Supplementary Material for Guidance Paper

Model Provisions to Combat the Financing of the Proliferation of Weapons of Mass Destruction
Second Edition

Anagha Joshi
A Note from the Author

In July 2017, RUSI published a Countering Proliferation Finance: Implementation Guide and Model Law for Governments. Since then, there have been a number of updates to United Nations Security Council Resolutions relating to North Korea. In partnership with the Asia/Pacific Group on Money Laundering, RUSI’s Centre for Financial Crime and Security Studies is pleased to release an updated version of the model law.

The quick reference table summarising relevant obligations under United Nations Security Council Resolutions and Financial Action Task Force recommendations has also been updated and appended to the model law. In addition, we have taken this opportunity to improve other aspects of the model law that States might find useful. For instance, the updated model law creates a definition of proliferation financing, provides a schedule of Controlled Items related to North Korea, includes provisions allowing for the administration of frozen assets and simplifies some offence provisions. For ease of identifying amendments, new sections have been added by including a letter in the section numbering. For example, Section 19A has been inserted after Section 19. Where sections have been deleted, a note has been inserted to indicate that the section has been removed.

Developing effective legal and regulatory measures to counter proliferation finance should be part of a broader counter proliferation finance framework, including policy initiatives, awareness of proliferation finance risk, typologies and industry guidance. We therefore encourage readers of this Model Law to read RUSI’s other publications on countering proliferation finance, all of which are freely available on: www.rusi.org/CPF
Model Provisions to Combat the Financing of the Proliferation of Weapons of Mass Destruction
Second Edition

Anagha Joshi
187 years of independent thinking on defence and security

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Model Provisions to Combat the Financing of the Proliferation of Weapons of Mass Destruction (July, 2018)

Notes on Using These Model Provisions

These model provisions are aimed at assisting States to develop or amend their legislative framework to comply with international obligations and standards to implement financial measures to combat the proliferation of weapons of mass destruction. The provisions are based on relevant United Nations Security Council Resolutions (UNSCRs) and the Financial Action Task Force (FATF) Recommendations.

The model provisions are intended to be a legal policy and legislative drafting resource. The provisions are drafted in a style that will be familiar to common law jurisdictions. However, the model provisions are nevertheless useful for civil law jurisdictions in understanding the legal requirements. States should take care to adapt the underlying concepts and specific language to accord with constitutional and fundamental legal principles in their legal systems. Specific notes are included throughout this text to provide further guidance or to highlight issues for consideration. Text in brackets requires States to insert relevant domestic references.

The international obligations on proliferation financing contain a range of different measures, from targeted financial sanctions to activity-based prohibitions to vigilance measures. Therefore, it is probable depending on a State’s existing laws that more than one piece of legislation may be required to implement the various international obligations. Examples of legislation that could integrate proliferation financing provisions include: anti-money laundering / counter-terrorism financing (AML/CTF) laws, criminal or penal codes or laws, United Nations sanctions laws, counter terrorism or security laws, counter proliferation of weapons of mass destruction laws, and customs, trade or export control laws.

When deciding which law/s should incorporate counter-proliferation financing provisions or whether an entirely new law should be developed, States should first undertake a mapping exercise to identify all relevant existing legislation.

Some States have taken the approach of adopting a law that implements Article 41 of the Charter of the United Nations regarding measures not involving the use of armed force and subsequently adopting regulations that address the different requirements of each United Nations Security
Council Resolution imposing sanctions. This approach creates a flexible framework that can capture all sanctions obligations under one umbrella. Given that regulations can be relatively easily amended, it also enables countries to keep their domestic laws in compliance with changing international obligations. It should be noted that while a single law implementing the Charter of the United Nations brings legal obligations under one umbrella, a number of agencies will nevertheless be involved in its implementation. Strong inter-agency coordination will be vital to successful implementation.

The model provisions contain all obligations on the face of the Act. This is for ease of reference in using the model provisions. However, it is strongly recommended that States consider which provisions must be in legislation, and which provisions could be included in regulations or even standard operating procedures and guidance. Wherever possible, States should use subordinate legal instruments, such as regulations, that do not require Parliamentary approval to be amended. At a minimum, States are encouraged to incorporate the lists of UNSCR resolutions and controlled goods in subordinate legal instruments to ensure that they can be updated in-line with changing international requirements.

We welcome feedback on these model provisions in order to continue to improve them. Feedback can be directed to:

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AN ACT

Entitled

Counter Proliferation Financing Act [year]

Being an Act to provide for financial measures to prevent the proliferation of weapons of mass destruction,

Made by the [name of enactor/method of enactment].

Chapter I: Preliminary

1. Object of the Act

The object of this Act is to:

(a) protect the national interest and promote the security of [State] and its citizens by preventing the proliferation of weapons of mass destruction; and

(b) give effect to Article 41 of the Charter of the United Nations by implementing financial measures arising from a counter-proliferation Resolution; and

(c) protect fundamental rights and freedoms through robust procedural safeguards.

States should insert their country name in Paragraph (a).

2. Entry into force

This Act shall enter into force on [date/gazettal].

3. Application

This Act applies:

(a) in [State]; and

(b) to all citizens of [State] and bodies corporate incorporated under a law of [State] wherever located; and

(c) to a vessel flying the flag of [State]; and

(d) to an aircraft registered in [State]; and

(e) to an offence committed on board a vessel flying the flag of [State] or an aircraft registered in [State] wherever located.
States should ensure that the Act applies to any external territories.

States should ensure that they are able to apply this Act to vessels, which are flagged, and aircraft, which are registered, by the State. In some States, this may be implicit in Paragraph (a) and therefore, Paragraphs (c) and (d) are not required.

Paragraph (e) may not be required where the extension of enforcement jurisdiction is already provided by the criminal or penal law of the State and therefore covered by Section 4. Where the criminal or penal law of a State does not extend such enforcement jurisdiction over vessels and aircraft, States should include Section 3(1)(e). Section 3(1)(e) extends jurisdiction over offences committed on board a State’s flagged vessel or registered aircraft wherever located. This is mainly relevant to situations where the vessel or aircraft is on or over the high seas to ensure that there is not a gap in legal coverage. It should be noted that where a vessel or aircraft that is flagged/registered by one State is located in the territory of another State, the other State will have concurrent jurisdiction. The jurisdiction of the flag-State or State of registration is not exclusive. These issues of jurisdiction are governed by international law and States may wish to seek specific legal advice on this point to clarify the application of laws.

4. Application of the [criminal code]

The [criminal code] applies to all offences under this Act.

States should insert a reference to the relevant criminal or penal law.

The broader framework of a State’s criminal or penal law should apply to offences under this Act. In particular, States should ensure that ancillary offences are provided for each offence in this Act. Ancillary offences are variously described across different States but should include the equivalent of ‘attempt’, ‘participate as an accomplice in’, ‘incite’, ‘conspire to commit’ and ‘direct’.

Given the transnational nature of proliferation of weapons of mass destruction (WMD) activities and their financing, States should also ensure a broad basis for jurisdiction to apply criminal offences under this Act. Note, in particular, the comment above regarding extending jurisdiction to cover offences on board vessels and aircraft.

5. Act to bind the State

This Act binds the State.

5A. Act to be applied consistent with national legislation

This Act is to be interpreted and applied consistently with other national legislation.
The purpose of this section is to clarify that the Act does not override other national laws but instead should be read consistently with them. States may not need this provision, as it may be a general principle of statutory interpretation.

6. Definitions

(1) The following definitions apply for the purpose of this Act:

“account” includes:
  (a) any facility or arrangement under which a financial institution:
      (i) accepts deposit of an asset; or
      (ii) allows withdrawal or transfer of an asset; or
      (iii) pays, collects or draws on a bearer negotiable instrument on behalf of any other person; or
      (iv) supplies a safety deposit box or any other form of safe deposit; and
  (b) any account that is closed or inactive, or that has a nil balance;

“aircraft” means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface;

States should ensure that the definition of ‘aircraft’ corresponds with their national aviation legislation.

“arms or related materiel” includes:
  (a) weapons; and
  (b) ammunition; and
  (c) military vehicles and equipment, including:
      (i) battle tanks; and
      (ii) armoured combat vehicles; and
      (iii) large calibre artillery systems; and
      (iv) combat aircraft; and
      (v) attack helicopters; and
      (vi) warships; and
      (vii) missiles and missile systems,

which have the same meanings as they have for the purposes of reports by Member States to the United Nations Register of Conventional Arms established under United Nations General Assembly Resolution A/RES/46/36L of 6 December 1991; and

  (d) spare parts and accessories for the items mentioned in Paragraph (a), (b) or (c); and
  (e) paramilitary equipment, including:
      (i) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes; and
(ii) tear gas and other riot control agents; and
(iii) body armour, bullet resistant apparel and helmets; and
(iv) handcuffs, leg- irons and other devices used for restraining prisoners; and
(v) riot protection shields; and
(vi) whips; and
(vii) parts and accessories designed or adapted for use in, or with, equipment mentioned in Paragraphs (i) to (vi);

This definition is used in the context of prohibitions relating to Iran. Please refer to the Controlled Items list at Schedule 4 in relation to DPRK.

“asset” means funds, property, financial resources and economic resources of every kind, whether tangible or intangible, corporeal or incorporeal, moveable or immovable, actual or potential, however acquired, including:

(a) cash; and
(b) virtual or digital currencies, including cryptocurrencies; and
(c) bank credits, travellers’ cheques, bank cheques, money orders; and
(d) precious metals and precious stones; and
(e) real property, chattels and vessels; and
(f) shares, securities, bonds and drafts; and
(g) rights of set-off, guarantees, performance bonds, and other financial commitments; and
(h) letters of credit, bills of lading and bills of sale; and
(i) instruments of export financing; and
(j) any other financial resources; and
(k) natural resources; and
(l) human resources such as crew services; and
(m) any other economic resources that may be used to obtain funds, goods or services; and
(n) legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, or right to claim an asset; and
(o) any interest, dividend, income or value accruing from, generated by, or derived from an asset;

In relation to the reference to ‘vessels’ in Paragraph (e), States should note that Annex III of United Nations Security Council Resolution (UNSCR) 2270 on DPRK provides a list of Ocean Maritime Management Co (OMM) vessels that must be covered by the prohibition against dealing with assets in Section 16.

“authorisation” means a permission granted by the [minister] to undertake an act or make an omission that is otherwise prohibited by this Act and can include conditions imposed on the permission;
“ballistic missile-related goods” means items, materials, equipment or technology:
(a) listed in Security Council document S/2015/546; or
(b) that could contribute to ballistic missile-related programmes or weapons of mass destruction delivery systems and are prescribed by Regulations;

This definition is used in the context of prohibitions relating to Iran. Please refer to the Controlled Items List at Schedule 4 in relation to DPRK. UNSCRs on Iran require States to determine other items that could contribute to ballistic missile or weapons of mass destruction related programmes. Paragraph (b) allows a State to list additional such items in Regulations. References are made throughout this Act to documents produced by international organisations that provide a list of goods. These documents are regularly updated. It is recommended that States consider listing these documents in subsidiary legal instruments, for example, by prescribing them in Regulations, to allow them to be quickly updated as needed. The documents are listed on the face of this Act only for ease of reference.

“basic expense” means an expense necessarily incurred for any of the following purposes:
(a) obtaining foodstuffs;
(b) paying rent or mortgage;
(c) obtaining medicine or medical treatment;
(d) paying taxes;
(e) paying insurance premiums;
(f) paying utility charges;
(g) paying reasonable professional fees;
(h) paying reasonable expenses associated with the provision of legal services;
(i) paying fees or service charges that are in accordance with the laws of [State] for the routine holding or maintenance of a frozen asset;
(j) any other similar purpose;

“biological weapon” means any agent, toxin, weapon, equipment, or means of delivery mentioned in Article 1 of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, of 10 April 1972;

“chemical weapon” has the same meaning as in Article II of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, of 3 September 1992;

Note that the definition in Article II of the Convention includes components of chemical weapons and means of delivery, together or separately.

“consular officer” has the same meaning as in Article 1(1)(d) of the Vienna Convention on Consular Relations, of 24 April 1963;
“contractual obligation” means an obligation whereby a payment is required under a contract or agreement made before the date of the designation and where the payment required does not violate the requirements of a counter-proliferation Resolution;

“control” means exercising influence, authority or power over decisions about financial or operating policies, and includes control as a result of, or by means of, trusts, agreements, arrangements, understandings or practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights, and “controlled” has a corresponding meaning;

“Controlled Item” means an item listed in Schedule 4 on which import or export controls are imposed;

“correspondent relationship” means a relationship that involves the provision of banking or currency or value transfer services by one financial institution (the “correspondent”) to another financial institution (the “respondent”) where:
(a) the correspondent carries on a banking or currency or value transfer business at or through a permanent place of business in one country; and
(b) the respondent carries on a banking or currency or value transfer business at or through a permanent place of business in another country; and
(c) the relationship between the correspondent and the respondent relates, in whole or in part, to the provision of banking or currency or value transfer services between those permanent places of business;

“court” means the [relevant court];

States should specify a court of competent jurisdiction.

“crew service” means a service providing:
(a) flight or cabin crew for a vessel or aircraft; or
(b) a person to travel on board a vessel or aircraft for any purpose relating to the vessel or aircraft’s operation; or
(c) a person to travel on board a vessel or aircraft to examine the qualifications or competency of flight or cabin crew;

States should ensure that the definition of ‘crew service’ corresponds with their national maritime and aviation legislation.

“counter-proliferation Resolution” means a United Nations Security Council Resolution related to DPRK, Iran or any other counter-proliferation related matter that is listed in Schedule 1 or prescribed by Regulations;
“deal” includes sale, supply, lease, transfer, conversion, disposition, movement or use, and “dealing” and “dealt” have the same meaning;

“designated person or entity” means a person or entity:
(a) designated by the [minister] under Section 10; or
(b) whose designation has been extended by the [minister] under Section 11; or
(c) designated by the United Nations Security Council or its Committees pursuant to a DPRK Resolution or an Iran Resolution;

“diplomatic agent” has the same meaning as in Article I(e) of the Vienna Convention on Diplomatic Relations, of 18 April 1961;

“DNFBP” means a designated non-financial business or profession in [State], that is:
(a) a person or entity that conducts any of the following activities:
   (i) providing a gaming, junket or other related casino service;
   (ii) acting as a professional intermediary in a real estate transaction;
   (iii) dealing in precious metals;
   (iv) dealing in precious stones;
   (v) providing a trust or company service; or
(b) an accountant, a lawyer, a notary public, or other independent legal professional when preparing for, engaging in, or carrying out a transaction for a client concerning any of the following activities:
   (i) buying or selling real estate;
   (ii) managing client currency, securities or other assets;
   (iii) managing a bank, savings or securities account;
   (iv) organising contributions for the creation, operation or management of a body corporate;
   (v) creating, operating or managing a body corporate or unincorporated entity;
   (vi) buying and selling businesses;

This definition draws on the Financial Action Task Force definition of DNFBP.

“DPRK” means the Democratic People’s Republic of Korea;

“DPRK financial institution” means a person or entity, wherever located, that conducts an activity listed in Paragraphs (a) to (m) of the definition of financial institution and that is:
(a) regulated, registered, incorporated or licensed under a law of DPRK; or
(b) owned or controlled by DPRK; or
(c) acting on behalf of DPRK;
Paragraph (a) of the definition of “DPRK financial institution” should cover a range of persons and entities that are in some way regulated, registered, incorporated or licensed under any DPRK law where that person or entity conducts any of the activities listed in the definition of “financial institution”. For example, Paragraph (a) would cover a company (not necessarily a bank) incorporated in DPRK that conducts any of the activities listed in the definition of “financial institution”. Paragraphs (b) and (c) cover unregulated persons and entities who are otherwise controlled by or acting on behalf of the DPRK government, regardless of whether there is a legal basis for the relationship.

“DPRK flagged vessel” means a vessel:
(a) regulated, registered or licensed under a law of DPRK; or
(b) owned or controlled by DPRK;

“DPRK person or entity” means:
(a) a person in the territory of DPRK; or
(b) a national of DPRK; or
(c) a body corporate incorporated under a law of DPRK; or
(d) the government of DPRK; or
(e) a public body, corporation or agency of the government of DPRK; or
(f) an entity owned or controlled by a person or entity mentioned in Paragraphs (a) to (e), including through illicit means; or
(g) a person or entity acting on behalf of, or at the direction of, a person or entity mentioned in Paragraphs (a) to (f);

“DPRK Resolution” means a United Nations Security Council Resolution related to DPRK that is listed in Schedule 3 or prescribed by Regulations;

“entity” includes any unincorporated body, group, association, organisation, institution or arrangement;

“extraordinary expense” means any payment which is not a basic expense or a contractual obligation that the [minister] considers:
(a) to be necessary; and
(b) does not violate the requirements of a counter-proliferation Resolution; and
(c) has been approved by the United Nations Security Council or its Committees;

“financial institution” means any person or entity that conducts any of the following activities for or on behalf of a customer:
(a) acceptance of deposits and other repayable funds from the public, including private banking;
(b) lending, including consumer credit, mortgage credit, factoring (with or without recourse), and financing of commercial transactions, including forfeiting;
(c) financial leasing other than in respect of arrangements relating to consumer products;
(d) the transfer of currency or value;
(e) issuing or managing means of payment, including credit and debit cards, cheques, travellers’ cheques, money orders and bankers’ drafts, and currency in non-physical form;
(f) issuing financial guarantees or commitments;
(g) trading in:
   (i) money market instruments;
   (ii) bearer negotiable instruments;
   (iii) foreign exchange;
   (iv) exchange, interest rate or index instruments;
   (v) transferable securities;
   (vi) commodity futures;
(h) participation in securities issues or the provision of financial services related to such issues;
(i) individual or collective portfolio management;
(j) safekeeping or administration of physical currency, bearer negotiable instruments or liquid securities on behalf of other persons;
(k) investing, administering or managing assets on behalf of other persons;
(l) providing an insurance service, including an insurance intermediary service;
(m) currency changing;

Note that the definition covers any person or any type of entity that carries out these activities, not only those classified as ‘banks’. Also note that the definition is slightly broader than the FATF definition of ‘financial institution’. For example, the reference to insurance covers a broad range of insurance products, including maritime and cargo insurance that are relevant in the proliferation financing context.

“financial service” means any activity listed in:
   (a) Paragraphs (a) to (m) of the definition of financial institution; or
   (b) Paragraphs (a)(i) to (v) of the definition of DNFBP; or
   (c) Paragraphs (b)(i) to (vi) of the definition of DNFBP; or
   (d) the provision of consultancy, training or advisory services related to the activities in Paragraph (a), (b) or (c);

“financial transaction” has the meaning given in Section 6A;

“frozen asset” means an asset which cannot be dealt with due to the prohibition imposed under Section 16, including a vessel that has been designated for this purpose by the United Nations Security Council or its Committees under a DPRK Resolution;

“government of Iran” includes:
   (a) a public body, corporation or agency of the government of the Iran; or
   (b) an entity owned or controlled by an entity mentioned in Paragraph (a); or
(c) a person or entity acting on behalf of, or at the direction of, an entity mentioned in Paragraphs (a) or (b);

“insurance service” means a service providing an undertaking or commitment under which a person is obliged, in return for payment, to provide another person, in the event of materialisation of a risk, with an indemnity or a benefit as determined by the undertaking or commitment, and includes underwriting insurance, re-insurance, placement of insurance and providing an insurance brokerage or other insurance intermediation service;

“Iran” means the Islamic Republic of Iran;

“Iranian person or entity” means:
   (a) a national of Iran; or
   (b) a body corporate incorporated under a law of Iran; or
   (c) an entity owned or controlled by a person or entity mentioned in Paragraphs (a) or (b); or
   (d) a person acting on behalf of or at the direction of a person or entity mentioned in Paragraphs (a) to (c); or
   (e) the government of Iran;

“Iran Resolution” means a United Nations Security Council Resolution related to Iran that is listed in Schedule 2 or prescribed by Regulations;

“Joint Comprehensive Plan of Action” means the Joint Comprehensive Plan of Action that is attached as Annex A to United Nations Security Council Resolution 2231;

“joint venture” means an arrangement between two or more persons or entities to cooperate on a project, initiative, business or activity, whether or not that arrangement has legal or equitable force or is based on legal or equitable rights;

“[minister]” means [relevant minister];

The powers given to the minister, particularly the power to designate persons and entities, have a significant impact on the rights of persons. As such, it is recommended that the relevant authority is a minister or other senior official. Another option to protect against possible abuse of power could be to nominate a committee or council of senior officials so that the power is not vested in a single person, so long as the committee or council can operate and make decisions efficiently.

“national” means citizen or permanent resident of [State];

“nuclear weapon” means any weapon that derives its destructive force from nuclear reactions and any explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used, and includes component parts of any such weapon;
The definition seeks to cover component parts of nuclear weapons and means of delivery of nuclear weapons, regardless of the purpose of the item and whether the weapon is in whole or in part.

“own” means having a legal entitlement, either directly or indirectly, to 25% or more of a body corporate or entity, and “owned” and “ownership” have corresponding meanings;

“person” means any natural person or body corporate;

“proliferation financing” has the meaning given by Section 6B;

“representative office” means a business office that is established by a body corporate in a foreign country, where the body corporate is not licensed to operate, to conduct marketing operations;

“Sanctions Secretariat” means the Sanctions Secretariat established under Section 51;

“subsidiary” means a body corporate that is owned or controlled by another body corporate that has greater than 50% of its voting stock;

“vessel” means any kind of vessel used in navigation by water, however propelled or moved, and includes the following:

(a) a barge, lighter or other floating craft; and
(b) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water;

States should ensure that the definition of ‘vessel’ corresponds with their national maritime legislation.

(2) For the purpose of a “DNFBP” defined in this section, a “trust or company service” includes any of the following:

(a) forming, registering or managing a body corporate or unincorporated legal entity;
(b) acting as, or arranging for another person to act as, a director or secretary of a company, the partner of a partnership or a similar position in relation to a body corporate or unincorporated legal entity;
(c) providing a registered office, business address, correspondence address or accommodation for a body corporate or unincorporated legal entity;
(d) acting as, or arranging for another person to act as, a trustee of an express trust or the equivalent function for another unincorporated legal entity;
(e) acting as, or arranging for another person to act as, a nominee shareholder for another person.

(3) For the purpose of a “trust or company service” mentioned in Subsection (2), an “unincorporated legal entity” includes any unincorporated foundation, association, partnership, undertaking, or legal arrangement, such as a trust, that has certain legal rights and obligations.
6A. Meaning of financial transaction

(1) A financial transaction is the transfer of an asset by any means, including physical or electronic transfer.

(2) A person conducts a financial transaction if the person is a party to the transaction, or procures or facilitates the transaction.
Chapter II: Proliferation financing

6B. Meaning of proliferation financing

(1) Proliferation financing is when a person:
   (a) makes available an asset; or
   (b) provides a financial service; or
   (c) conducts a financial transaction; and

   the person [knows that, or is reckless as to whether,] the asset, financial service or financial transaction is intended to, in whole or in part, facilitate an activity specified in Subsection (2) regardless of whether the specified activity occurs or is attempted.

(2) The specified activities are:
   (a) the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer, export, transhipment or use of:
      (i) nuclear weapons; or
      (ii) chemical weapons; or
      (iii) biological weapons; or
      (iv) materials related to nuclear weapons, chemical weapons or biological weapons that are prescribed by Regulations; or
   (b) the provision of technical training, advice, service, brokering or assistance related to any of the activities in Paragraph (a).

Countries should note the 2 mental elements of the offence suggested in square brackets and adopt the elements as appropriate in their jurisdiction. In considering the mental elements, countries should note that knowledge sets a high threshold for liability and is difficult to prosecute. The element of recklessness would capture a wider range of situations, for example, where a bank fails to exercise due diligence on a transaction.

7. Prohibition against proliferation financing

(1) A person must not engage in proliferation financing.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a period not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].
Sections 6B and 7 seek to implement the financial aspects of Operative Paragraphs (OP) (2) and (3)(d) of UNSCR 1540. These provisions also cover the proliferation activities of non-state actors.

The terms ‘nuclear weapons’, ‘chemical weapons’ and ‘biological weapons’ used in Section 6B(2)(a) are each defined terms in this Act. States should note that each definition includes not only the weapons themselves, but also their component parts and means of delivery. States should give careful attention to all materials captured by these definitions.

OP 3(d) of UNSCR 1540 requires the implementation of export controls, which extends beyond nuclear, chemical and biological weapons and their means of delivery to also cover “related materials”, which includes dual-use goods. In the absence of an export control regime in these model provisions, Sections 6B and 7 also seek to implement the financial prohibitions that should complement such export controls. Section 6B(2)(a)(iv) includes a reference to related materials prescribed by Regulations, which should specify the range of additional export-controlled items identified by States that fall into the category of related materials, including dual-use goods. States should closely consider their export control measures and how Sections 6B and 7 can be incorporated to complement those measures. For example, States should consider adding provisions to allow information and intelligence sharing between export control, customs and financial regulatory agencies.
Chapter III: Targeted financial sanctions

The requirements for implementing targeted financial sanctions relating to proliferation of WMD are very similar to those relating to terrorism. States may consider combining targeted financial sanctions for both terrorism and proliferation into a single regime. Note that while implementation of CTF and CPF sanctions are similar procedures, the underlying criminal activities can differ greatly from one another so internal practices to identify terrorism financing versus proliferation financing may nonetheless remain distinct.

Part I: Designation Process

8. Designations by the United Nations Security Council relating to Iran

(1) A designation of a person or entity by the United Nations Security Council or its Committees under an Iran Resolution shall:
   (a) have immediate application in [State]; and
   (b) have the immediate effect of imposing the prohibitions in Sections 16 and 17; and
   (c) shall continue in force until:
      (i) it expires under Subsection (2); or
      (ii) it is revoked by the United Nations Security Council or its Committees.

(2) A designation under Subsection (1) shall expire on 18 October 2023 unless otherwise decided by the United Nations Security Council.

The date of 18 October 2023 is 8 years after the Joint Comprehensive Plan of Action Adoption Day. This time limit is imposed by UNSCR 2231, OP 6(c). States should note that two potential decisions could occur at the international level that would impact on this timeframe. Firstly, the UNSC could find that there has been a failure by Iran to comply with the Joint Comprehensive Plan of Action, in which case, the targeted financial sanctions would continue to apply indefinitely. Alternatively, the International Atomic Energy Agency (IAEA) could find that all nuclear activities in Iran remain peaceful, in which case, the IAEA would provide a report to the UNSC which would need to make a determination that the targeted financial sanctions would no longer continue to apply. States should monitor decisions of the UNSC and IAEA to determine whether changes to the legislation are required to implement those decisions if they are made.

9. Designations by the United Nations Security Council relating to DPRK

(1) A designation of a person or entity by the United Nations Security Council or its Committees under a DPRK Resolution shall:
   (a) have immediate application in [State]; and
(b) have the immediate effect of imposing the prohibitions in Sections 16 and 17; and
(c) shall continue in force until it is revoked by the United Nations Security Council
or its Committees.

10. Designation by the [minister] relating to DPRK

(1) The [minister] may designate a person or entity if the [minister] has reasonable grounds
to believe that:
   (a) the person or entity is any of the following:
      (i) an entity of the Government of DPRK;
      (ii) an entity of the Workers’ Party of DPRK;
      (iii) is owned or controlled, directly or indirectly, by an entity mentioned in
            Subparagraph (i) or (ii);
      (iv) is acting on behalf of, or at the direction of, an entity mentioned in
            Subparagraph (i), (ii) or (iii); and
   (b) the person or entity is or has been involved in an activity listed in Subsection (2).

(2) The following activities are specified for the purpose of Subsection (1):
   (a) activities prohibited under Chapter IV; or
   (b) activities related to DPRK’s weapons of mass destruction or ballistic missile-
       related programmes; or
   (c) other activities prohibited by a DPRK Resolution; or
   (d) attempting, participating in or facilitating activities in Paragraphs (a), (b) or (c); or
   (e) assisting in the evasion of measures contained in a DPRK Resolution.

(3) The [minister] may take into consideration any relevant communication from a foreign
government or the United Nations Security Council or its Committees when deciding
whether a person or entity should be designated.

(4) The [minister’s] designation of a person or entity has immediate application in [State].

(5) The [minister’s] designation of a person or entity has the immediate effect of imposing the
prohibitions under Sections 16 and 17.

This Section gives effect to OP 32 of UNSCR 2270. The domestic designation process is very similar to
the domestic designation process required by UNSCR 1373 related to terrorism, although the grounds
for designation here are far more specific and relate only to DPRK. States should consider whether
the domestic designation process for DPRK, and the subsequent notification and other procedural
requirements for DPRK should be contained in one piece of legislation together with the domestic
designation process for terrorism pursuant to UNSCR 1373. This would enable States to utilise
authorities and mechanisms already in placed and implemented for the purposes of UNSCR 1373.
11. Duration of [minister’s] designation

(1) A designation made by the [minister] under Section 10 shall continue in force until:
   (a) it expires under Subsection (2); or
   (b) it is revoked by the [minister] under Section 12.

(2) A designation expires [3] years after the date on which it was made.

(3) The [minister] may extend the duration of a designation at any time before the designation expires if the Minister continues to be satisfied that the grounds for designation in Section 10 are met.

(4) A designation that has been extended by the [minister] under Subsection (3) expires [3] years after the date on which the extension was made.

(5) There is no limit to the number of times the [minister] can extend a designation.

States should choose a time period for expiry of a designation. The expiration of designations forces periodic reconsideration of the grounds for designation. This is a procedural safeguard to protect individual rights.

12. Revocation of [minister’s] designation

(1) The [minister] may revoke a designation prior to its expiry if the grounds for designation under Section 10 are no longer met.

(2) The revocation of a designation shall have immediate application in [State].

13. Judicial review

(1) Nothing in this Act limits a person’s right to seek [judicial review] of a designation by the [minister].

(2) The [court] may consider material in closed proceedings, and in the absence of the designated person or entity and their legal representative, where disclosure of the material would prejudice national security.

In relation to the reference to ‘judicial review’, it is recommended that States identify the relevant terminology for a review enabling a court to consider whether a legal error has been made.

In relation to Paragraph (2), States should adopt language consistent with the powers of the relevant court to consider material in closed proceedings, taking into account human rights and constitutional protections.
14. Notification of designations and revocations

(1) The [minister] must, without delay, use any necessary means to notify persons specified in Subsection (2) if:
   (a) a designation or revocation is made by the United Nations Security Council or its Committees under a DPRK Resolution or an Iran Resolution; or
   (b) a designation is made by the [minister] under Section 10; or
   (c) a revocation is made by the [minister] under Section 12; or
   (d) a designation has expired under Section 11(2) or (4).

(2) The following persons are specified for the purpose of Subsection (1):
   (a) a financial institution or DNFBP who has a reporting obligation under this Act [or the law on anti-money laundering and counter-terrorist financing]; and
   (b) any other person or entity considered necessary by the [minister], other than the designated person or entity, who should be notified in accordance with Section 15.

The reference in Paragraph (a) to ‘the law on anti-money laundering and counter-terrorist financing’ refers to a State’s legislation regulating financial institutions and DNFBPs for compliance with AML/CTF requirements.

Depending on whether you chose to put reporting obligations for financial institutions and DNFBPs in this Act or in AML/CTF legislation, the reference here should be to the appropriate law. Refer to comments on ‘reporting obligations’ below.

(3) The [minister] must, as soon as reasonably practicable, publish in any manner considered appropriate:
   (a) a designation or revocation made by the United Nations Security Council or its Committees under a DPRK Resolution or an Iran Resolution; or
   (b) a designation made by the [minister] under Section 10; or
   (c) a revocation made by the [minister] under Section 12; or
   (d) the expiry of a designation under Section 11(2) or (4).

States should note that pursuant to Sections 8, 9 and 10, decisions of the UNSC or the [minister] to designate persons or entities have the immediate effect of imposing the prohibitions in Sections 16 and 17. No other administrative process is required for those decisions to have legal effect. Section 14 recognises that in practice some form of communication of the UNSC or the [minister's] decision should take place and therefore outlines a possible communication process. However, legal obligations enter into effect at the time of the designation or revocation, not at the time the minister communicates the designation or revocation to relevant parties. To promote compliance with the legal obligations, it is recommended that the minister notify financial institutions and DNFBPs of designations or revocations ‘without delay’.
15. Notice of designation to a designated person or entity

(1) The [minister] must, within a reasonable time, make reasonable efforts to give written notice of their designation to:
   (a) a person or entity designated by the [minister] under Section 10; and
   (b) a person or entity designated by the United Nations Security Council or its Committees under a DPRK Resolution or an Iran Resolution if that person or entity is located within the territory of [State]; and
   (c) a person designated by the United Nations Security Council or its Committees under a DPRK Resolution or an Iran Resolution if that person is a national of [State]; and
   (d) a person designated by the United Nations Security Council or its Committees under a DPRK Resolution or an Iran Resolution if that person is a body corporate incorporated under a law of [State].

(2) The notice in Subsection (1) must contain the following matters as applicable:
   (a) the grounds for designation; and
   (b) the information relied on in making the designation, with the exception of information that, in the opinion of the [minister] acting reasonably, should not be disclosed on the grounds that it would prejudice national security; and
   (c) the duration of the designation; and
   (d) details of the prohibitions imposed; and
   (e) avenues to appeal the designation; and
   (f) the right to seek [judicial review] of the designation; and
   (g) information on the procedure for making an application for an authorisation under Section 40.

The language in Paragraph (2)(b) should reflect the legal basis on which your government can withhold information from the public. The phrase ‘prejudice national security’ is used in a number of States.

A three-stage process for notification is contemplated by Sections 14 and 15. Firstly, without delay, financial institutions, DNFBPs and any other person that is suspected of holding the asset of a designated person or entity should be notified. This notification should be carried out in a manner that does not alert the designated person or entity or allow the assets to dissipate. Secondly, it is recommended that information regarding designations and revocations is publically available in some form, for example on an official website of the Sanctions Secretariat. This should take place only after the specific notice to financial institutions, DNFBPs and other relevant persons. Thirdly, and lastly, reasonable efforts should be made to notify persons and entities designated by the [minister], or designated by the United Nations Security Council or its Committees and who are located in your State or are nationals of your State. Where a designated person or entity is located in your State or is a national of your State, the State has obligations to inform designated persons or entities of their rights, for example, the right to authorised access to assets or a right to appeal their designation etc. This is the basis of the third limb of the notification process.
Part II: Prohibitions

For all offences in this Act, ‘knowledge’ should be able to be inferred from objective factual circumstances. This is a common law principle that exists in many States. However, it may be the practice in some States that a provision needs to be included in every offence that knowledge can be inferred from objective factual circumstances. Without this principle, this mental element of the offence would be very difficult to prove.

16. Prohibition against dealing with assets

(1) A person must not deal with an asset knowing that, or reckless as to whether, the asset is owned, controlled or held, directly or indirectly, wholly or jointly:
   (a) by a designated person or entity; or
   (b) on behalf of a designated person or entity; or
   (c) at the direction of a designated person or entity.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx] or an amount equivalent to the value of the asset, whichever is greater.

(3) For the avoidance of doubt, Subsection (1) applies to any and all assets of persons and entities listed in Subsection (1) and is not limited to assets related to a specific act, plot or threat.

(4) Subsection (2) does not apply if the person has an authorisation under Section 40(2), (3) or (4).

(5) It is not a defence to Subsection (2) that a response from the [police] verifying a suspicion under Subsection 35(4) was not received.
The prohibition against dealing with assets implements the obligation to “freeze assets”. It clarifies what is meant by freezing an asset by articulating that it means you can no longer deal with the asset. “Deal” is a defined term. It means that you can no longer sell, supply, transfer, move, convert, dispose of or use the asset. However, the prohibition against dealing with assets does not give rise to an entitlement to confiscate those assets. Ownership of the asset does not change as a result of this provision.

The recklessness test in Subsection (1) is the broadest implementation of the prohibition against dealing with assets. This ensures that a person cannot continue to transact with assets even though they may also file a suspicious transaction report at the point when a suspicion is raised. This means, when a person has a suspicion that an asset is owned, controlled or held by or on behalf of or at the direction of a designated person or entity, then two obligations are invoked: 1) the obligation to file a suspicious transaction report under Section 37(4), AND 2) the prohibition against dealing with the asset pursuant to Section 16(2).

The proliferation of weapons of mass destruction has serious consequences for global, regional and national security and the safety of a State’s citizens. States should insert penalties commensurate with the gravity of the offences in this Act.

Fines for bodies corporate should generally be higher than fines for natural persons in order for the penalty to have a sufficient deterrent effect.

17. Prohibition against making assets available

(1) A person must not make an asset available knowing that, or reckless as to whether, it is being made available, directly or indirectly, wholly or jointly:
   (a) to a designated person or entity; or
   (b) to a person or entity owned or controlled by a designated person or entity; or
   (c) to a person or entity acting on behalf of a designated person or entity; or
   (d) for the benefit of a designated person or entity.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx] or an amount equivalent to the value of the asset, whichever is greater.

(3) For the purpose of Subsection (1), it is immaterial whether the asset is located inside or outside [State].
(4) Subsection (2) does not apply if:
   (a) the person has an authorisation under Section 40(2), (3) or (4); or
   (b) a payment, including by way of interest or other earnings, is made to an account
       containing frozen assets and that payment is also frozen.

18. [Deleted and incorporated into new section 22A]

Part III: Seizure of frozen assets

19. Court may grant order for seizure of frozen assets

(1) The [minister] may apply to the court for an order for an [authorised officer] to search for
    and seize a frozen asset.

(2) The [minister] may make an application to the court under Subsection (1) at the [enforcement
    authorities’] own instigation or upon the request of the holder of a frozen asset.

(3) On application by the [minister], the court may make an order for [an authorised officer] to
    search for and seize a frozen asset in the following circumstances:
        (a) the seizure is necessary in order to preserve the asset; or
        (b) there is a reasonable risk that the asset will dissipate.

(4) If during the course of a search under an order granted under Subsection (3), an [authorised
    officer] finds an asset that he or she has reasonable grounds to believe could have been
    included in the order had its existence been known at the time of application of the order,
    the [authorised officer] may seize that asset and the seizure order shall be deemed to
    authorize such seizure.

(5) An asset seized under an order granted under Subsection (3) may only be retained so long
    as the asset remains frozen under this Act.

19A. Appointment of an administrator

(1) The [minister] may appoint an administrator to manage an asset seized under Section 19.

(2) The administrator shall have all powers necessary to diligently and in good faith manage an
    asset seized under Section 19.

(3) The administrator shall only be appointed so long as the asset remains frozen under this Act.
Due to the fact that an asset freeze may continue for several years, this provision allows the State to seize and maintain frozen assets. States should ensure that this provision is adapted to reflect domestic legal authorities and processes for the seizure of assets. States should also ensure that they have effective asset management systems in place so that frozen assets are preserved. States should consider any liabilities that may arise in relation to assets under State management, for example, where an asset is de-valued, damaged or destroyed. Provisions for seizing assets can be particularly useful where States have banking rules that prohibit dormant bank accounts to remain open past a certain period of time.

States should note that, in general, the seizure of frozen assets does not create a right to confiscation of those assets. The exception to this rule is OP 14 of UNSCR 1874 regarding the DPRK, which allows States to dispose of designated vessels in a manner not inconsistent with obligations under relevant UNSCRs. In this context, disposal includes storage, destruction or transfer to another State. This exception in relation to vessels recognises the financial and practical difficulties faced by States in maintaining a vessel that is subject to an asset freeze.
Chapter IV: Other financial measures relating to DPRK

20. Prohibition on financing related to DPRK

(1) A person must not knowingly or recklessly make available an asset or financial service to a DPRK person or entity that could contribute to an activity specified in Subsection (4).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(6).

(4) For the purpose of Subsection (1), the activities specified are:
   (a) the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer or use of a Controlled Item; or
   (b) the provision of technical training, advice, services, brokering or assistance related to any of the activities in Paragraph (a); or
   (c) any activity that facilitates DPRK's nuclear or ballistic missile programmes; or
   (d) any activity prohibited by a DPRK Resolution; or
   (e) assisting the evasion of measures imposed by a DPRK Resolution.

21. Prohibition on financial transactions related to DPRK

(1) A person must not knowingly or recklessly conduct a specified financial transaction that could contribute to an activity specified in Subsection (4).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(6).

(4) For the purpose of Subsection (1), the activities specified are:
   (a) the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer or use of a Controlled Item; or
(b) the provision of technical training, advice, services, brokering or assistance related to any of the activities in Paragraph (a); or
(c) any activity that facilitates DPRK’s nuclear or ballistic missile programmes; or
(d) any activity prohibited by a DPRK Resolution; or
(e) assisting the evasion of measures imposed by a DPRK Resolution.

(5) In this section, “specified financial transaction” means a financial transaction to which a DPRK person or entity is a party, or which has been procured or facilitated by a DPRK person or entity.

22. Prohibition on financial support for trade with DPRK

(1) A person must not provide an asset or financial service knowing that, or reckless as to whether, the asset or financial service is intended to facilitate trade with a DPRK person or entity.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:

(a) If the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
(b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(6).

22A. Prohibition on joint ventures

(1) A person must not establish or maintain a joint venture knowing that, or reckless as to whether, any or all of the following persons or entities are a party to the joint venture:
   (a) a DPRK person or entity; or
   (b) a person or entity designated by:
      (i) the United Nations Security Council or its Committees under a DPRK Resolution; or
      (ii) the [minister] under Section 10; or
   (c) an entity owned or controlled by a person or entity mentioned in Paragraph (b); or
(d) a person acting on behalf of, or at the direction of, a person or entity mentioned in Paragraphs (b) or (c).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
(a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or
(b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(6).

References are made in various prohibitions in this Act to “maintaining” certain things, for example, see the reference in Subsection (1) above to “maintaining a joint venture”. States should consider whether these references to “maintaining” are better encapsulated in transitional provisions according to their domestic practices so that upon entry into force of this Act, existing joint ventures or accounts etc. as applicable must be terminated within set timeframes and no new joint ventures or accounts etc. can be established.

23. Prohibition on relationships with DPRK financial institutions

(1) A financial institution must not:
(a) establish or maintain a joint venture with a DPRK financial institution; or
(b) obtain or maintain ownership or control of a DPRK financial institution; or
(c) establish or maintain a correspondent relationship with a DPRK financial institution

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
(a) if the offender is a natural person – a fine not exceeding [xx]; or
(b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the financial institution has an authorisation under Section 40(6).

(4) The offence under Subsection (2) is a strict liability offence.

24. Prohibition on financial institutions maintaining offices or accounts in DPRK

(1) A financial institution must not establish or maintain a representative office, branch, subsidiary or account in the territory of DPRK.

(2) A person who contravenes Subsection (1) is guilty of an offence.
Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx]; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the financial institution has an authorisation under Section 40(6).

(4) The offence under Subsection (2) is a strict liability offence.

25. Prohibition on DPRK financial institutions maintaining offices in [State]

(1) A DPRK financial institution must not establish or maintain a representative office, branch, subsidiary or account in the territory of [State].

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx]; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) The offence under Subsection (2) is a strict liability offence.

26. Prohibition on accounts related to DPRK missions

(1) A financial institution must not open or maintain an account in [State] knowing that, or reckless as to whether, the account holder is a person or entity specified in Subsection (3) without authorisation from the [minister] under Section 40(6).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx]; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) For the purpose of Subsection (1), the following persons and entities are specified:
   (a) a DPRK diplomatic mission or consular post; or
   (b) a DPRK diplomatic agent or consular officer; or
   (c) a person or entity owned or controlled by a person or entity in Paragraphs (a) or (b); or
   (d) a person acting on behalf of, or at the direction of, a person or entity in Paragraphs (a), (b) or (c).
This prohibition is to implement OP 16 of UNSCR 2321, which limits DPRK diplomatic missions, consular posts, accredited diplomats and consular officers to only one bank account per mission, post, diplomat and officer. The intention is that in order to regulate the number of bank accounts DPRK missions and diplomats have in your State, financial institutions have to seek authorisation to open or maintain a bank account for a person specified in this provision. A single financial institution may not know whether a specified person has an account with another financial institution. However, a State’s financial intelligence unit, regulatory or law enforcement authority would be able to obtain this information. Therefore, an obligation is imposed to obtain an authorisation to establish or maintain an account for a specified person.

27. Prohibition against financial transactions related to professional or commercial activities

(1) A person must not conduct a financial transaction relating to professional or commercial profit-making activities knowing that, or reckless as to whether, the financial transaction is with, or on behalf of, a DPRK diplomatic agent.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

28. Prohibition against sale, lease or hire of real property

(1) A person must not sell, lease, sub-lease or hire real property to a specified person or entity listed in Subsection (3) knowing that, or reckless as to whether, the real property may be used for an activity other than a diplomatic or consular activity.

(2) A person who contravenes Subsection (1) is guilty of an offence.

(3) For the purpose of Subsection (1) the specified persons and entities are:
   (a) the government of DPRK; or
   (b) a public body, corporation or agency of the government of DPRK; or
   (c) a DPRK diplomatic mission or consular post; or
   (d) a DPRK diplomatic agent or consular officer; or
   (e) an entity owned or controlled by a person or entity in Paragraphs (a) to (d); or
   (f) a person acting on behalf of, or at the direction of, a person or entity in Paragraphs (a) to (e).
Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

29. Prohibition against dealing with or insuring DPRK flagged vessels

(1) A person must not:
   (a) deal with a DPRK flagged vessel; or
   (b) provide an insurance service in relation to a DPRK flagged vessel.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) If the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(6).

(4) The offence under Subsection (2) is a strict liability offence.

29A. Prohibition against insuring other vessels

(1) A person must not provide an insurance service in relation to a vessel that the person knows, or has reasonable grounds to suspect, has been, or is, involved in conduct prohibited by a DPRK Resolution.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) If the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(6).

30. Prohibition against leasing or chartering vessels or aircraft, or providing crew services

(1) A person must not lease or charter a vessel or aircraft, or provide a crew service to a person or entity knowing that, or reckless as to whether, the person or entity is:
   (a) the government of DPRK; or
   (b) a public body, corporation or agency of the government of DPRK; or
   (c) owned or controlled by an entity mentioned in Paragraphs (a) or (b); or
(d) acting on behalf of, or at the direction of, an entity mentioned in Paragraphs (a) or (b).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:

(a) If the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or

(b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(6).

This Section is intended to implement OP 19 of UNSCR 2270 and OP 8 of UNSCR 2321. Note that where the person or entity is a designated person or entity, this prohibition is also covered by the targeted financial sanctions prohibition against making assets, which includes human resources, available to designated persons and entities under Section 17.

30A. Prohibition against procuring vessels or crew services from DPRK

(1) A person must not procure a vessel or crew service from a person or entity knowing that, or reckless as to whether, the person or entity is:

(a) the government of DPRK; or

(b) a public body, corporation or agency of the government of DPRK; or

(c) owned or controlled by an entity mentioned in Paragraphs (a) or (b); or

(d) acting on behalf of, or at the direction of, an entity mentioned in Paragraphs (a) or (b).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:

(a) If the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or

(b) if the offender is a body corporate – a fine not exceeding [xx].
Chapter V: Other financial measures relating to Iran

31. Prohibition on financing related to Iran

(1) A person must not knowingly or recklessly make available an asset or financial service to the government of Iran that could contribute to an activity specified in Subsection (4).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(5).

(4) For the purpose of Subsection (1), the activities specified are:
   (a) the manufacture, production, possession, stockpiling, storage, development, transportation, supply, sale, transfer or use of
      (i) materials, equipment, goods or technology listed in the following International Atomic Energy Agency documents:
         (iA) INFCIRC/254/Rev.12/Part 1; or
         (iB) INFCIRC/254/Rev.9/Part 2; or
      (ii) arms or related materiel; or
      (iii) ballistic missile-related goods; or
      (iv) materials, equipment, goods or technology that could contribute to reprocessing or enrichment-related or heavy water-related activities and that are prescribed by Regulations; or
   (b) the provision of technical training, advice, services, brokering or assistance related to any of the activities in Paragraph (a).

32. Prohibition on financial transactions related to Iran

(1) A person must not knowingly or recklessly conduct a specified financial transaction that could contribute to an activity listed in Subsection (4).

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].
(3) Subsection (2) does not apply if the person has an authorisation under Section 40(5).

(4) For the purpose of Subsection (1), the activities specified are:
   (a) the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer or use of
      (i) materials, equipment, goods or technology listed in the following International Atomic Energy Agency documents:
         (iA) INFCIRC/254/Rev.12/Part 1; or
         (iB) INFCIRC/254/Rev.9/Part 2; or
      (ii) arms or related materiel; or
      (iii) ballistic missile-related goods; or
      (iv) materials, equipment, goods or technology that could contribute to reprocessing or enrichment-related or heavy water-related activities and that are prescribed by Regulations; or
   (b) the provision of technical training, advice, services, brokering or assistance related to any of the activities in Paragraph (a).

(5) In this section, “specified financial transaction” means a financial transaction to which the government of Iran is a party, or which has been procured or facilitated by the government of Iran.

33. Prohibition on commercial activities

(1) A person must not sell, or otherwise make available, ownership in or control of a commercial activity specified in Subsection (4), knowing that, or reckless as to whether, the sale or availability is to an Iranian person or entity.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(3) Subsection (2) does not apply if the person has an authorisation under Section 40(5).

(4) For the purpose of Subsection (1), the following commercial activities are specified:
   (a) uranium mining; or
   (b) uranium production; or
   (c) manufacturing, producing, possessing, acquiring, stockpiling, storing, developing, transporting, supplying, selling, transferring or using:
      (i) materials, equipment, goods, or technology that are listed in International Atomic Energy Agency document INFCIRC/254/Rev.12/Part 1; or
      (ii) ballistic missile-related goods.
Chapter VI: Cross-border transportation of cash, precious metals and precious stones

The physical transportation of bulk cash and gold are well-documented proliferation financing methods, particularly in relation to DPRK. UNSCRs highlight the importance of monitoring the cross border transportation of cash, precious metals and precious stones. FATF Recommendation 32 also includes requirements for States to implement an effective regime for the declaration of cross-border transportation of ‘currency and bearer negotiable instruments’. States should ensure that they have an effective system of declaration of cross-border transportation of cash and bearer negotiable instruments, and that the system also covers precious metals, such as gold, and precious stones.
Chapter VII: Preventative measures for financial institutions and DNFBPs

The FATF Recommendations require financial institutions and DNFBPs to implement a range of preventative measures relating to AML/CTF. While not specifically required by UNSCRs or FATF Recommendations, it is recommended that States extend these preventative measures to cover counter-proliferation financing in addition to AML/CTF. Doing so promotes the effective implementation of UNSCRs. In particular, these preventative measures would assist in meeting the ‘vigilance measures’ contained in various UNSCRs related to DPRK. These vigilance measures include enhanced financial activity and entity monitoring. The preventative measures may also assist States in complying with FATF’s ‘effectiveness criteria’, in particular Immediate Outcome 11. Research by RUSI has demonstrated that mere transaction monitoring against sanctions lists is not an adequate response to counter-proliferation financing. Relevant preventative measures for financial institutions and DNFBPs that promote a more comprehensive response include: (a) obligations to undertake a risk assessment; (b) obligations for external audits; (c) obligations to adopt internal programmes; (d) obligations to perform customer due diligence; (e) obligations to conduct enhanced due diligence in relation to high risk jurisdictions, high risk business activities, and where the risk of [proliferation financing] is high; (f) obligations for due diligence in relation to correspondent banking relationships; and (g) obligations around record-keeping and transmittal of wire transfer information.
Chapter VIII: Reporting obligations

States should consider to whom reports under this Chapter should be made. This will depend to some extent on the supervisory framework that is adopted. States may wish to nominate the Sanctions Secretariat, the Financial Intelligence Unit and/or the sanctions supervisor as the competent authorities for receiving different types of reports.

34. Reporting obligations not limited

Nothing in this Act limits the reporting obligations on a financial institution or DNFBP imposed by the [law on anti-money laundering and counter-terrorist financing].

35. Request to verify

(1) A person who holds an asset which he or she suspects is, or may be, owned, controlled or held on behalf of, or at the direction of, a designated person or entity may make a request in writing to the [police] to verify that suspicion.

(2) The request must be accompanied by details of the asset and the owner or controller of the asset as known to the person making the request.

(3) The [police] must use their best endeavours to assist a person who has made a request under Subsection (1).

(4) As soon as is reasonably practicable after receiving a request under Subsection (1), the [police] must respond in writing stating that:
   - (a) it is likely that the property is owned or controlled by a designated person or entity; or
   - (b) it is unlikely that the property is owned or controlled by a designated person or entity; or
   - (c) it is unknown whether the property is owned or controlled by a designated person or entity.

States should nominate a first point of contact to assist with verification of identity requests. This may be a law enforcement agency, financial intelligence unit, or regulatory authority responsible for proliferation financing. The reference is made to ‘police’ in this provision, however, States may also nominate the Sanctions Secretariat as the first point of contact.
36. Obligation to report the assets of a designated person or entity

(1) A person who holds an asset of a designated person or entity must report the holding of that asset to the [Sanctions Secretariat OR relevant supervisor] as soon as reasonably practicable and in any event within [5 working days] from:
   (a) the date that person received notification of the designation under Section 14(1); or
   (b) the date of publication of the designation under Section 14(3); or
   (c) the date the asset of a designated person or entity came into the possession or control of that person.

(2) The report must include the following information, if available:
   (a) details of the asset; and
   (b) name and address of the owner or controller of the asset; and
   (c) details of any attempted transaction involving the asset, including:
      (i) the name and address of the sender; and
      (ii) the name and address of the intended recipient; and
      (iii) the purpose of the attempted transaction; and
      (iv) the origin of the asset; and
      (v) where the asset was intended to be sent.

(3) The report must be in accordance with any form or procedure specified by the [Sanctions Secretariat OR relevant supervisor].

(4) For the avoidance of doubt, the obligation to make a report under Subsection (1) is in addition to the obligation to make a suspicious transaction report under Section 37(4).

(5) A person who intentionally, or by negligence, fails to make a report under Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person - a fine not exceeding [xx]; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

Depending on the proliferation financing risks in your State, it may be that it is primarily financial institutions that may hold assets required to be frozen under this Act. If this is the case, States may wish to consider whether the relevant authority for the purpose of reporting obligations should be the financial intelligence unit. This would take advantage of the existing relationship and lines of communication between financial institutions and the financial intelligence unit. Alternatively, States could also consider whether reports should be provided to the relevant supervisor appointed under this Act.
37. Obligation to report suspicious transactions

(1) This section applies where a financial institution or DNFBP has reasonable grounds to suspect that information that is known to it may:
   (a) be relevant to the detection, investigation or prosecution of a person for money laundering, terrorist financing or any other [indictable OR serious] offence; or
   (b) be relevant to the detection, investigation or prosecution of a person for a foreign [indictable OR serious] offence; or
   (c) be relevant to the detection, investigation or prosecution of a person for conduct prohibited by a counter-proliferation Resolution; or
   (d) concern proceeds of crime.

Descriptions of the categories of offences in Subsection (1) should be adapted to suite the terminology adopted in each State’s domestic legislation on those matters, particularly the criminal or penal law, money laundering offence and proceeds of crime/asset recovery legislation.

(2) For the avoidance of doubt, Subsection (1) applies where a suspicion is formed after this Act enters into force, but that suspicion may be based on information obtained before this Act entered into force.

(3) Where Subsection (1) applies, a financial institution or DNFBP must take reasonable measures to ascertain the following information:
   (a) the purpose of the transaction; and
   (b) the origin of the funds; and
   (c) where the funds will be sent; and
   (d) the name and address of the person who will receive the funds; and
   (e) any other information that may be relevant to:
      (i) the prosecution or investigation of an offence of the kind mentioned in Paragraph (1)(a); or
      (ii) any proceedings under this Act or [the law on anti-money laundering and counter-terrorist financing]; or
      (iii) a proceeds of crime law of [State].

(4) Where Subsection (1) applies, a financial institution or DNFBP must make a suspicious transaction report to the [financial intelligence unit] as soon as is reasonably practicable and in any event within [5 working days] from the date the suspicion first arose.

States should ensure their AML/CTF legislation enables the financial intelligence unit to share information relating to proliferation financing with the relevant authorities for proliferation financing matters mentioned in this Act (the Sanctions Secretariat, the [minister], supervisors).
(5) A report under Subsection (4) must include:
   (a) such information mentioned in Subsection (3) that is known to the financial institution or DNFBP; and
   (b) any other information required by the [financial intelligence unit] that is known to the financial institution or DNFBP; and
   (c) the basis on which the suspicion has arisen.

(6) A financial institution or DNFBP must provide a report under Subsection (4) in accordance with any form and procedure specified by the [financial intelligence unit].

(7) A financial institution or DNFBP that has made a report in accordance with Subsection (4) must, if requested to do so by the [financial intelligence unit], provide to the [financial intelligence unit] any further information that it has relating to the suspicion.

(8) A person who intentionally, or by negligence, fails to make a report under Subsection (4) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx]; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(9) Nothing in this section precludes a financial institution or DNFBP from communicating to the [financial intelligence unit] any suspicion it may have prior to the making of a report under Subsection (4).

This is an example of provisions on ‘suspicious transaction reporting’ that includes a requirement to make a suspicious transaction report where offences related to proliferation financing are suspected. Neither the UNSCRs, nor the FATF Recommendations, require proliferation financing to be included in suspicious transaction reporting obligations. However, doing so is recommended in order to effectively implement the UNSCRs and may also be a measure that is considered in the context of the FATF’s ‘effectiveness criteria’ (IO. 11). States should note that the FATF Recommendations require a range of other measures around suspicious transaction reporting obligations. These would equally apply where the suspicious transaction report is made in relation to a proliferation financing offence under this Act. These other provisions are not included in this Act. Suspicous transaction reporting obligations and related provisions are ideally located within a State’s AML/CTF legislation. The example provisions are given here to encourage inclusion of proliferation financing in suspicious transaction reporting obligations.

FATF Recommendations require DNFBPs that undertake certain types of activities to make suspicious transaction reports. States should consider their domestic AML/CTF legislation on the circumstances under which DNFBPs are required to comply with reporting obligations and amend this provision accordingly.
38. Prohibition against disclosing report, information or suspicion

(1) Where Sections 35(1), 37(1) or 37(4) apply, a person must not, unless required to do so under this Act, disclose to anyone else:
   (a) that a suspicion has been formed under Section 35(1) or Section 37(1); or
   (b) a request has been made under Section 35(1); or
   (c) that a report has been made under Section 37(4); or
   (d) that a suspicion has been or may be communicated to the [financial intelligence unit] under Section 37(9); or
   (e) any other information from which a person could reasonably infer any of the matters in Paragraphs (a), (b), (c) or (d).

(2) Subsection (1) does not apply to disclosures made by the person to:
   (a) the [financial intelligence unit], [police] or [Sanctions Secretariat OR relevant supervisor] in accordance with this Act; or
   (b) a police officer for any law enforcement purpose; or
   (c) an officer, employee or agent of a financial institution for any purpose connected with the performance of that person’s anti-money laundering/counter-terrorist financing/counter-proliferation financing duties; or
   (d) a lawyer for the purpose of obtaining legal advice or representation in relation to the matter.

(3) Subsection (1) does not apply where a court is satisfied that disclosure is necessary in the interests of justice.

(4) A person who intentionally, or by negligence, discloses information in contravention of Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years, or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

39. Enhanced reporting obligations related to DPRK

(1) A financial institution or DNFBP must make a report to the [financial intelligence unit] where it has reasonable grounds to believe that:
   (a) a financial transaction exceeding [USD 10,000] was made or attempted and that financial transaction involves a DPRK person or entity; or
   (b) an account was opened or attempted to be opened by a DPRK person or entity; or
   (c) an asset of a value exceeding [USD 10,000] came under management or was requested to come under management and that asset is owned or controlled by a DPRK person or entity; or
(d) a front company, shell company, joint venture or other ownership or control structure exists and could be used to evade a prohibition in Chapter IV or any other measure contained in a DPRK Resolution.

(2) The report must include the following information, if applicable and available:
   (a) details of the account holder; and
   (b) name and address of the owner or controller of the asset; and
   (c) the origin of the asset; and
   (d) details of ownership and control structures; and
   (e) details of the transaction or attempted transaction, including:
       (i) the name and address of the sender; and
       (ii) the name and address of the intended recipient; and
       (iii) the purpose of the transaction or attempted transaction; and
       (iv) where the asset was intended to be sent.

(3) A financial institution or DNFBP must provide a report under Subsection (1) in accordance with any form and procedure specified by the [financial intelligence unit].

(4) A person who intentionally, or by negligence, fails to make a report under Subsection (1) is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx]; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(5) Nothing in this section precludes a financial institution or DNFBP from communicating to the [financial intelligence unit] any suspicion it may have prior to the making of a report under Subsection (1).

(6) For the avoidance of doubt, the obligation to make a report under Subsection (1) is in addition to the obligation to make a suspicious transaction report under Section 37(4).

The UNSCRs on DPRK extend beyond suspicious transaction reporting by requiring enhanced monitoring. These additional reporting obligations on financial institutions and DNFBPs are aimed at facilitating this enhanced monitoring in accordance with OP 11 of UNSCR 2094, OP 6 of UNSCR 2087, and OP 16 and OP 38 of UNSCR 2270.

States should define “front company” and “shell company” as used in Section 39(1) in accordance with relevant domestic laws. For the purpose of these model provisions, the terms refer to organisational structures used to shield a “parent” company from liability or scrutiny.
Chapter IX: Administration of the Act

Part I: Functions and powers of the [minister]

40. Authorisations by the [minister]

(1) A person may apply in writing to the [minister] for authorisation to act in contravention of a prohibition in this Act.

(2) In relation to a prohibition in Chapter III, Part II, the [minister] may grant an authorisation if the action contravening a prohibition is required to meet:
   (a) a basic expense; or
   (b) a contractual obligation; or
   (c) an extraordinary expense; or
   (d) a judicial, administrative or arbitral lien or judgement entered into prior to the designation of the person or entity, and the asset is necessary to satisfy that lien or judgement.

(3) In relation to persons and entities designated by the United Nations Security Council or its Committees under an Iran Resolution, the [minister] may also grant an authorisation if the action contravening a prohibition is:
   (a) necessary for a civil nuclear cooperation project described in Annex III of the Joint Comprehensive Plan of Action; or
   (b) necessary for any activity required for the implementation of the Joint Comprehensive Plan of Action.

(4) In relation to persons and entities designated by the United Nations Security Council or its Committees under a DPRK Resolution, the [minister] may also grant an authorisation if the action contravening a prohibition is:
   (a) necessary to carry out activities of DPRK’s missions to the United Nations and its specialized agencies and related organisations or other diplomatic and consular missions of DPRK; or
   (b) necessary for the delivery of humanitarian assistance; or
   (c) necessary for denuclearisation; or
   (d) a financial transaction with DPRK Foreign Trade Bank or Korea National Insurance Corporation and the financial transaction relates solely to the operation of diplomatic or consular missions in the DPRK or humanitarian assistance activities that are undertaken by, or in connection with, the United Nations.

(5) In relation to a prohibition in Chapter V relating to Iran, the [minister] may also grant an authorisation if the action contravening a prohibition:
   (a) is related to:
(i) equipment covered by B.1 of International Atomic Energy Agency document INFCIRC/254/Rev.12/Part 1 that is for light water reactors; or

(ii) low-enriched uranium covered by A.1.2 of International Atomic Energy Agency document INFCIRC/254/Rev.12/Part 1 that is incorporated in assembled nuclear fuel elements for light water reactors; or

(iii) materials, equipment, goods or technology listed in International Atomic Energy Agency document INFCIRC/254/Rev.9/Part 2 that is for exclusive use in light water reactors; or

(iv) materials, equipment, goods or technology that is directly related to:
   (ivA) the modification of two cascades at the Fordow facility for stable isotope productions; or
   (ivB) the modernisation of the Arak reactor based on the conceptual design agreed in the Joint Comprehensive Plan of Action; or
   (ivC) the export of Iran’s enriched uranium in excess of 300 kilograms in return for natural uranium; or

(b) has been approved by the United Nations Security Council or its Committees; or

(c) is consistent with any other exception provided by an Iran Resolution.

UNSCR 2231 does not prohibit the sale, supply or transfer of the items listed in Subsection 5(a), nor does it require United Nations Security Council approval for the sale, supply or transfer of these items. Nonetheless, States should note that they have obligations to ensure that: (a) the requirements, as appropriate, of the Guidelines as set out in the relevant INFCIRC documents have been met; (b) they have obtained and are in a position to exercise a right to verify the end-use and end-use location of any supplied item; (c) they notify the United Nations Security Council within 10 days of the supply, sale or transfer; and (d) in relation to items listed in the relevant INFCIRC documents, they also notify the International Atomic Energy Agency within 10 days of the supply, sale or transfer. Therefore, these model provisions include requirements to obtain authorisation to finance the sale, supply or transfer of these items so that States are in a position to meet the verification and notification requirements. States should note that the [minister] may have granted an authorisation for the activity, in which case, States should clarify that persons financing the activity may rely on the same authorisation.

States should note that in relation to Paragraph (b), the UNSC can approve nuclear materials as well as arms or related materiel and ballistic-missile related goods.

(6) In relation to a prohibition in Chapter IV relating to DPRK, the [minister] may also grant an authorisation if the action contravening a prohibition is:
   (a) necessary for the delivery of humanitarian assistance; or
   (b) necessary for livelihood purposes; or
   (c) has been approved by the United Nations Security Council or its Committees; or
   (d) is consistent with any other exception provided by a DPRK Resolution.

(7) The [minister] may not grant an authorisation if the authorisation would violate a provision of a counter-proliferation Resolution.
(8) The [minister] may impose any conditions on an authorisation.

(9) Prior to granting an authorisation, the [minister]:
   (a) must seek any approvals required by, and make any notifications required to, the United Nations Security Council or its Committees, and
   (b) may consider any communication from a foreign government relevant to the authorisation.

(10) Where an application is made under Subsection (1) the [minister] must determine the application within a reasonable time and respond to the applicant in writing to:
   (a) grant the authorisation, including any conditions attached to the authorisation; or
   (b) deny the authorisation.

There are complex grounds on which a State can grant an authorisation and these grounds differ with respect to various activities. It is strongly recommended that States develop an internal procedural guide that describes the basis on which authorisations can be granted in respect of various activities otherwise prohibited by this Act. The procedures should also provide detail on the communications to, and approvals from, the relevant Security Council Committee and the timing in which such communications need to be made. Such internal procedures could include a quick reference table of activities and requisite grounds for authorisation. The table may also be useful as a guidance document for industry, and States may wish to publish it as such.

40A. False matches

(1) An aggrieved person or entity may apply to the [minister] for a [direction] to unfreeze frozen assets.

(2) The [minister] shall issue a [direction] to unfreeze frozen assets if the [minister] is satisfied that the aggrieved person or entity is not a designated person or entity.

(3) The [minister] shall provide a copy of the direction to any person or entity in possession, custody or control of the frozen assets of the aggrieved person or entity.

(4) A person who fails to immediately comply with a [direction] by the [minister] under this section is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].
41. Annual report

(1) The [minister] must cause to be published an annual report regarding the administration of this Act.

(2) The report shall include information regarding:
   (a) designations and revocations made under this Act by the [minister]; and
   (b) designations and revocations made by the United Nations Security Council or its Committees relating to citizens of [State], bodies corporate incorporated under a law of [State] or persons located in [State]; and
   (c) international cooperation on matters relating to the administration of this Act; and
   (d) investigations and prosecutions for offences under this Act.

(3) Nothing in Subsection (2) requires the [minister] to disclose information that would [prejudice national security].

42. Report to United Nations Security Council or its Committees


(2) The report must contain information relevant to the implementation of United Nations Security Council Resolutions listed in a Schedule to this Act or prescribed by Regulations, including:
   (a) information regarding the evasion or attempted evasion of a prohibition under this Act; and
   (b) information that the [minister] believes would assist the United Nations Security Council or its Committees to carry out their functions under a United Nations Security Council Resolution listed in a Schedule to this Act or prescribed by Regulations.

43. Power to request information and documents

(1) Where the [minister] believes that it is necessary for the purpose of carrying out their functions under this Act, the [minister] may request, in writing, any person to provide information or produce documents in their possession or subject to their control.

(2) The [minister] may specify the manner in which, and the period within which, information or documents are to be provided.

(3) A request made under Subsection (1) may include a continuing obligation to keep the [minister] informed as circumstances change, or on such regular basis as the [minister] may specify.
(4) Notwithstanding any other Act or any contractual obligation imposing confidentiality obligations, a person must comply with a request made under Subsection (1).

(5) For the avoidance of doubt, Subsection (4) does not affect [legal professional privilege].

**44. Production of documents**

Where a request is made for the production of documents, the [minister] may:

(a) take copies of or extracts from any document so produced; and

(b) request any person producing a document to give a written explanation of it.

**45. Failure to comply with a request for information or documents**

(1) A person who:

(a) fails to comply with a request made under Section 43(1); or

(b) gives information, or produces a document, knowing it is false in a material particular in response to a request made under Section 43(1); or

(c) destroys, mutilates, defaces, conceals or removes a document with the intention of evading a request made under Section 43(1),

is guilty of an offence.

Penalty:

(a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or

(b) if the offender is a body corporate – a fine not exceeding [xx].

Offences for failure to comply with requests for information are not as severe as the offences relating to proliferation financing, and should therefore attract lesser penalties.

(2) It is a defence to a prosecution under Paragraph (1)(a) that the person has reasonable excuse for failing to comply with the request for information or documents.

(3) A person who gives information, or produces a document, reckless as to whether it is false in a material particular in response to a request made under Section 43(1) is guilty of an offence.

Penalty:

(a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or

(b) if the offender is a body corporate – a fine not exceeding [xx].
(4) Where a person is convicted of an offence under this Section, the [court] may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

46. Information to be confidential

Information obtained by the [minister] under this Act is confidential information and can only be disclosed in accordance with Section 47.

47. Disclosure of information by the [minister]

The [minister] may disclose any information obtained under this Act to any agency or body, including an international agency or body or an agency or body of a foreign government, for any of the following purposes:

(a) detecting, investigating or prosecuting an offence;
(b) enforcing a [proceeds of crime law];
(c) promoting, monitoring or enforcing compliance with this Act or the financial sanctions law of another State;
(d) enabling or assisting an official trustee to discharge his functions under enactments relating to insolvency;
(e) monitoring or enforcing compliance with enactments relating to anti-money laundering and counter-terrorist financing;
(f) monitoring or enforcing compliance with [trade, export, or customs laws];
(g) enabling or assisting international law enforcement cooperation under police to police cooperation mechanisms, [mutual legal assistance laws] or other relevant mechanisms and laws;
(h) enabling or assisting any State or territory outside [State] to exercise functions corresponding to those of the [minister] under this Act;
(i) enabling or assisting the United Nations Security Council or its Committees in implementing United Nations Security Council Resolutions listed in Schedule 1 or prescribed by Regulations.

47A. Proposal for designation of person or entity to United Nations Security Council

(1) The [minister] shall be responsible for identifying persons or entities that they have reasonable grounds to believe meet the criteria for designation by the United Nations Security Council or its Committees under a DPRK Resolution or an Iran Resolution.

(2) The [minister] shall report such identified persons or entities to the United Nations Security Council or its Committees using the procedure specified by the United Nations Security Council or its Committees.
(3) The [minister] shall consult with any [intelligence agency, law enforcement agency, regulatory authority or other government body] necessary to determine whether there are reasonable grounds to believe that a person or entity meets the criteria for designation.

47B. State-sponsored application for revocation of designation

(1) The [minister] shall consider any request for assistance to challenge the designation of [a person or entity subject to your country’s jurisdiction] by the United Nations Security Council or its Committees.

(2) Subject to Subsection (3), a decision to provide assistance is at the discretion of the [minister].

(3) The [minister] shall consider whether:
   (a) there are reasonable grounds to believe that the person or entity meets the criteria for designation by the United Nations Security Council or its Committees under a DPRK Resolution or an Iran Resolution; or
   (b) the designated person is dead; or
   (c) the designated entity has ceased to exist.

(4) If the [minister] decides to provide assistance in response to a request under Subsection (1), the [minister] shall do so using the procedure specified by the United Nations Security Council or its Committees.

48. Communications to/from United Nations Security Council or foreign governments

The [minister] may either directly or through diplomatic channels transmit, receive and respond to communications from foreign governments or the United Nations Security Council or its Committees with regard to the powers exercisable under this Act.

49. Power to make regulations

(1) The [minister] may make Regulations consistent with this Act prescribing all matters which are:
   (a) required or permitted to be prescribed by this Act; or
   (b) necessary or convenient to be prescribed for giving effect to this Act.

(2) Without limiting subsection (1), the Regulations may prescribe additional United Nations Security Council Resolutions or additional goods, items or materials.

50. Delegation of authority

The [minister] may delegate, in writing, to an officer of the Sanctions Secretariat the exercise of any or all of his or her powers and functions under this Act, other than the power of delegation conferred by this section, the designation power under Section 10, the power to extend a designation under Section 11(3) and the revocation power under Section 12.
Part II: Sanctions Secretariat

51. Sanctions Secretariat

(1) There is established a Sanctions Secretariat.

(2) The Sanctions Secretariat may exercise functions and powers necessary to support the [minister] in the administration of this Act, including:

   (a) maintaining a website with publicly available information relating to this Act; and
   (b) providing access to lists of all designated persons and entities; and
   (c) specifying such forms and notices as are necessary in the implementation of this Act; and
   (d) receiving reports under [Section 36(1) of this Act OR Section X of the law on anti-money laundering and counter-terrorist financing]; and
   (e) facilitating the sharing of information with other agencies or bodies in accordance with Section 47; and
   (f) publishing information on procedures for disputing a prohibition under Section 16 or 17 on the basis of a false match against a list of designated persons or entities; and
   (g) publishing information on procedures for appealing a designation to the [minister] or to the United Nations Security Council or its Committees.

You may wish to nominate an existing agency to undertake the functions under this Section. For the purpose of these model provisions, a ‘Sanctions Secretariat’ has been created and so named to support the [minister] and receive delegations of functions and powers from the [minister]. In some States, it may be that the [minister] is already able to delegate functions to his/her department and that department is already administratively required to support the [minister]. If that is the case, you may not need to establish a ‘Sanctions Secretariat’; the functions of the Sanctions Secretariat under Subsection 51(2) can simply be attributed to the [minister] and delegated by the [minister] as appropriate to his/her department under Section 50.

States may choose to develop and maintain a Consolidated List of all UN and domestic designations or use the Consolidated List of designations by United Nations Security Council Committees available at this website [https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list] and create a separate list of designations by the [minister] under this Act.

Amend Subsection 2(d) as necessary to reflect the legislation which contains the reporting obligations. If reporting obligations are contained in other legislation, ensure that the other legislation enables the reports to be shared with the Sanctions Secretariat. This should include the sharing of suspicious transaction reports related to financial sanctions.
Part III: National Coordinating Committee

52. [National coordinating committee on counter-proliferation financing]

(1) There is established a [national coordinating committee on counter-proliferation financing].

(2) The [national coordinating committee on counter-proliferation financing] shall consist of a representative from:
   - the [ministry of foreign affairs]; and
   - the [ministry of justice/home affairs/attorney-general/public prosecutor]; and
   - the [customs/border control]; and
   - every supervisor appointed under this Act; and
   - the [police]; and
   - the [financial intelligence unit]; and
   - the [central bank]; and
   - the [trade/export/investment authority]; and
   - the [intelligence agency]; and
   - the Sanctions Secretariat; and
   - such other persons as are invited from time to time by the [minister].

(3) The chair of the [national coordinating committee on counter-proliferation financing] shall be the [minister].

(4) The [national coordinating committee on counter-proliferation financing] must be convened on a regular basis as determined by the [minister].

This section provides an indicative list of ministries or departments that may be involved in a State’s counter-proliferation financing system. If States wish to expand an existing AML/CTF national coordinating committee to include counter-proliferation financing, States should note that the range of ministries or departments involved in counter-proliferation financing will be broader than those involved in AML/CTF. Note that the [committee] does not need to be held at the ministerial level. The Act allows the [minister] to delegate this function to the Sanctions Secretariat. Indeed, it is recommended that this [committee] is held at the officer or senior officer level to facilitate the exchange of information and maintain flexibility.

53. Functions of the [national coordinating committee]

The functions of the [national coordinating committee on counter-proliferation financing] are to:
   - facilitate necessary information sharing between supervisors, the [minister], and other agencies involved in the operation of the counter-proliferation financing system; and
   - facilitate the production and dissemination of information on the risks of proliferation financing in order to give advice and make decisions on counter-
proliferation financing requirements and the risk-based implementation of those requirements; and

(c) facilitate co-operation amongst supervisors and consultation with other agencies in the development of counter-proliferation financing policies and legislation; and

(d) facilitate consistent and co-ordinated approaches to the development and dissemination of counter-proliferation financing guidance materials and training initiatives by supervisors; and

(e) facilitate good practice and consistent approaches to supervision of this Act; and

(f) provide a forum for examining any operational or policy issues that have implications for the effectiveness or efficiency of the counter-proliferation financing system.

States may wish to have a National Coordinating Committee on ‘counter-proliferation’, not just counter-proliferation financing.
Chapter X: Supervision and enforcement

Part I: Supervision

54. Appointment of supervisors

(1) The following supervisors are appointed for monitoring and enforcing compliance with this Act:
   
   (a) [specify regulatory authority] for [specify industry sector to be supervised]
   
   (b) ........
   
   (c) ........

(2) If the products or services provided by a person or entity are covered by more than one supervisor:
   
   (a) the supervisors concerned will agree on the relevant supervisor for that person or entity; and
   
   (b) the relevant supervisor will notify the person or entity accordingly.

States may wish to appoint a single supervisor, for example, the Sanctions Secretariat or the financial intelligence unit. Alternatively, States may wish to appoint several supervisors. These supervisors may be prudential regulatory authorities with responsibility to regulate specific sectors. Subsection (2) is recommended to avoid confusion where several supervisors are appointed.

55. Functions of supervisors

The functions of a supervisor appointed under Section 54 are to:

   (a) monitor and assess the level of risk of proliferation financing across all of the persons and entities that it supervises; and
   
   (b) monitor the persons and entities that it supervises for compliance with this Act and for this purpose to develop and implement a risk-based supervisory programme; and
   
   (c) provide guidance and feedback to the persons and entities it supervises in order to assist those persons and entities to comply with this Act; and
   
   (d) produce codes of practice for compliance with this Act; and
   
   (e) receive reports under [Section 36(1) of this Act OR Section X of the law on anti-money laundering and counter-terrorist financing]; and
   
   (f) enforce compliance with this Act; and
   
   (g) co-operate through the Sanctions Secretariat and the [national coordinating committee for counter-proliferation financing] (or any other mechanism that may be appropriate) with domestic and international counterparts to ensure the consistent, effective, and efficient implementation of this Act.
States should consider whether compliance with a code of practice can be considered by a court in proceedings when determining whether a person has acted in contravention of a prohibition under this Act. States may need to adopt special provisions enabling a court to consider codes of practice.

States should amend Paragraph (e) as necessary to reflect the legislation which contains the reporting obligations. If reporting obligations are contained in other legislation, ensure that the other legislation enables the reports to be shared with the Sanctions Secretariat and supervisor/s, as appropriate.

56. Delegation of authority

A supervisor may delegate, in writing, to a suitable officer the exercise of any or all of the supervisor’s powers and functions under this Act.

Part II: Powers of supervisors

57. Power to request information and documents

(1) Where a supervisor believes that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Act, the supervisor may request, in writing, any person to provide information or produce documents in their possession or subject to their control.

(2) A supervisor may specify the manner in which, and the period within which, information or documents are to be provided.

(3) A request made under Subsection (1) may include a continuing obligation to keep the supervisor informed as circumstances change, or on such regular basis as the supervisor may specify.

(4) Notwithstanding any other Act or any contractual obligation imposing confidentiality obligations, a person must comply with a request made under Subsection (1).

(5) For the avoidance of doubt, Subsection (4) does not affect [legal professional privilege].

58. Production of documents

Where a request is made for the production of documents, a supervisor may:

(a) take copies of or extracts from any document so produced; and

(b) request any person producing a document to give a written explanation of it.
59. Power to conduct on-site inspections

(1) A supervisor may, at any reasonable time, enter and remain at any place (other than a [residential dwelling]) for the purpose of conducting an on-site inspection of a person or entity that it supervises.

(2) During an inspection, a supervisor may require any employee, officer, or agent of the person or entity that it supervises to answer questions relating to its records and documents and to provide any other information that the supervisor may reasonably require for the purpose of the inspection.

(3) A person is not required to answer a question asked by a supervisor under this section if the answer would or could incriminate the person.

(4) Before a supervisor requires a person to answer a question, the person must be informed of the right specified in Subsection (3).

(5) Nothing in this section requires a lawyer to disclose a privileged communication.

In relation to Subsection (5), States should adopt terminology that corresponds with domestic rules around legal professional privilege.

60. Failure to comply with a request for information or documents

(1) A person who:
   (a) fails to comply with a request made under Section 57(1) or Section 59; or
   (b) gives information, or produces a document, knowing it is false in a material particular in response to a request made under Section 57(1) or Section 59; or
   (c) destroys, mutilates, defaces, conceals or removes a document with the intention of evading a request made under Section 57(1) or Section 59,

   is guilty of an offence.

Penalty:
   (a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or
   (b) if the offender is a body corporate – a fine not exceeding [xx].

(2) It is a defence to a prosecution under Paragraph (1)(a) that the person has reasonable excuse for failing to comply with the request for information or documents.

(3) A person who gives information, or produces a document, reckless as to whether it is false in a material particular in response to a request made under Section 57(1) or Section 59 is guilty of an offence.
Penalty:

(a) if the offender is a natural person – a fine not exceeding [xx] or imprisonment for a term not exceeding [xx] years or both; or

(b) if the offender is a body corporate – a fine not exceeding [xx].

(4) Where a person is convicted of an offence under this Section, the [court] may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

61. Information to be confidential

Information obtained by a supervisor under this Act is confidential information and must only be disclosed in accordance with Section 62.

Where a supervisor is also a regulatory authority, States should consider whether information obtained under this Act by a supervisor can be used for the purposes of carrying out its functions as a regulatory authority under the regulatory law; and vice versa. If this is the case, States should adopt provisions giving effect to this right. States should also consider whether the supervisor is required to inform a person of the purpose for which the information is sought and the fact that the information may be used for another purpose.

62. Disclosure of information by a supervisor

A supervisor may disclose any information obtained under this Act to any agency or body, including an international agency or body or an agency or body of a foreign government, for any of the following purposes:

(a) detecting, investigating or prosecuting an indictable offence;

(b) enforcing a [proceeds of crime law];

(c) promoting, monitoring or enforcing compliance with this Act or the financial sanctions law of another State;

(d) enabling or assisting an official trustee to discharge his functions under enactments relating to insolvency;

(e) monitoring or enforcing compliance with enactments relating to anti-money laundering and counter-terrorist financing;

(f) monitoring or enforcing compliance with [trade, export or customs laws];

(g) enabling or assisting international law enforcement cooperation under police to police cooperation mechanisms, [mutual legal assistance laws] or other relevant mechanisms and laws;

(h) enabling or assisting any State or territory outside [State] to exercise functions corresponding to those of a supervisor under this Act;

(i) enabling or assisting the [minister] in implementing United Nations Security Council Resolutions listed in Schedule 1 or prescribed by Regulations.
Part III: Enforcement

63. Enforcement measures

(1) A supervisor may do one or more of the following where it has reasonable grounds to believe that a person or entity that it supervises has contravened a prohibition or failed to meet an obligation under this Act:
   (a) issue a formal warning under Section 63A; or
   (b) issue an infringement notice under Section 64; or
   (c) accept an enforceable undertaking under Section 65 and seek an order from the court for breach of that undertaking under Section 66; or
   (d) seek a performance injunction from the court under Section 67; or
   [(e) institute civil penalty proceedings].

(2) This Act does not affect a power of a regulatory authority to suspend, revoke, impose conditions upon, or amend the conditions of, a license, practising certificate, registration or other equivalent permission granted to a person or entity by that regulatory authority or to exercise any of its other powers or functions.

Criminal offences are provided under each prohibition in this Act. However, supervisors should also have a range of non-criminal enforcement measures available to them. The severity of the breach should guide the determination of which enforcement measure should be used. Where States have civil penalty regimes, it is recommended that civil penalty proceedings be included among the enforcement measures. A specific civil penalty provision is not included here since States have different rules for how and when civil penalty proceedings may be brought, the relationship between civil and criminal proceedings relating to the same breach and the relationship between infringement notices (fines) and civil or criminal proceedings.

Subsection (2) highlights the point that States should ensure that relevant regulatory authorities have the power in their respective laws to suspend or revoke a license or registration for contravention of a prohibition under this Act. This may need to be done by way of amendment to the underlying licensing/registration regime. Alternatively, some States may be able to add it as an enforcement measures under Subsection (1).

63A. Formal warning

(1) A supervisor may issue one or more formal warnings to a person or entity that it supervises where the supervisor has reasonable grounds to believe that the person or entity has contravened a prohibition or failed to meet an obligation under this Act.

(2) A formal warning must be in the prescribed form and issued in the prescribed manner.
64. Infringement notice

(1) A supervisor may serve an infringement notice, in writing, to a person or entity that it supervises where the supervisor has reasonable grounds to believe that the person or entity has contravened a prohibition or failed to meet an obligation under this Act.

(2) A person or entity to whom an infringement notice has been served must, within [30 days] of the date the notice was served, pay a penalty not exceeding:
   (a) [xx] for an individual; or
   (b) [xx] for a body corporate.

(3) A supervisor may publish in any manner considered appropriate an infringement notice issued to a person or entity.

65. Enforceable undertaking

(1) A supervisor may request a written undertaking from a person or entity in connection with compliance with this Act.

(2) Without limiting Subsection (1), a written undertaking may relate to an activity of a person or entity or to an officer, employee, agent or a group of officers, employees or agents of the person or entity.

(3) A person or entity may give the supervisor a written undertaking in connection with compliance with this Act.

(4) The terms of an undertaking under this Section must be lawful and in compliance with this Act.

66. Enforcement of undertaking

(1) If the supervisor considers that a person or entity has breached one or more of the terms of an undertaking it provided under Section 65, the supervisor may apply to the court for an order under Subsection (2).

(2) If the court is satisfied that:
   (a) the person or entity has breached one or more of the terms of its undertaking; and
   (b) the undertaking was relevant to the person or entity’s obligation under this Act,
the court may make an order directing the person or entity to comply with any of the terms of the undertaking.
67. Performance injunctions

(1) A supervisor may apply to the court for an injunction requiring a person or to do an act in order to comply with this Act.

(2) Further to an application under Subsection (1), the court may grant an injunction requiring a person to do an act if it is satisfied that:
   (a) a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do an act; and
   (b) the refusal or failure was, is or would be a contravention of this Act.

(3) An injunction granted by the Court under Subsection (2) may relate to an officer, employee or agent, or a group of officers, employees or agents of the person or entity the subject of the performance injunction.

(4) An application made under Subsection (1) may be made ex parte and the court may grant an interim injunction under Subsection (2) without the defendant being heard when the court considers it appropriate to do so.

(5) Where the court has granted an injunction under Subsection (2), a supervisor may publish a notice outlining the details of the person or entity’s non-compliance and any remedial action ordered by the court.
Chapter XI: Miscellaneous

68. Protection from liability for acts done in good faith

No person is subject to any civil or criminal liability, action, claim or demand for anything done or omitted to be done in good faith in accordance with this Act.

This Section aims to protect all persons, including financial institutions and DNFBPs, against liability for actions or omissions in pursuance of complying with any or all requirements of this Act.

69. Immunity of State

No minister or official of the government of [State] and no person acting at the direction of a minister or official of the government of [State] is subject to any civil or criminal liability, action, claim or demand for anything done or omitted to be done in good faith for the purpose of discharging a duty, performing a function or exercising a power under this Act.

70. Imputing conduct to bodies corporate

For the purpose of the Act, any conduct engaged in on behalf of a body corporate by an employee, agent or officer of the body corporate acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, is conduct also engaged in by the body corporate.

71. Liability of officers of bodies corporate

(1) If a body corporate contravenes a provision of this Act and the contravention is attributable to an officer of the body corporate failing to take reasonable care, the officer is guilty of an offence and liable to a fine not exceeding the maximum for an offence constituted by a contravention by a natural person of the provision contravened by the body corporate.

(2) In determining whether an officer of a body corporate is guilty of an offence, regard must be had to:
   (a) what the officer knew about the matter concerned; and
   (b) the extent of the officer’s ability to make, or participate in the making of, decisions that affect the body corporate in relation to the matter concerned; and
   (c) whether the contravention by the body corporate is also attributable to an act or omission of any other person; and
   (d) any other relevant matter.
(3) An officer of a body corporate may be found guilty of an offence in accordance with Subsection (1) whether or not the body corporate has been convicted or found guilty of the crime committed by it.

(4) For the purpose of this section, an “officer” of a body corporate includes a person who makes or participates in the making of decisions that affect the whole or a substantial part of the body corporate’s business and a person who has the capacity to affect significantly the body corporate’s financial standing.
Schedule 1: United Nations Security Council Resolutions on counter-proliferation

United Nations Security Council Resolutions on the proliferation of nuclear, chemical and biological weapons and their means of delivery:
Successor resolutions to the above Resolution

United Nations Security Council Resolutions on Democratic People’s Republic of Korea:
Resolution 2371 (2017) of the Security Council, adopted on 5 August 2017
Resolution 2375 (2017) of the Security Council, adopted on 11 September 2017
Resolution 2397 (2017) of the Security Council, adopted on 22 December 2017
Successor resolutions to any of the above Resolutions

United Nations Security Council Resolutions on Iran:
Successor resolutions to any of the above Resolutions
Schedule 2: United Nations Security Council Resolutions related to Iran

Successor resolutions to any of the above Resolutions

Resolution 2371 (2017) of the Security Council, adopted on 5 August 2017
Resolution 2375 (2017) of the Security Council, adopted on 11 September 2017
Resolution 2397 (2017) of the Security Council, adopted on 22 December 2017
Successor resolutions to any of the above Resolutions
Schedule 4: Controlled Items related to DPRK

1. The following items are IMPORT and EXPORT controlled items:

   Restrictions apply on sale, supply or transfer of these items, wherever situated, that are destined for the DPRK or for any person in the DPRK. Also restricted is the import, purchase or acquisition of these items, wherever situated, from a DPRK person or entity.

   **Arms or related materiel, including:**
   
   (a) weapons; and
   (b) ammunition; and
   (c) military vehicles and equipment, including:
       (i) battle tanks; and
       (ii) armoured combat vehicles; and
       (iii) large calibre artillery systems; and
       (iv) combat aircraft; and
       (v) attack helicopters; and
       (vi) warships; and
       (vii) missiles and missile systems,

   which have the same meanings as they have for the purposes of reports by member States to the United Nations Register of Conventional Arms established under United Nations General Assembly Resolution A/RES/46/36L of 6 December 1991; and

   (d) spare parts and accessories for the items mentioned in Paragraph (a), (b) or (c); and

   (e) paramilitary equipment, including:
       (i) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes; and
       (ii) tear gas and other riot control agents; and
       (iii) body armour, bullet resistant apparel and helmets; and
       (iv) handcuffs, leg-irons and other devices used for restraining prisoners; and
       (v) riot protection shields; and
       (vi) whips; and
       (vii) parts and accessories designed or adapted for use in, or with, equipment mentioned in Paragraphs (i) to (vi).

   **Weapons of mass destruction related material**, that is items, materials, equipment, goods or technology:

   (a) listed in any of the following documents:
       (i) Security Council document S/2006/853;
       (ii) Security Council document S/2006/853/CORR.1;
       (iii) Security Council document S/2016/308;
       (iv) Security Council document S/2016/1069;
(v) Security Council document S/2017/728;
(vi) Security Council document S/2017/760;
(ix) International Atomic Energy Agency document INFCIRC/254/Rev.8/Part 2;
(x) International Atomic Energy Agency document INFCIRC/254 Rev.10/Part 2;
(xi) International Atomic Energy Agency document INFCIRC/254/Rev.11/Part 1;
(xii) International Atomic Energy Agency document INFCIRC/254/Rev.13/Part 1;
(xiii) Annex III to United Nations Security Council Resolution 2321; or

(b) that could contribute to weapons of mass destruction-related programmes and are prescribed by Regulations.

**Ballistic missile-related goods**, that is items, materials, equipment or technology:

(a) listed in Security Council document S/2014/253; or

(b) that could contribute to ballistic missile-related programmes or weapons of mass destruction delivery systems and are prescribed by Regulations.

**Items, materials, equipment or technology** that could contribute to the operational capabilities of DPRK armed forces and are prescribed by Regulations.

2. The following items are EXPORT controlled items:

Restrictions apply on the sale, supply or transfer of these items, wherever situated, that are destined for the DPRK or for any person in the DPRK.

**Aviation fuel**, including aviation gasoline, naptha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel, except for aviation fuel provided to a DPRK passenger aircraft for its return flight to the DPRK.

**Condensates** of all kinds, or natural gas liquids.

**Refined petroleum products**.

**Crude oil**.

**Iron, steel or other metals (HS codes 72 to 83)**.

**Helicopters, aircraft, vessels and transportation vehicles (HS codes 86 to 89)**.

**Luxury goods**, including jewellery with pearls, gems, precious and semi-precious stones (including diamonds, sapphires, rubies and emeralds), jewellery of precious metal or of metal
clad with precious metal, yachts, luxury automobiles and motor vehicles, automobiles and other motor vehicles to transport people, including station wagons but excluding motor vehicle for public transport, racing cars, luxury watches, including wrist and pocket watches and watches with a case of precious metal or metal clad with precious metal, aquatic recreational vehicles (such as personal watercraft), snowmobiles (valued greater than $2,000), items of lead crystal, recreational sports equipment, rugs and tapestries (valued greater than $500), tableware of porcelain or bone china (valued greater than $100).

Any other item prescribed by Regulations.

Luxury goods and other export-controlled goods have been added to this list. OP 11 of UNSCR 2094 requires States to prohibit the transfer of financial services or financial or other assets or resources in relation to “other activities prohibited by” UNSCRs relating to DPRK. UNSCR 1718 and subsequent resolutions prohibit the sale, supply or transfer of luxury goods and other goods to/from DPRK. A list of luxury goods is specified by the UNSCRs, however, States are required to add other items they determine to be luxury goods. This could be done in Regulations to these model provisions.

3. The following items are IMPORT controlled items:

Restrictions apply on importing, purchasing or acquiring these items, wherever situated, from a DPRK person or entity.

Coal.

Iron and iron ore.

Lead and lead ore.

Gold, titanium ore, vanadium ore, copper, silver, nickel, and zinc.

Seafood, including fish, crustaceans, molluscs and other aquatic invertebrates in all forms, and fishing rights related to such products.

Statues.

Food and agricultural products (HS codes 12, 08, 07).

Textiles, including fabrics and partially and fully completed apparel products.

Machinery (HS code 84).

Electrical equipment (HS code 44).
Industrial machinery (HS codes 84 and 85).

Wood (HS code 44).

Earth and stone, including magnesite and magnesia (HS code 25).

Rare earth minerals prescribed by Regulations.

Glossary of acronyms:

DPRK = Democratic People’s Republic of Korea
FATF = Financial Action Task Force
UNSCR = United Nations Security Council Resolution

Note that the references to UNSCRs in this table refer to those that contain the primary obligation or a substantive update that may impact on legislative provisions. There are additional successor resolutions that update lists of designated persons and entities or lists of prescribed goods that States should also be aware of for effective implementation but that may not impact on legislative provisions.

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| Requirement to implement designation of persons and entities by United Nations Security Council or its Committees (as well as persons and entities acting on their behalf or at their direction, and entities owned or controlled by them) by enforcing:  
- freezing of ‘assets’ (funds, financial assets and economic resources)  
- preventing assets from being made available.  
UNSCR 2094 on DPRK, OP 8 clarifies that ownership and control of an entity includes by *illicit means*. |
| Chapter III Targeted financial sanctions:  
Section 8 UNSC Designations relating to Iran  
Section 9 UNSC Designations relating to DPRK  
Section 16 Prohibition against dealing with assets  
Section 17 Prohibition against making assets available |
| UNSCR 2231 on Iran, Annex B paragraph 6(c) and 6(d)  
FATF Recommendation 7 |
| Exceptions for basic expenses and contractual obligations apply as well as exceptions on other grounds. |
| Chapter IX Administration of the Act:  
Section 40 Authorisations by the [minister] |
| UNSCR 2270 on DPRK, OP 32 |
| Requirement for countries to enforce:  
- freezing of assets  
- preventing assets from being made available, to certain persons and entities of the DPRK that the country determines is associated with DPRK’s nuclear or ballistic missile programs. |
| Chapter III Targeted financial sanctions:  
Section 10 Designation relating to DPRK  
Section 16 Prohibition against dealing with assets  
Section 17 Prohibition against making assets available  
Chapter IX Administration of the Act:  
Section 40 Authorisations by the [minister] |
| UNSCR 2270 on DPRK, OP 12 |
| Defines ‘economic resources’ broadly, as any asset, *actual or potential*, that may be used to obtain funds, goods or services, *such as vessels, including maritime vessels*. |
| Chapter I Preliminary:  
Section 6 Definitions of ‘asset’, including economic resources |
|----------------------|------------------------|------------------|
| UNSCR 2270 on DPRK, OP 23  
UNSCR 2321 on DPRK, OP 12 | Provides that designated Offshore Marine Management (OMM) vessels are economic resources that should be subject to asset freezing requirements. | Chapter I Preliminary:  
Section 6 Definitions of ‘asset’ includes vessels. The note to this definition highlights the list of OMM vessels that should be subject to the asset freezing requirements in Annex III of UNSCR 2270. |
| FATF Recommendation 7, Interpretive Note and Methodology | Provides a range of standards for the implementation of targeted financial sanctions related to proliferation financing. | Chapter III Targeted financial sanctions:  
Sections 11 to 15 relating to designation and notification processes  
Section 19 Court may grant order for seizure of frozen assets  
Section 19A Appointment of an administrator  
Chapter VIII Reporting obligations:  
Sections 35 and 36 on verification and reporting of assets of a designated person or entity  
Chapter IX Administration of the Act:  
All sections, including Section 40 Authorisations by the [minister]  
Chapter X Supervision and enforcement:  
All sections |
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<tr>
<td>FATF Immediate Outcome 1</td>
<td>Coordinate actions domestically to combat proliferation. Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds consistent with relevant UNSCRs.</td>
<td>Chapter VIII Reporting obligations: Sections 34 to 36, which relate to targeted financial sanctions</td>
</tr>
<tr>
<td>FATF Immediate Outcome 11</td>
<td></td>
<td>Chapter IX Administration of the Act: All sections, including Section 52 and 53 regarding a National Coordination Committee</td>
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<td>Chapter X Supervision and enforcement: All sections</td>
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<td><strong>Vigilance measures related to DPRK</strong></td>
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<td>UNSCR 1695 on DPRK, OP 4</td>
<td>Require States to: - exercise vigilance to prevent transfer of financial resources to DPRK - monitor the activities of financial institutions of the DPRK and those acting on their behalf or direction - apply enhanced monitoring to prevent transactions related to DPRK’s nuclear or ballistic missile programs or other activities prohibited by the resolutions - be alert to the risk of bulk cash being used to evade sanctions measures</td>
<td>Chapter VI Cross-border transportation of cash, precious metals and precious stones Chapter VII Preventative measures for financial institutions and DNFBPs Chapter VIII Reporting obligations: Sections 37 to 39 on suspicious transaction reporting and enhanced reporting obligations (The above measures are not FATF requirements so far as they relate to proliferation financing, however, they do form key components of the FATF standards on anti-money laundering and counter-terrorism financing. Implementing these measures is also extremely useful in countering-proliferation financing. They assist to meet the vigilance measures outlined here as well as supervising and enforcing the broader counter-proliferation financing measures described elsewhere in this table in relation to non-state actors, Iran and DPRK.)</td>
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<tr>
<td><strong>Other financial measures relating to DPRK</strong></td>
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<td><strong>Measures related to financial activities</strong></td>
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| UNSCR 2270, OP 6  
UNSCR 1718, OP 8(a) and (c)  
(Note successor resolutions have added to the list of items covered) | Prohibit assistance, services and financial transactions to/from DPRK related to the supply, sale or transfer of weapons of mass destruction, all arms and related materiel | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Schedule 4 Controlled Items related to DPRK |
| UNSCR 2270, OP 33 | Countries must prohibit branches, subsidiaries and representative offices of DPRK banks.  
Financial institutions must be prohibited from establishing joint ventures, taking an ownership interest in, or establishing or maintaining correspondent relationships with DPRK banks; except with those the Committee approves on a case-by-case basis.  
Existing branches, subsidiaries and representative offices, joint ventures, ownership interests and correspondent banking relationships with DPRK must be closed within 90 days. | Chapter IV Other financial measures relating to DPRK:  
Section 23 Prohibition on relationships with DPRK financial institutions  
Section 24 Prohibition on financial institutions maintaining offices or accounts in DPRK  
Section 25 Prohibition on DPRK financial institutions maintaining offices in [State] |
| UNSCR 2270, OP 34 | Requires countries to prohibit financial institutions from opening new representative offices or subsidiaries, branches or bank accounts in the DPRK. | Chapter IV Other financial measures relating to DPRK:  
Section 24 Prohibition on financial institutions maintaining offices or accounts in DPRK |
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<tr>
<td>UNSCR 2270, OP 35 UNSCR 2321, OP 31</td>
<td>Requires countries to take measures to close existing representative offices, subsidiaries or bank account in the DPRK where there are reasonable grounds to believe that such financial services could contribute to DPRK's nuclear or ballistic missile programmes; except if the Committee approves on a case-by-case basis where the services are required for: - humanitarian assistance - diplomatic activities - other purposes consistent with UNSCRs.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 24 Prohibition on financial institutions maintaining offices or accounts in DPRK Chapter IX Administration of Act: Section 40 Authorisations by the [minister]</td>
</tr>
<tr>
<td>UNSCR 2321, OP 16</td>
<td>States must limit the number of bank accounts of DPRK diplomatic missions and consular offices and DPRK diplomats and consular officers.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 26 Prohibition on accounts related to DPRK missions Chapter IX Administration of the Act: Section 40 Authorisations by the [minister]</td>
</tr>
<tr>
<td>UNSCR 2321, OP 17</td>
<td>States must prohibit diplomatic agents of DPRK from receiving personal profit from professional or commercial activities.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 27 Prohibition against financial transactions related to professional or commercial activities</td>
</tr>
<tr>
<td>UNSCR 2321, OP 18</td>
<td>Prohibit the use of real property owned or leased by DPRK from being used for any purpose other than diplomatic or consular activities.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 28 Prohibition against sale, lease or hire of real property</td>
</tr>
<tr>
<td>UNSCR 2270, OP 37 UNSCR 2094, OPs 11 and 14 UNSCR 2321, OP 35</td>
<td>Prohibit transfer of bulk cash and gold to DPRK that could be used to evade UNSCR requirements.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 21 Prohibition on financial transactions related to DPRK Chapter VI Cross-border transportation of cash, precious metals and precious stones</td>
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<td>UNSCR 2270 on DPRK, OP 15</td>
<td>Prohibition against designated persons and entities participating in joint ventures and business arrangements.</td>
<td>Chapter IV Other financial measures relating to DPRK:</td>
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<td>Section 22A Prohibition on joint ventures</td>
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<td>Chapter IX Administration of the Act:</td>
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<td>Section 40 Authorisations by the [minister]</td>
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<tr>
<td>UNSCR 2375, OP 18</td>
<td>Prohibit the opening, maintenance and operation of all joint ventures or cooperative entities with DPRK persons and entities except those approved by the Committee on a case-by-case basis. Exception applies to certain infrastructure projects.</td>
<td>Chapter IV Other financial measures relating to DPRK:</td>
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<td>Section 22A Prohibition on joint ventures</td>
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<td>Chapter IX Administration of the Act:</td>
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<td>Section 40 Authorisations by the [minister]</td>
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<tr>
<td>UNSCR 2270, OP 36</td>
<td>Prohibition on public and private financial support for trade with DPRK, including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade; except as approved by the Committee on a case-by-case basis.</td>
<td>Chapter IV Other financial measures relating to DPRK:</td>
</tr>
<tr>
<td>UNSCR 2321, OP 32</td>
<td></td>
<td>Section 22 prohibition on financial support for trade with DPRK</td>
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<td>Chapter IX Administration of the Act:</td>
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<td>Section 40 Authorisations by the [minister]</td>
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<tr>
<td><strong>Financial measures related to import/export restrictions</strong></td>
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<td>UNSCR 2321, OP 26</td>
<td>Prohibition on supply, sale, transfer of coal, iron and iron ore, with exceptions. UNSCR 2397 adds iron, steel and other metals (HS codes 72 to 83) to the prohibited items, with the exception of spare parts needed to maintain the safe operation of DPRK commercial civilian passenger aircraft.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 20 Prohibition on financing related to DPRK Section 21 Prohibition on financial transactions related to DPRK Chapter IX Administration of the Act: Section 40 Authorisations by the [minister] Schedule 4 Controlled Items related to DPRK (The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.)</td>
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<td>UNSCR 2397, OP 7</td>
<td>Prohibition on supply, sale, transfer of coal, iron and iron ore, with exceptions. UNSCR 2397 adds iron, steel and other metals (HS codes 72 to 83) to the prohibited items, with the exception of spare parts needed to maintain the safe operation of DPRK commercial civilian passenger aircraft.</td>
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<tr>
<td>UNSCR 2321, OP 28</td>
<td>Prohibition on supply, sale, transfer of copper, nickel, silver and zinc.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 20 Prohibition on financing related to DPRK Section 21 Prohibition on financial transactions related to DPRK Schedule 4 Controlled Items related to DPRK (The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.)</td>
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| UNSCR 2270, OP 30    | Prohibition on supply, sale, transfer of gold, titanium ore, vanadium ore, and rare earth minerals. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Schedule 4 Controlled Items related to DPRK  
(The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.) |
| UNSCR 2371, OP 10    | Prohibition on sale, supply or transfer of lead and lead ore. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Schedule 4 Controlled Items related to DPRK  
(The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.) |
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| UNSCR 2375, OP 13    | Prohibition on sale, supply or transfer of condensates and natural gas liquids. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Schedule 4 Controlled Items related to DPRK  
(The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.) |
| UNSCR 2375, OP 14    | Prohibition on sale, supply or transfer of refined petroleum products. Exceptions apply. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Chapter IX Administration of the Act:  
Section 40 Authorisations by the [minister]  
Schedule 4 Controlled Items related to DPRK  
(The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.) |
|----------------------|------------------------|------------------|
| UNSCR 2397, OP 4     | Prohibition on sale, supply or transfer of crude oil. Exceptions apply. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Chapter IX Administration of the Act:  
Section 40 Authorisations by the [minister]  
Schedule 4 Controlled Items related to DPRK  
(The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.) |
| UNSCR 2270, OP 31    | Prohibition on sale or supply of aviation fuel and kerosene-type rocket fuel, with exceptions. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Schedule 4 Controlled Items related to DPRK  
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<tr>
<td>UNSCR 2321, OP 30</td>
<td>Prohibition on the sale, supply or transfer of food and agricultural products (HS codes 12, 08, 07), machinery (HS code 84), electrical equipment (HS code 85), wood (HS code 44), earth and stone including magnesite and magnesia (HS code 25), vessels (HS code 89) and new and used vessels, helicopters, industrial machinery (HS codes 84 and 85), transportation vehicles (HS codes 86 to 89). Exceptions apply, including for spare parts needed to maintain the safe operation of DPRK commercial civilian passenger aircraft.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 20 Prohibition on financing related to DPRK Section 21 Prohibition on financial transactions related to DPRK Chapter IX Administration of the Act: Section 40 Authorisations by the [minister] Schedule 4 Controlled Items related to DPRK (The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.)</td>
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<td>UNSCR 2371, OP 9</td>
<td>Prohibition on the sale, supply or transfer of seafood, including fish, crustaceans, mollusks, and other aquatic invertebrates in all forms. UNSCR 2397 extends the prohibition to cover fishing rights and provides a time-limited exception.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 20 Prohibition on financing related to DPRK Section 21 Prohibition on financial transactions related to DPRK Chapter IX Administration of the Act: Section 40 Authorisations by the [minister] Schedule 4 Controlled Items related to DPRK (The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.)</td>
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<td>UNSCR 2397, OPs 6, 7 and 14</td>
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| UNSCR 2375, OP 16    | Prohibition on the sale, supply or transfer of textiles, including fabrics and partially or fully completed apparel products. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Chapter IX Administration of the Act:  
Section 40 Authorisations by the [minister]  
Schedule 4 Controlled Items related to DPRK  
(The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.) |
| UNSCR 2321, OP 29    | Prohibition on supply, sale or transfer of statues. | Chapter IV Other financial measures relating to DPRK:  
Section 20 Prohibition on financing related to DPRK  
Section 21 Prohibition on financial transactions related to DPRK  
Chapter IX Administration of the Act:  
Section 40 Authorisations by the [minister]  
Schedule 4 Controlled Items related to DPRK  
(The above are only financial measures. States primarily need to implement trade/export control measures to give effect to this requirement.) |
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<tr>
<td><strong>Financial measures related to vessels and aircraft</strong></td>
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</table>
| UNSCR 2270, OP 19  
UNSCR 2321, OP 8 | Prohibition on leasing or chartering vessels, aircraft, crew services to DPRK; except where Committee approves on a case-by-case basis. | Chapter IV Other financial measures relating to DPRK:  
Section 30 Prohibition against leasing or chartering vessels or aircraft, or providing crew services |
| UNSCR 2270, OP 20  
UNSCR 2321, OP 9 | Prohibition on owning, leasing, operating, or insuring a DPRK flagged vessel; except as approved by the Committee on a case-by-case basis. | Chapter IV Other financial measures relating to DPRK:  
Section 29 Prohibition against dealing with or insuring DPRK flagged vessels |
| UNSCR 2321, OP 22 | Prohibition on providing insurance or re-insurance to vessels owned, controlled or operated by DPRK; except where Committee approves on a case-by-case basis. | Chapter IV Other financial measures relating to DPRK:  
Section 29 Prohibition against dealing with or insuring DPRK flagged vessels |
| UNSCR 2397, OP 11 | Prohibition on providing insurance or re-insurance to vessels it has reasonable grounds to believe were involved in activities, or the transport of items, prohibited by UNSCRs related to DPRK, except where approved by the Committee on a case-by-case basis. | Chapter IV Other financial measures relating to DPRK:  
Section 29A Prohibition against insuring other vessels |
|                      |                        | Chapter IX Administration of the Act:  
Section 40 Authorisations by the [minister] |
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<tr>
<td>UNSCR 2321, OP 23</td>
<td>Prohibition on procuring vessels and aircraft crew services from DPRK.</td>
<td>Chapter IV Other financial measures relating to DPRK: Section 30A Prohibition against procuring vessels or crew services from DPRK</td>
</tr>
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**Other financial measures relating to Iran**

<table>
<thead>
<tr>
<th>UNSCR 2231, Annex B, Paragraphs 2 and 4</th>
<th>Prohibition on certain commercial activities related to Iran without Security Council approval. Exceptions apply in relation to certain activities.</th>
<th>Chapter V Other financial measures relating to Iran: Section 33 Prohibition on commercial activities</th>
</tr>
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<tr>
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<td>Chapter IX Administration of the Act: Section 40 Authorisations by the [minister]</td>
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<tr>
<td>UNSCR 2231, Annex B, Paragraphs 2, 4(b) and 5</td>
<td>Prohibition on making financial resources and financial services available related to the sale, supply or transfer of certain nuclear-related items, ballistic-missile related items and arms and related materiel without Security Council approval. Exceptions apply in relation to certain items.</td>
<td>Chapter V Other financial measures relating to Iran: Section 31 Prohibition on financing relating to Iran Section 32 Prohibition on financial transactions relating to Iran Chapter IX Administration of the Act: Section 40 Authorisations by the [minister]</td>
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