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OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT FINANCIAL SERVICES (MISCELLANEOUS) (AMENDMENT) (EU EXIT) (NO. 2) REGULATIONS 2019

Wednesday 22 May 2019

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The Committee consisted of the following Members:

Chair: MR LAURENCE ROBERTSON

Ali, Rushanara *(Bethnal Green and Bow)* (Lab)
† Braverman, Suella *(Fareham)* (Con)
† Bridgen, Andrew *(North West Leicestershire)* (Con)
† Crouch, Tracey *(Chatham and Aylesford)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Glen, John *(Economic Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hanson, David *(Delyn)* (Lab)
† Jones, Mr Kevan *(North Durham)* (Lab)
Lucas, Ian C. *(Wrexham)* (Lab)
† Mann, John *(Bassetlaw)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Milling, Amanda *(Cannock Chase)* (Con)
† Offord, Dr Matthew *(Hendon)* (Con)
† Prisk, Mr Mark *(Hertford and Stortford)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Yohanna Sallberg, *Committee Clerk*

† attended the Committee

Second Delegated Legislation Committee

Wednesday 22 May 2019

[MR LAURENCE ROBERTSON *in the Chair*]

Draft Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 2) Regulations 2019

2.30 pm

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

That the Committee has considered the draft Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 2) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Robertson. As the Committee will be aware, the Treasury has been undertaking a programme of legislation through statutory instruments introduced under the European Union (Withdrawal) Act 2018 to ensure that if the UK leaves the EU 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 SIs made before 29 March covered all the essential legislative changes that needed to be in law by exit to ensure a safe and operable regime at the point of exit. Although the deficiency fixes in the draft regulations are important, it was not essential for them to be in law at exit, so long as they could be made shortly afterwards.

The draft regulations will help to ensure that the UK regulatory regime continues to be prepared for withdrawal from the EU. They are aligned with the approach that we have taken in previous SIs laid under the 2018 Act: providing continuity by maintaining existing legislation at the point of exit, but amending it where necessary to ensure that it works effectively in a no-deal context.

Let me turn to the substance of the draft instrument, which has four components. First, an important aspect of our no-deal preparations is the temporary permissions regime, which enables European economic area firms that operate in the UK via a financial services passport to carry on their UK business after exit day while they seek to become fully UK-authorised. We have also introduced a run-off mechanism—via the Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019, which were made on 28 February—for EEA firms that do not enter the temporary permissions regime or that leave it without full UK authorisation.

The draft regulations will not amend the design of those regimes, but they will introduce an additional safeguard for UK customers of firms that enter the run-off mechanism: an obligation for firms that enter the contractual run-off regime, which is part of the run-off mechanism established by the Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations, to inform their UK customers of their status as an exempt firm and of any changes to consumer protection. That will ensure that EEA providers must inform their UK customers if, for example, there are changes to consumer protection legislation in the firm's home state or in the EEA that affect UK customers. Part 3 of the draft regulations will introduce similar obligations for electronic money and payment services firms in the contractual run-off regime.

The second key component of the draft regulations concerns the post-exit approach to supervision of financial conglomerates. An EU exit instrument was made on 14 November 2018 to fix deficiencies in FICOR—the Financial Conglomerates and Other Financial Groups Regulations 2004, which implemented the financial conglomerates directive in the UK. As part of an EU exit instrument made on 22 March 2019 to amend the Financial Services and Markets Act 2000, Parliament approved a temporary transitional power to give UK regulators the flexibility to phase in regulatory changes introduced by EU exit legislation.

As part of their work to apply that power, the regulators proposed that, in certain circumstances, changes to the supervision of financial conglomerates should be delayed to give affected firms time to reach compliance in an orderly way. To achieve that, a transitional arrangement needs to be provided in relation to FICOR in respect of the obligations on the regulators to supervise financial conglomerates.

The draft regulations make a clarificatory amendment to the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018. The drafting approach taken in the 2018 regulations resulted in the Financial Conduct Authority having only the implicit power to cancel the temporary deemed registration or authorisation of an EEA payment institution or account information service provider that provides account information services without the required insurance cover; the draft regulations will make that cancellation criterion explicit.

Let me address the corrections that the draft regulations will make to earlier EU exit SIs. All the legislation laid under the 2018 Act has gone through the normal rigorous checking procedures, but, as with any legislation, errors are made from time to time and it is important that they are corrected.

In the Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations, certain provisions relating to run-off regimes incorrectly referred to EEA fund managers. Those references are now removed, as EEA fund managers will not be able to make use of the regimes.

In the Long-term Investment Funds (Amendment) (EU Exit) Regulations 2019, which were made on 20 January, references to European long-term investment funds were not fully replaced with the term that will be used for UK long-term investment funds. In the Capital Requirements (Amendment) (EU Exit) Regulations 2018, which were made on 19 December 2018, a redundant paragraph on EU member state flexibility in the delegated regulation on liquidity coverage was not deleted as it should have been. This statutory instrument corrects those errors.

The Treasury has worked closely with the financial services regulators in the drafting of EU exit instruments that the instrument amends. We have also engaged extensively with the financial services industry on the instruments to which this SI relates.

David Hanson (Delyn) (Lab): Before the Minister says "finally", will he clarify one point in the explanatory memorandum? Paragraph 7.6 states that

> "If the UK were to leave the EU without a deal, the UK would be outside the EU's framework for financial services. The UK's position in relation to the EU would be determined by the default Member State and EU rules that apply to third countries at the relevant time. The European Commission has confirmed that this would be the case."

What does that actually mean in practice?

John Glen: That would depend on the prevailing circumstances at the time. I cannot give the right hon. Gentleman an accurate depiction of what the rules will be, because we are not in that situation at the moment.

David Hanson: The current Prime Minister—it is quarter to 3, and I think she is still in post—has indicated that she does not want a no-deal scenario. The next Prime Minister, whoever he or she may be, may well run the clock down until 31 October, when there would be a no-deal scenario. Before the Minister sits down, will he clarify what paragraph 7.6 of the explanatory memorandum means in practice if a no-deal scenario comes to pass?

John Glen: Like any Minister at any point in time, I can speak only for the Government I represent at this moment in time. The assumption behind the right hon. Gentleman's question is one that I cannot take on board, because that is a hypothetical scenario that I am not, at the moment, privileged to answer.

David Hanson *rose—*

John Glen: I am very happy to give way.

David Hanson: If the assumption is hypothetical, why is paragraph 7.6 in the explanatory memorandum?

John Glen: As has been indicated throughout the process, the explanatory memorandums set out the situation in the event of a no deal. The right hon. Gentleman wants me to explain where we will be at a certain point in time, but I am not able to answer him at this point.

Finally, during the debate on this instrument in the other place, Lord Young committed the Treasury to reviewing the explanatory memorandum for this instrument. Although the original was factually correct and followed the guidance issued to Government Departments for the drafting of EU exit instrument explanatory memorandums, I accept that it could have provided a clearer and more accessible explanation of the provisions in the instrument, which is why I submitted a revised version of the explanatory memorandum to Parliament on Thursday 16 May.

As I explained in my opening remarks, it was not essential for the additional measures and corrections, including this instrument, to be in law by the original proposed exit day of 29 March. That is why the instrument was not considered earlier by the Committee. Now that the article 50 process has been extended by six months, we can ensure that the provisions are in place and that the UK's regulatory regime will continue to be prepared for withdrawal from the EU in all scenarios. I hope that colleagues will join me in supporting the regulations, which I commend to the Committee.

2.39 pm

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to serve on the Committee with you in the Chair, Mr Robertson. I am grateful to the Minister for his explanatory remarks but, as the Opposition have mentioned many times before, we have grave concerns about the use of secondary legislation to make sweeping changes to the statute book. Those changes could have a material impact on our financial services, and could affect jobs and consumers alike.

My right hon. Friend the Member for Delyn was absolutely right that the possibility that these measures will be revoked has become rather less hypothetical, given the comments made recently, including today. It is therefore essential that we look at these changes very carefully.

The official Opposition have frequently warned that this process risks creating drafting errors that are difficult to identify and may be found only after the legislation is enacted, despite our best attempt to provide legislative scrutiny. This instrument is an abject lesson in the perils of this process: it essentially comprises a collection of corrections to deficiencies, ambiguities and errors made in previous rounds of secondary legislation. That just goes to show that, as we stated at the time, the previous legislation passed in this place was rushed. Too much pressure has been put on already overburdened civil servants, who have been expected to do the impossible in some cases. This instrument corrects errors in six other statutory instruments. Who is to say how many more instruments will need to be corrected, and how many errors will go unnoticed until it is too late?

Many of us have argued that the situation has been compounded by the fact that the Government have been determined to opt for a series of different pieces of legislation, making minor amendments to them once the interactions between them have been determined, rather than having a coherent approach from the beginning. Colleagues who have been in these discussions previously will remember that we have asked for a Keeling schedule-like approach, whereby it would be possible to see the timings of the amendments made by the various pieces of legislation passed in this place. Of course, those statutory instruments have generally amended other pieces of legislation, which themselves have often been amended by other pieces of legislation. This is a horrendously complicated set of circumstances.

The Government have now withdrawn no fewer than 73 statutory instruments in the current Session. That is far more than usual, and we can only assume that much of the reason is the kind of drafting errors that we are talking about today. The Minister, perhaps understandably, tried to normalise the situation and suggested that—I hope I am capturing his words correctly—with any legislation, errors are made from time to time. This level of error, ambiguity and lack of clarity is, to my knowledge, unprecedented. Perhaps other Committee members remember this kind of thing happening previously. I am a new Member, but from what I understand about parliamentary history, I think this is fairly unusual.

[Anneliese Dodds]

The Minister suggested that all the changes that had to be in place for the immediate period after the UK leaves the EU were ready before 31 March. Is that reliant on some kind of threshold for the amount of legal difficulty that would be created by having ambiguity or inconsistency? Did the Government think, "Well, it will take a bit longer for a firm to get round to suing us or taking legal action about one issue, rather than another"? These issues are significant, because they are about allocating responsibility to different bodies, and indicating what firms are and are not able to do and what regimes they come under. These are important matters.

Mr Kevan Jones (North Durham) (Lab): Does my hon. Friend agree that if we had left on 29 March with no deal and these instruments had come into being, large areas would not have been covered? That is being corrected today.

Anneliese Dodds: My concern—despite the Minister's comments, I know he is trying to do his very best in difficult circumstances—is that it is not clear what criteria have been used to determine which are the really serious errors, inconsistencies and ambiguities, and which can just be altered later. As I say, perhaps the Government took a view about how long it would take for those problems to crop up in normal practice, but we need a bit more information.

There is also the issue that more powers will be transferred to the Financial Conduct Authority and the Prudential Regulation Authority. At the same time, concerns have been raised about Andrew Bailey's comments suggesting that the UK would favour a lower-burden approach to financial regulation after we leave the EU, which some have interpreted to mean deregulation. Given that the Government have yet to provide us with information about their vision for their post-Brexit regulatory framework, it would be interesting to know whether the Minister thinks those who are concerned about a policy of deregulation are justified in their concern.

My Opposition colleagues and I have also raised concerns on numerous occasions about FCA funding. The FCA maintains that it is committed to keeping an overall budget that is flat in real terms, despite the rapid increase in responsibilities. Of course, the European Securities and Markets Authority, or ESMA—the regulator on the European level—received funding from member states, so when its responsibilities increased, member states could decide to provide additional funding. As the Minister has mentioned many times, the FCA's status is different: its funding is provided by the bodies that it regulates. That may mean that it takes longer for the FCA to raise additional funds in the event of additional responsibilities. It may also increase the requirement for funds on bodies that are struggling, particularly as a result of a no-deal Brexit chaotic market situation.

As the Opposition have said before, this is one of many reasons why the FCA is not always automatically the appropriate choice for this massive transfer of powers from ESMA. That is also clear from Charles Randell's comments that Brexit planning will mean "difficult decisions elsewhere"—his words, not mine—leaving many concerned that a lack of capacity at the FCA might also lead to deregulation, whether or not that is a conscious determination on its part. Again, it would be helpful to hear from the Minister whether he is also concerned about Brexit pressure leading to a reduction in what the FCA is able to achieve in areas that I know are important to him, such as consumer protection and the treatment of vulnerable customers.

2.46 pm

Alison Thewliss (Glasgow Central) (SNP): It is a pleasure to see you in the Chair, Mr Robertson, and a pleasure to be speaking third—I have been able to catch my breath, having come up from Westminster Hall. I share the concerns that the hon. Member for Oxford East has iterated. We on this side of the House have been almost pleading with the Government, asking, "Are you sure you are getting this right?" It gives us absolutely no pleasure today to find out that the Government have not been getting it right. They have made errors and omissions that have come to light only months and months down the line. As the right hon. Member for North Durham just mentioned, if we had been in a no-deal Brexit scenario right now, we would be finding these errors out while these things were already in operation.

I ask the Minister what assessment is being made of all the other statutory instruments that we have scrutinised in this room over the past year. How do we know further errors have not been made? What checking are the Government doing to make sure further errors will not emerge, and who is the Minister relying on to make sure that those errors are being picked up? Is it up to individual firms to find those errors and report them to the Government somehow, and if so, what does that mechanism look like? Can we advise financial services firms, consumers, or anybody else to email the Minister and let him know if they find an error?

This situation gives Members on this side of the House no confidence that things are working properly. Any notion of the withdrawal Bill coming back to the House is laughable if the Government cannot table SIs without coming back with technical amendments months later. It is a dog's Brexit, quite frankly, and we cannot have much confidence in it. Not only that: it cannot give much confidence to those people outside the House who work in the financial sector, both here in the UK and, more widely, in Europe and the rest of the world. If we cannot get these things right now, where will that leave us as we go forward, perhaps in a no-deal scenario under a different Government? I am sure that the hon. Member for Salisbury is a great Minister, and he may keep his role in a different Government; who knows. However, as the right hon. Member for Delyn rightly pointed out, he cannot give any assurances to the House about what the future may look like.

If later in the year we end up with a hard Brexiteer Prime Minister at the helm, we have no assurance that we will not be driven over the cliff into circumstances in which we have to rely on statutory instruments passed without the greatest amount of scrutiny possible. We may end up in a scenario in which we are relying on that deficient legislative framework to make sure that our financial sector is able to operate.

Andrew Bridgen (North West Leicestershire) (Con): The hon. Lady is doing a very good job of explaining the complexities of unravelling a 46-year-old union. What does she think would be the complexities of unravelling a 300-year-old Union?

Alison Thewliss: It certainly would not start from here. The Brexiteers have started with no plan, nothing written down, no objectives, and no sense of where they want to arrive at, without even agreement among themselves about what they want to achieve. I will take no lectures from the hon. Gentleman on how we do negotiations, because this is a complete and utter shambles. I suppose it is no accident that we can look at the figures from EY, which says that since the 2016 referendum financial services firms have voted with their wallets and moved $1 trillion of assets from the UK to the rest of the EU—to their benefit, and certainly not to ours.

The financial services industry in Scotland is looking at the situation with a sense of disbelief and horror. Representatives come and ask me what is going to happen, and I cannot tell them. The Minister cannot tell them. The Prime Minister will no doubt be out of the door in a couple of days' time, and she cannot tell them. What kind of confidence can the industry have that there will be a stable financial regime going forward, if we cannot even get these SIs correct? The other day, the Minister could not even tell my hon. Friend the Member for Glasgow North (Patrick Grady) whether the UK would break even at any point in this process. We will lose out as a result of Brexit, and she could not say when the UK economy will start to improve after all this disruption.

A number of the changes to the SIs—described in paragraphs 7.10 to 7.13 of the explanatory memorandum —are designed to improved consumer protection and increase consumer awareness where firms are in transitional regimes. That is quite a worrying omission. Had this not been brought to light, people who might rely on those types of consumer protection would not have had them under this SI, and perhaps under others. We simply do not know. We have raised concerns that industry has brought to us, when we have been able to do so.

This SI has gone through in a very haphazard manner, which is certainly concerning. The issues and concerns have been well iterated by the Opposition, but I want to ask the Minister about the procedure and process to ensure that all the other SIs that we have wheeched through the House in no time at all are as rigorous as they should be. It is deeply unfortunate that he has had to come back and do this today. I feel very sorry for his having to do it, and for the civil servants who have had to go through the process as well, but there must be a better process than this. The corrective process should be better than this. I would say that we are heading for chaos, but we are already in chaos. It gives Scotland no confidence that this UK Government are the strong and stable environment that we were always promised they were. I seek assurances from the Minister on what is being done to address these issues.

2.52 pm

Mr Kevan Jones: It is a pleasure to serve under your chairmanship, Mr Robertson, and to see the Minister again. We passed in the corridor earlier this week and noted that it had been several weeks since we were in a Delegated Legislation Committee. I think we will be in a lot more, because this is just the start. In saying that, I am not apportioning blame. I sympathise with civil servants and the Minister—they have a mammoth task.

Quite clearly, mistakes or omissions were made in earlier SIs that we approved. Like the hon. Member for Glasgow Central, I want to get an understanding of how they came about. Have we got teams of civil servants in the Treasury, or are people coming from outside and saying, "Wait a minute. Have you thought about the implications of X, Y and Z?"? If it is the case that the mistakes have quite rightly been identified, it would be interesting to know how and why they are emerging. Is there an ongoing process in the Treasury of looking at SIs that we have already approved?

Perhaps we need to rename this type of SIs as "Tipp-Ex SIs" or "autocorrect SIs," because that is exactly what they will be. It would be interesting to know what the process will be in the future, and how confident the Minister is that we will not be spending a lot more time coming back with these SIs. I am not criticising; as I say, there is a need for this. Mistakes do happen, and civil servants have been given the impossible task of getting these through.

Under "Extent and territorial application", the explanatory memorandum states:

> "The territorial extent of this instrument is to the whole United Kingdom…The territorial application of this instrument is to the whole United Kingdom."

I have asked before how the regulations apply to overseas territories. I am interested to know what the implications are there.

The other issue is the impact assessment. I am not sure how the effects can be assessed if we do not know what the effects were in the first place. I find what the explanatory memorandum states under "Impact" very uninspiring. It states:

> "There is no, or no significant, impact on business, charities or voluntary bodies."

How do we know that? At paragraph 12.3, it states that no impact assessment has been undertaken, because

> "in line with Better Regulation guidance, HM Treasury considers that the net impact on businesses will be less than £5 million a year."

It would be interesting to know how that was arrived at or whether representations have been made by business. That is how we are in this situation of amending this SI. Does more work need to be done in assessing whether there will be a more negative impact?

The other issue, which was raised by my hon. Friend the Member for Oxford East—I cannot remember when we raised it first, but it was several months ago—is the impact on the ability of the Financial Conduct Authority and the other regulators to implement the regulations and the extra pressure that will be put on them. In the explanatory notes, it states:

> "Impact assessments for the individual instruments being amended by this instrument have been published on legislation.gov.uk, apart from those that have been deemed to be de minimis."

Again, we might not have known that those impact assessments existed, and these and other regulations are now being put over to such bodies as the Financial Conduct Authority. What assessment have we done that they have the capacity to do it? Has any assessment been done of what would happen if they came back and

[Mr Kevan Jones]

said, "If we are going to do these things, we might need some extra cash or resource?" I am sure the Minister will be very sympathetic to them if they came to him with that type of plea, but it is something we need to know.

I do not think this will be the last of these statutory instruments. I am sure the Minister will be pleased to know that. As the hon. Member for Glasgow Central said, in this process, our civil servants and Government have been asked to do a huge amount in quite a short period of time. I still think there will be unintended consequences from some of the regulations or from things that we do not know about that will emerge in the future.

2.58 pm

John Glen: I am grateful for the points that Members have raised, which I will be happy to go through. The additional measures and corrections in the instrument will help to ensure that the UK's financial services regulatory regime continues to be prepared for withdrawal from the EU in any scenario, but I recognise the context of the multiple debates we have had and the concerns expressed by multiple Members on the process that has got us to this point and how it needs further elucidation, which I will try to do now. I start by saying that we have used the provisions in the legislation and that the changes did not impact materially on any meaning of thousands of pages of legislation. We always intended and expected that this mechanism would be required in the context of that volume of SIs.

I will now try to give some more detail. In a no-deal scenario, for which any responsible Government must be prepared, EU law and regulators will not have jurisdiction in the UK, so any relevant functions will be taken on by UK authorities and UK law will apply. The hon. Member for Oxford East made reference to Andrew Bailey's recent comments on deregulation. It is important to contextualise that the European Union (Withdrawal) Act 2018 does not give the Government power to make policy changes beyond those needed to address deficiencies arising as a result of exit.

The hon. Lady tempts me to enter into a wider discussion of the future of regulation.
All I will say on that is that I do not believe that enduring competitive advantage can be or will be achieved in any jurisdiction by deregulation. It means for the UK at the moment that, as far as possible, the same rules that apply pre-exit will apply immediately post-exit. However, it is necessary to make changes to reflect the new third-country relationship between the UK and the EU, and to transfer functions currently carried out by the EU bodies to the appropriate UK body, in the context of this provision of a no-deal scenario.

Our onshore regime will be safe and workable until we have the opportunity to consider long-term reforms to our regulatory framework. The hon. Members for Glasgow Central and for Oxford East make a fair point about the clarity of that long-term arrangement. It obviously needs urgent work by the Government to establish that.

Alison Thewliss: The Minister says that it will need "urgent work". When will that "urgent work" be done?

John Glen: We are talking about urgent work in the context of no deal, which is not the current Government's policy. There are so many hypotheticals there that I cannot give the hon. Lady an answer to that question, because it would be dependent on the attitude of the EU to us. So there are a number of unknown issues there.

The issue of the Keeling schedule has come up several times; it was raised by the hon. Member for Oxford East. It is not normal practice for the Government to provide consolidated texts for secondary legislation debates, and changes to legislation are set out in the explanatory memorandum that accompanies the legislative text. My understanding is that the Keeling schedule was essentially an effort to assist and facilitate understanding, but it proved to be quite an unedifying means of doing so, because it just created more confusion given the complexity of the work. So it was not that there was wilful intent to obscure; it was just that the Keeling schedule was not an edifying mechanism to use in itself.

We have published drafts of legislation online in advance of laying them before Parliament, and we have provided links to all laid and made legislation on the same website. So we have tried to make the legislation easily accessible, so that it can be found in one place. I will just also note that the National Archives will publish an online collection of documents capturing the full body of EU law as it stands on exit day, and it will gradually incorporate and retain direct EU legislation into the Government's official legislation website, which will include a timeline of changes to retained EU law, both pre-exit and post-exit.

The hon. Lady asked—I think others did, too—why these drafting mistakes were not spotted earlier and how can we trust the quality of other EU exit SIs. As I said in my speech, they passed through the usual quality control procedures and we have engaged extensively with the regulators. We have also published EU exit SIs in draft in advance of laying them, for industry to familiarise itself with the legislation.

All I can say is to repeat what I said before—these drafting errors do occur from time to time. I hesitate to say this, but I think that they would happen under all Governments. Obviously, however, if the Opposition are making the case that they would be perfect, then that is potentially for the future to see. *[Interruption.]* I do not intend to give them a chance, no. *[Laughter.]*

The hon. Lady went on to ask why such errors were not made in earlier instruments. The Government made a clear commitment to ensure that a fully functioning regulatory regime for financial services would be in place in time; it was. However, we delivered that via a programme of SIs, which ensured that those legislative changes were made by 29 March. These are not essential but desirable things to correct, but the additional measures provided for in this SI will nevertheless help to ensure that the UK regime continues to be prepared for withdrawal from the EU in all scenarios.

We have gone over the issue of the resourcing of the FCA multiple times, but there are no new functions transferred to regulators as a result of this SI. The business plan of the FCA is sufficient for the resources that it has. I have frequent meetings with Andrew Bailey, the chief executive of the FCA, and his colleagues. Andrew Bailey has said that he expects to hold FCA's

fees steady for a year or two, assuming there is an implementation period. However, the FCA can increase its fees should it need to, without reference to Government.

I have already addressed the point made by the hon. Member for Glasgow Central about the further errors. I can only apologise. We published the instruments in draft in advance, and errors happen from time to time. I am not relaxed about that. When fine colleagues from the Treasury come to see me and point them out to me, they get a smile, but it is not the easiest conversation. However, these things happen.

On the process, we continually keep our legislation under review, with the regulators and industry feeding into our analysis. To the point the hon. Lady made—or perhaps it was the right hon. Member for North Durham—about businesses emailing the Treasury, that does happen. TheCityUK—the trade body for the City—has expressed confidence in the preparations that we have made for a no-deal scenario.

The right hon. Member for North Durham asked about the application of the SIs to overseas territories, as he has previously in Committee. The overseas territories are outside the EU so will not be affected. The exception is Gibraltar, and our onshoring SIs made provision for the UK's regime to work effectively with Gibraltar's regime after exit.

The right hon. Gentleman correctly drew attention to the provision around the de minimis impact assessment and the net cost to business being less than £5 million. We do not expect the SI to have a significant impact on business given that it does not introduce new substantial requirements for firms. He made a point about previous impact assessments; however, they were considered in the light of the statutory instrument discussed at the time. These are minor amendments that will not materially affect the substance.

In the 33 Committees I have been on regarding this matter—there may be some more to come—I have never said that this is a perfect solution. The Government have tried to consult widely and work with the regulators to come up with a suitable solution for the context of no deal. I have been faithfully introducing the instruments, and bringing transparency around the process.

The revision of the explanatory memorandum was a direct response to points made by those on the Opposition Front Bench in the Lords, to try to make it simpler. I thank Lord Tunnicliffe for his comments. The new explanatory memorandum has to contain, by law, a large amount of material, but paragraph 2 now offers a full explanation. It is improved, it is in one place, and it does not use the template that we used previously. It now functions as a stand-alone document, so I thank the Opposition for their input.

I hope that the Committee has found this afternoon's sitting informative, and can join me in supporting the regulations.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 2) Regulations 2019.

3.8 pm

Committee rose.