

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT SOLVENCY 2 (GROUP SUPERVISION)
(AMENDMENT) REGULATIONS 2021

Tuesday 7 December 2021

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Saturday 11 December 2021

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The Committee consisted of the following Members:

Chair: CHRISTINA REES

† Bell, Aaron (<i>Newcastle-under-Lyme</i>) (Con)	† Mak, Alan (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Brennan, Kevin (<i>Cardiff West</i>) (Lab)	† Mayhew, Jerome (<i>Broadland</i>) (Con)
† Djanogly, Mr Jonathan (<i>Huntingdon</i>) (Con)	Sharma, Mr Virendra (<i>Ealing, Southall</i>) (Lab)
† Drummond, Mrs Flick (<i>Meon Valley</i>) (Con)	† Sturdy, Julian (<i>York Outer</i>) (Con)
† Gideon, Jo (<i>Stoke-on-Trent Central</i>) (Con)	† Twist, Liz (<i>Blaydon</i>) (Lab)
† Glen, John (<i>Economic Secretary to the Treasury</i>)	Whittome, Nadia (<i>Nottingham East</i>) (Lab)
† Grant, Peter (<i>Glenrothes</i>) (SNP)	† Williams, Craig (<i>Montgomeryshire</i>) (Con)
Hendrick, Sir Mark (<i>Preston</i>) (Lab/Co-op)	
† Levy, Ian (<i>Blyth Valley</i>) (Con)	Ian Bradshaw, Dawn Amey, <i>Committee Clerks</i>
McFadden, Mr Pat (<i>Wolverhampton South East</i>) (Lab)	† attended the Committee

The following also attended, pursuant to Standing Order No. 118(2):

Oppong-Asare, Abena (*Erith and Thamesmead*) (Lab)

Second Delegated Legislation Committee

Tuesday 7 December 2021

[CHRISTINA REES *in the Chair*]

Draft Solvency 2 (Group Supervision) (Amendment) Regulations 2021

2.30 pm

The Chair: Before we begin, I remind Members that they are expected to wear face coverings and to maintain distancing as far as possible, in line with current Government guidelines and those of the House of Commons Commission. Please also give one another and members of staff space when seated and when entering and leaving the room. Members should send their speaking notes by email to hansardnotes@parliament.uk. Similarly, any officials in the Gallery should communicate electronically with the Minister.

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

That the Committee has considered the draft Solvency 2 (Group Supervision) (Amendment) Regulations 2021.

It is a pleasure to serve under your chairship, Ms Rees. This instrument is being made to address deficiencies in retained EU law relating to the supervision of UK insurance groups under the insurance prudential regime known as solvency 2. The UK Government have made equivalence decisions that assess that the insurance group supervision regime in another country—a third country—is equivalent to the UK. To date, Bermuda, Switzerland and the European economic area countries have been determined to be equivalent to the UK for the purpose of insurance group supervision. The instrument will ensure that the UK Government's equivalence decisions achieve in full the objective of avoiding unnecessary duplication of supervisory work.

The instrument affects UK insurance groups whose parent companies are domiciled in equivalent third countries. Such insurance groups are supervised at two levels: first, the UK insurance group level is supervised by the Prudential Regulation Authority and secondly, the ultimate parent group level, the so-called worldwide group, is supervised by the supervisory authority in the relevant third countries.

The instrument enables the PRA, when certain conditions are met, to defer to third-country supervisory authorities if the UK has determined that the third countries are equivalent for the purpose of insurance group supervision. The conditions apply where compliance by firms would be overly burdensome and where waiving the requirements would not adversely impact the PRA's advancements of its objectives.

In that circumstance, the PRA may disapply or modify regulatory requirements, which amounts to issuing waivers to UK insurance groups. In effect, the waivers exempt those UK insurance groups from demonstrating to the PRA compliance with solvency 2 group supervision requirements at the UK sub-group level. That is in

recognition of the fact that compliance at the UK sub-group level has already been supervised by virtue of being a subset of the ultimate group that is supervised by the equivalent third countries.

Pre-EU exit, the European Insurance and Occupational Pensions Authority issued guidelines to allow EEA supervisors to issue such waivers. Under such guidelines, the PRA could issue waivers to affected UK insurance groups pre-EU exit. However, those guidelines ceased to have effect in the UK following EU exit. Consequently, existing waivers are due to expire on 31 March 2022. The instrument confers on the PRA the power to issue new waivers.

The instrument brings advantages to UK insurance groups with a parent in an equivalent third country, to the PRA and to the third-country supervisory authorities. The advantages are reduced regulatory compliance cost for the insurance groups; reduced supervisory cost for the PRA; and reduced need for co-ordination between third-country supervisory authorities and the PRA where they are reviewing duplicative materials.

On 2 December 2021, in its 22nd report, the Secondary Legislation Scrutiny Committee listed the instrument as an “instrument of interest”. In the report, the Committee noted the

“absence of a level playing field: while the UK has granted equivalence to the EU in relation to the supervision of insurance groups, the EU has not reciprocated.”

Although that is true, I urge the Committee not to conflate those two separate matters. Equivalence determinations are made by the UK and EU unilaterally. One decision is within the power of the UK Government and another is beyond the power of the UK Government. Where the UK Government have unilaterally determined equivalence, we have a duty to ensure that our decisions are meaningful and achieve their objectives in full. The instrument ensures that we do not undermine our own equivalence decisions with deficiencies in our domestic law.

Rejecting this instrument does not increase the probability of the EU reciprocating equivalence decision. Conversely, it would penalise UK insurance groups and our regulator by increasing regulatory compliance and supervisory cost.

To conclude, the Treasury has worked closely with the PRA in the drafting of the instrument. The Treasury has also engaged with the UK insurance industry through its industry body, the Association of British Insurers. The ABI has informed the Treasury that the industry welcomes the instrument and has no concerns with it. I hope the Committee has found my explanation useful and I commend the instrument to it.

2.35 pm

Abena Oppong-Asare (Erith and Thamesmead) (Lab): It is a pleasure to serve under your chairship, Ms Rees.

Following the Opposition reshuffle, my right hon. Friend the Member for Wolverhampton South East was due to be here; I hope that the Minister is not disappointed by my presence.

I thank the Minister for providing an overview of these technical regulations. I have a couple of general remarks to make before asking the Minister a couple of questions. As we have heard, the regulations relate to the solvency 2 directive that the EU passed in 2009 and implemented in 2016. The directive was set up to harmonise prudential rules for insurers across the EU. The UK

implemented the solvency 2 directive through various pieces of legislation, including the Solvency 2 Regulations 2015. Obviously, when we left the EU single market, we left the EU solvency 2 regime, which onshored the rules.

According to the explanatory notes, the regulations we are considering today

“address failures of the retained EU law to operate effectively, and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.”

As we have heard from the Minister, the regulations essentially allow the PRA to defer the decisions of overseas insurance regulators where we have agreed equivalence with them. As the Minister said, before the UK left the EU, the EU regulator issued guidelines to allow regulators at EEA level to rely on the supervision of another regulator in partially overlapping areas.

After we left the single market, the PRA adopted those same guidelines, but they are due to expire on 31 March 2022, as the Minister highlighted. He also said that if nothing is done, from 1 April 2022, the PRA would need to begin imposing certain extra group supervision requirements, even if the UK insurer it is regulating has a parent that is already subject to group supervision in another country deemed equivalent.

The regulations we are considering therefore allow the PRA to continue to disapply, in certain circumstances, insurance requirements relating to the UK’s insurance groups whose parent companies are supervised in “equivalent” countries. The PRA would only be able to do that if it were satisfied that compliance with the requirements by the insurance group in the UK would be unduly burdensome, and that the disapplication would not adversely affect the advancement of any of the PRA’s objectives. Under what circumstances would that happen? Can the Minister outline how “unduly burdensome” will be judged? Will the PRA have discretion in that respect?

On the PRA’s objectives, can the Minister say what steps will be taken to ensure that insurance policyholders in the UK will be protected and that their interests will remain central? How will the quality of overseas supervision be monitored, now and in the future, to ensure that those objectives continue to be met?

The explanatory notes say that allowing the PRA to rely on an overseas regulator’s supervision should mean reduced compliance costs for the insurance company, reduced costs for the PRA and a reduced need for co-ordination between the PRA and the regulator in that country to ensure consistency. We broadly welcome that and we recognise that these measures seek to avoid duplicating the work of the PRA. However, the Minister will know that the Lords Secondary Legislation Scrutiny Committee denoted the SI an instrument of interest on 30 November because of

“the absence of a level playing field: while the UK has granted equivalence to the EU in relation to the supervision of insurance groups, the EU has not reciprocated.”

The Minister has mentioned that the Treasury has worked very closely with the PRA, but can he tell us what impact that has on UK-based insurance firms and whether they are at a disadvantage compared with EU-based ones? Will he set out the work that the Treasury has undertaken to achieve reciprocal equivalence with the EU for insurance regulation, and why it has so far failed to achieve that?

Finally, will the Minister comment on the broader solvency 2 reform, which the Treasury is consulting on, and in particular on the balance between increasing competitiveness and safeguarding policyholders? I know that many in the industry believe that reforms could lead to increased investment and support infrastructure across the country, but I would be interested to hear the Minister’s views on that. I am sure he is relieved to hear that we will not oppose this SI, but I hope that he can address the points that I have raised, because I think they are important.

2.41 pm

Peter Grant (Glenrothes) (SNP): It is always a pleasure to serve on a Committee that you are chairing, Ms Rees. Like the official Opposition, I do not intend to divide the Committee on the regulations, because there is a clear need for them in place of the existing temporary fix. As the Minister has said, the regulations are intended to make sure that, where the Prudential Regulation Authority—the UK’s regulatory body—is group supervisor of a UK insurance group whose parent company is in a third country, it can defer to that third country’s supervisory authority under certain circumstances. That includes the essential requirement that the insurance group supervision regime in the third country has been assessed by the UK Government as being equivalent to the UK’s regime.

A few questions arise from that. I have been trying to find out how big an issue this is in the world of insurance in the United Kingdom. Can the Minister tell us how much of the UK insurance market is likely to come under the scope of the regulations? If we did not agree to these regulations or similar ones, how big a problem would we be leaving ourselves with, either by percentage or by value in pounds? Related to that, are there particular sectors or specialist types of insurance that might be especially exposed to the additional costs of duplicate regulation?

Conversely, how significant is the issue of UK insurers whose parent companies are in countries that are not recognised as equivalent? Does that continue to create a difficulty? I would hope that UK companies that are complying with legislation and regulatory requirements in the UK are more likely to be controlled by parent companies that act responsibly and would not give us any concerns about their governance, but it would be interesting to hear whether the Minister can answer that question.

The Minister has given us a list of the countries that are currently recognised as being equivalent. Are there any assessments currently under way that might add further countries to that list? How often will such an assessment need to be redone if there is divergence in the regulatory environment between the UK and some of these countries? Remember, we were told that one of the big business pluses of Brexit was that the UK’s regulatory framework could diverge from the European Union’s in all sorts of areas. Will these assessments need to be redone periodically to ensure that the equivalence that is there today is still there in future?

Related to that, does the Minister have any concerns about the current review of the Solvency 2 directive that the European Union is undertaking? Is that likely to mean that decisions that have been made about equivalence

[Peter Grant]

or anything else will only have to be reviewed when that directive is reviewed by the European Union? Of course, this time when the European Union reviews the directive, we are not there. Previously, the UK Government had an equal part on the commission that would carry out that review, but now it is being carried out without one of western Europe's biggest insurance markets being represented, so are there any potential problems coming along the road as a result of the review?

As the Minister has said, the Lords Secondary Legislation Scrutiny Committee did not flag this up as an instrument that needed particular attention, but it did highlight the fact that the UK Government, the UK Parliament, is about to address the issue from one side even though there is no definite indication that the European Union will address the same issue from the other side. Does that create any advantages or disadvantages, either for a UK insurance company that has subsidiaries trading in the European Union or for UK companies that are subsidiaries of EU-based parent groups? It seems at the moment that we are heading towards a lop-sided equivalence, and I would be interested to know whether that creates any difficulties for any UK insurance companies. I cannot understand how something can be equivalent in one direction and not in the other, but perhaps the Minister or somebody from the European Commission could explain that one.

I have a couple of other questions. I suppose the main one is whether the Minister can confirm that the effect of this regulation is just pretty much to put us back where we were before Brexit, because if it is, there might have been a way to avoid it in the first place.

2.46 pm

John Glen: I very much appreciate the comments of the Opposition Front-Bench spokesperson and I welcome her to her place this afternoon. I will try to address three or four points that she made about this regulation, and I will come on to the wider issue of equivalence and the broader Solvency 2 reform.

This statutory instrument just re-establishes the PRA's power to exempt UK insurance groups from duplication. It affects 11 groups. If it were not done, that would mean an annual recurring cost of half a million pounds. The hon. Lady asked about the objectives and who would define them. The PRA has a statutory objective to take account of policyholder protections. That is part of its remit and something that it has an enduring and ongoing responsibility for.

The ongoing evaluation of prospective alternative countries is a matter for the PRA. The context here needs to be understood. We were completely aligned up till the end of the transition period. As a Government, we were very transparent about how we were approaching equivalence. Indeed, we made a number of determinations—I think 17 or 18 out of the 32—in November of last year. We complied fully with the EU and filled in

2,500 pages on equivalence. We also advanced a conversation around a regulatory dialogue and were ready for the memorandum of understanding to be signed. It is now a matter for the EU how it determines the way forward.

Both Opposition spokespeople spoke about the broader Solvency 2 reform. That is being looked at by the PRA and the Treasury, which are looking at the risk margin and the matching adjustment. We are looking at that closely with industry to determine the best way forward. That is completely distinct from this statutory instrument, but there is encouraging progress there.

This is not, though, a deregulatory move on the part of the UK. I think the whole Committee will understand that financial services is a dynamic industry where changes of regulation occur all the time, both on the EU side and here. This SI does not mean lower prudential standards. The PRA cannot issue waivers if by doing so it so adversely impacts the advancement of its objectives, which, as I said, are statutory ones of policyholder protection. The SI simply prevents a cliff edge that would otherwise happen on 1 April 2022. The hon. Member for Glenrothes asked whether the SI takes us back to the pre-Brexit position. The answer is no, it just restores the mechanism by which we can continue to grant equivalence.

I do not think there is too much else I can say to assist, but what we doing is pretty straightforward and uncontroversial. It will ensure that the UK's equivalence decisions, which assess that the insurance group supervision regime in another country is equivalent to the UK—

Peter Grant: I am grateful to the Minister for giving way, and I thank him for the answers that he has provided to almost all of the questions I raised. I do not think he has yet covered the possible issue of UK insurance companies whose parent companies are headquartered outside the equivalent regulatory countries. Is that a significant issue? Is he aware of any UK companies that will still have to face duplicate regulation because their parent company is regulated somewhere else?

John Glen: Offhand, I cannot give the hon. Gentleman a list of countries, but I am happy to look into matter and write to him if I can say something edifying. I do not want to complicate this anymore than I already may have done by my responses.

The instrument simply reduces the regulatory compliance cost for those affected insurance groups and reduces that supervisory cost for the PRA and equivalent third country supervisory authorities. There is nothing that I am trying to do here that represents a significant policy deviation, and I hope that my response has been sufficiently helpful to the Committee to allow the SI to be passed.

Question put and agreed to.

2.51 pm

Committee rose.

