**EXPLANATORY MEMORANDUM TO THE**

**FINANCIAL MARKETS AND INSOLVENCY (SETTLEMENT FINALITY) (AMENDMENT) REGULATIONS 2007**

**2007 No. 832**

**1.** This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Description

2.1 These regulations are made necessary by the changes to the Northern Ireland administration regime introduced by the Insolvency (Northern Ireland) Order 2005, S.I. 2005/1455 (N.I. 10) ("the 2005 Order") which thoroughly revises that regime. The modifications to domestic insolvency law required by the Directive referred to below therefore need to be updated.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

## 4. Legislative Background

4.1 These Regulations amend the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, S.I. 1999/2979 ("the 1999 Regulations"). The 1999 Regulations were extended to Northern Ireland by the Financial Markets and Insolvency (Settlement Finality)(Amendment) Regulations 2006, S.I. 2006/50 ("the 2006 Regulations"). Since the coming into force of the 2006 Regulations the new administration regime for Northern Ireland companies has been introduced by the 2005 Order. The 1999 Regulations implement the Directive 98/26 referred to below, accordingly the power used to make these Regulations is also section 2(2) of the European Communities Act 1972.

## 5. Extent

5.1 This instrument applies to the United Kingdom.

## 6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

## 7. Policy background

7.1 The 2005 Order amends among other things the administration regime in Part III of the Insolvency (Northern Ireland) Order 1989, S.I. 1989/2405 (N.I. 19) ("the 1989 Order") which is the principle piece of insolvency law in Northern Ireland. The

administration regime is a process through which a company in financial difficulties can benefit from a moratorium on legal action against it for a period during which it can seek to work through its difficulties under the control of an administrator. The administrator is an insolvency practitioner and is, or is deemed to be, an officer of the court. The changes made by the 2005 Order in Northern Ireland reflect those made to the administration regime in Great Britain by virtue of the Enterprise Act 2002 and identical modifications to those made in this instrument were made to the administration regime in Great Britain.

7.2 These Regulations ensure that the 1999 Regulations continue to implement correctly Directive 98/26/EC of the European Parliament and of the Council on settlement finality in payment and securities settlement systems (OJ No. L 166, 11.06.1998 p45 – 50) by minimising the disruption caused by insolvency proceedings brought against a participant in such a system. The need to make the amendments is due to the changes made to the Northern Ireland administration regime by the 2005 Order referred to above.

## 8. Impact

8.1 No Regulatory Impact Assessment has been prepared for this instrument as these amendments are consequential on the changes made to the administration procedure in Northern Ireland by the 2005 Order. A Regulatory Impact Assessment was prepared for the 2005 Order and was placed in the library of each House of Parliament. Copies are available at www.insolvencyservice.detini.gov.uk and can be obtained from the Insolvency Service Fermanagh House, Ormeau Avenue, Belfast, BT2 8NG.

## 9. Contact

9.1 Sarah Parkinson **at** Her Majesty's Treasury Tel: 020-7270 5912 or e-mail:sarah.parkinson@hm-treasury.x.gsi.gov.uk can answer any queries regarding the instrument.