

## EXPLANATORY MEMORANDUM TO

### THE SANCTIONS (OVERSEAS TERRITORIES) (AMENDMENT OF INFORMATION PROVISIONS) ORDER 2018

2018 No. 1076

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 This Order extends the reporting requirements on financial institutions in existing Overseas Territories sanctions orders to certain other businesses and professions.
- 2.2 These businesses and professions will commit an offence if they fail to comply with the reporting obligations in the orders being amended.
- 2.3 The reporting requirements are to inform the Governor of the relevant Overseas Territory if they know or suspect that a customer is the subject of an asset freeze under the relevant order or has committed an offence in relation to the asset freezing measures under the order.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is not subject to parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

#### 4. Extent and Territorial Application

- 4.1 The extent of this instrument is: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, the Falkland Islands, Montserrat, Pitcairn (including Henderson, Ducie and Oeno Islands), St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia, the Turks and Caicos Islands and the Virgin Islands (“the Territories”).

#### 5. European Convention on Human Rights

- 5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

#### 6. Legislative Context

- 6.1 This Order is made in exercise of statutory powers under the United Nations Act 1946, the Saint Helena Act 1833, the British Settlements Acts 1887 and 1945, and the legislative power of the Royal prerogative.

6.2 The statutory and prerogative powers to legislate for the Overseas Territories to implement enforcement measures associated with the application of sanctions are applicable to the Overseas Territories as follows:

- (i) the Saint Helena Act 1833 applies to St Helena;
- (ii) the British Settlements Acts 1887 and 1945 are applicable to Ascension and Tristan da Cunha, British Antarctic Territory, the Falkland Islands, Pitcairn (including Henderson, Ducie and Oeno Islands), and South Georgia and the South Sandwich islands);
- (iii) the prerogative legislative power is applicable to Anguilla, British Indian Ocean Territory, Cayman Islands, Montserrat, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands.

## **7. Policy background**

### *What is being done and why?*

7.1 Financial institutions in the Overseas Territories are required to inform the Governor if they know or suspect that one of their customers:

- (i) is a designated person;
- (ii) has dealt with funds belonging to or made funds available to a designated person; or
- (iii) made a false statement or provided a false document when applying for a licence to authorise activity otherwise prohibited by an asset freeze.

Failure to comply with these requirements is a criminal offence.

7.2 This Order will extend those reporting requirements to other businesses or professions, namely auditors, casinos, dealers in precious metals and stones, external accountants, independent legal professionals, real estate agents, tax advisers, and trust or company service providers.

7.3 The application of reporting requirements to these other businesses and professions is in accordance with the best practice standards of the Financial Action Taskforce (“FATF”). As a best practice standard, there is no specific deadline for implementation. FATF is an inter-governmental body, which was established in 1989 to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

7.4 The analogous financial sanctions reporting requirements in the United Kingdom were extended to the same non-financial businesses or professions through the European Union Financial Sanctions (Amendment of Information Provisions) Regulations 2017 (S.I. 2017/754), which entered into force on 8 August 2017.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument does not relate to withdrawal from the European Union.

**9. Consolidation**

9.1 This Order will make minor amendments to existing sanctions orders. Therefore there is no need for consolidation. The Foreign and Commonwealth Office will keep the need for consolidation under review.

**10. Consultation outcome**

10.1 The Overseas Territories have been consulted on the Order in draft.

**11. Guidance**

11.1 No guidance will be issued.

**12. Impact**

12.1 There is no impact on business, charities or voluntary bodies in the United Kingdom.

12.2 There is no impact on the public sector in the United Kingdom.

12.3 An Impact Assessment has not been prepared for this instrument.

**13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses in the United Kingdom.

**14. Monitoring & review**

14.1 The Foreign and Commonwealth Office will review this and other relevant orders as appropriate following any modifications to existing sanctions regimes.

**15. Contact**

15.1 George Howe at the Foreign and Commonwealth Office Telephone: 0207 008 1585 or email: [george.howe@fco.gov.uk](mailto:george.howe@fco.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Nicola Smith, Legal Counsellor at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Ahmad of Wimbledon, Minister of State at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.