

CHAPTER 2012-201

Senate Bill No. 792

An act relating to financial institutions; providing definitions; requiring a financial institution that is chartered in this state and that maintains certain accounts with a foreign financial institution to establish due diligence policies, procedures, and controls reasonably designed to detect whether the foreign financial institution engages in certain activities facilitating the development of weapons of mass destruction by the Government of Iran, provides support for certain foreign terrorist organizations, or participates in other related activities; requiring the Financial Services Commission to adopt rules establishing minimum standards for the due diligence policies, procedures, and controls; requiring a financial institution chartered in this state to annually file a compliance certificate with the Office of Financial Regulation; requiring that the Office of Financial Regulation submit an annual report relating to the Financial Services Commission rules and certifications from financial institutions to the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring that the Office of Financial Regulation make the annual report available to the public on its website; authorizing the Office of Financial Regulation to impose an administrative fine against a financial institution that fails to make the annual certification required by the act; providing an effective date.

WHEREAS, the United States Congress passed, and President Obama signed into law, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, and

WHEREAS, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 prohibits or strictly limits any foreign financial institution's ability to open or maintain a correspondent account or a payable-through account with American financial institutions if the United States Secretary of the Treasury determines that the foreign financial institution knowingly engages in certain activities facilitating the development of weapons of mass destruction by the Government of Iran, provides support for certain foreign terrorist organizations, or participates in other related activities, and

WHEREAS, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 imposes civil and criminal penalties against financial institutions based in the United States which know or should know that they are maintaining a correspondent account or a payable-through account with a foreign financial institution that engages in prohibited activities, and

WHEREAS, it is a sensible fiduciary responsibility of financial institutions chartered in the State of Florida to know the activities of foreign financial institutions with which they maintain correspondent or payable-through accounts, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Financial institutions; transactions relating to Iran or terrorism.—

(1) As used in this section, the term:

(a) “Correspondent account” has the same meaning as defined in 31 U.S.C. s. 5318A.

(b) “Financial institution” has the same meaning as defined in s. 655.005(1)(i), Florida Statutes.

(c) “Payable-through account” has the same meaning as defined in 31 U.S.C. s. 5318A.

(2) A financial institution chartered in this state which maintains a correspondent account or a payable-through account with a foreign financial institution must establish due diligence policies, procedures, and controls reasonably designed to detect whether the United States Secretary of the Treasury has found that the foreign financial institution knowingly:

(a) Facilitates the efforts of the Government of Iran, including efforts of Iran’s Revolutionary Guard Corps, to acquire or develop weapons of mass destruction or their delivery systems;

(b) Provides support for an organization designated by the United States as a foreign terrorist organization;

(c) Facilitates the activities of a person who is subject to financial sanctions pursuant to a resolution of the United Nations Security Council imposing sanctions on Iran;

(d) Engages in money laundering to carry out any activity listed in this subsection;

(e) Facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity listed in this subsection; or

(f) Facilitates a significant transaction or provides significant financial services for Iran’s Revolutionary Guard Corps or its agents or affiliates, or any financial institution, whose property or interests in property are blocked pursuant to federal law in connection with Iran’s proliferation of weapons of mass destruction, or delivery systems for those weapons, or Iran’s support for international terrorism.

(3) By July 1, 2012, the Financial Services Commission shall adopt rules establishing minimum standards for due diligence policies, procedures, and controls required by this section.

(4) By January 1, 2013, and each January 1 thereafter, each financial institution chartered in this state must certify to the Office of Financial

Regulation that the financial institution has adopted and substantially complies with the due diligence policies, procedures, and controls required by this section and the rules adopted under this section, and that to the best knowledge of the financial institution, the financial institution does not maintain a correspondent account or a payable-through account with a foreign financial institution that knowingly engages in any act described in subsection (2).

(5) By January 31, 2013, and each January 31 thereafter, the Office of Financial Regulation must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which contains a copy of the rules required under subsection (3) and the status of the certifications of compliance received from the financial institutions chartered in this state.

(6) The Office of Financial Regulation shall make its annual compliance report under this section available on its website.

(7) The Office of Financial Regulation may impose an administrative fine, not to exceed \$100,000 per occurrence, against a financial institution that fails to make the annual certification required under subsection (4).

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 4, 2012.

Filed in Office Secretary of State May 4, 2012.