



ශ්‍රී ලංකා මහ බැංකුව
இலங்கை மத்திய வங்கி
CENTRAL BANK OF SRI LANKA

இலா உட்பி பீககக

நிதியியல் உளவறிதற் பிரிவு

Financial Intelligence Unit

Ref No: 037/04/010/0002/017

May 18, 2018


To: CEO / General Managers of All Financial Institutions and
Designated Non Finance Businesses and Professions

Dear Madam/Sir,

Guidelines No. 5 of 2018 on Implementing United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017

The above Guideline will come in to force with immediate effect and shall be read together with the United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017, Financial Institutions (Customer Due Diligence) Rules No 1 of 2016 and Designated Non-Finance Business (Customer Due Diligence) Rules, No. 1 of 2018 issued under Section 2(3) of the Financial Transactions Reporting Act No 6 of 2006.

Yours faithfully,


Mrs. E Mohotty
Actg. Director
Financial Intelligence Unit

Cc: Compliance Officers

Guidelines, No. 5 of 2018
on
Implementing United Nations (Sanctions in relation to
Democratic People’s Republic of Korea) Regulations of 2017

Introduction

- (1) The Minister of Foreign Affairs, acting within the powers vested with him under the United Nations Act, No 45 of 1968, issued the United Nations (Sanctions in relation to Democratic People’s Republic of Korea) Regulations of 2017 by Gazette Extraordinary No. 2039/32, dated October 06, 2017 (hereinafter referred to as DPRK Regulations), effective from the date of issue, applicable to Institutions which engage in “finance business” and “designated non-finance businesses” as defined under Section 33 of the Financial Transactions Reporting Act, No. 6 of 2006 (hereinafter referred to as Institutions).
- (2) The present guidelines are issued by the Financial Intelligence Unit (FIU) to be adhered by Institutions, in accordance with the provisions of the DPRK Regulations, to facilitate their compliance with the provisions of the DPRK Regulations, and the effective implementation of the same in Sri Lanka.
- (3) These guidelines will come into force with immediate effect and are required to be read together with the Financial Transactions Reporting Act, No. 06 of 2006 and the DPRK Regulations.
- (4) DPRK Regulations restrict any individual or entity located in Sri Lanka, or Sri Lankan individuals and entities located within or outside the jurisdiction of Sri Lanka, from carrying out financial transactions and providing financial services for a list of ‘designated individuals and entities’ (hereinafter referred to as designated persons), as well as for any individual or entity who may be involved in activities defined under the ‘Prohibited Activities’ of DPRK Regulations.

Setting up a Screening Mechanism for Designated Persons, Designated Items and Luxury Items

- (5) Institutions are required to follow a two stage approach to comply with the DPRK Regulations.
- (i) First stage is the screening of their customers against the consolidated list of designated persons, and any person (natural or legal) acting on behalf of designated persons.
 - (ii) Second stage is identifying transactions and financial services which are related to designated items, luxury items and prohibited activities.
- (6) As per DPRK Regulation 19 (3), the Competent Authority has published the first list of designated persons by Extraordinary Gazette No. 2067/14 dated April 19, 2018. It contains 70 individuals and 54 entities which are designated by the UN Security Council and the Security Council Committee Established Pursuant to Resolution 1718 (hereinafter referred to as the DPRK Committee). This list is frequently updated by the DPRK Committee, and the consolidated updated list is available in DPRK Committee's web site <https://www.un.org/sc/suborg/en/sanctions/1718/materials> (as PDF, XML or HTML). As per DPRK Regulation 19 (4), the FIU will inform the Institutions by email, whenever there is an update to the consolidated designated list. The link to the updated list is also available in the 'UN Sanction -> Sanctions on Proliferation' section of the FIU web site.
- (7) Institutions are required to maintain a complete, accurate and up to date customer details database in electronic form (computer based) to ensure effective screening process.

Screening of Customer Base against Designated Persons List

- (8) Whenever there is a notification by the FIU on updates to the designated persons list, Institutions are required to obtain the updated list from the DPRK Committee's web site, and perform a full screening of their customer base against the list. Institutions are advised to utilize a combination of name, date of birth, nationality, passport/NIC number and address for the search process. As there could be subtle differences between the list contents and customer data in Institutions' database, a phonetic search is recommended for an effective search.

- (9) Institutions are required to regularly obtain the updated designated persons list from the DPRK Committee's web site, and use it for screening process. Whenever there is a new account opening for a new customer, the details of that customer are required to be screened against the designated list, and the Institutions are required to ensure that the customer is not a designated person. Similarly, whenever a transaction is carried out for any customer, Institutions are required to screen the sender and receiver of the transaction against the designated list, and ensure that no designated persons are involved.
- (10) Institutions are required to develop processes to identify the beneficiaries of their accounts, and apply the same procedure described in these guidelines 8 and 9, to ensure that no designated persons are beneficiaries of the funds, accounts or other assets. Such processes are required to be developed so as to identify the beneficiaries wherever possible, and the Institutions are required to be able to demonstrate, if required, that the best efforts within the capacity of Institutions have been made to identify the beneficiaries of the funds, accounts or other assets.

Identification of Transactions and Financial Services related to Designated Items, Luxury Items and Prohibited Activities

- (11) As per DPRK Regulation 4 (2), the Competent Authority has published the first list of designated items and luxury items by Extraordinary Gazette No. 2067/14 dated April 19, 2018. Similar to the designated persons list, FIU will inform the updates to the designated and luxury items list to Institutions by email. The link to the updated list is also available in the 'UN Sanctions -> Sanctions on Proliferation' section of the FIU web site. When doing trade transactions, Institutions are required to ensure that no designated item or luxury item is involved in a trade transaction where DPRK individual or entity (regardless of whether they are designated or not, including the government of DPRK) is a party or beneficiary. For that, Institutions are required to be vigilant of transactions where trade is from/to DPRK or its neighboring countries, and get more information regarding the trade.
- (12) Institutions are required to pay special attention to DPRK Regulation 10 and obtain more details about the end users when providing financial services or transferring financial assets or other assets to any person or entity, to ensure that such services or transfers are not related

to ballistic missile related or other Weapons of Mass Destruction (WMD - chemical, biological, radioactive and nuclear) related activities, or prohibited activities defined in DPRK Regulations.

- (13) As per DPRK Regulation 11, Institutions are required not to provide public and private financial support to a person engaged in any trade with DPRK individuals or entities (regardless of designated or not, including government of DPRK). Furthermore, Institutions are required to not establish any correspondence relationships with DPRK financial institutions.

Freezing of Funds, Accounts and Other Assets

- (14) The Competent Authority has issued the freezing order by the Extraordinary Gazette No. 2071/03 dated May 14, 2018 to freeze the funds, accounts and other assets of designated persons. Accordingly, Institutions are required to screen their customers regularly and immediately freeze such funds, accounts and other assets maintained with the Institutions, upon identifying designated persons.

- (15) In order to ascertain whether a customer is a designated person, Institutions are required to utilize the customer identification information obtained under Customer Due Diligence (CDD), as well as other publicly available information.

- (16) If Institutions cannot determine whether a customer is a designated person, due to the lack of information available in the designated list for that individual or entity, Institutions may contact FIU to obtain more details.

- (17) After freezing the funds and other assets of designated persons, Institutions are required to immediately inform the Competent Authority and the FIU about the freezing actions including customer details and nature of the funds. After that, Institutions are required to make reasonable efforts to inform the customer immediately about the freezing of assets.

- (18) Institutions can allow deposits to the frozen accounts, provided that such deposits are also frozen in the account. Competent Authority may issue an order to lift the freeze of an asset for specific situations, and the Institutions are required to immediately adhere to such order.

(19) If a customer whose assets are frozen, claims that he has been falsely identified as a designated person due to identical identity, Institutions are required to direct such customer to make a request to the Competent Authority and the FIU to lift the freeze.

(20) If Institutions identify a designated person in a transaction or financial service who is not a customer of Institutions (hence no assets to be frozen), Institutions are required to not carry out the transaction or financial service, and inform the Competent Authority about the particulars of such activity, and submit an STR to the FIU regarding the same.

Miscellaneous

(21) If Institutions has doubts whether a particular customer is a designated person, and require additional details from the customer to ascertain that, Institutions are required to get such information from the customer in a way that would not 'tip off' the customer. Such inquiry from the customer is required to be made after applying procedures to secure the funds, account or other asset to prevent the flight of assets.

(22) Institutions are required to make efforts to make their staff aware of above requirements, especially on how to identify trade transactions related to proliferation of WMD.

(23) Any person who contravenes the provisions in DPRK Regulations related to assets freezing and other prohibited activities shall be guilty of an offence and shall, on conviction by the High Court, be liable to imprisonment for a period of two to five years, and/or to a fine not exceeding rupees one million.

(24) Any person who contravenes the provisions in DPRK Regulations related to providing notices to the Competent Authority, FIU and customers of frozen assets, shall be guilty of an offence and shall, on conviction by the High Court, be liable to imprisonment for a period not exceeding one year, and/or to a fine not exceeding rupees five hundred thousand.

May 18, 2018