

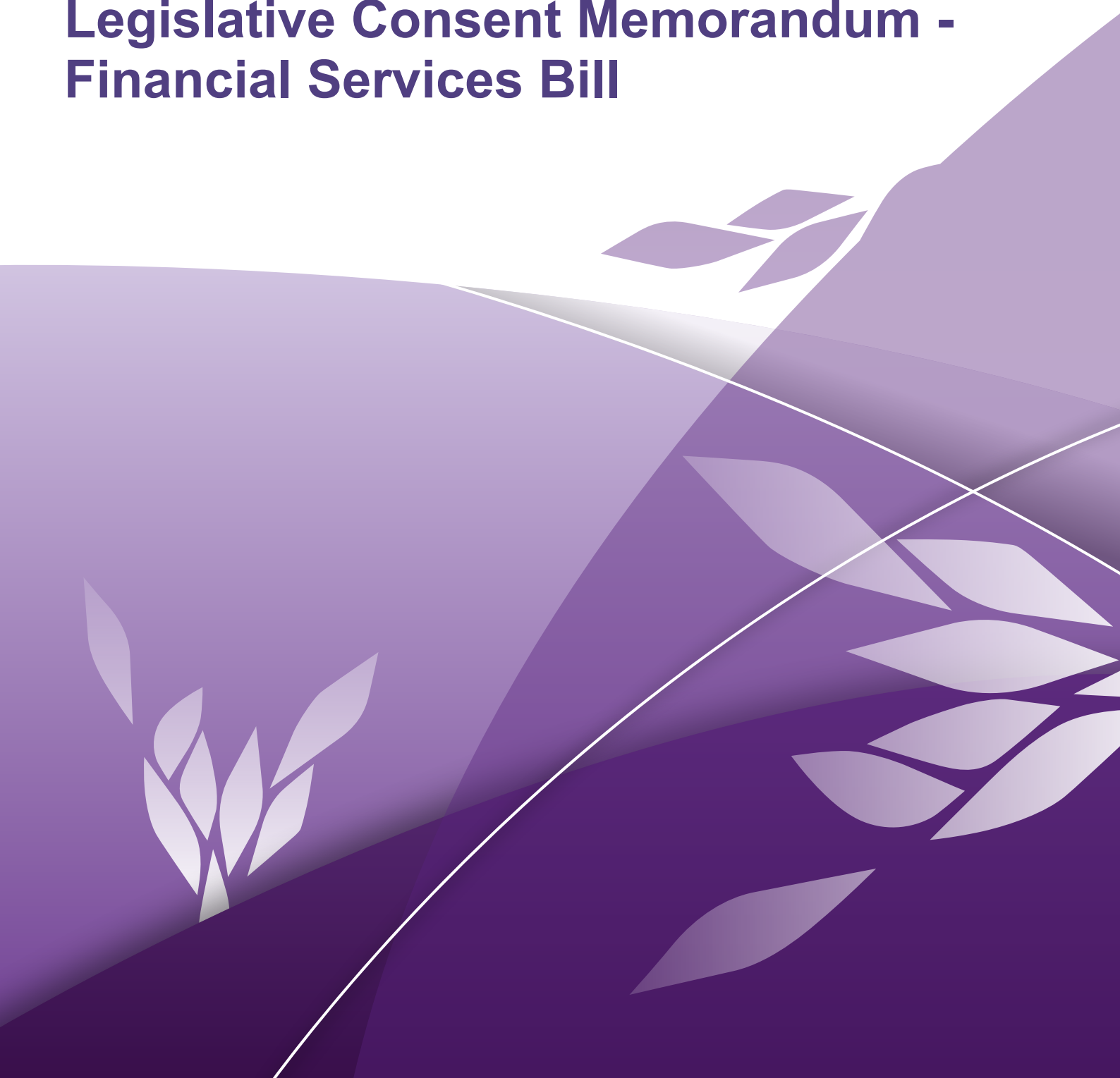


The Scottish Parliament
Pàrlamaid na h-Alba

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Justice Committee Comataidh a' Cheartais

Legislative Consent Memorandum - Financial Services Bill



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Contents

Introduction	1
About the Bill	2
Consideration by the Committee and recommendation	3

Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



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Introduction

1. The [Financial Services Bill](#) [HL] 2019-21 is a UK Government Bill introduced in the House of Commons on 21 October 2020. The Bill is currently at Committee stage in the House of Lords. This is scheduled to begin on 22 February 2021.

About the Bill

2. The principal objective of the Bill is to ensure the UK's regulatory framework continues to function effectively after leaving the EU. The Bill will enhance the UK's prudential standards and promote financial stability by enabling the implementation of the full set of Basel III standards, a new prudential regime for investment firms, and giving the Financial Conduct Authority (FCA) the powers it needs to oversee an orderly transition away from the LIBOR benchmark.
3. The Bill contains provisions that apply to Scotland and which amend powers relating to freezing and forfeiture of recoverable property. In particular, the amendments extend the types of account in respect of which those powers can be exercised. Those powers are exercisable in relation to the proceeds of unlawful conduct in connection with both devolved and reserved offences. The amendments also alter the executive competence of the Scottish Ministers by means of extending the types of account to which Scottish Ministers can apply to the sheriff for a forfeiture order, both in relation to specific types of terrorist property and to money that is the proceeds of unlawful conduct.
4. The provisions amend Part 4B of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (ATCSA) and Chapter 3B of Part 5 of the Proceeds of Crime Act 2002 (POCA), so that provisions for the forfeiture of terrorist money and money that is the proceeds of unlawful conduct apply to money held in accounts maintained with electronic money institutions (EMIs) and payment institutions (PIs).
5. A [legislative consent memorandum](#) was lodged by Humza Yousaf MSP, Cabinet Secretary for Justice, on 20 January 2021 following amendments tabled by UK Government on 6 January 2021.
6. The LCM states that it is the view of the Scottish Government that extending and applying the relevant provisions of the Bill to Scotland will help the Scottish Government meet its aim of maximising the tools available in Scotland so as to enable an efficient and effective law enforcement response to serious organized crime. The Scottish Government recognises that such crime has no respect for borders or boundaries and, so, must be tackled across multiple jurisdictions. The proposals in the Bill seek both to provide additional means to disrupt and combat this kind of criminality by making it less profitable. It will further ensure that Scotland, and the UK as a whole, is a more hostile place for those seeking to move, hide, use or re-invest the proceeds of crime or terrorism.
7. The LCM (paragraph 20) sets out the Scottish Government's draft motion, namely:

“That the Parliament agrees that the relevant provisions of the Financial Services Bill, introduced in the House of Commons on 21 October 2020, relating to amendments to the Anti-terrorism, Crime and Security Act 2001 and the Proceeds of Crime Act 2002, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Consideration by the Committee and recommendation

8. The Justice Committee considered the LCM at its meeting on 23 February 2021. The Committee raised no issues of concern.

9. **The Committee agreed with the recommendation of the Scottish Government that the Scottish Parliament should give its consent to the relevant provisions in the Financial Services Bill [HL] 2019-21.**

