EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL PENSION SCHEMES (GOVERNANCE AND REGISTRATION) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2024

S.R. 2024 No. 74

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under Articles 55(2)(h) and (3) and 287(3) of the Pensions (Northern Ireland) Order 2005 and section 51(6) of, and paragraphs 2(1), (2), (3) and (5) and 3 of Schedule 18 to, the Pensions Act (Northern Ireland) 2015 and is subject to the confirmatory procedure.

2. Purpose

2.1 These Regulations revoke and re-enact the Occupational Pension Schemes (Governance and Registration) (Amendment No. 2) Regulations (Northern Ireland) 2023 which would otherwise cease to have effect by virtue of section 51(3) and (4)(e) of the Pensions Act (Northern Ireland) 2015. The Regulations integrate, into pensions law, provisions of the Investment Consultancy and Fiduciary Management Markets Investigation Order 2019 made by the Competition and Markets Authority (CMA). They also enable the Pensions Regulator to oversee compliance by trustees of relevant pension schemes to allow for effective monitoring and enforcement.

3. Background

3.1 Following a reference from the Financial Conduct Authority, the CMA carried out an investigation into investment consultancy and fiduciary management services provided to pension schemes. In broad terms, investment consultancy is the provision of advice to trustees on investment strategy and related matters. Fiduciary management involves the delegation by trustees of some investment decisions to advisers.

3.2 The CMA's final report made a number of recommendations including a recommendation for legislation to enable the Pensions Regulator to oversee the duties on trustees to allow for effective enforcement.

3.3 These Regulations amend the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 ("the 1997 Regulations") to impose duties on trustees of relevant trust schemes in connection with the provision of fiduciary management services by fiduciary management (FM) providers (regulation 33 of, and the Schedule to, the 1997 Regulations). Part 1 of the Schedule includes various definitions and in particular defines "fiduciary management provider" and "fiduciary management services" for the purposes of the Schedule. This Part also sets out what the "asset management threshold" is, and how it is to be determined whether that threshold has been met, and what constitutes a "qualifying tender process".

3.4 Part 2 of the Schedule to the 1997 Regulations sets out the duties of trustees of relevant trust schemes who continue to use the services of FM providers who were appointed before 1st October 2022. These duties only apply in cases where the scheme meets the asset management threshold before, or has met the asset management threshold at certain times before, 1st October 2022 and will meet that threshold at the end of the relevant day. A scheme meets the asset management threshold if 20% or more of the schemes in-scope assets are being managed by in-scope FM providers (see paragraph 4 of the Schedule to the 1997 Regulations). Trustees to whom this Part of the Schedule applies must carry out a qualifying tender process in relation to the fiduciary management services provided by their existing FM providers before the end of the relevant day. In most cases, "the relevant day" is the last day of the period of 5 years beginning with the day on which the earliest of the arrangements with the existing FM providers were entered into. However, a further grace period is allowed for, in cases where that period will have expired before 1st October 2022, or will expire within the 2-year period following 1st October 2022.

3.5 Part 3 of the Schedule to the 1997 Regulations sets out the duties of trustees of relevant schemes where they propose to appoint a Fiduciary Management (FM) provider, or to change the mandate of an FM provider, on or after 1st October 2022. If the proposed appointment, or change to the mandate, would mean that the asset management threshold is met or is to be treated as met, the trustees must carry out a qualifying tender process before the proposed appointment of, or proposed change to, the mandate is made. Where this duty is triggered, the trustees must at the same time carry out a qualifying tender process in respect of arrangements with any existing FM providers who were not appointed following an equivalent process or a procurement exercise. Any trustees to whom this Part of the Schedule applies and who appoint an FM provider, or change the mandate of an FM provider, must give a notice to the FM provider concerned. This notice must confirm that the necessary qualifying tender process has been carried out in accordance with paragraph 8 or 9 of the Schedule, or that no tender was in fact required before the appointment or increase was made.

3.6 Regulations 34 to 36 of the 1997 Regulations set out the obligations of trustees of the relevant trust schemes in relation to the use of providers of investment consultancy services. Regulation 34 sets out what is meant by "Investment Consultancy (IC) Provider" and "Investment consultancy Services", for the purposes of the 1997 Regulations.

3.7 Regulation 35 of the 1997 Regulations places a duty on the trustees of a relevant trust scheme to set objectives for each of their investment consultancy providers, and to review these objectives at intervals of no more than 3 years from the date they were set. Regulation 36 requires the trustees to review the performance of their IC providers annually.

3.8 Regulations 37 to 44 of the 1997 Regulations give specific enforcement powers to the Pensions Regulator in connection with the duties outlined above. These provisions set out the process for the Regulator to issue a compliance notice or third-party compliance notice if it is of the opinion that a person is not complying, or has not complied, with the relevant provision. They also add a provision to set out the process for issuing penalty notices, the review of notices and the procedure for reference to the Upper Tribunal.

3.9 These Regulations also amend regulation 3 of the Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005 so as to, among other things, require certain information about IC providers and FM providers to be included in the scheme return. Trustees will be required to provide the name, address and appointment date of each of their FM providers and whether the trustees carried out a qualifying tender process in relation to that provider. If they did not carry out such a process in relation to that FM provider, the trustees have to state why it was not carried out.

3.10 Trustees will also be required to confirm the name, address and appointment date of each of their investment consultancy providers and whether the trustees have set and reviewed those objectives, and reviewed the performance of the provider, and if not, why that is the case.

4. Consultation

4.1 There is no requirement to consult on these Regulations. They make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for these Regulations. The Department has concluded that they would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment which accompanied the Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations (Northern Ireland) 2022 is attached as an Annex to this Explanatory Memorandum.

7. Financial Implications

7.1 None for the Department.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department is content that these Regulations comply with section 24 of the Northern Ireland Act 1998 (Convention rights, etc.).

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Great Britain Regulations are the Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022 (S.I. 2022/825).

10.2 These Regulations were made on 25th March 2024 and brought into operation on 26th March 2024. They revoke and re-enact the Occupational Pension Schemes (Governance and Registration) (Amendment No. 2) Regulations (Northern Ireland) 2023 which came into operation on 28th September 2023, and which would otherwise cease to have effect by virtue of section 51(3) and (4)(e) of the Pensions Act (Northern Ireland) 2015. Under that section, regulations cease to have effect unless approved by resolution of the Assembly within six months of coming into operation.

REGULATORY IMPACT ASSESSMENT

THE OCCUPATIONAL PENSION SCHEMES (GOVERNANCE AND REGISTRATION) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2022

The costs and savings outlined in this Regulatory Impact Assessment (RIA) are calculated on a UK-wide basis.

Evidence Base

1. **The policy background**

2. A Competition and Markets Authority (CMA) investigation[1] into the 'Investment Consultants Market' identified weak competition within both the investment consultancy[2] (IC) and fiduciary management[3] (FM) markets. These services influence or control decisions affecting pension scheme assets worth at least £1.6 trillion[4], and the retirement incomes of millions of people, so market weakness has extensive adverse impact. The CMA have introduced an Order with remedies to address the above market failure, which came into force on 10 December 2019[5].

3. Two of the remedies will require pension scheme trustees to:

   - carry out a qualifying tender process[6] when entering into or continuing an agreement with a fiduciary management provider under certain circumstances (Remedy One); and
   - set objectives for the investment consultancy provider[7] when entering into an agreement for the provision of investment consultancy (Remedy Seven).

4. These remedies need to be integrated into pensions legislation to enable the Pensions Regulator (TPR) to oversee them. This change should improve IC and FM market engagement which will improve value for money for members and enable TPR to monitor and enforce compliance.

5. Therefore these parts of the CMA Order will be replicated so that the duties on trustees will continue broadly as they were, although they will report compliance to TPR as the regulator, rather than the CMA.

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1 CMA Investment Consultants Market Investigation https://www.gov.uk/cma-cases/investment-consultants-market-investigation
2 Investment consultancy is the provision of advice to pension scheme governance bodies
3 Fiduciary management is the provision of advice combined with delegation of investment decisions
4 CMA, Investment Consultants Market Investigation, Final Report, Page 6 https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf
5 The Investment Consultancy and Fiduciary Management Market Investigation Order 2019 https://assets.publishing.service.gov.uk/media/5cfdfa86e5274a090f9eef8e/Order_investment_consultants.pdf
6 Remedy One: Mandatory competitive tendering for pension schemes first buying fiduciary management services or if they have not tendered previously.
7 Remedy Seven: Duty on trustees to set their investment consultants strategic objectives.

6. **Description of options considered**

7. **Option 1 - Do Nothing**

8. By doing nothing, in the 10 years that the CMA Order would be in place (10 December 2019– 09 December 2029) there would be dual regulatory bodies (CMA and TPR) working with occupational pension schemes. This would cause potential disruption and confusion to the industry along with criticism of an already perceived complex regulatory regime. Therefore, this option is not recommended.

9. **Option 2 - Introduce regulations to replace the CMA Order as of 1 October 2022**

10. This option would ensure more effective supervision of the industry and would allow the commitment given to introduce regulations to be met

11. **Option 3 - Alternative to legislation**

12. Following the CMA report in 2019, there was a commitment to take forward the CMA recommendations and to pass legislation which brings the CMA Order into pensions law. Given the public commitment, and to ensure there are not dual regulatory bodies (CMA and TPR) working with occupational pension schemes, option 3 alternative to legislation is not appropriate.

13. **Preferred Option**

14. Option 2 - introduce regulations to replace the CMA Order as of 1 October 2022, is the preferred option.

15. The CMA Order implements the CMA remedies to address weak competition found within the IC and FM markets. Low engagement by some pension trustees, and difficulties accessing information, reduces the competitive pressure on investment consultants and fiduciary managers. As a result, pension scheme members may expect to pay higher prices for these services and receive a lower quality service than in more competitive markets.

16. This lack of competition currently causes financial detriment for employer sponsors of Defined Benefit (DB) schemes and members of Defined Contribution (DC) schemes. Both IC and FM services are used extensively by both DB and DC pension schemes. Any negative impact on scheme outcomes will be significant, accumulating and compounding over the long time horizon over which pension assets are invested[8], typically spanning several decades.

17. According to the CMA, these services have a major influence on pension scheme outcomes, affecting up to half of all UK households. This change should improve trustee engagement with their IC and FM appointments which will improve value for money for members and enable TPR to monitor and enforce compliance.

18. The counterfactual (option 1 do nothing) is based on the CMA Order which came into force on 10 December 2019 and is set to end on 09 December 2029. The counterfactual covers the vast majority of the appraisal period.

8 CMA, Investment Consultants Market Investigation, Final Report, Page 7

19. The regulations will come into force in October 2022, 34 months after the CMA Order was first introduced on 10 December 2019. Once regulations are in place, schemes will not be required to do anything differently to the requirements in the CMA Order except for the slight differences outlined below which have been quantified where possible.

20. The CMA Order expires on 09 December 2029 meaning there will a period at the end of the appraisal period where the CMA Order will no longer be in force.

21. It is proposed that the impacts incurred from the expiration of the CMA Order to the end of the appraisal period are not material and follow business as usual. Any cost incurred takes place 10 years or more after the original CIF (coming into force) date of the CMA Order.

22. By the end of the CMA Order, mandates would have already been tendered for FM services and objectives set for IC providers. Therefore, the only costs incurred during this period would be ongoing reporting costs. Schemes would have already completed the existing TPR scheme return 8 times, hence reporting does not require any additional familiarisation.

23. The CMA intervened to address the adverse effect on competition it had identified (primarily in relation to the conduct of providers and trustees). If, in year 9, providers or schemes were to engage in conduct that may result in the same or similar adverse effect on competition, there is a risk of further investigation[9].

24. There will be slight differences in policy between the CMA Order and the regulations. These are detailed below.

- The CMA Order excludes certain schemes[10] from remedies one and seven. IC-FM employer-sponsored master trusts and corporate schemes will now bear the cost of setting and monitoring investment objectives, it is estimated that there are 8 pension schemes affected by this measure.
- CMA have used interconnected body corporate[11] of the provider, or a partnership or 'joint venture' with the provider to determine whether organisations are connected and therefore whether a scheme is sponsored by an IC/FM or connected body. It is proposed to use group undertaking[12] to capture the full range of relationships. It is not known precisely how many organisations will be impacted by this policy change.
- It will be a requirement for schemes which delegated 20% (or more) of scheme assets without a competitive tender process in the period from 11 June 2019 to 09 December 2019, to tender for the FM services provided by the relevant providers within a 5-year period of the earliest delegation (unless the schemes fall below the 20% threshold and do not come back up to or above it in that period). This means these schemes will bear the cost of tendering for FM services provided by those existing providers on one occasion within that period.

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9 Whether the CMA would take such action is a matter for prioritisation having regard to all the relevant circumstances.

10 Schemes where the principal or controlling employer of a scheme is themselves a provider of IC/FM services and Master Trusts for which an IC/FM firm is the scheme strategist or scheme funder.

11 Interconnected body corporate (used by the CMA, in line with their standard practice) captures corporate bodies which are subsidiaries of the other, or subsidiaries of subsidiaries, and those with a common parent company.

12 Group undertaking has the meaning of s.1161 in the Companies Act 2006. "Group undertaking", in relation to an undertaking, means an undertaking which is—
(a) a parent undertaking or subsidiary undertaking of that undertaking, or
(b) a subsidiary undertaking of any parent undertaking of that undertaking
(S.1284 of the Companies Act 2006 extends the act to NI)

25. **Costs and Benefits to Businesses**[13]

26. **Trustees – Familiarisation**

27. It is assumed that it will take trustees 114 minutes to familiarise themselves with the new requirements which would involve reading and understanding the regulations and checking TPR guidance where necessary. This is an assumption based on the length of regulations (19 pages) and an assumed time of 6 minutes to read a page[14].

28. There is no definitive figure for the total number of trustees that will be impacted so this is estimated by using the number of schemes impacted multiplied by the average number of trustees per scheme

29. There are 5,220 DB schemes with 2+ members[15] and there are 2,335 DC Schemes with 2+ members[16]. For DB schemes with 2+ members, there is an estimated average of 3.0 trustees per scheme and for DC schemes with 2+ members, there is an estimated average of 2.7 trustees per scheme[17].

30. It is assumed that trustees will be able to read and understand the regulations based on the requirement for trustees to have knowledge and understanding of the law relating to pensions and trusts.

31. It is estimated that the average hourly wage of a trustee is around £29 per hour[18.] This gives a total familiarisation cost of £1,220,000[19] in the first year only (2022/23).

32. This is deemed a cautious approach because not all trustees may need to familiarise themselves with the new requirements. Assuming only one trustee per scheme needs to familiarise themselves, this would give an estimate of £416,000[20] in the first year only (2022/23).

33. **Trustees – Ongoing cost**

34. Trustees will be required to check their compliance, complete details on the statement, sign and send to the CMA. As a result of bringing compliance and enforcement under the remit of TPR, trustees will be required to report compliance through additional questions in their existing scheme return. Table 1 sets out the CMA and TPR reporting requirements.

35. The questions for inclusion in the TPR scheme return ask for additional information to what is required for the CMA compliance statement such as names and addresses of ICs and FM providers and the dates they were appointed.

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13 All costs and benefits have been uprated, and are presented, in 2021 prices.
14 Assuming 1 minute to read 100 words and 600 words to a page, gives 6 minutes to read a page.
15 Pension Protection Fund, The Purple Book, December 2021 Figure 2.1: Estimated 2021 universe (number of schemes) https://www.ppf.co.uk/sites/default/files/2021-12/PPF_PurpleBook_2021.pdf
16 1,370 DC and Hybrid Schemes with 12+ members: TPR, DC trust: presentation of scheme return data 2021-22 (Table 1.2) https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/dc-trust-scheme-return-data-2021-2022 965 DC Micro Schemes with 2-11 members, TPR estimate. Small self-administered schemes (also known as Relevant Small Schemes) and executive pension schemes are excluded from the CMA order and from the regulations.
17 TPR, Trustee Landscape Quantitative Research, October 2015 (Estimate based on figure 3.2.2) https://webarchive.nationalarchives.gov.uk/ukgwa/20170712122409/http:/www.thepensionsregulator.gov.uk/docs/trustee-landscape-quantitative-research-2015.pdf
18 The median hourly gross pay for corporate managers and directors is £22.82 in the Annual Survey of Hours and Earnings (ASHE) 2021 provisional, Table 2.5a. This is uplifted by 27% for overheads.. Figure rounded. https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2021
19 Calculation: (5,220*3.0)*(1.9*29) + (2,335*2.7)*(1.9*29) = £1,220,000 to nearest 1000
20 Calculation: (5,220*1.9*29) + (2,335*1.9*29) = £416,000 to nearest 1000

36. **Table 1: CMA and TPR Reporting requirements**

37. **CMA Reporting Requirements**	38. **Reporting Requirements to be** 39. **used by TPR**
40. Trustees must submit a compliance statement in the following format and signed certificate to the CMA annually, confirming to what extent they have been compliant with the requirements of remedy one and remedy seven, during the reporting period. 41. 42. **Investment Consultancy and Fiduciary Management Market Investigation Remedy Compliance Statement for [insert name]** 43. 44. [I/We], [insert name(s)], confirm on behalf of [insert name] that during the period commencing on [insert date] and ending on [insert date], [insert name] [has] [have] complied with Part [insert Part number] of the Investment Consultancy and Fiduciary Management Market Investigation Order 2019. 45. 46. FOR AND ON BEHALF OF [insert name] Signature: .... Name: .... 47. Title: .... 48. 49. If the trustees are aware of any failure to comply with the requirements, they must report such compliance to the CMA within 14 days of becoming aware of it, and provide a brief description of the steps taken to address the failure	50. For Remedies one and seven the current scheme return process will be followed[21] and trustees will have the following additional questions: 51. 52. For IC Services 53. 54. (a) the name and address of the IC provider; 55. (b) the most recent date on which the IC provider was appointed; 56. (c) whether the trustees have set objectives for the IC provider, and if not, why not; 57. (d) whether the trustees have reviewed the objectives set for the IC provider and if not, why not; 58. (e) whether the trustees have reviewed the services provided by the IC provider and if not, why not. 59. 60. For FM Services 61. 62. (a) the name and address of the FM provider; 63. (b) the most recent date on which the FM provider was appointed; 64. (c) whether the trustees carried out a qualifying tender process[22] in connection with the appointment or most recent change in the provider's 65. mandate, and 66. 67. (d) if no such tender was carried out, why not. 68.

69. Trustees will need to know this information to report compliance to the CMA, but it may take additional resource to compile the information and complete the questions in the scheme return. It is assumed that it would take one administrator per scheme an additional 20 minutes to source and compile the required names, addresses and dates, as it is expected that a scheme would maintain records on their suppliers and recent tender processes. There are 5,220 DB schemes with 2+ members and there are 2,335 DC Schemes with 2+ members. It is estimated that the average hourly wage of an administrator is around £16 per hour[23]. This gives an ongoing cost of £39,000[24] in each year.

21 The scheme return is annual except DC micro schemes (schemes with fewer than 12 members) submit a return every 3 years
22 'Qualifying tender process', means the process of inviting, and using reasonable endeavours to obtain, bids for the provision of the relevant FM services from at least three unconnected persons, and evaluating the bids which are obtained.
23 The median hourly gross pay for administrative occupations is £12.30 in the ASHE 2021 provisional, Table 2.5a This is uplifted by 27% for overheads from the previous version of the Green Book, no updated estimate is available. Figure rounded to the nearest whole number.
24 Calculation: (5,220*0.33*16) + (2,335*0.33*16) = £39,000 to nearest 1000

70. **Costs to business from extension of scope to include schemes where the principal or controlling employer of a scheme is themselves a provider of FM services and Master Trusts for which an IC-FM firm is the scheme strategist or scheme funder.**

71. The CMA order has excluded certain schemes from both remedies one and seven. These include schemes where the principal or controlling employer of a scheme is themselves a provider of FM and/or IC services, and Master Trusts for which an IC-FM firm (or a group undertaking of the IC-FM firm) is the scheme strategist or scheme funder. It would be impractical in these circumstances to expect the scheme trustees to carry out a qualifying tender. However, it is deemed reasonable for the trustee of employer-sponsored master trusts or corporate schemes to set their IC objectives, regardless of whether the IC is related to the sponsoring employer of the scheme. This means these schemes will now bear the cost of setting and monitoring investment objectives.

72. It is estimated that there are 8 pension schemes affected by this measure.

- There are 4 master trusts sponsored by IC-FM firms, all of which have now received authorisation.
- There are 10 to 15 other IC/FM providers but some of these will use another organisation's master trust or a personal pension scheme as a qualifying scheme for automatic enrolment. All firms will need to use a pension scheme for automatic enrolment, and they have 3 options – own trust, personal pension or someone else's master trust. In the absence of any more knowledge, it is assumed that the remaining 10 to 15 firms are split between these 3 options. This means 3 to 5 firms also have their own trust giving a central estimate of 4. It is therefore estimated that there are 4 more IC-FM sponsored single employer schemes.

73. The CMA provided a sample[25] of data on costs for remedy 7, gathered over the course of their investigation. Table 2 summarises the minimum, maximum and average costs to trustees to set strategic objectives and report against them, based on this sample of data. This includes both one-off costs in the first year and ongoing costs per year.

74. **Table 2: Estimate of costs to trustees to set and report against strategic objectives**

75.	76. **One-off costs** 77. **in first year** 78.	79. **Ongoing costs** 80. **per year**
81. Minimum	82. £0 83.	84. £0
85. Maximum	86. In excess of 87. £100,000	88. In excess of 89. £100,000
90. **Average**	91. **£34,000** 92.	93. **£35,000**
94. Average excluding zeros	95. £54,400 96.	97. £56,000

Source: Responses to Competition and Markets Authority information requests

25 Sample size is 8.

98. Some respondents in the sample reported that they already set objectives for all clients, therefore the cost to trustees to set strategic objectives and report against them was zero in these cases

99. It is assumed that the 8 pension schemes affected by this measure are equally as likely to have already set objectives as the schemes in the CMA sample which means the best estimate of the cost to schemes would be an average including these zero responses.

100. Across the 8 schemes in scope, this gives a one-off cost in the first year of £278,000[26] and an ongoing cost per year of £286,000[27]

101. **Costs to business from change in scope because of the difference between interconnected body corporate and group undertaking**

102. It is proposed to use group undertaking rather than interconnected body corporate to define interconnected firms. This is because ownership relationships involving partnerships can still signify influence and control.

103. This change extends the range of schemes that are considered part of a group. A very small number of schemes who were not previously treated as connected to an IC/FM provider and were therefore previously required both to tender and to set objectives in accordance with the CMA Order will now only be required to set objectives (these schemes are excluded from remedy 1, but not remedy 7). It might reasonably be anticipated that the majority of ICs and FMs will already be interconnected bodies corporate because they are corporate bodies rather than partnerships or other unincorporated organisations. In the absence of any other evidence, it is assumed that fewer than 5 schemes will be excluded from remedy 1 because of this.

104. The effect of changing references in the definition of FM services means that the services of firms who are not an interconnected body corporate but are a group undertaking will fall into scope of an FM service so the trustees who use them will now be required to run a qualifying tender. Given that there are fewer than ten FM services, it is assumed that the CMA captured all such schemes, and the amendment is to future-proof the regulations. Therefore, it could be assumed that no additional firms are in scope and assume no additional costs to business.

105. The effect of changing references to qualifying tender means that in certain instances where trustees were previously planning to run a qualifying tender with two firms who were not an interconnected body corporate but were a group undertaking, these would, under the regulations, count as only one firm, requiring the trustees to make endeavours to obtain an additional bid from a fiduciary management provider. It is assumed that trustees would know to avoid more than one approach to firms which formed a group undertaking and would instead seek a different tender. They would not need to use reasonable endeavours to secure a tender from a fourth firm. This change would simply require them to use different criteria in identifying firms to approach before they make reasonable endeavours to encourage them to do so and to evaluate the tender received. Therefore it is assumed that there would be no additional costs to business as a result of a change to the scope of this measure.

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26 Calculation: £34,000*8=£272,000. Figures have been uprated in line with the CPI figure for September each year. £272,000 * 1.017 (2019) * 1.005 (2020) = £278,000 rounded to the nearest 1000.

27 Calculation: £35,000*8=£280,000. Figures have been uprated in line with the CPI figure for September each year. £280,000 * 1.017 (2019) * 1.005 (2020) = £286,000 rounded to the nearest 1000

106. There is no replication of the use of 'joint venture' to determine whether organisations are connected (and therefore outside of remedies 1 and 7). It is considered that no schemes will be affected by this change because the draft order on which the CMA consulted did not mention joint ventures and it was not raised in any of the responses made by stakeholders.

107. **One-off cost to tender fiduciary management (FM) services commissioned between 11 June and 09 December 2019**

108. The FM services tendering requirements in Part 3 of the CMA's Order came into force on 10 December 2019. The CMA Order requires that, from 10 December 2019, trustees should carry out a competitive tender before awarding a fiduciary management mandate, or making changes to such a mandate, which will mean that 20% (or more) of the schemes relevant assets are delegated to persons providing FM services (other than excepted persons). 'Relevant assets' are any of the schemes assets which are not being managed by an excepted person. In some cases, the trustees will also have to carry out a competitive tender process in respect of arrangements entered into before the threshold is met or exceeded.

109. In respect of delegations made before 11 June 2019 (to persons other than excepted persons), without a competitive tender, and which cover 20% (or more) of the relevant assets of the scheme, the CMA Order requires trustees to have completed a competitive tender process within 5 years from the earliest of those delegations. Where the 5-year period expired on 10 June 2019 (or will expire by 10 June 2021), the CMA Order requires trustees to have completed a competitive tender process by 10 June 2021. The Regulations place an obligation on trustees to have completed an equivalent tender by the end of 1st October 2022 Trustees who complied with the requirement in the CMA Order before the Regulations came into force are not required to re-tender the relevant arrangements.

110. Schemes which delegated 20% (or more) of the scheme's relevant assets without a competitive tender process in the period from 11 June 2019 to 09 December 2019 will be required to tender for the FM services provided by the relevant providers within a 5-year period of the earliest delegation (unless the schemes fall below the 20% threshold and do not come back up to or above it in that period). This means these schemes will bear the cost of tendering for FM services provided by those existing providers on one occasion within that period.

111. It is estimated that 19 tenders have been carried out between 11 June and 09 December 2021 which are now in scope of these regulations.

- According to ISIO, there were 946 delegations in 2019 and 1015 delegations in 2020[28] indicating a flow of 69 delegations per 12 months or 35 delegations per 6 months.
- In 2018, 85% of schemes delegated more than 29% of assets[29]. In the absence of any other data, the proportion of schemes delegating more than 29% of assets is used as a proxy for the proportion of schemes delegating 20% of assets[30].

28 2020 ISIO UK Fiduciary Management Survey (pg. 3) https://www.isio.com/media/1269/fm-survey-2020-results-report.pdf
29 CMA, Investment Consultants Market Investigation, Final Report, Figure 27 https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf
30 Analysis conducted in the CMA Final Report did not exclude 'assets held by excepted persons'. Therefore, 85% of schemes delegate more than 29% of total assets. In the absence of additional evidence, the above assumption is used as a proxy for the proportion of schemes who delegate 20% (or more) of assets (excluding excepted persons). Given the above, the estimated number of delegations that took place between 11 June and 09 December could be an over-estimate.

- Trustees who have already tendered are not affected by this change. In 2016, 34% of customers buying FM services carried out a formal tender so 66% were not tendered[31].

- It is estimated that this will result in 19 tenders[32].

112. The CMA provided a sample[33] of data on costs for remedy one, gathered over the course of their investigation. Table 3 summarises the range of minimum, maximum and average one-off costs to trustees to tender for FM services, based on this sample of data. Firms provided a range for the cost of tendering for FM services, so this has been presented using the lower and upper bounds.

113. **Table 3: Estimate of cost to trustees to tender for FM services**

114. **Range per firm**	115. **Lower bound**	116. **Upper bound**
117. Minimum across firms 118.	119. £5,000	120. £50,000
121. Maximum across firms 122.	123. £40,000	124. £65,000
125. Average across firms 126.	127. £21,667	128. £55,000

Source: Responses to Competition and Markets Authority information requests

129. These cost estimates include the cost of a Third Party Evaluator (TPE), which schemes are not required to use so it is assumed that costs will be lower than the estimates provided and have therefore taken the minimum cost provided of £5,000 per scheme to tender for FM services. The cost of tendering FM services should be lower than the estimates in table 3 because the use of TPE is optional. According to a KPMG Report[34], 61% of schemes reported using independent advice when selecting a fiduciary manager in 2019 and there is a clear benefit of independent advice for schemes. However, the use of TPE is not a legislative requirement and therefore the cost of using a TPE has not been assessed as a business burden. The sensitivities around this have been considered later in the impact assessment.

130. For the 19 tenders in scope the one-off cost is £97,000 split evenly from 01 October 2022 to 09 December 2024. Based on these regulations coming into force on 01 October 2022, the cost to schemes are £44,000 in year 1 (2022/23), £44,000 in year 2 (2023/24) and £8,000 in year 3 (2024)[35].

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31 CMA, Investment Consultants Market Investigation, Final Report, Page 14 https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf
32 35 * 85% * 66% = 19
33 Sample size is 3.
34 https://home.kpmg/content/dam/kpmg/uk/pdf/2019/10/Fiduciary-Management-Survey.PDF
35 Based on regulations coming into force 01 October 2022. Total time elapsed from 01 October 2022 to 09 December 2024 = 26.3 Months. 01 October 2022 to 30 September 2023 (12 Months): (£97,000/26.3) * 12 = £44,000. 01 October 2023 to 30 September 2024 (12 Months): (£97,000/26.3) * 12 = £44,000. 01 October 2024 to 09 December 2024 (2.3 Months): (£97,000/26.3) * 2.3 = £8,000. Figures have been uprated in line with the CPI figure for September each year. £95,000 * 1.017 (2019) * 1.005 (2020) = £97,000 rounded to the nearest 1000. Timeframes have been considered in 'appraisal years' (e.g., 01 October 2022 to 30 September 2023) to be consistent with EANDCB guidance.

131. **Costs and Benefits to Other Affected Parties**

132. **Benefits to schemes (in counterfactual)**

133. On the benefits resulting from competitive tendering, evidence in the CMA report[36] indicates schemes that ran a formal tender paid significantly lower fees (on average) than those who did not. The baseline results indicate that the average scheme could save almost £600,000 over a ten-year period because of running a formal tender. The CMA's indication of the cumulative impact of such savings across pensions schemes, assuming there are 40 additional tenders a year as a result of remedy one, would be an annual saving in the range of £540,000 to £3.24m. They also state that the benefits are far wider than a potential reduction in fees and overall benefits for schemes will be much larger as this does not consider the wider benefits resulting from higher quality of service.

134. On the benefits resulting from setting objectives, according to the CMA this will drive greater engagement by trustees, helping them to monitor the quality of their investment consultant and increasing competitive pressure to ensure the investment consultant is offering a high quality of service[37]. It was not possible for the CMA to quantify all the potential benefits with precision[38].

135. These benefits will arise as a result of the CMA Order and are therefore already realised in the counterfactual of the preferred option.

136. **Benefits to scheme members (in counterfactual)**

137. According to the CMA, millions of pension scheme members and their dependents are affected by advice and decisions from investment consultants and fiduciary managers. The PPF (Pension Protection Fund) estimate there are just under 10 million people in private sector DB schemes and TPR estimate there are around 23 million members in DC schemes[39].

138. These benefits will arise as a result of the CMA Order and are therefore already realised in the counterfactual of the preferred option.

139. **Benefits to schemes (additional to counterfactual)**

140. As a result of increased scope of the regulations compared to the CMA Order, an additional 8 pension schemes will now be required to set and monitor investment objectives. Benefits to schemes are expected to be in line with the CMA's expectations that this will help trustees to monitor the quality of service provided by their investment consultant. As it was not possible for the CMA to quantify the direct benefits resulting from setting strategic objectives, the benefit to schemes has not been quantified.

141. **Costs to TPR**

142. Table 4 sets out the estimated set up costs provided by TPR. Table 5 sets out the estimated costs provided by TPR for monitoring and enforcing compliance with remedies 1 and 7 using 2014 powers. TPR will be incorporating this work into business as usual and

36 2 CMA, Investment Consultants Market Investigation, Final Report Section 13.105-13.116 and Table 11
37 CMA, Investment Consultants Market Investigation, Final Report Section 13.101
38 CMA, Investment Consultants Market Investigation, Final Report Section 13.104
39 Pension Protection Fund, The Purple Book, December 2021 Link Figure 2.2. TPR, DC trust: scheme return data 2021 to 2022 annex. Figure 2.1

do not anticipate that this will have an impact on the Levy. These cost estimates are rounded up to the nearest £1,000.

143. **Table 4: Estimated one-off costs to TPR in Year 1**

144. **One-off costs in year 1 (2022/23)** 145.	146. **Estimated cost to TPR**
147. Set up costs 148.	149. £10,000

Source: TPR estimate

150. **Table 5: Estimated ongoing costs to TPR**

151. **Ongoing costs** 152.	153. **Estimated cost to TPR per year**
154. Monitoring and enforcement for remedies 155. 1 and 7 using 2014 powers 156.	157. £59,000

Source: TPR estimate

158. These cost estimates are based on the following assumptions:

- The costings are estimated on existing processes and do not include the potential costs of more complex cases that might arise.
- There is insufficient data to make robust assumptions on the number of schemes in scope for the two remedies and in turn the estimated number of cases which might arise (TPR do not have a robust estimate for the number of breaches per annum).
- TPR will adopt a flexible risk appetite in response to volumes of non-compliance reporting.
- One-off costs are based on adopting existing processes and adding questions to the scheme return. These costs would be higher if new processes have to be established.

159. The cost to TPR of consulting on and producing guidance for trustees in support of the remedies has not been quantified because this is based on the CMA recommendation which TPR have accepted rather than being a requirement of the regulations.

160. As the relevant sector regulator, TPR expects to allocate resource towards enforcing regulations through robust compliance monitoring. Hence, TPR costs are greater than the CMA savings.

161. **Benefits to CMA**

162. With regards to compliance, the CMA will no longer incur the costs associated with enforcing compliance against the CMA Order. The estimated annual cost of CMA compliance is £4,000, totalling £27,000 by the expiration of the CMA Order[40].

40 Annual cost of compliance = £4,000 (6 weeks required to enforce compliance on HEO Salary). (£33,000/52) * 6 = £4,000, Total years elapsed from regulations to end of CMA Order = 7.17. Total cost to enforce compliance = £27,000 all figures rounded to nearest 1000.

163. **Wider Economic and Societal Impacts**

164. The intended impact is better value for pension scheme members through better access to the information trustees need to assess value for money (fees, costs, quality etc.) DB sponsoring employers and DC members are less likely to pay higher prices for lower quality services for IC and FM than they otherwise would. In turn this can have a major impact on pension scheme outcomes through the IC/FM influence on the overall strategy, asset allocation and risk management. Any positive impact on scheme outcomes will accumulate and compound over time, especially given the length of many IC/FM appointments, and the time horizon over which pension scheme investment decisions are made.

165. Increased competition may lead to more switching in the IC market and challenge the dominance of incumbent firms providing services, allowing smaller firms or specialist consultants to enter the market. This may in turn encourage schemes to be more adventurous around alternative investments which require specialist advice, such as infrastructure. The CMA took the view that this was a proportionate regulatory intervention to address the adverse effect on competition of the current market situation and that this remedy was intended to have a positive overall effect on competition.

166. **Key Assumptions and Sensitivity Analysis**

167. The following are key areas of sensitivity for the costs of the regulations and extension of scope compared to the CMA Order.

168. **1. One-off cost to trustees to familiarise themselves**

169. It is assumed it will take all trustees 114 minutes to familiarise themselves with the new requirements giving a total familiarisation cost of £1,220,000 in the first year only (2022/23). When allowing for sensitivity around this assumption of 50 per cent (i.e. 57 or 171 minutes), holding everything else constant the cost estimate decreases to £610,000[41] and increases to £1,829,000[42]. The remaining assumptions used in this calculation are based on the latest data from the Pension Protection Fund, TPR and the Office for National Statistics.

170. **2. Ongoing cost to trustees to source and compile the additional information required for TPR scheme return**

171. It is assumed that it would take one administrator per scheme 20 minutes to source and compile the required names, addresses and dates giving a total ongoing cost of £39,000 in each year. When allowing for sensitivity around this assumption of 50 per cent (i.e. 10 or 30 minutes), holding everything else constant the cost estimate decreases to £20,000[43] and increases to £59,000[44]. The remaining assumptions used in this calculation are based on the latest data from the Pension Protection Fund, TPR and the Office for National Statistics.

41 Calculation: (5,220*3.0)*(0.95*29) + (2,335*2.7)*(0.95*29) = £610,000 rounded to nearest 1000.
42 Calculation: (5,220*3.0)*(2.85*29) + (2,335*2.7)*(2.85*29) = £1,829,000 to nearest 1000
43 Calculation: (5,220*0.17*16) + (2,335*0.17*16) = £20,000 to nearest 1000
44 Calculation: (5,220*0.5*16) + (2,335*0.5*16) = £59,000 to nearest 1000.

172. **3. One-off and ongoing cost to the additional 8 schemes in scope to set objectives and report against them**

173. It is assumed that there are 8 schemes in scope master trusts sponsored by IC/FM firms and other IC/FM providers. It is assumed that the 8 pension schemes affected by this measure are equally as likely to have already set objectives as the schemes in the CMA sample giving a total one-off cost in the first year of £278,000 and an ongoing cost per year of £286,000[45].

174. When allowing for sensitivity around the volume assumptions of 50 per cent (i.e. 4 and 12 schemes in scope), holding everything else constant it has the following impact on the cost estimates:

- One-off cost decreases to £139,000 and increases to £417,000
- Ongoing cost per year decreases to £143,000 and increases to £429,000[46]

175. When allowing for sensitivity around the cost assumptions based on the CMA evidence, the minimum one-off and ongoing costs would be £0, and the maximum one-off and ongoing costs would be in excess of £800,000. Using the average excluding zeros (i.e. if the 8 schemes impacted all incur a cost), holding everything else constant it has the following impact on the cost estimates:

- One-off cost increases to £445,000;
- Ongoing cost per year increases to £458,000[47]

176. **4. Ongoing cost to trustees from change in scope (as a result of the difference between interconnected body corporate and group undertaking)**

177. It is not known precisely how many organisations will be impacted by this policy change.

- It is assumed that the CMA captured all schemes which now fall into scope of an FM service in the counterfactual and therefore that no additional trustees are required to run a qualifying tender and there is no additional cost to business.
- It is assumed that, based on the regulations, trustees would know to avoid more than one approach to firms which formed a group undertaking and would instead seek a different tender and therefore that no additional trustees are required to make endeavours to obtain an additional bid from an FM provider and there is no additional cost to business.

178. **5. One-off cost to tender 19 fiduciary management (FM) delegations commissioned between 11 June and 09 December 2019**

179. It is estimated that there are 19 tenders in scope based on the evidence from the ISIO Survey and CMA Report and that the cost to tender for FM services will not include the cost of a TPE, giving a one-off cost of £97,000 which is split evenly from 01 October 2022 to 09 December 2024[48].

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45 Figures have been uprated in line with the CPI figures for September each year. (1) £272,000* 1.017 (2019) * 1.005 (2020) = £278,000 (2) £280,000* 1.017 (2019) * 1.005 (2020) = £286,000 rounded to nearest 1000.

46 Figures have been uprated in line with the CPI figures for September each year. (4 Schemes One-Off) £136,000* 1.017 (2019) * 1.005 (2020) = £139,000. (4 Scheme Ongoing) £140,000* 1.017 (2019) * 1.005 (2020) = £143,000. (12 Schemes One-Off) £408,000 * 1.017 (2019) * 1.005 (2020) = £417,000 (12 Schemes Ongoing) £420,000 * 1.017 (2019) * 1.005 (2020) = £429,000.

47 Figures have been uprated in line with the CPI figures for September each year. (1) £435,200* 1.017 (2019) * 1.005 (2020) = £445,000. (2) £448,000 * 1.017 (2019) * 1.005 (2020) = £458,000.

48 Figure has been uprated in line with the CPI figures for September each year. £95,000 * 1.017

180. When allowing for sensitivity around the volume assumptions of 50 per cent (i.e. 10 and 29 delegations in scope), holding everything else constant, the one-off cost decreases to £51,000[49] and increases to £148,000[50]

181. When allowing for sensitivity around the cost assumptions based on the CMA evidence, the average one-off cost would be £22,000[51] and the maximum one-off cost would be £66,000[52]. Holding everything else constant the one-off cost increases to £421,000[53] and £1,262,000[54] respectively.

182. **6. Ongoing CMA savings to not enforce Order once regulations have been set (until the expiration of the CMA Order)**

183. It is assumed that the CMA compliance process takes 6 weeks to enforce resulting in an annual saving of £4,000 per year. When allowing for sensitivity around the time assumptions of 50 per cent (i.e. 3 and 9 weeks), holding everything else constant, the one-off saving decreases to £2,000[55] and increases to £6,000[56]

184. Once the regulations come into force the CMA confirmed they will no longer enforce the Order. The regulations are scheduled to come into force on 01 October 2022 and the CMA Order will conclude on 10 December 2029. The period between the start of the regulations and the end of the CMA order is 7.17 years, resulting in a total saving of £27,000[57] . When allowing for sensitivity around the time assumptions of 50 per cent (i.e. 3 and 9 weeks), holding everything else constant, the total saving decreases to £14,000[58] and increases to £41,000[59]

185. **7. One-off and ongoing costs to TPR**

186. The cost estimates provided by TPR using 2014 powers, give a one-off cost of £10,000 in the first year and an ongoing cost of £59,000. When allowing for sensitivity around the one-off cost assumptions of 50 per cent, one-off costs decrease to £5,000 and increase to £15,000. TPR provided conservative and worst-case scenario estimates for the number of mandatory tendering breaches. This resulted in a lower-bound ongoing cost of £45,000 and an upper-bound ongoing cost of £73,000[60]

(2019) * 1.005 (2020) = £97,000 rounded to nearest 1000.

49 Calculation: £5,000*10=£50,000. Figure has been uprated in line with the CPI figures for September each year. £50,000 * 1.017 (2019) * 1.005 (2020) = £51,000 rounded to nearest 1000.

50 Calculation: £5,000*29=£145,000. Figure has been uprated in line with the CPI figures for September each year. £145,000 * 1.017 (2019) * 1.005 (2020) = £148,000 rounded to nearest 1000.

51 Figure has been uprated in line with the CPI figure for September each year. £22,000 * 1.017 (2019) * 1.005 (2020) = £22,000 rounded to the nearest 1000.

52 Figure has been uprated in line with the CPI figure for September each year. £65,000 * 1.017 (2019) * 1.005 (2020) = £66,000 rounded to the nearest 1000.

53 Figure has been uprated in line with the CPI figure for September each year. £412,000 * 1.017 (2019) * 1.005 (2020) = £421,000 rounded to the nearest 1000.

54 Figure has been uprated in line with the CPI figure for September each year. £1,235,000 * 1.017 (2019) * 1.005 (2020) = £1,262,000 rounded to the nearest 1000.

55 (50/100) * 6 * (33,00/52) = £2,000 rounded to nearest 1000.

56 (150/100) * 6 * (33,00/52) = £6,000 rounded to nearest 1000

57 £4,000 * 7.17 = £27,000 all figures rounded to the nearest 1000.

58 £2,000 * 7.17 = £14,000 rounded to nearest 1000.

59 £6,000 * 7.17 = £41,000 rounded to nearest 1000.

60 TPR costs have been calculated using internal data from 2021.

187. **Small and Micro Business Assessment**

188. **Scope of Regulations**

189. The proposed regulations will affect DB and DC pension schemes with 2+ members including hybrid schemes but excluding Executive Pension Schemes (EPSs) and Small Self-Administered Schemes (SSASs) The regulations will affect pension scheme trustees and sponsoring employers regardless of sector or size.

190. These small and micro pension schemes (EPSs and SSASs) have been deemed out of scope of the regulations as it would be disproportionate for it to apply to them. For these schemes, where the members are all trustees, or directors of a corporate trustee, it would be unreasonable to make trustees undertake the time and cost to tender or set objectives when they are already directly incentivised to do so to improve their own outcomes.

191. Most small businesses do not administer their own pension schemes, but instead use an external provider to meet their duties.

192. **Findings from the CMA Report**

193. The CMA found that small schemes and DC schemes are less engaged in the IC market[61] and the supply of IC services to smaller pension schemes is particularly unconcentrated[62]. The CMA report defines 'small' schemes as those with assets below £100 million.

194. The CMA survey found that smaller schemes are less likely than larger schemes to purchase IC and FM services:

- 49% of smaller pension schemes use IC services compared to 94% of large schemes
- 18% of smaller pension schemes buy FM services compared to 26% of large schemes[63]

195. In their report[64], the CMA highlighted concern that the costs or time required for mandatory tendering may result in a scheme incurring costs which could represent a greater relative burden on smaller schemes. The CMA however concluded that the mandatory tendering remedy should have no minimum threshold for scheme size as this would reduce effectiveness (the problems are more prominent amongst smaller schemes so including a minimum threshold and exempting these schemes would mean these benefits would not be realised). This suggests small and micro schemes may be disproportionately impacted by these regulations as they may need to invest relatively more resources in meeting the new requirements. As the CMA have not excluded these small and micro schemes in their Order (with the exception of EPSs and SSASs) these schemes are already in scope in the counterfactual of the preferred option

196. **Data on DB and DC Schemes by Size**

197. Table 6 shows that the majority of DB schemes have more than 100 members though there are a significant number of schemes with fewer than 100 members. Table 7 shows that the majority of DC schemes in scope have fewer than 100 members. These tables refer to scheme size and are not a direct measure of the number of employees in the

61 CMA, Investment Consultants Market Investigation, Final Report Paragraph 32
62 CMA, Investment Consultants Market Investigation, Final Report Section 4.83
63 IFF Research Report on the CMA survey, Page 13 https://assets.publishing.service.gov.uk/media/5abba5afe5274a1aa5933a6a/survey-IFF-Report.pdf
64 CMA, Investment Consultants Market Investigation, Final Report Section 12.46-12.50

underlying sponsoring employer. The vast majority of members are in schemes with more than 100 members[65].

198.

199.

200. **Table 6: Number of DB schemes by scheme size[66]**

201. **Number of Members**	202. **Number of Schemes (Purple Book-Estimated 2021)**
203. 2-99	204. 1,874
205. 100-999	206. 2,280
207. 1,000-4,999	208. 720
209. 5,000-9,999	210. 160
211. 10,000+	212. 186
213. **Total**	214. **5,220**

Source: Pension Protection Fund, The Purple Book, 2021

215. **Table 7: Number of DC schemes by scheme size[67]**

216. **Number of Members**	217. **Number of Schemes (includes** 218. **hybrid schemes)**
219. 2-11	220. 965
221. 12-99	222. 660
223. 100-999	224. 360
225. 1,000-4,999	226. 210
227. 5,000+	228. 140
229. **Total**	230. **2,335**

Source: TPR Scheme Return 2021-22 and Micro Scheme estimate 2022

231. The costs to business fall to the trustees of DB and DC schemes so small and micro businesses that sponsor DB and DC schemes may be affected. Small and micro businesses would not be directly impacted by the change in regulation, but they may face indirect costs if small schemes face higher relative charges that are then passed onto sponsoring employers. However, assessing the impact of the proposed changes on this group is difficult, as small and micro pension schemes may not necessarily correspond to small and micro businesses[68]. As there is currently no robust evidence to link pension scheme size to employer size, it is disproportionate to accurately assess the impact on small and micro businesses.

65 99.9% of DC members in schemes with 12 or more members are in schemes with more than 100 members (DC trust: scheme return data 2021 to 2022 https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/dc-trust-scheme-return-data-2021-2022/dc-trust-scheme-return-data-2021-2022-annex#0de6e1d5c3ef45f2b407717b0aa928ce 99% of DB members are in schemes with more than 100 members (TPR Annual DB Report https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/dc-trust-scheme-return-data-2021-2022/dc-trust-scheme-return-data-2021-2022-annex#0de6e1d5c3ef45f2b407717b0aa928ce

66 Pension Protection Fund, The Purple Book, December 2021 Figure 2.1

67 1,370 DC and Hybrid Schemes with 12+ members: TPR, DC trust: presentation of scheme return data 2021 – 2022 (March 2021) 965 DC Micro Schemes with 2-11 members: TPR estimate .

68 4 For example, a large firm may sponsor a small scheme with only a few members. Similarly, many small and micro businesses participate in large multi-employer schemes or master trusts.

232. The Annual Survey of Hours and Earnings (ASHE) dataset provides information on the size of DB and DC sponsoring employers with active members. This will only include those who are contributing to a DB or DC pension so will exclude members who are in schemes closed for future accrual but it helps to provide an indication of the size of sponsoring employers.

233. Table 8 shows the proportion of Private sector and Not for Profit active DB members by employer size. The majority of active DB members work in businesses with 50 or more employees. 15% and 4% of active DB members work in Small and Micro businesses respectively[69].

Table 8: Proportion of DB sponsoring employers, by employer size[70].

234. **Number of Members**	235. **Number of Schemes (includes** 236. **hybrid schemes)**
237. 0	238. 0%
239. 1-9	240. 12%
241. 10-49	242. 19%
243. 50-99	244. 7%
245. 100-499	246. 12%
247. 500-999	248. 5%
249. 1000+	250. 44%
251. **All sizes**	252. **100%**

Source: ONS Annual survey of Hours and Earnings, 2020

253. Table 9 shows the proportion of Private sector and Not for Profit active DC members by employer size. The majority of active DC members work in businesses with 50 or more employees. 19% and 12% of active DC members work in Small and Micro businesses respectively.

Table 9: Proportion of DC sponsoring employers, by employer size[71]

254. **Size of Employers**	255. **Proportion of DC members**[72]
256. 0	257. 0%
258. 1-9	259. 12%
260. 10-49	261. 19%
262. 50-99	263. 7%
264. 100-499	265. 12%
266. 500-999	267. 5%
268. 1000+	269. 44%
270. **All sizes**	271. **100%**

Source: ONS Annual survey of Hours and Earnings, 2020

272. If small and micro businesses use smaller sized pension schemes (rather than participating in a multi-employer scheme) then they may encounter a higher cost because of the regulation relative to their overall cost, but they will benefit from the introduction of the requirements. However, small and micro businesses are not the same as small and micro pension schemes.

69 A micro business has 1-9 employees. A small business has 10-49 employees.
70 Estimates derived from ONS Annual Survey of Hours and Earnings
71 Estimates derived from ONS Annual Survey of Hours and Earnings
72 Figures are rounded to the nearest 1%

273. Small and micro businesses make up more than 50% of active NEST membership[73]. As many small and micro businesses use large pension schemes, no disproportionate impact is anticipated.

274. **Monitoring and Evaluation**

275. In line with the commitment to a review of the regulations, a report is expected to be published by 31st December 2028. The report will assess to what extent the policy objectives have been achieved and if regulations are still appropriate. If the regulations are still deemed appropriate, it is expected that additional reports will be published in intervals not exceeding five years.

73 NEST MEMEMP Database, NEST members with active status by size of current employer, 31 December 2021.

276. **Summary of Total Costs**[74]

Table 10: One-off familiarisation cost to trustees and ongoing cost to trustees (to source and compile the additional information required for TPR scheme return)

277. **Type of cost**	278. **Scheme volumes**	279. **Cost**	280. **Frequency**	281. **Assumptions and rationale**
282. One-off	283. DB: 5,220 284. DC: 2,335	285. £1,220,000	286. Year 1 (2022/23)	287. It is assumed that it will take all trustees 114 minutes to familiarise themselves with the new requirements, based on the length of regulations. It is assumed that schemes will already be complying with the CMA Order and therefore, the familiarisation process will be simple.
288. Ongoing	289.	290. £39,000	291. Yearly	292.
293. Total Cost	294. £1,220,000 in Year 1 (2022/23) and £39,000 per Year			

Table 11: One-off and ongoing cost to additional 8 schemes to set objectives and report against them from extension of scope (to include schemes where the principal or controlling employer of a scheme is themselves a provider of FM services and Master Trusts for which an IC-FM firm is the scheme strategist or scheme funder)

295. **Type of cost**	296. **Scheme volumes**	297. **Cost**	298. **Frequency**	299. **Assumptions and rationale**
300. One-off	301. 8	302. £278,000	303. Year 1 (2022/23)	304. It is estimated that there are 8 schemes in scope based on research on master
305. Ongoing	306.	307. £286,000	308. Yearly	309. trusts sponsored by IC/FM firms and other IC/FM providers. It is assumed that the 8 pension schemes affected by this measure are equally as likely to have already set objectives as the schemes in the CMA sample.

74 All costs are rounded to the nearest 1000.

295. **Type of cost**	296. **Scheme volumes**	297. **Cost**	298. **Frequency**	299. **Assumptions and rationale**
310. Total Cost	311. £278,000 in Year 1 - (2022/23) and £286,000 per year			

312. **Table 12: One-off cost to tender 19 fiduciary management (FM) delegations commissioned between 11 June and 09 December 2019**

313. **Type of cost**	314. **Delegation volume**	315. **Cost**	316. **Frequency**	317. **Assumptions and rationale**
318. One-off	319. **19**	320. **£97,000**	321. It is assumed that the cost of tendering is split evenly from 01 October 2022 to 09 December 2024.	322. It is estimated that 19 delegations made between 11 June and 09 December 2019 will be required to tender. It is assumed that the cost will be the lowest estimate provided to the CMA information request because these costs include a Third Party Evaluator (TPE) which schemes will not be required to use.
323. **Total Cost**	324. £97,000 split evenly from 01/10/22 to 09/12/24			

325. **Table 13: Ongoing CMA savings to not enforce Order once regulations have been set**

326. **Type of cost**	327. **Scheme volumes**	328. **Cost**	329. **Frequency**	330. **Assumptions and rationale**
331. Ongoing (until CMA 332. Order has concluded)	333. **N/A**	334. **£4,000**	335. Yearly	336. The CMA have confirmed it will take one administrator (HEO) 6 weeks per year to enforce compliance of the CMA Order. It is estimated that the cost of enforcement will be £4,000 per year for as long as the CMA Order is in place, totalling £27,000 by 2029/30. 337.
338. **Total Cost**	339. £4,000 each year for the remaining time that the CMA Order is in place totalling £27,000 by 2029/30			

340. **Table 14: Ongoing cost to trustees from change in scope (as a result of the difference between interconnected body corporate and group undertaking)**

341. **Type of cost**	342. **Scheme volumes**	343. **Cost**	344. **Frequency**	345. **Assumptions and rationale**
346. One-off	347. 0	348. £0	349. Year 1 (2022/23)	350. It is assumed that the CMA captured all
351. Ongoing	352.	353. £0	354. Yearly	355. schemes which now fall into scope of an FM service in the counterfactual. It is assumed that trustees would know to avoid more than one approach to firms which formed a group undertaking and would instead seek a different tender, based on the regulations.
356. **Total Cost**	357. £97,000 split evenly from 01 October 2022 to 09 December 2024.			

358. **Table 15: One-off and ongoing cost to TPR**

359. **Type of cost**	360. **Scheme volumes**	361. **Cost**	362. **Frequency**	363. **Assumptions and rationale**
364. One-off	365. N/A	366. £10,000	367. Year 1 (2022/23)	368. The costings are estimated on existing processes and do not include the potential costs of more complex cases that might arise. There is insufficient data to make robust assumptions on the number of schemes in scope for the two remedies and in turn the estimated number of cases which might arise. (TPR do not have a robust

359. **Type of cost**	360. **Scheme volumes**	361. **Cost**	362. **Frequency**	363. **Assumptions and rationale**
369. Ongoing	370.	371. £59,000 using 2014 powers	372. Yearly	373. estimate for the number of breaches per annum). TPR will adopt a flexible risk appetite in response to volumes of non-compliance reporting. One-off costs are based on adopting existing processes and adding questions to the scheme return. These costs would be higher if new processes have to be established.
374. **Total Cost**	375. £69,000 in (Year 1) 2022/23 and £59,000 per year using 2014 powers			

376. **Other Impacts**

377. **Equality**

378. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that they would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

379. **Environmental**

380. There are no implications.

381. **Rural proofing**

382. There are no implications.

383. **Health**

384. There are no implications.

385. **Human rights**

386. The Department considers that the regulations are compliant with the Human Rights Act 1998.

387. **Competition**

388. There are no implications.

Approved by:	Anne McCleary Director of Social Security Policy, Legislation and Decision Making Services	**Date:**	21 July 2022

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