EXPLANATORY MEMORANDUM TO

THE PUBLIC RECORD, DISCLOSURE OF INFORMATION AND CO-OPERATION (FINANCIAL SERVICES) (AMENDMENT) (EU EXIT) REGULATIONS 2019

2019 No. 681

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument is being made in order to address deficiencies in UK domestic legislation and retained EU law in relation to the disclosure of confidential information arising from the withdrawal of the United Kingdom ("UK") from the European Union ("EU") ensuring that the legislation continues to operate effectively at the point at which the UK leaves the EU.

2.2 Specifically, this instrument amends Part 23 of the Financial Services and Markets Act 2000 ("FSMA") and the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188) ("the Disclosure Regulations") which set out the gateways for disclosing confidential information within the UK, to EEA regulatory authorities and to third-country regulatory authorities. The instrument also amends UK legislation that applies the Disclosure Regulations, in a modified form, to different financial services regimes. In addition, the instrument amends retained direct EU legislation. The amendments ensure that confidential information can continue to be disclosed by UK regulators from exit day. The instrument also makes amendments to correct some minor errors in domestic legislation which do not arise from withdrawing from the EU, and are therefore made under section 2(2) of the European Communities Act 1972, section 349 of FSMA and section 92 of the Financial Services (Banking Reform) Act 2013.

Explanations

What did any relevant EU law do before exit day?

2.3 The key piece of legislation that is amended by this instrument is the Disclosure Regulations. The Disclosure Regulations, read together with Part 23 of FSMA, set out the gateways that allow UK regulators, HM Treasury and other UK authorities to share confidential information with UK, EEA and third-country regulatory and supervisory authorities. These gateways largely derive from EU directives and regulations.

2.4 In addition, section 352 of FSMA contains sanctions in the form of criminal offences if a person discloses confidential information in contravention of certain provisions in FSMA.

2.5 Some provisions in the Disclosure Regulations impose additional restrictions on the disclosure of confidential information. These 'single market restrictions' relate to information received by the Financial Conduct Authority ("FCA") or the Prudential Regulation Authority ("PRA") in the course of discharging their functions as the relevant UK regulators under specified EU directives and regulations. The Disclosure

Regulations currently allow UK regulators to freely disclose confidential information to EEA regulators and European Supervisory Authorities ("ESAs") (i.e. the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) without the need, for example, to enter into cooperation agreements.

2.6 The Disclosure Regulations also allow UK regulators to disclose confidential information, subject to single market restrictions, to third-country regulators and certain other authorities to help those third-country authorities to discharge their functions. However, in some cases there are additional restrictions when disclosing confidential information to third-country regulators and other authorities. This may include the relevant UK regulator being satisfied that the third-country regime has equivalent protections for the confidential information. There may also be a requirement to enter into a cooperation agreement.

2.7 In addition, when a UK regulator wishes to onwardly disclose confidential information to a third country that originated from an ESA or in an EEA member state, the UK regulator may also be required to seek the consent of that ESA or EEA authority that disclosed it. In certain exceptional instances, a similar requirement to seek consent from the originating regulator applies where the confidential information originated from a third-country regulatory authority.

2.8 This instrument, together with other EU Exit instruments made by the HM Treasury, also amends disclosure of confidential information provisions (known as professional secrecy provisions) in retained direct EU legislation. This is to ensure that the UK's statute book, which will incorporate EU law, will continue to operate effectively from exit day.

Why is it being changed?

2.9 The Disclosure Regulations incorporate many of the provisions and restrictions in EU legislation on the disclosure of confidential information. From exit day, the UK will no longer be part of the EU's common regulatory and supervisory framework for the disclosure of confidential information and so the provisions and restrictions in domestic legislation will become inoperable. This is because, in many instances, the domestic legislation refers to provisions and restrictions in EU directives which will not form part of retained EU law from exit day.

2.10 Additionally, failure to amend this legislation would mean that, in certain instances where the existing legal framework accords more favourable treatment to confidential information originating from an EEA regulator or an ESA, the UK would continue to afford additional protections and less onerous restrictions that only apply to EEA member states. This would be inappropriate once the UK is no longer part of the EU's common regulatory and supervisory framework, except where the framework applies an equivalent approach to confidential information originating from an EEA regulator or ESA and from a third-country regulatory authority.

What will it now do?

2.11 This instrument makes amendments to domestic legislation and retained EU law in relation to the UK's regime for the disclosure of confidential information, in order to ensure that this legislative framework continues to operate effectively from exit day.

2.12 Chapter 1 of Part 2 of this instrument makes amendments to UK primary legislation: FSMA and the Financial Services (Banking Reform) Act 2013. These are minor amendments which remove or amend specific references to EU member states, bodies and instruments. The instrument also removes sections 354D to 354H of FSMA which require the FCA, the PRA or HM Treasury to provide confidential information to EU entities.

2.13 Chapter 2 of Part 2 of this instrument largely makes amendments to the Disclosure Regulations. References in the Disclosure Regulations to EU legislation are amended and redefined so that they instead refer to the relevant UK versions of that legislation.

2.14 Amendments are also made to definitions which currently operate on the basis that the UK is an EU member state. For example, the instrument replaces references to "foreign resolution authority" and "overseas regulatory authority" so that any country or territory outside the UK after exit day, including EU and EEA member states, is treated as a third country.

2.15 Importantly, this instrument amends the definition of single market restrictions in three main ways:

- As the UK will no longer be an EU member state from exit day, it redefines the requirements on EU member states in the various pieces of EU legislation so that they are to be read as applying to the UK after exit;
- a requirement imposed on the disclosure to a person in a third country will apply in relation to any country or territory outside the UK after exit, including any country or territory in the EEA; and
- any existing requirement to seek the consent of an EU entity will only apply if an equivalent requirement already exists in relation to an equivalent entity in any other third country. These amendments ensure that EU and EEA member states are treated in the same way as other third countries from exit day.

2.16 In addition, this instrument introduces a transitional provision so that any confidential information that was received on or before exit day will continue to be treated in line with the relevant provisions in EU regulations and directives as they had effect before exit day.

2.17 Chapter 2 of Part 2 of this instrument also amends secondary legislation that applies, in a modified form, the Disclosure Regulations. This includes the Electronic Money Regulations 2011 and the Payment Services Regulations 2017.

2.18 Chapter 3 of Part 2 of this instrument amends certain pieces of retained direct EU legislation to ensure that the professional secrecy provisions that appear in this legislation reflect the approach taken in the Disclosure Regulations to fix deficiencies relating to the disclosure of confidential information.

2.19 Part 3 of this instrument amends the Disclosure Regulations and other pieces of secondary legislation to correct minor errors or inconsistencies in the existing legislation, and which is not directly related to the UK's withdrawal from the EU.

2.20 Further detail on the changes introduced by this instrument is set out in sections 7.9 – 7.16 of this explanatory memorandum.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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 The territorial application of this instrument includes Scotland and Northern Ireland.

3.3 The powers under which this instrument is made cover the entire United Kingdom (see the European Communities Act 1972, the Financial Services and Markets Act 2000, the Financial Services (Banking Reform) Act 2013 and the European Union (Withdrawal) Act 2018) and the territorial application of this instrument is not limited either by the Act or by the instrument.

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 to the Treasury, John Glen MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument amends the Financial Services and Markets Act 2000 and the Financial Services (Banking Reform) Act 2013, together with related subordinate legislation: the Disclosure Regulations and the Financial Services (Banking Reform) Act 2013 (Disclosure of Confidential Information) Regulations 2014 (S.I. 2014/882). The instrument also amends retained direct EU legislation: namely, Regulation EU No 2366/2012 (the short selling regulation); Regulation EU No 596/2014 (the market abuse regulation); and Regulation EU No 2015/2365 (the securities financing transactions regulation). These amendments to domestic legislation and retained direct EU legislation are made to address deficiencies arising from the UK's withdrawal from the EU.

6.2 The instrument also amends the Financial Services and Markets Act 2000 (Confidential Information) (Bank of England) (Consequential Provisions) Order 2001 (S.I. 2001/3648), the Electronic Money Regulations 2011 (S.I. 2011/99), the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (S.I. 2012/3122) and the Payment Services Regulations 2017 (S.I. 2017/752). These pieces of legislation apply, in a modified form, the Disclosure Regulations, and therefore require amendments to address deficiencies arising from the UK's withdrawal from the EU.

6.3 Finally, this instrument amends the Disclosure Regulations, the Electronic Money Regulations and the Financial Services (Banking Reform) Act 2013 (Disclosure of Confidential Information) Regulations 2014 to correct existing minor errors or

inconsistencies that are not directly related to the UK's withdrawal from the EU and are therefore made under separate powers to those in the in the European Union (Withdrawal) Act 2018 ("EUWA").

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. Therefore, should a deal be approved, the implementation period 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 an 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 believes that there will be a deal and an implementation period in place, it must plan for all eventualities, including a 'no deal' scenario. 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'. The powers in the EUWA are not intended to be used 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 If the UK were to leave 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-services-legislation-under-the-eu-withdrawal-act)

7.9 As explained in section 2 of this explanatory memorandum, the domestic legislation incorporates many of the provisions and restrictions in EU legislation on the disclosure of confidential information which set out the gateways for how the UK's financial services regulators disclose confidential information with UK, EEA and third-country regulatory and supervisory authorities. Once outside the EU, these provisions in both domestic legislation and retained direct EU legislation will become deficient.

7.10 This instrument addresses these deficiencies to ensure that the legislation continues to operate effectively at the point of exit, and to reflect the UK's new position outside the EU. Importantly, changes introduced by this instrument will ensure that the UK continues to have robust protections for how the UK's financial services regulators disclose confidential information with other regulatory and supervisory authorities in the UK and elsewhere. Further detail on the key changes introduced by this instrument are explained below.

Amending references to EU directives, regulations and entities

7.11 FSMA, the Disclosure Regulations and related legislation currently contain references to EU legislation and EEA entities, and define certain terms on the basis that the UK is an EU member state and part of the EU's single market for financial services. In order to ensure that the legislation operates effectively after exit day, this instrument amends and redefines these references so that they instead refer to the relevant UK versions of that legislation. This is necessary given that the UK will no longer belong to the EU's common regulatory framework for the disclosure of confidential information after exit day.

7.12 A possible effect arising from these amendments is that an existing criminal offence in section 352 of FSMA will become relevant to a person disclosing information to an EU body from exit day. The offence is concerned with the disclosure of confidential

information in contravention of the Disclosure Regulations made under section 349 of FSMA. Currently, the Disclosure Regulations distinguish between EU regulatory authorities and third-country regulatory authorities. Generally, there are fewer restrictions on the disclosure of confidential information to the former rather than the latter. From exit day, EU regulatory authorities will become third-country regulatory authorities because the UK will no longer be an EU member state.

7.13 Therefore, the additional restrictions that apply to the disclosure of confidential information to third-country regulatory authorities will, from exit day, also apply to the disclosure of confidential information to EU regulatory authorities. After exit day, a person who discloses confidential information to an EU regulator, and who does not comply with the additional restrictions that apply to disclosure to third-country regulatory authorities, would contravene the Disclosure Regulations and may therefore be committing an offence under section 352 of FSMA.

Requirement to enter into cooperation agreements with EEA member states

7.14 UK regulators are currently able to share confidential information freely with ESAs and EEA regulatory and certain other authorities without having to enter into a cooperation agreement. Once the UK is outside the EU's common framework for the disclosure of confidential information, it would be inappropriate to continue to share information in this way with EEA member states, otherwise the UK would continue to afford additional protections and less onerous restrictions to EEA countries compared with other third countries. As such, this instrument amends domestic legislation and retained direct EU legislation to ensure that the same restrictions and protections that apply to third-country regulatory and supervisory authorities will also apply to those regulatory and supervisory authorities in EU and EEA member states after exit day.

7.15 In practice, this means that the UK, in relation to certain types of confidential information, will have to enter into cooperation agreements with the ESAs and EEA authorities in order to continue to share such information. This approach ensures that the UK will continue to have a robust legislative framework for how UK regulators disclose confidential information with other authorities, and treats EU and EEA states equally to other third countries under this framework in relation to the disclosure of confidential information.

Changing requirements relating to the onward disclosure of confidential information

7.16 In most cases, if a regulator currently wishes to onwardly disclose confidential information that originated in an EEA member state to a third country, it must seek the consent of the authority in the EEA which disclosed the information before doing so. In general, these obligations only exist in respect of information that originates in an EEA member state.[1] Under current EU legislation, a UK regulator does not need to seek the consent of a third-country authority when onwardly disclosing confidential information from that country. It would therefore be inappropriate to maintain any additional obligations in domestic legislation after exit day that apply in relation to confidential information that originated in an EEA country.

7.17 As a result, this instrument removes these consent provisions from UK legislation. The UK regulators are updating their internal staff guidance, however, to stipulate that staff must comply with, other than in exceptional circumstances, any requests from an

[1] There are some limited exceptions where this requirement also applies to a third country.

ESA or EEA regulator relating to obtaining their consent before onwardly disclosing information to a third country. After exit, such requests may be stipulated in any future cooperation agreement between the UK and the relevant EEA country.

Retained direct EU legislation

7.18 As explained in section 2.8 of this explanatory memorandum, the instrument, together with other EU Exit instruments made by HM Treasury, amends the professional secrecy provisions in retained direct EU legislation in order to address deficiencies in legislation resulting from the UK's withdrawal from the EU.

7.19 Those other EU Exit instruments are the Short Selling (Amendment) (EU Exit) Regulations 2018, the Central Securities Depositories (Amendment) (EU Exit) Regulations 2018, the Market Abuse (Amendment) (EU Exit) Regulations 2019, the Credit Rating Agencies (Amendment, etc) (EU Exit) Regulations 2019, the Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019, the Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019, the Venture Capital Funds (Amendment) (EU Exit) Regulations 2019 and the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment etc., and Transitional Provision) (EU Exit) Regulations 2019.

Correcting minor errors and inconsistencies

7.20 In addition to addressing the deficiencies that arise from the UK's withdrawal from the EU, the instrument also corrects minor errors and inconsistencies in domestic legislation that are not directly related to the UK's withdrawal from the EU. For example, in the Disclosure Regulations a reference to "the third non-life assurance directive" in regulation 2 is removed because that directive is no longer in force. Paragraph (2A) of regulation 9 of those Regulations is removed because it no longer has effect. Additionally, references to the Department of Enterprise, Trade and Investment in Northern Ireland in those Regulations are replaced with references to the Department for the Economy in Northern Ireland.

7.21 Further detail on the legislative changes introduced by this instrument is set out in section 2 of this explanatory memorandum.

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

8.1 This instrument is being made using the powers in 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. 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, section 349 of FSMA and section 92 of the Financial Services (Banking Reform) Act 2013 to correct minor errors in existing legislation which cannot be corrected under the powers of the EU (Withdrawal) Act 2018.

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. The instrument was also published in draft, along with an explanatory policy note, on 9 January 2019, in order to maximise transparency ahead of laying. (https://www.gov.uk/government/publications/draft-public-record-disclosure-of-information-and-co-operation-financial-services-amendment-eu-exit-regulations-2019)

11. Guidance

11.1 No further guidance is being published alongside this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because in line with Better Regulation guidance, HM Treasury considers that the net impact on businesses will be less than £5 million a year. Due to this limited impact, a de-minimis impact assessment has been carried out.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by 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 Michael Sole at HM Treasury (telephone: 020 7270 5508 or email: Michael.Sole@HMTreasury.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Katie Fisher, Deputy Director for the EU Exit Financial Services Domestic Preparation team, at HM Treasury, can confirm that this explanatory memorandum meets the required standard.

15.3 The Economic Secretary to the Treasury, John Glen, 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. Appropriateness statement

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

"In my view the Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019 do no more than is appropriate."

1.2 This is the case because this instrument does no more than to correct deficiencies resulting from the UK's withdrawal from the EU, so that the UK has a functioning statute book after exit day.

2. Good reasons

2.1 The Economic Secretary to the Treasury, John Glen, 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."

2.2 These are that without this instrument, the UK would continue to afford additional protections that only apply to EEA member states in relation to the legislative framework for the disclosure of confidential information, which would be inappropriate once the UK is no longer part of the EU's common regulatory and supervisory framework. This instrument ensures that the existing legislation continues to operate appropriately in a UK-only context in the event that the UK withdraws from the EU without an agreement or implementation period.

3. Equalities

3.1 The Economic Secretary to the Treasury, John Glen, has made the following statement(s):

"The 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."

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

"In relation to the instrument, I, Economic Secretary to the Treasury (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."

4. Explanations

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