



HM TREASURY

Cessation of business relationships and transactions with banks incorporated in Iran:

The Financial Restrictions (Iran) Order 2012

November 2012



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1

Introduction

1.1 This notice provides an explanation of the requirements placed upon UK financial and credit institutions by the direction (the “Direction”) given by the Treasury in the Financial Restrictions (Iran) Order 2012 (the “Order”). This notice should be read in conjunction with the Order.

1.2 The Direction requires UK financial and credit institutions to cease business relationships and transactions with all banks incorporated in Iran, including all subsidiaries and branches of such banks, wherever located, and the Central Bank of Iran. The Direction is in the same terms as that contained in the Financial Restrictions (Iran) Order 2011 – i.e. there are no new requirements and firms need not take any new compliance action.

1.3 It is important to note that the effect of the Direction is to prohibit all transactions and business relationships between UK financial and credit institutions and Iranian banks. This may make it difficult for UK companies to trade with Iranian companies who have a banking relationship with an Iranian bank. The UK Government urges UK companies to proceed with caution if trading with Iran.

1.4 The Order came into effect on Wednesday 21 November. The Order is valid for one year and will (unless revoked earlier) expire on 19 November 2013. The 2011 Order expired on 20 November 2012.

1.5 The Treasury made the Order in exercise of [the powers conferred by Schedule 7 to the Counter-Terrorism Act 2008](#) (the “2008 Act”).

Contents of this notice

1.6 This notice covers the following:

- Chapter 2: Application of the Direction
- Chapter 3: What are the requirements of the Direction?
- Chapter 4: Why has this action been taken?
- Chapter 5: How does the Direction affect the existing financial sanctions in place against Iran?
- Chapter 6: Licences
- Chapter 7: How does this affect exporters doing business with Iran?
- Chapter 8: Supervision, penalties, etc
- Annex A: How to contact us

2

Application of the Direction

Relevant persons

2.1 The Direction is given to all persons operating in the financial sector. This is defined in paragraphs 4 and 6 of Schedule 7 to the 2008 Act, and comprises persons operating as credit or financial institutions in the UK. 'Credit institution' and 'financial institution' are defined in paragraph 5 of Schedule 7 (as amended by section 48(1) of the Terrorist Asset-Freezing etc. Act 2010). All persons operating in the financial sector, including their branches wherever located, are referred to in the Direction as "relevant persons" and are subject to the requirements of the Direction.

2.2 The definitions of credit institution and financial institution in Schedule 7 are essentially the same as those in the Money Laundering Regulations 2007, but the definition of financial institution also includes insurance companies, as defined by section 1165(3) of the Companies Act 2006.

2.3 In summary, the requirements of the Direction **apply to**:

- all persons operating in the UK financial sector as financial or credit institutions; and
- all branches of such persons, wherever those branches are located.

2.4 The requirements of the Direction **do not apply to**:

- any subsidiaries of a UK financial or credit institution, where those subsidiaries are incorporated outside the UK; and
- any subsidiaries of a UK financial or credit institution, wherever located, where those subsidiaries are not financial or credit institutions.

Designated persons

2.5 The Direction imposes requirements in relation to transactions and business relationships with:

- 1 all banks incorporated in Iran;
- 2 all subsidiaries and branches of banks incorporated in Iran, wherever those subsidiaries and branches are located; and
- 3 The Central Bank of Iran.

2.6 The entities set out at paragraph 2.5 are referred to in the Direction as "designated persons".

3

What are the requirements of the Direction?

3.1 The Direction requires relevant persons not to enter into, or continue to participate in, any transaction or business relationship with a designated person, unless licensed by the Treasury (see Chapter 6 below). Relevant persons should seek to end business relationships and transactions with designated persons with immediate effect.

3.2 Business relationship has the meaning set out in paragraph 45 of Schedule 7 to the 2008 Act:

“a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration”.

3.3 The requirements of the Direction are not the same as those requirements imposed by an asset freeze under Council Regulation (EU) No 267/2012 on restrictive measures against Iran (the “EU Regulation”) – see Chapter 5 below.

What does this mean for new transactions or business relationships with designated persons?

3.4 Relevant persons must not enter into new transactions or business relationships with designated persons, unless licensed by HM Treasury.

What does this mean for existing transactions or business relationships with designated persons?

3.5 Relevant persons must not continue to perform any existing transaction or undertake any activity pursuant to an existing business relationship with designated persons, unless licensed to do so by HM Treasury. An existing transaction or business relationship is one that was entered into by the relevant person with a designated person prior to the Direction coming into force on 21 November 2012. Existing business relationships should cease immediately in order to comply with the Direction, unless permitted to continue under one of the licences referred to in Chapter 6 below.

3.6 Any relevant person party to an existing transaction or business relationship with a designated person must not make any payment to or process any payment from a designated person, or in any other way act pursuant to a transaction or business relationship, unless authorised to do so under licence.

3.7 The requirements of the Direction only apply to transactions and business relationships between relevant persons and designated persons. These include but are not limited to:

- the transmission of funds or value between a relevant person and a designated person;
- the accrual, creation or other provision of funds or value for a designated person;
- the exchange of financial or credit documents with a designated person;
- acting upon the instructions of a designated person; and

- acting under a contract agreed with or pursuant to an obligation owed to a designated person.

3.8 Determining whether a transaction is prohibited by the Direction will require consideration of all the circumstances.

3.9 In relation to transactions which involve transfers from a relevant person to a designated person, the following are prohibited by the Direction:

- any payment made by a relevant person where the intended recipient is a designated person, either for its own account or that of a customer. Such a payment will be prohibited even if it is made through one or more intermediaries; and
- any payment transmitted by (but not originated by) a relevant person where the intended recipient from the originator's point of view is a designated person, either for its own account or that of a customer.

3.10 In relation to transactions which involve transfers from a designated person to a relevant person, the following are prohibited by the Direction:

- to process a transfer of funds from a designated person to a relevant person, either for its own account or that of a customer. It is also prohibited to participate in transactions involving indirect payments from Iranian banks, such as those made through one or more intermediaries; and
- to process a transfer of funds from a designated person to a relevant person that is pursuant or related to an underlying business relationship between the designated person and the relevant person.

3.11 Whilst it is prohibited to participate in transactions with designated persons as outlined above, relevant persons should be aware that no offence is committed and no civil penalty can be imposed if all reasonable steps are taken and all due diligence exercised to ensure that the requirements of the Direction are complied with. So if, having taken such steps and exercised such due diligence, relevant persons do not know or have reasonable cause to suspect that their participation in a transaction is prohibited by the Direction (for example, they are an intermediary and do not have sufficient information to determine whether funds they have received have been received from, or are ultimately to be transferred to, an Iranian bank), a civil penalty cannot be imposed and no offence is committed if there is nevertheless a breach of the requirements.

3.12 If a relevant person is unsure whether a particular transaction or business relationship is covered by the requirements of the Direction, that person should seek legal advice and/or contact the Treasury before proceeding.

4

Why has this action been taken?

4.1 The Treasury has given the Direction on the basis of their belief that activity in Iran that facilitates the development or production of nuclear weapons poses a significant risk to the national interests of the United Kingdom. Iran's ongoing nuclear and ballistic missile programmes are the subject of continued international concern and pose a risk to the national interests of the UK.

4.2 Iranian financial institutions actively provide many of the financial services which underpin the procurement of goods and material from abroad for Iran's nuclear and ballistic missile programmes. Any Iranian bank is potentially providing its services to proliferators in Iran's nuclear and ballistic missile programmes. It is important that the UK financial sector does not unwittingly facilitate Iranian proliferation finance, given the serious risk that Iran's activities pose to the UK's national interests.

4.3 The Financial Action Task Force, most recently in its statement of 19 October 2012, has stated that it is "particularly and exceptionally concerned" about Iran's failure to address the risk of terrorist financing and the threat this poses to the international financial system. It reaffirmed its call on its members to apply effective counter-measures to protect their financial sectors, including additional or strengthened safeguards in light of the continuing threat.

4.4 The Treasury believe that the requirements imposed by the Direction are proportionate, having regard to this risk.

4.5 Further information on [the reasons for giving the Direction can be found in a Written Ministerial Statement](#) laid in Parliament by the Commercial Secretary to the Treasury, Lord Sassoon, on 20 November 2012.

5

How does the Direction affect existing financial sanctions in place against Iran?

5.1 Existing financial sanctions against Iran in force in the UK must continue to be complied with. The Direction does not alter the requirements to comply with other measures. However, the Direction goes further than existing sanctions as it prohibits activities that are permitted (in some cases, subject to certain requirements) under those sanctions.

5.2 The existing sanctions measures are those contained in the EU Regulation on restrictive measures against Iran, referred to in Chapter 3 above. The EU Regulation contains, amongst other things:

- requirements in relation to the imposition of asset freezes against Iranian individuals and entities (including certain Iranian banks);
- requirements in relation to transfers of funds to or from Iranian persons, entities or bodies, depending on the value of the transfers in question; and
- restrictions on providing insurance or reinsurance to certain Iranian persons, entities and bodies.

5.3 [Detailed guidance on the financial elements of the EU Regulation.](#)

How does the Direction affect the asset freezes against Iranian banks?

5.4 Several Iranian banks are subject to asset freezes under existing UN or EU sanctions. Under those sanctions it is prohibited to deal with the funds or economic resources of, or make funds or economic resources available to, those particular banks unless licensed. The prohibitions under the asset freeze do not conflict with the requirements of the Direction. However, the Direction goes further in that it prevents all transactions and business relationships with *all* Iranian banks, not just making available funds or economic resources to those subject to an asset freeze.

5.5 Where an Iranian bank is, in addition to being affected by the requirements in the Direction, subject to an asset freeze, the Treasury will consider any licence application in relation to the asset freezing restrictions or the Direction as an application for exemption from *all* relevant prohibitions. Only one application will be required and if the Treasury are willing and able to issue a licence exempting the transaction under the Direction and on one of the licensing grounds in the EU Regulation, a licence will be issued for both purposes.

5.6 HM Treasury has issued a general licence (see Chapter 6) which permits any UK credit or financial institutions to continue in business relationships and engage in transactions with asset frozen Iranian banks in the UK to the extent necessary to perform those activities that they are currently separately licensed under the asset freezing regime to engage in (for example, dealing with the funds of an asset-frozen Iranian bank under the terms of a routine payments licence or a correspondent banking licence).

5.7 The asset freezing legislation that applies to certain Iranian banks contains some exemptions to the prohibition on making funds available to listed persons. Article 29 of the EU Regulation permits financial or credit institutions to credit frozen accounts where they receive funds transferred into the account of a listed person, provided that any additions to such accounts shall also be frozen. That Article also permits additions to frozen accounts of interest or other earnings on those accounts or payments due under contracts, agreements or obligations that were concluded or arose before the date on which the listed person was designated, again provided that such interest or other earnings or payments are frozen.

5.8 The general licence referred to in paragraph 5.6 allows UK credit and financial institutions which hold accounts in the name of asset frozen Iranian banks to continue their business relationships with those banks by continuing to hold those frozen accounts. Further, it is not the intention that the requirements of the Direction should prevent transfers of funds permitted under the exemptions in Article 29 of the EU Regulation, so the general licence exempts from the requirements of the Direction payments that are permitted under Article 29. This means that if a relevant person wishes, for example, to credit the frozen account of an asset-frozen Iranian bank under Article 29, the requirements of the Direction will not prevent this.

How does the Direction affect the EU requirements to notify or seek prior authorisation for transfers of funds to or from an Iranian person, entity or body?

5.9 Article 30 of the EU Regulation puts in place certain requirements in relation to transfers of funds to or from Iranian persons, entities or bodies. These requirements continue to apply. They do not fall away as a result of the Direction.

5.10 However, the Direction prohibits transactions with Iranian banks, which means that transactions involving transfers of funds to or from Iranian banks that would previously have been possible if made in accordance with Article 29 of the EU Regulation, are now prohibited. So the effect of the requirements in the Direction is to add a broader restriction on dealing with Iranian banks and their subsidiaries, although exemptions from that restriction may be granted by way of licence.

5.11 If a relevant person wishes to enter into a transaction with an Iranian bank, they may only do so if authorised under the terms of either a general licence or an individual licence (see Chapter 6 for details of general licences) which disapply the requirements of the Direction.

5.12 In the case of an **individual** licence application, unless the applicant requests otherwise, the Treasury will treat such an application as a notification or, as applicable, request for authorisation under Article 30 where the transaction would be subject to those requirements as well. It will not be necessary to make both a licence application to disapply the Direction's requirements and a separate notification/authorisation request under Article 30 of the EU Regulation to the Treasury. Where the Treasury issue a licence to disapply the Direction in relation to a transaction that would also require authorisation under Article 30, the licence will cover both requirements.

5.13 So, for example, where a UK bank wishes to engage in a transaction with an Iranian bank which involves making a transfer of €45,000 to that Iranian bank, this would engage the prohibition on transactions or business relationships under the Direction, and the requirement to seek prior authorisation for transfers of funds of €40,000 or over. The UK bank will only need to make one application to the Treasury. If the Treasury decide to issue a licence and the conditions under Article 30(4) of the EU Regulation are met, that licence will exempt the transaction from the requirements of the Direction and authorise the transfer of funds under Article 30 of the EU

Regulation. The licence may be subject to conditions, which will be explained to the recipient when it is granted.

5.14 In contrast, in the case of transfers of funds involving Iranian banks which are exempted from the requirements of the Direction under a **general** licence, it *will* be necessary for notification to be made or authorisation sought in accordance with Article 30. This is because the Treasury will not otherwise be made aware of the transfer of funds in question as the general licence is not issued to any particular relevant person in response to a specific licence application.

What does this mean for transactions that have already been authorised by, or notified to, the Treasury under Article 30 of EU Regulation 267/2012?

5.15 If you have already received an authorisation from the Treasury for a transaction between a UK credit or financial institution and an Iranian bank under Article 30 of EU Regulation 267/2012, and the transfer of funds has not yet been made, you will need to apply for a licence under the 2008 Act, unless one of the general licences applies.

5.16 If you have already received an authorisation under Article 30 for a series of transfers between a UK credit or financial institution and an Iranian bank, and one or more of the transfers of funds has not yet been made, you will need to apply for a licence under the 2008 Act unless one of the general licences applies.

What does this mean for transactions that have already been authorised by the Treasury under the Financial Restrictions (Iran) Order 2011?

5.17 If you have already received authorisation from the Treasury under the Financial Restrictions (Iran) Order 2011 for a transaction between a UK credit or financial institution and an Iranian bank and the transfer of funds has not yet been made the transaction is authorised under the 2012 Order by General Licence 6 (see further details on page 17).

5.18 If you have already received authorisation from the Treasury under the Financial Restrictions (Iran) Order 2011 for a business relationship between a UK credit or financial institutions and an Iranian bank the relationship is authorised under the 2012 Order by General Licence 6 (see further details on page 17).

How does the Direction affect the EU ban on insurance and reinsurance for Iranian entities?

5.19 Article 35 of the EU Regulation prohibits the provision of insurance or reinsurance to:

- (i) Iran or its Government, and its public bodies, corporations and agencies;
- (ii) an Iranian person, entity or body other than a natural person; or
- (iii) a natural person or a legal person, entity or body when acting on behalf or at the direction of a legal person, entity or body referred to in (i) or (ii).

5.20 Article 35 contains certain exemptions where insurance or reinsurance may continue to be provided. [Further guidance on Article 35](#).

5.21 The Direction goes further than the requirement in the EU Regulation in certain respects. For example, it prohibits any payment in relation to a contract of insurance that would

otherwise be permitted under an exemption in Article 35 if that payment involves an Iranian bank. Article 35(3) contains an exemption to the insurance ban in circumstances where insurance is provided to natural Iranian persons acting in their private capacity (and not on behalf of or at the direction of, a legal Iranian person, entity or body or the Government of Iran). Such insurance may require payments of premium or claims between a UK bank and an Iranian bank, which would be prohibited under the Direction. The Treasury has therefore issued a general licence allowing transactions relating to insurance or reinsurance that are exempt under Article 35(2) or (3) to be made (see Chapter 6). The licence contains certain conditions.

5.22 It should also be noted that the Direction prohibits UK insurers from entering into or continuing in business relationships with Iranian banks, which has the effect of prohibiting the provision of insurance to such banks. The general licence, however, allows UK insurers to provide insurance to Iranian banks in circumstances where that provision is exempted under the terms of the exemptions in Article 35(2) or (3).

What is the interplay between the Direction and the financial prohibition measure in EU Decision 2012/635 CFSP?

5.23 The EU adopted Decision 2012/635 CFSP on the 16 October. The Decision included a new package of sanctions against Iran. The Decision included a prohibition on financial transactions between EU financial institutions and Iranian banks. The measure includes certain licensing grounds that will allow EU Member State competent authorities (the Treasury for the UK) to license transactions in certain circumstances.

5.24 The measures included in the Decision do not take effect in the EU until they are given legal force by means of a new Regulation. The timing of the Regulation will be decided by the European Commission. However, the Financial Restrictions (Iran) Order 2012 prohibits any financial transactions and business relationships between UK financial and credit institutions and Iranian banks. This means that the adoption of the new Regulation should not mean a significant change in the way UK financial and credit institutions operate financial sanctions against Iran because financial transactions that will be prohibited under the new Regulation are already prohibited under the Financial Restrictions (Iran) Order 2012.

5.25 More detailed guidance about the interaction between the Financial Restrictions (Iran) Order 2012 and the new EU Regulation will be issued by the Treasury when the new Regulation is published.

6

Licences

6.1 As described in Chapter 5, the Treasury can issue licences to exempt transactions or business relationships from the requirements of the Direction. Anyone affected by the requirements may apply for a licence.

6.2 In considering whether to issue a licence the Treasury will take into account all relevant factors, including the facts of each case and the objectives of the Direction. Every licence application will be considered on its merits on a case-by-case basis.

6.3 It should be noted, however, that the Direction has been given because of the risks posed to the UK's national interests by activities in Iran and the support given to those activities by the Iranian banking sector. Given the importance of an effective response to those risks, it is unlikely that the Treasury will issue licences for business with Iranian banks on an ongoing basis under new contracts.

6.4 To apply for a licence an affected person should complete [the licence application form](#). Applications for licences, together with any relevant documentation, should be sent to the Treasury to the address given on page 22 of this notice. The more information that can be included on the form, the easier it will be for the Treasury to consider the application. The Treasury may contact applicants to seek further information relevant to the application.

6.5 Licence applications will normally be dealt with in the order in which they are received. However, there may be exceptional circumstances in which we would prioritise applications, due to their urgent nature. If a request is particularly urgent, this should be clearly noted, with due explanation, on the application form.

6.6 Until a licence is issued for any particular request, the business relationship or transaction remains subject to the requirements of the Direction.

General licences

6.7 The Treasury has issued six general licences, which authorise all relevant persons to participate in certain transactions or business relationships which the Treasury believe it is appropriate to exempt from the effects of the Direction. They cover transactions or business relationships with Iranian banks which are connected to the following:

- General Licence 1: Humanitarian activities, medicine, foodstuffs where the related transfers are under €40,000;
- General Licence 2: Personal remittances between individuals where the transfers are under €40,000 and the transactions are not in the course of a business;
- General Licence 3: Provision of insurance which is exempt under the EU Regulation (asset freezing exemptions);
- General Licence 4: relevant persons holding accounts in the name of asset frozen banks; activities which would otherwise be exempt under Article 20 of the EU Regulation; and activities of UK credit and financial institutions which are currently licensed under the asset freezing regime;

- General Licence 5: relevant persons holding accounts in the name of designated persons; and
- General Licence 6: transactions authorised under the Financial Restrictions (Iran) Order 2011.

General licence categories	What is permitted under this licence?
GL1: Humanitarian activities, medicine, foodstuffs	<p>This licence allows relevant persons to continue with existing transactions, or enter into new transactions, with designated persons which involve the transfer of funds of under €40,000 to or from designated persons, where those transfers are for or related to humanitarian activities or purposes, including the export of medical equipment or foodstuffs and the provision of healthcare</p> <p>Relevant persons are still required under Article 30 of the EU Regulation to report the transaction to HM Treasury if it involves a transfer of above €10,000.</p> <p>Any such transactions involving transfers which are of €40,000 or more can only take place under individual licence, for which application must be made to the Treasury.</p> <p>The general licence does not permit any payment of funds to any person or entity subject to an asset freeze under EU sanctions. An individual licence disapplying the asset freezing prohibitions is required for such a payment to be made.</p>
GL2: Personal remittances	<p>This licence allows relevant persons to enter into transactions which involve the transfer of funds of under €40,000 to or from designated persons, where those payments are personal remittances (that is, payments between persons acting in a non-commercial, private capacity, the payments not being made in the course of a business). Examples of personal remittances include payments provided between family members for living expenses, or transfers made to students studying in the UK to meet their course fees or living expenses.</p> <p>Customers in the UK who make or receive such payments will need to notify their bank that their payment is a personal remittance.</p> <p>Any such transactions involving transfers which are for €40,000 or more can only take place under individual licence, for which application must be made to the Treasury.</p> <p>Relevant persons are still required under Article 30 of the EU Regulation to report any transaction of more than €10,000 to HM Treasury.</p> <p>This licence does not permit any payment of funds to any person or entity subject to an asset freeze under EU sanctions. An individual licence disapplying the asset freezing prohibitions is required for such a payment to be made.</p>
GL3: Provision of insurance to Iranian persons, entities or bodies which is exempt under the EU Regulation	<p>This licence allows relevant persons to continue with existing transactions, or enter into new transactions, which involve the transfer of funds to or from designated persons in relation to the provision of insurance which is permitted under Article 35(2) and (3) of the EU Regulation. Permitted insurance includes insurance for Iranian individuals acting in their private capacity, such as health or travel insurance, and third party or compulsory insurance for Iranian companies incorporated in an EU Member State.</p> <p>If any transfers of funds in connection with such permitted insurance provision are subject to Article 30 of the EU Regulation, the applicable notification/authorisation requirements must be complied with.</p> <p>The general licence also permits UK insurers to continue a business relationship with an Iranian bank where that relationship comprises the provision of insurance cover to Iranian banks which is exempt under Article 35(2) or (3) of the EU Regulation.</p>
GL4: holding of asset – frozen Iranian banks’ accounts; activities which	<p>This licence allows relevant persons:</p> <p>(a) to continue to hold such persons’ frozen accounts;</p> <p>(b) to enter into transactions to the extent required to credit funds to</p>

<p>would otherwise be exempt under Article 29 of the EU Regulation (asset freezing exemptions); and activities of UK credit and financial institutions which are currently licensed under the asset freezing regime</p>	<p>those accounts under Article 29 (exemptions for crediting of frozen accounts) of the EU Regulation; and (c) to continue in business relationships and engage in transactions with asset frozen Iranian banks in the UK only to the extent necessary to perform those activities that they are currently separately licensed under the asset freezing regime to engage in (for example, dealing with the funds of an asset-frozen Iranian bank under the terms of a routine payments licence or a correspondent banking licence). Relevant persons are required to report the transaction to HM Treasury only where there is a requirement to do so under Article 29 or under the relevant licence.</p>
<p>GL5: relevant persons holding accounts in the name of designated persons</p>	<p>This licence allows relevant persons to continue with existing business relationships with Iranian banks to the extent that relevant persons can continue to hold such persons' accounts. Relevant persons are required to report details of any such accounts to HM Treasury as soon as reasonably practicable, and in any event within 14 days. Specific licences may subsequently be issued to permit the balance of the account to be transferred, and the account closed.</p>
<p>GL6: transactions or business relationships authorised under the Financial Restrictions (Iran) Order 2011.</p>	<p>This licence allows relevant persons to undertake financial transactions or maintain business relationships that have already been authorised by HM Treasury under the Financial Restrictions (Iran) Order 2011 and have not been completed. Any reporting requirements contained in those licences continue to apply. Any new transactions or relationships, not falling within the terms of the licence will need to be separately authorised by HM Treasury. Any relevant persons engaged in transactions or business relationships that require separate authorisation should contact HM Treasury.</p>

7

How does the Direction affect exporters doing business with Iran?

7.1 The Direction requires relevant persons to cease transactions and business relationships with designated persons. Exporters are unlikely to be relevant persons, unless they are also operating as a financial or credit institution in the UK. So the Direction is not intended to serve as a trade ban with Iranian companies, even though the UK Government does not encourage such trade.

7.2 Exporters will no longer be able to use UK credit or financial institutions to make or receive payments to or from Iranian banks, unless the Treasury has licensed the transaction. Nor will they be able to use financial services from a UK credit or financial institution if providing those services involves the UK credit or financial institution in a business relationship with an Iranian bank. For example, the Direction prohibits a UK bank from entering into a new letter of credit arrangement with an Iranian bank.

7.3 Any person affected by the Direction can apply for a licence exempting a transaction or business relationship from the requirements. Licence applications can be made by exporters, as well as relevant persons.

7.4 The Treasury is aware that relevant persons and others will have existing contracts with Iranian banks at the time at which the Direction came into effect. The Treasury will consider applications for licences which would enable payments due under such existing contracts to be made, subject to being satisfied that the contract in question was entered into prior to the Direction. Where exporters have an existing contract with an Iranian importer or exporter that requires a payment to be made or received by an Iranian bank, they should apply to the Treasury for a licence. Exporters should discuss their intention to apply for a licence with their bank, in order to ensure duplicate applications are not made.

7.5 It should be noted, however, that the Direction has been given because of the risks posed to the UK's national interests by activities in Iran, and the support given to those activities by the Iranian banking sector. Given the importance of an effective response to these risks, it is unlikely the Treasury will issue licences for business with Iranian banks on an ongoing basis under new contracts.

7.6 Every licence application will be considered on its merits on a case-by-case basis. [The Department for Business, Innovation and Skills have produced a notice for exporters and companies with trading interests in Iran.](#)

8

Supervision and penalties

Policies and procedures

8.1 Relevant persons should ensure that they have policies and procedures in place to ensure their compliance with the requirements of the Direction.

8.2 [General guidance on the operation of the Treasury's powers under Schedule 7 to the 2008 Act](#) has been prepared for financial and credit institutions by the Joint Money Laundering Steering Group (JMLSG).

8.3 HMRC has issued [general guidance for Money Service Businesses](#).

Supervision and compliance

8.4 For the purposes of the Direction, the supervisory authorities are:

- The Financial Services Authority (FSA) for credit institutions that are authorised persons and financial institutions (except Money Service Businesses that are not authorised persons and consumer credit financial institutions);
- The Office of Fair Trading (OFT) for consumer credit financial institutions; and
- HMRC for Money Service Businesses that are not authorised persons.

8.5 The supervisory authorities will apply a risk-based approach towards securing firms' compliance with the Direction. For further details on specific supervisors' approaches, please consult their websites.

Interaction with existing Proceeds of Crime Act 2002 (POCA) and Terrorism Act 2000 (TACT) requirements

8.6 There is no "tipping off" offence in relation to compliance with the requirements of the Direction. The Direction and its requirements are made public and relevant persons may inform their customers of why they are taking the requisite action to cease transactions and business relationships.

8.7 Similarly, there is no issue of "consent" in relation to compliance with the requirement of the Direction. Relevant persons should not seek consent before ceasing transactions and business relationships. If relevant persons want to seek exemption from the requirements of the Direction for specific activities they must apply to the Treasury for a licence, as set out above.

8.8 Persons are advised not to submit a Suspicious Activity Report upon cessation of a business relationship or when undertaking any activity for which a licence has been obtained, unless they have a separate suspicion related to the activity beyond it being subject to the Direction.

8.9 If a transaction or business relationship subject to the requirements of the Direction is also simultaneously the subject of an existing law enforcement action, such as a production order or an account monitoring order, the relevant person should cease business and consider liaising

with the appropriate authority applying that action as regards the need to apply to the Treasury for a licence.

Offences

8.10 It is an offence not to comply with the requirement of the Direction – see paragraph 30 of Schedule 7 to the 2008 Act. A person may be penalised for failure to comply by either a civil penalty issued by a supervisory authority, or a criminal prosecution. However, a person cannot be made liable to a civil penalty and be prosecuted for the same failure.

8.11 It is an offence for a relevant person to intentionally participate in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent the requirements of the Direction – see paragraph 30A of Schedule 7. A person may be penalised for circumvention by either a civil penalty issued by a supervisory authority, or a criminal prosecution. However, a person cannot be made liable to a civil penalty and be prosecuted for the same circumvention.

8.12 As under the Money Laundering Regulations 2007, in deciding whether to impose a penalty, or whether a firm has committed an offence, a supervisory authority or a court must consider whether the person followed any relevant guidance available at the time.

8.13 A supervisor may impose a penalty of such amount as it considers appropriate. A court may impose a prison term of up to two years and/or a fine.

8.14 A failure to comply with the conditions of any licence that the Treasury may issue is subject to the above civil penalties. There is no criminal sanction for such non-compliance.

8.15 However, a person commits an offence if they obtain a licence under false pretences or using false information. In relation to such an offence a court may impose a prison term of up to two years and/or a fine.

8.16 No penalty may be imposed nor will an offence be committed if the person took all reasonable steps and exercised all due diligence to ensure that the requirements of the Direction would be complied with.

8.17 If an offence committed by a body corporate, a partnership, or an unincorporated association is shown to have been committed with the connivance of an officer or partner of that business, or to be attributable to any neglect on the part of any such officer or partner, the officer as well as the business is guilty of an offence and liable to be proceeded against accordingly. “Officer” and “Partner” have the meanings set out in Schedule 7 to the 2008 Act.

8.18 An offence may be committed by UK persons by conduct wholly or partly outside of the UK. However, UK nationals working for persons abroad not subject to the Direction, e.g. non-UK institutions and subsidiaries of UK institutions are not subject to the requirements. Non-UK companies are only subject to the requirements of the Direction for activities within the UK.



How to contact us

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A.2 Media queries should be addressed to the Treasury Press Office on 020 7270 5238.

HM Treasury contacts

This document can be found in full on our website: <http://www.hm-treasury.gov.uk>

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