EXPLANATORY MEMORANDUM TO THE

CRIME (INTERNATIONAL CO-OPERATION) ACT 2003 (DESIGNATION OF PROSECUTING AUTHORITIES) (AMENDMENT) ORDER 2004

2004 No. 1747

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This is an amending Order to correct an error in article 2(2) of the Crime (International Co-operation) Act 2003 (Designation of Prosecuting Authorities) Order 2004 (SI (2004) No. 1034), which inaccurately designated "the Director of the Financial Services Authority". It correctly designates "the Financial Services Authority".

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

3.1 None.

4. Legislative Background

4.1 The Crime (International Co-operation) Act 2003 makes provision for furthering co-operation with other countries in respect of criminal proceedings and investigations (mutual legal assistance).

4.2 Section 7(1) of the Act provides for any judicial authority listed in section 7(4) to issue a request for assistance in obtaining outside the United Kingdom evidence for use in criminal proceedings or investigations in the UK. Section 7(5) provides that a designated prosecuting authority may itself request such assistance. This avoids the need for prosecuting authorities to apply to a court when they require assistance from abroad.

4.3 This Order is made in exercise of powers conferred on the Secretary of State by virtue of section 7(5) of the Act.

5. Extent

5.1 This instrument applies to England, Wales and Northern Ireland.

6. Policy background

6.1 It is necessary to amend the first Order made under the section 7(5) powers because rather than being headed by a Director, the FSA has a Board. The wording has the effect of preventing the FSA from issuing letters of request itself.

6.2 The FSA is seeking assistance from overseas in an increasing number of its criminal prosecutions. It currently has to apply to a court to issue requests on its behalf and wishes to be designated in order to speed up the request process.

7. Impact

7.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

7.2 There is no impact on the public sector.

8. Contact

Claire Fielder at the Home Office Tel: 020 7273 3910 or e-mail: claire.fielder@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.