EXPLANATORY MEMORANDUM TO

THE FINANCIAL SERVICES (DESIGNATED CONSUMER BODY AND DESIGNATED REPRESENTATIVE BODY) ORDER 2026

2026 No. 124

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 Lucy Rigby KC MP, the Economic Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Catherine McCloskey, Deputy Director for Financial Services Strategy at HM Treasury, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Caroline Heisig at HM Treasury can be contacted by email at the following address with any queries regarding the instrument: caroline.heisig@hmtreasury.gov.uk. Alternatively, the department can be contacted by telephone: 020 7270 5000.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Order designates the Money and Mental Health Policy Institute (MMHPI) as a representative body capable of making certain fast-track complaints to the Financial Conduct Authority (FCA) and the Payment Systems Regulator (PSR) where in their view there is, or appears to be, significant damage to the interests of certain consumers of financial services or of those who use or are likely to use services provided by payment systems.

4.2 Such complaints benefit from a 'fast track' procedure, under which the relevant regulator must respond to a complaint within 90 days after the day on which it was received. The response must set out how it proposes to deal with the complaint including whether it intends to take any action and, if so, what action. The response must, among other things, state the regulator's reasons for its proposals.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is the United Kingdom.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom

5. Policy Context

What is being done and why?

5.1 This instrument designates MMHPI as a "super-complainant" capable of making fast-track complaints to the FCA and PSR. HM Treasury considers that this is beneficial to the interests of consumers of financial services and service-users of payments systems, as it would enable the MMHPI to represent their interests in cases where the MMHPI considers that their interests may be significantly damaged.

5.2 In this Explanatory Memorandum, "super-complaint" refers to a complaint made by a body designated by HM Treasury under the relevant financial services legislation, where the designated body considers that a feature or combination of features of a certain market is, or appears to be, significantly damaging to the interest of specified groups.

5.3 The super-complaint process is intended to be a fast-track system for designated consumer bodies or designated representative bodies (or, super-complainants) to bring to the attention of the FCA or the PSR market features that are, or appear to be, significantly damaging the interests of consumers in relation to financial services (as defined in the Financial Services and Markets Act 2000 (FSMA 2000)) or damaging the interests of those who use, or are likely to use, services provided by payment systems (service-users). The process is also intended to encourage well-researched and substantial complaints to be made on behalf of groups who may not find it easy to make such complaints individually.

5.4 Under sections 234E(1) of FSMA 2000 and 69(1) of the Financial Services (Banking Reform) Act 2013 (FSBRA 2013), the FCA and the PSR respectively are required to publish a response to a super-complaint within 90 days after the date on which the complaint was received stating how they propose to deal with the complaint, and the reasons for their proposed course of action if they have decided to take action in the case.

5.5 Only bodies designated by order by HM Treasury as super-complainants are eligible to make super-complaints to the FCA and the PSR. Applications for designation may be made to HM Treasury, who may consider whether the body represents the interests of consumers or service-users, as the case may be, and meets the relevant criteria published by HM Treasury. HM Treasury is required to set out the criteria to be applied by them in determining whether to make or revoke a designation under sections 234C(3)(b) of FSMA 2000 and 68(3)(b) of FSBRA 2013.

5.6 The criteria for the FCA[1] and the PSR[2] are, broadly, that:

- The body is so constituted, managed and controlled as to be expected to act independently, impartially and with complete integrity.
- The body can demonstrate considerable experience and competence in representing the interests of consumers of any description.
- The body has the capability to put together reasoned super-complaints on a range of issues.
- The body is ready and willing to co-operate with the FCA/PSR. In particular, the body agrees to take account of any guidance issued by the FCA/PSR on the making of super-complaints.

[1] https://www.gov.uk/government/publications/guidance-for-bodies-seeking-designation-as-super-complainants-to-the-financial-conduct-authority

[2] https://www.gov.uk/government/publications/super-complainants-for-the-payment-systems-regulator

- The fact that a body has a trading arm will not disqualify it from being designated provided that the trading arm does not control the body; any profits of the trading arm are only used to further the stated objectives of the body; and the body has established procedures to ensure that any potential conflicts of interest are properly dealt with.

5.7 MMHPI applied to HM Treasury in August 2022 to be designated as a designated consumer body for the purpose of making a complaint to the FCA and as a designated representative body for the purpose of making a complaint to the PSR. MMHPI is a charity representing the interests of consumers of financial services and of users of services provided by payment systems. In its application MMHPI outlined several examples of its past work on consumer issues relevant to the FCA and the PSR.

5.8 HM Treasury consider it would be beneficial to designate MMHPI. They are satisfied that MMHPI represents the interests of consumers and service users and meets the applicable criteria.

5.9 Following the making of this Order, MMHPI will be eligible to make super-complaints to the FCA and the PSR.

What was the previous policy, how is this different?

5.10 The same four bodies are currently designated as super-complainants in respect of both the FCA and PSR, and an additional body is designated as a super-complainant in respect of the PSR only.

5.11 MMHPI's application to be designated as a super-complainant is the first such application since those designations were made, and will mean that it is also able to make super-complaints in relation to the FCA and PSR.

6. Legislative and Legal Context

How has the law changed?

6.1 This Order is being made under section 234C(2) of FSMA 2000 and section 68(2) of FSBRA 2013, which make provision for certain representative bodies to be designated by HM Treasury to make certain complaints to the FCA and the PSR respectively.

6.2 Section 234C was inserted into FSMA 2000 by section 43 of the Financial Services Act 2012.

6.3 Designated consumer bodies designated under section 234C(2) of FSMA 2000 may make a complaint to the FCA that a feature, or combination of features, of a market in the United Kingdom for financial services or of a market in Great Britain for claims management services is, or appears to be, significantly damaging the interests of consumers (see section 234C(4) as to the meaning of consumer).

6.4 Designated representative bodies designated under section 68(2) of FSBRA 2013 may make a complaint to the PSR that a feature, or combination of features, of a market in the United Kingdom for services provided by payment systems is, or appears to be, significantly damaging the interests of those who use, or are likely to use, those services.

6.5 Under section 234C(1A) of FSMA 2000, a designated consumer body may not make a complaint to the FCA if it is a complaint which could be made to the PSR by a designated representative body under section 68 of FSBRA 2013.

6.6 Under section 234C(3)(a) of FSMA 2000 and section 68(3)(a) of FSBRA 2013, HM Treasury may designate a body, by order, only if it appears to them to represent the

interests of consumers or service-users respectively. Under section 234C(3)(b) of FSMA 2000 and section 68(3)(b) of FSBRA 2013, HM Treasury must also publish criteria to be applied by them in determining whether to make or revoke a designation, those criteria are broadly set out at paragraph 5.6 above.

6.7 HM Treasury are satisfied the requirements of sections 234C(3) of FSMA 2000 and 68(3) of FSBRA 2013 have been met and so make this Order designating MMHPI as both a designated consumer body and a designated representative body.

6.8 Designation of the relevant body by order is the only way in which that body may become eligible to make the super complaints described.

6.9 Super-complainants to the FCA were first designated by the Financial Services and Markets Act 2000 (Designated Consumer Bodies) Order 2013 (SI 2013/3191) and super-complainants to the PSR were first designated by the Financial Services (Banking Reform) Act 2013 (Designated Representative Bodies) Order 2016 (SI 2016/202).

6.10 The Government has announced its intention to legislate to abolish the PSR and transfer its functions to the FCA. Subject to Parliamentary approval this would mean the FCA would take on the PSR's responsibilities, including for promoting competition and innovation in payment systems and the services provided by payment systems, as well as supporting the interests of consumers and businesses who make payments every day. The Government will bring forward draft legislation when parliamentary time allows. The Government expects that the legislation, if approved by Parliament, would have the effect that super-complaints that would have been previously submitted to the PSR would be considered by the FCA.

Why was this approach taken to change the law?

6.11 Provision in this Order could have been made by amendments to the previous designation orders, but the decision was taken to designate the relevant body in a single order as this was considered more efficient and concise.

7. Consultation

Summary of consultation outcome and methodology

7.1 With its consent MMHPI's application and supporting material (including details of MMHPI's constitution, its trustees and senior executives, and statutory accounts) were published on the gov.uk website[3] on 31 August 2022, and any stakeholders were able to comment over a 12-week period.

7.2 The Government received no views during this 12-week period. While some time has elapsed, given the lack of responses in the past it would not be proportionate to run this process again

8. Applicable Guidance

8.1 Guidance about how to make an application to be designated as a super-complainant to the FCA[4] or the PSR[5], and setting out the criteria to be met, is available on the gov.uk website.

[3] https://www.gov.uk/government/publications/application-super-complainant-to-the-fca-and-psr
[4] https://www.gov.uk/government/publications/guidance-for-bodies-seeking-designation-as-super-complainants-to-the-financial-conduct-authority
[5] https://www.gov.uk/government/publications/super-complainants-for-the-payment-systems-regulator

8.2 The FCA[6] and the PSR[7] have separately published guidance for designated consumer bodies and designated representative bodies respectively on making a super-complaint. This published guidance includes the approach expected from the super-complainant in relation to the making of the complaint, and what the complaint should include.

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 there is no, or no significant, impact on business, charities or voluntary bodies.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies. Although designation may generate more work for MMHPI, who will be eligible to make super-complaints to the FCA and the PSR, this will be self-determined by MMHPI.

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

9.4 There is no, or no significant, impact on the public sector. For example, only two super-complaints have been received by either the PSR or the FCA, both by the Consumer Association (Which?) to the PSR in 2016 and to the FCA in September 2025. Both the PSR and FCA anticipate using flexible resource to respond to any future super complaint rather than expanding FTE as a result of designating MMHPI as a super complainant.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 HM Treasury will monitor the appropriateness of designations from time to time as appropriate.

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, Lucy Rigby KC MP, the Economic Secretary to the Treasury, has made the following statement:

10.3 "It is not proportionate to include a review clause in this instrument because the estimated annual net direct cost to business is less than £10 million and there are no factors present which make it particularly desirable to include a review clause. In light of this assessment, we have revisited the Financial Services (Banking Reform) Act 2013 (Designated Representative Bodies) Order 2016 and consider that this order did make regulatory provision as defined in section 32(4) of the Small Business, Enterprise and Employment Act 2015. However, the inclusion of a review clause in that instrument would not be appropriate for the same reasons as apply in relation to the current order."

[6] https://www.fca.org.uk/publication/finalised-guidance/fg13-01-designated-consumer-bodies.pdf
[7] https://www.psr.org.uk/publications/policy-statements/final-super-complaints-guidance/

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").