

[Note: The words marked in bold type were inserted by the Lords to avoid questions of privilege.]

Financial Services (Implementation of Legislation) Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by HM Treasury, are published separately as Bill 333 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

The Chancellor of the Exchequer has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Financial Services (Implementation of Legislation) Bill [HL] are compatible with the Convention rights.

Financial Services (Implementation of Legislation) Bill [HL]

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Authorise the making of provision by reference to certain EU financial services legislation adopted on or before, or no later than two years after, the United Kingdom's withdrawal from the EU.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Power in respect of EU financial services legislation with pre-exit origins

- (1) The Treasury may by regulations make provision—
- (a) corresponding, or similar, to—
 - (i) the provisions, or any of the provisions, of any specified EU financial services legislation, or 5
 - (ii) any provision that might be made by a member State for the purpose of implementing any provision of specified EU financial services legislation, but
 - (b) with any adjustments the Treasury consider appropriate.
- (2) In subsection (1)(b) “adjustments”— 10
- (a) in relation to legislation mentioned in subsection (3)(a), (b), (c), (d) or (f), means provision to mitigate or remedy deficiencies in the legislation arising from the withdrawal of the United Kingdom from the EU, and
 - (b) in relation to legislation mentioned in subsection (3)(e) or (g), means changes to reflect, or facilitate the transition to, the United Kingdom's new position outside the EU, but does not include changes that result in provision whose effect is different in a major way from that of the legislation. 15
- (3) “Specified EU financial services legislation” means— 20
- (a) Articles 6 and 7 of the Central Securities Depositories Regulation,
 - (b) the Delegated Cash Penalties Regulation,
 - (c) Articles 37 and 38(2) of the Markets in Financial Instruments Regulation,

- (d) the provisions of the Prospectus Regulation that apply from 21 July 2019 (see Article 49(2) of that regulation),
- (e) any delegated acts under the Prospectus Regulation, other than technical standards, that are adopted by the European Commission before 21 July 2019, 5
- (f) Article 4(1) of the Securities Financing Transactions Regulation, or
- (g) any EU Directive, or EU Regulation, adopted before, on or after exit day as a result of any of the proposals listed in the Schedule to this Act, as that legislation has effect in EU law.
- (4) Section 8(5) and (7) of the European Union (Withdrawal) Act 2018 (provision that may be made by regulations) apply in relation to regulations under subsection (1). 10
- (5) In paragraph 1(1) of Schedule 4 to that Act (power to provide for fees or other charges in connection with functions of public authorities arising from provision made in exercise of the listed powers), after paragraph (b) insert “, or 15
- (c) section 1(1) of the Financial Services (Implementation of Legislation) Act 2019.”
- (6) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (7) Power to make regulations under this section is exercisable by statutory instrument. 20
- (8) No regulations may be made under this section unless –
- (a) a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament, and
- (b) that draft was laid more than 1 month after the Treasury published a document (which may be one published before the passing of this Act) – 25
- (i) setting out what is proposed (subject to any revisions prior to laying for approval) as the text of the regulations,
- (ii) detailing which provisions (if any) of the particular EU Directive, or EU Regulation, would not be covered by the regulations, and 30
- (iii) detailing any adjustments that would be made by the regulations in reliance on subsection (1)(b) and giving the reasons for considering those adjustments appropriate. 35
- (9) For the purposes of subsection (10) –
- (a) there are 4 reporting periods,
- (b) the first begins with the passing of this Act and ends 6 months after exit day, and
- (c) each subsequent reporting period is the 6 months beginning with the end of the previous reporting period. 40
- (10) No later than 1 month after the end of each reporting period, the Treasury must prepare and publish a report –
- (a) on the exercise of their powers under subsection (1), or by virtue of subsection (5), in the reporting period, 45
- (b) on their proposals for exercise of the powers in any future reporting periods, and

- (c) tabulating, in relation to regulations made under subsection (1) in the reporting period –
- (i) the provisions of specified EU financial services legislation to which the regulations relate, and
 - (ii) any adjustments made by the regulations in reliance on subsection (1)(b) and the reasons for considering those adjustments appropriate. 5
- (11) Paragraph 32 of Schedule 7 to the European Union (Withdrawal) Act 2018 (annual reports on exercise of sub-delegated powers) applies also in relation to exercise of any rule-making power given to the Bank of England, or the Prudential Regulation Authority or the Financial Conduct Authority, by regulations under this section. 10
- (12) In this section –
- “the Central Securities Depositories Regulation” means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012; 15
 - “the Delegated Cash Penalties Regulation” means Commission Delegated Regulation (EU) 2017/389 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council as regards the parameters for the calculation of cash penalties for settlement fails and the operations of CSDs in host Member States; 20
 - “the Markets in Financial Instruments Regulation” means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012; 25
 - “the Prospectus Regulation” means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC; 30
 - “the Securities Financing Transactions Regulation” means Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012. 35

2 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Financial Services (Implementation of Legislation) Act 2019. 40
- (4) **Nothing in this Act shall impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge.** 45

SCHEDULE

Section 1(3)(g)

LIST OF PROPOSALS FOR THE PURPOSES OF SECTION 1

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| 1 | The European Commission’s proposal of 23 November 2016 for a Directive of the European Parliament and of the Council amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures. | 5 |
| 2 | The European Commission’s proposal of 23 November 2016 for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements and amending Regulation (EU) No 648/2012. | 10 |
| 3 | The European Commission’s proposal of 23 November 2016 for a Directive of the European Parliament and of the Council amending Directive 2014/59/EU on loss-absorbing and recapitalisation capacity of credit institutions and investment firms and amending Directive 98/26/EC, Directive 2002/47/EC, Directive 2012/30/EU, Directive 2011/35/EU, Directive 2005/56/EC, Directive 2004/25/EC and Directive 2007/36/EC. | 15
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| 4 | The European Commission’s proposal of 28 November 2016 for a Regulation of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365. | |
| 5 | The European Commission’s proposal of 4 May 2017 for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories. | 25
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| 6 | The European Commission’s proposal of 13 June 2017 for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs. | 35 |
| 7 | The European Commission’s proposal of 20 December 2017 for a Regulation of the European Parliament and of the Council on the prudential requirements of investment firms and amending Regulations (EU) No 575/2013, (EU) No 600/2014 and (EU) No 1093/2010. | 40 |

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| 8 | The European Commission’s proposal of 20 December 2017 for a Directive of the European Parliament and of the Council on the prudential supervision of investment firms and amending Directives 2013/36/EU and 2014/65/EU. | |
| 9 | The European Commission’s proposal of 12 March 2018 for a Directive of the European Parliament and of the Council amending Directive 2009/65/EC of the European Parliament and of the Council and Directive 2011/61/EU of the European Parliament and of the Council with regard to cross-border distribution of collective investment funds. | 5 |
| 10 | The European Commission’s proposal of 12 March 2018 for a Regulation of the European Parliament and of the Council on facilitating cross-border distribution of collective investment funds and amending Regulations (EU) No 345/2013 and (EU) No 346/2013. | 10 |
| 11 | The European Commission’s proposal of 12 March 2018 for a Directive of the European Parliament and of the Council on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU. | 15 |
| 12 | The European Commission’s proposal of 12 March 2018 for a Regulation of the European Parliament and of the Council on amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds. | 20 |
| 13 | The European Commission’s proposal of 24 May 2018 for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks. | |
| 14 | The European Commission’s proposal of 24 May 2018 for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 596/2014 and (EU) No 2017/1129 as regards the promotion of the use of SME growth markets. | 25 |
| 15 | The European Commission’s proposal of 24 May 2018 for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment. | 30 |
| 16 | The European Commission’s proposal of 24 May 2018 for a Regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341. | |
| 17 | The European Commission’s amended proposal of 12 September 2018 for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority); Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority); Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority); Regulation (EU) No 345/2013 on European venture capital funds; Regulation (EU) No 346/2013 on European social entrepreneurship funds; Regulation (EU) No 600/2014 on markets in financial instruments; Regulation (EU) 2015/760 on European long-term investment funds; Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds; Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or | 35
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admitted to trading on a regulated market; and (EU) Directive 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing.

Financial Services (Implementation of Legislation) Bill [HL]

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To authorise the making of provision by reference to certain EU financial services legislation adopted on or before, or no later than two years after, the United Kingdom's withdrawal from the EU.

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