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MONETARY AUTHORITY OF SINGAPORE ACT
(CHAPTER 186)

MONETARY AUTHORITY OF SINGAPORE
(SANCTIONS AND FREEZING OF ASSETS OF PERSONS —
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA)
REGULATIONS 2016

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In exercise of the powers conferred by section 27A(1)(b) of the Monetary Authority of Singapore Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Monetary Authority of Singapore (Sanctions and Freezing of Assets of Persons — Democratic People’s Republic of Korea) Regulations 2016 and come into operation on 17 June 2016.

Object

2. The object of these Regulations is to assist in giving effect to Resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) and 2270 (2016) of the Security Council of the United Nations.

Application

3. These Regulations apply to every financial institution within the meaning of section 27A(6) of the Act (including a branch outside Singapore of any such financial institution incorporated or established in Singapore).

Definitions

4.—(1) In these Regulations, unless the context otherwise requires —

“Committee” means the Committee of the Security Council of the United Nations established under paragraph 12 of Resolution 1718 (2006);

“designated export item” means —

(a) any item, material, equipment, goods or technology —

(i) that falls within the class or description specified in the third column of the Seventh Schedule to the Regulation of Imports and Exports Regulations (Cap. 272A, Rg 1), as in force on 17 June 2016, in relation to the Democratic People’s Republic of Korea (specified in the first column of that Schedule); and

(ii) the export from or transit through Singapore of which is prohibited under regulation 6(2)(d) of the Regulation of Imports and Exports

Regulations, as in force on 17 June 2016, in relation to the Democratic People’s Republic of Korea;

- (b) any item, material, equipment, goods or technology that the Authority notifies the financial institution or the class of financial institutions concerned in writing is an item, material, equipment, goods or technology that may contribute to any prohibited activity of the Democratic People’s Republic of Korea;
- (c) any small arms, light weapons, and related matériel of such small arms or such light weapons; or
- (d) any luxury goods;

“designated import item” means —

- (a) any item, material, equipment, goods or technology —
 - (i) that falls within the class or description specified in the second column of the Seventh Schedule to the Regulation of Imports and Exports Regulations, as in force on 17 June 2016, in relation to the Democratic People’s Republic of Korea (specified in the first column of that Schedule); and
 - (ii) the import into Singapore of which is prohibited under regulation 6(2)(d) of the Regulation of Imports and Exports Regulations, as in force on 17 June 2016, in relation to the Democratic People’s Republic of Korea; or
- (b) any item, material, equipment, goods or technology that the Authority notifies the financial institution or the class of financial institutions concerned in writing is an item, material, equipment, goods or technology that may contribute to any prohibited activity of the Democratic People’s Republic of Korea;

“designated person” means any individual or entity set out in the UN List, subject to paragraph (2);

“economic resources” includes assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, which may potentially be used to obtain funds, goods or services, including vessels;

“funds” includes cheques, bank deposits and other financial resources;

“luxury goods” means the items specified in Annex IV of Resolution 2270 (2016), and any item designated as a luxury good from time to time by a Resolution relating to the Democratic People’s Republic of Korea or by the Committee, and made available on the Internet through the official United Nations website at <http://www.un.org/>;

“prohibited activity”, in relation to the Democratic People’s Republic of Korea, means —

(a) nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programmes or activities prohibited by Resolution 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or 2270 (2016); or

(b) the evasion of any measures imposed by such Resolutions;

“prohibited entity” means —

(a) an entity of the Government of the Democratic People’s Republic of Korea;

(b) the Worker’s Party of Korea; or

(c) an entity of the Worker’s Party of Korea;

“Resolution” means a Resolution of the Security Council of the United Nations;

“UN List” means collectively the lists of individuals or entities identified by the Security Council of the United Nations or the Committee as individuals or entities to whom or which any of

the measures specified in paragraph 8(d) of Resolution 1718 (2006) apply, whether by virtue of —

- (a) that paragraph;
- (b) paragraph 5(a) of Resolution 2087 (2013);
- (c) paragraph 8 of Resolution 2094 (2013); or
- (d) paragraph 10 of Resolution 2270 (2016),

and includes any such list as updated from time to time by the Security Council of the United Nations or the Committee, and made available on the Internet through the official United Nations website at <http://www.un.org/>.

(2) For the purposes of the definition of “designated person” —

- (a) where any individual or entity is added to the UN List on or after 17 June 2016, the individual or entity is taken to be a designated person with effect from the date immediately following the date of addition to the UN List;
- (b) where any individual or entity is removed from the UN List, the individual or entity ceases to be a designated person with effect from the date of removal from the UN List; and
- (c) where the particulars of any individual or entity in the UN List are modified on or after 17 June 2016, the particulars of the individual or entity are taken to be modified for the purposes of these Regulations with effect from the date immediately following the date of modification of the UN List.

Prohibition against providing financial services or transferring assets or resources for nuclear-related programmes and activities, etc.

5.—(1) A financial institution must not, directly or indirectly (including through any provider of any brokering or other intermediary services) —

- (a) provide any financial services (including but not limited to the granting of export credits, guarantees or insurance) or any other related services;

- (b) transfer (including through a gold courier transiting to and from the Democratic People's Republic of Korea) any financial assets or resources (including bulk cash or gold); or
- (c) transfer other assets or resources,

that may contribute to any prohibited activity of the Democratic People's Republic of Korea.

(2) For the purposes of paragraph (1), prohibited activity includes providing technical training, advice, services, or assistance relating to the provision, manufacture, maintenance or use of items, materials, equipment, goods or technology that are —

- (a) nuclear-related;
- (b) ballistic missile-related; or
- (c) other weapons of mass destruction-related.

(3) A financial institution must —

- (a) apply enhanced monitoring to prevent financial transactions; and
- (b) immediately freeze any financial assets or resources, or other assets or resources, in its possession, custody or control in Singapore,

that are associated with, or may contribute to, any prohibited activity of the Democratic People's Republic of Korea.

(4) To avoid doubt, paragraph (3)(b) applies to all financial assets or resources, or other assets or resources that are frozen pursuant to regulation 7(3) of the Monetary Authority of Singapore (Sanctions — Democratic People's Republic of Korea) Regulations 2009 (G.N. No. S 367/2009), revoked by these Regulations.

Prohibition against providing financial services or transferring assets or resources for procurement of certain minerals, etc.

6.—(1) Subject to paragraph (3), a financial institution must not, directly or indirectly (including through any provider of any brokering or other intermediary services) —

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- (a) provide any financial services (including but not limited to the granting of export credits, guarantees or insurance) or any other related services;
 - (b) transfer (including through a gold courier transiting to and from the Democratic People's Republic of Korea), any financial assets or resources (including bulk cash or gold); or
 - (c) transfer other assets or resources,

to a person which relates to any activity specified in paragraph (2).

(2) For the purposes of paragraph (1), the activities are —

- (a) the procurement of coal, iron, iron ore, gold, titanium ore, vanadium ore, or rare earth minerals from —
 - (i) the Democratic People's Republic of Korea; or
 - (ii) any person in or national of the Democratic People's Republic of Korea; or
- (b) the owning, leasing, operating or insuring of any vessel flagged by the Democratic People's Republic of Korea.

(3) The prohibition in paragraph (1) does not apply if the Authority gives a written notice to the financial institution or the class of financial institutions to which the financial institution belongs that —

- (a) in respect of any procurement of coal, the procurement —
 - (i) originates outside the Democratic People's Republic of Korea; and
 - (ii) is transported through the Democratic People's Republic of Korea solely for export from the Port of Rajin (Rason);
- (b) in respect of any procurement of coal, iron, or iron ore, the procurement is —
 - (i) exclusively for livelihood purposes; and
 - (ii) unrelated to generating revenue for the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related, or other programmes or activities

prohibited by Resolution 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or 2270 (2016); or

(c) in respect of an activity mentioned in paragraph (2)(b), the activity is —

(i) exclusively for livelihood purposes; and

(ii) not used by any person in or national of the Democratic People's Republic of Korea —

(A) to generate revenue; or

(B) in violation of Resolution 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or 2270 (2016).

Prohibition against entering into financial transactions or providing financial assistance or services, etc., in relation to designated import items or designated export items, etc.

7.—(1) A financial institution must not, directly or indirectly (including through any provider of any brokering or other intermediary services) —

(a) enter into any financial transaction with; or

(b) provide, facilitate the provision of, or procure the provision of any financial assistance or services to,

a person which relates to any activity specified in paragraph (2).

(2) For the purposes of paragraph (1), the activities are —

(a) the provision, manufacture, maintenance or use of —

(i) any designated import item procured from; or

(ii) any designated export item procured by,

the Democratic People's Republic of Korea or any person in or national of the Democratic People's Republic of Korea;

(b) the provision of technical training, advice, services, or assistance relating to the provision, manufacture, maintenance or use of any small arms, light weapons, and related matériel of such small arms or such light weapons; or

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- (c) the shipment to or from the Democratic People’s Republic of Korea of —
 - (i) any designated export item; or
 - (ii) any designated import item,
for repair, servicing, refurbishing, testing, reverse-engineering, or marketing, regardless of whether the ownership or control of such designated export item or designated import item is transferred.

Prohibition against certain activities in Democratic People’s Republic of Korea and transactions involving prohibited banks

8.—(1) A financial institution must not —

- (a) open any representative office in the Democratic People’s Republic of Korea;
- (b) incorporate or establish any subsidiary in the Democratic People’s Republic of Korea; or
- (c) open any bank account in the Democratic People’s Republic of Korea.

(2) Except with the prior written approval of the Authority, a financial institution must not —

- (a) establish or maintain any joint venture with a prohibited bank;
- (b) permit a prohibited bank to acquire any ownership interest in the financial institution;
- (c) acquire any ownership interest in a prohibited bank; or
- (d) establish or maintain a correspondent relationship with a prohibited bank.

(3) In this regulation, “prohibited bank” means any bank incorporated or established in the Democratic People’s Republic of Korea (including any branch, subsidiary or representative office of any such bank).

Assets of certain persons to be frozen

9.—(1) Subject to paragraph (3), any financial institution that has in its possession, custody or control in Singapore, any funds, other financial assets or economic resources owned or controlled, directly or indirectly, by any designated person must —

- (a) immediately freeze all such funds, financial assets or economic resources, as the case may be; and
- (b) ensure that such funds, financial assets or economic resources are not made available, whether directly or indirectly, to or for the benefit of the designated person.

(2) For the purposes of paragraph (1) and regulation 12(b) and (c), any funds, other financial assets or economic resources that are held by —

- (a) any entity owned or controlled, directly or indirectly, by any designated person; or
- (b) any individual or entity who acts on behalf of or under the direction of any designated person,

are treated as funds, financial assets or economic resources owned or controlled by the designated person.

(3) The requirement in paragraph (1) does not apply if the Authority gives a written notice to the financial institution or the class of financial institutions to which the financial institution belongs that the funds, other financial assets or economic resources are —

- (a) necessary for the payment of —
 - (i) basic expenses, including any payment for foodstuff, rent, the discharge of a mortgage, medicine, medical treatment, taxes, insurance premiums and public utility charges; or
 - (ii) any extraordinary expenses;
- (b) exclusively for —
 - (i) the payment of reasonable professional fees and the reimbursement of any expenses incurred in connection with the provision of legal services; or

(ii) the payment of fees or service charges imposed for the routine holding or maintenance of frozen funds, financial assets or economic resources; or

(c) the subject of any judicial, administrative or arbitral lien or judgment.

(4) Where the Authority gives a notice under paragraph (3)(c) that any funds, other financial assets or economic resources are the subject of any judicial, administrative or arbitral lien or judgment, the funds, financial assets or economic resources may be used to satisfy such lien or judgment but only if the lien or judgment —

(a) arose or was entered before 14 October 2006; and

(b) is not for the benefit of a designated person.

(5) To avoid doubt, paragraph (1) applies to all funds, financial assets or economic resources frozen pursuant to regulation 5(1) of the Monetary Authority of Singapore (Freezing of Assets of Persons — Democratic People’s Republic of Korea) Regulations 2009 (G.N. No. S 258/2009), revoked by these Regulations.

Freezing of assets of entities of Government of Democratic People’s Republic of Korea and Worker’s Party of Korea

10.—(1) Any financial institution that has in its possession, custody or control in Singapore, any funds, other financial assets or economic resources to which this regulation applies, must —

(a) immediately freeze all such funds, financial assets or economic resources, as the case may be; and

(b) ensure that such funds, financial assets or economic resources are not made available, whether directly or indirectly, to or for the benefit of any prohibited entity.

(2) This regulation applies to funds, other financial assets and economic resources which are owned or controlled, directly or indirectly, by a prohibited entity and —

(a) which the financial institution has information that provides reasonable grounds to believe; or

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- (b) which the Authority gives a written notice to the financial institution or the class of financial institutions to which the financial institution belongs,

are associated with the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related, or other programmes or activities prohibited by Resolution 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or 2270 (2016).

(3) For the purposes of paragraph (2) and regulation 12(b) and (c), any funds, other financial assets or economic resources that are held by —

- (a) any entity owned or controlled, directly or indirectly, by a prohibited entity; or
- (b) any individual or entity who acts on behalf of or under the direction of a prohibited entity,

are treated as funds, financial assets or economic resources owned or controlled by the prohibited entity.

(4) To avoid doubt, the requirement in paragraph (1) does not apply to any funds, other financial assets or economic resources that the Authority gives a written notice to the financial institution or the class of financial institutions to which the financial institution belongs —

- (a) to be necessary for the carrying out of any activity of —
- (i) the Democratic People's Republic of Korea's missions to the United Nations, its specialised agencies and related organisations; or
- (ii) the Democratic People's Republic of Korea's diplomatic and consular missions; or
- (b) to be required for the delivery of humanitarian assistance, denuclearisation or any other purpose consistent with the objectives of Resolution 2270 (2016).

General prohibition

11. A financial institution must not knowingly do anything that —

- (a) causes, assists or promotes; or

(b) is intended to cause, assist or promote,
any act or thing prohibited by regulation 5, 6, 7, 8, 9 or 10.

Duty to provide information

12. Every financial institution which —

- (a) has any fact or information about any transaction, proposed transaction, act or thing prohibited by regulation 5, 6, 7 or 8;
- (b) has possession, custody or control in Singapore of any funds, other financial assets or economic resources owned or controlled, directly or indirectly, by any designated person or prohibited entity; or
- (c) has information about any transaction or proposed transaction in respect of any funds, other financial assets or economic resources owned or controlled, directly or indirectly, by any designated person or prohibited entity,

must immediately inform the Authority of that fact or information, and provide such further information relating to the funds, financial assets, economic resources, transaction, proposed transaction, act or thing, as the Authority may require.

Revocation and transitional provision

13.—(1) The following Regulations are revoked:

- (a) Monetary Authority of Singapore (Freezing of Assets of Persons — Democratic People’s Republic of Korea) Regulations 2009 (G.N. No. S 258/2009);
- (b) Monetary Authority of Singapore (Sanctions — Democratic People’s Republic of Korea) Regulations 2009 (G.N. No. S 367/2009).

(2) Any determination by the Authority under regulation 5(3) of the revoked Regulations mentioned in paragraph (1)(a) is treated as a notification by the Authority under regulation 9(3) of these Regulations.

Made on 14 June 2016.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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