EXPLANATORY MEMORANDUM TO

THE FINANCIAL SERVICES (BANKING REFORM) ACT 2013 (CONSEQUENTIAL AMENDMENTS) (No. 2) ORDER 2016

2016 No. 1023

1. Introduction

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

2. Purpose of the instrument

2.1 This Order amends secondary legislation in consequence of the amendments made to section 66 of the Financial Services and Markets Act 2000 ("FSMA") and the insertion of sections 66A and 66B by the Financial Services (Banking Reform) Act 2013 ("the 2013 Act").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The 2013 Act made a number of amendments to FSMA including, in particular, amendments to section 66 and the insertion of sections 66A and 66B which relate to the disciplinary powers of the Financial Conduct Authority and Prudential Regulation Authority applying to individuals.

4.2 This Order amends secondary legislation which specifies a "qualifying EU provision" for the purposes of determining whether a person has been knowingly concerned in a contravention of a relevant requirement by an authorised person under new sections 66A and 66B of FSMA.

5. Extent and Territorial Application

5.1 This instrument extends to all of the United Kingdom.

5.2 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

What is being done and why

7.1 The 2013 Act made a number of changes to provisions of FSMA relating to the conduct of persons working in the financial services sector in order to implement recommendations made by the Parliamentary Commission on Banking Standards in its final report *Changing banking for good* (HL Paper 27-1 HC 175-1, June 2013). These included detailed changes to sections 66 and 67 of FSMA which set out the disciplinary powers and processes applying to individuals and the insertion of sections 66A and 66B which defines misconduct for the purposes of regulatory action.

7.2 This Order amends secondary legislation to reflect the changes made to section 66 and the insertion of sections 66A and 66B.

Consolidation

7.3 There are no plans to consolidate the provisions of this Order with any other instrument.

8. Consultation outcome

8.1 No consultation was carried out.

9. Guidance

No guidance has been produced to accompany this instrument.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 This order will not be reviewed. It makes only consequential amendment to secondary legislation.

13. Contact

13.1 Anne Macadam at the Treasury (email: anne.macadam@hmtreasury.gsi.gov.uk) can answer any policy queries regarding the instrument.