

**EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES ACT 2012 (CONSEQUENTIAL AMENDMENTS AND
TRANSITIONAL PROVISIONS) ORDER 2013**

2013 No. 472

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 consequential and transitional arrangements in connection with the Financial Services Act 2012 (“the 2012 Act”).

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

- 3.1 The 2012 Act substitutes a new Part 4A of the Financial Services and Markets Act 2000 (“the 2000” Act) in place of the existing Part 4 (which was, when originally enacted, numbered “Part IV”). This Order includes provision for all references to Part IV in subordinate legislation (however expressed) to become references to “Part 4A” of the 2000 Act. Following extensive searches the Treasury has concluded that there were no instances of a reference to “Part 4” or “Part IV” of the 2000 Act in subordinate legislation that required specific amendment and so the global amendment approach was adopted. A comparable global amendment was included in the Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I.2011/1043) by virtue of article 4 of that Order (see also the Annexes in the Explanatory Note to that Order). The Annex to this Explanatory Memorandum contains an illustrative list of provisions containing a reference to “Part 4” or “Part IV” of the 2000 Act.

- 3.2 A similar approach is adopted by the Order to references to Part X of the 2000 Act (replaced by Part 9A) and to references to the UK Listing Authority (a role which, under the 2000 Act as amended by the 2012 Act, will be carried out by the Financial Conduct Authority).

4. **Legislative Context**

- 4.1 This instrument is being made by the Treasury in exercise of the powers conferred by section 115(2) and 119(3), (4) and (5) 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 and amend related legislation to reflect the new system.

- 4.2 This Order amends subordinate legislation. Amendments to primary legislation in consequence of provision made by the 2012 Act are made by Schedules

17 to 19 to the 2012 Act itself and the Financial Services Act 2012 (Consequential Amendments) Order 2013 (made under section 118 of 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

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

7. Policy background

7.1 The 2012 Act 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.

This order transfers various functions of the FSA to the PRA and the Bank of England, and provides for the FSA to be renamed as the FCA. The order also amends a large amount of related legislation

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 this instrument, and in line with common practice for secondary legislation that makes consequential and transitional provisions, there has been no formal public consultation. The Government's approach to transitional provisions was briefly outlined in the consultation document *A new approach to financial regulation: draft secondary legislation* that was published in October 2012. The Government did not receive any substantial comments on this approach.

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 its 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.

Annex

Table 1

Enactment with reference to Part IV or Part 4

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(1)
Stamp Duty Reserve Tax Regulations 1986(2)
Insolvent Partnerships Order 1994(3)
The Credit Institutions (Protection of Depositors) Regulations 1995(4)
The Individual Savings Account Regulations 1998(5)
Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000(6)
The Stakeholder Pension Scheme Regulations (Northern Ireland) 2000(7)
The Stakeholder Pension Scheme Regulations 2000(8)
Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001(9)
Financial Services and Markets Act 2000 (Communications by Auditors) Regulations 2001(10)
The Uncertificated Securities Regulations 2001(11)
Financial Services and Markets Act 2000 (Fourth Motor Insurance Directive) Regulations 2002(12)
Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(13)
Credit Institutions (Reorganisation and Winding up) Regulations(14)
The Child Trust Funds Regulations 2004(15)
The Financial Conglomerates and Other Financial Groups Regulations 2004(16)
Financial Services and Markets Act 2000 (Stakeholder Products) Regulations(17)
The Cross-Border Insolvency Regulations 2006(18)
The Capital Requirements Regulations 2006(19)
The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007(20)
The Iran (Financial Sanctions) Order 2007(21)
The Regulated Covered bonds Regulations 2008(22)
The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008(23)
The Zimbabwe (Financial Sanctions) Regulations 2009(24)
The Burma/Myanmar (Financial Restrictions) Regulations 2009(25)

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- (1) S.I. 1975/1023
(2) S.I. 1986/1711
(3) S.I. 1994/2421
(4) S.I. 1995/1442
(5) S.I. 1998/1870
(6) S.I. 2000/178
(7) S.I. 2000/262
(8) S.I. 2000/1403
(9) S.I. 2001/2256
(10) S.I. 2001/2587
(11) S.I. 2001/3755
(12) S.I. 2002/2706
(13) S.I. 2003/231
(14) S.I. 2004/1045
(15) S.I. 2004/1450
(16) S.I. 2004/1862
(17) S.I. 2004/2738
(18) S.I. 2006/1030
(19) S.I. 2006/3221
(20) S.I. 2007/126
(21) S.I. 2007/281
(22) S.I. 2008/346
(23) S.I. 2008/1911
(24) S.I. 2009/847
(25) S.I. 2009/1495

The Saving Gateway Accounts Regulations 2009**(26)**
The Scottish and Northern Ireland Banknote Regulations 2009**(27)**
The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009**(28)**
The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010**(29)**
The Somalia (Asset-Freezing) Regulations 2010**(30)**
The Libya (Financial Sanctions) Order 2011**(31)**
The Libya (Asset Freezing) Regulations 2011**(32)**
Egypt Asset-Freezing Regulations 2011**(33)**
The Ivory Coast (Asset-Freezing) Regulations 2011**(34)**
The Democratic People's Republic of Korea (Asset-Freezing) Regulations 2011**(35)**
The Iran (Asset-Freezing) Regulations 2011**(36)**
Afghanistan (Asset-Freezing) Regulations 2011**(37)**
Al-Qaida (Asset-Freezing) Regulations 2011**(38)**
The Syria (European Union Financial Sanctions) Regulations 2012**(39)**
Democratic Republic of the Congo (Asset-Freezing) Regulations 2012**(40)**
Eritrea (Asset-Freezing) Regulations 2012**(41)**
Liberia (Asset-Freezing) Regulations 2012**(42)**
Lebanon and Syria (Asset-Freezing) Regulations 2012**(43)**
Democratic Republic of the Congo (Asset-Freezing) Regulations 2012**(44)**

(26) S.I. 2009/2997
(27) S.I. 2009/3056
(28) S.I. 2009/3093
(29) S.I. 2010/233
(30) S.I. 2010/2956
(31) S.I. 2011/548
(32) S.I. 2011/605
(33) S.I. 2011/887
(34) S.I. 2011/1086
(35) S.I. 2011/1094
(36) S.I. 2011/1129
(37) S.I. 2011/1893
(38) S.I. 2011/2742
(39) S.I. 2012/129
(40) S.I. 2012/1511
(41) S.I. 2012/1515
(42) S.I. 2012/1516
(43) S.I. 2012/1517
(44) S.I. 2012/1511