



PROLIFERATION FINANCING

1. What is “proliferation”?

Proliferation is the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of Chemical, Biological, Radiological or Nuclear (CBRN) weapons (weapons of mass destruction or WMD) and their means of delivery and related materials (including technologies and dual-use goods), in contravention of either, or both domestic law and/or international obligations. The term “proliferation” encompasses the acquisition, supply and use of technology, goods, software, services or expertise.

Proliferation can take many forms, but ultimately it commonly involves the transfer or export of technology, goods, software, services or expertise that can be used in programmes involving nuclear, biological or chemical weapons, and their delivery systems - which may involve sophisticated technology, such as in long-range missiles; or it may involve a relatively simple, or even crude, device.

2. What is “proliferation financing”?

According to the Financial Action Task Force (FATF), **Proliferation financing (PF)** refers to 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), in contravention of national laws or, where applicable, international obligations.

Proliferation financing can be:

- a) terrorism financing - where it provides financial support to terrorist organisations that would want to acquire and/or use an WMD; or
- b) financing from a state, or a state-controlled or state-sponsored entity with the aim of providing a state with a WMD, or to enhance, improve or replace an existing one.

PF is an important element in both of these and, as with international criminal networks, proliferation support networks use the international financial system to carry out transactions and business deals. Unscrupulous persons may also take advantage of the potential profits to be made by facilitating the movements of sensitive materials, goods, technology and expertise, providing seemingly legitimate front organisations or acting as representatives or middlemen.

3. What are the risks of PF?

PF poses a significant threat to global security. It facilitates the movement and development of proliferation-sensitive goods which, in turn can contribute to global instability and may ultimately result in a loss of life. Involvement in proliferation or PF, even if inadvertent, carries the risk of severe reputational damage to member firms and the country as a whole. Consequences can include the threat of companies and individuals being included on United Nations and other sanctions lists, or being denied access to banking and other services due to a perceived greater risk. Thus, measures to

prevent, detect or mitigate potential involvement are important from a business and commercial perspective, as well as to achieve non-proliferation objectives.

4. Why can it be difficult to identify activity linked to proliferation, or PF?

A member firm can be faced with a number of problems in attempting to identify PF;

- a) Networks through which proliferation-sensitive goods may be obtained tend to be complex. This, combined with the use of false documentation, allows for such sensitive goods, the entities involved, associated financial transactions and the ultimate end-user to avoid suspicion and detection. Front companies, agents and other false end-users are often used to cover up the true movement of the finance and goods, and the ultimate end-user;
- b) The purchase and sale of elementary components, as opposed to complete manufactured systems. The individual elementary components may also have legitimate uses (and may even be described as being “dual-use” goods), making their identification for illegitimate purposes even more problematic;
- c) A state may be involved in seeking the goods, the source of funds may appear (or be) legal, but the true end-user, and the end-use, of the goods involved is obscured, making identification of such activities difficult; and
- d) Dual-use goods are difficult to identify, requiring specialist knowledge and can be described in common terms that denote many innocent uses.

5. What are the revenue raising activities related to PF?

Proliferation can be financed through proceeds from illicit activities and this encapsulates a broader range of activities that generate revenue to finance the procurement and development of WMDs, their means of delivery and related materials.



It can also include licit profit-making activities where the proceeds are diverted to support proliferation of WMDs. For example:

- Construction Businesses
- Labour services
- Operation of restaurants
- Export of food and textile commodities
- Trade in art and luxury goods
- Sale of minerals and natural resources

6. What is the difference between Money laundering, Terrorist Financing and Proliferation Financing?

	Money Laundering	Terrorism Financing	Proliferation Financing
Source of Funds	Internally from within criminal organisations	Internally from self-funding cells (centred on criminal activity)	Often state-sponsored programs but also through fundraising activities by non-state actors
Conduits	Favours formal financial system	Favours cash couriers or informal financial systems such as Hawala and currency exchange firms	Formal financial system preferred up until the point of entry into DPRK, where the money is then taken out in cash in a neighbouring country and carried into Democratic People’s Republic of Korea (DPRK).
Detection Focus	Suspicious transactions such as deposits uncharacteristic of customer’s wealth or the expected activity	Suspicious relationships, such as wire transfers between seemingly unrelated parties	Individuals, entities, states, goods and materials, activities.
Transaction Amounts	Large amounts often structured to avoid reporting requirements	Small amounts usually below reporting thresholds	Moderate amounts
Financial Activity	Complex web of transactions often involving shell or front companies, bearer shares, offshore secrecy havens	Varied methods including formal banking system, informal value-transfer systems, smuggling of cash and valuables	Transactions look like normal commercial activity, structured to hide connection to proliferator or proliferation activities

Money Trail	Circular –money eventually ends up with the person who generated it	Linear –money generated is used to propagate terrorist groups and activities	Linear –money is used to purchase goods and materials from brokers or manufacturers. The money can also move in the opposite direction (i.e. from the broker/manufacturer to the proliferator).
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This chart is taken from Gibraltar’s Proliferation Finance Guidance Notes and is based on a presentation by James R Richards, Wells Fargo, 2005, quoted in the CAMS Examination Study Guide 5th Edition.

Source; <https://www.gov.im/media/>

7. Actions to mitigate the risks of PF

The FATF emphasises the importance of appropriate risk mitigation and assessment programmes in establishing a sound framework with robust controls. Member firms must employ a risk-based approach when considering how to introduce the risk of PF within their overall risk assessment process. Member firms with exposure to a greater variety of risks, such as, those with international client bases, would be expected to include an assessment of PF risk within their risk management framework.

A member firm’s exposure to PF risks should be assessed in line with the following factors:

- a) The jurisdictions involved in the provision of services;
- b) The types of customers and the customer’s business;
- c) The nature of products and services offered; and
- d) The channels through which those products and services are delivered.

For a more comprehensive approach to mitigating PF risks more broadly, counter-PF considerations should be included in:

- Employee training programmes
- Client and business risk assessments
- Compliance programmes with senior management oversight
- Know Your Customer procedures
- Applying enhanced due diligence to high-risk transactions and entities
- Transaction monitoring programmes
- Paying special attention to trade finance and insurance products
- Reporting procedures

8. What are the relevant obligations in respect of proliferation and PF in Botswana?

There are a wide range of penalties that can be applied against proliferators and other individuals in Botswana in relation to the development, production, acquisition, and possession of WMD. Some examples are outlined in the table below:

Legislation	Details	Penalty
Chemical Weapons (Prohibition) Act 2018, Section 14	<p>A person shall not-</p> <ol style="list-style-type: none"> produce, develop, use, possess, acquire, export, transport, stockpile or retain, or transfer, directly or indirectly to another person, a chemical weapon; construct, convert, maintain or use any premises or equipment for the production, development, retention, use or transfer of chemical weapons; assist another person to produce, develop, retain, use or transfer a chemical weapon either through assisting in the construction, conversion, maintenance or use of any premises or equipment; engage in preparations of a military nature to use a chemical weapon; use a riot control agent as a method of warfare; or engage in the PF of any chemical weapon. 	<p>A person who contravenes subsection (1) commits an offence and is liable to a fine of P15 000 000 or to life imprisonment, or to both. A person who releases scheduled chemicals for the purpose of causing serious bodily injury or killing human beings, animals or plants or causing damage to property or natural resources commits an offence and is liable to a fine of P15 000 000 or to life imprisonment, or to both, where the act does not result in death, and where the act results in death is liable to the death penalty.</p>
Chemical Weapons (Prohibition) Act 2018, Section 15	<p>Schedule 1 chemicals and precursors – Except as authorised by this Act, a person shall not produce, use, acquire, possess, transfer, import or export a Schedule 1 chemical or its precursor. For the purposes of subsection (1), Schedule 1 chemicals can only be produced, used, acquired, retained or transferred for research, medical or pharmaceutical purposes. The type and quantities of the scheduled chemicals or precursors shall be taken into account in determining whether a toxic chemical or precursor is a chemical weapon.</p>	<p>A person who contravenes this section commits an offence and is liable to a fine of P25 000 000 or to life imprisonment, or to both.</p>
Chemical Weapons (Prohibition) Act 2018, Section 16	<p>Schedule 2 chemicals – Except as authorised by this Act, a person shall not receive, transfer, import or export a Schedule 2 chemical or its precursor to a non-State Party- (a) without first notifying the Authority; and (b) unless it contains a low concentration of Schedule 2 chemicals to the extent allowed by the Convention. A person shall produce, process or use a Schedule 2 chemical in accordance with regulations prescribed by the Minister and subject to making such notifications and declarations required under Part V.</p>	<p>A person who contravenes this section commits an offence and is liable to a fine of P3 000 000 or to imprisonment for a term of 20 years, or to both.</p>
Chemical Weapons (Prohibition) Act 2018, Section 17(1-4)	<p>Except as authorised by this Act, a person shall not receive, transfer, import or export a Schedule 3 chemical without first notifying the Authority. Any person who wishes to transfer a Schedule 3 chemical or its precursor to a non-State party shall first obtain an end-user certificate from a competent governmental authority in the non-State Party where the chemical is transferred to. A person shall produce, process or use a Schedule 3 chemical in accordance with regulations prescribed by the Minister and</p>	<p>A person who contravenes a provision of this section commits an offence and is liable to a fine of P1 500 000 or to imprisonment for a term of 10 years, or to both.</p>

	subject to making such notifications and declarations to the Authority as required under Part V.	
Chemical Weapons (Prohibition) Act 2018, Section 17	<p>Notifications and Declarations –</p> <p>Notifications of finding of substances or articles believed to be chemical weapons, nuclear weapons or biological or toxin weapons</p> <p>(1) If a person finds a substance or article in Botswana that the person believes may be a chemical weapon, nuclear weapon or biological or toxin weapon the person shall immediately notify- (a) the Director; or (b) a police officer, of the finding and location of the substance or article concerned.</p> <p>(2) Where a person notifies a police officer under subsection (1), it shall be the responsibility of the police officer to notify the Director of the matter.</p>	A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P10 000, or to imprisonment for a term not exceeding three months, or to both.
Biological and Toxin Weapons (Prohibition) Act, 2018, Section 5(1)	<p>Prohibition of the use of biological or toxin weapons – (1) A person who-</p> <ul style="list-style-type: none"> a) develops, produces, manufactures, otherwise acquires, stockpiles, stores, possesses, transports, imports, exports, transships, acts as a broker for, or retains any biological or toxin weapon, or transfers, directly or indirectly, to anyone, any biological or toxin weapon; b) uses any biological or toxin weapon; c) engages in preparations to use any biological or toxin weapon; d) engages in the PF of any biological or toxin weapon; e) constructs, acquires or retains any facility intended for the production of biological or toxin weapons; f) diverts any biological agent or toxin from peaceful uses to biological or toxin weapons; g) tampers with any facility, package or container containing any biological or toxin weapon in order to cause their release; or h) diverts or steals any biological or toxin weapon in order to cause their release. 	The person commits an offence and is liable a fine of P10,000 000.00 or to life imprisonment or to both.
Biological and Toxin Weapons (Prohibition) Act, 2018, Section 5(2)	A person who intentionally releases biological agents or toxins for the purpose of causing death, serious bodily injury, substantial material damage or harm to human beings, animals or plants or causing damage to property or natural resources.	The person commits an offence and is liable to a fine of P15,000 000.00 or to life imprisonment or to both, where the act does not result in death, and where the act results in death is liable to the death penalty.
Nuclear Weapons (Prohibition) 2018, Section 5 (1)	<p>Nuclear weapons and nuclear materials- Subject to the exceptions for peaceful use of nuclear materials including nuclear energy, nuclear medicine and nuclear technology under the Radiation Protection Act (Cap. 24:03), a person who-</p> <ul style="list-style-type: none"> a) receives the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive 	The person commits an offence and is liable to a fine of P25,000 000.00 or to life imprisonment or to both.

	<p>devices or of control over such weapons or explosive devices directly, or indirectly;</p> <p>b) manufactures or otherwise acquires nuclear weapons or other nuclear explosive devices;</p> <p>c) seeks or receives any assistance in the manufacture of nuclear weapons or other nuclear explosive devices;</p> <p>d) engages in the PF of any nuclear weapon;</p> <p>e) diverts nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices;</p> <p>f) constructs, acquires or retains any facility intended for the production of nuclear weapons or other nuclear explosive devices; or</p> <p>g) possesses, develops, exports, transports, transfers, stockpiles or uses any nuclear weapon or nuclear explosive device or its means of delivery,</p>	
<p>Nuclear Weapons (Prohibition) 2018, Section 5 (2)</p>	<p>A person who uses nuclear material for the purpose of causing death serious bodily injury or killing human beings, animals or plants or causing damage to property or natural resources.</p>	<p>The person commits an offence and is liable a fine of P25, 000 000.00 or to life imprisonment or to both, where the act does not result in death, and where the act results in death is liable to the death penalty.</p>

9. Key United Nations Security Council Resolutions on PF

In April 2004, the UN Security Council adopted Resolution 1540 (“UNSCR 1540”), which placed obligations on all UN member states including Botswana, to both have and to enforce appropriate and effective measures against the proliferation of nuclear, chemical and biological weapons, their delivery systems. It also required all member states to adopt and enforce appropriate effective laws and introduce domestic controls which -

- a) prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use CBRN weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them; and
- b) prevent illicit trafficking.

In addition, Recommendation 7 of the FATF on targeted financial sanctions related to Proliferation requires countries to implement targeted financial sanction to comply with UNSC resolutions relating to the prevention, suppression and disruption of proliferation of weapons of mass distraction and its financing

Countries are urged to implement targeted financial sanctions to comply with UNSC resolutions relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.

10. Botswana Targeted financial sanctions regulations



The **Counter-Terrorism (Implementation of United Nations Security Council Resolutions) Regulations, 2020** requires the state do the following in relation to targeted sanctions;

- National listing of persons, entities or structured groups;
- Freezing of property held by a nationally listed person or structured group;
- Prohibition of dealing in funds or other assets of designated persons;
- Travel ban; and
- Arms embargo.

Targeted financial sanctions are fully and properly implemented without delay; monitored for compliance and there is adequate co-operation and co-ordination between the relevant authorities to prevent sanctions from being evaded, and to develop and implement policies and activities to combat the financing of proliferation of WMD.

11. Why mitigate PF?

Failure of Botswana and/or member firm to demonstrate efforts to address likely PF threats can itself produce significant negative consequences for the economy. Member firms and other businesses should wary of operating with jurisdictions that fail to take the necessary precautions to guard themselves against exposure to PF activities or sanctions evasion more broadly. Jurisdictions that have serious deficiencies in compliance with PF controls are publicly identified by the FATF on a list of 'high-risk and other monitored jurisdictions'. Engaging in business with entities who may – knowingly or unknowingly – be involved in PF or sanctions evasion also implicates the business in question and may make it liable to prosecution in its home jurisdiction.

12. Reference Material

- https://www.gfiu.gov.gi/uploads/X86Ru_CPF_Guidance_Notes_v1.1.pdf
- <https://www.fticonsulting.com/insights/articles/counter-proliferation-financing-can-it-be-done>
- <https://www.fatf-gafi.org/publications/financingofproliferation/documents/guidance-counter-proliferation-financing.html>
- <http://www.dailynews.gov.bw/mobile/news-details.php?nid=43367&flag=>
- <https://www.gov.im/media/1352777/notice-1008-man-proliferation-and-proliferation-financing-risks-15-jul-20.pdf>