

EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES ACT 2012 (TRANSITIONAL PROVISIONS) (RULES
AND MISCELLANEOUS PROVISIONS) ORDER 2013

2013 No. 161

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

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

2. Purpose of the instrument

2.1 This instrument provides for various transitional arrangements in respect of the coming into force of the Financial Services Act 2012 (“the 2012 Act”). The transitional arrangements relate to :

- the designation by Prudential Regulation Authority (PRA), the Financial Conduct Authority (FCA) and the Bank of England of rules and other instruments made by the Financial Services Authority (FSA),
- the exercise of functions by the FCA in the period up to 1 April 2013,
- directions and waivers in respect of rules made by the FSA, and
- amendments made to the Bank of England Act 1998 by the 2012 Act..

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

3.1 None.

4. Legislative Context

4.1 This instrument is being made by the Treasury in exercise of the powers conferred by section 119(3) of the 2012 Act, which received Royal Assent on 19 December 2012. This order will support the transition to the new regulatory system for financial services in the UK provided for in the 2012 Act.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Financial Services Act 2012 (Transitional Provisions) (Rules and Miscellaneous Provisions) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1 The Financial Services Act 2012 provides for the reform of financial regulation in the UK. In the place of the Financial Services Authority (FSA), it establishes a new system of financial services regulators comprising:

- An expert macro-prudential authority, the Financial Policy Committee (FPC) within the Bank of England to monitor and respond to systemic risks in the financial sector;
- A focused micro-prudential regulator, the Prudential Regulation Authority (PRA), to regulate firms that manage complex risks on their balance sheets - specifically, all deposit takers, insurers and some large investment firms; and
- A focused conduct of business regulator, the Financial Conduct Authority (FCA), to ensure that business across financial services and markets is conducted in a way that advances the interests of all users and participants.

7.2 In order to ensure a seamless transition to the new regulatory system, some functions will need to be carried out by the FCA, the PRA and the Bank of England before the commencement of the relevant provisions of the Act in full. For example, rules that will come into force need to be made, and published, in advance of that date so that persons subject to the new regulatory regime can prepare appropriately.

8. Consultation outcome

8.1 HM Treasury has consulted the FSA and the Bank of England in the preparation of this instrument. Due to the minor and technical nature of the instrument, and in line with common practice for secondary legislation that make minor transitional provisions, there has been no formal public consultation.

9. Guidance

9.1 None.

10. Impact

10.1 The instrument, in itself, does not impose any additional regulatory burdens on business, charities or voluntary bodies. The impact of the overall change to the regulatory system on business, charities or voluntary bodies, in so far as they are regulated financial services firms, is set out in the overarching impact assessment for the 2012 Act.

10.2 The impact on the public sector is set out in the overarching impact assessment for the 2012 Act.

10.3 An Impact Assessment has not been prepared for this instrument. Instead the overarching Impact Assessment that covers the changes to the regulatory system provided for by the 2012 Act is available on the Treasury website as Annex H to the following publication: http://www.hm-treasury.gov.uk/d/condoc_fin_regulation_draft_secondary_leg.pdf.

11. Regulating small business

11.1 This instrument will not impose additional burdens on small businesses.

12. Monitoring & review

12.1 HM Treasury will monitor the practical effects of this instrument to ensure it continues to meet the policy aims.

13. Contact

Chris Goodspeed at HM Treasury Tel: 0207 270 5690 or email: christopher.goodspeed@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.