

**EXPLANATORY MEMORANDUM TO
THE FINANCIAL MARKETS AND INSOLVENCY (SETTLEMENT FINALITY)
(AMENDMENT) REGULATIONS 2006**

2006 No. 50

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These Regulations extend coverage of the Financial Markets and Insolvency (Settlement Finality) Regulations to Northern Ireland.
3. **Matters of Special Interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Common EU standards to protect payment and securities settlement systems, implementing the EU Settlement Finality Directive and setting common standards for all member states, came into force on 11 December 1999.
 - 4.2 The Directive was implemented in England, Scotland & Wales by the Financial Markets and Insolvency (Settlement Finality) Regulations 1999.
5. **Extent**
 - 5.1 This instrument extends coverage of the Financial Markets and Insolvency (Settlement Finality) Regulations to Northern Ireland
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend Primary Legislation, no statement is required
7. **Policy background**
 - 7.1 The Directive was implemented in England, Scotland & Wales by the Financial Markets and Insolvency (Settlement Finality) Regulations 1999. At the time the expectation was that Northern Ireland would make its own regulations to implement the Directive. This did not happen and therefore the Directive is not currently implemented in Northern Ireland. In practice, no application has actually been received or is pending from any institution to be designated in relation to Northern Ireland. The Regulations complete implementation of the Directive in the United Kingdom.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

9. Contact

John Sparrow at the HM Treasury Tel: 020 7270 7509 or e-mail: john.sparrow@hm-treasury.gov.uk can answer any queries regarding the instrument.

TRANSPOSITION NOTE

SETTLEMENT FINALITY DIRECTIVE (98/26/EC)

THE EXTENSION OF REGULATIONS IMPLEMENTING EC SETTLEMENT FINALITY DIRECTIVE (98/26/EC) TO NORTHERN IRELAND

Introduction

1. The Settlement Finality Directive adopted in May 1998 is aimed at reducing the systemic risk associated with participation in payment and securities settlement systems, and in particular the risk linked to the insolvency of a participant in such a system. The Directive applies to payment and securities settlement systems as well as any participant in such a system, and to collateral security provided in connection with the participation in a system, or operations of the central banks of the Member States in their functions as central banks.

2. The Directive was implemented in England, Scotland & Wales by the Financial Markets and Insolvency (Settlement Finality) Regulations 1999. At the time the expectation was that Northern Ireland would make its own regulations to implement the Directive. This did not happen and therefore the Directive is not currently implemented in Northern Ireland. In practice, there was not in 1999 any firm or system operating under Northern Ireland law and to which the provisions of the Directive were required to be applied.

3. The provisions of the Directive are required to be capable of application in Northern Ireland as in the rest of the United Kingdom and these Regulations provide for the 1999 Regulations to be amended so they apply fully in Northern Ireland. The Directive will be fully implemented with regard to Northern Ireland when these Regulations come into force.