

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT DEPOSIT GUARANTEE SCHEME AND  
MISCELLANEOUS PROVISIONS (AMENDMENT)  
(EU EXIT) REGULATIONS 2018

*Monday 26 November 2018*

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**The Committee consisted of the following Members:**

*Chair:* IAN AUSTIN

Docherty-Hughes, Martin (*West Dunbartonshire*)  
(SNP)

† Dodds, Anneliese (*Oxford East*) (Lab/Co-op)

† Double, Steve (*St Austell and Newquay*) (Con)

Elliott, Julie (*Sunderland Central*) (Lab)

† Glen, John (*Economic Secretary to the Treasury*)

† Hands, Greg (*Chelsea and Fulham*) (Con)

† Henderson, Gordon (*Sittingbourne and Sheppey*)  
(Con)

Huq, Dr Rupa (*Ealing Central and Acton*) (Lab)

† Keegan, Gillian (*Chichester*) (Con)

† Kerr, Stephen (*Stirling*) (Con)

† Lord, Mr Jonathan (*Woking*) (Con)

McFadden, Mr Pat (*Wolverhampton South East*)  
(Lab)

† Smith, Jeff (*Manchester, Withington*) (Lab)

† Timms, Stephen (*East Ham*) (Lab)

† Villiers, Theresa (*Chipping Barnet*) (Con)

† Walker, Thelma (*Colne Valley*) (Lab)

† Whittaker, Craig (*Lord Commissioner of Her  
Majesty's Treasury*)

Dominic Stockbridge, *Committee Clerk*

† **attended the Committee**

# First Delegated Legislation Committee

Monday 26 November 2018

[IAN AUSTIN *in the Chair*]

## Draft Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018

4.30 pm

**The Economic Secretary to the Treasury (John Glen):** I beg to move,

That the Committee has considered the draft Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Austin. As the Committee will be aware, the Treasury has undertaken a programme of legislation to ensure that if the United Kingdom leaves the European Union without a deal or an implementation period, there will continue to be a functioning legislative and regulatory regime for financial services in the UK. The Treasury is laying statutory instruments before Parliament under the European Union (Withdrawal) Act 2018 to deliver that. A number of these SIs have already been debated in this place and in the House of Lords. The SI being debated today is part of that programme, and has been debated and approved by the House of Lords.

The SI will fix deficiencies in UK law on the UK's deposit guarantee scheme and certain areas of financial services legislation, such as the Financial Ombudsman Service, to ensure they continue to operate effectively post exit. The approach taken in this legislation aligns with that taken in other SIs being laid before Parliament under the 2018 Act: it is to provide continuity by maintaining existing legislation at the point of exit, but amending where necessary to ensure that it works effectively in a no-deal context.

Many colleagues are familiar with the financial services compensation scheme, also known as the FSCS—the UK's deposit guarantee scheme, which compensates savers for up to £85,000 per person when their bank, building society or credit union fails. Its role is critical in enhancing financial stability and consumer confidence in the banking system. The underlying legislative framework for FSCS protection on deposits stems from the EU's deposit guarantee schemes directive and our transposing regulations. The EU directive sets the level of deposit protection across the EU at €100,000 and empowers the European Commission to review the protection level every five years. Non-euro countries such as ours can convert €100,000 into the equivalent amount in their national currency.

The directive stipulates that deposit guarantee schemes such as the FSCS shall protect their members' deposits in other member states. That means that a UK bank's operations in the European economic area will be FSCS protected, and vice versa: when an EEA firm fails, the customers of its UK business are protected by the relevant EEA scheme. An administrative arrangement in the directive builds on such co-operation. Currently, if an EEA authorised firm were to fail, the FSCS would

administer compensation to UK depositors on behalf of the EEA protection scheme. This occurs only after the EEA scheme has provided the FSCS with the funds to be transferred.

In a no-deal scenario, the UK would be outside the EEA and outside the EU's legal, supervisory and financial regulatory framework. The Deposit Guarantee Scheme Regulations 2015, which were part of the UK's transposition of the directive, need to be updated to reflect that and ensure that the provisions work properly in a no-deal scenario.

These draft regulations make three key amendments to the 2015 regulations. First, the SI will transfer the power to set the maximum deposit protection level from EU entities to the UK's Prudential Regulation Authority. This approach retains the principles of the current EU arrangement by giving the power to the technical body best placed to make a judgment on the necessary level of protection. The PRA is the appropriate body to take on this role, given its technical expertise, and its role under the EU framework in setting a sterling deposit protection level that is in accordance with the EU level. This mirrors the domestic process for setting the coverage level for insurance and investments, in which the regulators are responsible for deciding the compensation limit, based on their technical judgment and balancing factors such as consumer protection, financial stability and costs to firms.

Given the importance of deposit protection for the wider economy and the public interest, changes to the protection level will be subject to Treasury approval. In addition, the PRA will be required to consult on any changes to the level.

Secondly, the statutory instrument removes the obligation on the FSCS to administer compensation on behalf of an EEA protection scheme, given that EEA schemes will no longer be obliged to co-operate with the FSCS in a no-deal scenario, with the UK being treated as a third country. In the unlikely scenario that an EEA firm fails just before exit day but a UK depositor has not yet received compensation after exit day, the SI will enable the FSCS to continue to administer payments to UK depositors on behalf of an EEA scheme. That will make it easier and quicker for UK depositors to get their money back.

I reassure the Committee that this provision and the changes in the SI will not directly affect members of the general UK population, the overwhelming majority of whom hold their deposits with UK-authorised firms that are FSCS protected. Customers of firms such as Santander UK—that is, UK-incorporated subsidiaries of EEA firms that are authorised and supervised by UK regulators—will continue to be FSCS protected.

Finally, the statutory instrument also removes provisions in UK legislation that continue to impose EU obligations on the UK. One such obligation is the requirement on the PRA to notify the European Banking Authority every year of the total amount of protected deposits in the UK. It also fixes definitions and legislative references to the Financial Ombudsman Service in the Financial Services and Markets Act 2000 that would no longer work in a no-deal scenario. Those changes will have no impact on the operations of the Financial Ombudsman Service.

The Treasury has been working closely with the PRA, the Financial Conduct Authority and the FSCS on drafting the instrument, and will continue to engage

with the financial services industry. The Treasury published the instrument in draft, along with an explanatory policy note, on 15 August to maximise transparency to Parliament and industry.

The Government believe that the proposed legislation is necessary to ensure that the rules governing the UK's deposit guarantee scheme and the other systems mentioned function appropriately if the UK leaves the EU without a deal or an implementation period. I hope that colleagues will support the regulations, which I commend to the Committee.

4.37 pm

**Anneliese Dodds** (Oxford East) (Lab/Co-op): It is a pleasure to serve on the Committee with you in the Chair, Mr Austin. I am grateful to the Minister for his comments.

As we know, the Government have decided to undertake the bulk of the preparation for our EU withdrawal through secondary legislation. The Opposition have voiced their concerns about that on many occasions. It is an unprecedented transfer of powers to our Executive. I appreciate the work that has been done by the Minister, his staff and the civil service, and their collective efforts to brief us on the process. However, we might ask whether, in a normal environment, a change of such magnitude would be made through primary legislation. It should be, given the scrutiny it demands.

The number of Treasury SIs and the speed with which they are set to unfold are deeply concerning, from the point of view of ensuring that the Government are held fully accountable. The Opposition commit to making every effort to do that, but the task is constitutionally unprecedented and enormously resource-intensive, and leaves room for error. It is also disappointing that we have reached a stage when such no-deal contingency measures, which obviously take up significant time and resource for both Government and Opposition, must be laid before the House. We are, of course, perilously close to the EU exit date.

All that being said, I have one question and one reflection on the Minister's comments. As I said, I am grateful to him for explaining the Government's thinking on the measures. The implication from the debate on them in the other place and the Minister's words is that the regulations will not affect how the FSCS deals with UK-based consumers and deposit holders, but surely the deposit levels within the FSCS have been affected by EU legislation. They were revised downwards in late December 2015 to cohere with the EU-stipulated level of €100,000—that was later than in the rest of the EU, where the introduction date was July 2015. Similarly, the SI suggests a five-year period during which the PRA would assess whether a change was needed in the protected deposit level.

It would be helpful to learn from the Minister about an issue that came up in the other place, and to which the Government response was not clear: do the Government intend to seek at least rough coherence with the EU level of protected deposits in future? Baroness Kramer's comments were interesting; she noted that in a no-deal Brexit, there could be a large impact on the value of the pound, which could affect the value of UK businesses' and individuals' deposits in the rest of the EEA. Will there be sufficient flexibility for the PRA to protect people to the level required if there is that significant change?

My other comment is about the broader context of these kinds of deposit guarantee schemes. They were not brought in in isolation; they were part of a package of EU-level measures intended to improve protection for taxpayers and public finances. They were balanced in the EU by the bail-in mechanism, the system of resolution and the stress-testing system for banks. We in the UK have not been affected by all those measures because we are not in the banking union, but we could say that we have substitutes for many of them, at least at the moment, through independent activity undertaken in the UK.

Will the Minister underline in his concluding remarks that the Government remain committed to ensuring that our regulation will always focus on protecting stability, security and resilience, and, above all, on ensuring that we never again have a situation in which banks and other financial institutions are bailed out by taxpayers? We are not in the banking union anyway, but we could—it sounds like we will—retain the deposit guarantee. Surely it is important to retain the other elements of banking regulation that would prevent the kind of moral hazard that there was during the financial crisis, when the risks were concentrated on consumers and the public purse, while the gains were privatised to a number of people in the financial services sector who did very well out of it.

4.43 pm

**John Glen:** I thank the hon. Lady for her comments. All I can do in response to her opening remarks is reiterate my commitment as a Minister to continuing the rigorous process of examining the statutory instruments, bringing them to the Committee in a timely fashion, and being as thorough as possible in our impact assessments.

The hon. Lady raised two issues. First, she referred to the exchange between Baroness Kramer and Lord Bates in the other place on 6 November, concerning the level at which the PRA could set the compensation. The imperative from the directive has been to have a consistent level, and the UK has onshored, essentially, the €100,000. There are no plans to depart from the current level; frankly, there is a significant imperative to keep the levels aligned, regardless of what happens, but that will be a matter for the PRA.

**Anneliese Dodds:** Would that mean that the five-year period could be altered if there were a severe need for a change due to a fluctuating exchange rate?

**John Glen:** In a scenario of unforeseen volatility, there would be an opportunity for the Treasury to ask the PRA to examine that, or vice versa. In such a scenario, we would of course have more immediate discretion on that point.

The second point related to the need to maintain a stable prudential regulatory regime. As the City Minister, I hear lots of representations from different parts of the financial services sector for more flexibility on occasion. This is a matter for the regulator, not me, but in conversations with the PRA, I have made it very clear that the Government do not want to secure competitive advantage based on downsizing our regulatory environment. I agree with the hon. Lady's sentiments with regard to keeping that as the driving imperative.

*[John Glen]*

To conclude, the statutory instrument is needed to ensure that the rules governing the UK's deposit guarantee scheme and the other systems covered by the SI function appropriately if the UK leaves the EU without a deal or an implementation period. I hope

I have satisfactorily addressed the legitimate points made by the hon. Lady, and that the Committee will support the regulations.

*Question put and agreed to.*

4.46 pm

*Committee rose.*



