

REGULATION FOR IMPLEMENTING UNITED NATIONS SECURITY COUNCIL RESOLUTIONS RELATING TO FINANCIAL SANCTIONS

1. GENERAL PROVISIONS

1.1. The purpose of this Regulation is to regulate the policies and procedure for designation, freezing asset and fund, communication of designation and delisting, consequences of designation, protection of third party and other procedures of person or entities for implementing United Nations Security Council Resolutions (UNSCRs) relating to financial sanctions to combat terrorism, the proliferation of weapons of mass destruction and the financing of these crimes.

1.2. Implementation of this Regulation shall be carried out in accordance with The Constitution of Mongolia, the Anti-Terrorism Law, the Law on Combating Money Laundering and Terrorism Financing, the Criminal Code of Mongolia, the Law on Infringements, and other legislative acts enacted in conformity therewith.

1.3. If an international treaty or UNSCR that is binding on Mongolia is different from this Regulation, the provision of the international treaty or UNSCR shall prevail.

2. DESIGNATION OF PERSONS AND ENTITIES

2.1. The designation of a person or entity made by the United Nations Security Council or its Committees under a UNSCR shall take immediate effect.

2.2. The Agency shall expeditiously designate a person or entity if it has reasonable grounds to believe that the person or entity meets the relevant UNSCRS criteria for designation or based on the request from foreign equivalent authority.

2.3. The Agency may designate a person or entity in the absence of a criminal investigation or proceedings against that person or entity.

2.4. The Agency shall take measures without delay to communicate designations to supervisory authorities and public.

2.5. The Agency shall notify the designated person or entity of the following matters within 15 working days after the date the designation was communicated:

2.5.1. the designation and its implications;

2.5.2. the review procedure and information on the de-listing process;

2.5.3. the grounds for designation as can be made publically available;

2.5.4. information of procedures to apply for an authorisation to access assets or financial services in accordance with relevant UNSCR;

2.5.5. the information to apply for de-listing to the United Nations Security Council or its Committees.

2.6. The Agency shall solicit and consider information from all relevant sources, including domestic supervisory authorities and law enforcement agencies, and their foreign equivalents, to identify persons and entities to be considered for designation under Article 2.1 and 2.2.

2.7. The Agency shall operate ex parte when they make any decision regarding designation and asset freezing.

2.8. Agency shall, through the National Counter Terrorism Coordinative Council, cooperate and communicate with supervisory authorities, law enforcement agencies and other relevant authorities to ensure the effective implementation of financial sanctions under the Anti Terrorism Law and this Regulation.

3. PROPOSING DESIGNATIONS

3.1. The Agency, through the Ministry of Foreign Affairs, shall propose the designation of a person or entity to the United Nations Security Council or its Committees if the Agency has reasonable grounds to believe that the criteria for designation in UNSCRs or any of their successor resolutions, have been met and the Agency has sufficient evidence to support the proposed designation.

3.2. The Agency shall propose a designation in accordance with the following rules:

3.2.1. follow the procedures and standard forms for listing, as adopted by the United Nations Security Council or its Committees;

3.2.2. provide as much relevant information as possible on the proposed name and sufficient identifying information to allow for the accurate and positive identification of the person or entity, including, where possible, information required for the possible issuance of an Interpol-United Nations Security Council Special Notice.

3.2.3. provide a statement of case which contains as much detail as possible on the basis for the designation, including specific information supporting a determination that the person or entity meets the relevant criteria for designation, the nature of the information, any supporting information or documents, and details of any connection between the proposed designee and any person or entity currently designated by the United Nations Security Council or its Committees.

3.3. The Agency shall consult with the Ministry of Foreign Affairs whether Mongolian status as a designating country may be made known.

4. DE-LISTING AND UNFREEZING

4.1. In relation to a designation made by the United Nations Security Council or its Committees under Article 2.1, the following rules apply for delisting and unfreezing:

4.1.1. the Agency may initiate and make a request for de-listing to the United Nations Security Council or its relevant Committees if the Agency believes that a designated person or entity does not, or no longer, meets the criteria for designation;

4.1.2. Designated person or entity may initiate and make request for de-listing to the United Nations Security Council or its relevant sanction Committees by himself;

4.1.3. if the procedures of the United Nations Security Council or its Committees allow, the Agency may support a request for de-listing initiated by a designated person or entity if the Agency believes that the person or entity does not, or no longer, meets the relevant criteria for designation.

4.2. In relation to a designation made by the Agency under Article 2.2, the following rules shall apply for delisting and unfreezing:

4.2.1. the Agency shall expeditiously review and decide upon an application by a designated person or entity challenging their designation;

4.2.2. for the purpose of reviewing a challenge under Article 4.2.1., the Agency shall have the power to summon and ask additional questions of the applicant and to gather any additional documents or information necessary to make a decision;

4.2.3. in addition to reviewing applications received under Article 4.2.1., the Agency shall, every 5 years, initiate its own review of all designated persons and entities to decide whether the criteria for designation continue to be met.

4.2.4. if the Agency decides under Article 4.2.1. or 4.2.3. that the criteria for designation are not, or are no longer, met the Agency shall expeditiously de-list the person or entity.

4.3. The Agency shall be responsible for receiving and deciding within 30 working days applications for unfreezing assets by a person or entity who is inadvertently affected by an asset freeze under Article 7.1.7. of the Anti Terrorism Law or the provisions of this Regulation or article 2.1 and 2.2 of this regulation.

4.4. In relation to applications received under Article 4.3., the Agency may issue an order to unfreeze assets if the Agency has verified that the applicant is not a designated person or entity.

4.5. The Agency shall review and determine if funds or other assets of persons and entities designated under this regulation , are necessary for basic expenses, for the payment of certain types

of fees, expenses and service charges, for extraordinary expenses or for other expenses permissible.

4.6. The Agency shall authorize the access to funds or other assets described in the Article 4.5 of this regulation in accordance with relevant UNSCR.

4.7. The Agency shall without delay communicate decisions to de-list persons or entities or orders to unfreeze assets made by the United Nations Security Council or its Committees or by the Agency to the de-listed person or entity or the person or entity who made the application to unfreeze assets, financial institutions and DNFBPs through competent authorities.

4.8. The Agency shall inform designated persons, public and relevant agencies of the decision under article 4.7 to delist as soon as the delisting and unfreezing decision has been made through media and implement the decision without delay.

4.9. Agency shall take following measures for the purpose of protection of bona fide third parties affected by designations when implementing the obligations under this regulation:

4.9.1. The Agency shall review and determine applications in relation to the release of assets for the purpose of protection of bona fide third parties affected by designations under this regulation;

4.9.2. The Agency shall determine and inform the affected parties of its decision within 30 working days after receiving an application for release of assets under article 4.9.1. If it is necessary, the Agency can extend this date by a further 30 days

4.10. For the purpose of implementing article 4.9.1, the Agency has the right to request the affected parties to present their case in person.

4.11. if person or entity is not satisfied by the Agency's any decision, the applicant retains the right to administrative review of the decision

5. FREEZING AND PROHIBITION

5.1. All financial institution and DNFBPs shall freeze, without delay and without prior notice, the assets that are directly or indirectly, owned or controlled by a designated person or entity by UNSCRs and the Agency and report to the FIU and GIA.

5.2. No financial and business entities shall make assets or financial services directly or indirectly, wholly or jointly available to, or for the benefit of, any the persons or entities designated by UNSCRs and its successor resolutions and the Agency:

5.3. Person or entity shall apply obligations under article 5.1 and 5.2 of this regulation to following assets:

5.3.1. assets that wholly or jointly, owned or controlled by a designated person or entity, and not just those assets that can be tied to a particular act, plot or threat;

5.3.2. assets that are wholly or jointly owned or controlled, directly or indirectly by designated persons or entities;

5.3.3. assets derived or generated from assets mentioned in Articles 5.3.1. or 5.3.2 assets and persons or entities acting on behalf of, or at the direction of, a designated person or entity;

5.3.4. vessels designated by relevant the United Nations Security Council or its Committees

5.4. For the avoidance of doubt, a person or entity may allow payments, including by way of interest or other earnings, to be added to frozen accounts if they are contractually obliged to do so, as long as those payments are also frozen;

5.5. Reporting entity specified in article 4.1 of the AML/CFT law shall report to the competent supervisory authorities about the actions taken related to asset freezing.

5.6. Person or entity that has made a report under Article 5.5 shall expeditiously provide any other information requested by the FIU in relation to that report.

5.7. The FIU shall provide copies of all reports received under Article 5.6 to the Agency.

6. REQUIREMENTS FOR THE REPORTING ENTITIES

6.1. Financial institutions and DNFBPs specified in article 4.1 of AML/CFT law shall implement the following measures:

6.1.1. screen customer databases against lists of designated persons and entities, names of de-listed persons and entities, and persons and entities who are the subject of orders to unfreeze assets;

6.1.2. incorporate financial sanctions compliance into on-boarding and on-going customer due diligence processes, including to determine whether a customer is owned or controlled by or acting on behalf of or at the direction of a designated person or entity;

6.1.3. incorporate financial sanctions compliance into transaction monitoring processes, including to determine whether a transaction involves a designated person or entity or a person or entity owned or controlled by or acting on behalf of or at the direction of a designated person or entity;

6.1.4. apply enhanced due diligence to customers and transactions that may pose financial sanctions risks;

6.1.5. provide training to all relevant staff on compliance with financial sanctions under relevant legislations.

6.2. The reporting entities shall regularly update screening databases in accordance with UNSCRs list and The Agency list.

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