EXPLANATORY MEMORANDUM TO

THE FINANCIAL SERVICES AND MARKETS ACT 2000 (DESIGNATED PROFESSIONAL BODIES) (AMENDMENT) ORDER 2006

2006 No. 58

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument makes the Royal Institution of Chartered Surveyors (RICS) a designated professional body (DPB) for the purposes of the Financial Services and Markets Act 2000 (FSMA). This enables members of the Institution to be exempt from the requirement to obtain permission from the Financial Services Authority (FSA) in order to provide insurance mediation and instead be regulated by the RICS.

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

3.1 None

4. Legislative Background

4.1 This instrument amends article 2 of the Financial Services and Markets Act 2000 (Designated Professional Bodies) Order 2001. It does so under the powers set out in section 326 of FSMA.

4.2 The effect of the instrument is to grant DPB status to RICS. DPB status allows qualifying bodies to regulate their members' provision of certain financial services including insurance mediation in place of the FSA. Bodies already designated include the Law Society, the Institutes of Chartered Accountants for the different parts of the United Kingdom and most recently the Council for Licensed Conveyancers.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 In order to qualify for DPB status under section 326 of FSMA at least two conditions must be met:

- the basic condition that the body must have in place rules for members of the profession it covers for exempt regulated activities; and

- one of four corollary conditions, which include membership of the body being a requirement under an enactment, or that the body itself be recognised for the purpose of an enactment other than FSMA and the recognition has not been withdrawn.

7.2 The Treasury considers that RICS meets the basic condition and the additional conditions referred to in the previous paragraph.

7.3 The FSA has confirmed that it is minded to approve, under section 332 of FSMA, RICS' proposed rules governing the carrying on by chartered surveyors of regulated activities for which they are not exempt persons. Whilst RICS' governing council has already approved these proposed changes, Privy Council approval is required for them to take effect. The Privy Council is making the necessary arrangements for allowing RICS to make the necessary bye-law changes.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no significant impact on business, charities or voluntary bodies. It enables RICS to regulate their members' provision of insurance mediation.

8.2 The impact on the public sector is reduced regulatory strain on the FSA.

9. Contact

Andrew Vereker at HM Treasury, Tel: 020 7270 5780 or e-mail: andrew.vereker@hm-treasury.gov.uk can answer any queries regarding the instrument.