

EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES AND MARKETS ACT 2000 (REGULATED
ACTIVITIES) (AMENDMENT) ORDER 2024

2024 No. 169

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This Order amends the regulatory framework, to make operating a pension dashboard service which connects to the Money and Pensions Service (MaPS) dashboards digital architecture a regulated activity. Such dashboards will be provided by commercial bodies and when developed, will allow individuals to view all of their pensions data, including their state pension, in one place and online.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 The Economic Secretary to the Treasury (Bim Afolami) has made the following statement regarding Human Rights:

“In our view the provisions of the Financial Services and Markets Acts 2000 (Regulated Activities) (Amendment) Order 2024 are compatible with the Convention rights.”

6. Legislative Context

6.1 The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO) specifies kinds of activities and investments for the purposes of the Financial Services and Markets Act 2000 (Act). When an activity of a specified kind is carried on by way of business in relation to an investment of a specified kind, it is a “regulated activity” for the purposes of the Act. Section 19 of the Act prohibits persons from carrying on any regulated activity in the United Kingdom unless they are either authorised or exempt, and this is known in the Act as the “general prohibition”. Carrying on a regulated activity in breach of the general prohibition is a criminal offence and may result in certain agreements being unenforceable.

6.2 The Pension Schemes Act 2021 amended the Pensions Act 2004, by inserting new sections in Part 4. The inserted sections gave the Secretary of State the power to make regulations to support the provision of pensions information to individuals who use

certain pensions dashboard services or the pension dashboard service provided by or on behalf of the MaPS.

- 6.3 The Pensions Dashboard Regulations 2022 used these powers to introduce requirements that will bring pensions dashboards services into operation. They set out the requirements for pensions providers and schemes to connect to dashboards, and what organisations must do to provide a qualified dashboard service.

7. Policy background

What is being done and why?

- 7.1 Pensions dashboards are an electronic communications service that, when developed, will allow individuals to view data about their pension savings, including their state pension, in one place and online. The Government is supporting the development of a non-commercial dashboard which is being hosted by the Money and Pensions Service (MaPS), an arms-length body sponsored by the Department for Work and Pensions (DWP). The Government has also committed to allowing commercial bodies to operate their own pensions dashboards. During the passage of the Pensions Schemes Act 2021, the Government committed to inserting a new regulated activity in the RAO for the provision of pension dashboard services. This was deemed an important decision to mitigate potential consumer harm that could be brought about from the introduction and operation of pension dashboards. This Order will deliver this commitment, providing the Financial Conduct Authority (FCA) with the power to regulate the operators of dashboards and ensure greater protections for consumers. Firms that wish to operate a pensions dashboard service will be required to be or become FCA authorised with permission to undertake this new regulated activity. Operating a dashboard may include taking regulatory responsibility for any third parties involved in connecting to the MaPS digital architecture on their behalf.
- 7.2 Article 2(4) of this Order specifies the new regulated activity in the RAO. Articles 2(2) and 2(3) of this Order ensure that the new regulated activity applies in relation to all pension information that is requested or provided using a pensions dashboard.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans to consolidate the legislation.

10. Consultation outcome

- 10.1 HM Treasury engaged with the FCA when developing the legislation.
- 10.2 No public consultation was necessary to prepare the legislation. Since the Government had committed to creating a new regulated activity for commercial pensions dashboard operators, the scope for a consultation would have been limited.

11. Guidance

- 11.1 No guidance is required.

12. Impact

- 12.1 There is no significant impact on business, charities or voluntary bodies.

- 12.2 There is no significant impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because of the anticipated minimal impact it will have on business. The RAO applies to the FCA (not businesses) in the first instance. This legislation will only impact businesses that choose to operate a pensions dashboard service, meaning there will be no additional requirements on firms that do not choose to do so. HM Treasury anticipates that only a relatively small number of businesses will decide to operate their own pensions dashboard.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to engage closely with the relative stakeholders to ensure the regulations are working as intended. The FCA will be the most important stakeholder, as it will rely on this instrument to regulate the commercial pensions dashboard operators.
- 14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Bim Afolami has made the following statement:
“A review provision is not appropriate due to the anticipated minimal impact this measure will have.”

15. Contact

- 15.1 Daniel Poxon at HM Treasury Telephone: 07747486912 or email: daniel.poxon@hmtreasury.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Shannon Cochrane, Acting Deputy Director for the Insurance and Pensions Markets Team, at the HM Treasury can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Bim Afolami, Economic Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.