



Autonomous Sanctions Amendment Regulation 2012 (No. 1)¹

Select Legislative Instrument 2012 No. 204

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Autonomous Sanctions Act 2011*.

Dated 16 August 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

BOB CARR
Minister for Foreign Affairs

1 Name of regulation

This regulation is the *Autonomous Sanctions Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Amendment of *Autonomous Sanctions Regulations 2011*

Schedule 1 amends the *Autonomous Sanctions Regulations 2011*.

Schedule 1 Amendments

(section 3)

[1] Regulation 3

insert

authorised commercial activity means a sanctioned commercial activity authorised by a permit granted under paragraph 18 (1) (c).

authorised import means a sanctioned import authorised by a permit granted under paragraph 18 (1) (b).

brokering services means:

- (a) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country; or
- (b) the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country.

correspondent banking relationship has the meaning given in section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

financial institution means a natural or legal person that conducts, as a business, one or more of the following for, or on behalf of, a customer:

- (a) the acceptance of deposits and other repayable funds from the public;
- (b) the lending of money;
- (c) financial leasing, other than the financial leasing of a consumer product;
- (d) the transfer of money or value, other than the provision of message or other support for the purpose of transmitting money;
- (e) the issue and management of means of payment;
- (f) the giving of financial guarantees and commitments;
- (g) trading in money market instruments;
- (h) trading foreign exchange;
- (i) trading in exchange instruments;
- (j) trading in interest rate instruments;
- (k) trading in interest index instruments;
- (l) trading in transferable securities;
- (m) trading in commodity futures;
- (n) participation in the issue of securities and the provision of financial services in relation to the issue of securities;
- (o) the management of individual or collective portfolios;
- (p) the safekeeping and administration of cash or liquid securities;
- (q) the investment, administration or management of funds or money;
- (r) the underwriting and placement of life insurance and other insurance that is related to investments;
- (s) money changing and other currency changing.

Examples of means of payment for paragraph (e)

- 1 Credit and debit cards.
- 2 Cheques.

- 3 Travellers' cheques.
- 4 Money orders.
- 5 Bankers' drafts.
- 6 Electronic money.

[2] Regulation 3, definition of *financial service*, paragraph (e)

substitute

- (e) reinsurance; and
- (f) financial derivatives.

[3] Regulation 3

insert

gold, precious metals and diamonds means the following items:

- (a) diamonds, whether or not worked, but not mounted or set;
- (b) silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form;
- (c) gold (including gold plated with platinum), unwrought or in semi-manufactured forms, or in powder form;
- (d) base metals or silver, clad with gold, not further worked than semi-manufactured;
- (e) platinum, unwrought or in semi-manufactured forms, or in powder form;
- (f) base metals, silver or gold, clad with platinum, not further worked than semi-manufactured;
- (g) waste and scrap of:
 - (i) precious metal; or
 - (ii) metal clad with precious metal;
- (h) other waste and scrap containing precious metal or precious-metal compounds, of a kind used principally for the recovery of precious metal.

import sanctioned goods means goods designated under subregulation 4A (1).

insurance means an undertaking or commitment under which a person is obliged, in return for a payment, to provide a person, in the event of materialisation of a risk, with an indemnity or a benefit as determined by the undertaking or commitment.

petrochemical industry means production plants for the manufacturing of petrochemical products of a kind specified in an instrument under regulation 4A.

reinsurance means:

- (a) the activity of accepting risks ceded by an insurance undertaking or by another reinsurance undertaking; or
- (b) for the association of underwriters known as Lloyd's—the activity of accepting risks, ceded by any member of Lloyd's, by an insurance or reinsurance undertaking other than the association of underwriters known as Lloyd's.

sanctioned commercial activity has the meaning given by regulation 5A.

sanctioned import has the meaning given by regulation 4A.

[4] Subregulation 4 (2), table, item 3, after paragraph (b)

insert

- (c) Equipment and technology for the oil and gas industry, or the petrochemical industry, of a kind specified by the Minister in an instrument under this regulation
- (d) Newly printed or unissued Iranian denominated bank notes or newly minted or unissued Iranian denominated coinage

[5] Subregulation 4 (2), table, item 4, column 3*substitute*

- (a) Arms or related matériel
- (b) Equipment and technology, for use in the construction or installation of new power plants for electricity, of a kind specified by the Minister in an instrument under this regulation
- (c) Equipment and technology for the oil and gas industry, or the petrochemical industry, of a kind specified by the Minister in an instrument under this regulation
- (d) Newly printed or unissued Syrian denominated bank notes or newly minted or unissued Syrian denominated coinage
- (e) Equipment, technology or software for the monitoring or interception of internet or telephone communications, of a kind specified by the Minister in an instrument under this regulation
- (f) Luxury goods, of a kind specified by the Minister in an instrument under this regulation

[6] After subregulation 4 (3)*insert*

- (4) For these Regulations, a person also makes a ***sanctioned supply*** if the person supplies, sells or transfers an item of gold, precious metals and diamonds to another person and, as a direct or indirect result of the supply, sale or transfer, the goods are transferred to:
 - (a) the government of Iran; or
 - (b) a public body, corporation or agency of the government of Iran; or
 - (c) the government of Syria; or

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- (d) a public body, corporation or agency of the government of Syria; or
 - (e) a person entity or body acting on behalf or at the direction of an entity mentioned in paragraphs (a) to (d); or
 - (f) an entity or body owned or controlled by an entity mentioned in paragraphs (a) to (d).

[7] After regulation 4

insert

4A Sanctioned imports

- (1) For these Regulations, a person makes a *sanctioned import* if:
 - (a) the person:
 - (i) imports or purchases goods from another person; or
 - (ii) transports goods; and
 - (b) the goods are import sanctioned goods for a country.
- (2) Goods mentioned in an item of the table are import sanctioned goods for the country mentioned in the item if the goods originate in, or are exported from, the country.

Item	Country	Goods
1	Iran	<ul style="list-style-type: none"> (a) Crude oil products of a kind specified by the Minister in an instrument under this regulation (b) Petroleum products of a kind specified by the Minister in an instrument under this regulation (c) Petrochemical products of a kind specified by the Minister in an instrument under this regulation

Item	Country	Goods
2	Syria	(a) Crude oil products of a kind specified by the Minister in an instrument under this regulation (b) Petroleum products of a kind specified by the Minister in an instrument under this regulation (c) Petrochemical products of a kind specified by the Minister in an instrument under this regulation

- (3) In addition to subregulation (2), the Minister may, by legislative instrument, designate goods as import sanctioned goods for a country mentioned in the designation.
- (4) For these Regulations, a person also makes a *sanctioned import* if the person imports or purchases an item of gold, precious metals and diamonds from:
- the government of Iran; or
 - a public body, corporation or agency of the government of Iran; or
 - the government of Syria; or
 - a public body, corporation or agency of the government of Syria; or
 - a person entity or body acting on behalf or at the direction of an entity mentioned in paragraphs (a) to (d); or
 - an entity or body owned or controlled by an entity mentioned in paragraphs (a) to (d).

[8] Regulation 5

substitute

5 Sanctioned service

- (1) For these Regulations, a *sanctioned service*, for a country mentioned in an item of the table, is the provision to a person of:
- technical advice, assistance or training; or

- (b) financial assistance; or
- (c) a financial service; or
- (d) another service;

if it assists with, or is provided in relation to, an activity mentioned in the item.

Item	Country	Activity
1	Burma	(a) A military activity (b) A sanctioned supply for Burma (c) The manufacture, maintenance or use of an export sanctioned good for Burma
2	Fiji	(a) A military activity (b) A sanctioned supply for Fiji (c) The manufacture, maintenance or use of an export sanctioned good for Fiji
3	Iran	(a) A military activity (b) A sanctioned supply for Iran (c) The manufacture, maintenance or use of an export sanctioned good for Iran (d) For paragraphs 5 (1) (b) and (c), a sanctioned import for Iran
4	Syria	(a) A military activity (b) A sanctioned supply for Syria (c) The manufacture, maintenance or use of an export sanctioned good for Syria (d) For paragraphs 5 (1) (b) and (c), a sanctioned import for Syria
5	Zimbabwe	(a) A military activity (b) A sanctioned supply for Zimbabwe (c) The manufacture, maintenance or use of an export sanctioned good for Zimbabwe

- (2) For these Regulations, a *sanctioned service* is also, for an entity or person mentioned in an item of the table, the provision to the entity or person of:
- (a) technical advice, assistance or training; or
 - (b) financial assistance; or

(c) a financial service; or

(d) another service;

if it assists with, or is provided in relation to, an activity involving the supply, sale, transfer, import, purchase or transport of an item of gold, precious metals and diamonds.

Item	Entity or person
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1 The government of Iran

2 A public body, corporation, or agency of the government of Iran

3 The government of Syria

4 A public body, corporation, or agency of the government of Syria

5 A person, entity or body acting on behalf or at the direction of an entity mentioned in items 1 to 4

6 An entity or body owned or controlled by an entity mentioned in items 1 to 5

5A Sanctioned commercial activity

- (1) For these Regulations, *sanctioned commercial activity* means:
- (a) the acquisition by a person of an interest in an entity or a person mentioned in an item of the table; and
 - (b) the extension by a person of an interest in an entity or a person mentioned in an item of the table; and
 - (c) the establishment by a person of a joint venture with an entity or a person mentioned in an item of the table; and
 - (d) participation by a person in a joint venture with an entity or a person mentioned in an item of the table (including a subsidiary of that entity or person); and
 - (e) the granting by a person of a financial loan or credit to an entity or a person mentioned in an item of the table.

Item Entity or person

- 1 An entity in Iran that is engaged in:
 - (a) the Iranian petrochemical industry; or
 - (b) any of the following sectors of the Iranian oil and gas industry:
 - (i) refining of fuels;
 - (ii) exploration of crude oil or natural gas;
 - (iii) production of crude oil or natural gas;
 - (iv) liquefaction of natural gas
 - 2 An Iranian entity engaged in a sector mentioned in item 1 outside Iran
 - 3 An Iranian-owned entity engaged in a sector mentioned in item 1 outside Iran
 - 4 An entity in Syria that is engaged in:
 - (a) the Syrian petrochemical industry; or
 - (b) any of the following sectors of the Syrian oil and gas industry:
 - (i) refining of fuels;
 - (ii) exploration of crude oil or natural gas;
 - (iii) production crude oil or natural gas;
 - (iv) liquefaction of natural gas
 - 5 A Syrian entity engaged in a sector mentioned in item 4 outside Syria
 - 6 A Syrian-owned entity engaged in a sector mentioned in item 4 outside Syria
 - 7 An entity in Syria engaged in the construction or installation of new power plants for electricity production
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(2) For these Regulations, *sanctioned commercial activity* also means:

- (a) the sale by a person, to an entity or a person mentioned in an item of the table, of an interest in a commercial activity in Australia in any of the following sectors of the oil and gas industry:
 - (i) refining of fuels;
 - (ii) exploration of crude oil and natural gas;

- (iii) production of crude oil and natural gas;
- (iv) liquefaction of natural gas; and
- (b) the making available by a person (otherwise than by sale), to an entity or a person mentioned in an item of the table, of an interest in a commercial activity in Australia in any of the following sectors of the oil and gas industry:
 - (i) refining of fuels;
 - (ii) exploration of crude oil and natural gas;
 - (iii) production of crude oil and natural gas;
 - (iv) liquefaction of natural gas.

Item	Entity or person
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|---|--|
| 1 | The government of Iran |
| 2 | Any natural person in, or resident in, Iran |
| 3 | An entity formed or incorporated in Iran |
| 4 | The government of Syria |
| 5 | Any natural person in, or resident in, Syria |
| 6 | An entity formed or incorporated in Syria |
| 7 | An entity or person acting on behalf of an entity or a person mentioned in items 1 to 6 |
| 8 | An entity or person acting at the direction of an entity or a person mentioned in items 1 to 6 |
| 9 | An entity owned or controlled by a person or entity mentioned in items 1 to 6 |

- (3) For these Regulations, *sanctioned commercial activity* also means:
- (a) the opening in Australia of a representative office of an entity or person mentioned in an item of the table; and
 - (b) the establishment in Australia of a branch or subsidiary of an entity or person mentioned in an item of the table; and
 - (c) the conclusion by a person of an agreement, for or on behalf of an entity or person mentioned in an item of the table, related to:
 - (i) the opening in Australia of a representative office of that entity or person; or

- (ii) the establishment in Australia of a branch or subsidiary of that entity or person; and
- (d) the acquisition or extension of an interest in an Australian financial institution by an entity or person mentioned in an item of the table; and
- (e) the sale by a person of an interest in an Australian financial institution to an entity or person mentioned in an item of the table; and
- (f) the making available by a person (other than by sale) of an interest in an Australian financial institution to an entity or person mentioned in an item of the table.

Item Entity or person

- 1 A financial institution domiciled in Iran
 - 2 A branch or a subsidiary, wherever located, of a financial institution domiciled in Iran
 - 3 A financial institution, wherever domiciled, that is controlled by an entity or a person domiciled in Iran
 - 4 A financial institution domiciled in Syria
 - 5 A branch or a subsidiary, wherever located, of a financial institution domiciled in Syria
 - 6 A financial institution, wherever domiciled, that is controlled by an entity or a person domiciled in Syria
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- (4) For these Regulations, *sanctioned commercial activity* also means:
- (a) the establishment by a financial institution of a joint venture with an entity or person mentioned in an item of the table; and
 - (b) the establishment by a financial institution of a correspondent banking relationship with an entity or person mentioned in an item of the table; and
 - (c) the opening by a financial institution of a representative office in Iran or Syria; and
 - (d) the establishment by a financial institution of a branch or subsidiary in Iran or Syria; and
 - (e) the opening by a financial institution of a bank account with an entity or person mentioned in an item of the table.

Item Entity or person

- 1 A financial institution domiciled in Iran
 - 2 A branch or a subsidiary, wherever located, of a financial institution domiciled in Iran
 - 3 A financial institution, wherever domiciled, that is controlled by a person or entity domiciled in Iran
 - 4 A financial institution domiciled in Syria
 - 5 A branch or a subsidiary, wherever located, of a financial institution domiciled in Syria
 - 6 A financial institution, wherever domiciled, that is controlled by a person or entity domiciled in Syria
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[9] Subregulation 6 (1), table, item 7*substitute*

- 7 Syria
 - (a) A person or entity that the Minister is satisfied is providing support to the Syrian regime
 - (b) A person or entity that the Minister is satisfied is responsible for human rights abuses in Syria, including:
 - (i) the use of violence against civilians; and
 - (ii) the commission of other abuses

[10] After regulation 12*insert***12A Prohibitions relating to sanctioned import**

- (1) A person contravenes this regulation if:
 - (a) the person makes a sanctioned import; and
 - (b) the sanctioned import is not an authorised import.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 16 of the Act that relates to a contravention of this regulation.

Note This has the effect that the offence has extraterritorial operation.

- (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if the person uses the services of an Australian ship or an Australian aircraft to transport import sanctioned goods in the course of, or for the purpose of, making a sanctioned import that is not an authorised import.
- (4) A body corporate contravenes this regulation if:
- (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and
 - (b) the other body corporate or entity makes a sanctioned import; and
 - (c) the sanctioned import is not an authorised import.

Note This regulation may be specified as a sanction law by the Minister under section 6 of the Act.

[11] After regulation 13

insert

13A Prohibitions relating to engaging in sanctioned commercial activity

- (1) A person contravenes this regulation if:
- (a) the person engages in a sanctioned commercial activity; and
 - (b) the sanctioned commercial activity is not an authorised commercial activity.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 16 of the Act that relates to a contravention of this regulation.

Note This has the effect that the offence has extraterritorial operation.

- (3) A body corporate contravenes this regulation if:
- (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and

- (b) the other body corporate or entity engages in a sanctioned commercial activity; and
- (c) the sanctioned commercial activity is not an authorised commercial activity.

Note This regulation may be specified as a sanction law under the *Autonomous Sanctions (Sanction Law) Declaration 2012*.

[12] Subregulation 18 (1)

substitute

- (1) The Minister may grant to a person a permit authorising:
 - (a) the making of a sanctioned supply; or
 - (b) the making of a sanctioned import; or
 - (c) engaging in a sanctioned commercial activity; or
 - (d) the provision of a sanctioned service; or
 - (e) the making available of an asset to a person or entity that would otherwise contravene regulation 14; or
 - (f) a use of, or a dealing with, a controlled asset.

Note Section 15 of the Act applies to a permit granted by the Minister under this subregulation.

[13] Subregulation 20 (1), note

substitute

Note See paragraph 18 (1) (e).

[14] Subregulation 20 (2), note

substitute

Note See paragraph 18 (1) (f).

Note

- 1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.