

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT FINANCIAL MARKETS AND INSOLVENCY  
(TRANSITIONAL PROVISION) (EU EXIT)  
(AMENDMENT) REGULATIONS 2021

*Thursday 24 June 2021*

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**Monday 28 June 2021**

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

*Chair:* MR LAURENCE ROBERTSON

Coutinho, Claire (*East Surrey*) (Con)  
 Davies, David T. C. (*Monmouth*) (Con)  
 † Glen, John (*Economic Secretary to the Treasury*)  
 † Harris, Rebecca (*Castle Point*) (Con)  
 Huq, Dr Rupa (*Ealing Central and Acton*) (Lab)  
 Jarvis, Dan (*Barnsley Central*) (Lab)  
 † McFadden, Mr Pat (*Wolverhampton South East*)  
 (Lab)  
 McKinnell, Catherine (*Newcastle upon Tyne North*)  
 (Lab)  
 Mak, Alan (*Havant*) (Con)  
 † Mann, Scott (*Lord Commissioner of Her Majesty's*  
*Treasury*)

Morris, James (*Halesowen and Rowley Regis*) (Con)  
 † Owen, Sarah (*Luton North*) (Lab)  
 Rutley, David (*Macclesfield*) (Con)  
 Thomson, Richard (*Gordon*) (SNP)  
 Throup, Maggie (*Erewash*) (Con)  
 Tomlinson, Michael (*Mid Dorset and North Poole*)  
 (Con)  
 Winter, Beth (*Cynon Valley*) (Lab)

Kevin Maddison, *Committee Clerk*

† **attended the Committee**

# Fifth Delegated Legislation Committee

Thursday 24 June 2021

[MR LAURENCE ROBERTSON *in the Chair*]

## Draft Financial Markets and insolvency (Transitional Provision) (EU Exit) (Amendment) Regulations 2021

11.30 am

**The Chair:** Before we begin, may I remind Members that we have moved to one metre-plus social distancing in general Committees, in line with the Chamber and Westminster Hall. Members should continue to sit only in places that are clearly marked. I also remind Members that Mr Speaker has stated that masks should be worn in Committee except when speaking and unless Members are exempt.

*Hansard* colleagues would be grateful if Members could send any speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

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

That the Committee has considered the draft Financial Markets and Insolvency (Transitional Provision) (EU Exit) (Amendment) Regulations 2021.

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

As the Committee will be aware, prior to the end of the transition period, the Treasury introduced more than 65 statutory instruments under the European Union (Withdrawal) Act 2018. This was a significant programme of legislation. These SIs covered all the essential legislative changes that needed to be in law to ensure we had an effective and coherent financial services regulatory regime at the end of the transition period. This SI amends a transitional regime created in an earlier financial services EU Exit instrument, to ensure that the transitional regime continues to provide continuity for UK firms, as was originally intended.

The original SI, which this instrument amends, onshored the insolvency-related protections that are provided to systems under the EU settlement finality directive—or SFD. These systems are financial market infrastructure such as central counterparties, central securities depositories and payment systems, which provide essential services and functions relied upon by the financial services sector. Prior to the end of the transition period, if an EEA-based system was designated under the SFD, it received specific protections from insolvency laws across all EEA states and the UK. This meant that, where a designated system had received funds or securities from a system user—for example, a UK bank—then those funds or securities could not be clawed back in the event of the UK bank being subject to insolvency proceedings. In treating transactions made through a designated system as final and irreversible, this framework ensured that these vital elements of the financial plumbing were not at risk where individual members were in insolvency procedures.

Without these protections set out in legislation, there would be an increased burden on members of these systems, given that they would have to provide further assurance that, in the event of insolvency, payments they had made to a system could not be reversed. This could result in increased costs or even loss of access to providers of financial market services who need to use these systems in the EEA.

In the SI that we are amending today, a UK framework was established to allow any non-UK system to apply to the Bank of England for designation, so that it could receive settlement finality protections under UK law. It also established a temporary designation regime to provide UK insolvency protections for a period of three years to existing designated EEA systems that intended to apply for permanent designation under the UK's framework. The purpose of temporary designation is to allow time for applications to be processed by the Bank of England, while ensuring continuity of access for UK firms to relevant EEA systems.

However, there is a requirement for EEA systems in the transitional regime to submit an application by 30 June 2021—next Wednesday—otherwise they will immediately lose the protections provided for in the regime. This instrument amends the consequences of failing to apply by this deadline. Instead of immediately losing settlement finality protections under the temporary designation regime, EEA systems will retain protections for an additional two years. This ensures that UK firms which are using those EEA systems have sufficient time to put mitigants in place should access to those systems be impacted.

The Treasury has worked closely with the Bank of England and the Financial Conduct Authority to prepare this instrument. We have also engaged extensively with the financial services industry on the instrument to which this SI relates. I should also note that the Secondary Legislation Scrutiny Committee has reported on this SI as an instrument of interest. We have answered all questions pertaining to that, and the SI passed through the Lords a few weeks ago.

In conclusion, this SI is necessary to provide certainty for UK firms, and I commend these regulations to the Committee this morning.

11.35 am

**Mr Pat McFadden** (Wolverhampton South East) (Lab): Thank you for your chairmanship this morning, Mr Robertson. I have a feeling of *déjà vu*—in fact, Mr Robertson, it might be *déjà vu* all over again: not only have we been in this movie before, but we might be in it again in the future. But if I have a feeling of *déjà vu*, it must be nothing compared with the Minister's. He has spent a large part of the last couple of years taking through these statutory instruments. He mentioned that there were 65 from the Treasury; I do not know what proportion of those he took through—a large proportion, I would guess. A lot of that was the rolling over of particular European regimes. Now he is back doing that again.

As the Minister said, the regulations are about protecting assets in mid-transaction from being clawed back in the event of an insolvency, increasing confidence in the financial system and contributing to its stability. Such fire breaks in clearing and transactions are an established

part of the system. They are important because they are designed to stop an insolvency in one company from leading to a chain reaction right through other parts of the system. That much is uncontroversial.

The original form of the regulations was to offer protection for up to six months after the end of the transition period to firms that were part of the EEA processes; as the Minister said, the timetable runs out next Wednesday. But not all firms have completed the transfer to a new system, so we have this further extension for a two-year period. I appreciate why the Minister has gone for two years: he does not want to be doing this every six months, and there is some rationale in that.

Brexit was sold as being an end to red tape—nobody said it would be replaced with all this red, white and blue tape that we are debating today. I am not just talking about this instrument. Yesterday, the Financial Secretary to the Treasury was in a room somewhere along this corridor doing exactly the same thing to the extension process for customs safety and procedures—that was supposed to be for six months and is now having to be rolled over again. It will not be just these two financial instruments; there will be others too. This is the legislative process that keeps on giving—the rollover of the rollover, but no EuroMillions prize at the end.

I do not know whether you were listening to the news this morning, Mr Robertson. There was a report about long covid, which is defined as people having symptoms for 12 weeks or more after they have been diagnosed. What we are dealing with here is long Brexit: the legislative process that never ends of extensions to transition measures, where British regulations were supposed to be replacing the ones that we were leaving.

On the substance, I should say that of course we are not going to oppose something designed to contribute to financial stability and avoid the kind of financial chain reaction that can come with an insolvency in one part of the system. But the broader point is about how long the process is going to go on. I cannot predict the Minister's future and personally I wish him well, but it is certainly within realistic possibility that a different Economic Secretary to the Treasury and Opposition spokesperson will be standing here in two years' time debating the rollover to the rollover to the rollover.

We do not oppose the substance of the regulations, but we are casting a wry eye over the process of legislative long Brexit.

11.40 am

**John Glen:** As ever, I am grateful to the right hon. Gentleman for his contribution. I do not think he raised any substantive points and do not want to detain the Committee with a wider political discussion. All I would say is that the Government's view is that this instrument is necessary to ensure that the transitional regime for the settlement finality protection of EEA systems continues to provide that continuity for UK firms. About 37 systems are in play, and we anticipate that the vast majority will have made applications by next week. I will continue to do whatever is necessary to protect the integrity of the system. I commend the regulations to the Committee.

*Question put and agreed to.*

11.41 am

*Committee rose.*

