

UK Government Publishes a Response to its Consultation – Failure or Success?

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On 30 October 2023, HM Treasury (**HMT**) published a response to its May 2022 consultation (the Consultation) on its approach to managing the failure of systemic digital asset (including stablecoin) firms (the **Response**).

The Consultation sought views on the proposed application of a modified Financial Market Infrastructure Special Administration Regime (**FMISAR**) to systemic payment systems, and service providers of systemic importance to those systems, that use digital settlement assets (**DSAs**). If adopted, the FMISAR would apply to the following firms:

1. operators of recognised systemic DSA payment systems under s.112(2)(a) of the Financial Services (Banking Reform) Act 2013 (**FSBRA**);
2. recognised DSA service providers to DSA payment systems (whether or not themselves systemic) under s.112(2)(aa) FSBRA; and
3. nonsystemic service providers to recognised systemic DSA payment systems which HMT has designated under s.112(2)(c) FSRBA.

The Response highlights that feedback from the industry has been broadly positive. In particular, the Response confirms that the UK government intends to:

1. proceed as proposed with the Consultation and will therefore, most notably appoint the FMISAR, with amendments, as the primary legal framework to manage the failure of systemic DSA firms;
2. provide the Bank of England (**BoE**) with the power to direct special administrators of DSA firms on which statutory objectives to prioritise in the administration process; and
3. require the BoE to consult with the Financial Conduct Authority where applicable (for example, before directing administrators in respect of systemic DSA firms subject to dual regulation).

The Response provides that the Government will propose statutory instruments in due course and when parliamentary time allows.

The Consultation and Response can be found [here](#) and [here](#), respectively.

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