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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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**PART I : SECTION (I) — GENERAL**

**Government Notifications**

L.D.-B 7/2001 (III)

**THE UNITED NATIONS ACT, No. 45 of 1968**

REGULATIONS made by the Minister of Foreign Affairs under Section 2 of the United Nations Act, No. 45 of 1968.

TILAK MARAPANA,  
Minister of Foreign Affairs.

Colombo,  
17<sup>th</sup> of July, 2018.

**Regulations**

**PART I**

**PRELIMINARY PROVISIONS**

1. These regulations shall be cited as the United Nations (Sanctions in relation to Iran) Regulations No. 1 of 2018.

2. The object of these regulations is to enable the Government of Sri Lanka to implement targeted financial sanctions relating to the proliferation of weapons of mass destruction, giving effect to Resolutions 1737 (2006) and 2231 (2015) of the United Nations Security Council, and any subsequent resolutions, related to Iran and all resolutions that repeal, replace or amend earlier resolutions related to Iran.



3. These regulations Shall apply to-

- (a) All citizens of Sri Lanka and bodies corporate incorporated under a law of Sri Lanka wherever located ; and
- (b) a vessel flying the flag of Sri Lanka ;
- (c) an aircraft registered in Sri Lanka ; and
- (d) an offence committed on board a vessel flying the flag of Sri Lanka or an aircraft registered in Sri Lanka wherever located.

4. There shall, for the purpose of these regulations be a Competent Authority who shall be appointed by the Minister in consultation with the Minister to whom the subject of Defence has been assigned.

5. The Competent Authority and the Financial Intelligence Unit shall be responsible for :-

- (a) communicating to institutions of designations and revocations of the natural and legal persons and entities designated by the Security Council or any of its Committees established pursuant to United Nations Security Council Resolution 2231 (2015) or any subsequent resolution in relation thereto (hereinafter referred to as the “designated person or entity”) ; and
- (b) providing guidelines and directions to Institutions on their obligations and duties under these regulations.

6. The functions of the supervisory authorities of the Institutions shall be to :-

- (a) monitor and assess the level of risk of proliferation financing across all of the persons and entities that it supervises ; and
- (b) monitor the natural persons and entities that it supervises for compliance with these regulations, and for this purpose to develop and implement a risk-based supervisory programme ;
- (c) provide guidelines to persons and entities in respect of matters relating to the implementation of these regulations ;
- (d) obtain reports under Part IV of these regulations ; and
- (e) enforce compliance with these regulations.

7. The Financial Intelligence Unit and supervisory authorities of the Institutions shall monitor and enforce compliance with these regulations and investigate violations thereof of these regulations.

## PART II

### DESIGNATION OF PERSONS AND ENTITIES

8. A designation of a person or entity by the United Nations Security Council or any Committee established pursuant to United Nations Security Council Resolutions 1737 (2006) and 2231 (2015) and any subsequent resolutions related to Iran and all resolutions that repeal, replace or amend earlier resolutions related to Iran shall-

- (a) have immediate application in Sri Lanka ; and
- (b) have the immediate effect of imposing the prohibitions specified in these regulations

### PART III

#### PROHIBITIONS

9. (1) A person shall not deal with funds or other assets knowing that, or reckless as to whether the funds or other assets is owned or held, directly or indirectly, wholly or jointly -

- (a) by a designated person of entity ;
- (b) on behalf of a designated person or entity ; or
- (c) at the direction of designated person or entity.

(2) A person shall not make available funds, other assets or financial services knowing that, or reckless as to whether, they are being made available, directly or indirectly, wholly and jointly -

- (a) to a designated person or entity ;
- (b) to a person or entity owned or controlled by a designated person or entity ;
- (c) to a person or entity acting on behalf of a designated person or entity ;
- (d) for the benefit of a designated person or entity.

10. A person may credit a frozen account with interest or other earning due on the account or payments due under contracts, agreements or obligations that were concluded or arose before the account became frozen under regulation 9 or other funds transferred by a third party to such accounts, as long as the funds so credited are also frozen.

11. A person holding funds or other assets which are subject to freezing measures as specified in regulation 9 shall also be prohibited from providing notice at any time prior to the freezing action, to the designated person that his or its funds or other assets are to be frozen or assets are not being made available.

12. A person who contravenes the provisions of regulations 9 and 11 commits an offence and shall on conviction by the High Court, be liable to a fine not exceeding rupees one million or to an imprisonment for a term not exceeding five years or to both such fine and imprisonment.

13. (1) Where the assets belonging to a person or entity are frozen due to the fact that such person or entity has an identical identity as that of a designated person or entity, any interested party may submit a request to the Competent Authority to verify that the effected person or entity is a designated person or entity.

(2) Once the request has been received, that Competent Authority shall verify the grounds for the interested party's claim, as briefly as possible, checking if the identity of the natural or legal person or entity whose assets were frozen corresponds to the identity of a person or entity identified in a designation act.

(3) Once the match of the affected person or entity to the identity of a designated person or entity has been ascertained to be false, the Competent Authority shall communicate such fact to the person who has frozen assets in accordance with regulation 9 and upon such communication, such person shall immediately withdraw the freezing measures taken under regulation 9.

PART IV

REPORTING OBLIGATIONS

14. (1) Notwithstanding anything to the contrary in any other written law, any institution shall, in relation to any designated person or entity -

- (a) inform the Competent Authority, Financial Intelligence Unit and the supervisory authorities of the Institutions, if he knows or suspect that an existing customer, or customer or any other person or entity with whom he has done business, or any other person or entity known to him is a designated person or entity or is a person acting on behalf of a designated person or entity ;
- (b) provide the Competent Authority and the Financial Intelligence Unit with information regarding –
  - (i) the status of the funds, freezing under regulation 9 and any other actions taken with respect to the funds ;
  - (ii) the nature and amount or quantity of any funds or other assets held by the relevant institution for the designated person or entity or transactions executed, or held by a person for the designated person or entity ;
  - (iii) any transactions or attempted transaction by or on behalf of a designated person or entity ;
  - (iv) any transaction or attempted transaction in respect of frozen funds or other assets ; and
  - (v) any other information that would facilitate compliance with these regulations ;
- (c) cooperate with the Competent Authority or the Financial Intelligence Unit as the case may be, in any verification of this information.

(2) Any information provided or received in accordance with this regulation shall be used only for the purposes for which it was provided or received. Any information provided to the Competent Authority or to the Financial Intelligence Unit in accordance with this regulation shall not be treated as a breach of any restriction imposed by any written law or otherwise.

- (3)(a) A person who holds as asset which he or she suspects is, or may be, owned, controlled or held on behalf of, or at the direction of, a designated person or entity may make a request in writing to the Competent Authority with a copy to the Financial Intelligence Unit, to verify that suspicion.
- (b) The request shall be accompanied by details of the asset and the owner or controller of the asset as known to the person making the request.
- (c) The Competent Authority shall use their best endeavours to assist a person who has made a request under paragraph (a).
- (d) As soon as in reasonably practicable after receiving a request under paragraph (a), the Competent Authority or the Financial Intelligence Unit, shall respond in writing stating that-
  - (i) it is likely that the property is owned or controlled by a designated person or entity ;
  - (ii) it is unlikely that the property is owned or controlled by a designated person or entity ; or
  - (iii) it is unknown whether the property is owned or controlled by a designated person or entity.

PART V

AUTHORIZATION

15. (1) The Competent Authority may grant specific authorisation to permit the use of frozen funds or other assets as he deems necessary to meet ;

- (a) a basic expense ;
- (b) a contractual obligation that arose prior to the date on which the funds or other assets became frozen under these regulations ;
- (c) an extraordinary expense ; or
- (d) a judicial, administrative or arbitral lien or judgment entered into prior to the designation of the person or entity, and the asset is necessary to satisfy that lien or judgment.

(2) For the purpose of this regulation -

“basic expense” means an expense necessarily incurred for any of the following purposes :

- (a) obtaining foodstuffs ;
- (b) paying rent or mortgage ;
- (c) obtaining medicine or medical treatment ;
- (d) paying taxes ;
- (e) paying insurance premiums ;
- (f) paying utility charges ;
- (g) paying reasonable professional fees ;
- (h) paying reasonable expenses associated with the provision of legal services ;
- (i) paying fees or service charges that are in accordance with any written law for the routine holding or maintenance of a frozen asset ;
- (j) any other similar purpose ;

“extraordinary expense” means any payment which is not a basic expense or a contractual obligation that the Competent Authority considers ;

- (a) to be necessary ; and
- (b) does not violate the requirements of a United Nations Security Council Resolution 2231 (2015) or any subsequent resolution in relation thereto.

16. (1) In relation to persons and entities designated by the United Nations Security Council or any of the Committee established pursuant to United Nations Security Council Resolution 2231(2015) or any subsequent resolution in relation thereto, the Competent Authority may also grant an authorization if the action contravening a prohibitions is ;

(a) necessary for a civil nuclear cooperation project described in Annex III of the Joint Comprehensive Plan of Action ; or

(b) necessary for any activity required for the implementation of the Joint Comprehensive Plan of Action.

(2) The Competent Authority shall, prior to granting an authorisation -

(a) consider whether such authorisation amounts to a violation of a provisions of a United Nations Security Council Resolution 2231(2015) or any subsequent resolution in relation thereto ;

(b) seek any approvals required by, and make any notifications required to, the United Nations Security Council or its Committee s established pursuant to United Nations Security Council Resolution 2231 (2015) or any subsequent resolution in relation thereto ; and

(c) consider any communication from a foreign government relevant to the authorisation.

(3) The Competent Authority may impose any conditions on an authorisation under the provisions of these regulations.

17. An application made by any person for an authorisation under the provisions of these regulations shall be determined by the Competent Authority within a reasonable time and respond to the applicant in writing to :

(a) grant the authorisation including any conditions attached to the authorization ; or

(b) deny the authorisation.

## PART VI

### Miscellaneous

18. The Competent Authority, Financial Intelligence Unit and the Minister shall refer any matter or information relevant to violation or possible violation of an obligation under these regulations to the appropriate law enforcement agencies and in the case of institutions, also to their respective supervisory authorities of the Institutions for consideration whether or not the administrative sanctions ought to be imposed.

19. The Competent Authority shall consult with law enforcement agencies, the Financial Intelligence Unit, supervisory authorities of the Institutions and other appropriate agencies and develop a plan that shall be implemented for monitoring compliance and enforcing sanctions related to these regulations.

20. The Competent Authority and the Financial Intelligence Unit may issue directives for the implementation of practices and enforcement of obligations under these regulations.

21. The Competent Authority may consult, and solicit information from, any person or government institution in giving effect to the provisions of these regulations.

22. No person shall be subject to any civil or criminal liability for anything done or omitted to be done in good faith in accordance with these regulations.

PART VII

**Definitions**

23. For the purpose of these regulations –

“control” means exercising influence, authority or power over decisions about financial or operating policies, and includes control as a result of, or by means of, trusts, agreements, arrangements, understandings or practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights, and “controlled” has a corresponding meaning;

“deal” includes sale, supply, lease, transfer, conversion, disposition, movement or use, and dealing and “dealt” have the same meaning;

“entity” includes any unincorporated body, group, association, organization, institution or arrangement ;

“Financial Intelligence Unit” means the Financial Intelligence Unit established under the Financial Transactions Reporting Act, No. 6 of 2006 ;

“Financial services” means engaging in any activity which constitutes a “finance business” within the meaning of the Financial Transactions Reporting Act, No. 6 of 2006 ;

“funds and other assets” means any assets, including, but not limited to, financial assets, economic resources (including oil and other natural resources) property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services ;

“frozen asset” means an asset which cannot be dealt with due to a prohibition imposed by these regulations ;

“Institution” shall have the same meaning as in the Financial Transactions Reporting Act, No. 6 of 2006 ;

“Joint Comprehensive Plan of Action (JCPOA)” means the agreement on the nuclear programme of Iran concluded in Vienna on July 14, 2015 between Iran, the P5+1 (the five permanent members of the United Nations Security Council - China, France, Russia, the United Kingdom, the United States-plus Germany), and the European Union ;

“Minister” means the Minister to whom the subject of Foreign Affairs has been assigned ;

“Own” means having a legal entitlement, either directly or indirectly, to twenty five per centum or more of a body corporate or entity, and “owned”, “ownership” and “owning” have corresponding meanings.

“Person” shall have the same meaning as in the Interpretation Ordinance (Chapter 2).