



Department for

Communities

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THE OCCUPATIONAL PENSION SCHEMES (INVESTMENT AND DISCLOSURE) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2019

REGULATORY IMPACT ASSESSMENT

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The costs and savings outlined in this Regulatory Impact Assessment are calculated on a United Kingdom-wide basis.

Evidence Base

The policy issue and rationale for Government intervention

1. The financial crisis showed that there were many shortcomings in corporate governance and the stewardship of listed companies contributed to this. Stewardship is the responsible allocation and oversight of investments by pension schemes, asset managers and insurers, to create sustainable value for beneficiaries, and promote the long-term success of companies, the economy and society.
2. UK trustees of occupational pension schemes have an important role to play in the oversight of the firms in which they invest and to whom they lend. It is important that trustees fulfil the responsibilities associated with holding the investments in members' best interests – whether directly or by others on their behalf – through the full range of stewardship activities.
3. It is important that schemes have robust stewardship and governance systems in place to ensure the UK continues to be attractive for investors and they can be confident in the UK's governance systems.
4. And at a member level, there is an information asymmetry between trustees who set the investment strategy of pension schemes and members who are saving for retirement in these schemes. Government intervention to improve the transparency of investment decisions can help to reduce this information asymmetry.
5. The EU's position on stewardship for pension scheme trustees, as set out in the EU Directive 2017/828¹ (commonly known as "SRD II"), closely reflects the UK's position once the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018² ("the 2018 Regulations") and corresponding legislation in Great Britain come into operation.
6. SRD II encourages investors to adopt a long-term focus in their investment strategies, not only considering social and environmental issues, but also being transparent about how they invest and approach their engagement as shareholders. The planned changes to be introduced in order to implement Articles 3g and 3h include:

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L0828>

² <http://www.legislation.gov.uk/nisr/2018/165/contents/made>

1. Defined contribution (DC) and defined benefit (DB) schemes to be transparent about their arrangements with their asset managers and include this in their Statement of Investment Principle (SIP);
2. DC and DB schemes to include in their SIP their policy regarding the realisation of investments including how targeted portfolio turnover or turnover range is to be defined and monitored;
3. DC and DB schemes to describe in their SIP how they monitor investee companies' capital structure;
4. DC and DB schemes to describe in their SIP how they monitor actual and potential conflict of interest in relation to their engagement;
5. DB schemes to publish their SIP to align with DC schemes;
6. On an annual basis DC and DB schemes to publish their engagement policies and how they have cast their votes in the general meetings of companies in which they hold shares in their annual reports. This information is required to be available free of charge on their or their asset manager's website or by any other means that are easily available on line.
7. The Directive has a transposition deadline of 10 June 2019. The UK will still be a member of the EU at this time, and is committed to transpose the Directive into UK law.
8. This Directive is part of the EU's framework for financial regulation and as its requirements are aligned with the UK's own priorities it is sensible to transpose it with a minimal impact approach.

Policy objectives and intended effects

9. These changes are intended to make the UK more attractive for investors to operate here and be confident in the UK's governance and stewardship systems. Pension schemes are significant investors and members must be confident that schemes are exercising oversight and making their investments strategy transparent.
10. The changes being made as part of SRD II transposition will codify what some schemes in the UK will already be doing when the 2018 Regulations come into operation and ensure that all schemes will be totally transparent about their investment strategies.

Policy options considered, including alternatives to regulation

Option 1: Do nothing

11. Not transposing the Directive would go against the UK's agenda of maintaining the competitiveness of British business and ensuring a robust stewardship regime. Also pension schemes would not be playing a visible part in the UK's post-EU exit stewardship of investments agenda.

12. The Directive has a transposition deadline of 10 June 2019. The UK will still be a member of the EU at this time, and is committed to transpose the Directive into UK law.
13. 'Do nothing' is not in line with the Government's position on continuing to meet treaty obligations to transpose EU Directives during an implementation period in the event of a Withdrawal Agreement. This could also lead to an 'infringement procedure' or referral to the Court of Justice.
14. The UK pensions industry is aware of and expecting SRD II and it would create confusion if the choice is made to ignore it at this late stage.

Option 2: Non-legislative transposition

15. The Pensions Regulator's ("TPR") Codes of Practice explain in practical detail what the regulator expects from trustees in complying with the law. In scenarios where the UK's existing law is sufficiently close to an EU Directive, or is sufficiently broad, the UK can transpose those elements of the Directive by changing the relevant Code of Practice so it aligns with the Directive.
16. It was considered whether the occupational pension requirements of SRD II could be transposed purely by such non-legislative means in order to minimise the amount of legislation changes. However, some of the changes to the SIP and Implementation Statement do not exist in UK law and require small amendments to be made to legislation in order to fulfil our obligation to transpose.

Option 3 (preferred option): A mixture of legislative and non-legislative transposition

17. The existing legal requirement for developing an engagement strategy in the SIP and disclosing the implementation statement does not cover all schemes and does not allow the entirety of the requirements set out in the Directive to be expressed only in an updated TPR Code of Practice. Doing so would make TPR's Code of Practice unenforceable and may put the UK in the position of sub-delegating to TPR without the power to do so.
18. The chosen option is therefore to take a proportionate approach which includes both legislative and non-legislative elements, keeping the legislative component to a minimum as far as is possible.
19. The Department for Work and Pensions (DWP) has worked with the lead sponsoring Government Department for this Directive (Department for Business, Energy and Industrial Strategy) and Her Majesty's Treasury to agree the least onerous approach and has discussed with industry stakeholders how to implement these Articles which will minimise any impact on business, whilst still achieving policy objectives.
20. In the event of a 'no deal' scenario there will be no requirement to transpose the Directive but the changes will be made in the longer term as they make it attractive for investors to operate here and be confident in the UK's Governance systems.

Baseline scenario

21. Both DB and DC schemes are already required to have a SIP in place. Existing regulations require SIPs to be reviewed and where necessary updated at least every three years. This is referred to as a triennial cycle.
22. The 2018 Regulations require SIPs to be published only for DC schemes.
23. DC schemes are already required to produce and publish an annual report each year. DB schemes are required to produce an annual report, but this does not have to be published.

Therefore, only the requirements to include additional information (it is assumed schemes will use their SIP rather than a separate document to make this information transparent) and annual reports, and the requirement for DB schemes to publish this information on-line represent additional impacts, and are estimated below.

Expected level of business impact

24. Changes in the 2018 Regulations demonstrated that the costs of complying with the SRD II will be minimal. DWP have worked with a group of key industry stakeholders to develop options for how different types of schemes could achieve an effective system of governance at a proportionate level of cost, and this work will continue during the development of TPR's Code of Practice. The impacts are set out below.

Monetised and non-monetised costs and benefits

Summary

25. The total estimated cost in year 1 is £10.1m and every year after that £0.9m. The estimated annual net direct cost to business (EANDCB) in 2016 prices and discounted to 2017 is £1.8m.

Costs and benefits to business

Scope of measures

26. SRD II applies to IORPs as falling within the scope of Directive (EU) 2016/2341³ (IORP II) in accordance with Article 2 and Article 5 of that Directive, therefore SRD II does not apply to Public Service schemes and schemes that in total have less than 100 members. Therefore, Public Service schemes or schemes with less than 100 members are excluded from the volumes. This measure only applies to occupational schemes.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L2341>

Table 1: Volumes of schemes to be used in the estimates.

Number of scheme members	Defined benefit (DB) & hybrid ⁴	Defined contribution (DC) ⁵	Total
2-99 (DB)/12-99 (DC)	1,985	1,130	3,115
100+	3,539	1,050	4,589

Costs to pension schemes

27. Familiarisation costs – There will be costs to all trustees to familiarise themselves with the new regulations and Statutory Guidance. Assuming a speed of one minute to read 300 words it is assumed a trustee will take around 10 minutes to read and digest the 4-5 pages of information at an hourly rate of £28.50⁶ for each trustee.
28. From TPR research it is estimated that there are an average 3.4 trustees per scheme with more than 100 members⁷.
29. Across all 4,589 schemes in scope with 100 or more members this gives a one-off familiarisation cost of £60,000⁸.
30. Ongoing costs to review and update SIP (engagement strategy) – all schemes with 100 or more members will need to update their SIP to include the new requirements for monitoring investee companies' capital structure, managing conflicts of interest and details of their arrangements with their asset managers.
31. It is reasonable to expect that schemes should have this information to hand, as it relates to their existing procedures and arrangements and would involve updating their existing SIP which they are already required to produce. This assumption was tested at a stakeholder roundtable in March 2018 where participants confirmed this information was easily accessible and at hand.
32. It is expected that the cost of updating the SIP to reflect these procedures would be largely one-off in order to collate this information in the SIP for the first time. As policies or requirements are updated, these can be included in the SIP as part of the usual triennial update cycle.
33. Estimates previously received from stakeholders indicated that the cost to update a SIP is usually in the range of £2,000 to £5,000⁹ and the average of these estimates was £3,166.

⁴ https://www.ppf.co.uk/sites/default/files/file-2018-12/the_purple_book_web_dec_18_2.pdf. Figure 2.1, estimated 2018 universe. Data relates to 31/03/2018

⁵ <https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/dc-trust-2018/#677e6604db204ba1973c3590996fc8f6>. File 1, Table 1.3. Data relates to 31/12/2017.

⁶ The median hourly wage for a corporate manager or director is £22.44 in the Annual Survey of Hours and Earnings 2017 revised, Table 2.5. This is uplifted by 27% for overheads from the previous version of the Green Book.

⁷ TPR 2015 research shows that there are an average of 3.6 trustees for schemes with 100 – 999 members and 3.0 trustees with 1,000+ schemes. A weighted average has been created using the volume of schemes in these brackets to get 3.4 average for schemes with 100+ members <http://webarchive.nationalarchives.gov.uk/20170712122409/http://www.thepensionsregulator.gov.uk/docs/trustee-landscape-quantitative-research-2015.pdf>

⁸ £28.50 per hour * 3.4 trustees * (10/60 minutes) * 4,589 schemes

⁹ 'Impact Assessment for The Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018 published as Annex to the Explanatory Memorandum at http://www.legislation.gov.uk/nisr/2018/165/pdfs/nisrem_20180165_en.pdf

These updates would involve reviewing all the information within the SIP, of which the additional requirements would form a relatively small additional part.

34. It is assumed that an update like this would only need to add the additional documentation required by the three new factors in the SIP, and will not require a complete update of the whole document. Therefore, the lower estimate of the cost to update a SIP (£2,000) is taken – as a conservative estimate of the cost of updating the new factors. This is equivalent to 79 hours, or two weeks work, of a professional (£2,000/£25.40¹⁰ per hour) in order to include the additional information on monitoring investee companies' capital structure, managing conflicts of interest and details of their arrangements with their asset managers.

Assuming all schemes face this cost when they come to update their SIP, this would give an overall cost of £9,200,000 (4,589 schemes * £2,000) to add this information to a SIP.

35. Ongoing costs to Publish SIP (engagement strategy) on-line – DC schemes are required to publish their SIP and Implementation Statement on-line from October 2020 therefore this is a new requirement for DB schemes only.
36. Many DB schemes will already have a website so they will already have a suitable web hosting arrangement and process for uploading information. For those that do not, the requirement is only for them to publish on a suitable website, such as the sponsoring employer's website, or that of their asset manager. Therefore, it has been assumed that this will take 20 minutes¹¹ at an administrator's wage of £19.48¹² an hour to upload the report to a website.
37. The SIP has to be published from October 2020 so it is assumed they all publish in the first year of the policy when they have revised the SIP in order to be compliant on 1 October 2020.
38. Schemes will need to re-publish whenever they revise the SIP. Schemes already have to review the SIP at least every three years and revise it where appropriate. It is assumed that all schemes will have to re-publish every three years though in reality some might publish more often. The estimated costs incurred are small and so sensitivity analysis is considered to be disproportionate.
39. This gives an overall cost for DB schemes to publish a SIP of £23,000 in the first year of the policy (3,539 schemes * £19.48 * 20/60 minutes) and then £23,000 every third year after that as schemes publish over the triennial cycle.
40. Ongoing costs to provide additional information in the annual report – all schemes with 100 or more members will need to update their annual report to include the new requirements for:

1. how their engagement policy has been implemented;

¹⁰ The median hourly wage for a professional is £20.00 in the Annual Survey of Hours and Earnings 2017 revised, Table 2.5. This is uplifted by 27% for overheads from the previous version of the Green Book.

¹¹ This is consistent with the assumption in the disclosure of costs and charges impact assessment, http://www.legislation.gov.uk/nisr/2018/53/pdfs/nisrem_20180053_en.pdf. This is also consistent with stakeholder feedback gathered about the process which stated from no cost to 2 hours of work.

¹² The median hourly wage for an administrator is £15.34 in the Annual Survey of Hours and Earnings 2017 revised, Table 2.5. This is uplifted by 27% for overheads from the previous version of the Green Book.

2. how they have cast votes in the general meeting of companies in which they hold shares.
41. Again, this is information which schemes should already have to hand as it relates to their existing policies and voting records. Assuming these are to hand, it is reasonable to estimate that this information should take around a day for a professional to compile and document in the report.
42. This would generate an annual cost of £930,000 (4,589 schemes * 8 hours * £25.40¹³ per hour professional wage including on costs).

Direct benefits to pension schemes

43. These changes will codify what some schemes in the UK will already be doing when the 2018 Regulations come into operation and ensure that all schemes will be totally transparent about their investment strategies. These measures have the potential to make it clearer for firms to meet the duty of being transparent about their investment strategy and providing oversight of the firms in which they invest. Transparency will allow schemes to improve their strategies and policies by learning from the good practices of other schemes. As engagement policies are not published and transparent, it is currently not possible to measure the improvements as there is no base line. Therefore, it would be disproportionate to estimate the size of these direct benefits and so they have not been included in the EANDCB calculation.

Costs and benefits to pension scheme members

Costs to members

44. These measures place no requirements on members. Therefore, there are no additional familiarisation or ongoing costs to members from these measures.

Indirect benefits to members

45. These additional requirements will strengthen the responsibilities associated with holding investments in members' best interests and outlining and detailing schemes' arrangements with their asset managers. Improved transparency will reduce information asymmetries between schemes and members and allow engaged members to compare schemes and better understand schemes' investment strategies enabling members to hold schemes to account.

Costs to The Pensions Regulator (TPR)

46. TPR will need to update their guidance to trustees. TPR are already making amendments to their guidance and monitoring processes to take account of the 2018 Regulations, so the additional impact of these changes is expected to be modest.

¹³ The median hourly wage for a professional is £20.00 in the Annual Survey of Hours and Earnings 2017 revised, Table 2.5. This is uplifted by 27% for overheads from the previous version of the Green Book.

Summary of costs

Table 2: Summary of central familiarisation and ongoing costs

	Schemes	Cost	How often?	Assumptions	Rationale
Familiarisation with the requirements	4,589 schemes with 100 or more members.	£60,000	One-off	10 minutes to familiarise, by 3.4 trustees per scheme at £28.50 p.h trustee cost	Assuming reading speed of 300 wpm
Updating SIP	4,589 schemes with 100 or more members	£9,200,000	One-off	£2,000 per scheme	Involves updating SIP to include existing policies. Cost based on lower end of cost range to updating entire SIP from 2018 regulations
Updating annual report	4,589 schemes with 100 or more members	£1,050,000	Per annum	8 hours * £25.40 professional wage	Assume this would take one day for a professional to update
Publishing SIP for DB schemes	3,539 DB schemes with 100 or more members	£23,000	Tri-annually (equivalent to £7,300 per year)	20 minutes * £19.48 administrator wage	Assume 20 minutes for administrator to upload onto existing website

Sensitivity Analysis

47. The main sensitivity to the costing is the assumption on the cost of publishing the additional SIP information. This the single largest component of the EANDCB calculation and an area of uncertainty given this is a new requirement, and there is no direct information from businesses on the cost of providing this information. This is set out below.
48. Sensitivity around cost of providing additional information to SIP – the central scenario figure of £2,000 is based on cost estimates to update a whole SIP provided by

stakeholders for the previous impact assessment (in the range of £2,000 to £5,000 with an average of £3,166¹⁴). This is a reasonable proxy source for the broad scale of costs associated with producing a SIP. The lower end of the range was selected for the central scenario as it is judged that adding additional information would cost less than updating an entire SIP.

49. As a reasonable low-end scenario, it is assumed that updating the required information would take around one week's work (40 hours) for a professional (£25.40 per hour) or £1,016 to collate and update the required information in the SIP.
50. As a reasonable high-end scenario it is assumed that the cost of providing the additional information to the SIP is equivalent to the average estimated cost of updating a whole SIP of £3,166. Costs for each of these scenarios are detailed below.

Table 3: Sensitivity analysis

Scenario	Cost per scheme	One-off costs
Central	£2,000	£9.2m
Low	£1,016	£4.7m
High	£3,166	£14.5m

51. Even under the high scenario, the EANDCB would increase by less than £1m per year¹⁵.

Small and Micro Business Assessment (SaMBA)

52. SRD II applies to IORPs as falling within the scope of Directive (EU) 2016/2341 (IORP II) in accordance with Article 2 and Article 5 of that Directive, therefore SRD II does not apply to Public Service schemes and schemes that in total have less than 100 members.
53. Therefore, small and micro businesses, where they run their own pension schemes, are excluded from this directive as this policy only applies to schemes with 100 or more members.

Monitoring and Evaluation

54. The importance of monitoring and evaluation is recognised. As this legislation builds on the earlier Shareholders' Rights Directive making minor amendments to the Regulations governing the investment principles and disclosure requirements for occupational pension schemes, and the annualised net cost to business is estimated at less than £2m per year, it is not considered proportionate to conduct formal monitoring or review. It will be easier for Regulators, Government and others to monitor the quality of reporting due to the requirement to publish a range of information. Should any issue arise with the policy, the evidence will be assessed and, if appropriate, it will be considered whether any changes may be necessary.

¹⁴ 'Impact Assessment for The Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018 published as Annex to the Explanatory Memorandum at http://www.legislation.gov.uk/nisr/2018/165/pdfs/nisrem_20180165_en.pdf

¹⁵ £14.5m-£9.2m = £5.3m. Divided by 10 years is less than £1m per year

Other Impacts

Equality

55. 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.

Environmental

56. There are no implications.

Rural proofing

57. There are no implications.

Health

58. There are no implications.

Human rights

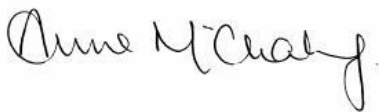
59. The Department considers that the regulations are compliant with the Human Rights Act 1998.

Competition

60. There are no implications.

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed for the Department for Communities



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