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UK Treasury Opens Consultation into Proposed Insolvency Regime to Manage Failure of Stablecoin Firms



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On May 31, 2022, the UK Treasury [announced](#) a consultation on the government's proposals to manage the failure of systemic digital settlement asset ("DSA") (including stablecoin) firms by adapting the existing Financial Market Infrastructure Special Administration Regime ("FMI SAR").

According to an [article](#) in the *Financial Times*, the Treasury stated that the failure of a systemic stablecoin could endanger the "continuity of services critical to the operation of the economy and access of individuals to their funds or assets." The failure of the terra stablecoin has greatly intensified the concerns of many regulators over the lack of transparency and potential weaknesses of the market. The Treasury said that "events in cryptoasset markets have further highlighted the need for appropriate regulation to help mitigate consumer, market integrity and financial stability risks."

The government considers that the Bank of England ("BoE") and not the Financial Conduct Authority ("FCA") should be the lead regulator in the administration of systemic DSA firms. It is proposed that the BoE will be given the power to direct an appointed administrator. According to the consultation, the government intends to modify the FMI SAR to include an additional objective covering the return or transfer of funds and custody assets which may only be considered when the FMI SAR is applied in relation to systemic DSA firms. Furthermore, it is suggested that the BoE should consult with the FCA (1) before directing administrators with regard to the regime's objectives and (2) when seeking a special administration order for a systemic DSA firm subject to regulatory requirements imposed by both the BoE and FCA. The government said the new rules would "allow administrators to take into account the return of customer funds and private keys as well as continuity of service."

The Treasury have asked for responses to the following questions:

1. Do you have any comments on the intention to appoint the FMI SAR as the primary regime for systemic DSA firms which aren't banks?
2. Do you have any comments on the intention to establish an additional objective for the FMI SAR focused on the return or transfer of customer funds, similar to that found in the Payment and E-Money Special Administration Regime, to apply solely to systemic DSA firms?
3. Do you have any comments on the intention to provide the BoE with the power to direct administrators, and to introduce further regulations in support of the FMI SAR to ensure the additional objective can be effectively managed, or what further regulation may be required?
4. Do you have any comments on the intention to require the BoE to consult with the FCA prior to seeking an administration order or directing administrators where regulatory overlaps may occur?

Submissions must be made by August 2, 2022, following which the government will consider all submissions and publish its response.
