Thank you for your letter of 5 November 2014. I welcome both the Select Committee’s interest in the counter-terrorism sanctions regimes in effect in the UK and the opportunity to make a public response.

In your letter you ask a number of questions. I think it would be constructive to begin by setting out some background to counter-terrorism financial sanctions in effect in the UK and I will then answer your questions in turn.

There are three counter-terrorism financial sanctions regimes in effect in the UK. These are:

- The UN Al Qaida regime, implemented by EC Regulation 881/2002, which has direct effect in the UK, with criminal penalties imposed by the Al Qaida (Asset Freezing) Regulations 2011.

- The EU’s non-Al Qaida regime imposing an asset freeze on designated terrorists external to the EU, which partially implements UN Security Council Resolution (“UNSCR”) 1373. This is implemented by EC Regulation 2580/2001, with criminal penalties imposed by the Terrorist Asset Freezing etc. Act 2010 (“the 2010 Act”).

- The UK’s domestic regime. This regime is contained in the 2010 Act. The 2010 Act regime fulfils the UK’s obligations under UNSCR 1373, as well as being the vehicle for implementing EU designations under EC Regulation 2580/2001.
The Treasury leads on the operation of the UK's domestic 'terrorist asset freezing' regime and on the implementation of UN and EU asset freezes. Domestic designation decisions are made by the Treasury, whereas designation decisions under the EU and UN regimes are taken by those respective institutions. The Foreign and Commonwealth Office (FCO) have the UK lead for listings under the UN and EU regimes. In making domestic designations, the Treasury relies on evidence and proposals for listings from law enforcement and security agencies who are best placed to judge the most effective and appropriate way to disrupt terrorist activity. A small number of domestic designations have been made following requests from international partners. Regardless of the source for listing, once the Treasury receives a request to freeze and receives the evidential basis for doing so, my officials hold discussions with other government departments and agencies to consider the case and, in particular, whether the statutory test for designation has been met. If it is considered that the test is met, Treasury officials will present the case for designation to me to make the designation decision. Any person designated has a right of appeal against their designation to the Courts, under section 26 of the 2010 Act.

In order for a designation to be made, I must be satisfied that the two part statutory test, under section 2 of the 2010 Act, is met. The first part of the test requires that the Treasury reasonably believe the person is or has been involved in terrorist activity, the second part requires that the designation is considered necessary for purposes connected with protecting the public from terrorism. Designations under the 2010 Act can be applied to terrorists anywhere in the world – there does not have to be a UK link or a specific threat to the UK public, provided the financial restrictions imposed by the designation are considered necessary to meet that threat. Designations expire after 12 months but can be renewed if the statutory test continues to be met. The Treasury also has a power under Section 6 of the 2010 Act to make designations for up to 30 days on the basis of reasonable suspicion that someone has been involved in terrorist activity, where it is considered necessary for purposes connected with protecting the public from terrorism.

1. Why had the UK not taken action to designate Abd al-Rahman bin Umayr al-Nuaymi (and others) at the time he was designated by US?

As with the Treasury's powers under the 2010 Act, in the US asset freezing is an executive action. There is a high degree of overlap between persons listed under counter-terrorism sanctions regimes in effect in the UK and those listed under counter-terrorism regimes in the US. There are some differences between the UK and US's respective domestic sanctions regimes and processes: legislative differences mean that it will not always be possible for the domestic UK asset-freezing list to mirror all US domestic listings and vice versa.

Both the UK and US robustly implement UN-mandated sanctions against Al Qaida. Al-Nuaymi's listing was agreed at the UN on 23 September 2014. The listing came into force in the UK when his name was added to the list of names of those designated under EU Regulation 881/2002 on 9 October. The UK consolidated list
was updated to reflect this listing soon afterwards. We are looking into how to reduce the length of time between a name being added to the UN list and EU implementation.

The Treasury did not receive a request to consider the domestic designation of Nuaymi or the other individuals designated by the US who have not been listed under the UN’s Al Qaida sanctions regime.

2. Are we assured that cooperation between the UK and US on such matters is working as effectively as it could do?

Cooperation between the US and the UK in sanctions matters, including at the level of the UN Security Council, is extremely close. Both countries have a shared agenda to counter terrorism and its financing. There is regular dialogue on counter-terrorism matters, including visits, between officials from both governments. In the last few weeks, my officials have met with a US delegation, engaged with US partners at three video teleconferences covering counter-terrorism financial sanctions, and participated in a week-long meeting of the Financial Action Task Force where the UK and US were influential in shaping the Task Force’s work on ISIL (see below). This close relationship and high degree of cooperation is equally true in our approach to broader financial sanctions, including on Iran, Syria and Russia, where the US and UK treasuries have frequent and productive contact.

The Government recognises the importance of making the most appropriate and effective use of all available tools and powers to combat terrorism. The Government shares and receives a significant amount of information with partners as part of the counter-terrorism cooperation process, which greatly aids joint counter-terrorism efforts. We aim to ensure that our terrorist asset freezing powers are used and administered in an effective and proportionate way to help protect the public from the threat of terrorism. The existence of a closed material procedure in the UK court makes information sharing between the UK and other countries like the US more feasible in cases where they may have concerns around their classified information being made public in a UK Court hearing. Generally, our information sharing arrangements with our partners are extremely effective.

3. What measures is the Treasury taking to stem the flow of funds to ISIL?

The Government sees degrading ISIL’s finances as a key part of its objective of defeating the critical threat that ISIL poses to UK security and to UK interests in the region and we recognise the challenge that this brings, given the way ISIL operates. A cross-government ISIL Taskforce, located in the FCO, has been set up to coordinate HMG’s strategy to defeat ISIL and its violent ideology. The team includes staff from different Government departments and draws on expertise from many more, including the Treasury. Alongside a Strategy Team, it includes an Understand Team,
a Political Team, a Strategic Communications Team and a Briefing and Correspondence Team.

The use of financial levers, as well as degrading ISIL’s finances, is important in countering the ISIL threat. Understanding terrorist organisations’ financial structures is best viewed through how they raise, store, use and move their funds. Work on ISIL finances takes place across government, not just at the Treasury. For instance, the Ministry of Defence’s Joint Improvised Explosive Device Analysis Centre has been working to build a picture of terrorist networks through their finances.

Work within the UK

A UK national security threat emanates from returning foreign fighters. Undermining their finances is a key to tackling that threat. Operationally, the police lead this activity and they engage across the Government’s Counter-Terrorism strategy (CONTEST) to reduce opportunities for UK foreign fighters to either raise the finances to travel to join ISIL, or to maintain their role within ISIL once they have left the UK. The police are expanding their approach to incorporate greater elements of the PREVENT strategy, where they seek to undermine the finances of those seeking to radicalise potential ISIL foreign fighters.

Donations from UK individuals and entities to ISIL represent only a very small fraction of ISIL funds. However, the Treasury has designated five UK nationals/UK resident individuals with an ISIL connection under the 2010 Act. Although not major ISIL financiers in their own right, the asset freeze disrupts the ability of these individuals to use their funds to support themselves in their operations in Syria and Iraq and prevents others in the UK from making funds available to them. The Treasury continues to work closely with operational and international partners to raise awareness of asset freezing, its effects and requirements for designation, to aid their consideration of the appropriate disruptive tools to use and raise the profile of domestic designation as an effective tool in the fight against terrorism. As well as having responsibility for the domestic asset freezing regime, the Treasury also administers asset freezes under the UN Al Qaida regime, under which ISIL is currently listed.

The Treasury works closely with other Government departments and with law enforcement and security agencies, including regional police Counter-Terrorism Units, on the above.

International work

It is vital that the international community works closely together to stem the flow of funds to ISIL. The UK secured UNSCR 2170 under its August 2014 Presidency in which the UN Security Council unanimously agreed on the need to send a strong message to terrorists in Iraq, Syria and the wider region, in the face of brutal violence perpetrated against all parts of the population. Part of that Resolution specifically enjoined the United Nations Assistance Mission for Iraq (UNAMI) to assist the
Sanctions Committee and its Monitoring Team by sharing information that might help in the implementation of UN Al Qaida sanctions. Robust and consistent international implementation and enforcement of these sanctions is essential. We are working closely with coalition partners both to understand the nature of ISIL’s finances better and to take action to degrade those finances.

We see ISIL’s primary sources of revenue as coming from oil produced in areas in Syria and Iraq which it controls, “taxation”/extortion in those same areas, and spoils of war (including looted cash and goods, including antiquities). Other sources of funds include donors and kidnap for ransom. Although we believe that donations and ransoms derived from kidnap are less significant sources of funds for ISIL, we must of course be alert to changes in this profile of revenues. Military action has been taken which has impacted on oil revenues in particular and we expect this to continue.

The Treasury is involved in international efforts to stem the flow of funds to ISIL through its leadership of the UK delegation to the Financial Action Task Force (FATF), the global inter-governmental body that sets and monitors compliance with robust international standards in anti money laundering (AML) and counter financing of terrorism (CFT). The work of the FATF is crucial in supporting the global fight against terrorist financing, and in maintaining pressure on countries with deficiencies in their AML/CFT regimes.

FATF issued a public statement on ISIL, following its October 2014 plenary, expressing concern with the financing generated and provided to ISIL, and highlighting the robust implementation of the FATF standards as necessary to disrupt and prevent ISIL financing. The statement calls on countries to take steps to prevent ISIL from accessing their financial systems while noting that more insight into the sources and methods of funding of ISIL is required. FATF is undertaking work to assess and identify the AML/CFT risks posed by ISIL, including how funds and other assets are raised, moved and used by ISIL. The results of this work will be published in due course.

The Treasury is also involved in international discussions in relation to terrorist financing. Treasury and NTFIU (the National Terrorist Financial Investigation Unit, part of the Metropolitan Police’s SO15 Counter Terrorist Command) recently attended the Manama Meeting on Combatting the Financing of Terrorism. The meeting sought to enhance international efforts to combat the funding of terrorist groups both inside and outside the Middle East and North Africa region. Participants issued a declaration following the meeting emphasising their commitment to combatting terrorist financing. The principles of good practice in this field were shared during the meeting with commitment to this good practice forming part of the Declaration.

Through the FATF, and meetings such as this, Treasury plays a role as part of a cross-government effort to maintain pressure on international partners to enhance their own CFT regimes with the aim of making the global financial system a hostile place for terrorist financing.

4. How do we know these measures are sufficient?
Disrupting terrorist financing is extremely important, and a key aim of the Government’s counter-terrorism strategy, CONTEST, falling under the Pursue strand of that strategy. In its last round of Mutual Evaluations the FATF considered the UK to have one of the most robust anti money laundering and counter financing of terrorism regimes of all its members.

Since the ability of the Government to disrupt terrorist financing depends on a variety of factors (including the focus and resources of the security agencies, and law enforcement, the ability to implement financial sanctions in a timely manner, a robust focus on compliance and enforcement, relationships with financial institutions and third countries, the legislative framework within which we operate, and the impact of legislation), and due to the fluid nature of the terrorist threat, continual review of terrorist finance strategy is essential to ensure that measures are sufficient.

5. What assessment has Treasury made that the resources of the security services, law enforcement and Treasury in respect of this area are sufficient?

Earlier this year the Treasury carried out an exercise to map the spend on Counter Terrorism resources across government in relation to types of activity and regional areas, including Syria and Iraq. The Department has committed to making this an annual exercise going forward, to better understand where funds should be directed, and the relative efficiencies and benefits of such direction. The results of the mapping exercise will feed into the Home Office’s annual report on the Government’s counter-terrorism strategy, CONTEST.

As announced on 25 November 2014 by the Prime Minister, an extra £130 million has been made available to counter terrorism over the next two years. This will substantially increase the resources available to tackle the threat from ISIL. Any future discussion of resources in this area will be a matter for the next spending round.

The Treasury’s assessment is that sufficient resources are currently allocated within Treasury for stemming the flow of funds to ISIL, and this will be reviewed regularly.

6. How is potential conflict between the UKTI and sanctions portfolios managed?

The portfolio of the Commercial Secretary to the Treasury has included, for both myself and the previous incumbent, the sanctions and investment responsibilities. It was confirmed at the time of the portfolio’s allocation that there is no conflict of interest between the responsibilities. Both Sir Nicholas Macpherson, Permanent Secretary to the Treasury, and Sue Gray, Director General for Propriety and Ethics in the Cabinet Office, have recently re-confirmed that, in their view, there is no conflict of interest between my two roles.
The UK domestic sanctions regime is a targeted sanctions regime, aimed at specific individuals and entities whom the Treasury reasonably believes have been involved in terrorist activity, and whose designations are considered necessary for public protection. Although the Commercial Secretary portfolio includes sanctions, designation decisions can be taken by any Treasury minister should this be required. Since proposals are made by operational and international partners, I do not determine who is proposed for designation.

Additionally, the operation of the 2010 Act is reviewed annually by the Independent Reviewer of Terrorism Legislation, David Anderson QC. The Reviewer, before writing his report, examines the designations made under the 2010 Act for the reporting period. He also examines potential cases in which a final designation has not been made and any cases where I have exercised my discretion to designate or not to designate in opposition to advice from officials. If the Reviewer was aware of cases where a strong case for designation had been made by my officials and I had decided not to designate, this would be an issue for his report. The annual review of the 2010 Act, supplemented by quarterly reports to Parliament, endows it with a high degree of transparency, and may provide some additional reassurance with respect to my portfolio.

LORD DEIGHTON