

# TRANSLATION

## REPUBLIC OF PANAMA MINISTRY OF THE PRESIDENCY

### EXECUTIVE DECREE N° 587 Dated 4 August 2015

Which regulates the freezing of assets pursuant to Title VI of Law 23 dated 27 April 2015 whereby the measures for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction were adopted and other provisions prescribed

**THE PRESIDENT OF THE REPUBLIC**  
in use of his constitutional and legal powers,

#### **WHEREAS:**

Pursuant to the provisions of Paragraph 14 of Article 184 of the Political Constitution, the President of the Republic, with the participation of the respective Minister, is authorized to regulate those laws that require it, without deviating from their text and spirit, in order to improve compliance;

Terrorism and the financing of terrorism threaten issues of public interest such as life, world order, the peaceful coexistence of peoples, good international relations, the economy of the country, democratic security and the guiding principles of the Charter of the United Nations and, consequently, must be counteracted promptly and forcefully by means of State-level laws, decrees, policies, acts, plans, preventive and precautionary measures in inescapable collaboration with financial system sectors and other entities required to prevent the financing of terrorism pursuant to their respective programs for the prevention of money, property or assets laundering and the financing of terrorism;

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In Panama, terrorist acts and the financing of terrorism are criminalized in the Penal Code and in Article 49 of Law 23 dated 27 April 2015 on the freezing of assets based on the United Nations Security Council Resolutions adopting measures for preventing money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction and other provisions;

Panama subscribes to the international legal instruments against terrorism, particularly the United Nations International Treaty for repressing the financing of terrorism, ratified by Law 22 dated 9 May 2002. Panama is also a member of the United Nations, and as such must adopt internal mechanisms to promptly and effectively implement the UN Security Council Resolutions on terrorism and the financing of terrorism;

Panama, pursuant to its internal legislation, complies with and applies the international standards issued by the Financial Action Task Force (FATF). FATF's Recommendation 6 requires countries to implement targeted financial sanctions regimes to comply with United Nations Security Council resolutions related to the prevention and suppression of terrorism and its financing. The resolutions require countries to freeze, without delay, the funds or other assets of any person or entity either (i) designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including resolution 1267 (1999) and its successor resolutions; or (ii) designated by that country pursuant to resolution 1373 (2001), and to ensure that no funds or other assets are made available to or benefit, directly or indirectly, that person or entity;

Panama is a member of the United Nations (UN) and the Organization of American States (OAS), and complies with the recommendations of the Financial Action Task Force (FATF) as a member of the FATF Regional Group, to prevent and combat money, property and assets laundering resulting from illegal activities and the financing of terrorism;

Law 123 dated 27 April 2015 (the Law that created the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism) establishes that the FAU

is designed to prevent money, property and assets laundering resulting from illegal activities and the financing of terrorism (ML/FT); to that purpose, Paragraphs 2, 3, 5, 6, and 12 of Article 11 authorize the FAU to directly and exclusively request and receive financial, legal and accounting information on economic transactions and operations that may be linked to ML/FT from public and private entities and any regulated subject, as well as to analyze and compile the information gathered and to also establish cooperative relationships with homologous entities for this purpose;

## CHAPTER I

### OBJECTIVE, SCOPE AND DEFINITIONS

#### **Article 1. Objective.**

The purpose of this Decree is to establish the procedures for identifying and applying measures for the freezing of funds or assets pursuant to the provisions established in Law 23 dated 27 April 2015, which describes the procedures contained in United Nations Security Council Resolutions 1267, 1988, 1373, 1718 and 1737, 2161, 2170, 2178, 2199 and successor resolutions.

#### **Article 2. Scope of application.**

This Decree is applicable to and is of compulsory compliance for regulated subjects, individuals and legal entities, whether public or private, in accordance with the provisions of Law 23 dated 27 April 2015, to which this Decree refers.

#### **Article 3. Definitions.**

For the purposes of this Decree, the terms listed below shall be understood as follows:

1. **Reasonable grounds:** standard used in deciding whether to make a designation (proposed designation) or not. The “reasonable grounds” standard should be

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used for the designations within Resolution 1373 (2001); the competent authority will apply the legal standard of the relevant legal system and will determine the amount of evidence to establish the existence of “reasonable grounds” and to decide on the individual’s or entity’s designation, and then initiate an action within the mechanism for the freezing of assets. This occurs regardless of whether the proposed designation is made by one’s own initiative or by another country’s request. These designations (proposed designations) must not depend on the existence of a criminal proceeding.

2. **Freezing:** Immediate withholding and prohibition to freely dispose of funds and assets, including the prohibition to conduct wire transfers, conversions, dispositions or movements of the assets belonging to or controlled by designated individuals or entities.
3. **Release of frozen assets:** Rehabilitation and restitution of the free disposition of funds and assets, including to conduct wire transfers, conversions, dispositions or movements of those belonging to or controlled by designated individuals or entities.
4. **Designation:** Refers to the identification of an individual or entity who is the subject of financial sanctions made under the United Nations designation criteria in view of:
  - I. United Nations Security Council Resolution **1267** (1999) and successor resolutions;
  - II. United Nations Security Council Resolution **1373** (2001) designated within a country’s internal list, by its own decision or upon another Country’s request based on reasonable grounds;
  - III. United Nations Security Council Resolution **1718** (2006) and successor resolutions;

- IV. United Nations Security Council Resolution **1737** (2006) and successor resolutions.
5. **Delisting** (removal from the list): Processes by mean of which designated individual(s) or entity(ies) are removed from the lists because he/she/it/they did not or no longer meet the criteria for his/her/its/their designation under United Nations Security Council Resolutions 1267 (1999) and successor resolutions; 1373 (2001); 1718 (2006); and 1737 (2006) and successor resolutions.
  6. **Funds or assets:** Any type of tangible or intangible, movable or immovable goods or property, regardless of how they were obtained, and the documents and legal instruments, whatever their form, including digital or electronic form, that attest to the ownership or other rights on those goods, including, without being exhaustive, deposit accounts, bank credits, traveller's checks, bank checks, drafts, shares, securities, obligations, bills of exchange, letters of credit and interest, dividends, other income or securities earned or generated by these funds or assets.
  7. **Basic or extraordinary expenses:** Payment of food, rent, medications and medical treatments, taxes, insurance premiums and utilities (water and electricity), to pay for reasonable professional fees or to reimburse expenses related to rendering legal services or levies or charges to pay for keeping or holding frozen assets or other financial assets or economic resources, or payments due for contracts or obligations, as the case may be, in accordance with the provisions of United Nations Security Council Resolutions **1452** (2002) or **1735** (2006) or **1737** (2006) and successor or modifying resolutions.
  8. **Court Notice:** Court document to inform the litigant or interested party of a process of any type, or his/her representatives and defenders of a judicial resolution or other proceeding.

9. **Without delay:** Immediate execution of the United Nations Security Council or relevant Sanctions Committee designation, to prevent the flight or dissipation of funds or other assets linked to terrorists, terrorist organizations, those financing terrorism and the proliferation of weapons of mass destruction and the need of a global, concerted measure to smoothly prohibit and interrupt its flow.

## CHAPTER II

### **PROCEDURE FOR FREEZING PROPERTY AND/OR ASSETS PURSUANT TO LAW 23 DATED 27 APRIL 2015, WHICH REGULATES RESOLUTIONS 1267, 2161, 2170, 2178, 2199 AND SUCCESSOR RESOLUTIONS, 1989 AND SUCCESSOR RESOLUTIONS, 1988, 1718, 1737 AND SUCCESSOR RESOLUTIONS.**

**Article 4.** Once the Ministry of Foreign Affairs receives the updated list based on Resolutions 1267, 2161, 2170, 2178, 2199, 1989, 1988 and successor resolutions to prevent the use of products or services for the commission of acts of terrorism and the financing of terrorism and the financing of proliferation of weapons of mass destruction issued by the United Nations Security Council, the Ministry must inform the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism.

**Article 5.** Once the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism receives the formal communication sent by the Ministry of Foreign Affairs, the Financial Analysis Unit will formally and immediately inform the regulated entities of the list.

**Article 6.** Regulated entities will review their records to see if there are (i) funds, property or assets belonging to or controlled by a listed individual or entity and not just those assets that could be involved in a particular terrorist act, plan or threat; (ii) funds, property or assets belonging to or directly or indirectly, totally or jointly controlled by listed

individuals or entities; and (iii) funds, property or assets derived from or generated by funds or other assets that belong to or are directly or indirectly controlled by listed individuals or entities, as well as (iv) funds, property or assets of individuals and entities acting on behalf or under the direction of listed individuals or entities listed. If any matches are found, they will immediately proceed to stop any transaction with the customer, freeze the funds and inform the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism of the execution of the assets freeze. If there are no customers among those listed, they will so inform the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism.

**Article 7.** Once the regulated entity sends the information, the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism will immediately inform the Public Ministry in order to place the frozen assets under the control of the competent authority.

**Article 8.** The Second Chamber (Criminal) of the Supreme Court of Justice will ratify the measure by verifying that the individual or legal entity who is the owner, proprietor, controller or administrator of the funds, property or assets subjected to freezing is in fact on the list.

**Article 9.** Regulated entities shall not unfreeze the funds, property or assets until receiving a court order for release reflecting the decisions of the United Nations Security Council.

## CHAPTER III

### **PROCEDURE FOR FREEZING PROPERTY AND/OR ASSETS PURSUANT TO LAW 23 DATED 27 APRIL 2015, WHICH REGULATES RESOLUTION 1373.**

**Article 10.** The requests pursuant to Resolution 1373 shall be received through diplomatic channels. Once the Ministry of Foreign Affairs receives the request issued by the competent

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authority of the interested country, the Ministry must inform the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism immediately and without delay.

**Article 11.** The Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism will inform the regulated entities indicated in Law 23 dated 27 April 2015 of the individuals or legal entities subject to the freezing of assets immediately and without delay.

**Article 12.** Regulated entities will review their records to see if there are (i) funds, property or assets belonging to or controlled by a listed individual or legal entity and not just those that could be involved in a particular terrorist act, plan or threat; (ii) funds, property or assets belonging to or directly or indirectly, totally or jointly controlled by listed individuals or entities; and (iii) funds, property or assets derived from or generated by funds or other assets that belong to or are controlled directly or indirectly by listed individuals or legal entities, as well as (iv) funds, property or assets of individuals or entities acting on behalf or under the direction of listed individuals or entities. If any matches are found, they will proceed immediately and without delay to stop any transaction with the customer, freeze the assets and inform the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism of the execution of the assets freeze. If there are no customers among those listed, the regulated entities shall so inform the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism.

**Article 13.** Once the regulated entity has frozen the assets and informed the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism, the latter will inform the Public Ministry immediately and without delay. The Ministry will refer the freezing of assets to the Second Chamber (Criminal) of the Supreme Court of Justice for ratification.



**Article 14.** The Second Chamber (Criminal) of the Supreme Court of Justice will ratify the measure by verifying that the individual or legal entity who is the owner, proprietor, controller or administrator of the funds, property or assets subjected to freezing is in fact on the list.

**Article 15.** Regulated entities will not unfreeze the funds, property or assets until receiving a court order for release reflecting decisions of the requesting country which are in compliance with United Nations Security Council Resolution 1373.

**Article 16.** The requests made by other countries must contain, as a minimum, the information of the competent authority submitting the request, and as much information as possible justifying the request, such as information of the officer or institution instructing the measure in the country; the motive and description of the measure requested; the submittal of documentation supporting the measure requested; documentation and information on the identity, nationality, physical or electronic address of the individual or entity; and financial information that permit the correct and appropriate identification of the individual or entity involved, as well as any other information supporting the request to freeze funds or assets.

## CHAPTER IV

### UNITED NATIONS SECURITY COUNCIL DESIGNATIONS AND NATIONAL DESIGNATIONS.

**Article 17.** The criteria for being listed as individuals or entities related to terrorism and the financing of terrorism according to the United Nations Security Council resolutions are:

1. For Resolution 1267 (1999) and 1988 (2011) and successor resolutions:

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- a) Any individual or entity involved in financing, planning, facilitating, preparing or perpetrating acts or activities by, along with, under the name of, on behalf of, or in support of supplying, selling or transferring weapons and related material; recruiting for, or in any other way supporting acts or activities performed by Al-Qaeda or the Taliban, or any cell, affiliate, dissident or derived group; or
  - b) Any company belonging to or controlled directly or indirectly by an individual or entity identified in the above paragraph, or by individuals acting on his/her/its/their behalf or direction.
2. For Resolution 1373 (2011):
- a) Any individual or entity committing or attempting to commit terrorist acts, or that is involved in or facilitating the commission of terrorist acts;
  - b) Any entity belonging or controlled directly or indirectly by any individual or entity identified in paragraph 2, item a) herein; or
  - c) Any individual or entity acting on behalf of or under the direction of any individual or entity identified in paragraph 2, items a) and b) herein.

**Article 18.** In the context of the United Nations Security Council resolutions 1267 and 1988, listing and delisting will occur:

1. If a national authority makes a reasoned and justified request indicating that an individual or entity meets the requirements to be listed as an individual or entity designated by the Security Council, it will inform the National Security Council for its analysis. If the NSC deems the request appropriate, it will advise the Ministry of Foreign Affairs to inform the relevant United Nations Security Council Committee through diplomatic channels and await its reply.
2. Any listed national or resident individual or entity or the national or resident relatives of deceased listed individuals can request their delisting through the

Office of the United Nations Security Council Ombudsman or through the Ministry of Foreign Affairs which, after the relevant analysis and if deemed appropriate, will channel the request through the United Nations Security Council and await its reply. Once the United Nations Security Council informs the Ministry of Foreign Affairs of its decision on the request to delist individuals or entities, the Ministry will directly inform the interested party, as well as the FAU.

**Article 19.** Pursuant to Resolution 1373 and based on Decree 263 dated 19 March 2003, the Panamanian National Security Council shall identify, designate and exclude individuals or legal entities meeting the designation criteria described in Article 17 and whose funds or assets are subject to being frozen because of his/her/its/their link to terrorism and the financing of terrorism according to the national list or upon request of a foreign country by virtue of United Nations Security Council Resolution 1373.

That request must contain, to the extent possible, all available information for identification and the elements on which their designation on the national list are based.

**Article 20.** After determining the existence of reasonable grounds to designate individuals or legal entities under United Nations Security Council Resolution 1373 (2001), the Panamanian National Security Council will issue an administrative order placing the individual or entity on the national list and will immediately inform the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism to start the procedure for freezing the assets according to Articles 11 - 17.

## CHAPTER V

### REQUESTS TO ACCESS FROZEN ASSETS

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**Article 21.** The Second Chamber (Criminal) of the Supreme Court may authorize the access to funds or assets that were frozen under Security Council Resolutions 1452 (2002), 1735 (2006), 1718 (2006), 1737 (2006) or successor or modifying resolutions related to this matter, with prior notification of the United Nations Security Council Committee through the Ministry of Foreign Affairs, when these funds are necessary to cover basic expenses that may include: costs or expenses for services or other extraordinary expenses, interest, payments coming due on contracts, agreements or obligations and others.

**Article 22.** The United Nations Security Council sends copies of communications on the requests and its responses on approval/disapproval for the authorization to access frozen assets or funds of listed individuals or entities through the Ministry of Foreign Affairs.

**Article 23.** For a request to access funds or other assets frozen under Resolution 1373 of the United Nations Security Council, the Ministry of Foreign Affairs will inform the Second Chamber (Criminal) of the Supreme Court of the requests of individuals or entities on the internal list to access frozen funds or assets to satisfy the payment of basic or extraordinary expenses. The request and the attached documents will be evaluated and the investigation and verification required for their authorization will be immediately coordinated.

**Article 24.** If the requests in the previous article belong to individuals or entities listed in a third country, the Second Chamber (Criminal) of the Supreme Court will notify that country of the access request through the Ministry of Foreign Affairs, with the understanding that the request will be considered accepted if there is no reply within two business days.

**Article 25.** Once the answer to the request to access frozen funds or assets is received, or after two business days have passed without a reply, the Second Chamber (Criminal) of the Supreme Court will be notified of the approval/disapproval of the authorization of the access requested so it may proceed as established.

If a national interest designation is made, the communication to the Second Chamber (Criminal) on the approval/disapproval of the authorization to access frozen funds or assets will be made once the evaluation and verification of the request is completed.

## CHAPTER VI

### **RELEASE OF FROZEN ASSETS PURSUANT TO LAW 23 DATED 27 APRIL 2015, WHICH REGULATES RESOLUTIONS 1267, 1988, 1718 AND 1737 AND SUCCESSOR RESOLUTIONS ISSUED BY THE UNITED NATIONS SECURITY COUNCIL.**

**Article 26.** Unfreezing assets or funds subject to sanction will only be executed when:

- a) The individual or entity to which the sanction was applied is delisted from the relevant list according to United Nations Security Council resolutions or information sent by the United Nations Security Council.
- b) The frozen assets or funds belonging to an individual or legal entity other than the one on the Security Nations Security Council list or who was wrongly listed due to mistaken identity.

The Financial Analysis Unit must be informed of all of the above.

**Article 27.** The competent judicial authority will receive the proposals for delisting individuals or entities listed in United Nations Security Council resolutions 1267, 1988, 1718, 1737 and successor resolutions, according to authorized procedures, when in the opinion of the very United Nations Security Council, individuals or entities listed do not meet the criteria or there are no reasonable grounds for his/her/its/their designation.

**Article 28.** Once the request is approved by the United Nations Security Council, the release will be made by the competent Judicial Authority.

**Article 29.** Similarly, homonym, same name and similar name cases will be communicated and processed through the same channels when the elements resulting from verifications indicate we are in presence of one of these cases.

## CHAPTER VII

### **PROCEDURE FOR THE RELEASE OF FROZEN ASSETS PURSUANT TO LAW 23 DATED 27 APRIL 2015, WHICH REGULATES RESOLUTIONS 1373.**

**Article 30.** The frozen assets will be released only when there is a formal communication by the competent authority of the appointing country, informing that the individual or legal entity does not meet the criteria for designation.

**Article 31.** When a request to freeze assets belonging to an individual or legal entity listed on the national list has been sent to a third country, the Ministry of Foreign Affairs will inform that State of the cessation of that measure.

**Article 32.** Once the cessation based on reasonable grounds is ratified by the Second Chamber (Criminal) of the Supreme Court, the Public Ministry will notify the Financial Analysis Unit for the Prevention of Money Laundering and Financing of Terrorism and the latter will inform the Ministry of Foreign Affairs to inform the third country of the release of the frozen funds belonging to the individual or legal entity through diplomatic channels.

## CHAPTER VIII

### **GENERAL AND FINAL PROVISIONS.**

**Article 33. Exemption of Liability and *Bona Fide* Third Parties.**

1. National persons and legal entities applying the provisions herein in good faith will be exempt from administrative, criminal and civil liability.
2. The application of these provisions will be conducted without prejudice to the rights of good faith third parties.

**Article 34. Oversight and Sanctions.**

1. The Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism and other regulatory bodies will oversee and supervise compliance by regulated parties within their competencies.
2. If there is a noncompliance with the provisions herein, the Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism, acting within the framework of its competencies, will request the supervisory bodies apply the sanctions defined in the Legal System.
3. The Financial Analysis Unit for the Prevention of Money Laundering and the Financing of Terrorism will inform state institutions referred to herein of any noncompliance by individuals and entities in their charge.

**Article 35. Enactment.**

This Executive Decree shall become effective the day after its promulgation.

**LEGAL GROUNDS:** Paragraph 14 of Article 184 of the Political Constitution of the Republic of Panama and Articles 49 to 52 of Law 23 dated 27 April 2015, whereby measures to prevent Money Laundering, the Financing of Terrorism and Financing the Proliferation of Weapons of Mass Destruction were adopted and other provisions were prescribed.

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## **FOR COMMUNICATION AND ENFORCEMENT.**

**Given in the city of Panama on the fourth (4<sup>th</sup>) day of August, two thousand fifteen (2015).**

**JUAN CARLOS VARELA RODRIGUEZ**  
President of the Republic

**DULCIDIO DE LA GUARDIA**  
Minister of Economy and Finance