



STATUTORY INSTRUMENTS.

S.I. No. 35 of 2012



FINANCIAL TRANSFERS (IRAN) (PROHIBITION) ORDER 2012

(Prn. A12/0199)

FINANCIAL TRANSFERS (IRAN) (PROHIBITION) ORDER 2012

I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 4 of the Financial Transfers Act 1992 (No. 27 of 1992) and for the purpose of giving full effect to Council Regulation (EU) No. 961/2010 of 25 October 2010¹, as amended, and Council Regulation (EU) No. 359/2011 of 12 April 2011², as amended, hereby order as follows:

1. This Order may be cited as the Financial Transfers (Iran) (Prohibition) Order 2012.

2. (1) In this Order—

“Council Regulation (EU) No. 961/2010” means Council Regulation (EU) No. 961/2010 of 25 October 2010¹, as amended by—

(a) Council Implementing Regulation (EU) No. 503/2011 of 23 May 2011³,

(b) Council Implementing Regulation (EU) No. 1245/2011 of 1 December 2011⁴,

(c) Council Implementing Regulation (EU) No. 54/2012 of 23 January 2012⁵,

(d) Council Regulation (EU) No. 56/2012 of 23 January 2012⁶;

“Council Regulation (EU) No. 359/2011” means Council Regulation (EU) No. 359/2011 of 12 April 2011², as amended by Council Implementing Regulation (EU) No. 1002/2011 of 10 October 2011⁷.

(2) A word or expression which is used in this Order and which is also used in Council Regulation (EU) No. 961/2010 or Council Regulation (EU) No. 359/2011 has, unless the context otherwise requires, the same meaning in this Order as it has in the Council Regulation concerned.

3. A person shall not make a financial transfer between the State and another country the effect of which would be to enable or facilitate, directly or indirectly, the doing of any thing which is a breach of Council Regulation (EU) No. 961/2010 or Council Regulation (EU) No. 359/2011.

¹OJ No. L.281, 27.10.10, p.1.

²OJ No. L.100, 14.04.11, p.1.

³OJ No. L.136, 24.05.11, p.26.

⁴OJ No. L.319, 02.12.11, p.11.

⁵OJ No. L.19, 24.01.12, p.1.

⁶OJ No. L.19, 24.01.12, p.10.

⁷OJ No. L.267, 12.10.11, p.1.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 7th February, 2012.

4. Notwithstanding Article 3 of this Order, a person who has received an authorisation under Article 12, 13, 17, 18, 19, 19a or 21 of Council Regulation (EU) No. 961/2010 or an authorisation under Article 4, 5 or 7 under Council Regulation (EU) No. 359/2011 may, subject to compliance with the terms and conditions of such authorisation, do such of the things referred to in Article 3 of this Order as are so authorised.

5. The Central Bank of Ireland may, for the purpose of supervision of financial transfers and for the administration and enforcement of the provisions of this Order, give such directions or issue such instructions to a person as it sees fit.

6. A person to whom a direction has been given or an instruction issued under Article 5 of this Order shall comply with such direction or instruction.

7. A person shall not do anything to directly or indirectly assist in the circumvention of the provisions of this Order.

8. The Financial Transfers (Iran) (Prohibition) (No.3) Order 2011 (S.I. No. 565 of 2011) is revoked.



GIVEN under my Official Seal,
3 February 2012.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order replaces S.I. No. 565 of 2011 to give full effect to Council Regulation (EU) No. 961/2010 of 25 October 2010, as amended, and Council Regulation (EU) No. 359/2011 of 12 April 2011, as amended, concerning restrictive measures against Iran. It provides for enforcement of financial sanctions contained in the Council Regulations.

Council Regulation (EU) No. 961/2010 of 25 October 2010, as amended, repeals and replaces Council Regulation (EC) No. 423/2007 of 19 April 2007. It provided for additional restrictive measures against Iran in order to comply with UN Security Council Resolution 1929 (2010).

Those restrictive measures comprise, in particular, additional restrictions on trade in dual-use goods and technology, as well as equipment which might be used for internal repression, restrictions on trade in key equipment and technology, restrictions on investment in the Iranian oil and gas industry, restrictions on Iranian investment in the uranium mining and nuclear industry, restrictions on transfers of funds to and from Iran, restrictions concerning the Iranian banking sector, restrictions on Iran's access to the insurance and bonds markets of the Union and restrictions on providing certain services to Iranian ships and cargo aircraft.

The sanctions continue the prohibition on financial assistance related to the import or export of goods and technology which could contribute to Iran's enrichment-related, reprocessing, or heavy water-related activities, to the development of nuclear weapon delivery systems, a ban on the provision of related services, a ban on investment related to such goods and technology, a ban on procurement of relevant goods and technology from Iran, the freezing of funds and economic resources of persons, entities and bodies engaged in, directly associated with or providing support for such activities or development and a ban on the provision to Iran of technical or financial assistance in relation to certain military equipment.

Article 21 of Council Regulation (EU) No. 961/2010 of 25 October 2010, as amended, introduced important new reporting requirements in relation to the transfer of funds to and from an Iranian person, entity or body. The new measures were:

- Transfers due on transactions regarding foodstuffs, healthcare, medical equipment, or for humanitarian purposes shall be carried out without any prior authorisation. If that transfer concerns an amount greater than €10,000 details shall be notified in advance to the Central Bank of Ireland.
- All other relevant transfers involving amounts greater than €10,000, but below €40,000 shall also be notified in advance to the Central Bank of Ireland.

- Any other transfers concerning amounts of €40,000 or greater, regardless of whether the transfer of funds is executed in a single operation or in several operations which appear to be linked, shall require a prior authorisation from the Central Bank of Ireland.

Council Regulation (EU) No. 961/2010 of 25 October 2010, as amended, continued certain obligations on credit and financial institutions in their dealings with credit and financial institutions in Iran. These obligations include a requirement to ensure full information in the case of financial transactions and to report transactions which are suspected to be linked to proliferation financing (Article 23). There is also a requirement that named Iranian credit and financial institutions should notify Competent Authorities of all funds transfers and for this data to be transferred, as appropriate, to the Competent Authorities of other Member States where the counterparts to such transactions are established.

Council Implementing Regulation (EU) No. 1245/2011 of 1 December 2011 and Council Implementing Regulation (EU) No. 54/2012 of 23 January 2012 add to and amend the list of persons and entities subject to asset freeze set out in Annex VIII to Council Regulation (EU) No. 961/2011 of 25 October 2011, as amended. The additions include the Central Bank of Iran and Bank Tejarat. Council Regulation (EU) No. 56/2012 of 23 January 2012 provides for certain exceptions to the prohibition on transfer of funds applicable to the Central Bank of Iran and Bank Tejarat.

Council Regulation (EU) No. 359/2011 of 12 April 2011 provides for the freezing of funds and economic resources of persons and entities responsible for human rights infringements in Iran.

The Order also provides that the Central Bank of Ireland may issue instructions for the purpose of giving full effect to the financial sanctions and requires compliance with such instructions.

The Financial Transfers Act 1992 allows for control of financial transfers between the State and other countries, creates an offence for breach of the provisions of any Order made under it and provides for appropriate penalties.

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