

EXPLANATORY MEMORANDUM TO
THE EUROPEAN UNION FINANCIAL SANCTIONS (AMENDMENT OF
INFORMATION PROVISIONS) REGULATIONS 2017

2017 No. 754

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 expand the scope of the reporting requirements set out in existing UK financial sanctions statutory instruments to certain businesses and professions.

2.2 These businesses and professions will commit an offence if they fail to comply with the reporting obligations set out in the relevant part of the Schedule to the statutory instruments being amended. The reporting requirements are to inform HM Treasury if they know or have reasonable cause to suspect that a person has committed an offence under the relevant regulations or is a person who is the subject of an asset freeze.

3. Matters of special interest to Parliament

Matters of interest to the Joint Committee on Statutory Instruments

3.1 None.

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 2(2) of the European Communities Act 1972, in order to ensure that existing enforcement provisions in relation to the reporting obligations of financial institutions are extended to other relevant businesses and professions such as estate agents and law firms.

5. Extent and Territorial Application

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

5.2 The instruments these Regulations amend apply to the whole of the United Kingdom, and outside the United Kingdom to any UK national or anybody incorporated in 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 Directly applicable EU financial sanctions Regulations which set up asset freezes against certain designated persons provide that natural and legal persons, entities and bodies are to supply any information which would facilitate compliance with the Regulations, such as information on accounts and amounts frozen. It is for Member States to lay down the rules on penalties applicable to infringements of the obligations.
- 7.2 Currently the United Kingdom's enforcement of financial sanctions measures backed by criminal law only require a "relevant institution" to report to HM Treasury, with "relevant institution" defined in such a way as to effectively apply to only financial institutions. This statutory instrument extends the organisations to which the domestic legislation and associated criminal law applies to include other businesses or professions to ensure the United Kingdom meets best practices set by the Financial Action Task Force. Those businesses and professions affected include: independent legal professionals, trust or company service providers, estate agents, dealers in precious metals and stones, casinos, accountants and others.

8. Consultation outcome

- 8.1 No formal consultation has been carried out in relation to these Regulations, which provide for domestic enforcement of the financial sanctions and reporting obligations that have been themselves imposed by the Council Regulations.
- 8.2 HM Treasury will continue to engage with stakeholders on this policy change and the Office of Financial Sanctions Implementation (OFSI) are already engaging with those sectors currently and due to be impacted with a view to ensuring that they: fully understand the implications of this change; and are given an opportunity to feedback on practical guidance and reporting mechanisms.

9. Guidance

- 9.1 General guidance on financial sanctions is available on HM Treasury's website: <https://www.gov.uk/government/publications/financial-sanctions-faqs>. This guidance will be updated, to incorporate operational information about this policy change, and will be promoted when this change comes into force.
- 9.2 OFSI offers a free e-alert service that allows subscribers to stay up-to-date with financial sanctions developments that have operational implications. It also runs a helpline and email enquiry service for those with questions about financial sanctions. More information can be found on OFSI's web pages on gov.uk: <https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation>.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is negligible because these Regulations do not impose requirements themselves, but only put in place enforcement provisions in relation to activities which are prohibited by the directly effective Council Regulations.
- 10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for these Regulations because any impact results from the Council Regulations rather than these Regulations which only provide for enforcement powers.

11. Regulating small business

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

11.2 HM Treasury work closely with the impacted sectors on the requirements for complying with asset freezing and financial sanctions in order to minimise the impact of the requirements on small businesses (employing up to 50 people).

12. Monitoring & review

12.1 The EU monitors and reviews its financial sanctions measures. HM Treasury will review the penalties for breaches of the restrictions imposed by the relevant Council Regulations if they are amended or repealed.

12.2 It is therefore not appropriate in the circumstances to make provision for further periodic review as contemplated in ss.28-32 of the Small Business Enterprise and Employment Act 2015.

13. Contact

13.1 The Sanctions and Illicit Finance Team at HM Treasury
(email:SIF@HMTreasury.gsi.gov.uk)

13.2 Additionally, the Office of Financial Sanctions Implementation (email: OFSI@hmtreasury.gsi.gov.uk) can answer queries regarding the operational implementation of this instrument from the point of coming into force.