EXPLANATORY MEMORANDUM TO

THE FINANCIAL SERVICES ACT 2012 (RELEVANT FUNCTIONS IN RELATION TO COMPLAINTS SCHEME) (AMENDMENT) ORDER 2026

2026 No. 726

1. Introduction

1.1 This Explanatory Memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Rachel Blake, Economic Secretary to the Treasury at His Majesty's Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Emily Bayley, Deputy Director for Sanctions, Illicit Finance and Security at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Monica Hanna at HM Treasury can be contacted by email at the following address with any queries regarding the instrument: Monica.Hanna@hmtreasury.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Statutory Instrument (SI) widens the remit of the Financial Regulators Complaints Commissioner (FRCC), as set out in the Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) Order 2014 ("the 2014 Order"), to include complaints about the exercise by the Financial Conduct Authority (FCA) of its supervisory functions under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the MLRs").

4.2 The SI also makes minor and technical changes to the 2014 Order to correct drafting errors.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is for England and Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is for England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The SI widens the remit of the FRCC, whose purpose is to ensure the prompt, independent investigation of complaints made against the UK's three largest financial regulators (the FCA, the Prudential Regulation Authority and the Bank of England) in respect of their relevant functions, for example complaints about maladministration.

5.2 This follows a public consultation conducted by HM Treasury in 2024 on changes to the MLRs[1]. The consultation included a proposal to widen the information sharing gateways in the MLRs to include the FRCC, to ensure that the FCA could share with the FRCC information gained in the course of carrying out MLRs supervision. This change was subsequently implemented via The Money Laundering and Terrorist Financing (Amendment) Regulations 2026. However, it became clear while further developing this proposal that the FRCC's remit did not include the investigation of complaints about FCA supervision under the MLRs. This is likely due to an oversight in the drafting of the 2014 Order.

5.3 Following further discussion with the FCA and the FRCC, HM Treasury have decided to address this oversight via this SI. Expanding the FRCC's remit to include FCA supervisory functions under the MLRs will mean the FRCC is better able to fulfil its purpose of holding the financial regulators to account by investigating complaints against them. The FCA supervises approximately 16,000 financial sector businesses for compliance with the MLRs and MLRs supervision constitutes a significant element of the FCA's regulatory activity.

What was the previous policy, how is this different?

5.4 Under the FRCC's existing remit as set out in the 2014 Order, the FRCC could not investigate complaints made by supervised businesses about the FCA's exercise of its functions under the MLRs. This change will expand the FRCC's remit so that it can investigate complaints about the FCA's exercise of its functions under the MLRs, except for the FCA's legislative functions of making technical standards and giving guidance, which have been excluded in line with the way in which the 2014 Order specifies FCA functions under other legislation.

6. Legislative and Legal Context

How has the law changed?

6.1 The SI amends the 2014 Order by inserting in article 2 the FCA's functions under the MLRs. This means that such functions are specified for the purpose of section 85(2)(b) of the Financial Services Act 2012 ("the 2012 Act"), and are therefore relevant in relation to the complaints scheme. The FCA will be required, as a result of section 84(1) of the 2012 Act, to make arrangements for the investigation of complaints arising from the exercise, or failure to exercise, of any of its functions under the MLRs.

6.2 References in the 2014 Order have also been amended to ensure accuracy. This includes amending a provision to refer to guidance given under paragraph 7 of Schedule 1 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 ("the 2017 Regulations").

6.3 Additionally, an amendment is made to the 2014 Order to exclude the FCA's and the PRA's function of preparing and issuing a statement of policy with respect to penalties imposed under the 2017 Regulations (under paragraph 14 Schedule 1 of those Regulations). Since regulators' legislative function of issuing general guidance was not intended to be a relevant function for the purposes of the complaints scheme, it is therefore appropriate that the procedure for free issue has applied in respect of this SI.

[1] For the full consultation and response, see: https://www.gov.uk/government/consultations/improving-the-effectiveness-of-the-money-laundering-regulations

Why was this approach taken to change the law?

6.4 Currently the FCA's functions under the MLRs are not specified as relevant functions in relation to the complaints scheme. The SI is therefore needed to amend the 2014 Order as described above and ensure these functions are specified.

Section 85(2)(a) of the 2012 Act excludes the FCA's legislative functions (as listed in section 85(4) of the 2012 Act, and which for example includes issuing general guidance) from being relevant functions in relation to the complaints scheme. This is the case with the majority of functions already specified in article 2 of the 2014 Order, and the same approach is taken here in relation to the FCA's MLRs functions - of making technical standards and giving guidance - as they are also legislative functions, which are not subject to the complaints scheme.

7. Consultation

Summary of consultation outcome and methodology

7.1 A formal consultation was not undertaken because no significant impact on the private, voluntary sector or community bodies is foreseen. MLRs-regulated businesses had the opportunity to comment on FRCC investigations into FCA supervision under the MLRs as part of the 2024 consultation on Improving the Effectiveness of the MLRs.

7.2 HM Treasury held informal discussions with both the FCA and the FRCC and they were supportive of the change and the drafting approach used.

8. Applicable Guidance

8.1 Guidance about making a complaint to the FRCC is available on its website: https://frccommissioner.org.uk/. This will be updated where necessary following this SI to make clear that the FRCC's remit includes FCA functions under the MLRs.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no significant, impact on the private, voluntary sector or community bodies is foreseen.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the legislation does not impose any requirements on these sectors. A small number of MLRs-regulated businesses are likely to benefit from gaining the ability to bring complaints to the FRCC about FCA supervision under the MLRs, but it is not possible to quantify this impact.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is that the FRCC will be empowered to investigate complaints about FCA supervision under the MLRs. In practice this is likely to add a small number of cases to the FRCC's existing caseload and the impact on the FRCC will be manageable. For the FCA, this change is expected to have the indirect impact of improving the quality and consistency of FCA supervision under the MLRs.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 HM Treasury will monitor the impact of this SI through the FRCC's annual report, which will also continue to be laid before Parliament in the usual way.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Economic Secretary to the Treasury, Rachel Blake, has made the following statement: "It is not proportionate to include a review clause in this instrument because the estimated annual net direct cost to business is less than £5 million and there are no factors present which make it particularly desirable to include a review clause."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").