

Suppression of Foreign and International Terrorism (Application of UNSCR 1540 (2004) 1673, 1810, 1887, 1977 (On Non-State Actor Proliferation), 1695, 1718, 1874 on Democratic People's Republic of Korea and 1696, 1737, 1747, 1803 and 1929, UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397 (2017) and Successor UNSCRs) Regulations, 2019.

WHEREAS Zimbabwe is a member of the United Nations and in pursuit of its commitment to International Peace and Security as enunciated under the Charter of the United Nations, has enacted the Suppression of Foreign and International Terrorism Act [*Chapter 11:21*] (No. 5 of 2007), which authorises the Minister to make regulations for the purpose of implementing the provisions of the Act and the relevant United Nations Security Council Resolutions;

RECOGNISING that UNSCR 1540 (2004) and all the current and future successor resolutions including 1673, 1810, 1887, 1977 (on non-state actor proliferation), 1695, 1718, 1874 on Democratic People's Republic of Korea (DPRK) and 1696, 1737, 1747, 1803 and 1929 on Islamic Republic of Iran (Iran), UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397 (2017) and Successor UNSCRs) require all member states to apply targeted financial sanctions in order to freeze assets, prevent the entry into, or the transit through their borders and prevent the direct and indirect supply, sale and transfer of arms and military equipment by any individual or entity designated by third party or foreign countries or individuals or entities associated with persons or entities as designated by the United Nations Security Council Committees and Expert Groups, covering export and border control issues, financial control vigilance, activity based financial prohibitions, specific vigilance measures and actions on designated banks, DNFBPs and Reporting entities; freezing of assets, international cooperation and information sharing and financial and technical assistance;

NOTING that UNSCR 2231 (2015), endorsed the Joint Comprehensive Plan of Action (JCPOA), and terminated

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previous provisions of resolutions relating to Iran and Weapons of Mass Destruction proliferation, including UNSCRs 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010), but retained Targeted Financial Sanctions on a number of individuals and entities designated pursuant to these resolutions and also established new specific restrictions, including a number of other measures;

NOTING that by Resolution 1540 (2004) and Successor UNSCRs) the United Nations Security Council requires that states refrain from supporting by any means non-state actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems;

DETERMINED that in order to establish domestic controls to prevent proliferation of nuclear, chemical and biological weapons, and their means of delivery, including by establishing appropriate controls over related materials and a procedure for the implementation of the requirements of the UNSCR 1540 and successor resolutions in Zimbabwe it is necessary to designate the Financial Intelligence Unit as the national agency responsible for the implementation of these regulations;

RECOGNISING the binding nature of the UNSCRs and in conformity with international standards and the Suppression of Foreign and International Terrorism Act [*Chapter 11:21*] (No. 5 of 2007), these regulations are aimed at providing for authorities, measures and procedures necessary for the implementation of the UNSCRs described below:

NOW, THEREFORE, it is hereby notified that the Minister of Home Affairs, has, in terms of section 17 of the Suppression of Foreign and International Terrorism Act [*Chapter 11:21*] (No. 5 of 2007), and with the consent of the President as required under subsection (2) of that section, made the following regulations:—

PART I

PRELIMINARY

Title

1. These regulations may be cited as the Suppression of Foreign and International Terrorism (Application of UNSCR 1540 (2004) 1673, 1810, 1887, 1977 (On non-state actor proliferation), 1695, 1718, 1874 on Democratic People's Republic of Korea and 1696, 1737, 1747, 1803 and 1929, UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397 (2017) and Successor UNSCRs) Regulations, 2019.

Interpretation

2. In these regulations—

“Act” means the Suppression of Foreign and International Terrorism Act [*Chapter 11:21*] (No. 5 of 2007);

“Chief Immigration Officer”, shall have the meaning assigned to it in terms of section 2 of the Immigration Act [*Chapter 4:02*];

“categories of list-based designations” include maritime vessels subject to freezing actions, in addition to listed persons and entities.

“competent supervisory authority”, “financial institution” and “designated non-financial business or profession” have the meaning given to them in the Money Laundering and Proceeds of Crime Act [*Chapter 9:24*] (No. 4 of 2013)

“designated person” means any, designated person or entity or group;

“Director-General” means the Director-General of the Unit;

“economic resources” means assets of whatever type; whether tangible or intangible, movable or immovable, real or personal, including assets which are not considered as money but can be used to obtain any monies, commodities or services; subject to assets freezes, includes assets such as vessels;

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“freeze” means to prohibit the transfer, conversion, disposition, alteration, use of or dealing with funds including those funds, financial assets, other financial resources or economic resources outside of the designated person or entity and country which are owned or controlled, directly or indirectly, by entities of the designated Government or its political party, or by persons or entities acting on their behalf or at their direction, or by entities owned or controlled by them, that the Minister determines are associated with the designated Government's nuclear or ballistic missile programmes or other activities prohibited by relevant UNSCRs in any way that would result in change of volume, amount or location, ownership or possession, character, destination or movement of funds or other assets on the basis of and for the duration of or the validity of an action initiated by a competent authority or a court under a freezing mechanism: Provided that the frozen funds or other assets remain the property of the person or entity that held an interest in the specified funds or other assets at the time of the freezing and may continue to be administered by the financial institution of an action under a freezing mechanism; and “frozen” shall be similarly construed;

“funds” or “other assets” means economic resources, financial assets, property or 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;

“immediately” means spontaneous, instantly, rapid, straightaway, take action in a timely manner, without delay but not later than 24 hours;

“institution” means financial institutions and designated non-financial institutions as defined in these Regulations or any other law;

“international resolutions” means UNSCR 1540 (2004) 1673, 1810, 1887, 1977 (On non-state actor proliferation) , 1695, 1718, 1874 on Democratic People’s Republic of Korea and 1696, 1737, 1747, 1803 and 1929 , UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397 (2017) and other relevant successor UNSCRs;

“international terrorists group (organisation)” shall have the meaning assigned to it by—

- (a) the Act; or
- (b) by the United Nations Security Council Sanctions Committee;

“means of delivery” means missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

“related materials” means materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

“non-state actor” means an individual or entity not acting under the lawful authority of any State in conducting activities, which come within the scope of the UNSCR 1540 Resolution and successor UNSCRs.

“proceeds” means property derived from or obtained, directly or indirectly through the commission of an offence;

“proliferation” means the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their

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means of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations. It includes technology, goods, software, services or expertise.

“proliferation financing convention” refers to the United Nation Security Council’s International Convention for the Suppression of the Financing of Proliferation.

“proliferation financing” means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.

“proliferation financing offences” means any criminal offence which constitutes proliferation or proliferation financing under the laws of Zimbabwe, and any criminal offence which constitutes proliferation or proliferation financing under a law of a foreign jurisdiction, in relation to acts or omissions which, had they occurred in Zimbabwe, would have constituted an offence in Zimbabwe. A Proliferation financing offence relates specifically to the development, production, acquisition, retention and transfer of nuclear, biological and chemical weapons.

“property” means assets of every kind, whether corporeal or incorporeal, moveable or immoveable, tangible or intangible and legal documents or instruments evidencing title to or interest in such assets;

“Prosecutor-General” means the Prosecutor-General appointed in terms of section 259 of the Constitution;

“Unit” means the Financial Intelligence Unit established in terms of section 3 of the Bank Use Promotion Act [*Chapter 24:24*] (No. 2 of 2004);

“UNSCRs” means any United Nations Security Council Resolutions made by the United Nations Security Council.

“United Nations List” means persons and/or entities designated by the UN Security Council or the relevant committees set up by the Security Council including but not limited to (a) persons or entities engaging in or providing support for, including through illicit means, proliferation-sensitive activities and programmes, (b) acting on behalf of or at the direction of designated persons or entities; (c) owned or controlled by designated persons or entities; and (d) persons or entities assisting designated persons or entities in evading sanctions, or violating resolution provisions.

“Zimbabwean List” means persons and entities identified by Zimbabwe based on specific information supporting a determination and proposal for such additional persons and entities, as appropriate, to the UN Security Council or the relevant Committee to be designed for financing or supporting weapons of mass destruction proliferation.

Purpose

3. These regulations—

- (a) prescribe the procedure for the freezing of funds, financial assets or other economic resources of any designated person; and
- (b) provide for the authority responsible for proposing and designating persons under the various UNSCRs; and
- (c) stipulate the type of financial or other related services which may not be provided to a designated person; and
- (d) prescribe conditions and procedure for utilisation of frozen funds, or economic resources; and
- (e) prohibit the making of frozen funds or economic resources available to designated persons; and

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- (f) provide for measures to prevent entry into, exit from or transit through Zimbabwean borders and prevent the direct or indirect supply, sale and transfer of nuclear, chemical or biological weapons and their means of delivery and related materials including both technologies and dual-use goods used for non-legitimate purposes, arms and military equipment with regard to any designated individual or entity; and
- (g) designate the Unit for the purpose of proposing and designating persons and entities as terrorists within the framework of the Zimbabwean legal regime; and
- (h) provide guidelines for the effective implementation of the UNSCRs.

Scope

4. (1) These regulations shall apply to—

- (a) designated persons or entities contained in the Consolidated List of the United Nations Committees, namely; 1540 (2004) 1673, 1810, 1887, 1977 (on non-state actor proliferation), 1695, 1718, 1874 on Democratic People's Republic of Korea and 1696, 1737, 1747, 1803 and 1929, UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397 (2017) and Successor UNSCRs (the UN Consolidated List as amended from time to time) or any other such UN Sanctions Committee;
- (b) designated persons and entities approved by the Unit under the Zimbabwean List and forwarded by Zimbabwe to UNSC Committee;
- (c) all law enforcement agencies whose duty is to implement measures to prevent the entry or the transit through Zimbabwean borders or the direct or indirect supply, sale, transfer of nuclear, chemical or biological weapons and

their means of delivery and related materials including both technologies and dual-use goods used for non-legitimate purposes, arms and military equipment by any individual or any entity and to further ensure that no funds or other assets and economic resources are made available to such persons and entities, except in specific situations, and under conditions specified in the UNSC resolutions;

- (d) the funds, other financial assets and economic resources which are in Zimbabwe or under Zimbabwean jurisdiction that are owned or controlled, directly or indirectly by the persons or entities; designated by the UN Security Council or the relevant committees set up by the Security Council.

(2) These regulations extend to any person or entity listed under sub-section (1), notwithstanding any rights granted to or obligations imposed under any existing international agreement or contract made prior to date of coming into force of these regulations.

PART II

Appointment of agency responsible for implementing UNSCRs

5. The Unit is hereby appointed as the Government agency having the primary responsibility under these regulations for—

- (a) formulating and providing general policy guidelines for the implementation of the provisions of these regulations; and
- (b) advising the Minister on the effective implementation of the UNSCRs; and
- (c) co-ordinating and, where necessary, promoting national implementation of the asset freeze obligations under UNSCR 1540 (2004) 1673, 1810, 1887, 1977 (On non-state actor proliferation), 1695, 1718, 1874 on Democratic People's Republic of Korea and 1696, 1737, 1747, 1803 and 1929, UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397

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- (2017) and other relevant successor UNSCRs and their successor resolutions; and
- (d) co-ordinating international co-operation in the cross-border implementation of UNSCR 1540 (2004) 1673, 1810, 1887, 1977 (On non-state actor proliferation) , 1695, 1718, 1874 on Democratic People's Republic of Korea and 1696, 1737, 1747, 1803 and 1929 , UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397 (2017) and other relevant successor UNSCRs between Zimbabwe and other countries and foreign counterpart agencies; and
 - (e) identifying and overcoming barriers to the implementation of national obligations under UNSCR 1540 (2004) 1673, 1810, 1887, 1977 (On non-state actor proliferation), 1695, 1718, 1874 on Democratic People's Republic of Korea and 1696, 1737, 1747, 1803 and 1929 , UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR 2375 (2017) UNSCR 2397 (2017) and other relevant successor UNSCRs; and
 - (f) the implementation of export controls, and targeted financial sanctions in order to meet the finance-related obligations contained in UNSCR 1540 and successor UNSCRs; and
 - (g) doing such other things or performing such other functions as it is empowered or required to do or perform under these regulations.

Procedure for implementation of UNSCR 1540 (2004) 1673, 1810, 1887, 1977 (On non-state actor proliferation), 1695, 1718, 1874 on Democratic People's Republic of Korea and 1696, 1737, 1747, 1803 and 1929 , UNSCR 2094 (2013), 2231 (2015) UNSCR 2270 (2016), UNSCR 2321 (2016), UNSCR 2371 (2017), of UNSCR

*2375 (2017) UNSCR 2397 (2017) and other relevant successor
UNSCRs*

6. (1) Where the Ministry of Foreign Affairs receives Notice of United Nations list of designated persons or entities, the list shall be forwarded to the Minister immediately.

(2) The Minister shall direct the dissemination of the list received from the United Nations without delay to the Unit.

(3) Upon receipt of the list from the Minister in terms of subsection (2) the Director-General shall, without delay—

- (a) make an order designating the named entity or individual or any entity owned or controlled directly or indirectly by any person or entity designated by UN; and
- (b) make an order freezing the assets of the entity or individual or any entity owned or controlled directly or indirectly by any person or entity designated by UN; and

shall immediately disseminate or cause to be disseminated to every competent supervisory authority, financial institution, designated non-financial business or profession the name of the entity or individual or any entity owned or controlled directly or indirectly by any person or entity designated by the UN with assets frozen accompanied by a directive to implement preventive measures to counter the flow of funds or assets to proliferators or those who are responsible for weapons proliferation.

(4) An order to freeze assets shall remain in force and not lapse until the designated entity or person has been found to have erroneously been designated by virtue of mistaken identity or such entity or person has been removed from list of designated persons or entities by the UN.

Designation of entity or person by Zimbabwe

7. (1) Where the Unit proposes an individual to be added to the United Nations Consolidated List, the President shall on the recommendation of the Minister declare a person or an entity to be a suspect, provisionally designate and identify the person or entity in the National Restricted Listing (hereinafter called the Zimbabwean List).

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(2) Upon such a declaration, the Minister through the Ministry responsible for foreign affairs shall forward the list of proposed designated persons or entities to the relevant UN Committee stating the reasons for the designation.

(3) For the purposes of international dissemination to UN and to request designation of entities and individuals identified and provisionally designated by Zimbabwe, the Minister shall transmit a copy of the designation to the Ministry responsible for foreign affairs for immediate dissemination to UN.

(4) Where the President revokes or amends a declaration made under these regulations the Minister shall remove and amend the name of a person or group or any relevant details under the Zimbabwe List.

(5) The Unit shall establish a website where all related changes and updates to the Zimbabwean List shall be posted and disseminated.

(6) The Unit shall not apply the criminal standard of proof when considering whether or not to make recommendations for designation to the President through the Minister under these regulations but shall be guided by the following objective criteria: solicit and consider information from all relevant sources to identify, and to collect as much identifier information as possible about persons and entities that, based on reasonable grounds, or a reasonable basis to suspect or believe, meet the criteria for designation.

(7) The list of designated persons or entities submitted to the United Nations shall be forwarded to all relevant authorities for immediate dissemination and action.

(8) The Director General shall, without delay—

- (a) make a provisional order designating the entity or individual; and
- (b) make a provisional order freezing the assets of the entity or individual; and

shall immediately disseminate or cause to be disseminated to every competent supervisory authority, financial institution, designated non-financial business and profession the name of the entity or

individual designated with assets frozen accompanied by a directive to implement preventive measures to counter the flow of funds or assets to proliferators or those who are responsible for weapons proliferation.

(9) A provisional order to freeze assets shall lapse on the one hundred and eightieth day after which it is made, unless the Prosecutor-General earlier applies to a competent court in respect of those assets in terms of Part I (“Civil Forfeiture Orders, Property Freezing Orders and Property Seizure Orders”) of Chapter V (“Civil Forfeiture of Tainted and Terrorist Property”) of the Money Laundering and Proceeds of Crime Act (No. 4 of 2013).

(10) A provisional order or final order as the case may be shall be suspended or varied by the Minister upon recommendation of the Unit if good cause is shown that the circumstances of such earlier designation was in error and where changed circumstances surrounding the designation so warrant.

Freezing of funds, financial assets and economic resources held by designated person

8. (1) The funds, financial assets and economic resources or other economic resources owned, held or controlled, directly or indirectly by a designated person whose names and other details are on the Lists shall be frozen.

(2) Freezing of funds shall be without prejudice to the rights of third parties acting in good faith.

(3) For the purpose of subsection (1), in determining whether funds are controlled by a designated person, the fact that such funds are held in the name of an associate or relation is immaterial.

(4) Funds and other economic resources frozen under these Regulations shall be recorded against the names of the owners and beneficial owners for proper management.

(5) Subject to the provisions of these regulations—

- (a) frozen funds under Resolution 1540 and relevant Successor UNSCRs shall be held indefinitely and the designated person is prohibited from assessing such funds or be provided with financial services except with the approval of the United Nations Security Council Sanctions Committee; and

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- (b) frozen funds under Zimbabwean List shall not be released without authorization from the Unit and the designated persons shall be prohibited from assessing funds or financial services as long as they remain designated under the Zimbabwean List.

(6) The Minister or his or her representative may, in respect of a person or an entity designated by the Zimbabwean Government under a domestic designation, apply *ex parte* to a court of competent jurisdiction to obtain freezing order prohibiting any person from disposing of, or dealing with any interest in funds or assets specified in the Order.

(7) The actions taken under the UNSCR 1540 and relevant Successor UNSCRs freezing measures shall also be communicated by the Minister through the Ministry of Foreign Affairs to the relevant UN Committee.

Procedure for freezing of assets

9. (1) With regards to the UN Consolidated Lists, freezing of all assets of persons or entities designated by the UN Committee shall take place immediately after the Minister disseminates the list to the Unit for onward transmission to the reporting institutions.

(2) The freezing of funds of all persons or entities designated under the Zimbabwean Zimbabwe List shall take place immediately.

(3) The Unit shall, circulate the list of designated persons to the financial sector regulators, competent supervisory authority and relevant law enforcement agencies via electronic and surface mail, directing them to identify funds and other assets of the listed individuals or entities in institutions under their supervision.

(4) The financial sector regulator, competent supervisory authority and relevant law enforcement agencies shall immediately, on receipt of the list from the Unit request for feedback from all relevant institutions.

(5) The Unit shall freeze the identified funds or assets belonging to the listed individuals, entities or other related persons and shall

report back to the Minister and where no such funds or assets are identified, a nil report shall be rendered to the Minister.

(6) The Minister or his or her representative may, in respect of a person or entity designated by the Zimbabwean Government under a domestic designation, apply *ex parte* to a court of competent jurisdiction to obtain a freezing order prohibiting any person from disposing of, or dealing with any interest in funds or assets specified in the Order.

(7) The actions taken under the UNSCR 1540 and relevant successor UNSCRs freezing measures shall also be communicated by the Minister through the Ministry of Foreign Affairs to the relevant United Nations Sanctions Committee.

Reference to Lists by Financial Institutions, Designated Non-Financial Business or Profession and Law Enforcement and Security Agencies

10. (1) Competent authorities, financial and non-financial stakeholders shall embark on screening of names and addresses against the consolidated list of designated persons and entities (including entities owned or controlled by them) published by the UN Security Council or its Committee in ensuring compliance with all elements of targeted financial sanctions. In addition to the screening and application of targeted financial sanctions to persons/entities acting on behalf of or at the direction of designated persons/entities competent authorities, financial and non-financial stakeholders shall apply combat increasingly prevalent use of sophisticated sanctions evasion techniques by proliferation networks (e.g. the use of multiple shell and front companies) in identifying and detecting the persons, entities, and transactions related to proliferation financing.

(2) Any Financial Institution, Designated Non-Financial Business or Profession, Law Enforcement and Security Agencies (in these Regulations referred to as “the relevant Institutions”) shall review the UN Consolidated List and the Zimbabwean List prior to conducting any transaction, undertaking any financial services or entering into any relationship with any person or entity to ascertain whether or not the name of such a person or entity is on the Lists.

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(3) Where the name of a person or an entity is confirmed to be on the Lists, the Institution shall block the funds or any other economic resources, or financial services, identified as belonging to or connected with the person or entity on the Lists and shall ensure that the accounts, properties or assets is not operated and that no financial services are provided to the designated persons or entities and thereafter forward to the Unit a “Suspicious Transaction Report” including reports or information on all actions taken to freeze the funds and other economic resources and the Unit shall make a report to the Minister.

PART III

FUNDS HELD BY DESIGNATED PERSONS

Dealing with funds held by designated person

11. (1) No person shall deal with funds or other economic resources; owned, held or controlled directly or indirectly by a designated person save as provided for under these regulations.

(2) A who person contravenes subsection (1) and deals with funds or other economic resources—

- (a) knowingly; or
- (b) having reasonable cause to suspect, that the funds or economic resources were owned, held or controlled by a designated person.

shall be guilty of an offence and liable to a fine not exceeding twenty thousand United States dollars (US\$20,000.00) or twice the value of the property in question whichever is the greater.

(3) In this section—

“person”, includes—

- (a) customer, staff, associate or affiliate of the relevant institution or any person or entity connected with the designated person; or

- (b) a customer, staff, associate or affiliate of the relevant institution at any time in the period of 5 years immediately preceding the relevant designation being made; or
- (c) any person with whom the institution has had dealings in the course of its business during the period referred to in paragraph (b).

Post-freezing reporting and investigation by institution to Unit

12. (1) Financial institutions and designated non-financial businesses and professions (DNFBPs) shall report to the Unit any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions, for review and utilisation by the Unit which shall do all or any of the following procedures—

- (a) receive, share, and act on information gathered from the public or private sector related to the freezing of funds or other assets, or attempted prohibited transactions, including sharing such information internationally to the extent appropriate; and
- (b) providing, to the extent appropriate, general feedback to and developing a dialogue with financial institutions and DNFBPs indicating how financial information relating to the reporting of frozen funds or other assets or attempted prohibited transactions is generally being used to support actions against Weapons of Mass Destruction proliferation financing.

(2) Where an institution makes a report to the Unit, it shall state—

- (a) the information or other matter on which the knowledge or suspicion is based; and
- (b) any information it holds about the person by which the person can be identified; and
- (c) the nature and amount or quantity of any funds or economic resources held by the institution for the person at any time up to five years prior to the designation being made.

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(3) Where an institution credits a frozen account, it shall promptly report the transaction or financial services provided to the Unit which shall inform the Minister immediately.

(4) An institution that fails to comply with subsection (2) shall be guilty of an offence and liable to a fine not exceeding twenty thousand United States dollars (US\$20,000.00) or twice the value of the property in question whichever is the greater.

(5) Where a breach of this regulation occurs and it is shown that the breach is not deliberate, the Unit shall impose such administrative sanctions as it may deem necessary.

(6) In this Part “deal with” means—

(a) in relation to funds—

- (i) use, alter, move, allow access to or transfer;
- (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
- (iii) make any other change that would enable use, including, portfolio management;

and

(b) in relation to other economic resources exchanged or used to obtain funds, goods, properties or services in any way, including by selling, hiring or mortgaging the resources.

PART IV

MAKING, FINANCIAL SERVICES OR ECONOMIC RESOURCES AVAILABLE TO DESIGNATED PERSONS

Prohibition of making funds, financial services or economic resources available to designated persons

13. (1) A person shall not make available, directly or indirectly, funds, financial services or other economic resources to or for the benefit of a designated person or entity.

(2) A person who contravenes the provisions of subsection (1) commits an offence where—

- (a) in the case of funds or financial services, that person knows or reasonably suspected that the funds or financial services were being made available directly or indirectly, to or for the benefit of a designated person or entity.
- (b) in the case of other economic resources, that person knows or ought to have reasonably suspected that the—
 - (i) economic resources were being made available, directly or indirectly to or for the benefit of a designated person; and
 - (ii) designated person would be likely to exchange the economic resources or use them in exchange for funds, goods or services.

Circumventing prohibitions

14. (1) Any person who knowingly participates in activities the object or effect of which is directly or indirectly to—

- (a) circumvent the prohibition in section 13; or
- (b) enable or facilitate the contravention of the provisions of section 13;

Shall be guilty of an offence and liable to a fine not exceeding twenty thousand United States dollars (US\$20,000.00) or twice the value of the property in question whichever is the greater.

PART V

CONDITION AND PROCEDURE FOR UTILISATION OF FROZEN FUNDS

Approval for usage of funds by designated persons and entities under Zimbabwean list

15. (1) The Minister may, where necessary, approve the utilisation of the frozen funds or any part thereof or of other economic resources—

- (a) to meet the basic needs and expenses of a designated person or -a person or an entity under investigation whose funds have been frozen including the amounts required to meet expenditures on food, rental, medical

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needs and such other general expenses as the Minister may approve, from time to time;

- (b) for reasonable professional fees and settlement of expenses, including legal services, bank and related charges; or
- (c) for any other exceptional services not provided for in paragraphs (a) and (b).

(2) An application to utilise monies from frozen funds shall be made to the Minister by a designated person or his or her authorised representative with supporting documents.

(3) The Minister shall consider the application in consultation with the Unit and may grant, reduce or refuse the request made in the application as considered reasonable in the circumstance.

(4) Where an approval is obtained in the case of the Zimbabwe list, the Institution or any other party in custody of the frozen funds shall be informed in writing to implement the approval and furnish a report to the Minister of the action taken.

Procedure for the approval and utilisation of frozen funds of designated person on UN list

16. (1) On receipt of an application for the utilisation of frozen funds in respect of a designated person on the UN Consolidated List, the Minister shall transmit the application to the United Nations Security Council Sanctions Committee to approve the utilization of the frozen fund or any part thereof.

(2) Where an approval is obtained from the UN Sanctions Committee, the approval shall be transmitted to the Minister who shall inform the Institution or any other party in custody of the frozen funds in writing to implement the approval and furnish a report to the Minister of the action taken.

(3) A designated person or entity on either of the Lists or his representative is entitled to be informed of the approval or rejection of his application in writing.

(4) A person or entity whose funds or assets have been frozen may challenge the measure with a view to having the frozen funds or assets reviewed by a court.

Receipt of additional funds into frozen accounts

17. (1) Any sum of monies or funds accruing to the frozen account, including—

- (a) interests or other earnings due on the account; or
- (b) payments due under contracts, agreement or obligations that were concluded or arose before the account became a frozen account; or
- (c) funds transferred to the account;

shall be received and credited into an escrow account opened for this purpose and shall constitute part of the frozen funds and the relevant Institution shall file a report of the receipt of such additional funds with the Unit which shall in turn inform the Minister accordingly.

(2) Monies or funds received or credited into a frozen account shall be subject to the provisions and measures contained in these regulations.

(3) Where there is no existing account for the receipt of funds as provided under this section, the Institution shall inform the Minister for appropriate action to be taken in this respect including the creation of an escrow account in appropriate cases.

(4) In this section —

“frozen account” means funds or other economic resources—

- (a) affected by the provisions and measures under these regulations; and
- (b) held in an account with an Institution by or under the control of a designated person.

Application to defreeze where funds were frozen in error

18. (1) Where funds or other economic resources were frozen as a result of similarity in names or wrong entries on the Lists or in the account of a person or entity being investigated, or as a result of any other error, the person affected may apply to the Minister to de-freeze the funds.

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- (2) Upon the receipt of the application referred to in subsection (1) the Minister, where the application relates to—
- (a) the UN Consolidated List, shall submit the request to the United Nations Sanctions Committee and inform the applicant of any decision taken;
 - (b) the Zimbabwe List, shall determine the application not later than 15 working days from the date of receipt of the application after consultation with the Unit.
- (3) The Minister shall inform the applicant and the relevant authorities of any decision taken on the application in writing.

PART VI

TRAVEL RESTRICTIONS AND ARMS EMBARGO

Travel ban on designated persons

19. (1) A designated person or entity, not being a Zimbabwean citizen, shall not be allowed to enter or remain in Zimbabwe.

(2) For the purpose of subsection (1), the Minister of Affairs, upon receipt of the list from the Unit pursuant to the provisions of section 7, shall refuse any application by a designated person for visa to enter Zimbabwe.

(3) A person's leave to enter or remain in Zimbabwe is cancelled on his becoming a designated person or entity (4) Where there exists an international warrant of arrest issued for the arrest of the designated person who has entered Zimbabwe, Commissioner-General of Police shall immediately effect the arrest of the person and communicate this to appropriate authorities including the Minister of Foreign Affairs.

(5) The Chief Immigration Officer shall enforce measures including watch list action to prevent a designated person from entering Zimbabwe or escaping from Zimbabwe having become designated.

(6) A person being a Zimbabwean citizen, having become a designated person pursuant to the provisions of section 7, shall be

prevented from leaving Zimbabwe until investigation into the activities that led to his designation has been concluded.

(7) The Commissioner-General of Police shall enforce measures including watch list action to ensure the enforcement of the provisions of this section.

(8) A designated person aggrieved by the implementation of the provisions of this Regulation is entitled to seek legal redress.

PART VII

INFORMATION AND REPORTING OBLIGATIONS

Dissemination of Lists and issuance of guidelines by Minister

20. (1) The Minister or his or her representative shall through the Unit circulate the updated lists immediately upon receipt through electronic and surface mails to the relevant law enforcement, regulatory and supervisory authorities, who shall cause same to be disseminated to reporting institutions immediately.

(2) Competent Supervisory Authorities shall disseminate and circulate the Zimbabwe List to all points of entry and exit from Zimbabwe to ensure that travel bans are effected on the listed individuals, groups or entities.

(3) The Commissioner General of Police shall institute measures to prevent the direct and indirect supply, sale and transfer from Zimbabwe of arms and related materials of all types, spare parts and technical advice, assistance or training related to military activities to designated individuals and entities named in the Lists.

(4) The Unit shall issue guidelines for the purpose of effective implementation of the—

- (a) freezing measures in respect of the funds or economic resources of designated person;
- (b) prohibition and restriction on travel, visas and purchase of arms as required in the relevant Security Council Resolutions and in any subsequent Resolutions in respect of a designated person; and
- (c) prohibition of transactions, provision of financial services or the supply of arms or the conduct of training for designated persons.

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(5) The Unit may, on request by any interested person, provide information as may be required on the procedure adopted by the Unit (including any review or deletion on the entries made in the UN Consolidated List or the Zimbabwe List.

(6) The Unit shall access information on UN designations on the relevant websites on a daily basis and disseminate available information to relevant authorities.

Information on measures taken pursuant to these Regulations

21. (1) The Unit shall upon the application of measures under these regulations, inform in writing or in any other manner considered appropriate, a designated person of his or her inclusion on the lists providing explanations and reasons for the

(2) The Minister shall inform a designated person about the possibility of—

- (a) utilising part of the frozen funds or other resources in accordance with the provisions of these regulations; and
- (b) submitting complaints to the Prosecutor-General or to the United Nations Ombudsman or Unit in accordance with the provisions of these regulations.

Information on lists

22. (1) The lists to which these regulations apply shall comprise information relating to the designated person for the purpose of determining his or her identity.

(2) Information pertaining to a designated person shall include the—

- (a) name of the person, family and pseudo names and titles;
- (b) place and date of birth or if a company, the date of registration including the registration number;
- (c) nationality or address of the registered office;
- (d) sex;

- (e) addresses;
- (f) occupation or job;
- (g) date of inclusion of names on the Lists; and
- (h) any other information as may be considered relevant by the Minister or approved by the Unit.

Application for deletion from Lists

23. (1) A designated person who wishes to have his or her name deleted from the Lists may, in respect of the—

- (a) Zimbabwe List, submit an application to the Minister; or
- (b) UN Consolidated List, submit an application through the Minister to the UN Sanctions Committee, stating reasons for the application.

(2) Where the Minister has proposed the inclusion of a name on the UN Consolidated List and the person bearing that name has applied to the UN Sanctions Committee for the deletion of his name from the UN Consolidated List, the Minister may submit to the UN Sanctions Committee any additional information pertinent to the consideration of the application.

(3) Where the UN Sanctions Committee refers an application or removal from the UN List to the Minister for comments, the Minister shall within the time specified by the UN Sanctions Committee respond to the request stating reasons for the recommendation for retention or removal from the UN Consolidated List.

(4) The Minister may ask questions or request for any clarification from the applicant in addition to responding to other queries raised by the UN Sanctions Committee.

(5) Where the name of a designated person has been struck out through a judicial or administrative process or the Minister reasonably believes that a designated person is deceased, the Minister shall in relation to the—

- (a) Zimbabwe List, delete the name and other details of the designated person; or
- (b) UN Consolidated List, request the UN Sanctions Committee to delete the name and other details of the designated person.

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(6) With regards to the Zimbabwe List, the Unit shall develop and implement procedures for applications for delisting of persons in the Lists and for unfreezing of funds or other assets of delisted persons or entities in a timely manner.

(7) The Unit shall, before recommending a person or entity to be delisted or application for unfreezing of funds for the President's approval—

- (a) review the justification or a request for delisting or application for unfreezing of funds; or
- (b) seek additional information, where necessary; or
- (c) hold consultations with relevant agencies or supervisory authorities.

(8) The Prosecutor-General shall give information on the decision taken on the request or application to the concerned persons, group or entities.

(9) The Prosecutor-General shall take necessary measures to ensure that names of beneficiaries are not themselves involved in terrorist activities covered by these regulations.

Notice of amendment to lists to be given

24. Where any amendment is made to the Lists, the Minister shall—

- (a) inform the relevant authorities of the amendment and the effect of such amendment; and
- (b) provide the UN Sanctions Committee with any additional information available to him or her, including any new information with supporting documents; and
- (c) take appropriate measures to notify the Competent Supervisory Authority in countries concerned of measures taken by him under these regulations including any decision to freeze funds or economic resources or the inclusion or deletion of names from the lists in addition

to any steps or actions taken to respond to any direction or request made by the UN Sanctions Committee.

Channel of Communication with United Nations

25. (1) The Unit shall prepare and submit necessary reports to the Minister who shall forward same to the UN Sanctions Committee or other authorities through the ministry responsible for foreign affairs.

(2) The Minister shall prepare and submit necessary reports at such intervals as may be agreed between Zimbabwe, the United Nations and other countries or relevant institutions on the measures taken in Zimbabwe in the course of application of the United Nations Security Council Regulation 1540 and all current and future successor UNSCRs.

Power to request for information

26. (1) The Minister may through the Unit request a designated person to provide information concerning—

- (a) funds and economic resources owned, held or controlled by the designated person; or
- (b) any disposal of such funds or economic resources, whether the disposal occurred before or after the person became a designated person.

(2) Where the Minister believes that it is necessary for the purpose of monitoring compliance with or detecting circumvention of these Regulations, he or she may through the Unit request a designated person to provide information about expenditure—

- (a) by or on behalf of the designated person; and
- (b) for the benefit of the designated person.

(3) The Minister may through the Unit request any person in or resident in Zimbabwe, to provide such information as he may reasonably require for the purpose of—

- (a) monitoring compliance with, or detecting evasion of these regulations;
- (b) obtaining evidence of the commission of an offence under these regulations;

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(c) establishing—

- (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by a designated person;
- (ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to or for the benefit of a designated person; or
- (iii) the nature of any financial services provided to, or financial transactions entered into by a designated person.

(4) A request may include a continuing obligation to keep Unit informed as circumstances change or on such regular basis as he may specify.

Failure to comply with request for information

27. (1) A person who—

- (a) refuses or fails within the time and in the manner specified (or if no time has been specified, within a reasonable time) to comply with any request made under these regulations;
- (b) knowingly or recklessly gives any information or produces any document which is false in a material particular in response to such a request;
- (c) with intent to evade the provisions of these regulations, destroys, mutilates, defaces, conceals or removes any document;

shall be guilty of an offence and liable to a fine not exceeding twenty thousand United States dollars (US\$20,000.00).

(2) Under this section the phrase, “reasonable time” means 24 hours but not more than “72 hours” provided that the Prosecutor-General may in appropriate case extend the period of time within which to comply with the provisions of these regulations.

Co-operation with domestic or international investigations

28. The Minister may take such steps as he or she considers appropriate to co-operate with any investigation in Zimbabwe or elsewhere, relating to the funds, economic resources or financial service or financial transactions of a designated person.

General power to disclose information

29. The Minister may disclose any information obtained in the exercise of his powers under these Regulations (including any document so obtained and any copy or extract made of any document so obtained) to the—

- (a) relevant authorities in Zimbabwe; and
- (b) Competent authority in any foreign State concerned with measures taken under these Regulations.

Unlawful disclosure of information

30. (1) A person who in the course of his duties, knows or is in possession of any information submitted or exchanged pursuant to the provisions of these Regulations, shall not disclose such information in any form whatsoever, including the disclosure of the information except for the purpose of implementing these regulations.

(2) The prohibition on disclosure in subsection (1), shall continue even after the termination of the duties of the person.

Offences

31. (1) It is an offence for a person to—

- (a) knowingly cause a nuclear weapon explosion;
- (b) develop or produce, or participate in the development or production of, a nuclear weapon;
- (c) have a nuclear weapon in his or her possession;
- (d) participate in the transfer of a nuclear weapon; or
- (e) engage in military preparations, or in preparations of a military nature, intending to use or threaten to use, a nuclear weapon.

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(2) Any person guilty of an offence under 31(1) is liable to imprisonment for life.

(3) for the purposes of section 31(1) (b) a person participates in the development or production of a nuclear weapon if the person does any act which—

- (a) facilitates the development by another person of the capability to produce or use a nuclear weapon; or
- (b) facilitates the making by another person of a nuclear weapon, knowing or having reason to believe that his or her act has (or will have) that effect.

(4) In proceedings for an offence under 31(1)(b) it is a defence for the accused to show that he or she knew or believed that the object was a nuclear weapon but, as soon as reasonably practicable after the accused first knew or believed that fact, the accused took all reasonable steps to inform an officer of the Police Service of his or her knowledge or belief.

(5) No person shall develop, produce, stockpile, acquire or retain—

- (a) any biological agent or toxin of a type and in a quantity that has no justification for prophylactic, protective or other peaceful purposes; or
- (b) any weapon, equipment or means of delivery designed to use biological agents or toxins for hostile purposes or in armed conflict.

(6) any person contravening section 33(1) is guilty of an offence and liable to imprisonment for life.

(7) No person shall—

- (a) use a chemical weapon;
- (b) develop or produce a chemical weapon;
- (c) have a chemical weapon in his possession;
- (d) participate in the transfer of a chemical weapon; or

(e) engage in military preparations, or in preparations of a military nature, intending to use a chemical weapon.

(8) A person contravening Sections 34(1) is guilty of an offence and liable on conviction to imprisonment for life.

(9) Any person who, intentionally provides funds or financial services knowing or which he reasonably ought to have known to be intended for use, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), shall be guilty of an offence and be liable a fine not exceeding US\$200 000 or imprisonment for a period not exceeding ten years or both such fine and such imprisonment.

*Identifying and preventing sanctions evasion by Specifically
Designated Countries*

32. (1) Freezing measures directed at countries designated/listed by the United Nations, shall also apply to entities or persons:

- (a) acting on behalf of, or at their direction of, whether directly or indirectly of, designated persons or entities;
- (b) owned or controlled by them; and
- (c) assisting them in evading sanctions or violating USSCRs applicable to those countries.

(2) every financial institutions and designated non-financial businesses and professions (DNFBPs) shall put in place measures to identify persons and entities who fall under the categories in section 36(1), and to employ the same measures against them that would be taken against those explicitly listed by the UN.

(3) financial institutions and designated non-financial businesses and professions (DNFBPs) shall counter proliferation financing through adequate cooperation and coordination between themselves and the Unit to prevent sanctions from being evaded

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by developing an understanding of the means of evading sanctions present in Zimbabwe that can be shared within and across competent authorities, and where appropriate, with the private sector, and with other countries.