PARLIAMENTARY DEBATES

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Eleventh Delegated Legislation Committee

DRAFT COLLECTIVE INVESTMENT SCHEMES (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

DRAFT LONG-TERM INVESTMENT FUNDS (AMENDMENT) (EU EXIT) REGULATIONS 2019

Wednesday 30 January 2019

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Sunday 3 February 2019

The Committee consisted of the following Members:

Chair: Mr Adrian Bailey

† Berger, Luciana *(Liverpool, Wavertree)* (Lab/Co-op)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Bridgen, Andrew *(North West Leicestershire)* (Con)
† Davies, Chris *(Brecon and Radnorshire)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Glen, John *(Economic Secretary to the Treasury)*
† Green, Kate *(Stretford and Urmston)* (Lab)
† Jones, Darren *(Bristol North West)* (Lab)
† Knight, Julian *(Solihull)* (Con)
† McGovern, Alison *(Wirral South)* (Lab)
† Robinson, Mary *(Cheadle)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stevenson, John *(Carlisle)* (Con)
† Stewart, Bob *(Beckenham)* (Con)
† Tracey, Craig *(North Warwickshire)* (Con)
† Walker, Thelma *(Colne Valley)* (Lab)
† Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*

Jack Dent, *Committee Clerk*

† attended the Committee

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Wednesday 30 January 2019

[Mr Adrian Bailey *in the Chair*]

Draft Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019

2.30 pm

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

That the Committee has considered the draft Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019.

The Chair: With this it will be convenient to consider the draft Long-term Investment Funds (Amendment) (EU Exit) Regulations 2019.

John Glen: It is a pleasure to serve under your chairmanship, Mr Bailey.

As the Committee is aware, the Treasury has been undertaking a programme of legislation to ensure that if the UK 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. To deliver that, the Treasury is laying statutory instruments under the European Union (Withdrawal) Act 2018, and a number of SI debates have taken place in this place and in the House of Lords. The draft SIs to be debated today are part of that programme. The approach taken in this legislation aligns with that in other SIs laid under the Act, providing 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.

The subjects of the two sets of draft regulations being debated together today are collective investment schemes and long-term investment funds. The draft SIs relate to the management, administration and marketing of investment funds, which are investment products created to pool investors' capital and invest it in financial instruments such as shares, bonds and other securities.

Within the EU, the framework covering regulated funds predominantly sold through retail investors is provided by the directive on the undertakings for collective investment in transferable securities, commonly known as UCITS. Long-term investment funds are a sub-category of alternative investment funds that promote long-term investment such as in infrastructure, small and medium-sized enterprises and real assets. They are often sold to institutional investors, such as pension funds.

Alongside the regulations on alternative investment fund managers, on venture capital funds and on social entrepreneurship funds that were approved by this House on 16 January and in the other House on 22 January, the draft instruments under discussion will ensure a functioning UK investment fund regime if we leave the EU without a deal.

In a no-deal scenario, which is not the policy or aspiration of the Government, the UK would be outside the single market and outside the EU's legal supervisory and financial regulatory framework. Therefore, retained EU and domestic law relating to the regulation of UCITS and long-term investment funds needs to be updated to reflect that, to ensure that the provisions work properly in a no-deal scenario.

I will first outline the changes in the collective investment schemes regulations. Overall, this instrument will maintain the investment rules of UCITS, as set out in the EU directive. However, it will make changes to address deficiencies and to ensure a functioning regime. First, the draft regulations remove references to the Union and to EU legislation, which will no longer have legal effect, replacing them with references to the UK and UK legislation where appropriate. That includes removing references to the passporting system and binding requirements for information sharing. The instrument will also establish a distinction between the UCITS regimes in the UK and the EU. Funds authorised in the UK will be called UK UCITS.

Secondly, all UK UCITS must have a depositary that is incorporated in the UK or another European economic area state. Currently, it is possible for an EEA firm to establish a branch in the UK and to carry out the functions of a depositary. To ensure proper regulatory oversight, however, the draft instrument will remove that provision and will instead ensure that all depositaries of UK UCITS are incorporated in the UK.

Similarly, the instrument will ensure that management companies of UK UCITS are incorporated in the UK, whereas currently they may be incorporated in the UK or another EEA state. However, to align the changes with the temporary permissions given to EEA firms passporting into the UK by the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, the draft regulations provide a transitional arrangement so that the requirements for managers and depositories of UK UCITS to be incorporated in the UK do not affect such depositories or managers if they have temporary permission to operate in the UK.

Thirdly, the draft regulations will transfer the power to make binding technical standards from the European Securities and Markets Authority to the Financial Conduct Authority. As the UK's national competent authority within the EEA, the FCA is already responsible for supervising investment funds and has extensive expertise and experience making rules relating to the sector. The draft regulations will give the FCA the power to specify the information that the operator of the fund must provide to the FCA for the operation of a UCITS fund.

To offer continuity for EEA funds and the UK customers they service, the regulations create a temporary marketing permissions regime for EEA UCITS to continue to market into the UK. That was part of the announcement by the Government in December 2017 to create a temporary permissions regime for EEA firms and funds. It will allow an EEA UCITS that currently markets into the UK under a passport, and subsequent new sub-funds of an existing umbrella fund, to continue to market to UK customers, as it could before exit day, for a period of up to three years.

Following an assessment by the FCA on the effect of extending or not extending the period, the Treasury will have the power to extend the period for a maximum of

12 months at a time, in line with other transitional regimes that have been put forward. In order to ensure transparency in the process, the Treasury will make a written ministerial statement to both Houses in the event of the Treasury seeking to extend the temporary power, prior to any statutory instrument being laid.

By the end of the temporary marketing permissions regime, the fund will need to gain recognition to continue to market to retail investors in the UK, as any other third-country fund is currently required to do. That will be under the current procedure outlined in section 272 of the Financial Services and Markets Act 2000. The Government are committed to reviewing the process and bringing forward legislation as necessary to ensure the UK can continue to efficiently recognise overseas funds.

The draft regulations also amend the Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2018, to bring forward the commencement date of the provisions relating to the temporary marketing permissions regime for alternative investment funds. That will allow the FCA notification window to operate as intended and at the same time as the regime outlined in the regulations.

I move on to the draft long-term investment funds regulations. Long-term investment funds are a further sub-category of alternative investment funds, which was introduced in 2015. However, it has to be said that the take-up across the EEA has been extremely limited. The FCA states that, as of December 2018, there are currently no such funds set up in the UK and therefore we believe there will be no impact on businesses or consumers. However, in line with the Government's approach to European legislation and powers granted under the withdrawal Act, the regulations ensure that there is a functioning framework for long-term investment funds in the UK.

Like the collective investment schemes regulations, this SI maintains the existing investment rules for funds domiciled in the UK and addresses any deficiencies in legislation, including removing references to the EU and replacing them with references to the UK. It will also create a UK-only label of "long-term investment fund" to reflect that these funds will be in the UK and subject to UK rules.

Finally, as long-term investment funds are a sub-category of alternative investment funds, EEA managers of European long-term investment funds will be able to make use of the temporary marketing permissions regime for alternative investment funds, as legislated for in the Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2018, debated earlier this month. The Treasury has been working extremely closely with the FCA in the drafting of the instrument and has engaged with the financial services industry and will continue to do so. In November and December 2018, the Treasury published the instruments in draft, along with explanatory policy notes, to maximise transparency to Parliament and industry.

In summary, the Government believe that the proposed legislation is necessary to ensure that there is a functioning investment funds framework in the UK, which would provide continuity for UK investors and our asset management sector should we leave the EU without a deal or an implementation period. I hope colleagues from different parties will join me in supporting these regulations, which I commend to the Committee.

2.40 pm

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to serve on the Committee with you in the Chair, Mr Bailey. I am very grateful to the Minister for his explanatory remarks. Once again, I sit opposite him to discuss a statutory instrument that would make provisions for a regulatory framework after Brexit in the event that we crash out without a deal, which I hope is less likely following the House's decision last night. On each previous occasion, my Labour Front-Bench colleagues and I spelled out our objections to the Government's approach to secondary legislation.

The volume and flow of secondary legislation on our exiting the EU is deeply concerning for accountability and proper scrutiny. The Government have assured the Opposition that no policy decisions are being taken, but establishing a regulatory framework inevitably involves matters of judgment and raises questions about resourcing and capacity. Secondary legislation ought to be used for technical, nonpartisan and uncontroversial changes, because it allows limited accountability. Instead, the Government continue to push through contentious legislation with high policy content by using this vehicle. As legislators, we have to get this right. These regulations could represent real and substantive changes to the statute book, so they need proper, in-depth scrutiny. In this light, the Opposition want to put on record our deepest concerns that the process regarding these regulations is not as successful and transparent as it should be.

The Minister spelled out the fact that the first SI relates to the 2009 UCITS directive, which sets out a common set of standards for investor protection for regulated investment funds that can be sold to retail investors in the EU. The directive established a passporting system to enable UCITS to be marketed and sold to the general public throughout the EU, and to enable UCITS management companies to manage UCITS that are located in other member states. The directive was transposed into UK law through domestic legislation and FCA rules. Many would say that the directive has been successful: it has facilitated far greater choice for investors, and I understand that there are now more than 10,000 funds available to UK investors as a result of the directive. Almost three quarters of those are passported in from the EU27 under the UCITS directive. A large number of non-UK UCITS funds are managed by UK businesses under the directive—by asset value, it is £1.8 trillion-worth out of the £9 trillion industry across Europe. Some £375 billion-worth of that is held by UK investors.

I should express my gratitude to the industry for providing me with those figures. It has indicated that in the event of a no-deal Brexit, UCITS funds from the EU27 could not be marketed to UK investors in a straightforward manner. Furthermore, it would not be easy to list UCTIS exchange-traded funds on the London Stock Exchange. Given that this SI largely preserves the status quo on the availability of UCITS funds and exchange- traded funds—albeit temporarily—there is support in the industry for the intention behind it, because there would undoubtedly be problems under a no-deal Brexit.

None the less, the Minister needs to answer some questions on this SI. It is essential that we properly understand its impact—not least because, in common with so many others that we have considered in Committee, it uses secondary legislation to amend primary legislation,

[Anneliese Dodds]

which is of course the definition of Henry VIII powers. In addition, the FCA and others have raised considerable concerns about unregulated collective investment schemes, or UCIS. Many of us have heard horror stories about these, with examples that have badly let down their investors or even operated as Ponzi schemes. In the circumstances it is essential that regulations are sufficiently encompassing and do not lead to unsophisticated investors being presented with overly risky products. At the same time, the asset management industry, particularly people who are involved with investment in UCITS, is an important part of the financial services industry. Given that the industry supports one in 10 jobs in our country, it is a matter of a regret that our Government have failed to prioritise seeking a better deal for financial services as part of their negotiations, and that the quest for passporting rights was quickly dropped in favour of some form of equivalence. Of course, whether to agree that will be entirely in the European Commission's gift.

That has already led to economic activity in this area shifting out of our country. Companies from Hermes Investment Management to Legg Mason, Janus Henderson Investors, Jupiter Asset Management and Polar Capital all appear to have created additional positions, functions or operations in the EU27 rather than the UK because of the need to secure service continuity for current and future investors. As I understand it, the issue of delegation, which is essential in this area, is still not fully resolved. It remains unclear on what basis UK companies will be able to manage investments for fund companies based in the EU27. I hope that the Minister updates us on when he expects the Commission to give ESMA the green light to enable concrete discussions to take place on that score.

My second question relates to the legal basis for the draft regulations. They are said to be made under both the European Communities Act 1972 and the EU withdrawal Act. Surely it is rather peculiar to have those two parent Acts, given that one is about giving effect to EU law whereas the other is about inherited EU law. Perhaps the Minister can explain why those Acts form the basis for the draft regulations.

Thirdly, we have been provided with an impact assessment for the draft regulations, albeit we received it just this morning. Clearly that is better than nothing, but it gave us limited time to acquaint ourselves with the impact assessment.

John Glen: Ten past 10.

Anneliese Dodds: Thank you. That impact assessment suggests there will be a need to charge inbound EEA passporting firms as third-country firms, but that to

"reduce the impact of leaving the EU on funds, the government has committed to reviewing Section 272,"

which governs this process. It adds:

"This will be done through a future legislative vehicle."

It would be helpful if the Minister provided us with some details about that. Does he envisage that happening at the end of the three-year temporary permissions regime or at some other point? It would, of course, require legislative change.

I turn to the draft Long-term Investment Funds (Amendment) (EU Exit) Regulations. I am grateful to the Minister for explaining the basis for that instrument. As he explained, the EU regulation has been used far less than many would have hoped, given that it was intended to encourage long-term investment.

There are two issues with the SI. The first concerns empowerment of the FCA. My colleagues and I have frequently referred to the fact that the process of legislating for no deal has in many cases provided the FCA with unprecedented powers, potentially overshooting what is required to transpose the EU acquis. Indeed, colleagues will not have missed the conclusions by *City A.M.* following the recent Treasury Committee hearing on this subject; it stated that the process involves regulators being given "'unprecedented' powers"—its words, not mine. However, in this case, we seem to have undershooting, specifically in relation to the FCA's powers to create a register of ELTIFs.

ESMA, the EU-level regulator, does not merely have the ability to create a register of ELTIFs; it is under a duty to do so. However, the draft regulations only empower the FCA to keep such a register; they do not require it to do so. There is a direct contradiction between regulations. Article 3 of the 2015 EU regulation on ELTIFs states:

"ESMA shall keep a central public register".

The draft regulations do not just substitute "FCA" for "ESMA"; they give the FCA a power, rather than a duty, to keep a register. Regulation 6 states:

"The FCA may keep a central public register".

I note the use of the word "may", not "must" or "shall". The Minister needs to explain that discrepancy before the Committee can accept this SI.

There seems to be a drafting mistake. The draft regulations seem to empower the FCA to designate ELTIFs as such across the EU, rather than empowering it to recognise them as such within the UK for the purposes of then recognising them as the new category of LTIFs. To try to explain this horrendously complicated area, I am going to differentiate my pronunciation of ELTIFs—European LTIFs—and LTIFs, the new category the Government suggest they are creating. This point is very difficult to explain without having the relevant pieces of legislation in front of us. The Minister will remember the comments of my hon. Friend the Member for Garston and Halewood (Maria Eagle) in a previous Committee.

John Glen: I do recall. On that specific point, I checked with my officials, as I said I would. On that specific point, I checked with my officials, as I said I would. Their understanding was that that was not common practice. I am doing all that is expected, based on the practice of Ministers in this position.

Anneliese Dodds: I am grateful to the Minister for that clarification, if that is the case. However, even if it were not the case previously, there is a prima facie argument that it would be useful for Committees of this type to be able to see the previous regulation and be able to compare it with what it being suggested. Otherwise, it is extremely hard for us to understand exactly what is being proposed in some of the very complex changes that are being implemented.

That difficulty had its apogee with the MFID—markets in financial instruments directive—transposition regulation. I will not go into all the details; I have discussed the matter with the Minister many times. The Opposition had hoped to debate that subject on the Floor of the House because it was recognised in that case that a Keeling schedule was necessary, effectively to track changes. It would be helpful for Members in all such Committees to be able to see the direct impact of changes from this no-deal legislation. Otherwise, it is very difficult to understand.

Kirsty Blackman (Aberdeen North) (SNP): Even if the documentation that was made available to MPs beforehand related to the relevant legislation, that would be a slightly better position than the one we are in now. It would not require a Government Minister actually to bring the legislation with him.

Anneliese Dodds: I absolutely agree with the hon. Lady. She is right that it would be helpful. In many cases, we are talking about the initial legislation, which itself was relatively complex and has often been amended. It would be useful for all of us during this complex process to have some aid in that regard.

In its amendment of article 5.1 of the EU regulation, the statutory instrument would give the FCA an extra-territorial power that it should not have. That is obviously fairly problematic because, whatever kind of Brexit occurs, ELTIFs will continue to exist under EU as well as UK law. It is EU-level authorities that will provide their initial designation for the EU27. To explain that quickly, articles 4 and 5 of the ELTIF regulation set out the conditions for the designation and authorisation of ELTIFs. In the draft regulations presented to us today, article 7 amends articles 4 and 5.1 of the EU regulation in quite a strange direction.

Article 4 refers to LTIFs, but article 5.1 talks about applications for authorisations of ELTIFs and says that application for authorisation as an ELTIF shall be made to the FCA, and sets out the process for application for LTIFs. I am sorry that this is very complicated but it underlines the confusing nature of the SI.

It seems that the proposed article 5.1 as amended is wrong because ELTIFs will continue to exist under EU law after Brexit. It will not be in the FCA's gift to recognise and authorise them outwith the UK. We need just a small change to article 5.1, which should read: "An application for authorisation within the UK as an ELTIF shall be made to the FCA." Will the Minister assure us that he will look into that and seek to amend the legislation accordingly, if that concern proves genuine and is not just my reading of the text?

2.54 pm

Kirsty Blackman: I will make a few comments. My colleague on the Opposition Front Bench has spoken about various things, including the register of ELTIFs that the FCA will be empowered to hold. It would be useful if the Government, although not necessarily changing the wording from "may" to "shall", would let us know if it is their intention that the FCA hold the register.

If the Minister made a statement in that regard, it would make it clear whether it is the Government's intention for the FCA to use the power that it will have. That would be helpful to the Committee's understanding, and that of anybody poring over this legislation, of whether the FCA should be doing this or whether it is something it could get away with not doing. I am not suggesting that the FCA would try to get away with not holding a register, but if it does not have to, it might decide that doing so is less important. A Government statement on that would be incredibly helpful.

I will raise a couple of other things. In a recent Delegated Legislation Committee I raised draft legislation appearing on the Government website and individuals' access to it. It did not feel as if I received a very good answer that time, so I will press the Minister on it again. How many people access draft legislation on that website? How many hits are there? Is it the case that only five people view it, or is it significantly more? The explanatory memorandum to the draft instrument says that it has been on that website. Knowing how many people accessed it would be helpful in our understanding of whether the Government publicise it enough and that people know about it and access it. That would be incredibly useful.

On the policy direction of the draft instrument, one thing it does—as do many things we are doing around no-deal planning—is remove reciprocity with the EU. I understand the desire for that in many cases, but it is not clear whether attempting to remove reciprocity is Government policy in all cases or whether they are prioritising some of these things for a reciprocal agreement with the EU. If it is the latter, it would be helpful for Ministers to make clear to us whether the Government will seek a standalone reciprocal agreement on these specific things, in order to make things smoother in the event of no deal. That is particularly the case with the recognition of what we are discussing. If the LTIF and ELTIF regulations are similar, at least in the initial stages, before there is any kind of regulatory divergence, the UK's recognising EU certifications of these things on day one would be relatively sensible, rather than assuming that there has been divergence by day one, which we all know there will not have been.

I understand that the Minister will probably not have this information today, but it would be useful if in future Committees he could provide information on whether it is the Government's intention to seek a reciprocal agreement on these specific standalone measures in the event of a no-deal Brexit. That may be less important for some of the draft instruments that are coming through and more important for those around flight, for example.

Finally, I am very pleased that the Minister ensured that the impact assessment was sent to us, although I am concerned about the short timescale available to look at it. I confess that I have not had time to look at it in nearly the level of detail that I would have liked, because we only received it this morning and I have been quite busy today.

However, the Minister was quite good in the last DL Committee on which we served in explaining the impact assessment process and how we reached the stage we are now at. My understanding is that they are drafted by the Treasury and then go to the Regulatory Policy Committee, which assesses whether they are fit for purpose. I received some information that basically suggests that that committee did everything it could to turn those assessments round in the quickest possible time, and did its best to comply when asked to do so in a

[Kirsty Blackman]

truncated timescale. The impact assessments sent to the committee by the Treasury have been responded to in eight days on average.

Impact assessments have not been provided to us in several of these DL Committees, which does not appear to be the fault of the Regulatory Policy Committee. The Minister held his hands up and apologised for not having those impact assessments, which I appreciate. My concern going forward is that, when the Treasury creates impact assessments that go to the Regulatory Policy Committee, it should learn from what has happened so far and ensure that those impact assessments going to the Regulatory Policy Committee are fit for purpose in the first place so that, if possible, they can get through at the first time of asking, rather than taking a bit longer.

That is a big issue because I think it is unreasonable to expect Committees to take decisions without having the impact assessment provided to us. If we are going to see more statutory instruments being introduced than we have ever seen before, which is the case, given that there are still hundreds that have not even been to the European Statutory Instruments Committee at this point, then we need to ensure that any impact assessments sent to the RPC are turned around as quickly as possible and are fit for purpose in that first instance. If that means that the Government cannot present an SI to us next week and must do so the week after, I would prefer that, so that the Committee is in the best possible position to take decisions on it.

Those are a variety of questions, and the Minister will probably not be surprised by any of them—he may have been surprised by the questions from my Opposition colleague, but not so much mine, because they were pretty much par for the course, so I hope he has answers to at least some of them.

3.1 pm

John Glen: Once again, I will begin by thanking the hon. Members for Oxford East and for Aberdeen North for their thorough examination of the statutory instruments; I will do my very best to answer in detail their points that they have made, and where I cannot, I shall write to them as soon as I possibly can.

The hon. Member for Aberdeen North discussed impact assessments. We now have an impact assessment, which was circulated, as she acknowledged, at 10 past 10 this morning and covers all the statutory instruments that will be laid until 11 February. There has been a desire on my part and that of my officials to meet the necessarily exacting standards of the RPC. As I say, that is my responsibility, but I would point out that this is an unprecedented process, doing 53 SIs for financial services, 45 of which have now been laid, and working on each one individually. I hope the existence of the impact assessments up to 11 February—obviously there will be some more after that—will give her some comfort, but the points that she made have been heard.

I will come on to the other points that the hon. Lady made, but I will now turn to the issues raised by the hon. Member for Oxford East. She made some initial observations with respect to the volume, flow and appropriateness of the SI mechanism that I may have heard before, but I acknowledge her sincerity and take them in the spirit in which they are intended. We are acting within the terms of the withdrawal Act, and I have never sought to pretend that this process is optimal, but it is a practical measure to give business continuity and give the industry the answers they are concerned about.

I also recognise that the degree of uncertainty is not helpful, but I draw the attention of the hon. Lady and the Committee to the remarks of Sam Woods, deputy governor of the Bank of England, who said in April last year that we would have 5,000 to 10,000 jobs moved by day one, which is between 0.5% and 1% of financial services jobs in the UK. There is an enormous resilience in the financial services sector, and this process is about ensuring that there is minimal disruption in the event of no deal.

Moving on to the specific points made by the hon. Lady, she said that in a no-deal scenario, EU UCITS could not be marketed in a straightforward manner in the UK. The temporary marketing permissions regime is intended to prevent the market disruption that would result from a sudden end to passporting rights. The regime ensures that the business model of EEA fund operators marketing into the UK can continue for a temporary period while we transfer to the UK-only regime. That includes the new sub-funds, and reflects our intention to allow EEA firms and funds to continue their business operations for a temporary period.

If we did not allow new sub-funds to enter the temporary permissions regime after exit day, there would be a significant risk to the role of the London Stock Exchange as a global hub for exchange-traded products. Therefore, including sub-funds in the temporary marketing permissions regime reduces the risk to the London Stock Exchange and ensures continued access for UK customers to new EEA funds in future. That was a direct change from laying this SI in November and December; we laid it again on 6 December in response to feedback from the markets. There is an iterative process, hence the time constraint that puts pressure on the impact assessment.

The hon. Lady raised the issue of assurances on ESMA and on portfolio delegation. I refer to the comments of the chair of ESMA, who said on 3 October that in the case of a no-deal Brexit, EU regulators and ESMA

> "should have in place with our UK counterparts the type of MOUs that we have with a large number of third country regulators…ESMA has coordinated the preparations for such MOUs together with the EU27 NCAs."

More recently, the Luxembourg regulator stated that the

> "delegation of investment management, portfolio management and, or risk management to UK undertakings shall continue to be possible without any disruption post-Brexit".

I wish it could be more transparent and sooner, but I am convinced and assured that that work is going on and that it will be completed in time.

The hon. Member for Oxford East raised the issue of why the FCA was not required to keep a register of LTIFs and the issue of the power not the duty. The power to keep the register is being transferred to the FCA. As there are currently no LTIFs set up in the UK, there is no register of those funds online. The FCA keeps a register of small UK AIFMs that manage similar funds, European venture capital funds and European social entrepreneurship funds.

The best thing is for me to obtain some assurance from the FCA about its plans, which are, in reality, at a relatively early stage because we are simply trying to transition over at this point. The detail of its ongoing regime and responsibilities will be a matter for it to convey in due course.

Anneliese Dodds: We have been told throughout the process that there will be no watering down of regulations under the withdrawal Act. I appreciate that this is an abstract case, because we do not yet have a category of investments operating in the UK that would fall into that designation, but that is not to say that one will not be created in future. If we do not have that requirement, there would surely be that resiling. Will the Minister endeavour to talk to the FCA to make sure that, if such investments start to operate in the UK, it will keep a register of them? Surely that is what the EU legislation requires.

John Glen: From my point of view at this point, it seems reasonable not to suggest that there will be a register for something that does not yet exist, but the hon. Lady's point is perfectly reasonable. I will write to the FCA following what she has said.

Kirsty Blackman: It would be helpful if the Minister explicitly said, "Yes, we would like the FCA to keep a register of those new LTIFs as they arise in the UK." The form of that register could be decided later.

John Glen: I am sympathetic to what the hon. Lady says, but she has to understand that the regulator is the regulator, and it will have reasons in terms of the market actors around that. My view is that it would be entirely appropriate for the regulator to have that register, and I would expect to see clear market-driven reasons for why it would not be necessary. Again, it would not be responsible for me to make a commitment without knowing all the background factors, but I will write to the regulator to express the Committee's concerns and ask what its approach would be in the circumstances where those funds existed in the United Kingdom.

Anneliese Dodds: I am grateful to the Minister for what he has said, but the regulator is required to carry out what this House requires it to do. If we are talking about ESMA, it is meant to carry out what it has been required to do by EU-level policy makers. That EU legislation requires that the register shall be kept, so we need something more emphatic if we are to stick to the existing distribution of responsibilities.

John Glen: It is an interesting debating point. Had the hon. Lady seen the report of my appearance yesterday before the Treasury Committee with the chief executive of the FCA and the deputy governor of the Bank of England, she would know that we work collaboratively with the industry to do what is right. The intention of this process is not to deregulate in any way—there is no attempt by the Treasury to create some wriggle room to remove the obligation of the FCA. I understand the hon. Lady's point, and I expect there to be continuity between the current and future regimes on the FCA's reporting requirements. I will seek clarification on that point.

Kirsty Blackman: One last time, Minister. If the UK Government are trying to do what they tell us they are trying to do—to replicate EU law in UK law—the most sensible thing to do would be to start with a requirement for the FCA to keep this. Should there be a change and it is decided that it is not necessary, we can then legislate down the line with secondary legislation to say, "Actually, we feel like this is not appropriate for our regulatory regime."

John Glen: I think I have said all I can on that matter at this point. I will move on to the drafting point on territorial power for the FCA, which the hon. Member for Oxford East raised. I will consider that point carefully—there may be a drafting error. It is difficult for me to be certain about that now, but I will respond in due course.

The hon. Member for Aberdeen North raised the issue of how many people engaged with the draft legislation. She will probably not be surprised to know that I do not have the numbers in front of me, but we have sought wide engagement with the industry and stakeholders as the legislation has developed, which can be seen in the fact that we relayed on 6 December following engagement on the sub-funds point. I am happy to examine any data on that and write to her on that matter.

The hon. Member for Oxford East made a point—I think it was also made by the hon. Member for Aberdeen North—about the Government's general policy of reciprocity in the prioritisation of certain areas in a no-deal scenario. We want to continue to engage constructively with EU partners and be in a position to deliver on the political declaration in a negotiated deal, in which we would respect the autonomy of both sides but would be ambitious about the degree of collaboration on recognition. We think that that is realistic—there is a very strong relationship with our regulators across the EU, and we expect that to continue.

I have answered most of the points that have been made. If there are any others, I shall write to both hon. Ladies on the Opposition Benches. I have demonstrated why we need this SI to pass in the event of the UK leaving the EU without a deal, and I hope the Committee can now support the regulations.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019.—*(John Glen.)*

DRAFT LONG-TERM INVESTMENT FUNDS (AMENDMENT) (EU EXIT) REGULATIONS 2019

Motion made and Question put,

That the Committee has considered the draft Long-term Investment Funds (Amendment) (EU Exit) Regulations 2019.—*(John Glen.)*

The Committee divided: Ayes 9, Noes 8.

Division No. 1]

AYES

Bridgen, Andrew
Davies, Chris
Glen, John
Knight, Julian
Robinson, Mary
Stevenson, John
Stewart, Bob
Tracey, Craig
Whittaker, Craig

NOES

Berger, Luciana	Jones, Darren
Blackman, Kirsty	McGovern, Alison
Dodds, Anneliese	Smith, Jeff
Green, Kate	Walker, Thelma

Question accordingly agreed to.

3.15 pm

Committee rose.