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FINANCIAL SERVICES AND MARKETS ACT 2022

FINANCIAL SERVICES AND MARKETS (SANCTIONS AND FREEZING OF ASSETS OF PERSONS — LIBYA) REGULATIONS 2023

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In exercise of the powers conferred by section 192, read with sections 15(1)(b) and 219(d), of the Financial Services and Markets Act 2022, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Financial Services and Markets (Sanctions and Freezing of Assets of Persons — Libya) Regulations 2023 and come into operation on 28 April 2023.

Object

2. The object of these Regulations is to assist in giving effect to Resolutions 1970 (2011), 1973 (2011), 2009 (2011) and 2146 (2014) of the Security Council of the United Nations.

Application

3. These Regulations apply to all financial institutions in Singapore.

Definitions

4.—(1) In these Regulations —

“Committee” means the Committee of the United Nations Security Council established under paragraph 24 of Resolution 1970 (2011);

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

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

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

“UN List” means the list of individuals or entities identified by the Security Council of the United Nations or the Committee as individuals or entities to whom or which the measures specified in paragraph 17 of Resolution 1970 (2011) and paragraph 19 of Resolution 1973 (2011) apply, comprising —

(a) the individuals or entities listed in —

(i) Annex II of Resolution 1970 (2011); or

(ii) Annex II of Resolution 1973 (2011);

(b) the individuals or entities designated by the Committee pursuant to paragraph 24 of Resolution 1970 (2011); and

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- (c) the individuals or entities determined by the Security Council of the United Nations or the Committee to have violated the provisions of Resolution 1970 (2011) or to have assisted others in doing so,

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

(2) The conditions mentioned in the definition of “designated person” in paragraph (1) are —

- (a) where any individual or entity is added to the UN List on or after 28 April 2023, 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 28 April 2023, 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.

Assets of certain persons to be frozen

5.—(1) Subject to paragraphs (3) and (5), 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 of the funds, financial assets or economic resources, as the case may be; and

(b) ensure that the 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), any funds, other financial assets or economic resources that are held by —

(a) any individual or entity who acts on behalf of or under the direction of any designated person; or

(b) any entity owned or controlled, directly or indirectly, by 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 to any funds, other financial assets or economic resources —

(a) owned or controlled, directly or indirectly, by a designated person specified in the Schedule; and

(b) which came into or under the possession, custody or control in Singapore of a financial institution after 16 September 2011.

(4) To avoid doubt, the requirement under paragraph (1) continues to apply to any funds, other financial assets or economic resources which were owned or controlled, directly or indirectly, by a designated person specified in the Schedule and which came into or under the possession, custody or control in Singapore of a financial institution on or before 16 September 2011, subject to —

(a) paragraph (5); and

(b) any exemption from paragraph (1) granted, or treated as having been granted, under section 189 of the Act in relation to those funds, financial assets or economic resources.

(5) The requirement in paragraph (1) does not apply to any funds, other financial assets or economic resources that have been determined by the Authority —

(a) to be necessary —

(i) for the payment of 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) exclusively for —

(A) the payment of reasonable professional fees and the reimbursement of any expenses in connection with the provision of legal services; or

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

(b) to be necessary for the payment of any extraordinary expenses; or

(c) to be the subject of any judicial, administrative or arbitral lien or judgment, in which case the funds, financial assets or economic resources may be used to satisfy the lien or judgment, provided that the lien or judgment —

(i) arose or was entered into before 26 February 2011; and

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

(6) A financial institution may credit to any account frozen under paragraph (1) —

(a) interest or other earnings due on the account; or

(b) any payment due under any contract, agreement or obligation that arose before 8 July 2011,

provided that any such interest, earnings or payment is subject to paragraph (1).

Prohibition against supply of financial or other assistance

6.—(1) A financial institution in Singapore must not directly or indirectly supply financial or other assistance related to —

- (a) military activities; or
- (b) the provision, maintenance or use of any arms and related materiel,

to the Libyan Arab Jamahiriya.

(2) The prohibition in paragraph (1) does not apply to financial or other assistance related to —

- (a) the supply of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee;
- (b) the supply of protective clothing, including flak jackets and military helmets, temporarily exported to the Libyan Arab Jamahiriya by United Nations personnel, representatives of the media and humanitarian and development works and associated personnel, for their personal use only; and
- (c) other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee.

Prohibition against provision of financial services

7.—(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 to any person; or
- (b) transfer any funds, other financial assets or economic resources to any person,

where the financial institution has information that provides reasonable grounds to believe that the provision or the transfer

relates to crude oil from Libya that is or was transported aboard a vessel that has been designated under paragraph 11 of Resolution 2146 (2014).

(2) Every financial institution which has in its possession, custody or control in Singapore, any funds, other financial assets or economic resources that relate to crude oil mentioned in paragraph (1) must immediately —

- (a) freeze those funds, assets or resources; and
- (b) ensure that those funds, assets or resources are not made available, whether directly or indirectly, to or for the benefit of any person.

Duty to provide information

8. Every financial institution which —

- (a) 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;
- (b) 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
- (c) has information about any act or thing prohibited by regulation 6,

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

Duty to exercise vigilance

9. Every financial institution must exercise vigilance when doing business with —

- (a) any entity incorporated in, or subject to the jurisdiction of, the Libyan Arab Jamahiriya;

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

if the financial institution has information from the Authority or other information that provides reasonable grounds to believe that the business could contribute to violence and the use of force against civilians.

Revocation

10. Revoke the Monetary Authority of Singapore (Sanctions and Freezing of Assets of Persons — Libya) Regulations 2011 (G.N. No. S 381/2011) (called in these Regulations the revoked Regulations).

Saving and transitional provisions

11.—(1) Any funds, financial assets or economic resources frozen under regulation 5(1) or 6A(2) of the revoked Regulations are treated as frozen under regulation 5(1) or 7(2), respectively, of these Regulations.

(2) Any exemption granted by the Authority under section 178 (formerly section 41C) of the Monetary Authority of Singapore Act 1970 and which was in force immediately before 28 April 2023 in relation to any funds, financial assets or economic resources mentioned in regulation 5(2B)(b) of the revoked Regulations is treated as having been granted under section 189 of the Act in relation to any funds, financial assets or economic assets mentioned in regulation 5(4)(b) of these Regulations.

(3) Any determination made by the Authority under regulation 5(3) of the revoked Regulations and which was in force immediately before 28 April 2023 is treated as a determination made by the Authority under regulation 5(5) of these Regulations.

(4) Any information provided by a financial institution under regulation 7 of the revoked Regulations is treated as having been provided under regulation 8 of these Regulations, and any requirement of the Authority to provide further information under regulation 7 of the revoked Regulations is treated as a requirement of

the Authority to provide further information under regulation 8 of these Regulations.

THE SCHEDULE

Regulation 5(3) and (4)

DESIGNATED PERSONS

1. The Libyan Investment Authority
2. The Libyan African Investment Portfolio

Made on 10 April 2023.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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