

**EXPLANATORY MEMORANDUM TO**  
**THE FINANCIAL MARKET INFRASTRUCTURE ADMINISTRATION**  
**(DESIGNATION OF VOCALINK) ORDER 2018**

**2018 No. 858**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Treasury ("the Treasury") and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This Order exercises the Treasury's power under section 112(4) of Part 6 of the Financial Services (Banking Reform) Act 2013 (c.33) (the 2013 Act) to designate VocaLink Limited as an infrastructure company for the purposes of Part 6 of the Act. Part 6 provides a special procedure for the administration of operators of certain financial market infrastructure systems (known as "FMI administration"), and restricts the powers of persons other than the Bank of England in relation to the insolvency of infrastructure companies.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 As mentioned in paragraph 2.1 above, Part 6 of the 2013 Act makes provision for the special administration procedure known as FMI administration to apply to an infrastructure company within the meaning of section 112(2) of the 2013 Act. Section 112(2)(c) of the 2013 Act provides that an infrastructure company includes a company designated by the Treasury under section 112(4) of the 2013 Act.
- 4.2 Section 112(4) of the 2013 Act empowers the Treasury to designate a company if
- it provides services to a company falling within the definition of an infrastructure company as set out in section 112(2)(a) or (b) of the 2013 Act; and
  - the Treasury are satisfied that an interruption in the provision of those services would have a serious adverse effect on the effective operation of the recognised payment system or securities settlement system in question.
- 4.3 By this Order, the Treasury exercises its power to designate VocaLink Limited in respect of services it provides to the operators of Faster Payments Service, Bacs and LINK. Faster Payments Service, Bacs and LINK are recognised payment systems within the meaning of section 113 of the 2013 Act, a recognition order under section 184 of the Banking Act 2009 being in force in respect of these systems. This is the

first time that the Treasury has exercised its powers under section 112(4) of the 2013 Act.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England and Wales.

## **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**

### *What is being done and why*

- 7.1 Part 6 of the 2013 Act allows the Treasury to designate service providers as ‘infrastructure companies’, so that an FMI administration procedure would apply to those service providers. Paragraph 4.2 above sets out the criteria for designating a service provider as an infrastructure company.
- 7.2 VocaLink Limited provides critical services to three recognised payment systems (Bacs, Faster Payments Service and LINK). The Treasury considers that an interruption in VocaLink Limited’s services to the operators of these systems would have a serious adverse effect on the effective operation of those systems.
- 7.3 Designating VocaLink Limited will give the Bank of England a key role in the event of its insolvency in order to ensure continuity of services that are vital to the efficient operation of the financial system.

## **8. Consultation outcome**

- 8.1 The Government has consulted with all relevant parties (VocaLink Limited, the operators of the three payment systems in respect of which VocaLink Limited is being designated and the Bank of England), as required in Section 112(6) of the 2013 Act. There was broad support from the respondents that VocaLink Limited should be designated.

## **9. Guidance**

- 9.1 No guidance is being issued on the instrument since it is a designation order.

## **10. Impact**

- 10.1 The impact on businesses not significant. There is no impact on charities or voluntary bodies.
- 10.2 There is no impact on the public sector. If VocaLink Limited was to become insolvent, there would be a small impact on the Bank of England but such impact would not be significant.
- 10.3 A de-minimis impact assessment has been carried out. In line with Better Regulation guidance, the Treasury considers that the net impact on businesses will be less than £5 million a year. Due to this limited impact, a full business impact assessment was not required.

**11. Regulating small business**

11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring & review**

12.1 This Order contains provision for its review. Before the end of a five-year period beginning with the day on which this Order comes into force, the Treasury will carry out a review. The review will consider the extent to which the objectives of the regulatory provision imposed by this Order have been met, and whether those objectives could be met with a system that imposes less regulation. The conclusions of that review will be set out in a published report.

**13. Contact**

13.1 Connie Chen at the Treasury. Telephone: 0207 270 5856 or email: [Connie.Chen@hmtreasury.gov.uk](mailto:Connie.Chen@hmtreasury.gov.uk), can answer any queries regarding the instrument.