EXPLANATORY MEMORANDUM TO

THE PUBLIC OFFERS AND ADMISSIONS TO TRADING (AMENDMENT AND CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) REGULATIONS 2025

2025 No. 1076

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, Economic Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Tom Duggan, Deputy Director for Securities and Markets, at the Treasury confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Amy Gibbons at HM Treasury can be contacted by email at the following address with any queries regarding the instrument: Capital.Markets@hmtreasury.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes consequential amendments arising out of the commencement of provisions in the Public Offers and Admissions to Trading Regulations 2024 (POATR), sets out transitional provisions in relation to the new regulated activity introduced by the POATR, and makes a minor amendment to the Financial Conduct Authority's (FCA) investigatory powers provided under the POATR.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 The POATR replaces the assimilated Prospectus Regulation and creates a new framework for the offering of securities to the public in the UK.[1]

5.2 The new Prospectus regime established by POATR will come into force alongside the commencement of the revocation of assimilated EU law relating to prospectuses. This will be delivered in a separate commencement instrument made in early 2026.

[1] https://www.legislation.gov.uk/uksi/2024/105/contents/made

5.3 This instrument makes consequential amendments to reflect those revocations, repeals and amendments of retained EU law, to ensure continuity at the point of revocation.

5.4 This instrument also updates the FCA's powers to appoint investigators to investigate suspected breaches of the relevant rules and requirements to align with the baseline powers established in the Financial Services and Markets Act 2000 (Designated Activities) (Supervision and Enforcement) Regulations 2025.[2]

Transitional provisions related to public offer platforms

5.5 Under the assimilated Prospectus Regulation, a public offer of unlisted securities of €8 million or above requires a prospectus. Under the POATR, a prospectus will no longer be required for such offers; instead, the new regime creates an exemption for offers of securities at or above £5 million which are made through a public offer platform.

5.6 To allow for the intended changes above, the POATR created a new regulated activity covering the operation of a public offer platform, such as a securities-based crowdfunding platform, by amending the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO).[3]

5.7 Firms will need to hold the appropriate FCA permission for operating a public offer platform to facilitate public offers above £5m.

5.8 The FCA began industry engagement on its new rule-making powers in May 2023 and published feedback in December 2023. It then consulted on rules for the new POATR regime and public offer platforms in July 2024, followed by a further consultation on both in January 2025. The FCA published their final prospectus rules on 15 July[4], giving firms approximately 6 months to prepare for the new regime to come into force, which may include preparing applications to the FCA for authorisation or variation of permission to operate a public offer platform.

5.9 Under the Financial Services and Markets Act 2000 (FSMA 2000), the FCA has 6 months to determine complete authorisation applications, and 12 months in relation to incomplete applications. This means, without legislative intervention, normal market activity i.e. capital raising worth more than £5million outside a recognised exchange, could be disrupted by the POATR prohibition by up to a year as firms wait to receive authorisation.

5.10 This instrument therefore seeks to address this issue in the immediate term by making transitional provisions to allow FCA authorised firms to carry on the new regulated activity while waiting to receive permission to carry on the new regulated activity. These changes will mitigate any potential market disruption and ensure a smooth transition to the new regime.

5.11 Under section 55I FSMA, a PRA authorised firm that wants to add a further regulated activity to its permission must apply to the PRA. To maintain effective FCA oversight, PRA authorised firms may not carry on the new regulated activity while waiting to receive permission. Similarly to non-authorised persons, PRA authorised firms may apply for authorisation to operate a public offer platform, without benefiting from the transitional provisions.

[2] https://www.legislation.gov.uk/uksi/2025/22/made
[3] https://www.legislation.gov.uk/uksi/2001/544
[4] https://www.fca.org.uk/publications/policy-statements/ps25-9-new-rules-public-offers-admissions-trading-regime

What was the previous policy, how is this different?

5.12 This instrument makes provision in advance of the commencement of the POATR to ease the transition from the EU-inherited prospectus regime to the new regime established under the POATR.

5.13 This includes consequential amendments to legislation to ensure continuity once the assimilated Prospectus Regulation is revoked.

5.14 The POATR created a new exception for offers of securities at or above £5 million which are made through a public offer platform.

5.15 Regulation 46 of the POATR amended the RAO and created a new regulated activity covering the operation of a public offer platform.

5.16 To ease the implementation of the new public offer platform regime, this instrument establishes an interim permissions regime. This enables Part 4A authorised firms to operate as a public offer platform, and approve financial promotions, pending the grant of the relevant FCA permissions.

5.17 This instrument also empowers the FCA to compel information from all necessary third parties to ensure they can act at speed and compel information and interviews to investigate potential misconduct. Previously, they were limited to compelling information from 'connected persons'.

6. Legislative and Legal Context

How has the law changed?

6.1 When the UK left the EU, the body of EU legislation that applied directly in the UK at the point of exit was transferred onto the UK statute book by the European Union Withdrawal) Act 2018. This was known as "retained EU law". From 1st January 2024 this became "assimilated law" as a result of the Retained EU Law (Revocation and Reform) Act 2023.

6.2 The relevant retained EU law is Regulation (EU) 2017/1129 of the European Parliament and of the Council. This piece of legislation became part of UK law by virtue of the European Union (Withdrawal) Act 2018 and is referred to as the UK Prospectus Regulation.

6.3 The remainder of UK regulation in this area is largely contained in Part 6 of FSMA 2000, which covers, among other matters, the regulation of prospectuses and public offers of securities.

6.4 Section 1 of the Financial Services and Markets Act 2023 repeals retained EU law relating to financial services, covered by Schedule 1 to that Act, subject to commencement by HM Treasury.

6.5 The POATR replaces the assimilated Prospectus Regulation and creates a new framework for the offering of securities to the public in the UK.

6.6 Commencement of the repeal of relevant retained EU law that is replaced by the Public Offers and Admissions to Trading Regulations 2024 will be dealt with in a separate commencement instrument.

6.7 This instrument makes several amendment, transitional and consequential provisions.

Amendment provisions

6.8 This instrument uses section 71Q FSMA 2000 to amend regulation 44 of the POATR to update the FCA's investigation powers to align with the baseline powers established in the Financial Services and Markets Act 2000 (Designated Activities) (Supervision and Enforcement) Regulations 2025, such that they may compel information from all necessary third parties.

Transitional provisions

6.9 This instrument uses section 22, section 55NB, section 428(3) and paragraph 25 of Schedule 2 to FSMA 2000 to make transitional provisions connected to regulation 46 of the POATR, which adds a new regulated activity of operating an electronic system by means of which a qualifying public offer is made, to the RAO.

6.10 Regulation 4 provides that, subject to meeting the eligibility criteria, an FCA authorised person who applies for their permission to be varied to include the new regulated activity can benefit from interim permission to undertake the activity, while the FCA is assessing their application.

6.11 Regulation 5 makes similar provision in relation to any related application for the permission to approve the content of communications for the purposes of section 21 of FSMA 2000.

Consequential provisions

6.12 This instrument uses section 71R FSMA 2000 to make consequential amendments to other financial services legislation to ensure that they reflect, or are consistent with, the provisions of the POATR.

6.13 Part 1 of Regulation 2 amends primary legislation - the Fair Trading Act 1973 and the Terrorism Act 2000 – adding the new regulated activity of operating an electronic system by means of which a qualifying public offer is made.

6.14 Part 2 of Regulation 2 amends assimilated direct legislation to update cross-references to prospectuses under Prospectus Regulation to those under POATR. The legislation that was updated is as follows:

- Regulation (EC) No 1060/2009
- Regulation (EU) No 2016/1011
- Regulation (EU) No 345/2013
- Regulation (EU) No 346/2013
- Commission Delegated Regulation (EU) 2017/565

6.15 Part 3 of Regulation 2 amends subordinate legislation – the FSMA 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 and FSMA 2000 (Professions) (Non-Exempt Activities) Order 2001 – to add the new regulated activity of operating an electronic system by means of which a qualifying public offer is made.

6.16 Part 3 of Regulation 2 amends subordinate legislation – the FSMA 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001, and sanctions legislation – to update cross-references to prospectuses. Similarly, Part 3 of Regulation 2 amends the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 to update cross-references to the disclosure obligations required under POATR.

6.17 Lastly, Part 3 of Regulation 2 amends the FSMA 2023 (Private Intermittent Securities and Capital Exchange System Sandbox) Regulations 2025 (PISCES) to replace the modification to the Prospectus Regulation with a modification made to POATR.

Why was this approach taken to change the law?

6.18 This is the only possible approach to make the necessary changes to ensure that legislation remains consistent and comprehensive following the amendments to legislation made by the POATR.

7. Consultation

Summary of consultation outcome and methodology

7.1 The government consulted on its proposal to repeal and replace the UK Prospectus regime in July 2021.[5] The consultation was widely welcomed by industry and legislation to deliver the proposed changes was made in January 2024.

7.2 The FCA consulted on detailed proposals for their rules for the new POATR regime[6] and public offer platforms[7] in July 2024.

7.3 These were followed by consultations on supplementary changes to the POATR regime[8] as well as the implementation of public offer platforms[9], including transitional arrangements, in January 2025.

7.4 In this latter consultation, firms were widely supportive of a transitional regime to authorised persons to carry on the new activity while their application for the new permission is being authorised.[10] This instrument therefore makes temporary amendments needed to enact the FCA's new regime without delay.

7.5 In preparing this instrument, HM Treasury has worked with the Financial Conduct Authority, the regulator responsible for making replacement rules under the new POATR regime.

8. Applicable Guidance

8.1 No guidance accompanies this instrument. The FCA will make firms aware of these Regulations as part of their publication of the final prospectus and public offer platform rules.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full impact assessment has not been prepared for this because, in line with Better Regulation guidance, HM Treasury considers that the net impact of this instrument restatement SI on business will be less than £10m Equivalent Annual Net Direct Costs to Business. Due to this limited impact, a de minimis Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

[5] https://www.gov.uk/government/consultations/uk-prospectus-regime-a-consultation
[6] https://www.fca.org.uk/publication/consultation/cp24-12.pdf
[7] https://www.fca.org.uk/publication/consultation/cp24-13.pdf
[8] https://www.fca.org.uk/publication/consultation/cp25-2.pdf
[9] https://www.fca.org.uk/publication/consultation/cp25-3.pdf
[10] https://www.fca.org.uk/publication/policy/ps25-10.pdf

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 create any new regulated activities and only supports the implementation of existing legislation.

9.3 The legislation does impact small or micro businesses. However, introducing exemptions based on company size would undermine the objectives of ensuring legislative continuity, ensuring appropriate consumer protection and enabling a smooth transition to the new regulatory regime.

9.4 For these reasons no specific action is proposed to minimise the regulatory burden on small and micro businesses. There is no, or no significant, impact on the public sector because the legislation supports the implementation of existing legislation.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through ongoing engagement with the financial services industry to monitor its initial and ongoing impact.

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 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 £10 million."

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 The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

"In my view the provisions The Public Offers and Admissions to Trading (Amendment and Consequential and Transitional Provisions) Regulations 2025 are compatible with the Convention rights."

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"). It does however relate to the withdrawal of the United Kingdom from the European Union because this instrument makes consequential and transitional amendments in relation to the revocation of assimilated law under FSMA 2023.