

EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES AND MARKETS ACT 2000 (REGULATION OF
AUDITORS AND ACTUARIES) (PRA SPECIFIED POWERS) ORDER 2015

2015 No. 61

- 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 will give effect to the enforcement powers of the Prudential Regulation Authority (PRA) over the auditors and actuaries of large financial companies which it authorises. This instrument will allow the PRA to apply dissuasive sanctions for non-compliance with relevant PRA rules or statutory duties.

2.2 These rules and duties exist to facilitate the exchange of information and opinions between the PRA and the auditors and actuaries of entities it authorises.

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

3.1 None

4. Legislative Context

4.1 The PRA was given enforcement powers over auditors and actuaries under the Financial Services Act 2012, but is not able to use them until an order of the Treasury so provides. This order provides for the enforcement powers to have effect and be usable by the PRA.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Financial Services Act 2012 established the PRA and gave it a range of supervisory powers. This included the power to make rules ensuring it has an effective dialogue with the auditors and actuaries of companies it supervises, and powers to enforce those rules. However, these enforcement powers were only to be useable by the PRA if, following the commencement of the Act, it decided it needed them and asked the Treasury to give effect to them. The PRA has asked the Treasury to give effect to them, and the Government has agreed to do so.

7.2 Therefore this instrument gives effect to PRA powers already set out under the Financial Services Act 2012, which will allow it to apply sanctions to auditors and actuaries which breach relevant PRA rules or statutory duties. These sanctions include public censure, monetary fines, and disqualification from acting as an auditor or actuary of a PRA authorised person.

7.3 These powers were included in the Financial Services Act 2012 because following the financial crisis of 2008, it became clear that the financial services regulators and supervisors were not sufficiently communicating with auditors and actuaries. Auditors and actuaries are well placed to provide information and judgements on the underlying safety and soundness of a company in confidence to the company's supervisor. Allowing the PRA to use their enforcement powers will ensure they can effectively maintain the necessary dialogue with effected auditors and actuaries.

- Consolidation

7.4 Consolidation does not apply in this matter.

8. Consultation outcome

8.1 As this is a commencement order there is no formal consultation requirement. However, the PRA will be consulting prior to the use of these enforcement powers and will issue guidance on their application.

9. Guidance

9.1 The Government will not issue guidance on the application of these powers. The PRA will consult on the use of these enforcement powers, and subsequently issue guidance.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal, as the enforcement powers will only effect the auditors and actuaries of PRA-authorised persons where they have broken a pre-existing PRA rule or statutory duty. These powers do not impose any additional burdens on business, charities or voluntary bodies, who will be unaffected by them during the normal course of business.

10.2 There will be no impact on the public sector, as neither auditors nor actuaries of the public sector carry out external services to PRA authorised persons.

10.3 An Impact Assessment has not been prepared for this instrument since it solely activates existing enforcement powers which were introduced via the Financial Services Act 2012.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This instrument is only for commencement purposes, and so will not be reviewed.

13. Contact

Richard Waite at HM Treasury Tel: 020 7270 5915 or email:
Richard.waite@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.