

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT FINANCIAL SERVICES (MISCELLANEOUS
AMENDMENTS) REGULATIONS 2022

Tuesday 8 November 2022

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 12 November 2022

© Parliamentary Copyright House of Commons 2022

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: †MR LAURENCE ROBERTSON

- | | |
|---|---|
| † Aldous, Peter (<i>Waveney</i>) (Con) | † Murray, James (<i>Ealing North</i>) (Lab/Co-op) |
| † Blunt, Crispin (<i>Reigate</i>) (Con) | Ribeiro-Addy, Bell (<i>Streatham</i>) (Lab) |
| † Cairns, Alun (<i>Vale of Glamorgan</i>) (Con) | † Robinson, Mary (<i>Cheadle</i>) (Con) |
| † Chapman, Douglas (<i>Dunfermline and West Fife</i>) (SNP) | † Smith, Cat (<i>Lancaster and Fleetwood</i>) (Lab) |
| † French, Mr Louie (<i>Old Bexley and Sidcup</i>) (Con) | † Stephenson, Andrew (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| † Griffith, Andrew (<i>Economic Secretary to the Treasury</i>) | † Trickett, Jon (<i>Hemsworth</i>) (Lab) |
| † Johnson, Dr Caroline (<i>Parliamentary Under-Secretary of State for Health and Social Care</i>) | † Twist, Liz (<i>Blaydon</i>) (Lab) |
| † Lord, Mr Jonathan (<i>Woking</i>) (Con) | † Winter, Beth (<i>Cynon Valley</i>) (Lab) |
| † Mangnall, Anthony (<i>Totnes</i>) (Con) | Ian Cruse, <i>Committee Clerk</i> |
| | † attended the Committee |

Fourth Delegated Legislation Committee

Tuesday 8 November 2022

[MR LAURENCE ROBERTSON *in the Chair*]

Draft Financial Services (Miscellaneous Amendments) Regulations 2022

9.25 am

The Economic Secretary to the Treasury (Andrew Griffith): I beg to move,

That the Committee has considered the draft Financial Services (Miscellaneous Amendments) Regulations 2022.

It is a pleasure to serve under your chairmanship, Mr Robertson.

The statutory instrument comprises two sets of provisions relating to Gibraltar firms operating in the UK market, and to securitisation. The proposed legislation will remedy technical deficiencies identified in financial services legislation that was put in place to help manage our withdrawal from the EU. In relation to Gibraltar, the instrument will fix temporary market access arrangements that were put in place to ensure Gibraltar firms did not face a cliff edge loss of market access into the UK when we left the EU. In particular, the amendments will complete the intended transfer of powers to the Treasury and the Financial Conduct Authority in three specific areas. That transfer will give the UK authorities powers in relation to Gibraltar firms where operating in the UK market, consistent with their powers over domestic firms.

It is worth remembering that financial services legislation was amended on withdrawal from the EU to adjust the treatment of "European economic area firms", in particular to remove passporting rights that were a function of the EU single market. At that time, because Gibraltar firms benefited from equivalent rights, separate provisions were necessary to preserve the existing arrangements supporting market access for financial services between the UK and Gibraltar. Those arrangements were always intended to be temporary. Through the Financial Services Act 2021, we are working to replace them with a new, permanent regime designed specifically for Gibraltar that reflects our unique history and relationship.

The temporary regime that the Government put in place for Gibraltar firms unintentionally prevented the transfer of powers to the Treasury and the Financial Conduct Authority - or the FCA - from being completed in certain areas, leaving gaps in UK law. This SI will exclude provisions from that temporary regime to remove those gaps in the powers available to the Treasury and FCA. That is equitable and proportionate as it will enable the treatment of Gibraltar firms to be brought in line with UK firms. To close those gaps would provide for a more consistent legal and regulatory environment, as had been intended.

The SI will have an impact on three regulations that affect Gibraltar firms operating in our market, namely, the Short Selling Regulation; the Markets in Financial

Instruments Regulation; and the Packaged Retail and Insurance-based Investment Products Regulation. I shall highlight the key impacts of the SI on those regulations.

Under the Short Selling Regulation, the Treasury's power to modify the reporting threshold relating to net short positions will extend to Gibraltar firms trading shares on a UK trading venue. Under Markets in Financial Instruments Regulation, the FCA will be able to apply technical standards relating to post-trade disclosure obligations to Gibraltar investment firms in the UK. Similarly, under the Packaged Retail and Insurance-based Investment Products Regulation, the FCA will be able to apply technical standards to Gibraltar firms selling, advising on or manufacturing PRIIPs to retail investors in the UK.

I note that the instrument confers new powers on UK authorities, in effect the same powers that the Treasury and FCA already have in relation to UK firms. The Treasury and the FCA would need to take steps to apply those powers as appropriate to Gibraltar firms in the UK market.

The next set of provisions delivered through the SI relates to securitisation. Securitisation is the packaging up of assets or loans and selling them on to investors. This allows lenders, such as banks, to transfer the risks of assets to other banks and investors to free up their balance sheets and allow for further lending to the real economy. In relation to securitisation, the instrument will amend the end-date for two specific requirements. That will preserve a consistent approach to certain securitisations which are subject to temporary transitional arrangements, following the UK's withdrawal from the EU.

The UK supports the implementation of international standards to promote simple, transparent and standardised securitisations, known as "STS" securitisations. STS securitisations are easier for investors to understand and assess the risks of. As a result, some STS investors will benefit from lower capital requirements. Generally, only firms established in the UK can designate their securitisations as STS. However, transitional arrangements were put in place to allow for certain EU STS securitisations issued prior to the end of 2022 to be recognised in the UK. Those arrangements were extended to the end of 2024 by another set of EU exit regulations earlier this year.

The SI before the Committee will simply extend the end-date of two requirements for EU STS securitisations to the end of 2024, rather than 2022. That will ensure UK investors do the appropriate due diligence checks when investing in EU STS securitisations, and that those securitisations remain exempt from clearing requirements to prevent unnecessary administrative burden. The amendments thus maintain the current requirements as long as the transitional arrangements last.

I hope colleagues will join me in supporting the regulations, which I commend to the Committee.

9.31 am

James Murray (Ealing North) (Lab/Co-op): Thank you, Mr Robertson, and it is a pleasure to serve under your chairship.

As we have heard, the regulations concern miscellaneous amendments to the financial services regulations, and are made to address deficiencies in retained EU law

arising from the United Kingdom's withdrawal from the EU. The delegated legislation is technical in nature, and seeks to correct a "deficiency" through regulation 2, and to extend post-Brexit temporary recognition arrangements through regulations 3 and 4. The latter regulations relate to the requirement for institutional investors to carry out specific due diligence prior to investing in EU simple, transparent and standardised, or STS, securitisations. They will extend the exemption from the clearing obligation in relation to EU STS securitisations to those notified prior to 11 pm on 31 December 2024. That will ensure consistent treatment for EU STS securitisations notified before that date.

Regulation 2 of the instrument ensures that the Treasury and the FCA will be able to apply their powers through certain regulations to Gibraltar firms in the UK financial services market. As we know, the Treasury has made a number of amendments to regulations since 2019 in attempting to ensure that the UK-Gibraltar regulatory framework for financial services continues to operate smoothly. Regulatory changes in the Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019 transferred powers from the EU to the Treasury and the FCA. Although the amendments made in 2019 caused the EU to cease having any regulatory oversight of Gibraltar, the regulations did not fully transfer all of the necessary powers and functions to the Treasury and the FCA that they should have done.

Clearly, the SI before us seeks to remedy the Government's error. It is important that the financial services regulatory framework concerning UK-Gibraltar market access and oversight runs smoothly, so the Opposition will not oppose the measure.

9.34 am

Douglas Chapman (Dunfermline and West Fife) (SNP): It is a pleasure to serve under your chairmanship, Mr Robertson.

The SI is evidence of the continuing shambles and uncertainty that we have as a result of Brexit. I say to the Government and His Majesty's official Opposition that making Brexit work is indeed hard work. We are seeing a continual number of different fixes to what is Brexit, and the SI is yet another.

Unfortunately, last week Mark Carney said that Brexit is a contributor to soaring inflation and the cost of living crisis. That is what the rest of the country is having to put up with in our daily lives. Although I have no inclination to vote against the SI, because it is a technical measure, perhaps the Government should be charged with wasting parliamentary time, because we should not have to be considering such issues.

9.35 am

Andrew Griffith: It is a pleasure to follow my colleague, the hon. Member for Ealing North, and I thank him for this support for the measure, which, as he confirmed, is technical in nature.

I note the comments of the hon. Member for Dunfermline and West Fife about Brexit. I can assure colleagues that anything to do with Brexit is a wee stroll compared with the epic marathon that would be disentangling Scotland from the rest of the United Kingdom.

It is the Government's view that the amendments, which relate to securitisation and the Gibraltar financial services regime, are necessary, appropriate and proportionate. I hope that hon. Members have found today's Committee sitting informative and that they will join me in supporting the regulations, which I commend to the Committee.

Question put and agreed to.

9.36 am

Committee rose.

