



HM Treasury

Building a Smarter Financial Services Regulatory Framework for the UK:

The next phase

March 2024

Building a Smarter Financial
Services Regulatory
Framework for the UK:
The next phase



© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at: www.gov.uk/official-documents.

Any enquiries regarding this publication should be sent to us at public.enquiries@hmtreasury.gov.uk

ISBN: 978-1-917151-09-2

PU: 3421

Contents

Chapter 1 - Introduction	7
Chapter 2 - Progress on the programme so far	8
Chapter 3 – Tranche 3	11
Chapter 4 – Summary table	13

Chapter 1 - Introduction

HM Treasury published *Building a Smarter Financial Services Regulatory Framework: Delivery Plan*¹ at Mansion House 2023 which included a forward look on Tranches 1 and 2 of the programme, as well as further detail on the government's general approach to delivering targeted policy change through the repeal and replacement of assimilated law. It also set out that there will be areas where policy change will not be necessary, and government will make this clear where it concludes that this is the case.

1.1 This note sets out the impact and progress of the programme so far, work underway and the government's approach on the next phase of the Smarter Regulatory Framework (SRF) programme.

¹ [Building a Smarter Financial Services Regulatory Framework: Delivery Plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115442/Building_a_Smarter_Financial_Services_Regulatory_Framework_Delivery_Plan.pdf)

Chapter 2-Progress on the programme so far

2.1 As shown in the summary table at Chapter 4, the government has identified 777 pieces of assimilated law (previously known as retained EU law²) relating to financial services within scope of the SRF programme. As of February 2024, the government has so far removed 44% of assimilated law relating to financial services, totalling 344 different instruments.

2.2 Of these, around 140 were repealed as part of preparations for EU exit, as they were deficient or unnecessary for the UK after exit. 191 had become redundant following EU exit and so could be safely repealed without replacement. In most cases that is because the instruments made amendments to existing law, and so the effect of those amendments is preserved by the Financial Services and Markets Act 2023 (FSMA 2023).

2.3 The government repealed the European Long-Term Investment Funds Regulation as the fund structure it regulates is now obsolete, with the UK's own Long Term Asset Fund in place designed with industry to help unlock investment, and unnecessary assimilated law requirements in the Payment Accounts Regulations, related to fee information placed on current account providers, creating the flexibility to tailor requirements to the UK market.

2.4 The government also commenced³ the repeal of statutory restrictions which prevented the UK's financial services regulators from making rules that modified the effect of assimilated law, with effect from the end of 2023. This was an unnecessary restriction which privileged the status of that law compared to domestic legislation. This will make it easier for the regulators to make rules which are tailored to the UK during this transitional period where some assimilated law remains on the UK statute book.

2.5 In many cases, the relevant financial services regulators had already incorporated the firm-facing provisions of EU law into their rulebooks. The government does not expect to lay legislation to replace these, beyond tidying up the statute book. It is likely that the government will identify further assimilated law which can be removed without legislative replacement.

2.6 The government has made or laid statutory instruments⁴ to replace:

² From the end of 2023 REUL became "assimilated law" as a result of the Retained EU Law (Revocation and Reform) Act 2023 (REUL Act). Unlike REUL, assimilated law is not interpreted in line with EU principles of interpretation; these were removed from domestic law by the REUL Act with effect from 1 January 2024.

³ [The Financial Services and Markets Act 2023 \(Commencement No. 1\) Regulations 2023 \(legislation.gov.uk\)](#)

⁴ [A Smarter Regulatory Framework for financial services - GOV.UK \(www.gov.uk Collection Page\)](#)

- i. the **Solvency II** regulations which would reform the capital requirements for insurers in regulatory regime to create a regime tailored to the unique aspects of the UK's insurance market. Further statutory instruments are expected;
- ii. the **Prospectus Regulation** with an entirely new framework for offers of securities to the public and admissions of securities trading on UK markets. This delivers on Lord Hill's UK Listing Review recommendation for a fundamental overhaul of the UK's Prospectus Regime to create a simpler and more effective regime, giving companies more flexibility to raise capital from investors quickly and ensuring those investors have access to better-quality information;
- iii. the **Data Reporting Services Regulations** with new regulations which will facilitate the emergence of a UK consolidated tape, providing a continuous, live, electronic feed of market data that will make it easier for market participants to access the data they need to make informed investment decisions;
- iv. the **Securitisation Regulation** with a new framework to regulate securitisations in the UK. This takes forward certain reforms identified in the government's 2021 Review of the Securitisation Regulation;
- v. the **Payment Services Regulations 2017**, reforming framework contract termination rules concerning how providers of payment services offer notice and communicate with customers, subject to exceptions (with equivalent reforms to be made to the Payment Accounts Regulations 2015) and allowing payment service providers to slow down certain payment orders where there are reasonable grounds to suspect they were made subsequent to fraud or dishonesty.

At Autumn Statement 2023, the government committed further to the recommendations made in the 'Future of Payments Review' led by Joe Garner, to repeal prescriptive EU rules for authentication so as to reduce friction and improve consumers' ability to make purchases easily.

2.7 The government has also commenced the repeal of legislation relating to:

- i. the **Insurance Mediation Directive** and the **Insurance Distribution Directive** (IDD) to take effect on 31 March 2024. As most of the provisions in IDD were already implemented by the Financial Conduct Authority (FCA) through its rules when this Directive was originally transposed, those will continue to have effect and there will be no substantial policy change in this area;
- ii. the **Electronic Money, Payment Card Interchange Fee, and Payment Services (Amendment) Regulations 2023** which

makes provision for FCA and PSR to make rules related to payments.

2.8 The government expects that the relevant financial services regulators will make rules to replace some of the EU Regulations and pieces of UK legislation that implemented Directives. Stakeholders will have the opportunity to engage through the usual consultations undertaken by the regulators. The government will repeal the relevant pieces of assimilated law when the regulator rules are ready.

2.9 In addition, the government has published draft SIs for technical feedback that will replace:

- i. the **Short Selling Regulation** – to ensure that the UK’s regulatory framework for short selling supports effective market functioning, with appropriate protections for investors and without placing a disproportionate burden on industry.
- ii. the **Packaged Retail and Insurance based Investment Products Regulation** – will be repealed and replaced with rule-making powers to allow the FCA to create a new UK-tailored retail disclosure framework and will be renamed as Consumer Composite Investments (CCIs).
- iii. the **Money Market Funds Regulation** - enabling the UK to replace this regime with a new UK-tailored framework which can also be used to implement reforms deriving from the Financial Stability Board’s proposed policy proposals to enhance money market fund resilience.

2.10 The government will lay the final legislation in due course, subject to the feedback received and when parliamentary time allows.

Chapter 3 – Tranche 3

3.1 The government continues to review assimilated law repealed by FSMA 2023, subject to commencement, to identify the areas where policy reform should be prioritised.

3.2 There are still a large number of areas remaining and so the government has decided to focus on the largest and most complex policy files which underpin the sector along with those which have the biggest potential benefits to UK economic growth. The government remains committed to maintaining high international standards.

3.3 The next tranche, Tranche 3 (as set out in the summary table at Chapter 4), will include:

- i. **Alternative Investment Fund Managers Directive.**
- ii. **Undertakings for Collective Investment in Transferable Securities Directive.**
- iii. Continuing with **Payment Services and E-Money Directives reform.** This follows from the Payment Services Regulations Call for Evidence and Review conducted in 2023, the Future of Payments Review report conducted by Joe Garner in 2023, and the government's forthcoming National Payments Vision.
- iv. **European Market Infrastructure Regulation**, beginning with Titles III, IV and V relating to Central Counterparties.
- v. **Markets in Financial Instruments Directive.** Continuing the work on the MiFID II Framework following on from the Wholesale Markets Review, HMT will next consider the **MiFID Org Regs** (Organisational requirements and operating conditions for investment firms) and the provisions in **Markets in Financial Instruments Regulations** that relate to **Transaction Reporting.**

3.4 For each of these, the government will undertake a policy review, where necessary, to determine what should be retained in legislation, and the respective future roles of HMT and the regulators.

3.5 Alongside this, HMT will review the 2019 and the 2020 **Equivalence Determinations Regulations** in order to restate necessary provisions and ensure that onshored equivalence decisions are in scope of the new Deference Accountability Mechanism in FSMA 2023. The mechanism ensures that the regulators consider the effect of proposed rules and general supervisory policies and practices on UK deference arrangements, when notified by HM Treasury. The government will take all necessary steps to ensure that this process won't reopen or change the practical effects of existing equivalence decisions.

3.6 Onshored equivalence decisions, if necessary, will also be repealed and replaced, as part of the SRF.

Approach

3.7 Due to the significance and size of some of these files, the government intends to adopt a multi-staged approach to reviewing and replacing them. This is intended to address the burden on industry and allow progress to be made incrementally. That means that, in addition to the remaining work on areas in Tranches 1 and 2 the government, in coordination with the regulators will initially focus only on those key areas for Tranche 3.

3.8 The government remains committed to taking a proportionate and carefully sequenced approach when tailoring rules to the UK and recognises that the benefits and improvements of any policy reform, regardless of scale, can still be burdensome for industry as they adapt to any changes introduced.

3.9 Working with the regulators, the government will use existing and familiar communication platforms, such as the Regulatory Initiatives Grid, to help industry understand the regulatory pipeline as far in advance as possible for planning and adaptation purposes. Stakeholders will continue to have opportunity to feed into the programme as it progresses, as set out in previous publications.

Future plans

3.10 The government will communicate its approach to the remaining assimilated law and any further tranches in due course.

3.11 As well as the Regulatory Initiatives Grid, stakeholders should refer to the collection page on GOV.UK - *A Smarter Regulatory Framework for financial services*⁵ - which contains links to the latest announcements and policy papers and includes those SIs which have been published in draft for technical feedback in advance of laying before Parliament.

⁵ [A Smarter Regulatory Framework for financial services - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Chapter 4 – Summary table

1. Repeal progress		
<u>Total REUL</u>	<u>Repealed</u>	<u>Legally operable</u>
777	344	433
2. EU policy files – repealed with no new replacement in legislation		
<p><i>This category includes EU files which have already been incorporated into regulator rulebooks, or where the UK has already adopted a previous regime. For the timing of regulator consultation and rules see the Regulatory Initiatives Grid.</i></p>		
<u>File name</u>	<u>Status</u>	
The European Long-Term Investment Funds Regulation	Unnecessary for reasons including due to UK's own Long Term Asset Fund	
The Insurance Mediation Directive and the Insurance Distribution Directive	Was already mostly incorporated into FCA rulebook	
3. EU policy files – new replacement legislation made		
<p><i>This category includes EU files where HMT has created a new domestic legislative framework. In most cases the regulators will consult on replacement rules under that new framework. HMT will repeal the relevant underlying EU legislation when replacement rules are ready. For the timing of regulator consultations and rules see the Regulatory Initiatives Grid.</i></p>		
<u>File name</u>	<u>Replaced by</u>	
The Data Reporting Regulations (part of MiFID)	The Data Reporting Services Regulations 2024	
The Securitisation Regulation	The Securitisation Regulations 2024	
The Prospectus Regulation	The Public Offers and Admissions to Trading Regulations 2024	
The Commission Delegated Regulation 2015/35 in relation to the risk margin	Insurance and Reinsurance Undertakings (Prudential Requirements) (Risk Margin) Regulations 2023	
The Commission Delegated Regulation 2015/35 in relation to the matching adjustment	Insurance and Reinsurance Undertakings (Prudential Requirements) Regulations 2023	

The Solvency 2 Regulations 2015 in relation to the matching adjustment	Insurance and Reinsurance Undertakings (Prudential Requirements) Regulations 2023
4. EU policy files – draft replacement legislation has been published for technical checking	
<p><i>This category includes EU files where HMT has published draft replacement legislation, often for technical checking. HMT expects to finalise this legislation and to lay it in Parliament when Parliamentary time allows. In some cases, this draft legislation will be accompanied by draft regulator rules or consultations. For the timing of regulator consultations and rules see the Regulatory Initiatives Grid.</i></p>	
<u>File name</u>	Will be replaced by
The Money Market Funds Regulation	Draft Money Market Funds Regulations 2024
The Packaged Retail and Insurance-based Investment Products Regulation	Draft Consumer Composite Investments (Designated Activities) Regulations 2024
The Short Selling Regulation	Draft Short Selling Regulations 2024
5. Tranche 3	
<u>File name</u>	<u>Initial focus</u>
The Undertakings for Collective Investment in Transferable Securities Directive	All
The Alternative Investment Fund Managers Directive	All
The E-Money Directive	All
The Payment Services Directive	All (likely to be multi-staged)
The Markets in Financial Instruments Directive and Regulation	The MiFID Org Regulation (Commission Delegated Regulation (EU) 2017/565) Provisions relating to Transaction Reporting.
The Capital Requirements Regulation	Remaining parts not related to Basel implementation. HMT will also continue to focus on implementing the latest Basel standards.

The European Market Infrastructure Regulation	Titles III, IV and V relating to central counterparties
Equivalence Determinations for Financial Services and Misc. Provisions Regulations 2019	All
Equivalence Determinations for Financial Services (Amendment etc.) Regulations 2020	All

HM Treasury contacts

This document can be downloaded from www.gov.uk

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gov.uk