EXPLANATORY MEMORANDUM TO

THE UNITED NATIONS AND EUROPEAN UNION FINANCIAL SANCTIONS (LINKING) (AMENDMENT) (No. 2) REGULATIONS 2017

2017 No. 1071

1. Introduction

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

2. Purpose of the instrument

2.1 These Regulations include a reference to UN Security Council Resolution 2374 (2017) and Council Regulation (EU) 2017/1770 in the United Nations and European Union Financial Sanctions (Linking) Regulations 2017 to take into account the new sanctions regime on Mali agreed by the UN Security Council on 5th September 2017. This will enable the UK to swiftly implement UN requirements to include individuals and bodies on the list of designated persons to whom financial sanctions apply, and thereby reduce the risk of asset flight.

2.2 The United Nations and European Union Financial Sanctions (Linking) Regulations 2017 link UN financial sanctions Resolutions ("UNFSRs") with the corresponding EU financial sanctions Regulations ("EUFSRs"). The linking of the UN and EU regimes in this way means that, where a person is designated for the purposes of a UN regime, and the person is not already included in the list of persons designated under the EU regime, the UN designated person is temporarily deemed to be designated under the EU regime. This temporary period ends when the person is designated under the EUFSR, or (where the EU has not yet designated the person under its own regime) at the end of 30 days after the UN designation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 No matters of special interest.

Other matters of interest to the House of Commons

3.2 As these Regulations are subject to the negative procedure and have not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 These Regulations are made under section 154(1) of the Policing and Crime Act 2017 ("the 2017 Act"). They include a reference to United Nations Security Council Resolution 2374 (2017) of 5th September 2017 and Council Regulation (EU) 2017/1770 of 28th September 2017 concerning restrictive measures in view of the situation in Mali. The United Nations and European Union Financial Sanctions (Linking) Regulations 2017 link UNFSRs to the corresponding EUFSRs in order that the deeming provisions in section 155 of the Act can apply. This means that when the UN makes a listing that would, when implemented by the EU, fall under an existing

EUFSR, that listing can take effect automatically in the UK until the EU amend the relevant EUFSR.

5. Extent and Territorial Application

5.1 These Regulations extend to the whole of the United Kingdom.

5.2 The territorial application of these Regulations is all of the United Kingdom.

6. European Convention on Human Rights

6.1 As these Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 On 5th September 2017, the UN Security Council unanimously adopted Resolution 2374 (2017) which established a new sanctions regime and accompanying Panel of Experts for Mali. The EU transposed this resolution through Council Regulation (EU) 2017/1770. It is therefore necessary to update The United Nations and European Union Financial Sanctions (Linking) Regulations 2017 through the attached Statutory Instrument to include these new sanctions against Mali.

7.2 The sanctions were imposed by the UN Security Council, primarily to pressure and deter those who seek to undermine the Peace Agreement in Mali.

Consolidation

7.3 The amendments made by these Regulations are not so extensive as to require consolidation at this time.

8. Consultation outcome

8.1 No consultation has been carried out in relation to these Regulations. HM Treasury currently updates the Consolidated List of designated individuals and entities within 1 day after new listings are implemented by the EU and operates a Notification system for businesses throughout the UK. The new listings implemented by these Regulations will be disseminated in the same way; businesses will be informed by HM Treasury within 1 day of the new UN listings being implemented in the UK. Therefore, no additional burden will be placed on businesses in order to comply with the new listings, and no consultation was held to be necessary.

8.2 The Consolidated List is available here: https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets

9. Guidance

9.1 Guidance on asset freezing and other financial sanctions measures can be found on the Treasury's website (https://www.gov.uk/government/publications/financial-sanctions-faqs). The Office of Financial Sanctions Implementation, within the Treasury, operate a free subscription email and Notification service alerting subscribers to changes to the asset freezing regime, and to 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 and financial sanctions regimes. A Notice explaining the new powers contained in the 2017 Act is available on the Treasury website.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible because these Regulations do not impose any new requirements themselves. Reducing the delay in implementation could in fact assist financial institutions by removing uncertainty over whether they can deal with designated individuals between UN listing and EU implementation. No additional burdens will be created by this measure.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for these Regulations. However, an Impact Assessment was carried out for the 2017 Act, under which these Regulations were made. Any impact was deemed to be negligible. That Impact Assessment can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/533787/PC_Bill_Overarching_IA_for_Lords_intro.pdf.

11. Regulating small business

11.1 These Regulations apply to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the Treasury work closely with the financial sector on the requirements for complying with asset freezing and financial sanctions. Please see paragraph 8.1 for details on how the Treasury notifies businesses of new listings. In addition, HM Treasury has now updated its public guidance.

12. Monitoring & review

12.1 It is not appropriate to make provision for periodic review as contemplated in sections.28-32 of the Small Business Enterprise and Employment Act 2015 because these Regulations do not regulate business.

12.2 The UN and EU monitor and review their financial sanctions measures, which the Treasury is under an obligation to implement. The Treasury will monitor the effect of implementing UN listings in the UK without delay to ensure that the implementation and notification processes work as they should.

13. Contact

13.1 Please contact SanctionsLegislation@HMTreasury.gsi.gov.uk for any queries regarding the instrument.