

Rwanda

## Regulations on Targeted Financial Sanctions Related to Terrorism, Terrorist Financing, and Proliferation of Weapons of Mass Destruction and its Financing

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## Rwanda

# Regulations on Targeted Financial Sanctions Related to Terrorism, Terrorist Financing, and Proliferation of Weapons of Mass Destruction and its Financing

## Regulation 1 of 2021

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**Commenced on 26 August 2021**

*[This is the version of this document from 26 August 2021.]*

**The Director General of Financial Intelligence Centre;**

Pursuant to Law n° 045/2021 of 18/08/2021 governing the Financial Intelligence Centre, especially in Article 7;

**ISSUES THE FOLLOWING REGULATIONS:**

### Chapter One General provisions

#### Article One – Purpose of these Regulations

These Regulations determine modalities for the implementation of Resolution 1267 (1999) and its successors and Resolution 1373 (2001) of the Security Council with regard to targeted financial sanctions related to:

- 1° the terrorism and terrorism financing;
- 2° the proliferation of weapons of mass destruction and its financing.

#### Article 2 – Definitions

In these Regulations, the following terms and expressions are defined as follows:

- 1° basic necessary expense: monthly family expenses, payments for foodstuff, rent, mortgage, medicines, medical treatment, taxes, insurances premiums and public utility charges, reasonable professional fees and reimbursement of expenses related to the provision of legal services, fees or service charge incurred for routine holding or maintenance of frozen funds or other financial assets or economic resources;
- 2° Centre: Financial Intelligence Centre;
- 3° customer: an individual or a legal person that carries out transactions with a reporting person;
- 4° dealing: receiving, acquiring, transacting, representing, concealing, disposing, converting, transferring, moving, using as security, or providing financial services;
- 5° de-listing: write off a person, a group, a company or an entity's names from the domestic list or the international sanctions list;
- 6° designated person: a person, a group, a company and an entity that are placed on the list of terrorists and terrorism financiers pursuant to relevant domestic laws or to the United Nations Security Council Resolutions adopted under Chapter VII of the United Nations Charter;
- 7° designation: listing a person at domestic level as a terrorist or terrorist financier or listing a person on the United Nations Sanctions list by a relevant United Nations Sanctions Committee;

- 8° domestic list: State list of designated persons prepared, approved and published in accordance with relevant laws;
- 9° economic resources: an asset of every kind, whether movable or immovable, tangible or intangible, actual or potential, which are not funds and which may be used to obtain funds, goods or services;
- 10° extraordinary expenses: expenses other than basic and necessary expenses;
- 11° funds or other assets: assets, including, but not limited to financial assets, natural resources, tangible, intangible, movable or immovable property, whatever mode of acquisition, and legal documents or instruments, including electronic or digital, evidencing entitlement, or interest in, such funds or assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit or interests, dividends or other income or value accruing from or generated by such funds or other assets, and another asset which potentially may be used to obtain funds, goods or services;
- 12° sanctions: measures imposed by the Security Council or by domestic relevant laws or regulations against the designated persons;
- 13° Sanctions Committee: Committee of the Security Council established under the United Nations resolution;
- 14° sanctions list: 1267/1989 Al-Qaida sanctions list and 1988 sanctions list or other similar list issued by the Security Council;
- 15° Security Council: the Security Council of the United Nations established under Article 7 of Chapter III of the United Nations Charter;
- 16° seizure or freezing order: order to prevent or restrain specific property or funds from being used, transferred, transacted, converted, altered, concealed, moved, or other disposal means possible without affecting the ownership thereof;
- 17° without delay: immediately or not later than twenty-four (24) hours.

## **Chapter II**

### **Designating, de-listing and disseminating lists of designated persons**

#### **Article 3 – Designation and de-listing of designated persons**

Designation and de-listing of designated persons are determined by the relevant laws.

#### **Article 4 – Publication of the list of designated persons**

The list of designated persons is published on the website of the Ministry in charge of Justice, in accordance with the relevant laws.

#### **Article 5 – Dissemination of list of designated persons**

The Centre disseminates in a circular form or another form, without delay, to the supervisory authority, the reporting persons and another relevant public or private institution, the domestic list of designated persons and the Security Council sanctions list received in accordance with the relevant laws.

## **Chapter III**

### **Implementation of sanctions against designated persons**

#### **Article 6 – Obligation to identify funds or other assets of a designated person**

Upon receiving a domestic list or the Security Council Sanctions list, a reporting person verifies whether the details of a designated person match particulars of a customer, and if so, identifies whether the customer owns funds or other assets. If funds or other assets are or are not identified, the reporting person makes a report to the Centre, without delay.

#### **Article 7 – Seizure or freezing of the funds or other assets of a designated person**

The Centre, on its own motion or at the request of a reporting person or a supervisory authority, without prior notice to the designated person, makes an order of seizure or freezing of funds or other assets of a designated person, held directly or indirectly by the designated person, or an institution or a person acting on behalf of or at the direction of a designated person.

The order to seize or freeze funds or other assets also includes the documents or instruments evidencing title to or interest in such asset or property and any on-going prohibition against the provision of funds, other assets or financial services to the designated person against whom the order is made. The order also gives the power to a reporting person and another institution which holds the property or funds of a designated person to seize or freeze, such funds or other assets till further notice.

A reporting person or another relevant institution notifies the Centre without delay attempted dealing with funds or other assets against which a seizure or freezing order has been issued.

#### **Article 8 – Prohibition from dealing with funds or other assets of a designated person**

It is prohibited to deal in funds or other assets of a designated person, including:

- 1° funds or other assets wholly owned or controlled by him or her;
- 2° funds or other assets jointly owned or directly or indirectly controlled by him or her;
- 3° funds or other assets derived or generated from funds or other assets owned or controlled, directly or indirectly by him or her;
- 4° funds or other assets of a person acting on behalf of or at the direction of a designated person.

However, nothing can prevent interests which may accrue or other earnings due on the accounts of a designated person or payments due under a contract or an agreement or obligations that arose prior to the date on which those accounts became subject to the prohibition, provided that such interests, earnings and payments continue to be subject to the prohibition.

#### **Article 9 – Prohibition on making funds or other assets available to designated persons**

A person shall not make available funds or other assets, financial or other related services, directly, indirectly, wholly, partly or jointly to a designated person, to a person acting on behalf or at the direction of a designated person or to an entity owned or controlled, directly or indirectly by a designated person.

### **Article 10 – Prohibition on making funds or other assets available for the benefit of a designated person**

A person is prohibited from making available funds or other assets, financial or other related services, directly or indirectly, wholly, partly or jointly for the benefit of a designated person.

### **Article 11 – Rights of *bona fide* third parties on prohibitions, seizure or freeze**

Seizure or freezing order granted under these Regulations applies without prejudice to the rights of the *bona fide* third parties.

A person who has an interest in funds or other assets which are subject to the prohibition, seizure or freezing order granted under these Regulations may apply to the Centre to waiver interests from the seizure or freezing order.

The Centre gives a favourable response to the application where it finds that:

- 1° the applicant has a legitimate legal interest in the funds or other assets;
- 2° no participation or complicity with respect to the terrorist act or financing of terrorist or terrorist organisation which is subject to the proceedings can be imputed to the applicant;
- 3° the applicant proves beyond reasonable doubt that he had no knowledge of the illegal use of the funds or other assets and that, if he or she had knowledge, he or she did not freely consent to its illegal use;
- 4° the applicant did not acquire any right to the funds or other assets from a designated person that gives rise to a reasonable inference that the right was transferred in order to avoid the eventual subsequent seizure or freezing of the funds or other assets;
- 5° the applicant did all that could reasonably be expected to prevent the illegal use of the funds or other assets.

The Centre communicates, without delay, the decision taken on the application, whether or not it is favourable. A person who holds, controls or has in his or her custody or possesses funds or other assets of a *bona fide* third party that had requested release, complies with the decision taken on the application.

### **Article 12 – Mistaken identity**

A person affected by a seizure or freezing order or prohibition under these Regulations and claiming not to be the one against whom seizure or freezing order was made or the prohibition applies, may apply to the Centre for unfreezing or removal of seizure or prohibition.

If it is established that a person was mistakenly designated, the Centre, without delay, nullifies the seizure or freezing order of his or her funds or other assets and prohibitions made against him or her and clarifies that this order does not apply to him or her.

A person who possesses, controls or has in his or her custody the frozen funds or other assets of the person referred to in Paragraph 2 of this Article releases them to him or her, without delay.

### **Article 13 – Rights of the designated person to the seized or freezed funds or assets**

If an order to seize or freeze funds or other assets of a designated person has been made, such a person may not withdraw money or deal in funds or other assets seized or frozen unless the funds or other assets are necessary to cover the basic and necessary expenses or extraordinary expenses of the designated person.



### **Article 14 – Coverage of basic necessary expenses**

A designated person who needs funds to cover basic and necessary expenses applies to the Centre. The Centre, within seven (7) working days from the date of application, considers the application and, if the application was found befitting, authorises the withdrawal of money or dealing with funds or other assets as it may consider reasonable to cover the basic and necessary expenses of the designated person.

If the order of seizure or freezing the funds or other assets of a designated person is made pursuant to a resolution of the Sanctions Committee, the Centre, prior to authorising the withdrawal of money or deal with funds or other assets requested under the application, notifies the relevant Sanctions Committee of the application through the diplomatic channels and request the Sanctions Committee to submit to it its recommendations on the matter.

The Centre authorises withdrawal of money or dealing with funds or other assets in pursuance with the resolution referred to in Paragraph 2 of this Article on prior written approval of the relevant Sanctions Committee.

### **Article 15 – Administration of seized or frozen funds or assets**

The Centre may procure an administrator of seized or frozen funds or assets, in accordance with relevant laws.

The remuneration payable to the administrator is recovered as an ordinary expense from the funds or other assets of the designated person.

An appointed administrator complies with directives given to him or her by the Centre and manages the funds or other assets with due diligence and in good faith, as may be exercised by a reasonable person in similar circumstances.

Unless otherwise terminated, the duties of the administrator cease upon the de-listing of the designated person and return of the funds or assets under his or her care.

### **Article 16 – De-listing and lapse of prohibition or seizure and freezing order**

If the name of a designated person is removed from the domestic list or from a United Nations Sanctions list, a seizure or freezing order, or prohibition made against him or her lapses with immediate effect. In this case, a reporting person or another person who holds, controls or has in his custody or possession funds or other assets of the designated person unfreezes, without delay, those funds or other assets and report to the Centre.

## **Chapter IV**

### **Restrictions on travel and dealing in arms**

#### **Article 17 – Restriction to enter or transit through the territory of Rwanda**

Without prejudice to laws governing immigration and emigration in Rwanda, a designated person is not allowed to enter or transit through Rwanda.

Notwithstanding the provisions of Paragraph One of these Regulations, a designated person may enter or transit through Rwanda if he or she is a Rwandan or if entering or transit is necessary for purposes of judicial proceedings, including extradition, testimony or providing assistance in order to obtain evidence during investigation or prosecution of another offence.

#### **Article 18 – Restriction on dealing in arms**

A person on the territory of Rwanda or a Rwandan outside the country is restricted from dealing directly or indirectly in the supply, sale, transfer, carriage or delivery of arms and related equipment, including weapon,

ammunition, military vehicles and equipment, paramilitary equipment and their spare parts and provision of technical advice, assistance or training related to military activities if the weapons or other equipment are intended to be imported by a designated person or are to be supplied or delivered to or to the order of a designated person.

### **Article 19 – Restriction on carriage of arms to a designated person**

A person is restricted from using a vehicle, vessel or aircraft from or to Rwanda or using a vessel or aircraft bearing the Rwandan flag outside Rwanda for the carriage of weapons or related materials to or from a designated person.

## **Chapter V Miscellaneous provisions**

### **Article 20 – Reporting of suspicious information**

A reporting person or another person to whom suspicious information related to a designated person reaches reports to the Centre without delay.

### **Article 21 – Monitoring of dealing and other activities of designated persons**

A reporting person regularly monitors the domestic list and the United Nations sanctions lists and monitors dealing and other activities in relation to designated persons to mitigate the risks of terrorism financing activities and the financing of proliferation of weapons of mass destruction.

### **Article 22 – Internal control strategies**

A reporting person puts in place and implements internal control strategies and other procedures to enable it to comply with its obligations under these Regulations.

### **Article 23 – Supervision**

The supervisory authority supervises and enforces compliance by reporting persons with the requirements imposed under these Regulations.

Without prejudices to an action which it may take against a reporting person under the relevant legislation, the supervisory authority imposes sanctions against a reporting person who does not comply or negligently failed to comply with requirements under these Regulations.

### **Article 24 – Duty to report violation of these Regulations**

A person who obtains information on the violation of provisions of these Regulations, informs the Centre without delay.

### **Article 25 – Non-liability**

A reporting person, a supervisory authority, the Centre, a member staff of another competent authority or another person cannot be held liable to an act done or omitted in good faith in the discharge of duties or exercise of powers provided for in these Regulations.

### **Article 26 – Administrative penalties**

Without prejudice to criminal sanctions, a person who fails to comply with the provisions of these Regulations is liable to an administrative fine of not less than one million Rwandan francs (Frw 1,000,000) and not more than ten million Rwandan francs (Frw 10,000,000).

## **Chapter VI Final provisions**

### **Article 27 – Repealing provision**

All prior regulatory provisions contrary to these Regulations are repealed.

### **Article 28 – Commencement**

These Regulations come into force on the date of their publication in the Official *Gazette* of the Republic of Rwanda.