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अनुमतिपत्रप्राप्त भुक्तानी सेवा प्रदायक संस्थाहरु ।

विषय : "Guidelines on Targeted Financial Sanctions for Payment Service Providers"
जारी गरिएको सम्बन्धमा ।

महाशय,

यस बैंकबाट भुक्तानी सेवा प्रदायकको अनुमतिपत्रप्राप्त संस्थाहरुको लागि सम्पत्ति शुद्धिकरण (मनी लाउन्डरिङ्ग) नियमावली, २०८१ को परिच्छेद-६ को नियम ६९ को उप-नियम (३) मा भएको व्यवस्था अनुसार "Guidelines on Targeted Financial Sanctions for Payment Service Providers" जारी गरिएको हुँदा सोही बमोजिम गर्नु/गराउनु हुन अनुरोध छ ।

भवदीय,

कार्यकारी निर्देशक

GUIDELINES ON TARGETED FINANCIAL SANCTIONS FOR PAYMENT SERVICE PROVIDERS



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Baluwatar, Kathmandu

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Acronyms/ Abbreviations

ALPA	Asset (Money) Laundering Prevention Act, 2008
ALPR	Asset (Money) Laundering Prevention Rules, 2024
DNFBPs	Designated Non-Financial Businesses and Professionals
MoFA	Ministry of Foreign Affairs
MoHA	Ministry of Home Affairs
PSPs	Payment Service Providers
TFS	Targeted Financial Sanctions
TFS-TF	Targeted Financial Sanctions- Terrorist Financing
TFS-PF	Targeted Financial Sanctions- Proliferation Financing
UN	United Nations
UN List	United Nations Security Council Consolidated List pursuant to the relevant United Nations Security Council Resolutions.
UNSC Sanctions Committee	United Nations Security Council Sanction Committee that oversees the compliance of United Nations Security Council Resolutions.
UNSC	United Nations Security Council
UNSCRs	United Nations Security Council Resolutions

"Domestic Terrorist List" means national terrorist list published by MoHA.

"Designated person" means individuals, groups, entities and undertakings listed in the UN List as well as Domestic Terrorist list.

"Sanction List" includes both UN Consolidated list and Domestic Terrorist List.

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Note: For the purposes of this guideline, Payment Service Providers (PSPs) refer to firms or institutions that have obtained a Payment Service Provider's license, established under Clause 9 of the Payment and Settlement Act, 2075.

1. Overview of Targeted Financial Sanctions

The UNSC is one of the principal organs of the UN and has the primary responsibility for the maintenance of international peace and security. It has 15 Members, and each Member has one vote. Under the Charter of the UN, all Member States of the UN are obligated to comply with the Security Council decisions.

The UNSC holds the capacity to take action seeking to maintain or restore international peace and security under Chapter VII of the Charter of the UN by imposing sanctioning measures under Article 41. These measures encompass a broad range of enforcement options that do not involve the authorization of the use of armed force but include interruption of economic relations, international communications and diplomatic relations.

The Security Council sanctions regimes focus mainly on supporting the settlement of political conflicts, nuclear non-proliferation, and counterterrorism. These regimes include measures ranging from comprehensive economic and trade sanctions to more targeted measures such as arms embargoes, travel bans, and restrictions on dealing with certain financial or commodity transactions.

Nepal, as a member of the UN, is mandated to implement UNSCRs, including those related to the UN's sanctions regimes. Consequently, through Chapter 6B. of ALPA, Nepal is implementing relevant UNSCRs on the suppression and combating of terrorism, terrorist financing and countering the financing of proliferation of weapons of mass destruction, in particular relating to TFS.

The term TFS refers to asset freezing and other financial prohibitions, agreed upon by the UNSC, to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated person.

So, as required by the FATF Recommendations, Nepal applies following two lists related to TFS, which consists of both TFS-TF and TFS-PF:

1. UN Consolidated List

- a) UNSCR 1267 (1999), 1988 (2011), 1989 (2011), and successor resolutions pertain to TFS-TF
- b) UNSCR 1718 (2006), 2087 (2013), 2094 (2013), 2231 (2015) and 2270 (2016) pertain to TFS- PF
- c) Other relevant UNSCR lists covered in the UN list

2. Domestic Terrorist List

- a) UNSCR 1373 (2001) pertain to TFS-TF

PSPs should note that, in accordance with the laws of Nepal, the Government also applies TFS by publishing a Domestic Terrorist List in accordance with UNSCR 1373 (2001). Such publication is done by MoHA as per Rule 63(6) after approval from Cabinet of Ministers as per Rule 63(5) of ALPR.

This Guideline serves as a guidance for PSPs to understand their TFS related obligations. This Guideline is focused on the procedures to implement the UN and domestic TFS regime by all persons. PSPs are obliged to apply policies, procedures and controls to implement TFS to those sanctioned and referred in the UN List and the Domestic Terrorist List.

2. Legal framework

The following list comprises of the relevant laws and regulations for the purpose of implementing TFS measures.

SN	Title	Issued	Relevant Part	Type
1	Asset (Money) Laundering Prevention Act, 2008	2008 (Amended 2024)	Chapter 6B.	Act
2	Asset (Money) Laundering Prevention Rules, 2024	2024	Chapter 6	Regulation

3.Targeted Financial Sanctions (TFS)

The term 'targeted' sanctions mean that such sanctions are imposed against specific individuals or groups, or undertakings. The term 'financial' sanctions include both asset freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of individuals, entities, groups, or organization who are sanctioned. In this context, TFS is targeted and financial in nature.

Types of financial sanctions

There are two main types of financial sanctions:

1. **Asset freezing:** Freezing is the prohibition to transfer, convert, dispose, or move any funds or other assets that are owned or controlled by designated person. It includes:
 - a) The Freezing of funds and other financial assets and economic resources, and includes preventing their use, alteration, movement, transfer, or access.
 - b) The Freezing of economic resources also includes preventing their use to obtain funds, goods, or services in any way, including, but not limited to, by selling, hiring, or mortgaging them.
2. **Prohibition to offer funds and services:** This means the prohibition to provide funds to, or render financial services or other services related to, any designated person.

As an example:

- a) For PSPs: a freezing measure can be suspending access to wallet or blocking transactions and prohibition to offer digital financial services.

4. Purpose of Targeted Financial Sanctions (TFS)

The purpose of TFS is to deny designated person the means to violate international peace and security, support terrorism or finance the proliferation of weapons of mass destruction. To achieve this, it seeks to ensure that no funds, financial assets, or economic resources of any kind are available to designated person for so long as they remain subject to the restrictive measures.

PSPs should note that TFS restrictions published by the UN and the Domestic Terrorist List are subject to change. It is the obligation of PSPs to ensure relevant controls and procedures are in place to maintain relevant and up-to-date controls in order to effectively implement TFS restrictions. The updated Sanctions Lists are published on the website of MoHA or is notified through appropriate medium and the UN website.

4.1 Who is the target of these measures?

The freezing measures, including the prohibition of making funds available, apply to:

- a) Any individual, group, or entity listed in the Domestic Terrorist List published by MoHA or listed by the UNSC in its Consolidated Sanctions List.
- b) Any entity, directly or indirectly owned or controlled by an individual or entity listed under A.
- c) Any individual or entity acting on behalf of or at the direction of any individual or entity listed under A & B.

In cases where an asset owned or controlled in part or in full by a designated person and such asset continues to produce benefit, for example in the form of dividends or interest, the relevant portion of such benefit is also subject to freezing measures.

4.2 Where to find the updated Sanctions Lists?

The most updated information can be found in the following links:

- a) The UN Security Council has a Consolidated List of all the sanctioned individuals, groups, or entities by the UN Sanctions Committees (UN List). The link to this list is:

<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>

- b) Any individual or entity listed by MoHA (Domestic Terrorist List): The link to the Domestic Terrorist List:

<https://www.moha.gov.np/page/targeted-sanction-list>

4.3 What does 'funds' mean?

As per Section 2(m) of ALPA, "funds" means:

Financial assets, economic resources, property of every kind, whether tangible or intangible, movable or immovable, corporeal or incorporeal, however acquired, and any of the following instruments or resources, or accrued from or generated by such funds or other assets, and this term also includes legal documents, proof, certificates or instruments, in electronic or other form, evidencing title to, or interest in, such property, instruments or resources:

- (1) bank credits,
- (2) travelers cheques,
- (3) bank cheques,
- (4) money orders,
- (5) shares,
- (6) securities,
- (7) bonds,
- (8) drafts,
- (9) letters of credit,
- (10) any other economic or financial resources.

For the purpose of this guideline, e-money issued by PSPs is also considered as a fund.

As per Payment and Settlement Bylaws (First Amendment, 2088), 2077, "E-money" refers to a computer system-based card, other means, or funds stored on a server that allow persons other than the issuer to make payments of financial obligations through electronic transactions. The term also includes the amount held in transit during such transactions as well as the amount stored in the wallet.

All types of funds or assets are subject to freezing measures. The funds can be categorized into the following types:

1. Assets

Non-exhaustive list of financial assets subject to sanctions are as follows:

- a) Cash, cheques, claims on money, drafts, money orders, bearer instruments, e-money, internet-based and other electronic or digital payment instruments, including virtual currencies.
- b) Deposits with financial institutions or other entities and balances on accounts, including but not limited to: (1) fixed or term deposit accounts, (2) balances on share trading accounts with banks, brokerage firms, or other investment trading

accounts.

- c) Debts and debt obligations, including trade debts.
- d) Other accounts receivable, notes receivable, and other claims of money on others.
- e) Equity and other financial interest in a sole trader or partnership.
- f) Publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, and derivatives contracts.
- g) Interest, dividends, or other income on or value accruing from or generated by assets.
- h) Credit, right of set-off, guarantees, performance bonds or other financial commitments.
- i) Letters of credit, bills of lading, bills of sale and other documents evidencing an interest in funds or financial resources and any other instruments of export-financing.
- j) Insurance and reinsurance.

2. Economic resources

Economic resources subject to sanctions include assets of any kind, whether tangible or intangible, movable, or immovable, actual or potential, which potentially may be used to obtain funds, goods, or services. Non- exhaustive list of economic resources are as follows:

- a) Land, buildings, or other real estate.
- b) Equipment, including computers, computer software, tools, and machinery.
- c) Office furniture, fittings and fixtures and other items of a fixed nature.
- d) Vessels, aircraft, and motor vehicles.
- e) Inventories of goods.
- f) Works of art, cultural property, precious stones, jewelry, or gold.
- g) Commodities, including oil, minerals, or timber.
- h) Arms and related material, including all items mentioned in the arms embargo, included but not limited to: weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical advice, assistance, or training related to military activities.
- i) Raw materials and components that can be used to manufacture improvised

explosive devices or unconventional weapons, including but not limited to chemical components, detonating cord, or poisons.

- j) Patents, trademarks, copyrights, trade names, franchises, goodwill, and other forms of intellectual property; internet hosting or related services.
- k) Any other assets.

5. Obligations of PSPs to implement TFS regime

In order to effectively implement TFS, PSPs must:

1. Subscribe/ Register/ Visit website

- a) PSPs should subscribe to UN list to receive automated email notifications from email below:

sc-sanctionslists@un.org

This registration is aimed to help PSPs to receive updated and timely information about the listing and de-listing of individuals or groups or entities in the UN List.

- b) PSPs shall subscribe to automated email/mobile notification mechanism or register themselves in the TFS portal (<https://tfs.moha.gov.np/auth/login>) operated by MoHA or visit their website regularly in order to receive information on listing and de-listing of designated person.

2. Screen

PSPs shall undertake ongoing and daily checks (manually or preferably through automated mechanism) to the following databases to identify possible matches with names in the Sanction List:

- a) Customers before conducting any transactions or entering a business relationship with any person
- b) Existing customer databases
- c) Names of parties to any transactions
- d) Potential customers
- e) Beneficial owners
- f) Names of individuals or entities with direct or indirect relationships with them
- g) Directors and/or agents acting on behalf of customers (including individuals with power of attorney)

Initial screening must be performed *prior* to the onboarding of a customer and/or facilitation of an occasional transaction. Thereafter, screening should be done daily at the institution's own initiative. Additionally, bulk or batch screening should be conducted, as appropriate.

3. Apply Targeted Financial Sanctions

A confirmed match is when an individual, entity, or group matches all the key identifiers published on the Sanctions List. The range of information that constitute identifiers of designated person are as follows:

For natural person:

- i. Name
- ii. Aliases/also known as/formerly known as
- iii. Date of birth
- iv. Nationality
- v. ID or passport information
- vi. Last known address

For legal persons:

- i. Name(s)
- ii. Aliases also known as/formerly known as
- iii. Certificate of Registration (RC No.)
- iv. Registered Address
- v. Address of branches
- vi. Other information

Where the individual, entity, or group matches with the key identifiers published on the Sanctions List, the result is considered a ‘confirmed match’.

A false positive is a potential match to designated person, either due to the common nature of the name or due to ambiguous identifying data, which on examination proves not to be a confirmed match. Appropriate inquiry on false positive cases shall be facilitated by MoHA pursuant to Rule 67 of ALPR.

PSPs are required to obtain additional information and identification documents from the customer or a third party to ascertain whether a customer is a designated person in the case of similar names.

In case of a confirmed match, following are the measures that must be implemented:

- l. Freeze all funds: freeze, without delay (immediately) and without prior notice to the designated person, all the funds:
 - a) Owned or controlled, wholly or jointly, directly, or indirectly, by a designated person.
 - b) Derived or generated from funds under item (a)
 - c) Of any individual or group or entity acting on behalf of or at the direction of any individual or entity under item (a).

The obligations to freeze shall not prevent additions to frozen accounts of:

- a) Interest, profits, or other earnings due to the account; or
- b) Of payments due under contracts, agreements or obligations agreed upon prior to the date on which the account has become subject to freezing, provided such additions are immediately frozen.

Any percentage of ownership must trigger a freezing measure in relation to the asset owned by the designated person. Equally, freezing measures must be implemented when there is any information or indication that there are funds controlled (directly or indirectly) by the designated person.

In cases where a designated person owns or controls funds or other financial assets or economic resources in which unlisted party also have a segregable interest, freezing measures must be implemented on the share owned or controlled by the designated person. For example, if a designated person owns or controls 1% of a legal entity, the freezing measure must be applied only on the share of the asset owned or controlled by the designated person.

If an asset is owned or controlled by a designated person and an unlisted party, and the interest owned or controlled by the unlisted party cannot be segregated, the entire asset should be subject to the freeze. For example, a bank account is owned by a designated person and by a person not subject to sanctions, then the bank account must be frozen.

II. Prohibition of making funds available: No person is permitted to provide funds to or render financial services or other services related to, whether in whole or in part, directly or indirectly, or for the benefit of any designated person.

4. Notify

PSPs must report within 3 days from taking any freezing measure and/or attempted transactions with the designated persons to the NRB. The NRB then notifies the same to the Money Laundering and Revenue Investigation Division of Office of the Prime Minister and Council of Ministers (OPMCM) within 3 days of receipt of such information.

How long do these measures last?

Asset freezing and prohibition measures have no time limit i.e. the funds must remain frozen, and the prohibition to offer funds and services stands until the individual, group, or entity is removed from the Domestic Terrorist List or the UN List or until there is a freezing cancellation decision made by a competent authority or the UNSC.

6. Enforcement of TFS

NRB has the legal capacity to supervise the implementation of TFS. Failing to comply with the TFS obligations shall result in consequences as mentioned in Section 29K of ALPA:

- PSPs are subject to administrative sanctions as mentioned in Section 7V of ALPA ranging from warning to revocation of license.
- PSPs are subject to financial sanction ranging from NPR 1 Million to 2 Million.

7. Requesting an exemption or permission to access frozen funds

A person affected by the freezing of all properties and funds due to his/her designation in the UN List or Domestic Terrorist List may submit an application as per Rule 72(1) of ALPR to the MoHA in the format as given in Schedule 8 of ALPR with a request to provide access to the frozen properties or funds required for the basic humanitarian need of himself/herself and family members.

MoHA may, if it finds that there is no alternative for basic expenses during the inquiry over the application, release reasonable and necessary frozen properties or funds for the following purposes:-

- a) Expenses for daily foodstuffs, housing and health;
- b) Expenses for taxes and other fees for electricity, telephone, drinking water to per paid in accordance with the prevailing laws;
- c) Expenses for the education of children;
- d) Expenses for legal protection and judicial proceedings;
- e) Expenses for due protection of frozen properties or funds.

However, for a designee whose property and fund are frozen pursuant to the UN List, release shall be made as per decision made by relevant UNSC Sanctions Committee, which shall be facilitated by MoHA after receiving the application from the designee.

8. Procedure to cancel or lift the freezing measures

PSPs should be aware that the freezing procedures and other measures shall be lifted against an individual, group or entity under the following situations:

- Following the inquiry by the MoHA, it is concluded that the individual, group, or entity with a name identical or similar to that of a designated person was merely a false positive; or
- The designated person has been removed from the list by the relevant authorities.

Procedures set out in Rule 67 of ALPR shall be applicable in this regard.