

This Legislative Consent Memorandum relates to the Financial Services and Markets Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 25 June 2026

Legislative Consent Memorandum

Financial Services and Markets Bill

Background

1. This memorandum has been lodged by Neil Gray MSP, Cabinet Secretary for Justice, in accordance with Rule 9B.3.1(a) of the Parliament's standing orders.

2. The Financial Services and Markets Bill ("the Bill") was introduced by the UK Government in the House of Lords on Tuesday 19 May 2026. The Bill is available on the UK Parliament website [Financial Services and Markets Bill \[HL\] - Parliamentary Bills - UK Parliament](#).

Content of the Bill

3. The Bill makes provision to:

- Update how the UK financial services sector is regulated, aiming to support growth, increase lending, and ensure consumer protections are fit for the digital economy.
- Modernise consumer protection and redress systems, including reforms to the Financial Ombudsman Service to improve consistency and predictability.
- Streamline the regulatory framework in key areas, including by consolidating responsibility for payment systems regulation within the Financial Conduct Authority. It aims to ensure that the administrative burden on firms is proportionate without compromising on core consumer, prudential and market protections.
- Enable credit unions to expand by improving the rules on who can become a member.
- Update the statutory framework underpinning the ring-fencing regime, which will improve competition in lending to Small and Medium-sized Enterprises (SMEs) and help small businesses access finance more easily.
- Enable the UK Government to take action in relation to in-person banking services, to ensure that customers, including those who are vulnerable or less digitally able, retain sufficient access to essential banking services in line with their needs.

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- Strengthen the UK's framework for tackling financial crime by modernising oversight of anti-money laundering and counter-terrorist financing supervision, improving consistency and effectiveness, and reinforcing international confidence in the UK regime.
- Replace existing powers to update definitions relating to cryptoassets in the Proceeds of Crime Act 2002 (POCA), the Anti-terrorism, Crime & Security Act 2001 (ATCSA) and the Terrorism Act 2000 (TACT) with a broader power to amend such provisions in these and other Acts of Parliament.

Provisions which require the consent of the Scottish Parliament

4. The Bill as introduced contains provisions that apply to Scotland. The majority of the Bill concerns the regulation of financial services and markets, which is largely a reserved matter in respect of Scotland. The UK Government has set out its views on the provisions which require legislative consent in the Explanatory Notes to the Bill and has given the view that clauses 46 and 47 require consent of the Scottish Parliament. The Scottish Government agrees with this assessment for reasons outlined in paragraphs 5 to 12 of this LCM.

5. POCA relates to a complex mix of both reserved and devolved matters. Although the proceeds of crime are generally devolved, POCA also provides for the confiscation and civil recovery in relation to reserved matters, such as drug trafficking and money laundering. To the extent that the Bill makes provision in relation to the devolved aspects of the proceeds of crime it falls within the legislative competence of the Scottish Parliament and legislative consent is required.

6. Clause 46 confers a delegated power on the Secretary of State and HM Treasury to make amendments by secondary legislation to cryptoasset confiscation, seizure and forfeiture powers in POCA, provisions in ATCSA and TACT, and to other Acts of Parliament. The power would allow HM Treasury or the Secretary of State to extend the application of the provisions to cryptoassets or cryptoasset service providers to which they would not otherwise apply, so as to ensure that the provisions continue to reflect developments in technology and the market for cryptoassets and cryptoasset service providers and to reflect the regulation of cryptoassets or cryptoasset providers in the UK or elsewhere. Regulations made under this provision would be subject to affirmative procedure, with a duty to consult the Scottish Ministers on any regulations that amend Parts 3 or 5 of POCA.

7. The power in clause 46 builds on updates that were made through the Economic Crime and Corporate Transparency Act 2023 (ECCTA), where the criminal confiscation and civil recovery regimes in Scotland under Parts 3 and 5 of POCA were updated to support the recovery of cryptoassets.

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8. If this power is introduced, it is understood the UK Government intends to initially use it to address operational challenges arising from the current requirement for a UK nexus in the use and administration of cryptoasset overseas exchanges and wallet providers. Increasingly, criminals are storing cryptoassets in exchanges that do not currently meet the definition of UK nexus in POCA. The UK Government has set out that amending the wording of the provisions will allow action against a wider range of overseas exchanges and wallet providers in order to recover more criminal assets. The Bill will not itself make these changes but provides the enabling power for changes to be made at a later date through secondary legislation.

9. In so far as it relates to POCA, the delegated power in clause 46 is capable of making provision in relation to devolved aspects of the proceeds of crime and is therefore within the legislative competence of the Scottish Parliament and therefore necessitates legislative consent. Additionally, as clause 46(4) allows amendment of other Acts of Parliament not listed in clause 46(7), it is capable of making provision in relation to devolved matters and as such is within the legislative competence of the Scottish Parliament and therefore necessitates legislative consent.

10. Clause 47 repeals existing powers within POCA, ATCSA and TACT to amend certain definitions, such as 'cryptoasset' and 'crypto wallet' via secondary legislation because these are being replaced by the broader power in clause 46. Legislative consent is required for this clause in respect of paragraphs (1)(c), (d), (g), (h) and (i) in so far as it relates to the aforementioned provisions, because in so far as these definitions apply to devolved aspects of the proceeds of crime, this is within the legislative competence of the Scottish Parliament.

11. The power in clause 46 builds on updates that were made through ECCTA, where the criminal confiscation and civil recovery regimes in Scotland under Parts 3 and 5 of POCA were updated to support the recovery of cryptoassets.

12. Clause 47 repeals existing powers within POCA, ATCSA and TACT to amend certain definitions, such as 'cryptoasset' and 'crypto wallet' via secondary legislation because these are being replaced by the broader power in clause 46. In so far as these definitions apply to devolved aspects of the proceeds of crime, this is within the legislative competence of the Scottish Parliament and therefore necessitates legislative consent.

Reasons for not making a recommendation on legislative consent

13. As POCA relates to a complex mix of both reserved and devolved matters, the Scottish Government considers it is desirable that the proceeds of crime regime remains consistent across the UK jurisdictions and therefore agree in principle to the proposed amendments to be made by the UK Parliament.

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14. The Scottish Government is supportive of the intent of these provisions to seek to ensure that law enforcement agencies can adapt to the shifting and developing nature of the cryptoasset environment and ensure that the recovery of proceeds of crime is not hampered by future changes in the digital landscape.

15. However, before legislative consent can be recommended, there needs to be assurance that the UK Government will ensure that the Bill properly respects the devolution settlement. The Scottish Government will continue to engage with the UK Government to ensure that the Bill provides an appropriate role for the Scottish Ministers in the process of making changes to cryptoasset confiscation in Acts (other than those listed in the Bill) which apply to Scotland and relate to devolved matters.

16. A motion on legislative consent will not be lodged for the time being, while this engagement takes place. After engagement concludes, the Scottish Government will lodge a supplementary LCM to inform Scottish Parliamentary consideration of legislative consent for the Bill.

Consultation

17. The Scottish Government has undertaken consultation with key operational partners, including the Civil Recovery Unit (CRU), Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS), as well as ongoing engagement with the Home Office. Stakeholders are broadly supportive of the proposed provisions.

Financial implications

18. There is unlikely to be significant financial implications for the Scottish Government as no additional resource is required to implement the change. Potentially, if the power resulting from the Bill is used to amend provisions about cryptoassets, this could lead to more cryptoassets being seized through POCA legislation. This could increase the financial returns to victims of crime and / or the Scottish Consolidated Fund.

19. When changes are made to the cryptoasset powers, there may be resource implications for Police Scotland, COPFS and CRU in relation to training staff on new parameters of the power.

Post EU scrutiny

20. To the extent that the Bill provisions relate to the recovery of proceeds of crime, it relates to matters covered by the EU Directive 2024/1260 on asset recovery and confiscation. The Scottish Government considers the provisions are consistent with the Scottish Government's commitment to align with EU law.

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Conclusion

21. The Scottish Government does not, at this stage, intend to lodge a Motion on Legislative Consent in relation to the Financial Services and Markets Bill. Once engagement with the UK Government is complete, the Scottish Government intends to lodge a supplementary LCM, stating whether it recommends that the Scottish Parliament consent or refuse consent to the relevant provisions of the Bill.

Scottish Government
June 2026

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