

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument No. 117, 2015**

Issued by the Authority of the Minister for Foreign Affairs

*Autonomous Sanctions Act 2011*

*Autonomous Sanctions Amendment (Suspension of Sanctions) Regulation 2015*

Section 28 of the *Autonomous Sanctions Act* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Autonomous Sanctions Regulations 2011* (the Principal Regulations) facilitate the conduct of Australia's relations with certain countries, and with specific entities or persons outside of Australia, through the imposition of autonomous sanctions in relation to those countries, or targeting those entities or persons.

The purpose of the proposed *Autonomous Sanctions Amendment (Suspension of Sanctions) Regulation 2015* (the Regulation) is to enable the Minister for Foreign Affairs to temporarily suspend autonomous sanctions and to re-impose sanctions, should this be required, to influence a foreign government entity, a member of a foreign government entity or another person or entity outside Australia. This will provide the Minister with additional flexibility in the conduct of Australia's international relations.

Specifically, the proposed Regulation would insert a new regulation 5D. Regulation 5D would provide that if the Minister is satisfied that it is in the national interest to do so, the Minister may, by legislative instrument, specify that an activity mentioned in regulations 4, 4A, 5, 5A, 5B and 5C is not a sanctioned supply, sanctioned import, sanctioned service or sanctioned commercial activity.

In accordance with subsection 18(2) of the *Legislative Instruments Act 2003*, no public consultation was undertaken in relation to the Amendment Regulation, as it is an instrument that is of minor regulatory impact. The Department of Foreign Affairs and Trade conducts regular outreach to the Australian business community to explain sanction laws implementing Australia's autonomous sanctions.

Details of the Regulation are set out in the Attachment.

## **Statement of Compatibility with Human Rights**

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

*Autonomous Sanctions Amendment (Suspension of Sanctions) Regulation 2015*

The *Autonomous Sanctions Amendment (Suspension of Sanctions) Regulation 2015* does not engage, and is therefore 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*.

**Details of the *Autonomous Sanctions Amendment (Suspension of Sanctions) Regulation 2015***

**Section 1 – Name**

Section 1 would provide that the name of the Regulation is the *Autonomous Sanctions Amendment (Suspension of Sanctions) Regulation 2015*.

**Section 2 – Commencement**

Section 2 would provide that the Regulation commences on the day after it is registered.

**Section 3 – Authority**

Section 3 would provide that the Regulation is made under the *Autonomous Sanctions Act 2011*.

**Section 4 – Schedules**

Section 4 would provide that each instrument that is specified in a Schedule to the Regulation is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**Schedule 1 – Amendments**

**Item [1] – Regulation 3**

Item [1] would amend the definition of ‘sanctioned commercial activity’ to reflect Regulation 5D of the Regulation.

**Item [2] – Regulation 3**

Item [2] would amend the definition of ‘sanctioned import’ to reflect Regulation 5D of the Regulation.

**Item [3] – Regulation 3**

Item [3] would amend the definition of ‘sanctioned service’ to reflect Regulation 5D of the Regulation.

**Item [4] – Regulation 3**

Item [4] would amend the definition of ‘sanctioned supply’ to reflect Regulation 5D of the Regulation.

**Item [5] – Regulation 5D**

Item [2] would insert a new Regulation 5D, which would provide that if the Minister is satisfied that it is in the national interest to do so, the Minister may, by legislative instrument, specify any of the following:

- (a) that an activity mentioned in regulation 4 is not a sanctioned supply;
- (b) that an activity mentioned in regulation 4A is not a sanctioned import;
- (c) that an activity mentioned in regulation 5 is not a sanctioned service;
- (d) that an activity mentioned in regulation 5A, 5B or 5C is not a sanctioned commercial activity.