

MEMO# 32865

October 27, 2020

Publication of UK Financial Services Bill

[32865]

October 27, 2020 TO: ICI Members

ICI Global Members

Global Advocacy Coordination Advisory Committee

Global Operations Advisory Committee

ICI Global Brexit Task Force

ICI Global EU Capital Markets Union Task Force

ICI Global Regulated Funds Committee

ICI Global Trading & Markets Committee SUBJECTS: International/Global RE: Publication of UK Financial Services Bill

On 21 October 2020, Her Majesty's Treasury (HMT) published[\[1\]](#) the Financial Services Bill[\[2\]](#) ("the Bill") to develop aspects of the UK's post Brexit regulatory framework. Several aspects of the Bill are relevant to regulated funds and their managers, including funds established outside the UK seeking to market to UK investors.

Background

The Bill seeks to develop various aspects of the regulatory framework for financial services post the end of the Brexit transition period, after which the UK will no longer automatically onshore EU legislation. The publication of the Bill follows various consultations undertaken by the UK Treasury,[\[3\]](#) including on the overseas funds regime,[\[4\]](#) to which ICI Global submitted a high-level response.[\[5\]](#) Amendments have also been proposed to the Benchmarks Regulation to support LIBOR transition.[\[6\]](#)

Financial Services Bill

The Bill contains a total of 17 measures which collectively seek to achieve three overarching objectives. The measures likely to be of greatest relevance to regulated funds and their managers are set out below.

Policy Objective: Enhance the UK's world-leading prudential standards and promote financial stability

- Investment Firms' Prudential Regime (IFPR) – enable the implementation of a more proportionate prudential framework for the regulation of investment firms;
- LIBOR transition – clarify and extend the FCA's set of powers to ensure the orderly wind-down of the critical LIBOR benchmark;
- Benchmarks: extension of third- country transitional period – extend the transitional

period for third-country benchmarks from end-2022 to end-2025, avoiding financial stability risks and economic repercussions for UK users should they lose access.

Policy Objective: Promote openness between the UK and overseas markets

- Overseas Funds Regime - introduce new equivalence regimes for retail investment funds and money market funds, which will simplify the process for investment funds that are domiciled overseas to market to UK consumers;
- Markets in Financial Instruments Regulation (MiFIR) - update the regime which regulates the services and activities of third-country firms in the UK, following an equivalence decision. This will ensure the FCA has an appropriate degree of oversight over firms that could register under the regime.

Objective: Maintain the effectiveness of the FS regulatory framework and sound capital markets

- Amending the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation - improve the functioning of the onshored PRIIPs Regulation by enabling the FCA to make clarificatory rules regarding the scope of the Regulation and removing reference to performance scenarios. It will also enable HMT to further extend the exemption currently in place for Undertakings for the Collective Investment in Transferable Securities (UCITS) funds;
- Amendments to the Market Abuse Regulation - make two amendments to the Market Abuse Regulation to bolster the effectiveness of the regime while reducing some of the administrative burden on issuers.
- Extending the criminal penalties for market abuse - increase the maximum prison sentence for market abuse from 7 to 10 years in line with other sentences for financial crimes, as recommended by the 2015 Fair and Effective Markets Review.
- Completing the implementation of European Market Infrastructure Regulation (EMIR REFIT) - ensure that clearing members and clients that offer clearing services do so on a fair, reasonable, non-discriminatory and transparent (FRANDT) basis. This measure will also improve trade repository data quality and make it easier for firms to move from one trade repository to another.
- Cancellation of the authorisation of firms - the measure will streamline the FCA's process for removing a firm's authorisation and taking them off the public register, to improve accuracy and reduce the risk of fraud.

Next Steps

The Bill has been presented to the UK Parliament by the Government and will go through the various legislative stages in the House of Commons and House of Lords.[\[7\]](#)

Giles Swan
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endnotes

[\[1\]](#) HM Treasury Press Release: Financial Services Bill introduced today, 21 October 2020, *available from*

<https://www.gov.uk/government/news/financial-services-bill-introduced-today>

[2] <https://publications.parliament.uk/pa/bills/cbill/58-01/0200/200200.pdf>

[3] <https://www.gov.uk/government/collections/financial-services-bill-consultations>

[4] <https://www.gov.uk/government/consultations/overseas-funds-regime-a-consultation>

[5] See Memorandum No. 32451, RE: ICI Global High-Level Comment Letter on UK's Overseas Funds Regime, dated 11 May 2020, *available from* <https://www.iciglobal.org/iciglobal/pubs/memos/memo32451>

[6] See Memorandum No. 32855, RE: LIBOR Update: Tough Legacy Contract Developments from the UK Financial Services Bill and EU Benchmark Regulation Proposal, 22 October 2020, *available from* <https://www.iciglobal.org/iciglobal/pubs/memos/memo32855>

[7] <https://services.parliament.uk/bills/2019-21/financialservices.html>

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