

**MONEY LAUNDERING AND TERRORIST FINANCING (AMENDMENT) (HIGH-RISK COUNTRIES)
REGULATIONS 2021
STATEMENT UNDER PARAGRAPH 15(4) OF SCHEDULE 8 TO THE EUROPEAN UNION (WITHDRAWAL)
ACT 2018**

I make this statement to correct a reference in the explanatory memorandum prepared by HM Treasury to the Money Laundering and Terrorist Financing (Amendment) (High-Risk Countries) Regulations 2021 (S.I. 2021/392) and to make a statement under paragraph 15(4) of Schedule 8 to the European Union (Withdrawal) Act 2018.

In the course of preparing the explanatory memorandum an error was made at paragraph 8.1 which stated that the instrument did not trigger the statement requirements under the 2018 Act. Paragraph 15 of Schedule 8 to that Act did, however, apply to this instrument.

The contents of the explanatory memorandum covered the substance of the explanations required by the Act. HM Treasury consider, however, that it is important to put on record the correction to paragraph 8 of the memorandum and to re-state the explanations, in summary form, for the avoidance of doubt.

Explanations

The instrument amended the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ('the MLRs'), which were made under section 2(2) of the European Communities Act 1972.

As set out at paragraphs 2.1 and 6.1 to 6.3 of the memorandum, attached, the instrument replaced references to the European Commission's list of high-risk third countries (in respect of which enhanced customer due diligence measures must be taken by relevant persons under the MLRs) with a list of countries identified by a new Schedule 3ZA to the MLRs.

Reason for the amendment – paragraph 15(2), Schedule 8

In HM Treasury's view there were good reasons for the amendment for the reasons given in paragraph 6.2 and section 7 of the memorandum. It was considered necessary to make this change as the list referred to in the Commission Delegated Regulation, a part of retained EU law, would become outdated, leaving the UK financial system at risk from those countries which have strategic deficiencies in their anti-money laundering and counter terrorism financing controls. In addition, the key policy objective behind the legislation is for the Department to be able to independently update, in a timely manner, the list of high-risk third countries in respect of which the regulated sector needs to apply enhanced due diligence in order to continue to be in line with international standards on combatting money laundering (paragraph 7.1).

Relevant law and effect of the amendment on retained EU law – paragraph 15(3), Schedule 8

Paragraphs 6.1 to 6.3 and 7.5 of the memorandum set out the law which is relevant to the amendment, specifically regulation 33 of the MLRs, Commission Delegated Regulation (EU) 2016/1675 and the powers given by section 49 of the Sanctions and Anti-Money Laundering Act 2018.

The effect of the amendment on retained EU law is also set out (paragraph 6.3). The instrument revoked the Commission Delegated Regulation which formed part of retained EU law and replaced references to it in the MLRs (also a part of retained EU law), with reference to a freestanding list of countries. The change allows the UK to take its own view on which countries present a higher risk of money laundering, such that enhanced due diligence is appropriate. The UK has chosen to mirror lists published by the Financial Action Task Force, without reference to EU legislation (paragraph 6.2).