

Title: Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order '21 No.2 SI No: TBC Other departments or agencies: Financial Conduct Authority (FCA) Contact for enquiries: Joshua Osborne	De minimis assessment
	Date: 05/07/2021
	Type of regulation: Domestic
	Date measure comes into force: 29/07/2022
Cost of Preferred (or more likely) Option N/A	Equivalent Annual Net Direct Cost to Business per year (EANDCB in 2019 prices)

1. What is the problem under consideration? Why is government intervention necessary?

The government expects the FCA to bring pre-paid funeral plan providers within the scope of the Financial Services Compensation Scheme (FSCS). However, without further legislative changes the FSCS will not be able to most effectively perform its functions if a regulated funeral plan provider fails. A disorderly wind-down would likely result in poor outcomes for funeral plan holders.

2. What are the policy objectives and the intended effects?

The objective is to grant the FCA the power to make rules enabling the FSCS to most effectively perform its functions if a regulated funeral plan provider fails. The effect will be to enable the FSCS to secure continuity of cover for plan holders, and to more effectively seek recovery of the sums it pays out from the trust assets and insurance monies underpinning funeral plans.

3. What policy options have been considered, including any alternatives to regulation? Please justify preferred option

The government considered two options: (i) granting the FCA additional rule-making powers and (ii) taking no action. Option (i) was chosen because facilitating the orderly wind-down of a regulated funeral plan provider will benefit consumers - who may be old or vulnerable – because they don't need to source new contracts. Moreover, enabling the FSCS to recover paid-out sums more effectively will reduce the burden on other levy-payers by reducing overall FSCS costs.

4. Please justify why the net impacts (i.e. net costs or benefits) to business will be less than £5 million a year.

The government expects that around 50 funeral plan providers will be impacted once the FCA has designed and implemented its new regulatory rules in relation to this legislation, alongside any insolvency practitioners involved in a firm wind-down. The government assumes that half of these funeral plan providers back their funeral plans with trust arrangements – in which cases trustees will also be impacted - and half utilise insurance contracts – in which cases insurance companies will also be impacted. However, it is important to note that in most respects these proposals will only impact firms if a regulated funeral plan provider fails.

The extent and precise impact of these rules will be assessed through the FCA's independent consultation process, which includes an FCA cost-benefit analysis and are therefore not included here in accordance with Better Regulation guidelines.

5. Please confirm whether your measure could be subject to call-in by BRE under the following criteria. If yes, please provide a justification of why a full impact assessment is not appropriate:

a) Significant distributional impacts (such as significant transfers between different businesses or sectors)

No

b) Disproportionate burdens on small businesses

The FCA estimate that 40 of the funeral plan providers are small businesses, though they have not formally defined 'small', 'medium' and 'large' firms in their regulations. The FCA will consider the impact on small businesses as part of its own cost-benefit analysis.

c) Significant gross effects despite small net impacts

No

d) Significant wider social, environmental, financial or economic impacts

No

e) Significant novel or contentious elements

No

Sign-off for de minimis assessment: SCS

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

SCS of Personal Finance and Funds

Signed: ***Katie Fisher***

Date: 15/06/2021

SCS of Better Regulation Unit

Signed: ***Linda Timson***

Date: 15/06/2021

Sign-off for de minimis assessment: Minister

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***John Glen MP***

Date: 21/06/2021

Further information sheet

Please provide additional evidence in subsequent sheets, as required.