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STATUTORY INSTRUMENTS

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**2012 No. 1756**

**The Iran (Restrictive Measures)  
(Overseas Territories) Order 2012**

*Freezing funds and making funds available*

**Freezing funds and economic resources**

**27.**—(1) A person to whom this Order applies (“P”), including the designated person, commits an offence if P deals with funds or economic resources belonging to, or owned, held or controlled by, a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) In this article, “deals with” means—

(a) in relation to funds—

(i) use, alter, move, allow access to or transfer;

(ii) deal with the funds in any other way that would result in a change in volume, amount, location, ownership, possession, character or destination; or

(iii) make any other change that would enable use, including portfolio management; and

(b) in relation to economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the resources.

(3) Paragraph (1) is subject to article 43 (licences).

**Making funds available to a designated person**

**28.**—(1) A person to whom this Order applies (“P”) commits an offence if P makes funds available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to articles 34 (credits to a frozen account) and 43 (licences).

**Making funds available for the benefit of a designated person**

**29.**—(1) A person to whom this Order applies (“P”) commits an offence if P makes funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) For the purposes of paragraph (1)—

(a) funds are made available for the benefit of a designated person only if that person obtains, or is able to obtain, a significant financial benefit from the funds, and

(b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.

(3) Paragraph (1) is subject to articles 34 (credits to a frozen account) and 43 (licences).

### **Making economic resources available to a designated person**

**30.**—(1) A person to whom this Order applies (“P”) commits an offence if P makes economic resources available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect—

- (a) that P is making the economic resources so available, and
- (b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

(2) Paragraph (1) is subject to article 43 (licences).

### **Making economic resources available for the benefit of a designated person**

**31.**—(1) A person to whom this Order applies (“P”) commits an offence if P makes economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) For the purposes of paragraph (1)—

- (a) economic resources are made available for the benefit of a designated person only if that person obtains, or is able to obtain, a significant financial benefit from the economic resources, and
- (b) “financial benefit” includes the discharge of a financial obligation for which the designated person is wholly or partly responsible.

(3) Paragraph (1) is subject to article 43 (licences).

### **Transfers of funds**

**32.**—(1) A person to whom this Order applies (“P”) commits an offence if P knowingly transfers funds above EUR 10 000 or equivalent to or from an Iranian person, entity or body without informing the Governor in advance in writing.

(2) A person (“P”) commits an offence if P knowingly transfers funds of or above EUR 40 000 or equivalent to or from an Iranian person, entity or body without a licence granted by the Governor under this article, but this is subject to paragraph (3).

(3) The following transfers of funds may be carried out without a licence—

- (a) transfers due on transactions regarding foodstuffs, healthcare, medical equipment, or for humanitarian purposes, or
- (b) any other transfer below EUR 40 000 or equivalent.

(4) Paragraphs (1) to (3) apply regardless of whether the transfer of funds is executed in a single operation or in several operations which appear to be linked, and for the purposes of this paragraph “operations which appear to be linked” includes—

- (a) a series of consecutive transfers from or to the same Iranian person, entity or body which are made in connection with a single obligation to a transfer of funds, where each individual transfer falls below the threshold set out in paragraphs (1) to (3) but which, in aggregate, meet the criteria for notification or authorisation, or
- (b) a chain of transfers involving different payment service providers or natural or legal persons which effects a single obligation to make a transfer of funds.

(5) A licence must be granted by the Governor under this article to authorise a transfer of funds of or above EUR 40 000 or equivalent unless the Governor has reasonable grounds to determine that the transfer of funds could be in breach of any of the prohibitions or obligations in this Order.

(6) A licence is to be deemed to have been granted by the Governor under this article if—

- (a) the Governor has received a request in writing for a licence under this article and,
- (b) within four weeks of receiving the request, the Governor has not objected in writing to the transfer of funds for which the licence is requested.

### **Notifications and authorisations of transfers of funds**

**33.**—(1) A branch or subsidiary, incorporated or constituted in the Territory, of a credit or financial institution domiciled in Iran must notify the Governor within five working days after carrying out or receiving any transfer of funds of—

- (a) the transfer of funds carried out or received by it,
- (b) the names of the parties, and
- (c) the amount transferred and the date of the transaction.

(2) If the information is available, the notification must also specify—

- (a) the nature of the transaction,
- (b) the nature of the goods covered by the transaction, in particular whether the goods are included in Annex I, II, III, IV, V, VI or VII to the Council Regulation, and
- (c) if the export of the goods is subject to authorisation, the number of the licence granted by the Governor.

(3) A person to whom this Order applies who fails to comply with paragraph (1) or (2) commits an offence.

(4) Notifications and requests for authorisation relating to the transfer of funds must be processed in accordance with paragraph (5) or (6).

(5) In the case of electronic transfers of funds processed by credit or financial institutions, notifications and requests for authorisation relating to the transfer of funds are to be processed as follows—

- (a) notifications and requests for authorisation relating to the transfer of funds to an Iranian person, entity or body which is located outside the Territory are to be addressed by or on behalf of the payment service provider of the payer to the Governor of the Territory where the initial order to execute the transfer was given;
- (b) notifications and requests for authorisation relating to the transfer of funds from an Iranian person, entity or body which is located outside the Territory are to be addressed by or on behalf of the payment service provider of the payee to the Governor of the Territory in which the payee is resident or the payment service provider is established;
- (c) notifications and requests for authorisation relating to the transfer of funds to an Iranian person, entity or body which is located within the Territory are to be addressed by or on behalf of the payment service provider of the payee to the Governor of the Territory in which the payee is resident or the payment service provider is established;
- (d) notifications and requests for authorisation relating to the transfer of funds from an Iranian person, entity or body which is located within the Territory are to be addressed by or on behalf of the payment service provider of the payer to the Governor of the Territory where the initial order to execute the transfer was given;
- (e) where there is more than one payment service provider involved in a series of linked transfers of funds, transfers within the Territory must include a reference to the authorisation granted by the Governor.

(6) In the case of transfers of funds which are effected by non-electronic means, notifications and requests for authorisation relating to the transfer of funds are to be processed as follows—

- (a) notifications and requests for authorisation relating to the transfer of funds to an Iranian person, entity or body which is located outside the Territory are to be addressed by the payer to the Governor of the Territory where the payer is resident;
- (b) notifications and requests for authorisation relating to the transfer of funds from an Iranian person, entity or body are to be addressed by the payee to the Governor of the Territory where the payee is resident.

#### **Credits to a frozen account**

- 34.**—(1) Articles 28 and 29 are not contravened by a person who credits a frozen account with—
- (a) interest or other earnings due on the account, or
  - (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.
- (2) Articles 28 and 29 do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.

#### **Circumvention of prohibitions in articles 27 to 31**

- 35.** A person (“P”) commits an offence if P intentionally participates in activities knowing that the object or effect of them is (directly or indirectly)—
- (a) to circumvent any of the prohibitions in articles 27 to 31, or
  - (b) to enable or facilitate the contravention of any such prohibition.

#### **Enhanced vigilance**

- 36.**—(1) This article applies to credit and financial institutions in their activities with—
- (a) any bureaux de change, credit or financial institution domiciled in Iran,
  - (b) any branch or subsidiary, wherever located, of a bureaux de change, credit or financial institution domiciled in Iran, or
  - (c) any bureaux de change, credit or financial institution that is not domiciled in Iran, but is controlled by a person or entity domiciled in Iran.
- (2) For the purpose of preventing infringements of this Order, credit and financial institutions must—
- (a) exercise continuous vigilance over account activity, particularly through their programmes on customer due diligence;
  - (b) require that in payment instructions all information fields which relate to the originator and beneficiary of the transaction in question be completed and, if that information is not supplied, refuse the transaction;
  - (c) maintain all records of transactions for a period of five years and make them available to the Governor on request; and
  - (d) if they have reasonable grounds to suspect that activities with credit and financial institutions may be in breach of the provisions of this Order, report without delay their suspicions to the Governor.
- (3) A person who fails to comply with paragraph (2) commits an offence.