EXPLANATORY MEMORANDUM TO

THE CREDIT INSTITUTIONS AND INSURANCE UNDERTAKINGS REORGANISATION AND WINDING UP (AMENDMENT) (EU EXIT) REGULATIONS 2019

2019 No. 38

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Act.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Sifting Committees.

2. Purpose of the instrument

2.1 This instrument is made in order to address deficiencies in retained EU law in relation to the reorganisation and winding up of credit institutions and insurance undertakings. These deficiencies arise as a result of the withdrawal of the United Kingdom (UK) from the European Union (EU). The instrument ensures that this legislation continues to operate effectively at the point at which the UK leaves the EU.

Explanations

What did any relevant EU law do before exit day?

2.2 The Credit Institutions (Reorganisation and Winding Up) Directive and Title IV of Directive 2009/138/EC (Solvency II) ('the Directives') establish European Economic Area (EEA) wide frameworks for the reorganisation and winding up of EEA credit institutions (banks, building societies and credit unions) and insurers. Under the Directives, the administrative or judicial authorities of the Member State where an institution is authorised (the "home Member State") are granted exclusive jurisdiction for the reorganisation and winding up of credit institutions and their branches across the EEA. The Directive also ensures that other Member States automatically recognise the action taken by the home Member State. This means that an insolvent firm is treated as a single entity across the EEA by the home Member State's reorganisation measure or during its winding up proceeding.

2.3 The Directives also ensure that EEA creditors are notified, maintain their rights and ability to lodge a claim in another EEA state and are protected from discrimination based on their place of residence or the nature of their claims. Additionally, the Directives set out which law applies to certain rights and contracts. They also set out requirements for the co-operation and sharing of information between the regulatory authorities of EEA countries.

2.4 The Directives were transposed into UK law in the Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), the Credit Institutions (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/1045), and the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005 (S.I. 2005/1998) ('the implementing regulations'). The implementing regulations prevent a UK court from making winding up or reorganisation measures in respect of EEA

credit institutions or insurers, and provide that an EEA insolvency is automatically recognised in the UK.

Why is it being changed?

2.5 In the unlikely scenario that the UK leaves the EU with no withdrawal agreement, EEA member states would treat the UK as a third country. The UK would therefore not be included in the frameworks provided for in the Directives as it would no longer be an EEA Member State.

2.6 This means that much of the detail of the implementing regulations, which provide for a reciprocal system between EEA Member States, would no longer be appropriate.

What will it now do?

2.7 HM Treasury's approach is to remove the provisions in UK law that provide for the reciprocal arrangement with EEA Member States. This will not affect the relevant UK insolvency law for UK firms or the normal tests for opening an insolvency proceeding in the UK.

2.8 In line with the approach taken in the other Financial Services EU Exit instruments, this instrument will amend the Insurers (Reorganisation and Winding Up) Regulations 2004, the Credit Institutions (Reorganisation and Winding Up) Regulations 2004, and the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005 so that they treat the EEA no differently from other third countries.

2.9 This SI therefore removes the provisions in UK law that provided for the EEA's frameworks for cross border insolvencies of credit institutions or insurance undertakings. This SI also consequently removes the provisions in UK law placing notification, publication and language requirements on UK authorities.

2.10 A savings provision is included for insolvencies which are ongoing on exit day, in order to provide certainty to market participants. This provision is subject to three safeguard conditions which – if met – mean that UK parties could petition a UK court to open a competing insolvency proceeding even if there is an EEA insolvency proceeding that commenced before 29 March 2019. These conditions are that an ongoing EEA proceeding will have an adverse effect on financial stability in the UK; that UK creditors are materially prejudiced in comparison to EEA creditors; or that continuation would be unlawful under s.6 Human Rights Act 1998. These safeguards are intended to protect UK financial stability and to prevent actions that materially prejudice UK creditors who would no longer be captured by existing EU safeguards by virtue of the UK becoming a 'third country' from the perspective of the EU.

2.11 Further details of the changes made by this SI are set out in sections 7.13 – 7.21 below.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 This instrument was being laid for sifting by the Committees on the UK's exit from the European Union, in accordance with the European Union (Withdrawal) Act 2018. It was considered by the European Statutory Instruments Committee on 18th December 2018, who recommended it for the negative procedure. It was also considered by the Secondary Legislation Scrutiny Committee on the 10th December, and no recommendation to upgrade to the affirmative procedure was made.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application.

4.1 The territorial extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

5.1 The Economic Secretary of the Treasury has made the following statement regarding Human Rights:

"As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required".

6. Legislative Context

6.1 This instrument amends the Insurers (Reorganisation and Winding Up) Regulations 2004, the Credit Institutions (Reorganisation and Winding Up) Regulations 2004, and the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005 to address deficiencies arising from the withdrawal of the UK from the EU.

7. Policy background

What is being done and why?

7.1 The UK will leave the EU on 29 March 2019. The UK and the EU have agreed the terms of an implementation period that will start on 29 March 2019 and last until 31 December 2020. This will provide time to introduce the new arrangements that will underpin the UK-EU future relationship, and provide valuable certainty for businesses and individuals. During the implementation period, common rules will continue to apply. The UK will continue to implement new EU law that comes into effect and the UK will continue to be treated as part of the EU's single market in financial services. This will mean that access to each other's markets will continue on current terms and businesses, including financial services firms, will be able to trade on the same terms as now until 31 December 2020. UK firms will need to comply with any new EU legislation that becomes applicable during the implementation period.

7.2 The government is seeking a deep and special future partnership with the EU, which should be greater in scope and ambition than any such agreement before and encompass financial services. Given the highly regulated nature of financial services, the volume of trade between UK and EU markets, and a shared desire to manage financial stability risks, the UK proposes a new economic and regulatory arrangement that will preserve mutually beneficial cross-border business models and economic integration for the benefit of businesses and consumers. Decisions on market access would be autonomous in our proposed model, but would be underpinned by stable institutional processes in a bilateral agreement and continued close regulatory and supervisory cooperation.

7.3 While the government has every confidence that a deal will be reached and the implementation period will be in place, it has a duty to plan for all eventualities, including a ‘no deal’ scenario. The government is clear that this scenario is in neither the UK’s nor the EU’s interest, and the government does not anticipate it arising. To prepare for this unlikely eventuality, HM Treasury intends to use powers in the European Union (Withdrawal) Act 2018 (EUWA) to ensure that the UK continues to have a functioning financial services regulatory regime in all scenarios.

7.4 The EUWA repeals the European Communities Act 1972 and converts into UK domestic law the existing body of directly applicable EU law (including EU Regulations). It also preserves UK laws relating to EU membership – e.g. legislation implementing EU Directives. This body of law is referred to as “retained EU law”. The EUWA also gives ministers a power to prevent, remedy or mitigate any failure of EU law to operate effectively, or any other deficiency in retained EU law, through SIs. These contingency preparations for financial services legislation are sometimes referred to as ‘onshoring’. These SIs are not intended to make policy changes, other than to reflect the UK’s new position outside the EU, and to smooth the transition to this situation. The scope of the power is drafted to reflect this purpose and is subject to further restrictions, such as the inability to use the power to impose or increase taxation, or establish a public authority. The power is also time-limited and falls away two years after exit day.

7.5 Wherever practicable, the proposed approach is that the same laws and rules that are currently in place in the UK would continue to apply at the point of exit, providing continuity and certainty as we leave the EU. However, if the UK does not enter an implementation period, some changes would be required to reflect the UK’s new position outside the EU from 29 March 2019.

7.6 In the unlikely scenario that the UK leaves the EU without a deal, the UK would be outside the EU’s framework for financial services. The UK’s position in relation to the EU would be determined by the default Member State and EU rules that apply to third countries at the relevant time. The European Commission has confirmed that this would be the case.

7.7 In light of this, the approach in this scenario cannot and does not rely on any new, specific arrangements being in place between the UK and the EU. As a general principle, the UK would also need to default to treating EU Member States largely as it does other third countries, although there are cases where a different approach would be needed including to provide for a smooth transition to the new circumstances.

7.8 HM Treasury published a document on 27 June 2018, which sets out in more detail HM Treasury’s approach to financial services legislation under the European Union (Withdrawal) Act. (https://www.gov.uk/government/publications/financial-serviceslegislation-under-the-eu-withdrawal-act).

7.9 This is an EU Exit SI principally made under section 8 of the EU (Withdrawal) Act and is one of a number of instruments that will ensure that there is a stable and functioning UK financial services regulatory regime at the point at which the UK leaves the EU in March 2019, if an Implementation Period is not secured. This instrument assumes that no deal is reached with the EU, that the EU treats the UK as a third country, and so that the UK would treat the EU like a third country, to ensure the UK regulatory regime is robust in such a scenario.

7.10 This instrument is being laid as a contingency, to ensure there is a functioning regulatory regime when the UK leaves the EU, in any scenario. Reflective of ongoing negotiations between the UK and the EU, this instrument will be kept under review, and will be amended or revoked if further or different changes are required to implement the outcome of those negotiations.

7.11 The Credit Institutions (Reorganisation and Winding Up) Directive and Title IV of Directive 2009/138/EC (Solvency II) establish EU wide frameworks for the reorganisation and winding-up of credit institutions and insurance undertakings. These Directives were transposed into UK law through the Insurers (Reorganisation and Winding Up) Regulations 2004, the Credit Institutions (Reorganisation and Winding Up) Regulations 2004, and the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005.

7.12 This instrument amends these regulations to address deficiencies arising from withdrawal of the UK from the EU. Some of the key deficiencies that this instrument seeks to address are listed below.

7.13 Removal of prohibitions: First, this SI removes the provisions that prohibit UK courts from making winding-up or administration orders against EEA credit institutions, insurance undertakings, investment firms and group companies. Currently, this prohibition is based on the principle of EEA States granting the home state of the institution exclusive jurisdiction on a reciprocal basis across the EEA. This principle will not be extended to the UK after exit in a no-deal scenario, and thus it is not appropriate to retain it in UK law. The effect of removing this prohibition will be that, for insolvencies which commence after exit day, it will be possible for such orders to be made by UK courts in respect of an insolvent EEA firm if the normal UK jurisdictional and insolvency tests have been met.

7.14 Removal of automatic recognition: At present, EEA insolvency measures have effect in the UK in respect of the branches, property or debt of credit institutions, insurers, investments firms and group companies as if they were part of the general law of insolvency of the UK. This operates on a reciprocal basis across the EEA. As other EEA Member States will not extend this treatment to the UK after exit in a no-deal scenario, it is not appropriate to retain it in UK law.

7.15 Removal of preferential treatment: The implementing regulations currently provide that certain contracts or rights within a reorganisation or winding-up should be dealt with under the law of an EEA Member State. These amount to a form of preferential treatment for EEA countries. It is thus not appropriate to retain them after exit because, in a no-deal scenario, EEA countries will be treated like any other third country post-exit.

7.16 However, this approach will not affect the provisions that allow for any applicable law (English, EEA, or any third country) to apply. Such applicable law provisions are being retained and not removed by this SI. These include the creditors' right to set off, regulated market transactions, and, for credit institutions, repurchase agreements and netting agreements.

7.17 Notification, publication and language requirements: In line with the Directives, there are currently requirements for UK authorities to notify relevant EEA regulators when a UK court makes a decision, order or appointment as part of an insolvency. As the Directives will no longer apply to the UK when the UK leaves the EU, EEA regulators would not be required to notify UK authorities in these circumstances.

Therefore, these obligations on UK authorities will be removed. Instead, UK authorities will rely on the existing domestic framework for cooperation and information sharing with third countries, which allows for this on a discretionary basis.

7.18 The SI also removes provisions requiring the publication of arrangements and orders in the Official Journal of the European Union. General UK corporate insolvency law requirements to publish such information will not be affected by this SI. In addition, creditors can currently submit claims in a language other than English providing it is the official language of an EEA state. Such provisions are also being removed.

7.19 Transitional and savings provisions: For the purpose of certainty for market participants, HM Treasury recognises that it is necessary to make provision for insolvency measures which are ongoing at the time of the UK's exit from the EU. In order to maximise certainty, the Government has decided that the existing arrangements should apply to insolvency proceedings that commence before 29 March 2019. Therefore, this SI establishes that if a credit institution, insurance undertaking, investment firm or group company is subject, on exit day, to a directive reorganisation measure or winding-up proceeding which was begun before 29 March 2019, the current law will continue to apply to that insolvency.

7.20 However, this provision is subject to a safeguard. The safeguard would apply in circumstances in which a UK court determines that one of three conditions are met, that is, in these circumstances there would be no prohibition on commencing UK insolvency proceedings, or a requirement to automatically recognise EEA proceedings. These conditions are i.) that an ongoing EEA measure or proceeding will have an adverse effect on financial stability in the UK ii.) that UK creditors would be materially prejudiced in comparison to creditors located in the EEA iii) that continuation would be unlawful under s.6 Human Rights Act 1998. These safeguards are intended to protect UK financial stability and to prevent materially prejudicial action against UK creditors who would no longer be captured by existing EU safeguards by virtue of the UK becoming a 'third country' from the perspective of the EU. For all of conditions i.), ii.) and iii.) the Bank of England may petition a court in the UK to begin a UK insolvency proceeding. In addition, for conditions ii.) and iii.) creditors located or payable in the UK may also be able to petition the court. The court will then determine whether a proceeding may begin.

7.21 This SI also contains safeguarding provisions in relation to an ongoing EEA-led credit institution insolvency process which protect the operation of certain financial markets. These provide that an EU insolvency officer cannot take action in the UK that is inconsistent with the protections in the UK settlement finality and financial collateral framework.

7.22 These provisions do not apply to resolution actions which are ongoing at the time of the UK's exit from the EU. HM Treasury has made transitional provisions for such actions in the The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (BRR EU Exit SI).

7.23 Interaction with resolution: For credit institutions, investment firms and group companies, HM Treasury recognises the interactions with resolution. HM Treasury's approach to onshoring the Bank Recovery and Resolution Directive in the BRR EU Exit SI maintains the UK's ability to recognise third country resolution under section 89H of the Banking Act 2009. Specifically, Regulation 8 of the BRR EU Exit SI

confirms that Section 89H of the Banking Act 2009 does not apply to resolution action taken in EEA states other than the UK before exit day. The effect of this is that such resolution actions continue to be recognised automatically. HM Treasury has set out further detail on this approach here (https://www.gov.uk/government/publications/draft-bank-recovery-and-resolution-and-miscellaneous-provisions-amendment-eu-exit-regulations-2018).

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The instrument is also made under the power in section 23 of the Withdrawal Act 2018 in order to make saving provision for insolvencies which are ongoing on exit day. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

8.2 Alongside the EU (Withdrawal) Act 2018 powers the instrument is also being made under section 2(2) of the European Communities Act 1972 (c.68) in order to make a minor amendment to a reference to European legislation. This amendment ensures that reference is up to date at exit day, in accordance with the United Kingdom's EU obligations prior to exit day.

9. Consolidation

9.1 There are currently no plans to consolidate the relevant legislation.

10. Consultation outcome

10.1 HM Treasury has not undertaken a consultation on the instrument, but has engaged with relevant stakeholders on its approach to Financial Services legislation under the European Union (Withdrawal) Act 2018, including on this instrument, in order to familiarise them with the legislation ahead of laying. In particular, we have engaged extensively with the FCA and Bank of England in drafting the text.

10.2 This instrument is laid in Parliament on the 30th November 2018. An explanatory policy note will also be published on the HM Treasury website.

11. Guidance

11.1 No further guidance is being published alongside this instrument. As referenced in section 10, an explanatory policy note is to be published alongside the statutory instrument.

12. Impact

12.1 This instrument will impact credit institutions, investment firms, group companies, insurance undertakings and the association of underwriters known as Lloyd's. After exit in a no-deal scenario the 'exclusive jurisdiction' provisions in the current regulations will cease to apply. This could mean that an UK insurance undertaking or credit institution with business in other EEA Member States could be involved in insolvency proceedings in EEA Member States as well as in the UK. This does not

affect the overall regulatory burden on the firm, but may add to the costs associated with a winding up or insolvency.

12.2 Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the instrument, and the relevant sections of legislation amended by this instrument, to advise firms of the impact on their business, and how they should respond. As this instrument deletes legislation with limited replacement, familiarisation costs are expected to be low. Familiarisation will require legal experts to examine 15 pages of text, consisting of approximately 6000 words. We expect this will be a one-off cost.

12.3 There is no significant impact on the public sector.

12.4 A full Impact Assessment will be published alongside the Explanatory Memorandum on the legislation.gov.uk website, when an opinion from the Regulatory Policy Committee has been received.

13. Regulating small business

13.1 This legislation applies to activities that are undertaken by small businesses.

13.2 While no deposit-taking banks or building societies in the UK are likely to meet the definition of a small or medium-sized enterprise (SME) there may be investment firms which are small businesses and are covered by this legislation.

13.3 We do not expect this SI to have a meaningful or disproportionate impact on small businesses.

14. Monitoring & review

14.1 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

15. Contact

15.1 Peter Symons, Senior Policy Adviser at HM Treasury, Telephone: 020 7 270 2828, email: peter.symons@hmtreasury.gov.uk, or Theodore Read, Policy Adviser at HM Treasury, Telephone: 020 7270 6460, email: theodore.read@hmtreasury.gov.uk, can be contacted with any queries regarding this instrument.

15.2 Becky Morrison/Hannah Malik, Deputy Director(s) for Insurance and Pensions Markets, and Robert Kramer, Deputy Director for Resilience and Resolution, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Economic Secretary to the Treasury (John Glen MP) can confirm that this Explanatory Memorandum meets the required standard.

Annex
Statements under the European Union (Withdrawal) Act 2018

Part 1
Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement

1.1 The Economic Secretary, John Glen MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure).

1.2 This is the case because this instrument complies with the requirement for the negative procedure under Schedule 7 to the EU (Withdrawal) Act 2018. The instrument contains only technical amendments to UK secondary legislation. Sections 2 and 7 of this Explanatory Memorandum further explain the legislative reasons for this instrument."

2. Appropriateness statement

2.1 The Economic Secretary, John Glen MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 does no more than is appropriate.

2.2 This is the case because this SI will amend the current legislation relating to the reorganisation and winding up of credit institutions and insurance undertakings so that it operates effectively in a UK only context, and treats the EU no differently to other third countries."

3. Good reasons

3.1 The Economic Secretary, John Glen MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.

3.2 This is the case because this SI will amend the current legislation relating to the reorganisation and winding up of credit institutions and insurance undertakings so that it operates effectively in a UK only context, and treats the EU no differently to other third countries."

4. Equalities

4.1 The Economic Secretary, John Glen MP, has made the following statement:

"The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

4.2 The Economic Secretary, John Glen MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019, I, John Glen, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."

5. Explanations

5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.