EXPLANATORY MEMORANDUM TO

THE FINANCIAL SERVICES (BANKING REFORM) ACT 2013 (CONSEQUENTIAL AMENDMENTS) ORDER 2016

2016 No. 163

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 sections 66 and 67 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. This Order also makes minor amendments to secondary legislation under section 2(2) of the European Communities Act 1972 in consequence of amendments made to section 67 of FSMA by the Financial Services Act 2010 and the Financial Services Act 2012.

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 This Order amends secondary legislation which applies with modification, or makes provision corresponding to, the disciplinary provisions in relation to approved persons in sections 66, 66A and 67 of the Financial Services and Markets Act 2000 ("FSMA"). The Financial Services (Banking Reform) Act 2013 amended the disciplinary provisions in FSMA which amendments come into force on 7 March 2016. Therefore, this Order amends the relevant secondary legislation to ensure that it reflects the amendments to sections 66 and 67 of FSMA and the insertion of sections 66A and 66B. This Order also makes minor amendments to secondary legislation which applies with modification section 67 of FSMA to reflect amendments to that section made by the Financial Services Act 2010 and the Financial Services Act 2012. These minor amendments are made under section 2(2) of the European Communities Act 1972.

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 Financial Services (Banking Reform) Act 2013 made a number of changes to provisions of the Financial Services and Markets Act 2000 (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 in relation to individuals and insertion of sections 66A and 66B defining misconduct for the purposes of regulatory action. These powers and processes are also applied (with modifications) by a number of statutory instruments regulating aspects of financial services or related activities which are not within the scope of FSMA and this order makes consequential amendments to those instruments.

Consolidation

7.2 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

9.1 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 provision in relation to which the duty in section 28 of the Small Business, Enterprise and Employment Act 2015 does not apply.

13. Contact

13.1 David Sly at the Treasury (email: david.sly@hmtreasury.gsi.gov.uk) can answer any policy queries regarding the instrument. Michael Cohen (email:

michael.cohen@hmtreasury.gsi.gov.uk can answer any legal queries regarding the instrument.