or pose a significant risk of committing, acts of terrorism that

threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States. In addition, the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, may designate individuals or entities that are determined:

- ◆ To be owned or controlled by, or act for or on behalf of an individual or entity listed in the Annex to the Order or by or for persons determined to be subject to the Order;
- ◆ To assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated in or under the Order; or
- ◆ To be otherwise associated with certain individuals or entities designated in or under the Order.

6. What makes you decide to designate or not designate a group or entity?

At the Department of State, the Bureau of Counterterrorism, in consultation with other bureaus, identifies and evaluates possible individuals or organizations for designation. Other Departments also recommend designation targets.

7. How does the process work?

For **Foreign Terrorist Organizations**, once an organization is identified, we prepare a detailed administrative record, which is a compilation of information, typically including both classified and open source information, demonstrating that the statutory criteria for designation have been satisfied.

- ◆ If the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury, decides to make the designation, Congress is notified of the Secretary's intent to designate the organization seven days before the designation is published in the *Federal Register*, as section 219 of the Immigration and Nationality Act requires.
- ◆ Upon the expiration of the seven-day waiting period, and in the absence of Congressional action to object to the designation, notice of the designation is published in the *Federal Register*, at which point the designation takes effect.

We also prepare an administrative record for **Specially Designated Global Terrorists**. Once it is completed and the Secretary of State or the Secretary of the Treasury designates an individual or

entity, the assets of the individual or entity in the United States or in the possession or control of U.S. persons are frozen and OFAC takes appropriate action, including notification of the blocking order to U.S. financial institutions, directing them to block the assets of the designated individual or entity.

- ◆ Notice of the designation is also published in the *Federal Register*. OFAC also adds the individual or entity to its list of Specially Designated Nationals, by identifying such individuals or entities as Specially Designated Global Terrorists, and posts a notice of this addition on the OFAC website.
- ◆ A designation remains in effect until the designation is revoked or the Executive Order lapses or is terminated in accordance with U.S. law.

8. What's the significance of the State Department designating a terrorist group as opposed to the Department of the Treasury?

- ◆ The Departments of State and the Treasury have different authorities under E.O. 13224 to designate SDGTs. An individual who is designated under State's E.O. 13224 authority has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.
- ◆ Treasury is able to designate under E.O. 13224 using authorities that allow for the designation of individuals or entities that are determined to be owned or controlled by, or act for or on behalf of an individual or entity listed in the Annex to the Order or by or for persons determined to be subject to the Order; to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated in or under the Order; or to be otherwise associated with certain individuals or entities designated in or under the Order.

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