

**EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES ACT 2012 (RELEVANT FUNCTIONS IN RELATION
TO COMPLAINTS SCHEME) ORDER 2014**

2014 No. 1195

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 specifies certain functions of the Financial Conduct Authority as relevant functions for the purposes of the complaints scheme under Section 85 of the Financial Services Act 2012 (“the 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 85 of the Act. Part 6 of the Act makes provision for the regulators (the Financial Conduct Authority, the Prudential Regulation Authority and the Bank of England) to establish a scheme for the investigation of complaint arising in connection with the exercise of, or failure to exercise, any of their “relevant functions”. Section 85 specifies the relevant functions in relation to the Financial Conduct Authority and the Prudential Regulation Authority as being their functions under the Financial Services and Markets Act 2000 (other than their legislative functions) and such other functions as the Treasury may by order provide.

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 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 Act provided for the reform of financial regulation in the UK. In the place of the Financial Services Authority (FSA), it established 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.

The act imposes on the two new regulators and the Bank of England to establish a scheme for the investigation of complaints on how they have exercised, or failed to exercise, any of their “relevant functions”.

8. Consultation outcome

8.1 HM Treasury has consulted the FCA, PRA and the Bank of England in the preparation of this instrument.

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 Act.

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

Daniel Poxon at HM Treasury Tel: 0207 270 6534 or email:
Daniel.poxon@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.