FROM THE OFFICE OF THE JUSTICE MINISTER

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DATE: **22 SEPTEMBER 2026**

TO: **KATHY O'HANLON**

SUMMARY

Business area: Safer Communities - Protection and Organised Crime Division

Issue: To seek the Committee's views on the Justice Minister's intention, subject to Executive agreement, to seek the Assembly's legislative consent for the transferred elements of the cryptoasset recovery measures in the UK Government's Financial Services and Markets Bill.

Action required:

- note the contents of this briefing;
- indicate if the Committee is content, in principle, for a Legislative Consent Memorandum seeking consent to be laid, subject to Executive agreement.

Background

On 19 June 2026, I advised the Justice Committee that the UK Government's Financial Services and Markets Bill ("the Bill"), introduced in the House of Lords on 19 May, contained transferred measures on cryptoasset recovery powers that would engage the legislative consent process. I also highlighted that the Justice Minister had laid a Memorandum before the Assembly and, although not seeking consent at that stage, she intended to do so after consultation with the Committee and subject to Executive agreement. We are now in a position to consult with the Committee for early views, before the Minister formally writes to her Executive Colleagues.

The UK Government's Financial Services and Markets Bill

2. Sponsored by HM Treasury, the Bill seeks to modernise the regulation of the financial services sector, supporting it to grow and enable it to provide more lending to businesses. This will ensure that consumer protections keep pace with the digital age while maintaining strong regulation and oversight. In doing so, it will support the UK's position as a leading global financial centre, improve the competitiveness of UK businesses, and support economic growth and investment.

3. The Bill completed its passage in the House of Lords on 15 September and had its First Reading in the House of Commons on the same day. The current version of the Bill published on 15 September, and associated publications, are available on the UK Parliament website and can be found in the link here. The Bill contains six Parts, 57 clauses, and three Schedules and extends to the whole of the UK, with one exception. A measure regarding 'credit union common bond' does **not** extend to Northern Ireland. Apart from the measure on which the Justice Minister intends to seek legislative consent, all measures are reserved and **not** justice related. The key measures in the Bill will:

- provide stronger consumer protection by making terms and conditions easier to understand and improving how complaints are resolved and includes reforms to the Financial Ombudsman Service;
- ensure simpler regulation and fewer regulators, with the Payment Systems Regulator's responsibilities transferring to the Financial Conduct Authority;
- ensure that the administrative burden on firms is proportionate**;**
- support lending and investment by updating banking rules;
- support access to essential banking services, such as in-person ones**;** and
- modernise oversight of anti-money laundering and counter-terrorist financing supervisions.

4. The Minister intends to seek legislative consent for the **'Power to amend provisions about cryptoassets'** in the Proceeds of Crime Act 2002 (POCA), as it applies to Northern Ireland. This is the Bill's only measure containing transferred

elements. The relevant provisions are **Clauses 49 and 51** of the current Bill, as published on 15 September.

5. Justice Committee members will be aware that POCA is the principal UK legislation governing asset recovery. It provides criminal and civil powers to restrain, freeze, seize and confiscate criminal property and the proceeds of unlawful conduct, thus depriving offenders of the benefits of criminality.

6. POCA is also central to the UK's anti-money laundering regime and prevents criminals from concealing, moving and benefiting from criminal proceeds. Money laundering enables serious and organised crime, including drug trafficking, people smuggling, fraud and corruption; harms legitimate businesses and communities; and threatens both economic and national security. The National Risk Assessment of Money Laundering and Terrorist Financing 2025[1] identified the growing use of cryptoassets to launder criminal proceeds.

7. The Economic Crime and Corporate Transparency Act 2023 (ECCTA) introduced cryptoasset recovery powers into POCA, the Terrorism Act 2000 (TACT) and the Anti-terrorism, Crime and Security Act 2001 (ATCSA). The purpose of this legislation was to reflect rapid changes in cryptoasset technology, markets and business models. ECCTA also conferred delegated powers to update certain definitions, including "cryptoasset" and "crypto wallet", through secondary legislation.

8. However, other provisions cannot currently be amended through secondary legislation. This is now beginning to limit the effectiveness of ECCTA's confiscation and recovery powers. For instance, the current rules on Crypto Wallet Freezing Orders (CWFOs), combined with the increasing use of overseas cryptoasset exchanges by criminals, mean that CWFOs cannot always be used effectively against some Cryptoasset Service Providers. Although some service providers will voluntarily freeze assets at the request of UK law enforcement, they generally require a UK court order

[1] https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2025

before they will transfer them into the control of UK law enforcement agencies. The new legislation is needed to address these limitations and future-proof the framework as the cryptoasset sector and criminal methods evolve at pace. This measure will ensure that the UK has the powers needed to tackle organised crime and the increasing criminal use of cryptoassets.

9. Law enforcement partners have confirmed that they support the measure applying to Northern Ireland.

Detail on clauses requiring consent

10. Clause 49 enables the UK Secretary of State or HM Treasury to amend specified cryptoasset provisions in POCA, TACT and ATCSA. The power is limited to extending those provisions to new categories of cryptoassets or cryptoasset service providers, keeping the legislation effective as technology, markets and regulation evolve. The power could be used to extend the provisions to particular types of cryptoassets, categories of service providers and providers with a relevant UK connection.

11. It should be noted that this power does not permit the creation of any new power, offence, liability or other substantive change. Before making regulations affecting Parts 4 and 5 of POCA, the UK Secretary of State or HM Treasury must consult the Department of Justice.

12. Clause 51 repeals the overlapping delegated powers in POCA.

13. The transferred Northern Ireland elements are amendments affecting Part 4 of POCA (confiscation in Northern Ireland) and Part 5 (civil recovery in the UK). The TACT and ATCSA elements are reserved because they relate to terrorism.

UK Government's rationale for the approach taken

14. The UK Government considers that a delegated power is the quickest and most effective way to respond to criminal use of cryptoassets and emerging developments in the sector. Without it, primary legislation would be needed whenever market or

technological changes affected the regime. As the recovery regime spans POCA, TACT and ATCSA, Clause 49 will also allow the necessary changes to be made through a single piece of secondary legislation, providing a coherent and flexible means of updating the regime.

15. As a safeguard, secondary legislation made under the power must meet the conditions above, cannot make wider policy changes, and is subject to the affirmative resolution procedure, allowing Parliament to scrutinise, debate and approve changes before they take effect.

16. The House of Lords noted the concerns of its Delegated Powers and Regulatory Reform Committee regarding the numbers of delegated powers contained in the wider Bill. Subsequently, the Government did not secure sufficient support in the Lords for the use of delegated powers. The Lords inserted a "use of powers" provision (clause 52) by amendment. This requires the Treasury to publish and lay a report setting out the intended use of certain delegated powers (including clause 49) it plans to bring forward, before laying the regulations. This amendment will be debated in the House of Commons, and officials will continue to monitor developments closely.

Reasons for using the Bill rather than an Act of the Assembly

17. The UK Government has assessed that some aspects of the provisions relating to Parts 4 and 5 of POCA are devolved matters within the legislative competence of the Assembly. Legislative consent is therefore required.

18. The Department agrees with this assessment. The Department's legislative programme would not allow equivalent Assembly legislation before the next mandate at the earliest. Delay would create a gap in Northern Ireland's legislative framework and weaken the response to serious organised and economic crime.

19. A Legislative Consent Motion is therefore considered to be the timeliest and most reasonable and proportionate approach.

20. Although the Northern Ireland Assembly would not directly scrutinise regulations made under the power, the statutory requirement to consult the Department of Justice is an important safeguard, allowing Northern Ireland's devolved interests, operational requirements and legal considerations to be addressed before regulations affecting the devolved elements of Parts 4 and 5 of POCA are made. The Department would engage with the Justice Committee as part of that process. Furthermore, should the House of Commons accept the inclusion of clause 52 "use of powers", as outlined in paragraph 16, the Department would be engaged as part of compiling the Treasury's report.

Legislative Consent Timings

21. The Bill has now completed its passage thought the House of Lords and had its First Reading in the House of Commons on 15 September. A date for its Second Reading is yet to be scheduled. An indicative timescale for the Bill to receive Royal Assent is around May 2027. Although in theory, there would be opportunities to remove clauses up until the 'Consideration of Amendments' Stage, this would be in exceptional circumstances, and any amendments should be tabled for House of Commons Report Stage at the very latest. The Assembly must also factor in the May 2027 pre-election period. Therefore, it would be preferably that legislative consent is secured before the end of March 2027.

Engagement with the Executive

22. Subject to Executive agreement and the Committee's views, the Minister intends to lay the Memorandum at the earliest opportunity.

Human Rights and Equality considerations

23. The Department's initial assessment is that the Bill's transferred provisions have no adverse implications for human rights, equality or good relations, including under Article 2 of the Windsor Framework.

Next Steps

24. Subject to Executive agreement and parliamentary timescales, the Minister intends to seek legislative consent as soon as is practicable. Once laid, the Memorandum will be formally referred to the Committee for consideration and report to the Assembly.

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25. Officials will keep the Committee updated and respond to any queries before or after members consider this briefing at their meeting on 1 October. They are also available to provide an oral briefing and, if helpful, would share the draft Legislative Consent Memorandum before it is formally laid.

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