

**EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES AND MARKETS ACT 2000 (RELEVANT AUTHORISED
PERSONS) ORDER 2015**

2015 No. [XXXX]

- 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 To make certain foreign credit institutions and investment firms that have a branch in the United Kingdom into relevant authorised persons for the purposes of certain provisions of Part 5 of the Financial Services and Markets Act 2000.

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

3.1 The review provision in article 3 of this Order is included pursuant to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (secondary legislation: duty to review).

- 4. Legislative Context**

4.1 This Order is made under section 71A of the Financial Services and Markets Act 2000 which was inserted by section 33 of the Financial Services (Banking Reform) Act 2013.

- 5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

- 6. European Convention on Human Rights**

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

In my view the provisions of the Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015 are compatible with the Convention rights.

7. Policy background

7.1 Part 4 of the Financial Services (Banking Reform) Act 2013 amended Part 5 of the Financial Services and Markets Act 2000 to put in place the legal framework for reforms to strengthen the regulation of individuals working in the UK banking sector. These reforms will apply to banks incorporated in the UK, UK building societies and credit unions and to certain UK-based investment firms which are subject to prudential regulation by the Prudential Regulation Authority.

7.2 Part 4 of the Financial Services (Banking Reform) Act 2013 also gave the Treasury the power to extend the reforms to cover the UK branches of foreign banks and investment firms by statutory instrument. The Treasury is required to consult the Prudential Regulation Authority and the Financial Conduct Authority, organisations which represent interests substantially affected by the proposals and any other persons it considers appropriate before starting the Parliamentary process.

8. Consultation outcome

8.1 There were 3 non-confidential responses to the public consultation. Respondents accepted that the reforms applying in relation to UK institutions should also apply in relation to UK branches of foreign institutions. Respondents also made a number of specific comments on the proposal which are discussed in the consultation outcome document *Regulating individual conduct in banking: UK branches of foreign banks* available on the gov.uk website.

8.2 Following the public consultation, the Economic Secretary to the Treasury announced in a Written Ministerial Statement to Parliament (Hansard: 3 Mar 2015: Column 47WS) that the Government had decided to make the Order, subject to Parliamentary approval.

9. Guidance

9.1 The Prudential Regulation Authority and the Financial Conduct Authority will need to make rules in order to apply detailed implementing measures. The regulators have the power to publish appropriate guidance on their rules and other matters.

10. Impact

10.1 The impact on business is that UK branches of foreign institutions will incur costs in setting up and operating the systems needed to comply with new requirements in or made under Part 5 of the Financial Services and Markets Act 2000. There will be no impact on charities or voluntary bodies.

10.2 There will be an impact on the public sector, mainly in a reduction in the cost of processing applications for approval of persons to perform functions in UK branches under Part 5 of the Financial Services and Markets Act 2000.

10.3 An Impact Assessment is published alongside this Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The order applies to small business. In practice, no international bank or investment firm operating through a branch in the UK will be a small business.

12. Monitoring & review

12.1 Pursuant to section 28 of the Small Business, Enterprise and Employment Act 2015, Article 3 of the Order makes provision for the Order to be reviewed within 5 years of its coming into force. This review is expected to be completed in July 2020. The policy will also be kept under review as part of the general process of keeping the provisions of the Financial Services and Markets Act 2000 under review.

13. Contact

David Sly at HM Treasury email: david.sly@hmtreasury.gsi.gov.uk can answer any policy queries regarding the instrument. Adam Goodyer at Treasury Legal Advisers email: adam.goodyer@hmtreasury.gsi.gov.uk can answer any legal queries regarding the instrument.