

<p>Title: SI 2016 No. 715</p> <p>PIR No: N/A</p> <p>Original IA/RPC No: No IA – as per the original EM https://www.legislation.gov.uk/ukxi/2016/715/memorandum/contents</p> <p>Lead department or agency: HM Treasury</p> <p>Other departments or agencies: Financial Conduct Authority (FCA) and the Bank of England.</p> <p>Contact for enquiries: Laurence.Picton@HMTreasury.gov.uk</p>	Post-implementation review
	Date: 14/12/2020
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 13/07/2016
	Recommendation: Keep
	RPC Opinion: N/A

1. What were the policy objectives of the measure? (Maximum 5 lines)

SI 2016 No. 715 (“the SI”) implements, in part, Regulation (EU) No 2015/2365 and amending Regulation (EU) 648/2012, known as the Securities Financing Transactions Regulation (“SFTR”). The SI also amends the Financial Services and Markets Act 2000 (“FSMA”), related SI 2013 No. 419 and other secondary legislation.

SFTR was introduced in 2016 to introduce a supervisory framework within which certain requirements are imposed on counterparties to securities financing transactions (“SFTs”) and financial collateral arrangements.

This review covers the provisions of parts 2 and 3 of the SI, as mandated by regulation 28 of the SI. The objective of these regulations is to a) designate the FCA and Bank of England as competent authorities responsible for the application of SFTR in the UK, and b) ensure those competent authorities are afforded the necessary supervisory, investigatory and disciplinary powers to fulfil their functions under SFTR.

2. What evidence has informed the PIR? (Maximum 5 lines)

HM Treasury has consulted with the Bank of England and Financial Conduct Authority (FCA) in the making of this PIR as the SI is concerned with the delegation of powers to these two organisations.

The Bank of England and FCA were asked to provide input specifically in relation to:

- The overall success of the implementation mechanisms of this SI;
- Relevant compliance rates;
- The timings of any impacts, and;
- Any other information that could be relevant.

3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

As above, the SI's objective is to:

a) designate competent authorities responsible for the application of SFTR in the UK (part 2), and;
b) ensure those competent authorities are afforded the necessary supervisory, investigatory and disciplinary powers to fulfil their functions under SFTR (part 3).

The SI fulfils these obligations by:

- Under part 2, designating the FCA and Bank of England as the relevant competent authorities in relation to different provisions in SFTR.
- Under part 3, providing the FCA and/or Bank of England the power to: a) gather information as necessary, b) supervise the industry effectively, c) put in place measures against individuals who contravene SFTR requirements, d) put in place disciplinary measures as necessary. Chapter 6 of the SI also stipulates the process that must be followed for warning notices and appeals. Chapter 7 stipulates the ability of courts to put in place injunctions. Chapter 8 provides detail on offences that may be committed in relation to SFTR.

This has ensured that firms subject to SFTR are supervised by the appropriate authority, and that the industry is aware of the relevant competent authority, which has helped to ensure compliance with the regime.

The regulators' supervisory, investigatory and disciplinary powers have ensured that, in the small number of instances where firms have been unable to comply with the relevant reporting requirements under SFTR, the appropriate supervisory tools have been available to the regulators. This will also be true of the disclosure and transparency requirements contained within SFTR in future.

SCS of Securities Markets and Banking

Signed: *Tom Duggan*

Date: *20/11/2020*

SCS of Better Regulation Unit

Signed: *Linda Timson*

Date: *03/12/2019*

Sign-off for Post-implementation review: John Glen, Economic Secretary to the Treasury

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: *John Glen*

Date: *08/12/2020*

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions? (Maximum 5 lines)

An Impact Assessment was not conducted as the Regulation does not itself significantly impact individuals or businesses. The purpose of the Regulation is to ensure that UK firms are supervised by the appropriate regulator, and that those regulators have appropriate supervisory, investigatory and disciplinary powers to allow for the implementation of the directly applicable EU SFTR.

5. Were there any unintended consequences? (Maximum 5 lines)

No unintended consequences were identified in the review of this regulation.

6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)

No significant additional burden on businesses has been identified as a result of parts 2 and 3 of this SI. The impact on the public sector is limited to the FCA and the Bank of England who have undertaken the regulatory obligations as designated competent authorities for the purposes of SFTR. Any impact stemming from the enforcement of these powers is as a direct result of SFTR, not from the SI itself.

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business? (Maximum 5 lines)

N/A.

Recommended Next Steps (Keep, Amend, Repeal or Replace)

SFTR mandates that competent authorities be designated in order to ensure compliance with SFTR. This SI fulfils this obligation in the UK by providing UK regulators with appropriate supervisory, investigatory and disciplinary powers necessary for the exercise of their functions. Maintaining these powers will be essential in future to ensure that the UK regulators have the appropriate tools to ensure compliance with SFTR. We therefore recommend that parts 2 and 3 of this SI be kept. Parts 1, 4 and 5 of this SI are not subject to review under Regulation 28 of this SI.