EXPLANATORY MEMORANDUM TO

THE EXPORT AND INVESTMENT GUARANTEES (LIMIT ON EXPORTS AND INSURANCE COMMITMENTS) ORDER 2024

2024 No. [XXXX]

AND

THE EXPORT AND INVESTMENT GUARANTEES (LIMIT ON EXPORTS AND INSURANCE COMMITMENTS) (NO. 2) ORDER 2024

2024 No. [XXXX]

AND

THE EXPORT AND INVESTMENT GUARANTEES (LIMIT ON EXPORTS AND INSURANCE COMMITMENTS) (NO. 3) ORDER 2024

2024 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Export Credits Guarantee Department, which operates as UK Export Finance, and is laid before the House of Commons by Command of His Majesty.

2. Declaration

2.1 Gareth Thomas MP, Minister for Services, Small Business and Exports at the Department for Business and Trade and UK Export Finance confirms that this Explanatory Memorandum meets the required standard.

2.2 Adam Lyons, Deputy Director for Strategy at UK Export Finance confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Adam Lyons at UK Export Finance can be contacted with any queries regarding the instruments at adam.lyons@ukexportfinance.gov.uk.

Part One: Explanation, and context, of the Instruments

4. Overview of the Instrument

What does the legislation do?

4.1 The Export and Investment Guarantees Act 1991 (EIGA) imposes an aggregate limit on commitments made by the Secretary of State under arrangements made pursuant to the EIGA relating to exports and insurance. The limit currently stands at 67,700 million special drawing rights. Special drawing rights are supplementary international reserve assets defined and maintained by the International Monetary Fund (IMF). These three instruments would each increase that limit by 5,000 million special drawing rights. The effect of these instruments taken together would be to increase the

aggregate limit on the commitments referred to above to 82,700 million special drawing rights.

Where does the legislation extend to, and apply?

4.2 The extent of these instruments (that is, the jurisdiction(s) which the instruments form part of the law of) is the whole of the United Kingdom.

4.3 The territorial application of these instruments (that is, where the instruments produce a practical effect) is the whole of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 UK Export Finance is the UK's export credit agency. It is a department of the Secretary of State and is strategically and operationally aligned with the Department for Business and Trade. The mandate of UK Export Finance is to advance prosperity by ensuring no viable UK export fails for lack of finance or insurance, doing that sustainably and at no net cost to the taxpayer over time.

5.2 The Secretary of State, acting through UK Export Finance, assists UK companies win export contracts by providing attractive financing terms to their buyers. UK Export Finance also assists UK businesses fulfil export contracts by supporting working capital loans and contract bonds and helps them get paid for export contracts by providing insurance against buyer default.

5.3 The UK Export Finance portfolio consists of the aggregate amount of commitments made by the Secretary of State, through arrangements made pursuant to the EIGA, relating to exports and insurance. The size of UK Export Finance's portfolio therefore cannot exceed the commitment limit under section 6(1) of the EIGA.

5.4 The UK Export Finance portfolio is now larger than at any point in its history. In the 2023-24 financial year, UK Export Finance issued around £8.8 billion of financial support, directly supporting 650 businesses, and backing 41,000 jobs around the country. Given that UK Export Finance provides billions of pounds worth of support each year, an increase in the statutory commitment limit from 67,700 million to 82,700 million special drawing rights is required to accommodate its growing portfolio.

5.5 If the portfolio were to near or reach the statutory commitment limit, UK Export Finance would be prevented from underwriting further business and inhibited from delivering its mandate. This would cut UK exporters off from the government's financing offer and put them at a competitive disadvantage to rivals in almost all other developed nations.

5.6 These three instruments are therefore being made to increase the relevant statutory commitment limit and to provide additional headroom and flexibility for UK Export Finance's growing portfolio, in particular given a significant pipeline of transactions of strategic importance in delivering wider government priorities. This will enable the Secretary of State, acting through UK Export Finance, to continue to support UK exports and to continue delivering wider government priorities. Effective management of UK Export Finance's growing portfolio justifies an increase by 15,000 million special drawing rights at this time.

What was the previous policy, how is this different?

5.7 These instruments ensure a continuation of current policy, while ensuring that UKEF has sufficient headroom in its statutory limit to manage its portfolio.

5.8 Following an increase in the statutory commitment limit, the powers of the Secretary of State under sections 1 and 2 of the EIGA will continue to be exercised only with the consent of the Treasury. The Treasury agrees a standing consent with UK Export Finance, providing parameters within which the Secretary of State, acting through UK Export Finance, can operate without needing to seek explicit approval, as well as financial objectives and reporting requirements.

5.9 UK Export Finance will continue to manage its portfolio in accordance with its existing risk framework and financial parameters which are designed to enable the department to fulfil its mandate of supporting UK exporters at no net cost to the taxpayer over time. This ensures that credit risk and pricing are managed on the basis that UK Export Finance should receive a return that is at least adequate to cover the cost of the risks it is assuming, does not expose the taxpayer to the risk of excessive loss and covers the department's operating costs.

6. Legislative and Legal Context

How has the law changed?

6.1 Sections 1 and 2 of the EIGA confer powers on the Secretary of State to make arrangements in support of exports and to provide insurance in connection with overseas investments.

6.2 Section 6(1) of the EIGA imposes a limit on the aggregate amount of commitments made by the Secretary of State, through arrangements made pursuant to the EIGA, relating to exports and insurance. At present, this limit stands at 67,700 million special drawing rights.

6.3 These instruments are made pursuant to section 6(4)(a) of the EIGA. An instrument made under this section may increase the commitment limit at section 6(1) by a sum not exceeding 5,000 million special drawing rights. These instruments would each increase the limit at section 6(1) by 5,000 million special drawing rights.

6.4 The first order would increase the limit from 67,700 million special drawing rights to 72,700 million special drawing rights. The second order would increase the limit from 72,700 million special drawing rights to 77,700 million special drawing rights. The third order would increase the limit from 77,700 million special drawing rights to 82,700 million special drawing rights.

6.5 The three instruments will be made in a staggered sequence, with each order being made on a separate day. Each order will come into force on the 21st day after the day on which it is made. Therefore, each order will come into force on a separate day.

6.6 Section 6(4A) of the EIGA provides that the power under section 6(4)(a) may be exercised on no more than three occasions. The power has not been exercised before. It is being exercised on three occasions to make these instruments. The power to make an order under section 6(4)(a) therefore cannot be used again.

6.7 Pursuant to section 6(7) of the EIGA, the power to make any order under section 6 is exercisable only with the consent of the Treasury.

6.8 Pursuant to section 13(1) of the EIGA, a number of the functions of the Secretary of State, including those under sections 1 and 2 of the EIGA, shall be performed and exercised through the Export Credits Guarantee Department.

6.9 Pursuant to section 4(2) of the EIGA the powers of the Secretary of State under sections 1 and 2 of the EIGA are exercisable only with the consent of the Treasury.

6.10 The power under section 6(4)(a) of the EIGA has not been exercised before, however section 6 of the EIGA was amended by section 12 of the Small Business, Enterprise and Employment Act 2015. Prior to its amendment, three orders were made under section 6 of the EIGA, namely the Export and Investment Guarantees (Limit on Foreign Currency Commitments) Order 1995 No. 1988; the Export and Investment Guarantees (Limit on Foreign Currency Commitments) Order 1998 No. 1675 and the Export and Investment Guarantees (Limit on Foreign Currency Commitments) Order 2000 No. 2087.

Why was this approach taken to change the law?

6.11 The power under 6(4)(a) of the EIGA enables the limit at section 6(1) of the EIGA to be increased and therefore using this power is the appropriate approach to take to change the law in this instance.

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation in relation to these instruments has been undertaken. The instruments do not apply to any entity other than the Secretary of State, when exercising functions under the EIGA, which are exercised and performed through UK Export Finance.

8. Applicable Guidance

8.1 No applicable guidance will be provided to accompany these instruments.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared because these instruments increase a commitment limit applicable to the Secretary of State, in respect of functions which are exercised and performed through UK Export Finance. There is no, or no significant, impact on any other body.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 UK Export Finance has a robust risk management framework, which monitors the size and composition of its portfolio on an ongoing basis. This will ensure that UK Export Finance continues to operate consistently with its statutory requirements and the commitment limits set by the Treasury.

10.2 These instruments do not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Services, Small Business and Exports has made the following statement regarding Human Rights:

In my view the provisions of The Export and Investment Guarantees (Limit on Exports and Insurance Commitments) Order 2024, The Export and Investment Guarantees (Limit on Exports and Insurance Commitments) (No. 2) Order 2024 and The Export and Investment Guarantees (Limit on Exports and Insurance Commitments) (No. 3) Order 2024 are compatible with the Convention rights.

13. The Relevant European Union Acts

13.1 These instruments are not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").