Republic of the Philippines
ANTI-MONEY LAUNDERING COUNCIL

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Guidance for De-Listing and Unfreezing Procedures

The Anti Money Laundering Council (AMLC) released AMLC Regulatory Issuance No. 5, Series of 2021, on the Guidance for De-Listing and Unfreezing Procedures to assist covered persons, government entities, and the public on the implementation of the targeted financial sanctions (TFS).

Said guidance covers the following:

1. Delisting procedures as outlined by the United Nations (UN) Security Council Committee;
2. Situations where the AMLC can issue unfreezing orders;
3. Modes of communicating designations and delisting in the relevant UN Sanctions Lists to covered persons, government entities, and the public;
4. Modes of communicating the issuance of an unfreezing order to covered persons, government entities, and the public;
5. AMLC's function to assist in the verification of whether a person or entity is a designated person or entity;
6. Procedures on lifting TFS, involving false positive identification;
7. Procedures on how an innocent third-party may apply for relief for frozen funds and other assets;
8. Procedures on how to apply for authorized expenses and permissible transactions with designees; and
9. Guidance to covered persons, government entities, and the public on what to do if they are holding funds and other assets of a designee if delisting from the UN Sanctions List is made and/or an unfreezing order is issued by the AMLC.

Further, the guidance includes templates/forms for requesting verification assistance from the AMLC; an application form for authorization to make assets or financial services available to a designated individual or entity; and an authorization form to make assets or financial services available to a designated individual or entity.

To download a copy of the guidance, please log on to amlc.gov.ph.

ANTI-MONEY LAUNDERING COUNCIL

REGULATORY ISSUANCE NO. 5
Series of 2021

Subject: **Guidance for De-Listing and Unfreezing Procedures**

In accordance with Section 8, Rule 10 of the 2018 Implementing Rules and Regulations (IRR) of Republic Act No. 9160, as amended, this Regulatory Issuance on Delisting and Unfreezing related to the financing of proliferation of weapons of mass destruction is hereby promulgated.

Rule I – Title, Purpose, and Policies

Section 1. Title and Purpose

1.1 This Regulatory Issuance shall be known as the "Guidance for De-listing and Unfreezing Procedures".

1.2 This Regulatory Issuance is promulgated to assist covered persons, government entities, and the public on the implementation of the targeted financial sanctions (TFS) requirements particularly on how to access funds subject of a TFS, procedures on de-listing from the sanctions list and what to do when delisting occurs or when a TFS is lifted.

Section 2. State Policy on Proliferation Financing

2.1 To extend cooperation, consistent with the Philippines' foreign policy, in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed, as well as in the implementation of targeted financial sanctions related to the financing of the proliferation of weapons of mass destruction (WMD), terrorism, and terrorism financing, pursuant to the Resolutions of the United Nations Security Council (UNSC).

2.2 To implement targeted financial sanctions relating to proliferation of mass destruction and its financing, including ex parte freeze, without delay, against all funds and assets that are owned or controlled, directly or indirectly, including funds and assets derived or generated therefrom, by individuals or entities designated and listed under UNSC Resolution Nos. 1718 (2006) (concerning the Democratic People's Republic of Korea) and 2231 (2015) (concerning the Islamic Republic of Iran), and their successor resolutions, as well as any binding Resolution of the UNSC.

Rule II – Definition of Terms

For purposes of this Issuance, the following terms are hereby defined as follows:

(a) **"Covered Persons"** are financial institutions and designated non-financial businesses and professions regulated under the Anti-Money Laundering Act.
(b) **"Designated Persons"** refers to any individual or entity designated under United Nations Security Council Resolution Nos. 1718 (2006) and 2231 (2015).
(c) **"Financial Sanctions"** refers to restrictions put in place by the United Nations and its Security Council to achieve a specific foreign policy or national security objective. They can:
    - limit the provision of certain financial services
    - restrict access to financial markets, funds, and economic resources.
(d) **"Proliferation of Weapons of Mass Destruction"** refers to the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of weapons of mass destruction, in contravention of national laws or, where applicable, international obligations.
(e) **"Strategic Trade Management Office"** (STMO) refers to the bureau under the administrative supervision of the Department of Trade and Industry (DTI) which serves as the executive and technical agency of the national government for the establishment of the management systems for the trade in strategic goods.
(f) "**Targeted Financial Sanctions**" (TFS) refer to both asset freezing and prohibition to prevent funds or other assets from being made available, directly or indirectly, for the benefit of any individual, natural or legal persons or entity designated pursuant to UNSC resolutions and its designation process**.**
(g) **"United Nations Security Council"** (UNSC) refers to the principal organ of the United Nations that has primary responsibility for the maintenance of international peace and security.
(h) **"Weapons of Mass Destruction"** (WMD) refers to chemical, biological, radiological, or nuclear weapons which are capable of high order of destruction or causing mass casualties. It excludes the means of transporting or propelling the weapon where such means is a separable and divisible part from the weapon.

Rule III – Delisting and Lifting of Targeted Financial Sanction

Section 1. Delisting of United Nations Designations

1.1. The AMLC may *motu proprio* or upon request of a designated person file a petition for delisting with the appropriate UNSC committee.

1.2. The AMLC shall post the updated UNSC procedures for delisting and access to frozen funds setting forth the web links and addresses of the relevant UNSC Committee responsible for acting on delisting requests and access to frozen funds.

1.3. The petition for delisting may also be filed directly by the designated person pursuant to the procedures established by the appropriate UNSC Committee.

Section 2. Unfreezing Orders

(1) A person or entity that believes their funds and other assets have been inadvertently frozen in purported compliance with an *ex parte* freeze order by the AMLC, may file an application to the AMLC for relief.

(2) The AMLC must resolve an application for relief under this section within a reasonable time.

(3) If the AMLC confirms that the person or entity is not a designated person, the AMLC shall issue an unfreezing order confirming that the person or entity is not a designated person and ordering their assets be unfrozen.

Rule IV - Communication of Designation and Verification Assistance

Section 1. Communication of UNSC Designations and Delistings

(1) Where persons, organizations, associations, or groups of persons are designated by the UNSC or its appropriate sanctions committee, the AMLC shall perform the following:

a. publish and/or post a link to the specific list of designated persons or entities under UNSC Resolution Nos. 1718 (2006) and 2231 (2015) and their successor resolutions in the official website of the AMLC.
b. upload in the AMLC's reporting portal for covered persons a notice of the designation; and
c. send the designation information, through email, to all compliance officers of covered persons and property registries.

(2) Where persons, organizations, associations, or groups of persons are delisted by the UNSC or its appropriate sanctions committee, the AMLC shall perform the following:

a. post in its website a notice that the person, organization, association, or group of persons has been delisted;
b. upload in the AMLC's reporting portal for covered persons a notice of the delisting; and
c. send the delisting information, through email, to all compliance officers of covered persons and property registries.

(3) The publication/notice shall include the following:

(a) the fact of the designation/delisting and its implications as provided in Paragraph 10.2 of the 2021 Sanctions Guidelines; and
(b) the grounds for designation/delisting as can be made publicly available; and
(c) appeal procedures; and
(d) the prohibitions and obligations that apply pursuant to a designation by virtue of the Anti-Money Laundering Act, as amended (AMLA) and its Implementing Rules and Regulations (IRR); and
(e) procedures to apply for an authorization as provided under Section 2 of Rule VI of this guidance; and

(f) procedures to apply for delisting; and
(g) Procedures to be undertaken by any person in possession of funds and other assets subject of a TFS.

(4) Nothing in this section shall prevent the STMO, Department of Foreign Affairs, a supervisory authority, or any other agency from adopting measures and arrangements that will ensure the speedy publication and dissemination of designations, freezing orders and delisting decisions.

(5) In addition to Items No. 1 and 2, the AMLC may adopt other mechanism for immediately communicating designations and de-listing, and provide clear guidance, to the covered persons and other persons or entities holding funds or other assets of designated persons.

Section 2. Verification Assistance

(1) The AMLC shall endeavour to respond to requests from any person or entity for assistance to verify a reasonable suspicion that they hold the asset of a designated person.

(2) The AMLC is not compelled to verify whether a person or entity is a designated person.

(3) This section does not absolve any person or entity from complying with the AMLA and its IRR on the ground that a verification decision by the AMLC is pending.

Rule VI - Third Party Rights and Authorizations

Section 1. Third Party Rights

A bona fide third party may, within twenty (20) days, petition the Court of Appeals to determine the basis of the TFS, according to Principle of Effective Judicial Protection, to resolve interests in frozen funds or other assets.

Section 2. Authorizations

(1) A designated person or any person or entity shall apply to the AMLC for an authorization if that person or entity seeks to:

(a) deal with a frozen fund or other asset; or

(b) access an asset or a financial or related service and that person or entity is a designated person, or a person or entity owned or controlled by a designated person, or acting on their behalf or at their direction; or

(c) provide an asset or financial or related service to a designated person, or a person or entity owned or controlled by a designated person or acting on their behalf or at their direction.

The AMLC shall specify and publish an application form and the application procedure to expedite the application process.

(2) The AMLC may grant an authorization to the applicant on the following grounds:

(a) if the asset or financial or related service is required to meet:

i. a basic expense; or
ii. a contractual obligation; or
iii. an extraordinary expense; or
iv. a judicial, administrative, or arbitral lien or judgment entered into prior to the designation of the person or entity, and the asset or financial or related service is necessary to satisfy that lien or judgment; or

(b) if the application satisfies another ground for authorization provided in a Counter Proliferation Resolution issued by relevant UNSC Committee.

(3) The AMLC may impose other condition/s on an authorization.

(4) Where an application is made under Subsection (1), the AMLC must determine the application within a reasonable time and respond to the applicant in writing to:

(a) grant an authorization, including any conditions attached to the authorization; or

(b) deny application for authorization.

(5) Before the AMLC grants an authorization, the AMLC shall seek any approvals required from the UNSC or make any notifications required to the UNSC.

(6) The AMLC may consult with any other agency, foreign or domestic, when considering an application under this section.

(7) The authorization in relation to contractual obligation shall be subject to the following conditions:

i. The STMO has determined that the contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering, or services referred to in UNSC Resolution No. 2231 (2015) and any future successor resolutions; and

ii. The STMO has determined that the payment is not directly or indirectly received by a person or entity subject to the measures in paragraph 6 of Annex B (Statement) to UNSC Resolution No. 2231 (2015).

(8) Failure to comply with a condition imposed on an authorization, is a contravention of these Rules.

Rule VII – Inconsistency, Amendment and Effectivity Clause

Section 1. Inconsistency.

To the extent that there is any inconsistency or ambiguity between the provisions of this Guidance and any other document, the provisions of this Guidance will govern to the extent necessary to eliminate such inconsistency or ambiguity.

Section 2. Modes of Amendment.

Amendments that are purely matters of form and style shall be effected through the issuance of memorandum circular by the Executive Director or, in his absence, the Officer-in-Charge.

Section 3. Effectivity Clause.

This Guidance shall take effect immediately after the completion of its publication in the Official Gazette or in a newspaper of general circulation.

Procedural Guidance on Delisting and Other Matters

1. Review and Delisting

1.1 Submitting request for delisting to the UNSC or its Committees

1.1.1 Requests by AMLC

The AMLC may *motu proprio* or upon request of a designated person file a petition for delisting with the appropriate UNSC committee. The petition shall be transmitted to the UNSC or the relevant Committee both directly and through diplomatic channels.

Further Information on Delisting Requests

Specific details regarding the information to include in a request and the Committees' procedures are available on the UNSC Sanctions website: https://www.un.org/securitycouncil/sanctions/information

- 1718 Sanctions Committee (DPRK) procedures for delisting: https://www.un.org/securitycouncil/sanctions/1718/materials/procedures-delisting

1.1.2 Requests by designated individuals or entities

Listed individuals and entities

A petitioner seeking to submit a request for delisting can do so either directly to the Focal Point for Delisting through his/her State of residence or nationality.

I. What should be included in a delisting request to the Committee?

Delisting requests should contain the following information:

1. explanation as to why the designation does not or no longer meets the Listing Criteria (paragraph 8(d) and/or 8(e) of resolution 1718 (2006) through countering the reasons for listing as stated in the list entry for that particular individual or entity);
2. the designee's current occupation and/or activities, and any other relevant information; and

3. any documentation supporting the request can be referred to and/or attached together with the explanation of its relevance, where appropriate.

For a deceased individual, the delisting request shall be submitted either directly to the Committee by a State, or through the Focal Point for Delisting by his/her legal beneficiary, together with an official documentation certifying that status. The statement of case supporting the delisting request shall include the following information:

1. death certificate or similar official documentation confirming the death whenever possible;
2. whether or not any legal beneficiary of the deceased's estate or any joint owner of his /her assets is on the Sanctions Lists as well.

II. How to make a delisting request?

The delisting requests can be submitted either to the Committee or through the Focal Point for Delisting.

For petitioners choosing to submit a petition to the Focal Point for Delisting, the relevant procedure can be accessed at:
https://www.un.org/securitycouncil/sanctions/delisting/delisting-requests

If the petitioner submits the petition to the State of residence or nationality, the following procedure should be followed:

1. The State to which a petition is submitted (the petitioned State) should review all relevant information and then approach bilaterally the designating State(s) to seek additional information and to hold consultations on the delisting request;
2. The designating State(s) may also request additional information from the petitioner's State of nationality or residence. The petitioned and the designating State(s) may, as appropriate, consult with the Chair during the course of any such bilateral consultations;
3. If, after reviewing any additional information, the petitioned State wishes to pursue a delisting request, it should seek to persuade the designating State(s) to submit jointly or separately a request for delisting to the Committee. The petitioned State may, without an accompanying request from the designating State(s), submit a request for delisting to the Committee.

III. Decision-making of the Committee

In accordance with Section 5 of Committee Guidelines, the Committee will consider all complete delisting requests.

If the Committee approves the delisting requests, the Secretariat shall update the 1718 Sanctions List accordingly.

1.2 False Positive Matches and Verification Assistance

False positives are potential matches to designated individuals and entities, either due to the common nature of the name or due to ambiguous identifying data, which on examination prove not to be matches. In some cases, a false positive may result in an individual or entity mistakenly having their assets frozen.

An individual who is inadvertently affected by an asset freeze can make an application to the AMLC for unfreezing. The applicant must submit relevant government-issued identification documents or other relevant documents that would show his/her true identity. The AMLC must review and decide within 36 hours whether the applicant is an individual inadvertently affected by an asset freeze. The applicant must also be informed of the AMLC's decision.

Holders of assets, including covered persons, may seek verification assistance if they are unable to determine whether an individual or entity is a designated individual or entity. While verification is pending, the assets of the individual or entity should remain frozen. **Form 1** (**attached**) should be used to request verification assistance. Form 1 should be submitted via email to: secretariat@amlc.gov.ph

1.3 Bona Fide Third Parties

The Court of Appeals is responsible for reviewing and determining applications by third parties to have assets released. The Revised Rules of Court shall apply in filing the petition to release frozen assets.

2. Notification of designations, de-listings and unfreezing

2.1 Notification

When a designation or de-listing is made by the UNSC or its Committees, the AMLC is required to communicate the designation/delisting. Additionally, AMLC can also cooperate with supervisory authorities to make specific communications to one or more covered persons to ensure that assets are frozen/unfrozen expeditiously.

Notification of designations and delisting is not a legal step. UN designations and delisting have automatic application. The process of notification is to support private sector and public compliance. A failure to perform the notification does not change the legal obligations imposed on the private sector or the public to freeze assets or prevent making assets or financial services available to designated individuals and entities.

2.2 Designation Lists

AMLC shall maintain the following links to the United Nations Security Council Consolidated List on its website:
https://www.un.org/securitycouncil/content/un-sc-consolidated-list
http://www.amlc.gov.ph/un-sanctions-list/unsc-consolidated-lists
https://www.un.org/securitycouncil/sanctions/1718/materials
https://www.un.org/securitycouncil/content/2231/list

3. Authorizations to access assets

3.1 Applying for an authorization

A designated person or any person or entity who wants to apply for authority to access funds and other assets should use **Form 2 (attached)** and send it to AMLC at secretariat@amlc.gov.ph.

3.2 UNSC and Committee Notifications and Approvals

Before the AMLC can authorize the making of an asset available to a designated individual or entity, the AMLC must first seek the necessary approvals from relevant government agencies and make any necessary notifications to the UNSC or its Committees if it intends to grant an authorization.

The AMLC is responsible for preparing the notification and/or authorization request, which will then be transmitted to the relevant Committee. AMLC can contact the Committee directly but must also transfer the request formally through the Department of Foreign Affairs.

The AMLC should not grant an authorization if the relevant Committee makes a negative decision. Specific details regarding the information needed to submit an authorization request and notification to the UNSC or its relevant Committees is available on the UNSC website.

4. Unfreezing

Upon receipt of an unfreezing order from the AMLC or upon knowledge of a delisting made by relevant UNSC or its Committee, all covered persons and other persons or entities holding frozen funds and other assets shall implement the unfreezing order or unfreeze, respectively, without delay and submit a detailed report to the AMLC. The detailed report shall be filed within twenty-four (24) hours from the lifting of the freeze order and include the time and date of unfreezing and a list of the unfrozen funds and other assets.

Matrix of Procedures– UNSC Resolution 1718(2006) and 2231 (2015)

Resolution 1718 (2006) DPRK

Authorization	UNSC Approval and Relevant Committee	Notification or Verification Required	Time Frame
Basic expenses ∇ food stuffs ∇ rent or mortgage ∇ medicines and medical treatment ∇ taxes, insurance premiums, and public utility charges ∇ payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services ∇ fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources	UNSC notification needed pursuant to: ∇ Resolution 1718 (2006) paragraph 9(a) ∇ Section 11 of the Committee's Guidelines Relevant Committee: Security Council Committee established pursuant to resolution 1718 (2006) (DPRK)	Philippines to send notification of the intention to authorize the basic expense to the Chair of Committee Notification must include the following information: ∇ Recipient (name & address) ∇ Recipient's bank information ∇ Purpose of payment & justification ∇ Amount of instalment ∇ Number of Instalments ∇ Bank transfer or direct debit ∇ Interests ∇ Specific funds being frozen ∇ Other relevant information	Committee will immediately acknowledge receipt of a basic expense request Authorization is granted if Philippines does not receive a negative decision from the Committee within five working days of notification
Extraordinary expenses ∇ any payment that is not a basic expense or a contractual obligation which AMLC considers: ○ to be necessary; ○ does not violate the provisions of a relevant UNSCR	UNSC notification and approval needed pursuant to: ∇ Resolution 1718 (2006) paragraph 9(b) ∇ Section 11 of the Committee's Guidelines Relevant Committee: Security Council Committee established pursuant	Philippines to notify the Committee for the Committee's consideration Notification must include the same information as required by a 'basic expense notification'	Committee approval required. No time frame specified for Committee decision

	to resolution 1718 (2006) (DPRK)		
The subject to judicial, administrative or arbitral lien or judgment (prior to 14 October 2006) ▽ financial assets and economic resources used to satisfy a lean or judgment (provided that it was entered prior to 14 October 2016); ▽ not for the benefit of a designated individual and/or entity	Committee notification needed pursuant to: ▽ Resolution 1718 (2006) paragraph 9(c) ▽ Section 11 of the Committee's Guidelines Relevant Committee: Security Council Committee established pursuant to resolution 1718 (2006) (DPRK)	Philippines must notify the Committee and include relevant information as to the assets or resources to be used to satisfy lien or judgment	No Committee decision is required

Resolution 2231 (2015) (Iran)

Authorization ground	UNSC Approval and Relevant Committee	Notification or verification requirement	Time frames
Basic expense ▽ food stuffs ▽ rent or mortgage ▽ medicines and medical treatment ▽ taxes, insurance premiums, and public utility charges ▽ payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services ▽ fees or service charges, in accordance with national laws, for	Security Council notification and approval needed pursuant to paragraph 6(d)(i) of Annex B: Statement	Philippines to notify the Security Council of the intention to authorize	Authorization is granted if the Security Council does not decide against the authorization within 5 working days of notification

routine holding or maintenance of frozen funds, other financial assets and economic resources			
Extraordinary expenses ▽ any payment that is not a basic expense or a contractual obligation which the Agency considers: ○ to be necessary; ○ does not violate the provisions of a relevant UNSCR	Security Council notification and approval needed pursuant to paragraph 6(d)(ii) of Annex B: Statement	Philippines to notify the Security Council of its intention to grant authorization.	Security Council approval required. No time frame for Security Council approval specified
Contractual obligation ▽ Assets are required for making payment due under a contract entered into prior to the listing of such individual or entity provided that: ○ The contract is not related to any prohibited items under the Resolution ○ The payment is not directly or indirectly received by a	Security Council notification of intention to approve must be submitted ten working days prior to such authorization.	Philippines to notify the Security Council of the intention to authorize	Security Council notification of intention to approve must be submitted ten working days prior to such authorization. Approval can be granted by Philippines is there is no negative Security Council decision.

designated individual or entity.			
Subject of a judicial, administrative or arbitral lien or judgment ○ funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered into prior to date of Security Council resolution 1737 (2006), is not for the benefit of an individual or entity subject to the measures	Security Council notification needed pursuant to paragraph 6(d)(iv) of Annex B: Statement	Philippines to notify the Security Council.	No Security Council approval required

The relevant forms can be downloaded at the AMLC website: www.amlc.gov.ph

FOR THE AMLC:

(Original Signed)
MEL GEORGIE B. RACELA
Executive Director

28 July 2021