



INDEPENDENT VERIFICATION BODY REPORT
December 2019 to December 2020

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CONTENTS

FOREWORD BY THE CHAIR	3
INTRODUCTION	4
RPC COMMENTARY	4
PROGRESS AGAINST THE BUSINESS IMPACT TARGET	5
<i>QUALIFYING REGULATORY PROVISIONS</i>	5
<i>NON-QUALIFYING REGULATORY PROVISIONS</i>	6
<i>IMPACTS ON SMALL AND MICRO BUSINESSES</i>	7
QUALITY OF IMPACT ASSESSMENTS SUBMITTED TO THE RPC	7
INFLUENCE OF THE RPC ON REPORTED IMPACTS	7
ANNEX A – TABLES OF QRPs AND SIGNIFICANT NQRPs	9

FOREWORD BY THE CHAIR



This report delivers on our responsibility as the independent verification body for the Business Impact Target (BIT). In this report the RPC confirms the £5,739.5 million net increased costs to business of regulatory measures as set out in the Government's report for the first year of this Parliament.¹ We also offer some commentary on regulatory activity over the period.

We were formally reappointed as the independent verification body (IVB) for this Parliament in December 2020, at which point a "holding" BIT of £0 was set by the Government pending a review of the BIT. We look forward to continuing to deliver our

IVB role and working with the Government for the rest of the Parliament to ensure the processes for assessing the impacts of regulatory measures are as effective as possible.

We are publishing this at the end of the first year of a Parliament that has seen both the conclusion of the UK's withdrawal from the EU and significant disruption from Covid-19, both requiring considerable exceptional regulatory activity across government. This has had consequences both for the processes of setting and tracking the BIT, and for the nature of the regulatory proposals for which we have seen impact assessments over this period.

The regulatory response to the UK's exit from the EU and the Covid pandemic has exposed a number of issues with the operation of the Better Regulation Framework and the metric used to calculate the BIT. For example, existing exemptions mean that the BIT does not include some very significant impacts on business from EU exit (as there is no formal requirement to capture the impacts of meeting international obligations), and from Covid (because temporary measures are excluded).

We look forward to working with Government as it undertakes its planned review of the BIT during the year ahead. We hope that this will result in changes that improve the effectiveness of the Framework in ensuring the quality of evidence and analysis underpinning regulatory proposals and in providing robust, accurate estimates of their impacts.

Stephen Gibson
Interim Chair

¹ *Better Regulation: Government's Annual Report 2019-20* available at: <https://www.gov.uk/government/publications/better-regulation-annual-report-2019-to-2020>

INTRODUCTION

1. The Small Business, Enterprise and Employment Act 2015 (“the SBEE Act”) requires the Government, for each parliament, to set and report on a business impact target (BIT) and appoint an independent verification body (IVB) to validate the figures produced by government departments of the contribution of individual regulatory measures to delivering the BIT.²
2. In December 2020, the Government set a £0 “holding” BIT, pending a review to consider revision of the target and associated methodology for assessing the economic impact of regulatory measures. It also reappointed the Regulatory Policy Committee (RPC) as the IVB for the current parliament that started following the general election in December 2019.
3. The Committee’s role as IVB is to verify the estimates of the direct impacts on business set out in the impact assessments (IAs) that accompany government regulatory proposals and that exemptions from the BIT are applied correctly. The Government produces reports under the SBEE Act that summarise progress against the BIT for each year of the parliament and, ultimately, for the whole parliament. This report from the RPC in its role as IVB verifies the Government’s first annual report³ for the current (2019-2024) parliament covering the period from 13 December 2019 to 16 December 2020.

RPC COMMENTARY

4. **As IVB, the RPC can verify that the Government’s report records correctly the qualifying regulatory provisions (QRPs) for the period and that we have verified the associated figures for EANDCB and BIT scores.**⁴
5. **As reported, the qualifying regulatory provisions introduced over the period increased direct costs to business by £5,739.5 million net. This compares to the “holding” BIT of £0 set by the Government.**
6. The past year has seen considerable government activity to implement regulatory changes associated with the UK’s withdrawal from the EU. Regulatory measures implementing international agreements are not in scope of the better regulation framework and therefore measures required as a result of EU withdrawal are not included in the BIT score.
7. The year also saw the Government introduce measures to cope with the Covid pandemic. Many measures taken in response to the pandemic were ‘temporary’ (defined in the framework as having effect for a period of less than 12 months) and were therefore excluded from the BIT accounting process. Some of these measures might now be extended such that they will have effect for longer than a year and so, where other administrative exemptions do not apply, they would come into scope of the BIT. This would require adjustment of the numbers set out in the Government’s equivalent report next year.

² <https://www.legislation.gov.uk/ukpga/2015/26/section/25/enacted>

³ at footnote 1

⁴ The equivalent annual net direct cost to business (EANDCB) is the metric used in IAs to produce consistent estimates. The contribution of a measure to the BIT is calculated by multiplying its estimated annual impact (EANDCB) by the assumed five years of a parliament, or by a smaller number where the anticipated impact will last for a shorter period.

8. While we agree that both categories above fall under the appropriate exemptions, these exemptions (together with the exemption of measures associated with the Grenfell disaster) limit the value of the BIT score as an indication of the overall impact of government regulatory activity on business (although the BIT score for an individual measure is still a useful measure of its impact).
9. The combination of EU exit and Covid also resulted in pressures on government's analytical community. In some cases, this meant that they found it difficult to produce IAs to the timescales that the Better Regulation Framework sets out, and most helpful to decision making. We were concerned at an increase in the number of IAs that arrived late in the decision-making process – in some cases once the legislation was already moving through Parliament. In these cases, our opinion was not able to inform ministerial decision-making, parliamentary scrutiny or support external accountability. In particular, we received an IA for the Agriculture Bill only shortly before it received Royal Assent⁵ and the Fisheries Bill passed through Parliament without an IA.⁶

PROGRESS AGAINST THE BUSINESS IMPACT TARGET

10. We have verified both the EANDCB and 'BIT score' figures for the QRPs and significant NQRPs listed in the Government's report (columns 4 and 5 in Table 2, column 4 in Table 3, and columns 5 and 6 in Table 4 in Annex B of the report).⁷ These tables are replicated in Annex A to this report for ease of reference.
11. It is premature to comment on progress towards the target as the current BIT of zero has explicitly been set by the Government as a holding figure pending further consideration. But the qualifying measures this year have introduced significant new net direct costs to business and other organisations.
12. The overall net 'BIT score' will be subject to adjustment in future reports. There are a number of QRPs where the Government reports "Not yet validated by the Regulatory Policy Committee." In these cases, impact assessments were not submitted to the RPC in time for us to verify the figures for inclusion in the Government's report. These figures will be recorded retrospectively in the next annual report and an adjusted BIT score reported. Additionally, as discussed above, there may be impacts to include from Covid-related measures that exceed the 12-month exclusion for temporary measures.

QUALIFYING REGULATORY PROVISIONS (QRPs)

13. QRPs are listed in Tables 2 and 3 in the Government report (see Annex A below). Over the period covered by the report there were a total of 19 QRPs, 11 from departments (in Table 2) and 8 from regulators (in Table 3):
 - 4 of these had an estimated net direct benefit to business – totalling £2,074.3 million.
 - 10 had an estimated net direct cost to business – totalling £7,813.8 million.

⁵ Our opinion is at <https://www.gov.uk/government/publications/agriculture-bill-rpc-opinion>

⁶ <https://www.gov.uk/government/publications/agriculture-fisheries-bills-ias-statement-from-the-rpc>

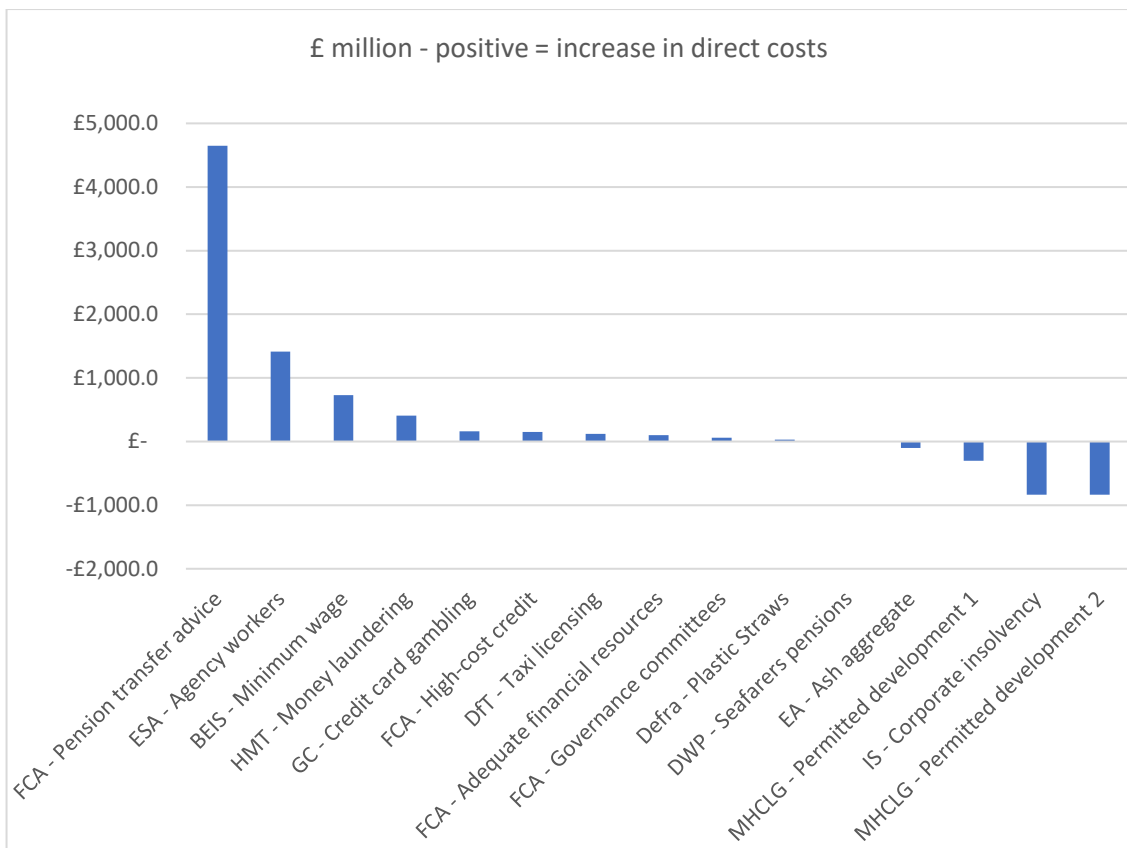
⁷ Our role as IVB does not extend to verification of the NPV figures (in columns 6 and 7 of Table 2 and columns 7 and 8 in Table 4).

1 had no impact as it was replacing an identical expired piece of legislation.

4 have impacts yet to be verified.

14. Figure 1 shows the distribution of impacts of the 15 measures for which there are verified BIT scores. It shows that the Financial Conduct Authority’s revision of the rules on transfer of pensions had by far the largest impact, contributing £4,646.4m (81%) of the increase in the direct costs on business. This contained a package of measures aimed at firms advising consumers on pension transfers to reduce conflicts of interest arising from charging models and to help ensure advice is in the best interests of consumers (more at Table 3 in the Annex).

Figure 1 – Contribution of individual QRPs to the BIT score



NON-QUALIFYING REGULATORY PROVISIONS (NQRPs)

15. The Government reports (in Table 4) two further measures that had impacts above the Better Regulation Framework’s £5 million *de minimis* threshold but were non-qualifying for the BIT (again this table is replicated at Annex A). We can verify that these have been correctly treated as NQRPs. These had a combined direct cost to business of £110.1 million.

16. Since 2017, the framework has allowed departments and regulators to self-certify regulatory proposals as exempt from RPC scrutiny and inclusion in the BIT score where the impacts are estimated to be less than +/- £5 million *per annum*. Table 5 in the Government report lists 84 such proposals last year from **departments**.

17. Departments self-certify measures as *de minimis* and in these cases are not required to submit an IA to the RPC for verification. Where in discussion with departments we consider that a measure is being classified as *de minimis* but the impacts may exceed the threshold a mechanism exists to “call in” such measures and require IAs to be submitted.
18. The table starting on page 41 of the Government’s report summarises the measures reported by **regulators** that are non-qualifying for BIT purposes. This includes both those below the *de minimis* threshold and others where regulators are permitted to self-certify. While regulators are encouraged to submit summaries of their NQRP measures, so that we can consider whether we agree with the classification, this is voluntary and we cannot therefore confirm whether this table is comprehensive and fully accurate.

IMPACTS ON SMALL AND MICRO BUSINESSES

19. The IAs that are produced in support of regulatory proposals must consider specifically the impacts of the proposals on small and micro businesses. Any IA that we have rated as ‘fit for purpose’ will have had an adequate, proportionate assessment of these impacts.
20. Table 8 of the Government report sets out some of the measures introduced during the reporting period that included specific components to mitigate the impacts on small and micro businesses. This list is not exhaustive, but we commend the Government for considering such mitigations.

QUALITY OF IMPACT ASSESSMENTS SUBMITTED TO THE RPC

21. The Better Regulation Framework allows the RPC to issue an opinion that an IA is “not fit for purpose” where it has sufficient concerns with the calculation of the EANDCB and/or the small and micro business assessment (SaMBA). Where timescales allow, we issue an “initial review notice” (IRN), a process that allows the department to revise the IA and re-submit. In most cases this then results in a final ‘fit for purpose’ opinion.
22. **We issued IRNs in relation to IAs as first submitted for 4 of the 19 measures that contributed to the total BIT score across the period of this report.**

INFLUENCE OF THE RPC ON REPORTED IMPACTS

23. In some cases, either where we issue an IRN or in some other circumstances where we offer feedback in the course of scrutiny, the department may amend the EANDCB figures in the IA. In such cases, the EANDCB and BIT score figures verified in the final IA differ from those initially submitted.
24. Table 1 below sets out for such measures the initial and ultimately verified EANDCB figures, and shows the difference between the two figures. The total of the absolute value of these differences gives an indication of the impact that RPC scrutiny has had on the Government’s estimates of the impacts of their regulatory proposals and therefore on the BIT score reported in their report.

25. For the year covered by this report, four of the regulatory proposals listed in Tables 2 and 3 of the Government’s report were amended following the issuing of RPC advice. In these cases, RPC scrutiny adjusted the EANDCB figures by £231.6 million a year in total (ignoring whether the adjustment was up or down).⁸ The net impact of these adjustments on the final BIT score was to reduce the scored impact by £511 million.⁹

Table 1 – Impact of RPC scrutiny on verified EANDCBs for QRPs

Measure	Department/ regulator	EANDCB <i>£m</i> (+ cost / - benefit)		Change as a result of verification
		As initially submitted	Verified by RPC	
				£m
The Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020	Defra	8.6	5.5	-3.1
Taxi and private hire licensing – statutory guidance	Dept for Transport	0	24.5	24.5
The Money Laundering and Terrorist Financing (Amendment) Regulations 2019	HM Treasury	237.7	78.2 ¹⁰	-159.5
Corporate Insolvency and Governance Bill	The Insolvency Service	-222.9	-178.4	44.5

⁸ The verified EANDCB figures in this table do not in every case match the final figure in the Government report (and in the Annex below) because, in some cases, the figures reported in this table have been adjusted since the opinion was issued to ensure all figures in the BIT reporting year are calculated consistently in the same price and present value base years.

⁹ This figure estimates by how much the total net BIT score reported in the Government report would have differed had it been calculated using the original unverified EANDCB figures, including the necessary re-basing adjustments described in footnote 8 above, and so shows the impact of verification on the headline BIT score.

¹⁰ The adjustment in this case was a result of splitting the impacts in the IA into those that were qualifying for the BIT and those that were non-qualifying. The higher figure of £80.9m in Table 2 in the Annex is as a result of the re-basing described in footnote 8 above.

ANNEX A – TABLES OF QRPs AND SIGNIFICANT NQRPs

These tables replicate tables 2, 3 and 4 in the Government’s report, setting out the QRPs that contribute to the BIT score for the period on which it reports (December 2019 to December 2020) and the significant (non *de minimis*) NQRPs.

Table 2: Qualifying Regulatory Provisions of government departments and Ministerial regulators that came into force or ceased to be in force during the first Business Impact Target reporting period of the Parliament (statutory assessments in bold)

Department / Ministerial regulator	Title of measure as in IA	Description of measure provided by department	Impact on business			Total Net Present Value (£ millions)
			EANDCB ¹¹ (£ millions)	Business Impact Target score (£ millions)	Business Net Present Value (£ millions)	
BEIS	The National Minimum Wage (Amendment) Regulations 2020	This instrument amends the National Minimum Wage Regulations 2015.	242.6	727.8	-1610.7	-6.5
DEFRA	The Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020 [Proposal to ban the distribution and/or sale of plastic drinking straws in England]	To introduce a ban on the distribution and/or sale of plastic drinking straws in England.	5.6	28.1	-48.0	-45.6

¹¹ Equivalent Annual Net Direct Cost to Business

Department / Ministerial regulator	Title of measure as in IA	Description of measure provided by department	Impact on business			Total Net Present Value (£ millions)
			EANDCB ¹¹ (£ millions)	Business Impact Target score (£ millions)	Business Net Present Value (£ millions)	
DfT	Taxi and private hire licensing – statutory guidance	Requires licensing authorities (Las) to "have due regard" to the statutory taxi and PHV standards for England and Wales. Las may deviate from them should they have good reason to do so, such as a specific risk profile in their area. This is in response to calls made by inquiries into child sexual abuse / exploitation for national standards for taxis and PHVs to safeguard children and vulnerable adults.	24.5	122.5	-211.0	-211.0
DfT	E Scooter trials	Allows for the trial of rented E scooters in specific areas of England. Introduced as a measure for Covid-19, providing another means of transport for individuals to get to places without using public transport.	Not yet validated by the Regulatory Policy Committee	Not yet validated by the Regulatory Policy Committee		
DfT	Driver medicals	Suspending the requirement for a D4 medical report for HGV drivers for a period of the duration of the Covid-19 Pandemic and therefore reissue licences (subject to self-certification of health by the driver) for a period of five years.	Not yet validated by the Regulatory Policy Committee	Not yet validated by the Regulatory Policy Committee		
DWP	Automatic enrolment into workplace pensions: seafarer's	The secondary legislation removes a sunset clause which expired on 1 July 2020 to enable automatic enrolment (AE) into a workplace	26.0	-	-495.6	-4.7

Department / Ministerial regulator	Title of measure as in IA	Description of measure provided by department	Impact on business			Total Net Present Value (£ millions)
			EANDCB ¹¹ (£ millions)	Business Impact Target score (£ millions)	Business Net Present Value (£ millions)	
	regulations and offshore workers order	pension to seafarers and offshore workers to continue beyond this date. ¹²				
HMT	The Money Laundering and Terrorist Financing (Amendment) Regulations 2019	The EU amended its Directive on the prevention of the use of the financial system for money laundering or terrorist financing (4MLD) in June 2018 and required transposition into domestic legislation by January 2020. The Government's objective is to make the UK's financial system difficult to exploit for illicit finance purposes while minimising the burden on legitimate business. The aim of the proposed legislative changes is to deter crime and terrorism by making it more difficult for criminals to benefit from the proceeds of their crime and easier to detect and investigate criminal or terrorist abuse of the financial system.	80.9	404.7	-697.6	-697.6
MHCLG	The Town and Country Planning (Permitted Development and Miscellaneous Amendments)	Permitted development right to allow the upward extension of pre-existing free-standing blocks of flats to create new homes.	-60.4	-302.0	519.2	519.2

¹² The BIT score for this measure is zero as it replaces an identical expired piece of legislation.

Department / Ministerial regulator	Title of measure as in IA	Description of measure provided by department	Impact on business			Total Net Present Value (£ millions)
			EANDCB ¹¹ (£ millions)	Business Impact Target score (£ millions)	Business Net Present Value (£ millions)	
	(England) (Coronavirus) Regulations 2020					
MHCLG	The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020	Permitted development right to build new homes on certain existing free-standing buildings and terraces in certain commercial and residential uses to create new self-contained homes, as well as to allow an increase in living space of existing homes	-167.0	-835.0	1437.4	4964.0
MHCLG	The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020	Permitted development right to allow the demolition of certain vacant light-industrial, commercial and residential buildings and to rebuild as residential buildings.	Not yet validated by the Regulatory Policy Committee	Not yet validated by the Regulatory Policy Committee		
MHCLG	The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020	Clarifies the ability of the A use classes (those normally found on the High Street) to diversify and incorporate ancillary uses without undermining the amenity of the area and making effective use of land. Supports high streets to adapt and diversify.	Not yet validated by the Regulatory Policy Committee	Not yet validated by the Regulatory Policy Committee		

Table 3: Qualifying Regulatory Provisions of listed regulators that came into force or ceased to be in force during the first Business Impact Target reporting period of the Parliament

Listed regulator	Title of measure as in IA	Description of measure provided by regulator	Business impact target score (£ millions)
Employment Standards Agency	Agency Worker (Amendment) Regulations 2019	The measure removes an 'opt out' whereby agency workers are able to opt out of their right to pay equal to permanent workers after twelve weeks in the same assignment.	1411.8
Environment Agency	Incinerator Bottom Ash Aggregate - Regulatory Position Statement RPS206	In September 2017 we published a regulatory position statement covering the use of unbound municipal incinerator bottom ash aggregate in construction activities. Regulatory position statements set out how we intend to regulate a particular activity for a set period, for example, until regulations are brought in or changed, or when a legislative review is completed. This entry accounts for the extension of the position from January 2020 until January 31 2021."	-102.6
Financial Conduct Authority	PS20/6: Pension transfer advice: feedback on CP19/25 and our final rules and guidance	In CP19/25, we proposed a combination of remedies to improve the suitability of pension transfer advice. The proposals confirmed in PS20/6 include measures to: <ul style="list-style-type: none"> • ban charges for advice that consumers only pay when a transfer or pension conversion proceeds (contingent charging), except in certain limited, identifiable circumstances which we describe as the 'carve-outs' • require firms to consider an available workplace pension scheme as a receiving scheme for a transfer and to demonstrate why any alternative destination scheme is more suitable • enable firms to give a short form of advice (abridged advice) to help consumers access initial advice at a more 	4646.4

Listed regulator	Title of measure as in IA	Description of measure provided by regulator	Business impact target score (£ millions)
		<p>affordable cost, even if they may be unwilling or unable to pay for full advice</p> <ul style="list-style-type: none"> • empower consumers to make better decisions by improving how advisers disclose advice charges • set up new data collections that advice firms must give us to improve our ability to supervise the sector 	
Financial Conduct Authority	FG20/1: Assessing adequate financial resources	<p>Our intention is to improve the way firms operate so they can take effective steps to prevent harm from occurring to markets and/or customers, by improving controls and/or reducing the risk in their activities and put things right when they go wrong.</p> <p>Having adequate financial resources:</p> <ul style="list-style-type: none"> • allows firms to operate and provide services through the economic cycle • allows for an orderly wind-down without causing undue economic harm to consumers or to the integrity of the UK financial system 	100.8
Financial Conduct Authority	PS19/16: High-Cost Credit Review: Overdraft Policy Statement	<p>In CP18/42 we explained why fundamental reform was needed to the way banks charge for overdrafts. Our package of remedies to make overdraft pricing simpler, fairer and easier to manage was widely supported. Our remedies:</p> <ul style="list-style-type: none"> • stopped firms from charging higher prices for unarranged overdrafts than for arranged overdrafts • banned fixed fees for borrowing through an overdraft – no daily or monthly fees, or fees for having an overdraft facility • required firms to price by a simple annual interest rate • issued new guidance to reiterate that refused payment fees should reasonably correspond to the cost of refusing 	149.3

Listed regulator	Title of measure as in IA	Description of measure provided by regulator	Business impact target score (£ millions)
		<p>payments</p> <ul style="list-style-type: none"> • required firms to do more to identify customers who are showing signs of financial strain or are in financial difficulty and implement a strategy to reduce repeat use <p>We expect that the changes will result in a fairer distribution of charges, particularly benefitting vulnerable consumers, who were disproportionately hit by high unarranged overdraft charges. We would expect that the 30% of Personal Current Accounts (PCA) holders living in the most deprived areas in the UK, could see an aggregate reduction in overdraft charges of around £101m per year as a result of our pricing interventions.</p>	
Financial Conduct Authority	PS19/30: Independent Governance Committees: extension of remit	<p>Having considered the feedback from stakeholders that we received on CP19/15, in December 2019 we published PS19/30 with final rules to extend the remit of Independent Governance Committees (IGCs) and Governance Advisory Arrangements (GAAs) to:</p> <ul style="list-style-type: none"> • a new duty for IGCs to consider and report on their firm's policies on environmental, social and governance (ESG) issues, member concerns, and stewardship, for the products that IGCs oversee • a new duty for IGCs to oversee the value for money of investment pathway solutions for pension drawdown (pathway solutions) <p>These rules aim to protect consumers from investments that may be unsuitable because of ESG risks, make sure that consumer concerns are taken into account, and encourage good stewardship of investments. Additionally, these rules address recommendations made by the Law Commission in its June 2017 report on Pension Funds and</p>	61.9

Listed regulator	Title of measure as in IA	Description of measure provided by regulator	Business impact target score (£ millions)
		<p>Social investments.</p> <p>We also want pathway solutions that deliver value for money for consumers. That means costs and charges that are good value relative to the quality of the pathway solution and associated services, and a pathway solution that is appropriate for the pathway objective and the characteristics of the consumers likely to be using it.</p>	
Gambling Commission	Extending the ban on the acceptance of credit card payments for gambling	Extension of the ban on acceptance of credit card payments to include remote gambling businesses where gambling is undertaken via remote communications, such as via the internet, an app on a tablet or mobile phone, interactive TV or placing a bet via telephone.	160.5
The Insolvency Service	Corporate Insolvency and Governance Bill	Three permanent measures were introduced as part of the corporate and insolvency governance bill. This introduced new rescue options into the UK's insolvency framework: company moratorium, suspension of Ipso Facto clauses and a restructuring plan. There is a short-term policy objective to give the UK economy more restructuring tools that are flexible to help UK companies get through the Covid-19 emergency and be able to continue trading when the economy emerges. These measures will also have a longer-term benefit of saving viable companies, maintaining productivity and preserving jobs.	-834.7

Table 4: Legislative Non-Qualifying Regulatory Provisions of Government departments and Ministerial regulators that came into force or ceased to be in force during the first Business Impact Target reporting period of the Parliament above the +/-£5 million de minimis threshold (assessments using the same business impact methodology as is used for qualifying measures are shown in bold and assessments taking into account wider impacts are in the columns headed in italics).

Department / Ministerial regulator	Title of measure as in IA	Description of measure provided by department	Exclusion category	Impact on business			<i>Total Net Present Value (£ millions)</i>
				<i>EANDCB (£ millions)</i>	Business Impact Target score (£ millions)	<i>Business Net Present Value (£ millions)</i>	
BEIS	Amendments to the Heat Network (Metering and Billing) Regulations 2014	To introduce fairer billing by providing clear information on energy and heat networks	EU exit legislation	12.0	60.0	-135.0	95.0
DCMS	Revision of the audio-visual media services directive (AVMSD)	The way in which people consume audio-visual content has changed since 2007, so the directive has been updated to requirements for video sharing platforms for the first time.	EU exit legislation	10.0	50.1	-86.3	-102.9