

BANKING (FOREIGN EXCHANGE) REGULATIONS 1959
AUTONOMOUS FINANCIAL SANCTIONS AGAINST LIBYA – REVOCATION OF
INSTRUMENTS

EXPLANATORY STATEMENT

The Reserve Bank of Australia has been directed by the Australian Government to take the necessary steps to remove all autonomous targeted financial sanctions currently administered under the *Banking (Foreign Exchange) Regulations 1959* (the “Banking Regulations”). The instruments effecting the revocation for each country the subject of targeted financial sanctions under the Banking Regulations will come into effect upon the commencement of the corresponding new legislative instrument enacted under the *Autonomous Sanctions Regulations 2011*. The new instruments will give effect to the new autonomous targeted financial sanctions regime for a specified country under the *Autonomous Sanctions Regulations* and will be administered by the Department of Foreign Affairs and Trade. This timing is to ensure continuity in the operation of Australia’s autonomous financial sanctions regime.

In accordance with a direction from the Treasurer, the Reserve Bank of Australia revokes the following legislative instruments pertaining to Libya:

- (i) Direction Relating To Foreign Currency Transactions And To Libya issued under regulation 5 of the Banking Regulations dated 4 March 2011, as published in the Commonwealth of Australia Gazette No. S 34, 9 March 2011 (and as subsequently amended), relating to foreign currency transactions involving certain persons and entities in or associated with Libya;
- (ii) Variation of Exemption dated 4 March 2011, as published in the Commonwealth of Australia Gazette No. S 35, 9 March 2011 (and as subsequently amended), relating to sub-regulation 6(1) of the Banking Regulations and to certain persons and entities in or associated with Libya; and
- (iii) Variation of Exemption dated 4 March 2011, as published in the Commonwealth of Australia Gazette No. S 36, 9 March 2011 (and as subsequently amended), relating to sub-regulation 8(1)(a) of the Banking Regulations and to certain persons and entities in or associated with Libya.

When the above revocations come into effect, the Reserve Bank of Australia will no longer play any role in the administration of autonomous targeted financial sanctions on behalf of the Australian government in relation to any individual or entities in or associated with Libya.

The Department of Foreign Affairs and Trade has completed a comprehensive public consultation on the *Autonomous Sanctions Regulations*, and has published a report on the outcomes of this consultation. As the new autonomous targeted financial sanctions regime under *Autonomous Sanctions Regulations* will replace those under the Banking Regulations, the Reserve Bank is satisfied that wider consultation beyond those already undertaken by the Department of Foreign Affairs and Trade is unnecessary (sub-sections 18 (1) and 18 (2)(e) of the *Legislative Instruments Act 2003*).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

REVOCATION OF VARIATIONS OF EXEMPTION AND DIRECTION RELATING TO FOREIGN CURRENCY TRANSACTIONS – LIBYA

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Legislative Instrument

As part of the Government's policy to reform Australia's autonomous sanctions regime, a new legislative framework has been implemented under the *Autonomous Sanctions Act 2011*. As part of this reform, the Reserve Bank of Australia has been directed by the Treasurer to take the necessary steps to remove all existing autonomous financial sanctions currently administered under the *Banking (Foreign Exchange) Regulations 1959* (the "Banking Regulations"). This Legislative Instrument revokes the instruments which have implemented autonomous financial sanctions pertaining to the above country.

Human rights implications

This instrument will terminate the autonomous financial sanctions regime under the Banking Regulations pertaining to the above country. Once the revocation is in place, the prohibitions previously applicable to the affected groups of persons will be lifted. Removing the prohibitions without there being an equivalent sanction in place under another legislative instrument would promote the human rights and freedoms of those persons who were previously subject to the prohibitions.

Note that the revocation contained in this instrument will only come into effect when a new legislative instrument enacted by the Department of Foreign Affairs and Trade ("DFAT") under the *Autonomous Sanctions Regulations 2011* commences. The new legislative instrument will give effect to the new autonomous targeted financial sanctions regime for the above country under the *Autonomous Sanctions Regulations*, and be accompanied by a Human Rights Compatibility Statement prepared by DFAT. The timing of commencement of this instrument will ensure continuity in the operation of Australia's autonomous financial sanctions pertaining to the above country.

Conclusion

This Legislative Instrument is compatible with human rights because it does not limit any human rights as they apply to Australia.

Reserve Bank of Australia