

PREVENTION OF PROLIFERATION FINANCING REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

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PREVENTION OF PROLIFERATION FINANCING REGULATIONS

(S.I.s 21 of 2021, 13 of 2022)

Commencement

[5 March 2021]

Citation

1. These Regulations may be cited as the Prevention of Proliferation Financing Regulations.

Definitions

2. For the purposes of these Regulations the definitions defined in the Act and the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, shall apply *mutatis mutandis* to these Regulations.

Designation and listing of persons or entities involved in proliferation financing

3. For the purposes of designation and listing of persons or entities under these Regulations, the procedures prescribed under the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, shall be applied *mutatis mutandis* under these Regulations.

De-listing of designated and specified entities

4. (1) The Committee shall review the designation list made under regulation 3, as and when necessary to consider whether there are still reasonable grounds, for any Order in relation to each specified entity. (*Amended by S.I. 13 of 2022*)

(2) The Committee shall, if satisfied that there exist no reasonable grounds for any Order in relation to a specified entity to continue in the list, advise the Attorney-General to make an appropriate recommendation to the Minister.

(3) A specified entity may apply to the Attorney-General seeking revocation of the Order made to list the entity as a designated entity.

(4) The Attorney-General may, on receipt of an application, refer the application to the Committee for its examination and report.

(5) A designated entity may also make an application to the Committee for de-listing.

(6) An application submitted to the Attorney-General or to the Committee, may be made on the following grounds—

- (a) mistaken identity;
- (b) relevant and significant change of facts or circumstances including the inclusion of the applicant in a witness protection programme;
- (c) persons or entities that have been designated by mistake for having the same or similar name as a designated person;
- (d) the death, dissolution or liquidation of a designated or specified entity; or
- (e) any other circumstance which would show that the basis for designation no longer exists.

(6A) The Committee shall seek required approvals at all stages from the relevant United Nations Sanctions Committee before making any recommendation to the Attorney General for the deletion of the name of the entity appearing on the sanctions list. *(Inserted by S.I. 13 of 2022)*

(6B) Upon receipt of an application under subregulation (3) or (5), after the verification of identity documentation and other information, if the Attorney General or the Committee establishes that the party is not the actual designated party or listed party, it shall—

- (a) where the application relates to the United Nations Consolidated List, submit the request to the United Nations Sanctions Committee for determination, and upon receipt of feedback, the Attorney General or the Committee shall inform the applicant of the decision taken;
- (b) assess the application and make a determination and inform the applicant of the decision not later than 15 working days from the date of receipt of the application.

(Inserted by S.I. 13 of 2022)

(7) Where the Committee recommends to the Attorney-General for the deletion of the name of an entity appearing on a sanctions list, upon satisfaction the Attorney-General may recommend the Minister to issue an Order either for removing or continuing the name of the designated entity from the list.

(8) Where an Order has been issued under subregulation (7) for deletion of the name of entity on a sanctions list, the Director shall, within 24 hours of the Order, circulate notice of the deletion to all the concerned.

(9) A notice of deletion circulated under subregulation (8) shall have the effect of revoking any freeze and any other sanction imposed against the entity whose name is deleted from the list and such revocation shall be communicated expeditiously to the respective financial institutions and designated non-financial business or professions that may be holding targeted funds or other assets to respect the de-listing and unfreezing instruction.

(Amended by S.I. 13 of 2022)

Application for de-listing by the Focal Point of the United Nations Secretariat

4A. Notwithstanding anything in regulation 4, a listed party may submit a request for de-listing directly to the Focal Point established within the United Nations Secretariat under the United Nations Security Council Resolution 1730. *(Inserted by S.I. 13 of 2022)*

Humanitarian exemptions

5. (1) An entity which has been designated under PART III-A of the Act, shall not deal with any property in Seychelles unless—

- (a) the property is necessary to cover the basic and necessary expenses or extraordinary expenses of the entity; and
- (b) the entity has applied for and obtained an authorisation in accordance with this regulation.

(2) An entity which requires funds to cover its basic and necessary or extraordinary expenses may submit an application along with necessary documents and information to substantiate the grounds in the application for that purpose to the Committee.

(Amended by S.I. 13 of 2022)

(3) The Committee shall consider an application made under subregulation (2) within 7 days from the date of receipt of the application and make a preliminary recommendation to the Minister:

Provided that when the Committee proposes to determine that the funds or other property are to be allowed for the purposes specified in regulation 5(2), the Committee shall notify the relevant United Nations Sanctions Committee at all stages of its verification and the Committee shall also communicate to the United Nations Sanctions Committee about its opinion on the release or otherwise of the funds or other property. *(Inserted by S.I. 13 of 2022)*

(3A) The Committee shall notify the listed party of the decision of the United Nations Sanctions Committee for the use of the funds or other assets, or any part thereof, for ordinary or extraordinary expenses:

Provided that for ordinary expenses, in the absence of a decision within the 5 working days of the notification under the proviso to subregulation (3), it shall be deemed that the relevant United Nations Sanctions Committee has not objected to the use of the funds or other assets.

(Inserted by S.I. 13 of 2022)

(4) Where the applicant is a specified entity, the Minister may, if he or she considers necessary and reasonable the withdrawal of funds for the purpose referred to in subregulation (2), authorise the withdrawal of such funds.

(5) Where the applicant is a designated entity, the Minister shall—

(a) if he or she finds merit in an application made under subregulation (2); and

(b) prior to authorising the withdrawal of funds requested under the application,

notify the Committee of the application and request the Committee to submit to him or her its recommendations on the matter.

(6) The Minister may, within 10 days from the date of notification of the Committee under subregulation (5) and in the absence of negative recommendations from the Committee, authorise the withdrawal of such funds as he or she considers necessary and reasonable to cover the basic and necessary expenses of the entity.

(7) Where an application is for the withdrawal of funds to cover extraordinary expenses of a designated entity, the Minister may grant an authorisation for the withdrawal of such funds as he or she considers necessary and reasonable for that purpose only with the prior written approval of the Committee.

(8) For the purposes of this regulation, “**basic and necessary expenses**” includes—

(a) monthly family expenses, payments for foods, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

(b) reasonable professional fees and reimbursement of expenses related to the provision of legal services; and

(c) fees or service charges incurred for the routine holding or maintenance of frozen funds or other property;

- (d) the exemptions provided under United Nations Security Council Resolutions 1718 and 2231.

Addition of interest or other earnings to the frozen accounts

6. Where an account has frozen under the provisions of the Act in pursuance of the United Nations Security Council Resolution 1718 of 2231, the interests or other earnings accrued on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of the United Nations Security Council Resolution 1718 of 2231, such interest or other earnings and payments shall be included in the frozen accounts and the accrued interest or the earnings shall also continue to be frozen.

Payments by a designated entity

7. Any freezing action taken in pursuance of United Nations Security Council Resolution 1737 and continued by Resolution 2231, or taken pursuant to Resolution 2231, shall not prevent a designated person or entity from making any payment due under a contract entered into prior to the listing of such person or entity subject to the following—

- (a) it has been determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in United Nations Security Council Resolution 2231 and any future successor resolutions;
 - (b) it has been determined that the payment is not directly or indirectly received by a person or entity subject to the measures in paragraph 6 of Annex B to United Nations Security Council Resolution 2231; and
 - (c) it has submitted prior notification to the Security Council of the intention to make or receive such payments or to authorise, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, 10 working days prior to such authorisation.
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