EXPLANATORY MEMORANDUM TO

THE OFFICIAL LISTING OF SECURITIES, PROSPECTUS AND TRANSPARENCY (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

2019 No. 707

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Treasury (HM Treasury) and is laid before Parliament by Act.

2. Purpose of the instrument

2.1 This instrument is being made under the European Union (Withdrawal) Act 2018 ("EUWA") to address deficiencies in retained European Union (EU) law that arise from the United Kingdom (UK) leaving the EU, specifically in relation to the regimes existing Directive (EC) No 71/2003 (the Prospectus Directive), Directive (EC) No 109/2004 (the Transparency Directive), Directive (EC) No 34/2001 (the Consolidated Admissions and Reporting Directive), and related EU legislation. Combined, they set the regulation in the UK of the listing regime, applicable to issuers seeking or having secured an official listing in the UK. They also set the prospectus regime that applies when securities (such as shares and bonds) are offered to the public or admitted to trading on a regulated market and the transparency framework that applies to issuers with securities traded on regulated markets. This instrument will therefore act to ensure that the UK's listing regime and transparency framework continue to operate as intended in the UK once the UK has left the EU.

Explanations

What did any relevant EU law do before exit day?

2.2 Directive (EC) No 71/2003 (the Prospectus Directive) contains the harmonised rules governing the content, format, approval, and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market in an European Economic Area (EEA) State. A prospectus contains important information investors use to decide whether to invest in a company's securities. Directive (EC) No 109/2004 (the Transparency Directive) provides for the harmonisation of transparency requirements across the EU by requiring issuers of securities admitted to trading on a regulated market to disclose a minimum level of information to the public. It aims to ensure transparency of information for investors through a regular flow of disclosure of periodic and on-going regulated information and the dissemination of such information to the public. Regulated information consists of financial reports, information on major holdings of voting rights and information disclosed pursuant to the Regulation (EC) No 596/2004 (the Market Abuse Regulation). It built on and amended Directive (EC) No 34/2001 (the Consolidated Admissions and Reporting Directive), that coordinated the conditions for the admission of securities to official stock exchange listing.

2.3 The Prospectus Directive, the Transparency Directive and the Consolidated Admissions and Reporting Directive are implemented into UK legislation in Part 6 of the Financial Services and Markets Act 2000 and in rules made by the Financial

Conduct Authority (FCA) under that part. This instrument makes amendments to the that Act and related EU legislation to address deficiencies in retained EU law that arise from the UK's withdrawal from the EU.

Why is it being changed?

2.4 This instrument forms part of HM Treasury's contingency planning for a no-deal scenario, making the necessary changes to ensure the UK continues to have a functioning financial services regime from exit day. Without these provisions, the UK's primary markets for capital would not operate effectively once the UK leaves the EU, causing disruption to UK consumers, issuers and the UK financial services sector as a whole, with further impacts on the integrity and attractiveness of the UK's financial markets. Additionally, this instrument contains transfers of functions with respect to equivalence determinations that are needed to have in place for exit day, as well as introducing transitional provisions, to provide certainty to market participants, without which we risk damaging the attractiveness of UK markets.

What will it now do?

2.5 This instrument does not intend to make policy changes, other than to reflect the UK's new position outside the EU. The key changes are:

- Requiring all prospectuses for securities to be offered to the public the UK or admitted to trading on a UK regulated market to be approved by the FCA, rather than allowing prospectuses approved by another EEA regulator to be passported in for use in the UK as is currently the case.
- Introducing grandfathering arrangements that will allow any prospectus approved by the regulator in an EEA State prior to exit to continue to be used in the UK, and supplemented where necessary, after exit up to the end of their validity (up to 12 months after the prospectus is first approved).
- Extending the existing exemption from the requirement to produce a prospectus and certain exemptions under the Transparency Directive that currently apply to certain EEA public bodies, to certain third country public bodies.
- Transferring responsibilities and functions that currently sit with EU bodies to the appropriate UK body. This includes transferring responsibility for equivalence determinations to HM Treasury, and responsibility to make and amend certain Binding Technical Standards and provide technical assessments of third countries' regimes to the FCA.
- Removing obligations for UK authorities to cooperate and share information with EU authorities.

2.6 It ensures that the existing regimes under the legislation will continue to apply and operate effectively in a UK-only context, enabling the UK's primary markets for capital to continue to function effectively post-exit. This includes: the regulation of the listing regime, applicable to issuers seeking or having secured an official listing in the UK; the prospectus regime that applies when securities are offered to the public or admitted to trading on a regulated market; and the transparency framework that applies to issuers with securities admitted to trading on regulated markets.

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 section 24 of the EUWA) 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 to the whole United Kingdom.

4.2 The territorial application of this instrument is to the whole 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 Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument amends the following EU regulations and decisions, which will be retained EU law by virtue of section 3 of the EUWA, to address deficiencies arising from the UK's exit from the European Union: Commission Regulation (EC) No 809/2004, Commission Regulation (EC) No 1569/2007, Commission Decision (EC) No 961/2008 and European Parliament and Council Regulation (EU) No 1129/2017. It also makes amendments to the Financial Services and Markets Act 2000 and the Companies Act 2006.

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 negotiating teams have reached an agreement on 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 believes that there will be a deal and an implementation period in place, it has a duty to plan for all eventualities, including a 'no deal' scenario. HM Treasury intends to use powers in the 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 Statutory Instruments (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 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).

Deficiencies this SI remedies

7.9 To ensure that the existing regime under the Prospectus Directive, the Consolidated Admissions and Reporting Directive, the Transparency Directive, and related EU legislation continues to operate effectively once the UK is outside the EU, certain amendments to the relevant legislation are necessary. These deficiency fixes are explained in greater detail below.

7.10 This instrument will amend the Financial Services and Markets Act 2000, the Companies Act 2006, Commission Regulation (EC) No 809/2004, Commission Regulation (EC) No 1569/2007, Commission Decision (EC) No 961/2008 and Commission Regulation (EU) No 1129/2017 so that the legislation continues to operate effectively once the UK leaves the EU. In most cases, the legislation is amended to bring the treatment of the EU into line with the current treatment of other third countries. However, there are some exceptions to this approach, as set out in sub-section 7.20.

7.11 After the UK ceases to be a member of the EU, it would not be appropriate for functions under the relevant legislation that are currently exercised by the European Commission, the European Securities and Markets Authority (ESMA) or other EU entities to continue to be exercisable by them in relation to the UK. This instrument removes this deficiency by generally transferring the functions of ESMA to the FCA and the functions of the Commission to HM Treasury.

Binding Technical Standards

7.12 Under the EU system of financial regulation, drafts of Binding Technical Standards (BTS) are developed by the European Supervisory Authorities (ESAs), principally ESMA in relation to the Prospectus Directive and the Transparency Directive. This instrument transfers the responsibility for making BTS under the Prospectus Directive and Transparency Directive to the FCA. This is in line with the approach taken across financial services regulation, as set out in the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115).

Equivalence Determinations

7.13 Under the Prospectus and Transparency Directives, a third country's regulatory or supervisory regime may be deemed by the European Commission to be equivalent to the approach set out in these Directives. EU equivalence decisions reduce duplication in regulatory or supervisory requirements between the EU and third countries and facilitate international trade in financial services. To ensure that the equivalence regimes within the Prospectus and Transparency Directives can continue to operate effectively in the UK, the functions of the Commission and the ESAs in determining equivalence decisions are transferred to UK authorities. The most significant equivalence functions are mentioned below.

7.14 Paragraphs 6 and 22 of Schedule 2 relate to the provisions of Article 4(1)(e) of the prospectus directive which enable exemptions from the obligation to publish a prospectus to be given, in cases where securities are offered or allotted to employees or directors, on the basis that the legal and supervisory requirements regarding the market in a third country are equivalent to those applying in the EU. Paragraph 6 (with regulation 71) confers on HM Treasury a function corresponding to the function of the Commission relating to general equivalence criteria, while paragraph 22 (with regulation 72) confers on the FCA functions corresponding to those of ESMA in

relation to the assessment of particular third country regimes. Paragraph 9 of Schedule 2 relate to Article 20 of the Prospectus Directive, which deals with the cases where, in the case of an issuer established in a third country, a regulator in an EEA State may approve a prospectus drawn up in accordance with the legislation of the third country. Paragraph 9 of Schedule 2 (with regulation 71) confers on HM Treasury functions corresponding to those of the Commission under Article 20(3) of the Prospectus Directive relating to the equivalence of the requirements of a third country as to the drawing up of the prospectus. This transfer of functions mirrors the current split between the legislative power of the Commission and the regulatory role of the ESAs in EU legislation.

7.15 The Commission's functions of determining whether third country jurisdictions' accounting rules meet the necessary standards to be deemed equivalent for the purposes of ensuring sufficient information under the Transparency Directive and Prospectus Directive are transferred to HM Treasury by regulation 67(4) of this instrument. Currently, the Commission is empowered to determine such equivalence for third country issuers of securities under Commission Regulation (EC) No 1569/2007, a delegated act made pursuant to the Transparency Directive and the Prospectus Directive. Such a determination is made to ensure that an investor has sufficient information to make a similar assessment of the financial position of the issuer for the purpose of information published under the Transparency Directive and the presentation of historic financial information within a prospectus under the Prospectus Directive. As of exit day, regulation 67(4) of this instrument provides that HM Treasury will take on the function to make these decisions after consultation with the Department for Business, Energy and Industrial Strategy.

7.16 At present, issuers with securities admitted to trading on a regulated market in the EU are required to make use of International Financial Reporting Standards (IFRS), as adopted by the EU, for their consolidated accounts. From exit day, issuers with securities admitted to trading on a UK regulated market would be required to make use of IFRS, as adopted by the UK (or equivalent regimes). The Government's approach is to provide continuity, where possible, following the UK's withdrawal from the EU. Therefore, in a no deal scenario, HM Treasury intends to issue an equivalence decision, in time for exit day, determining that EU-adopted IFRS can continue to be used by issuers with a registered office in EEA States to prepare financial statements for Transparency Directive requirements and the purposes of preparing a prospectus. This intention was signalled in our explanatory policy note on this instrument published on 21 November 2018. This equivalence decision is not contained within this instrument and will follow in a separate instrument. This will allow issuers with a registered office in EEA States with securities admitted to trading on a regulated market in the UK or making an offer of securities in the UK or applying for admission to trading on a regulated market in the UK to continue to use EU-adopted IFRS when preparing consolidated accounts. Also, all issuers will, on a transitional basis be able to prepare financial accounts under EU-adopted IFRS, for financial years starting on or before exit day. The UK will keep this decision under review post-exit.

Supervisory Cooperation

7.17 Within the existing regime under the Prospectus Directive, the Transparency Directive, and relevant EU legislation, there are obligations for UK authorities to cooperate and share information with EU authorities. When the UK leaves the EU, it

will not be appropriate for the UK to be obliged to share information unilterally or cooperate with EU authorities, without any guarantee of reciprocity. As such, this instrument removes these obligations. Instead, UK authorities will be able to continue to cooperate and share information with EEA authorities, in the same way as they can with authorities outside the EEA, based on the existing framework provisions for cooperation and information sharing in the Financial Services and Markets Act 2000, which allow for this on a discretionary basis.

Approval of Prospectuses

7.18 Under the prospectus regime, an issuer is obliged to produce a prospectus that has been approved by the relevant national regulator of an EEA State (such as the FCA in the UK) before it offers securities to the public or requests the admission of securities to trading on a regulated market. Once securities have been admitted to a regulated market, issuers must make ongoing disclosures in accordance with requirements under both the Transparency and Prospectus Directives. The requirements of these directives are implemented in Part 6 of the Financial Services and Markets Act 2000 and in rules of the FCA.

7.19 Under the current regime in the Prospectus Directive, once a prospectus has been approved by one EEA State's regulator, it can be 'passported' for use in all other EEA States, without the need for further approval of the prospectus from the regulator of the relevant EEA State. On exit day, regulation 8 of this instrument amends section 86 of the Financial Services and Markets Act 2000 (exempt offers to the public) to provide that the UK will treat EEA States in the same way as all other third countries with regard to the approval of prospectuses. This means that issuers wishing to access the UK market will, going forward, be obliged to secure approval of their prospectus from the FCA before they can offer their securities to the public in the UK or request admission of securities to trading on a UK regulated market. This will be the case irrespective of whether a prospectus has already been approved by a regulator of an EEA State, in accordance with the current treatment of prospectuses approved by a regulator of a third country. An exception is made for any prospectuses approved by an EEA State's regulator pre-exit for their period of validity, see sub-section 7.20. Given this, EEA issuers will no longer be able to 'passport' prospectuses to the UK market as they do now. However, as prospectus exemptions will remain available to certain issuers (including international issuers as set out in sub-section 7.22), these issuers will continue to be able to raise capital in the UK from institutional investors through exempt offers, as they are currently able.

7.20 Alongside the possibility to 'passport' a prospectus into another EEA State, the current prospectus regime grants prospectuses approved by a regulator in an EEA State automatic validity for a period of up to twelve months. To provide for a smooth transition for market participants, regulation 73 of this instrument provides that prospectuses approved by the regulator of an EEA State and 'passported' into the UK before exit day will continue to be valid for the period during which it would otherwise be valid (that is, for 12 months from its original approval). The provision also covers a supplementary prospectus notified to the FCA before exit day. Any new supplementary prospectus would need the approval of the FCA.

Exemptions from the obligation to produce a prospectus and make disclosures: public bodies

7.21 Under the current Transparency Directive rules, issuers and holders of voting rights in issuers are subject to notification requirements in relation to major holdings of voting

rights. However, these notification requirements do not apply in respect of voting rights provided to or by members of the European System of Central Banks (consisting of the European Central Bank and the national central banks of EU States) in the context of carrying out their functions as monetary authorities. To maintain consistency with the approach of treating EU States in the same way as other third countries post-exit, the government will restrict this exemption to the Bank of England only. To note, the restriction of this exemption will not be made under this instrument itself, but rather through changes proposed to the FCA's Handbook set out in its consultation.

7.22 Under the current Prospectus Directive rules, certain public bodies are exempt from the requirement to produce a prospectus when they undertake to offer securities to the public or request the admission of securities to trading on a regulated market. This includes EEA States, EEA local authorities, EEA central banks, and public international bodies of which one or more EEA States are a member. Under the Transparency Directive, a different, but overlapping group of public bodies are exempt from the obligation to make certain ongoing disclosures to the public. Currently, certain of these exemptions apply to EEA States only. To address this deficiency, the government will extend these types of public bodies exemptions to the same types of public sector bodies of all third countries.

7.23 Restricting the exemption to UK public sector bodies only would explicitly remove EEA public bodies from the exemption. This would mean EEA public body issuers would have to produce a prospectus if they wanted to access UK markets, when they could choose to access EEA State markets without this requirement. This could put negatively impact the attractiveness of the UK's markets. Therefore, the extension of the exemption to relevant third country public sector bodies should mitigate against this risk.

7.24 These deficiency fixes in respect of the retained EU legislation will therefore ensure that the regulation of the listing regime, applicable to issuers seeking or having secured an official listing in the UK, the prospectus regime that applies when securities are offered to the public or admitted to trading on a regulated market and a transparency framework that applies to issuers with securities traded on regulated markets in the UK, will continue to apply and operate effectively in a UK-only context. This will enable primary markets for capital to continue to function effectively post-Exit.

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 to address failures of retained EU law to operate effectively and 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.

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, to familiarise them with the legislation ahead of laying.

10.2 The instrument was also published in draft on the 12 December 2018 to maximise transparency ahead of laying (https://www.gov.uk/government/publications/draft-official-listing-of-securities-prospectus-and-transparency-amendment-eu-exit-regulations-2019).

10.3 An explanatory policy note on this instrument was published on 21 November 2018 and the FCA undertook a public consultation in November on any changes they propose to make to BTS and rules made under the powers conferred upon them by the Financial Services and Markets Act (2000) (https://www.fca.org.uk/publication/consultation/cp18-36.pdf).

11. Guidance

11.1 No further guidance is being published alongside this instrument.

12. Impact

12.1 There is an impact on businesses, particularly those involved in capital markets. These include investment managers (asset managers, wealth managers, hedge funds, private equity and venture capital firms), investment banks (including advisory boutiques and brokers), professional services firms (lawyers, accountants, consultants), investors (credit institutions, pension funds, insurance firms, individuals, charitable foundations, and endowments), infrastructure firms (stock exchanges, post-trade services) and issuers (companies, banks, governments, and government agencies).

12.2 This instrument seeks broadly to replicate the current effects of the prospectus regime and transparency rules that apply across the EU, transposed into a functioning and wholly domestic financial services regime. There will be little impact on firms that only conduct their business in the UK. There will be some international impact, particularly in the extension of the public bodies exemption from the requirement to produce a prospectus to non-EEA countries (as set out in sub-section 7.21), and the transfer of the exercise of equivalence assessments from the Commission to HM Treasury.

12.3 Our engagement with industry during the drafting of this instrument did not highlight concerns about additional costs firms may face as a direct result of this instrument outside of familiarisation with the new regulatory environment.

12.4 There is no impact on charities or voluntary bodies.

12.5 The impact on the public sector relates to changes to the functions of the FCA. The FCA will be transferred powers from ESMA to draft technical standards.

12.6 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 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise the effects of this instrument in relation to small businesses. This instrument implements amendments to existing regimes existing under the Prospectus Directive, the Transparency Directive, and related EU legislation that would otherwise no longer operate effectively once the UK has left the EU, and to help smooth the transition for all businesses participating in the UK's primary markets for capital, irrespective of their size.

14. Monitoring & review

14.1 As this instrument is made under the EUWA 2018, no review clause is required.

15. Contact

15.1 Karis Alpcan at Her Majesty's Treasury, Telephone: 020 7270 1324 or email: Karis.Alpcan@hmtreasury.gov.uk can be contacted with any queries regarding the instrument.

15.2 Clare Bolingford, Deputy Director, Securities, Markets, and Banking at Her Majesty's Treasury, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Economic Secretary to the Treasury, John Glen MP, at Her Majesty's Treasury 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 MP) has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 does no more than is appropriate".

1.2 This is the case because the instrument goes no further than doing what is appropriate to mitigating a disruption in primary capital markets for UK consumers, issuers and the UK financial services sector as whole, from the UK exiting the EU. This instrument ensures that the regulation of the listing regime, applicable to issuers seeking or having secured an official listing in the UK, the prospectus regime that applies when securities are offered to the public or admitted to trading on a regulated market and the transparency framework that applies to issuers with securities traded on regulated markets in the UK, will continue to apply and operate effectively in a UK-only context.

2. Good reasons

2.1 The Economic Secretary to the Treasury (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".

2.2 Without these provisions, the UK's primary markets for capital would not continue to operate effectively once the UK leaves the EU, likely causing disruption to UK consumers, issuers and the UK financial services sector as a whole and impacting the integrity and attractiveness of UK financial markets.

3. Equalities

3.1 The Economic Secretary to the Treasury (John Glen MP) 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 MP) 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 MP 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.

5. Legislative sub-delegation

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

"In my view it is appropriate to create a relevant sub-delegated power in the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019."

5.2 This is appropriate because powers to make and amend certain binding technical standards (BTS) are to be transferred from ESMA to the FCA. This is considered appropriate as the FCA will have the necessary technical knowledge to ensure that relevant EU technical standards will continue to operate effectively after the UK's withdrawal from the EU. The necessary corrections and amendments to these BTS will be of a highly technical nature and the regulators will be best placed to assess what is required post-exit to ensure the relevant BTS continues to operate effectively in an UK-only context. This is in line with the approach that the government has set out in the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), in which legislative responsibility for technical legislation in financial services will be transferred to the financial regulators.