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STATUTORY INSTRUMENTS

2005 No. 674

PENSIONS

The Pension Protection Fund (Provision of Information) Regulations 2005

<i>Made</i>	- - - -	<i>11th March 2005</i>
<i>Laid before Parliament</i>		<i>16th March 2005</i>
<i>Coming into force</i>	- -	<i>6th April 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 190, 203(1), 315(2), (4) and (5) and 318(1) of the Pensions Act 2004 ^{M1}, and of all other powers enabling him in that behalf, by this instrument, which contains regulations made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which they are made ^{M2}, hereby makes the following Regulations:

Marginal Citations

- M1** 2004 c. 35. Section 318(1) is cited because of the meaning there given to “prescribed” and “regulations”.
- M2** See section 317 of the Pensions Act 2004 which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations by virtue of the provisions of that Act (other than Part 8). This duty does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of that Act by virtue of which the regulations are made.

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Provision of Information) Regulations 2005 and shall come into force on 6th April 2005.

Interpretation

- 2.—(1) In these Regulations—
- “the Act” means the Pensions Act 2004 (any reference to a numbered section being to the section so numbered in that Act) ^{M3};
- “appointed representative” means a person—

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- (a) whose name, address and appointment by the member or beneficiary for the purposes of—
- (i) providing information to the Board; or
 - (ii) receiving information from the Board,
- under regulation 3 or 5 have been notified to the Board in a document signed by the member or beneficiary in question or by his legal representative; and

- (b) whose appointment has been consented to by the Board;

“assessment period” shall be construed in accordance with section 132 (assessment periods);

“beneficiary” in relation to an eligible scheme means any person, other than a member of that scheme, who is entitled to compensation in accordance with the pension compensation provisions;

“eligible scheme” shall be construed in accordance with section 126 (eligible schemes);

“insolvency practitioner” shall be construed in accordance with section 121 (insolvency event, insolvency date and insolvency practitioner);

“multi-employer scheme” shall be construed in accordance with section 307(4);

“normal pension age” in relation to any pension or lump sum in respect of which compensation is payable shall be construed in accordance with paragraph 34 of Schedule 7 to the Act (pension compensation provisions);

“pension compensation provisions” shall be construed in accordance with section 162 (the pension compensation provisions);

“personal representative” means the executor, original or by representation, or administrator for the time being of a deceased person;

“review decision” shall be construed in accordance with section 207(1)(a) (review and reconsideration by the Board of reviewable matters); and

“transfer notice” shall be construed in accordance with section 160 (transfer notice).

(2) Subject to paragraph (3) below, in these Regulations, “employer”, in relation to an occupational pension scheme which has no active members, includes every person who was the employer of persons in the description of employment to which the scheme relates immediately before the time at which the scheme ceased to have any active members in relation to it.

(3) In these Regulations, “employer”, in relation to a multi-employer scheme, or a section of a multi-employer scheme, includes—

- (a) in the case of a scheme which has no active members, every person who was the employer of persons in the description of employment to which the scheme, or section, relates immediately before the time at which the scheme, or section, ceased to have any active members in relation to it unless, after that time—

(i) a debt under section 75 of the Pensions Act 1995 ^{M4} (deficiencies in the assets) becomes due from that person to the scheme, or section; and

(ii) either—

(aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section, or

(bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers; and

- (b) in any other case, any person who has ceased to be the employer of persons in the description of employment to which the scheme, or section, relates unless—
- (i) at the time when he so ceased, the scheme, or section, was not being wound up and continued to have active members in relation to it; and
 - (ii) a debt under section 75 of the Pensions Act 1995 became due at that time from that person to the scheme, or section, and either—
 - (aa) the full amount of the debt has been paid by that person to the trustees or managers of the scheme, or section, or
 - (bb) in circumstances where a legally enforceable agreement has been entered into between that person and the trustees or managers of the scheme, or section, the effect of which is to reduce the amount which is payable in respect of the debt, the reduced amount of the debt has been paid in full by that person to those trustees or managers.

Marginal Citations

- M3** The Act is modified in its application to partially guaranteed pension schemes by the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005 (S.I. 2005/277), in its application to hybrid schemes by the [Pension Protection Fund \(Hybrid Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/449\)](#), and in its application to multi-employer schemes by the [Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#).
- M4** 1995 c. 26; section 75 is amended by section 271 of the Pensions Act 2004.

Information to be provided by the Board

3.—(1) In this regulation—

“insolvency event” shall be construed in accordance with section 121;

“qualifying insolvency event” shall be construed in accordance with section 127 (duty to assume responsibility for schemes following insolvency event); and

“segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer's or that member's section; and
- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

(2) Where the Board receives a notice under section 120(2) (duty to notify insolvency events in respect of employers) from an insolvency practitioner that an insolvency event has occurred in relation to an employer, and—

- (a) the scheme to which the notice relates is an eligible scheme; or
- (b) in the case of a multi-employer scheme which is a segregated scheme, the section to which the notice relates is an eligible section,

it shall, within the period of 28 days beginning with its receipt of that notice, provide that insolvency practitioner, the Regulator, and the trustees or managers of that scheme or section with the information described in paragraph (3).

(3) The information to be provided under paragraph (2) is—

- (a) where the insolvency event is not a qualifying insolvency event, that the insolvency event is not such an insolvency event; or

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(b) where the insolvency event is a qualifying insolvency event, that the insolvency event is such an insolvency event and the date on which the assessment period began.

(4) Where the Board—

(a) receives, during the assessment period, an application for a loan from the trustees or managers of a scheme under section 139(2) (loans to pay scheme benefits); and

(b) decides whether or not it will make a loan to those trustees or managers,

it shall within the period of 14 days beginning with the day on which it made its decision notify those trustees or managers of its decision, of the amount that it considers appropriate to lend and of the terms on which it will make the loan.

(5) Where a person is authorised by the Board for the purposes of these Regulations as mentioned in section 190(1)(b)(ii) (information to be provided to the Board etc) in relation to a scheme, the Board shall, within 14 days of making that authorisation, notify the identity of the person so authorised to—

(a) the trustees or managers of that scheme;

(b) the employer in respect of that scheme; and

(c) the insolvency practitioner in relation to that employer.

(6) Where the Board has given the trustees or managers of a scheme a transfer notice, the information to be provided by the Board to members and beneficiaries of that scheme shall be determined in accordance with the provisions of Schedule 1.

Information to be provided by trustees or managers

4.—(1) This regulation applies where there is an assessment period in relation to an eligible scheme.

(2) The information to be provided to—

(a) the Board; and

(b) members of that scheme,

by the trustees or managers of that scheme shall be determined in accordance with the provisions of Schedule 2.

Information to be provided by members and beneficiaries and their personal representatives

5.—(1) This regulation applies where the Board has given the trustees or managers of a scheme a transfer notice.

(2) The information to be provided to the Board by members and beneficiaries of that scheme shall be determined in accordance with the provisions of Schedule 3.

(3) Where a member or a beneficiary dies, his personal representative shall, within the period of 28 days beginning with the day of the death, notify the Board of the death and provide the death certificate to the Board.

Method of providing information

6.—(1) Where, under these Regulations, any information is to be provided to any person that information shall be provided in writing.

(2) Where—

(a) under these Regulations any information is to be provided—

(i) to the Board by any member or beneficiary; or

- (ii) by the Board to any member or beneficiary; and
- (b) there is an appointed representative in relation to that member or beneficiary, that information shall be provided by or to his appointed representative.
- (3) Any document sent, or notification given, by the Board to any member or beneficiary under regulation 3(6) shall include—
 - (a) the name of the scheme to which it relates or other information sufficient to identify the subject matter of the document or notification;
 - (b) the address and telephone number of the Board;
 - (c) the name in legible characters of the sender of the document or giver of the notification; and
 - (d) the date on which it was sent or given.
- (4) Any notification given by the Board to any person under regulation 3(2), (4) or (5) shall include—
 - (a) the name of the person to whom it is given;
 - (b) the name of the scheme to which the notification relates;
 - (c) the pension scheme registration number which is allocated to that scheme in the register;
 - (d) the address and telephone number of the Board;
 - (e) the name in legible characters of the giver of the notification; and
 - (f) the date on which it was given.
- (5) Any document sent, or notification given, by any trustees or managers to the Board under regulation 4(2) shall include—
 - (a) the names of the trustees or managers sending the document or giving the notification;
 - (b) the name of the scheme to which the document or notification relates; and
 - (c) the pension scheme registration number which is allocated to that scheme in the register.
- (6) Any document sent, or notification given, to the Board by any member under regulation 5(2), or by the personal representative of a deceased member under regulation 5(3), shall include, in relation to that member—
 - (a) the name, address, date of birth and national insurance number of that member;
 - (b) the name of the employer in relation to the scheme in which that member's pension rights accrued; and
 - (c) the address or location of a place of business of that employer.
- (7) Any document sent, or notification given, to the Board by any beneficiary under regulation 5(2), or by the personal representative of a deceased beneficiary under regulation 5(3), shall include, in relation to the member from whom that beneficiary has accrued pension rights, the information described in sub-paragraphs (a), (b) and (c) of paragraph (6) and the name, address, date of birth and national insurance number of that beneficiary.

Signed by authority of the Secretary of State for Work and Pensions.

11th March 2005

Malcolm Wicks
Minister of State,
Department for Work and Pensions

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SCHEDULE 1

Regulation 3

INFORMATION TO BE PROVIDED BY THE BOARD

1.—(1) In this Schedule—

“interested person” shall be construed in accordance with regulations made under section 207(2); and

“reviewable matter” shall be construed in accordance with section 206 (meaning of “reviewable matters”).

(2) Information to be provided by the Board to members and beneficiaries shall be determined in accordance with the provisions of the table of information to be provided by the Board set out below—

Table of information to be provided by the Board

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which or time at which information is to be provided</i>
All members and beneficiaries.	Notification that the Board has assumed responsibility for the scheme, or any part thereof, together with the date on which the Board assumed that responsibility.	The period of two months beginning on the day on which the Board gave the transfer notice to the trustees or managers.
All members and beneficiaries.	The identity of any person authorised by the Board for the purposes of these Regulations as mentioned in section 190(1)(b)(ii) in relation to the scheme in respect of which the member or beneficiary is receiving or may receive compensation.	Where the Board so authorised a person before it gave the transfer notice, the period of two months beginning on the day on which it gave such notice; or, where the Board so authorises a person after it gave that notice, the period of two months beginning on the day on which that person was so authorised.
Any member who makes a request in writing to the Board for it to provide a forecast of his compensation entitlement.	A forecast, determined in accordance with the pension compensation provisions, of the compensation to be paid to him in relation to that scheme.	The period of 28 days beginning on the day when the Board receives the request.
Any member who will attain normal pension age on his next birthday.	<p>1. A forecast, determined in accordance with the pension compensation provisions, of the compensation to be paid to him in relation to that scheme.</p> <p>2. Details of any options to commute which may be exercised by him in relation to that scheme in accordance</p>	The period of six months beginning 12 months before the day on which he will attain normal pension age.

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with paragraph 24 of Schedule 7 to the Act (commutation of periodic compensation) and forecasts, determined in accordance with the pension compensation provisions, of—

- (a) the lump sum to be paid to him under any such option; and
- (b) the reduced level of annual compensation payments which he would receive if he exercised any such option.

Any member who makes a request in writing to the Board for it to provide—

- (i) information about any options to commute which may be exercised by him in relation to that scheme in accordance with paragraph 24 of Schedule 7 to the Act; or—
- (ii) a forecast of the lump sum payable to him on the exercise of any such option.

Details of any options to commute available to him, and forecasts, determined in accordance with the pension compensation provisions, of—

- (a) the lump sum to be paid to him under any such option; and
- (b) the reduced level of annual compensation payments which he would receive if he exercised any such option.

The period of 28 days beginning on the day on which the Board receives the request.

Any member who makes a request in writing to the Board for it to provide information about any entitlement he may have to early payment of compensation under paragraph 25 of Schedule 7 to the Act (early payment of compensation).

Details of any entitlement he may have to early payment of compensation and a forecast, determined in accordance with the pension compensation provisions, of the periodic compensation and of any lump sum payment payable to him under paragraph 25.

The period of 28 days beginning on the day on which the Board receives the request.

Any member who becomes entitled to compensation under the pension compensation provisions and any beneficiary of such a member where that beneficiary becomes entitled to such compensation.

1. A copy of the determination by the Board of the entitlement to compensation of the member or beneficiary in question.
2. Details of any options to commute which may be exercised by him in relation to that scheme in accordance with paragraph 24

The period of 28 days beginning on the day on which—
(a) the Board gave the transfer notice to the trustees or managers; or
(b) the member or beneficiary became entitled to compensation; whichever is the later.

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of Schedule 7 to the Act and forecasts, determined in accordance with the pension compensation provisions, of—

- (a) the lump sum to be paid to him under any such option; and
- (b) the reduced level of annual compensation payments which he would receive if he exercised any such option.

All members and beneficiaries.	Details of any variation in the amounts of payments of compensation payable under that scheme where the variation will result from the operation of paragraph 27, 28, 29 or 30 of Schedule 7 to the Act, and the date when the variation will become effective (“the operative date”).	Not less than 28 days before the operative date.
Any member or beneficiary who is an interested person in relation to a particular reviewable matter.	A statement describing how an application may be made to the Board for the review of that reviewable matter, how it will be considered and the Board's powers on making a review decision.	The period of 28 days beginning on the day on which the Board knew or ought to have known that that reviewable matter had occurred.
Any member who is a party to matrimonial proceedings or who is contemplating such proceedings and who makes a request in writing to the Board for information about his compensation entitlement.	A statement, determined in accordance with the pension compensation provisions, of the compensation to be paid to him in relation to that scheme.	The period of three months beginning on the day on which the Board receives the request, or by the date the Board complies with any court order to provide such information, whichever is the sooner.

SCHEDULE 2

Regulation 4

INFORMATION TO BE PROVIDED BY TRUSTEES OR MANAGERS

1.—(1) In this Schedule—

“assessment date” shall be construed in accordance with paragraph 2 of Schedule 7 to the Act;
 “hybrid scheme” shall be construed in accordance with section 307(4);

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“notification date” means the day on which the Board notifies the trustees or managers of the scheme in accordance with regulation 3(3)(b) of the date on which the assessment period began;

“partially guaranteed scheme” shall be construed in accordance with section 307(3);

“relevant contract of insurance” shall be construed in accordance with section 161(8) (effect of Board assuming responsibility for a scheme);

“reviewable ill health pension” shall be construed in accordance with section 140 (reviewable ill health pensions);

“valuation” means a valuation, or further valuation^{M5}, which has been—

- (a) obtained by the Board in respect of the scheme under—
 - (i) section 143 (Board's obligation to obtain valuation of assets and protected liabilities); or
 - (ii) regulation 43 or 59 of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005; and
- (b) approved by the Board under section 144(2) (approval of valuation);

“valuation summary” means, in relation to each member of the scheme, a summary of the valuation which contains—

- (a) a summary of the overall assets and liabilities of the scheme;
- (b) details of how that member's entitlement to compensation would be calculated if the Board assumed responsibility for the scheme;
- (c) details of any information the Board holds on that member's pensionable service and accrued rights;
- (d) where there is a pension in payment to that member at the assessment date, the annual amount of that pension; and
- (e) a statement describing how an application may be made to the Board for the review of the Board's decision to approve the valuation under section 144(2), how it will be considered and the Board's powers on making a review decision; and

“withdrawal notice” means a notice issued under section 122(2)(b) (insolvency practitioner's duty to issue notices confirming status of scheme) or section 130(3) (Board's duty where application or notification received under section 129).

(2) Information to be provided to the Board and members by trustees or managers shall be determined in accordance with the table of information to be provided by trustees or managers set out below—

Table of information to be provided by trustees or managers

<i>Description of persons to whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which information is to be provided</i>
The Board.	In respect of each member of that scheme entitled to a reviewable ill health pension— <ul style="list-style-type: none"> (a) his name; (b) a description of his position as an employee in relation to the 	The period of 28 days beginning on the notification date.

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	<p>employer in relation to that scheme;</p> <p>(c) the annual amount of his reviewable ill health pension; and</p> <p>(d) the date on which the award of that pension was made.</p>	
The Board.	<p>1. Details of any legal proceedings by or against any of the trustees or managers of the scheme in their capacity as trustees or managers which are pending immediately before, or in existence on, the assessment date.</p> <p>2. Details of any relevant contract of insurance which is in being on the assessment date.</p>	<p>The period of 28 days beginning on the notification date.</p>
The Board.	<p>The identity of the maker of any further contributions towards the scheme paid under section 133 (admission of new members, payment of contributions etc), together with the amount of any such contributions.</p>	<p>The period of 14 days beginning on the last day of the month in which the contribution was paid.</p>
The Board.	<p>Details of any significant changes—</p> <p>(a) in the investment of the scheme's assets; or</p> <p>(b) in the level of expenditure incurred by the scheme.</p>	<p>The period of 14 days beginning on the day the change took place.</p>
The Board.	<p>Details of any change in the address or telephone number of the trustees or managers.</p>	<p>Before the expiry of the period of five days beginning on the day the change took place.</p>
The Board.	<p>The identity of those individuals within the trustees' or managers' organisation who will have responsibility for providing information to the Board.</p>	<p>The period of 28 days beginning on the notification date.</p>
The Board.	<p>Any change in the identity of—</p> <p>(a) the individuals who have been notified to the Board as having responsibility for</p>	<p>The period of 14 days beginning on the day the change took place.</p>

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	providing information to the Board; and	
	(b) the insolvency practitioner.	
All members.	Notification that there is an assessment period in relation to the scheme, together with a description of the effect this will have on the rights and obligations of members of that scheme.	The period of 28 days beginning on the notification date.
All members.	An explanation of the provisions of Chapter 3 of Part 2 (pension protection) of the Act in so far as they will operate during the assessment period in relation to— (a) benefits payable under the scheme; and (b) contributions towards the scheme; together with an explanation of how, when a withdrawal notice becomes binding, contributions may become payable by or on behalf of the member.	The period of 28 days beginning on the notification date.
Where the scheme is not a hybrid scheme, a multi-employer scheme or a partially guaranteed scheme, all members.	A copy of the valuation summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation approved under section 144(2).
Where the scheme is a hybrid scheme, all members other than those who receive only money purchase benefits.	A copy of the valuation summary	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation approved under section 144(2).
Where the scheme is a multi-employer scheme, all members who are in the section of the scheme to which the valuation relates.	A copy of the valuation summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation, or further valuation, approved under section 144(2).
Where the scheme is a partially guaranteed scheme, all members who are in the unsecured part of the scheme.	A copy of the valuation summary.	The period of 28 days beginning on the day on which the trustees or managers receive a copy of the valuation, or further valuation, approved under section 144(2).

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Where the trustees or managers of a scheme make an application in respect of the scheme in accordance with section 151 (application for reconsideration), all members.	Notification of the application under section 151.	The period of 28 days beginning on the day the trustees or managers make that application.
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Marginal Citations		
M5 See section 160 of the Pensions Act 2004 as modified by regulation 10 of the Pension Protection Fund (Partially Guaranteed Schemes) (Modification) Regulations 2005.		

SCHEDULE 3

Regulation 5

INFORMATION TO BE PROVIDED BY MEMBERS AND BENEFICIARIES

1. Information to be provided by members and beneficiaries to the Board shall be determined in accordance with the provisions of the table of information to be provided by members and beneficiaries set out below—

Table of information to be provided by members and beneficiaries

<i>Description of persons by whom information is to be provided</i>	<i>Description of information to be provided</i>	<i>Period during which or time at which information is to be provided</i>
Any member or beneficiary whose address is changed.	Details of any changes in the address of that member or beneficiary.	The period of eight weeks beginning four weeks before the day on which the change will take place.
Any member whose marriage ends in divorce.	Notification of the divorce and a copy of the decree of divorce.	The period of 28 days beginning on the day on which the decree became absolute.
Any member whose circumstances change in a way which— (a) is not otherwise notifiable to the Board under regulation 5; and (b) he has reasonable cause to believe may affect his present or future entitlement or the future entitlement of any person who may become entitled in respect of him.	Details of the change in his circumstances.	The period of three months beginning on the day on which the change took place.
Any member or beneficiary who wishes to make any change to the means by which	Details of the proposed change and the date on which it is	At least 28 days before the operative date.

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compensation payments are made to him.	to take effect (“the operative date”).	
Where the member or beneficiary terminates the appointment of his appointed representative, or where there is any change in the address of an appointed representative, the member or beneficiary who appointed that appointed representative.	Notification of the termination or of the change in the address of the appointed representative, and the date on which the termination or change became effective.	The period of 28 days beginning on the day on which the termination or change became effective.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the information which the Board of the Pension Protection Fund (“the Board”), the members and beneficiaries of certain occupational pension schemes, the trustees and managers of such schemes and certain insolvency practitioners are required to provide where compensation is, or may become, payable by the Board.

The Board is established under section 107 of the Pensions Act 2004 to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme's sponsoring employer and where the pension scheme is under-funded at a certain level.

Regulation 3 makes provision as to the information to be provided by the Board to insolvency practitioners in relation to insolvent employers who sponsored an occupational pension scheme, trustees or managers of such schemes where an insolvency event has occurred in relation to the sponsoring employer, such employers and the members and beneficiaries of such schemes.

Regulation 4 makes provision as to the information to be provided by the trustees or managers of such schemes to the Board and to the members and beneficiaries of such schemes.

Regulation 5 makes provision as to the information to be provided by members and beneficiaries of such schemes to the Board.

Regulation 6 makes provision as to the method of providing information and as to certain details to be included whenever information is provided by the Board to members or beneficiaries, or by members or beneficiaries to the Board.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the Pensions Act 2004 by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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