

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT INSIDER DEALING (SECURITIES AND REGULATED MARKETS) ORDER 2023

Tuesday 9 May 2023

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Saturday 13 May 2023

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The Committee consisted of the following Members:

Chair: MRS PAULINE LATHAM

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| † Aldous, Peter (<i>Waveney</i>) (Con) | † Metcalfe, Stephen (<i>South Basildon and East Thurrock</i>) (Con) |
| † Bacon, Gareth (<i>Orpington</i>) (Con) | † Mills, Nigel (<i>Amber Valley</i>) (Con) |
| Baillie, Siobhan (<i>Stroud</i>) (Con) | † Osborne, Kate (<i>Jarrow</i>) (Lab) |
| † Bardell, Hannah (<i>Livingston</i>) (SNP) | † Siddiq, Tulip (<i>Hampstead and Kilburn</i>) (Lab) |
| † Blake, Olivia (<i>Sheffield, Hallam</i>) (Lab) | † Stephenson, Andrew (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| Byrne, Ian (<i>Liverpool, West Derby</i>) (Lab) | Tomlinson, Justin (<i>North Swindon</i>) (Con) |
| † Clarkson, Chris (<i>Heywood and Middleton</i>) (Con) | † Twist, Liz (<i>Blaydon</i>) (Lab) |
| † Foy, Mary Kelly (<i>City of Durham</i>) (Lab) | Paul Owen, <i>Committee Clerk</i> |
| † Griffith, Andrew (<i>Economic Secretary to the Treasury</i>) | † attended the Committee |
| Kawczynski, Daniel (<i>Shrewsbury and Atcham</i>) (Con) | |

First Delegated Legislation Committee

Tuesday 9 May 2023

[MRS PAULINE LATHAM *in the Chair*]

Draft Insider Dealing (Securities and Regulated Markets) Order 2023

4.30 pm

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

That the Committee has considered the draft Insider Dealing (Securities and Regulated Markets) Order 2023.

It is a pleasure to serve under your chairmanship, Mrs Latham. I thank hon. and right hon. Members for attending this debate. The UK is one of the world's leading financial centres, and the Government recognise that financial services are one of the core engines for boosting economic growth across all four nations of the UK.

I am sure that hon. Members are well aware of the extensive programme of financial services reform that the Government are pursuing, as set out by the Chancellor in the Edinburgh reforms package. However, it is important not to overlook the robust baseline regulation that ensures the integrity of our financial markets. The regulations amended by this draft statutory instrument are paramount to achieving that. They ensure that everyone can have confidence in the integrity of our financial markets.

The draft SI updates the UK's criminal insider dealing regime to ensure that all market participants are held to high standards and that there are meaningful consequences for those who break the law. Insider dealing is a form of market abuse. In broad terms, it is where an individual trades in a financial instrument based on material, non-public information about a company. The Financial Conduct Authority is responsible for identifying and taking enforcement action against cases of insider dealing. It can impose a variety of criminal and regulatory sanctions under the criminal and civil market abuse regimes.

The intention of today's amendments is to enable the FCA to take action against market abuse in a way that is commensurate with the seriousness and market impact of the abusive behaviour. The legislation that defines the current criminal offence for insider dealing was first introduced in 1993. The Criminal Justice Act 1993 lists the securities and regulated markets to which the insider dealing offence applies. However, financial markets have evolved since the lists of instruments and regulated markets were last updated. As a result, those lists are narrower than the more recently updated civil market abuse regime.

The Government believe that the gap between the civil and criminal insider dealing offences needs addressing. The draft SI does just that by aligning the list of securities in scope of the criminal insider dealing offence with the list in the civil insider dealing regime. The SI also replaces the named regulated markets in scope of the criminal insider dealing offence. The use of general definitions will future-proof the list going forward, avoiding relevant markets inadvertently falling out of scope.

Overall, the SI will reinforce the UK's reputation as a fair and transparent place to invest, with robust regulatory standards and serious consequences for those who do not comply with our laws. I commend the draft order to the Committee.

4.33 pm

Tulip Siddiq (Hampstead and Kilburn) (Lab): It is a pleasure to serve with you in the Chair, Mrs Latham. Labour fully supports the draft statutory instrument; we will always welcome any tightening of the rules on insider dealing. However, I have a few questions for the Minister, as he would expect.

First, I understand that the order is the outcome of the 2015 fair and effective markets review. Will the Minister explain why it has taken eight years to deliver the order and modernise our rules on insider dealing? As he knows, the EU has been years ahead of us in criminalising most forms of serious market abuse. Why did we have the delay? What assessment has the Treasury made of how much that serious eight-year delay has cost the public?

Will the Minister tell me about the scale of insider trading that preceded the order? How many instances of abuse were treated simply as civil offences? How many instances would have been treated as criminal offences if the draft order had been made earlier, as should have happened eight years ago? The Opposition support the draft order, but I hope that the Minister will be able to answer some of the questions about the long delay.

4.34 pm

Andrew Griffith: It is always a pleasure to follow the hon. Member for Hampstead and Kilburn; I thank her and her colleagues for their support. She makes a fair point about the period between publication of the FEMR in 2015 and the Committee's consideration of the draft order today. I do not have the figures on—indeed, I do not even know—whether there has been a lack of prosecutions as a result. As the hon. Lady knows, there is both a civil and a criminal regime. It is only the criminal regime that we are updating today; we are maintaining the civil regime.

Hannah Bardell (Livingston) (SNP): Like our Labour party colleagues, the Scottish National party supports the draft order. However, the reality is that the National Crime Agency has faced a 4.5% decrease in its budget in recent years. Is the Minister willing to say anything about the funding of the resources to pursue the criminals? What more will be done in line with updating the legislation?

Andrew Griffith: These are important matters. The funding of the police is out of scope, but I am sure I share the Committee's desire to see any criminals in this space prosecuted and to see as many investigations as possible. The FCA has operational independence in dealing with those matters, and it is our job to provide it with the tools, which is what we are doing. I am grateful for the support of the hon. Lady and her party.

There have been a number of interludes since the original FEMR in 2015, including the unprecedented period during the pandemic and some of the other financial measures that we have had to pursue as part of

Brexit. I hope we have consensus about how we move forward now. In all the important work that we are doing across the financial services sector, I have a zeal to proceed at the fastest possible pace. We do not have the ability to travel back in time, but we can put the draft order on the statute book now.

Nigel Mills (Amber Valley) (Con): One of many changes since the FEMR is the rise of cryptoassets and cryptocurrencies. Do cryptoassets fall under the definition of transferable securities or money-market instruments included in the draft order, so that cryptocurrency insider trading will be caught by these rules?

Andrew Griffith: It is not in these rules per se. There were two things that I talked about; one is the fact that we are moving away from a prescriptive list and towards

definitions of what constitutes a financial instrument. That allows a degree of future-proofing for precisely the purpose that my hon. Friend talks about.

My hon. Friend will also be aware that we are consulting right now on the broader regulation of cryptoassets. I humbly suggest that it is not in scope for this Committee, but I am happy to engage with him and other colleagues on it. The purpose of the consultation is precisely to involve the broadest possible range of hon. Members and stakeholders so that we get this important regulation right. It is a whole new part of the economy, and our desire is to get it right.

Question put and agreed to.

4.38 pm

Committee rose.

