

**SECTOR GUIDELINES FOR IMPLEMENTATION
OF ASSET FREEZING REGIME**
凍結資產執行制度之業界指引

Pursuant to subparagraph 3) of paragraph 1 of Article 5 of Law no. 6/2016 (Asset Freezing Regime) which has taken effect since 30 August 2016, this Guideline is established to regulate the implementation measures for the asset freezing regime.
根據 2016 年 8 月 30 日生效之第 6/2016 號法律(凍結資產執行制度)第五條第一款(三)項之規定，本指引之制定旨在規範凍結資產執行制度的操作措施。

1. OBJECTIVE

標的

This guidelines is applicable to the entities referred to in Article 6 of Law no. 2/2006 as follows: -

本指引適用於以下第 2/2006 號法律第六條所指的實體：

1) Those subject to the supervision of the Monetary Authority of Macao, such as credit institutions, finance companies, offshore financial institutions, insurance companies, money changers and remittance companies;

受澳門金融管理局監管的實體，尤指信用機構、金融公司、離岸金融機構、保險公司、兌換店及現金速遞公司；

2) Those who are subject to the supervision of the Gaming Inspection and Coordination Bureau, such as entities that operate games of chance, lotteries, mutual bets and promoters of games of chance in casinos;

受博彩監察協調局監管的實體，尤指經營幸運博彩、彩票及互相博彩的實體，以及娛樂場幸運博彩中介人；

3) Traders of goods of very high unit value, such as entities trading in pawned objects, precious metals, precious stones and luxury transport vehicles;

從事涉及每件商品均屬貴重物品的交易的商人，尤指從事質押業的實體，以及從事貴重金屬、寶石及名貴交通工具的交易活動的實體；

4) That exercises the intermediary activities of real estate or of buying real estate for re-selling;

從事不動產中介業務，或從事購買不動產以作轉售的業務的實體；

5) Lawyers, solicitors, notaries, registrars, auditors, accountants and tax advisers, when participating or assisting, in the exercise of their professional activities, the operations of:

在從事本身職業時，參與或輔助進行以下活動的律師、法律代辦、公證員、登記局局長、核數師、會計師及稅務顧問：

- (1) Buying and selling of real property;
買賣不動產；
 - (2) Managing of client funds, securities or other assets;
管理客戶的款項、有價證券或其他資產；
 - (3) Managing of bank, savings or securities accounts;
管理銀行帳戶、儲蓄帳戶或有價證券帳戶；
 - (4) Organization of contributions necessary for the creation, operation or management of companies;
籌措用作設立、經營或管理公司的資金；
 - (5) Creation, operation or management of legal persons or entities without legal personality or buying and selling of enterprises.
設立、經營或管理法人或無法律人格的實體，又或買賣商業實體。
- 6) Providers of services, in preparing or performing operations for a customer, within the scope of the following activities:
提供勞務的實體，當其在以下業務範圍內為某客戶準備進行或實際進行有關活動時：

- (1) Acting as an agent in forming legal persons;
以代辦人身份設立法人；
- (2) Acting as a director or secretary of a company, a partner or holding of a similar position in relation to other legal persons;
作為某公司的行政管理機關成員或秘書、股東，又或作為其他法人的與上述者具有相同位置的人；
- (3) Providing a registered office, business address, correspondence or administrative address for a company, or any other legal person or entities without legal personality;
向某公司、其他法人或無法律人格的實體提供公司住所、商用地址、設施，又或行政或郵政地址；
- (4) Acting as a trustee;
作為信託基金或機構的管理人；
- (5) Acting as a partner of a company on behalf of another person;
在損益歸他人的情況下，以股東身份參與活動；
- (6) Carrying out the measures necessary for a third party to act in the manner prescribed in subparagraphs (2), (4) and (5).
進行必要措施，使第三人以（2）、（4）或（5）分項所指方式行事。

To ensure the safety and economic stability of Macao, and to comply with the requirements from international organizations in terms of legal framework and implementation to fight against terrorism and proliferation of weapons of mass destruction, Law no. 6/2016 “Asset Freezing Regime” was published in the Official Gazette on 29 August 2016 for the execution of freezing actions under UNSCRs

1267(1999), 1718(2006), 1737(2006), 1988(2011), and respective subsequent Resolutions, as well as any sanction lists of individuals, legal persons or entities designated by the Macao SAR Government under the general designation ruling of Law no. 6/2016 (UNSCR1373(2001)).

為保持澳門經濟體系安全穩健，並為履行國際組織有關打擊恐怖主義及大規模殺傷性武器擴散在法律框架和執行方面的要求，相關第 6/2016 號法律“凍結資產執行制度”於 2016 年 8 月 29 日政府公報內刊登，以執行載於聯合國安全理事會第 1267(1999)號決議、第 1718(2006)號決議、第 1737(2006)號決議、第 1988(2011)號決議及續後決議中的凍結決定，以及任何由澳門特別行政區政府根據第 6/2016 號法律經一般指定裁決之制裁名單內之個人、法人或實體（第 1373（2001）號決議）。

2. DUTIES OF REPORTING ENTITIES

舉報實體之義務

Entities referred to in Article 6 of Law no. 2/2006 are subject to the following duties:
根據第 2/2006 號法律第六條所指的實體須履行下列義務：

2.1 Freezing actions

凍結行為

2.1.1 Following the publication of the designation act of a natural or legal person or entity, freezing shall be immediately enforced regarding:

在公佈對自然人、法人或實體的指認行為後，隨即對以下資產進行凍結：

(a) Assets owned or, directly or indirectly, controlled by the designated person or entity;

由其擁有或由其直接或間接控制的資產；

(b) Assets derived or generated from the assets referred to in the previous subparagraph.

從上項所指的資產所衍生或產生的資產。

2.1.2 Whenever the Chief Executive determines, through an Executive Order , containing the freezing decision, the following assets shall also be frozen:

當行政長官通過行政長官批示命令，並明確地說明有關凍結決定時，亦對以下資產進行凍結：

(a) Assets owned or, directly or indirectly, controlled by natural or legal persons or entities acting on behalf of or at the direction of the designated person or entity;

以被指認人或實體的名義或按其指示行事的自然人、法人或實體擁有或直接或間接控制的資產；

(b) Assets owned or, directly or indirectly, controlled by legal persons or entities that are owned or controlled by the designated person or entity;

由被指認人或實體擁有或操控的法人或實體所擁有或直接或間接控制的資產；

(c) Assets derived or generated from the assets referred to in the previous subparagraphs;

從以上兩項所指的資產所衍生或產生的資產。

2.1.3 It is not permitted to participate in any activity aiming at or with the effect of hampering, directly or indirectly, the provisions of the previous paragraphs.

不允許參與任何以直接或間接阻礙以上兩款的規定為目的或效果的活動。

2.2 Prohibition to make assets available and to provide financial services

禁止提供資產及金融服務

2.2.1 Following the publication of the designation act of a natural or legal person or entity, it is not permitted to provide, directly or indirectly, such assets to the designated person or entity or to make them available for the benefit of that person or entity.

在公佈自然人、法人或實體的指認行為後，不允許直接或間接向其提供資產，或為其利益而動用該等資產。

2.2.2 Whenever the Chief Executive, determines, through an Executive Order containing the freezing decision, the following actions will also not be permitted:

當行政長官通過行政長官批示命令，並明確地說明有關凍結決定時，亦不允許：

(a) Make assets available, directly or indirectly, to natural or legal persons or entities acting on behalf of, or at the direction of, the designated person or

entity, as well as to legal persons or entities owned or controlled by the designated person or entity;

向以被指認人或實體的名義或按其指示行事的自然人、法人或實體，以及由其擁有或操控的法人或實體直接或間接提供資產；

- (b) Provide financial services to a designated natural or legal person or entity, and to persons or entities acting on behalf of, or at the direction of, the designated person or entity, and to legal persons or entities owned or controlled by the designated person or entity.

向被指認的自然人、法人或實體、以其名義或按其指示行事的人或實體，以及由其擁有或操控的法人或實體提供金融服務。

2.2.3 The previous paragraph 2.2 shall not apply to:

上述第 2.2 的規定不適用於：

- (a) Any amount of interest credited on frozen accounts or other values or amounts due on those accounts, provided that these interest, values or amounts are frozen in accordance with the Law;

被凍結帳戶應得的利息或其他款項的入賬，只要該等利息及其他款項按法律的規定被凍結；

- (b) Any amount credited on frozen accounts from payments due under contracts, agreements or any other obligations that were concluded or arose before the account become a frozen account, provided that such payments are frozen in accordance with the Law;

被凍結帳戶按其被凍結前訂立的合同、協定或產生的義務而應得的付款的入賬，只要該等付款按法律的規定被凍結；

- (c) Any amount credited on frozen accounts which has been received due to co-ownership partition or common patrimony partition provided for in paragraphs 1 and 2 of Article 10 provided that such amounts are frozen in accordance with the Law;

被凍結帳戶因第十條第一款及第二款規定的共有物的分割或分產而收到的付款的入賬，只要該等金額按法律的規定被凍結；

(d) Any other activities or operations expressly authorized in the concerned freezing decision.

有關凍結決定明確允許的任何其他活動或交易。

2.2.4 It is not permitted to participate in any activity aiming at or with the effect of hampering, directly or indirectly, the provisions of paragraphs 1 and 2.

不允許參與任何以直接或間接阻礙第一款及第二款的規定為目的或效果的活動。

2.3 Duty to communicate

通知義務

2.3.1 To communicate to the Asset Freezing Coordination Commission referred to in Law no. 6/2016 (hereafter referred to as the “Commission”) any action taken in compliance with Law no. 6/2016, inter alia information regarding frozen assets;

將為遵守第 6/2016 號法律作出的任何行為通知凍結制度協調委員會(下簡稱為“委員會”)，尤其是有關被凍結資產的資料；

2.3.2 To report to the Commission, within 2 working days upon its detection of any operation, where there is a reasonable presumption that a natural or legal person or entity is acting on behalf of, or at the direction of, a designated person or entity, or that the legal person or entity is owned or controlled by a designated person or entity;

在合理推定下，發現自然人、法人或實體以被指認人或實體的名義或按其指示進行的任何交易，又或一法人或實體由被指認人或實體所擁有或操控的相關情況起計兩個工作日內，向委員會通報；

2.3.3 To report to the Commission, within 2 working days upon its detection of an attempt to perform operations which violate the provisions of Article 7 or 8;

在發現企圖進行違反第七條或第八條規定的交易情況起計兩個工作日內，向委員會通報；

- 2.3.4 To collaborate with the Commission in the verification of information when required.

配合委員會查核資料的要求。

3. MATCHING CRITERIA

配對準則

- 3.1 The application of freezing measures under Articles 7 and 8 of Law no. 6/2016 under the specific designation of UNSCRs 1267(1999), 1718(2006), 1737(2006), 1988(2011) and respective subsequent Resolutions, as well as sanction lists of individuals, legal persons or entities designated by the Macao SAR Government under the general designation ruling of Law no. 6/2016 (UNSCR 1373(2001), should fulfil the standard of proof supporting the matching of identification. The information contained in the published database should be matched with the identification information of the persons and entities to whom the freezing measures are applied.

根據第 6/2016 號法律第七條和第八條針對載於聯合國安全理事會第 1267(1999)號決議、第 1718(2006)號決議、第 1737(2006)號決議、第 1988(2011)號決議及續後決議有關實施特定規範性指認，以及任何由澳門特別行政區政府根據第 6/2016 號法律經一般指定裁決之制裁名單內之個人、法人或實體（第 1373（2001）號決議）之凍結措施，有關凍結決定必須符合證實身份識別資料之準則。換言之，被實施凍結措施的個人和實體之身份識別資料必須與公佈的資料庫中的有關資料匹配。

- 3.2 The matching of identification information has to meet the following criteria:

有關身份識別資料配對必須符合下列準則：

- 3.2.1 Match of name, including aliases, if any, nationality and passport or ID card number, in the case of natural persons;

如屬自然人，其姓名，包括倘有的假名、國籍及護照或身份證號碼須匹配；

- 3.2.2 Match of name and place, date and number of registration, in the case of legal persons.

如屬法人，其名稱及登記地點、日期及編號須匹配。

- 3.3 In case the reporting entities lack information that can make a match as required in the previous paragraph, they should obtain the missing information by all means to confirm whether it is matched.

如舉報實體缺乏可以進行上述第 3.2 條要求的配對，則應儘可能透過所有方式取得所缺資料，以確認其是否匹配。

4. REPORTING OF FREEZING ACTIONS

凍結行為之通知

- 4.1 The Secretariat of the Commission is placed at GIF. Reporting entities should use the attached standard form for reporting to the Commission about the freezing actions applied. The reporting form should be submitted with details of all the accounts and assets which have been frozen.

金融情報辦公室為委員會秘書處。舉報實體應使用附件標準表格向委員會報告所採取的凍結行為。報告表格之提交應包括所有已凍結的帳戶和資產的詳細資料。

- 4.2 The obligation to communicate the freezing actions to the Commission does not impede the STR reporting obligation pursuant to Article 7 of Administrative Regulation no. 7/2006. Therefore, if reporting entities found suspicious in the person/entities concerned, in addition to the report to the Commission, they are still required to submit suspicious transaction reports to GIF pursuant to Article 7 of Administrative Regulation no.7/2006.

通知委員會凍結行為的義務不妨礙根據第 7/2006 號行政法規第 7 條規定的通知可疑交易之義務。因此，如果舉報實體發現有關個人或實體存在可疑，除了向委員會提交報告外，仍須根據第 7/2006 號行政法規第 7 條規定向金融情報辦公室提交可疑交易報告。

5. SANCTIONS

處罰

Pursuant to Article 32 of Law no. 6/2016, without prejudice to the applicable criminal sanctions, non-compliance with the provisions of Article 7, paragraphs 1, 2 and 4 of Article 8, and paragraph 1 of Article 16 of the Law constitutes an administrative infraction, punishable with a fine of:

根據第 6/2016 號法律第三十二條規定，不遵守該法律第七條、第八條第一款、第二款及第四款以及第十六條第一款的規定構成行政違法行為，並處以下列罰款，但不妨礙按情況所適用的刑事處罰：

- 1) 10,000.00 to 500,000.00 patacas to a natural person;
自然人，科澳門幣一萬元至五十萬元罰款；
- 2) 100,000.00 to 5,000,000.00 patacas for a legal person or entity.
法人或實體，科澳門幣十萬元至五百萬元罰款。