EXPLANATORY MEMORANDUM TO

THE IRAN (EUROPEAN UNION FINANCIAL SANCTIONS) (AMENDMENT No.2) REGULATIONS 2012

2012 No. 2909

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations amend the Iran (European Union Financial Sanctions) Regulations 2012 (S.I. 2012/925) ("the 2012 Regulations"), which put in place penalties for breach of EU financial sanctions in relation to Iran. The Regulations implement Council Regulation (EU) No. 1067/2012 of 14 November 2012 ("the amending Council Regulation"), amending Regulation (EU) No. 267/2012 on restrictive measures against Iran (OJ L 88, 24.3.2012 p.1). The amending Council Regulation provides for derogations from the asset-freezing measures in respect of transactions relating to certain production sharing agreements, and certain contracts for the supply of Iranian crude oil and petroleum products.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations have been laid before Parliament less than 21 days before they come into force. The amending Council Regulation came into force on 16 November 2012, the day after its publication in the Official Journal. Penalties for breach of the asset freezing measures contained in Regulation (EU) No. 267/2012 are contained in the 2012 Regulations. As the amending Council Regulation contains derogations from the asset freezing measures, it is important that those derogations are reflected in the 2012 Regulations, so that conduct which would be permitted under Regulation (EU) No. 267/2012 is not subject to a criminal penalty under the 2012 Regulations.

3.2 The Treasury has issued guidance on the requirements of the 2012 Regulations, and the amending Council Regulation. The Treasury also provides a dedicated email address and telephone number to deal with queries from the financial sector and other affected persons.

4. Legislative Context

4.1 These Regulations amend the Iran (European Union Financial Sanctions) Regulations 2012. They reflect amendments made by the amending Council Regulation to Council Regulation (EU) No. 267/2012 on restrictive measures against Iran.

4.2 The EU Select Committee and European Scrutiny Committee have agreed that the amending Council Regulation does not need to be submitted for Parliamentary Scrutiny by the Foreign and Commonwealth Office.

4.3 These Regulations introduce an ambulatory reference to Annex IX to the Council Regulation, which contains a list of the persons who the EU have decided should be subject to asset freezing measures, and in relation to whom the prohibitions in the Council Regulation are applied. The list is amended from time to time by the Council of the European Union, to add or remove names, or to alter identifying information. Any changes to the list of designated persons will be published in the Official Journal, and will also appear on the Treasury's website and in a notice sent out electronically to subscribers to the Treasury's Asset Freezing Unit mailing list.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom and, outside the United Kingdom, to UK nationals and bodies incorporated in the UK.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 These Regulations amend the Iran (European Union Financial Sanctions) Regulations 2012, which provide for penalties for breach of the asset freezing measures contained in Council Regulation (EU) No. 267/2012, imposed in response to ongoing concerns over Iran's nuclear programme. The Council Regulation has direct effect, and requires Member States to put in place effective, proportionate and dissuasive penalties for infringements of the Council Regulation.

7.2 On 15 October 2012 the Council of the European Union adopted Council Decision 2012/635/CFSP which sets out further restrictive measures in relation to Iran. The measures include an asset freeze of certain Iranian State-owned entities engaged in the oil and gas sector. Council Implementing Regulation (EU) No 945/2012 adds the additional entities to Annex IX to Council Regulation 267/2012, which contains the individuals and entities listed by the Council as subject to the asset freezing measures. The amending

Council Regulation implements derogations from the asset freeze in respect of a production sharing agreement, and certain contracts for the supply of Iranian crude oil and petroleum products, so that acts and transactions relating to such contracts will not breach the asset freezing provisions of Council Regulation 267/2012.

7.3 These Regulations amend the 2012 Regulations to reflect those derogations.

- Consolidation

7.4 There are no plans to consolidate the relevant legislation.

8. Consultation outcome

8.1 No consultation has been carried out in relation to these Regulations.

9. Guidance

9.1 Guidance on the asset freezing measures in relation to Iran is available on the Treasury's website. The Treasury's Asset Freezing Unit operates a free subscription email service alerting subscribers on changes to the asset freezing regime, and on other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing regime. A notice explaining the amending Council Regulation is available on the Treasury website and was emailed to subscribers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not themselves impose requirements, but only put in place penalties in relation to activities which are prohibited by the directly effective Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the amending Council Regulation rather than these Regulations which only provide for enforcement powers.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the Treasury work with the financial sector on the requirements for complying with the asset freezing measures set out in the Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

12.1 The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by Regulation (EU) No. 267/2012 if it is amended or repealed.

13. Contact

The Asset Freezing Unit at the Treasury Tel: 020 7270 5454 or email: AFU@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.