EXPLANATORY MEMORANDUM TO

THE IRAN (EUROPEAN UNION FINANCIAL SANCTIONS) (AMENDMENT) REGULATIONS

2012 No. 190

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 2010 (S.I. 2010/2937) ("the 2010 Regulations"), which put in place penalties for breach of EU financial sanctions in relation to Iran. The Regulations implement Council Regulation (EU) No. 56/2012 of 23 January 2012 ("the amending Council Regulation"), amending Regulation (EU) No. 961/2010 on restrictive measures against Iran (OJ L 19, 24.1.2012, p.1). The amending Council Regulation provides for derogations from the asset-freezing measures in respect of two entities: the Central Bank of Iran, and Bank Tejarat.

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 the day of its publication in the Official Journal, on 24th January 2011. The Central Bank of Iran, Bank Tejarat and other individuals and entities were added to Annex VIII to Council Regulation 961/2010 on the same day by Council Implementing Regulation (EU) No. 54/2012 of 23 January 2012 (OJ L 19, 24.1.2012, p.10), and became subject to the asset freezing measures contained in Regulation (EU) No. 961/2010. Penalties for breach of those measures are contained in the 2010 Regulations. As the amending Council Regulation contains derogations from the asset freezing measures, it is important that those derogations are reflected in the 2010 Regulations, so that conduct which would not be in breach of Regulation (EU) 961/2010 is not subject to a criminal penalty under the 2010 Regulations.

3.2 The Treasury has issued guidance on the requirements of the 2010 Regulations, and the effect of 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 2010 (S.I. 2010/2937). They reflect amendments made by the amending Council Regulation to Council Regulation (EU) No. 961/2010 on restrictive measures against Iran.

4.2 An explanatory memorandum on Council Decision 2012/35/CFSP of 23 January 2012, Council Implementing Regulation (EU) No. 54/2012 of 23 January 2012 and the amending Council Regulation, has been submitted for Parliamentary Scrutiny by the Foreign and Commonwealth Office. However, due to the speed at which these have been adopted, an override has been necessary.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom and, outside the United Kingdom, to British citizens and those with a UK connection.

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 2010, which provide for penalties for breach of the asset freezing measures contained in Council Regulation (EU) No. 961/2010, 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 23 January 2012 the EU agreed a new package of additional sanctions measures against Iran, contained in Council Decision 2012/35/CFSP, reflecting serious concerns over the nature of Iran's nuclear programme. Council Implementing Regulation (EU) No. 54/2012 gives effect to part of that package, imposing an asset freeze on additional individuals and entities including the Central Bank of Iran and Bank Tejarat. Bank Tejarat was the last remaining Iranian bank with a presence in the EU whose assets were not frozen. All Iranian banks in the EU, including those with a presence in the UK, are now subject to UN or EU sanctions.

7.3 The asset freezing measures in respect of the Central Bank of Iran and Bank Tejarat are subject to derogations permitting certain transfers of funds or economic resources to and from the Central Bank of Iran and Bank Tejarat connected to trade

contracts. The derogation in respect of Bank Tejarat is on a temporary basis. These Regulations amend the 2010 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. 961/2010 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.