EXPLANATORY MEMORANDUM TO

THE SYRIA (EUROPEAN UNION FINANCIAL SANCTIONS) (AMENDMENT) REGULATIONS 2012

2012 No. 639

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations amend the Syria (European Union Financial Sanctions) Regulations 2012 (S.I. 2012/129) ("the 2012 Regulations"), which put in place penalties for breach of EU financial sanctions in relation to Syria. The Regulations implement Council Regulation (EU) No. 168/2012 of 27 February 2012 ("the amending Council Regulation"), amending Regulation (EU) No. 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No. 442/2011 (OJ L 16, 19.01.2012, p.1). The amending Council Regulation provides for derogations from the asset-freezing measures in respect of the Central Bank of Syria.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations have been laid before Parliament less than 21 days before they come into force. The amending Council Regulation came into force on the day of its publication in the Official Journal, on 28 February 2012. The Central Bank of Syria and seven individuals were added to Annex II to Regulation (EU) No. 36/2012 by the amending Council Regulation and became subject to the asset freezing measures contained in Regulation (EU) No. 36/2012. Penalties for breach of those measures are contained in the 2012 Regulations. As the amending Council Regulation contains derogations from the asset freezing measures, it is important that the derogations are reflected in the 2012 Regulations, so that conduct which would not be in breach of Regulation (EU) No. 36/2012 is not subject to a criminal penalty under the 2012 Regulations.

3.2 The Treasury has issued guidance on the requirements of the 2012 Regulations, and the effect of the amending Council Regulation. The Treasury also provides a dedicated email address and telephone number to deal with queries from the financial sector and other affected persons.

4. Legislative Context

4.1 These Regulations amend the 2012 Regulations. They reflect amendments made by the amending Council Regulation to Council Regulation (EU) No. 36/2012 concerning restrictive measures in view of the situation in Syria.

4.2 An explanatory memorandum on Council Decision 2012/122/CFSP of 27 February 2012 and the amending Council Regulation has been submitted for Parliamentary Scrutiny by the Foreign and Commonwealth Office. However, due to the speed at which these have been adopted, an override has been necessary.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom and, outside the United Kingdom, to British citizens and those with a UK connection.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 These Regulations amend the 2012 Regulations, which provide for penalties for breach of the asset freezing measures contained in Council Regulation (EU) No. 36/2012, imposed in view of the situation in Syria. The Council Regulation has direct effect, and requires Member States to put in place effective, proportionate and dissuasive penalties for infringements of the Council Regulation.

7.2 On 27 February 2012 the EU agreed a new package of additional restrictive measures against Syria, contained in Council Decision 2012/122/CFSP, reflecting deep concern about the deteriorating situation in Syria and in particular the widespread and systematic violations of human rights. Council Regulation (EU) No. 168/2012 gives effect to those additional restrictive measures, imposing an asset freeze on additional individuals and an entity, the Central Bank of Syria.

7.3 The asset freezing measures in respect of the Central Bank of Syria are subject to derogations permitting certain transfers of funds or economic resources to and from the Central Bank of Syria connected to trade contracts and in order to provide financial institutions in the EU with liquidity for the financing of trade. These Regulations amend the 2012 Regulations to reflect the derogations.

- Consolidation

7.4 There are no plans to consolidate the relevant legislation.

8. Consultation outcome

8.1 No consultation has been carried out in relation to these Regulations.

9. Guidance

9.1 Guidance on the asset freezing measures in relation to Syria is available on the Treasury's website. The Treasury's Asset Freezing Unit operates a free subscription email service alerting subscribers on changes to the asset freezing regime, and on other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing regime. A notice explaining the amending Council Regulation is available on the Treasury website and was emailed to subscribers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible because these Regulations do not themselves impose requirements but reflect derogations put in place by the amending Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the amending Council Regulation rather than these Regulations.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the Treasury work with the financial sector on the requirements for complying with the asset freezing measures set out in Regulation (EU) No. 36/2012. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

12.1 The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by Regulation (EU) No. 36/2012 if it is amended or repealed.

13. Contact

The Asset Freezing Unit at the Treasury Tel: 020 7270 5454 or email: AFU@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.