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ADVISORY

JUNE 2020

ADVISORY ON 2019 AMENDMENT OF THE UNITED NATIONS SECURITY COUNCIL RESOLUTIONS IMPLEMENTATION ACT & THE UNITED NATIONS SECURITY COUNCIL RESOLUTIONS IMPLEMENTATION (ASSET FREEZE-DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA) REGULATIONS

This Advisory is directed to:

- ✓ Gaming Lounge Operators
- ✓ Nominated Employees & Other Compliance Officers
- ✓ Chief Executive Officers
- ✓ Senior Managers
- ✓ Frontline Personnel
- ✓ Other Relevant Staff

The Betting, Gaming & Lotteries Commission (BGLC), in an effort to ensure all licensees are provided with the most current information, has compiled all amendments that were passed in 2019 regarding the United Nations Security Council Resolutions Implementation Act, the United Nations Security Council Resolutions Implementation (Asset Freeze-Democratic People's Republic of Korea) Regulations and the United Nations Security Council Resolutions Implementation (Reporting Entities) Regulations. These amendments in the AML/CFT framework will be reflected in the revised BGLC Guidance Notes that are currently being updated.

The United Nations Security Council Resolutions Implementation (Amendment) Act, 2019 (UNSCRIA)

The United Nations Security Council Resolutions Implementation Act, 2019 requires that financial institutions (FIs) and designated non-financial institutions (DNFIs) determine whether or not they are in possession or control of

assets which are owned and controlled by or on behalf of a proscribed person or entity and make reports to the Designated Authority regarding same.

The UNSCRIA also prohibits any person in Jamaica and any Jamaican outside Jamaica from knowingly–

- a) dealing directly or indirectly with any assets that are owned or controlled by or on behalf of, or at the direction of, the person or entity that is proscribed, including funds derived or generated from property owned or controlled directly or indirectly by that person or entity;
- b) entering into or facilitating, directly or indirectly, any transaction in respect of assets referred to in paragraph (a);
- c) providing any financial or other related services in respect of any assets referred to in paragraph (a) to, for the benefit of, or at the direction of, the person or entity; or
- d) making any property or any financial or other related service available, directly or indirectly, for the benefit of the person or entity, or converting any such property or taking steps to convert or disguise that the property is owned or controlled by or on behalf of the person or entity¹.

The United Nations Security Council Resolutions Implementation (Asset Freeze-Democratic People's Republic of Korea) Regulations, 2013

The United Nations Security Council Resolutions Implementation (Asset Freeze-Democratic People's Republic of Korea) Regulations, 2013 gives effect to Resolution 2087 and specifies Jamaica's obligation under this Regulation which seeks to prevent persons from–

- a) using or dealing with assets owned or controlled by a designated entity; and
- b) making an asset available to a designated entity, otherwise than, in accordance with the Regulations.

¹ Section 8A of the UNSCRIA

A person is found in contravention of these Regulations if–

- a) the person–
 - i. holds a freezable asset;
 - ii. uses or deals with the freezable asset;
 - iii. allows the freezable assets to be used or dealt with; or
 - iv. facilitates the use of the freezable asset or dealing with the freezable asset;
- b) the use or dealing mentioned in paragraph (a) is not by virtue of permission given by a notice from the Minister, under Regulation 7; and
- c) the person, directly or indirectly, makes a freezable asset available to a designated entity otherwise than as permitted by a notice under Regulation 7².

The Regulations outline a mechanism by which the owner or holder of a freezable asset may acquire authorization to use or deal with a freezable asset in a specified way, or for a freezable asset to be made available by the owner or holder to a designated entity³.

Reporting Under the UNSCRIA

Reports under section 5 of the Act are to be made at least **once every four calendar months** and in the prescribed form set out in the schedule. These reports are also due at the request of the Designated Authority. According to section 5 (3A) DNFI's are required to report to the Designated Authority–

- a) Any transaction or attempted transaction that is believed or known to be related to a person or entity that is proscribed and any assets that are owned or controlled by or on behalf of such person or entity and are in possession or control of the entity;
- b) Any breach of any provision under the UNSCRIA by a person or entity that is proscribed;
- c) Any assets–
 - i. which are owned and controlled by or behalf of a person or entity that is proscribed;
 - ii. in possession or control of the entity; and

² Section 6 (1) of the United Nations Security Council Resolutions Implementation (Asset Freeze- DPRK) Regulations

³ Section 7 of the United Nations Security Council Resolutions Implementation (Asset Freeze- DPRK) Regulations

- d) Any other action that has been taken in relation to a person or entity that is proscribed in compliance with any directives or requirements under this Act.

All reports made under section 5 (3A) shall be disclosed to the regulators as an authorized disclosure.⁴

FOR INFORMATION & ASSISTANCE CONTACT:

Betting, Gaming & Lotteries Commission
78CEF Hagley Park Road, Kingston 10
Tel: (876) 630-1353 Fax: (876) 758-7594
Email: info@bglc.gov.jm
Web: www.bglc.gov.jm

⁴ Section 5 (3B) of the UNSCRIA