

Economic Crime and Corporate Transparency Bill 2022 (Home Office measures)

Lead department	Home Office (HO)
Summary of proposal	A package of measures aimed at improving the effectiveness of the UK's anti-money laundering system. These include proposals relating to Defence Against Money Laundering (DAML) reporting, information sharing and powers to seize illicit crypto assets.
Submission type	Impact assessment (IA) – 20 June 2022
Legislation type	Primary legislation
Implementation date	tbc
Policy stage	Final
RPC reference	RPC-HO-5197(1)
Opinion type	Formal
Date of issue	4 October 2022

RPC opinion

Rating¹	RPC opinion
Fit for purpose	Following the department's response to our initial review notice (IRN), the RPC now considers the IA to be fit for purpose. The IA's assessments of direct impacts on business and impacts on SMBs are sufficient. The IA would be improved by further assessment of wider impacts and more detail on monitoring and evaluation plans.

Business impact target assessment

	Department assessment	RPC validated
Classification	Qualifying regulatory provision (OUT)	Qualifying regulatory provision (OUT)
Equivalent annual net direct cost to business (EANDCB)	HO measures: -£22.0 million (initial) (2021 prices, 2022 pv) -£30.4 million (final) (2019 prices, 2020 pv)	HO measures: -£30.4 million (2019 prices, 2020 pv)

¹ The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). RPC ratings are fit for purpose or not fit for purpose.

HO and BEIS
measures:
-£9.3 million (final)

 HO and BEIS²
measures:
-£9.3 million

Business impact target (BIT) score	HO measures: -£152.0 million HO and BEIS measures: -£46.5 million	HO measures: -£152.0 million HO and BEIS measures: -£46.5 million
Business net present value	£261.3 million	
Overall net present value	£822.6 million	

² See 'summary of proposal' for explanation. All figures are for HO measures only unless stated otherwise.

RPC summary

Category	Quality ³	RPC comments
EANDCB	Green	The IA's treatment of business impacts is now in line with RPC guidance for permissive measures. The Department's assessment of business impacts is consistent with RPC guidance for primary legislation stage IAs.
Small and micro business assessment (SaMBA)	Green	The measures are generally beneficial to business and the assessment of impacts on SMBs is proportionate.
Rationale and options	Satisfactory	The IA provides a generally satisfactory explanation of the rationale for intervention, supported by evidence. The IA would benefit from some further discussion of options, including non-regulatory ones.
Cost-benefit analysis	Satisfactory	The IA uses sufficient evidence, in particular from stakeholder engagement. The IA monetises societal impacts, notably crimes that might help be prevented by the proposal. The IA would be improved by further discussion of impacts on individuals, risks and sensitivities.
Wider impacts	Weak	The assessments would benefit from a broader discussion of wider economic, social and distributional impacts.
Monitoring and evaluation plan	Weak	The plans are high-level and would benefit from providing further detail and discussion, such as on measures of success.

³ The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

Response to initial review:

As originally submitted, the IA was not fit for purpose because the IA's assessment of the net direct impacts on business from the information sharing measure did not appear to be consistent with the measure being permissive and did not reflect the IA's assessment that businesses will adopt the changes only where benefits would at least match the costs.

There were also concerns in some other areas, notably transparency of the impact of the whole Bill - namely the limited reference in the IA to the two BEIS measures in the Bill (see explanation under 'summary of proposal' below).

In response, the Department has significantly revised its assessment of the impact on business of the information sharing measure and clarified the impacts of the overall Bill, i.e. including the BEIS measures.

Summary of proposal

The department has submitted for RPC scrutiny an 'overarching IA' covering the Home Office measures on economic crime in the Economic Crime and Corporate Transparency Bill 2022. The submission includes two individual supporting IAs: 'Defence Against Money Laundering (DAML) Suspicious Activity Reports Review' and 'Information sharing between regulated entities' and assessments for three measures deemed by the department to be *de minimis*: 'Exemptions for handling mixed suspected criminal and legitimate property' (formerly called ring-fencing), 'Further Information Orders (FIOs)' and 'Powers to seize illicit cryptoassets'. The overarching IA notes that the Bill also includes two BEIS measures on corporate transparency: 'Limited Partnerships Reform' and 'Corporate Transparency and Companies House Register Reform'. BEIS has separately submitted IAs on these measures for RPC scrutiny.⁴

The proposed legislation aims to further disrupt and reduce illicit criminal finance. In particular, the HO measures seek to improve the effectiveness of the anti-money laundering system, notably through avoiding costs to the regulated sector related to low-value illicit activity and freeing up investigatory and enforcement resource to focus on higher-value activity. The five HO measures:

- introduce DAML reporting exemptions for handling mixed suspected illicit and legitimate funds;
- disapply any obligation of confidence owed by the institution sharing information to combat economic crime;

⁴ The BEIS IAs for 'Limited Partnerships Reform' and 'Corporate Transparency and Companies House Register Reform' have both received a fit for purpose RPC opinion: RPC-BEIS-4250(2) 6 May 2022 and RPC-BEIS-5037(3) 25 May 2022, respectively. The EANDCBs validated by the RPC for these measures are £2.2m and £18.9m, respectively, making a BEIS total of £21.1m. Combined with the EANDCB for the combined HO measures, -£30.4m, gives an overall EANDCB for the Bill of -£9.3m (see table on p5).

- introduce DAML reporting exemptions for exiting and paying away property below £1,000;
- amend further information orders (FIOs); and
- facilitate the recovery of crypto assets obtained or derived from criminal activities, or to be used for a terrorist purpose.

A summary of the impacts of all the measures in the Bill (including the two BEIS measures not covered by the HO overarching IA) is presented below.

Measure	NPSV	BNPV	EANDCB
HO (of which)	822.6	261.3	-30.4
DAML SAR review	234.6	236.1	-27.4
Information Sharing	210.9	0.0	0.0
Exemptions	25.9	25.9	-3.0
FIOs	-0.9	-0.3	0.0
Crypto assets	352.0	-0.4	0
BEIS (of which)	-310.5	-183.8	21.1
Limited Partnerships	-21.5	-21.5	2.2
Companies House reform	-289.0	-162.3	18.9
All (HO + BEIS)	512.1	77.5	-9.3

2019 prices; 2020 present value. Figures rounded to nearest £0.1m. Totals may not agree due to rounding.

EANDCB

Direct/indirect

The IA monetises the costs to business of the information sharing measure (transitional costs of set-up, familiarisation and staff training; ongoing costs of information submissions and the running of the third-party sharing platform). The IA describes how information sharing can avoid unnecessary remediation and onboarding costs for these businesses, and that submitting information to the platform is expected to take less time than submitting a SAR. The IA provides illustrative estimates of potentially avoidable onboarding costs but is unable to provide a robust estimate of benefits. The IA assumes that, due to the permissive nature of the measure, benefits to business would at least match the costs – this is reflected in the NPSV, BNPV and EANDCB figures.

The Department's approach is consistent with RPC guidance on permissive measures.⁵ It should be noted, however, that a measure being permissive does not necessarily make the impacts on business indirect. The IA's treatment of the costs

⁵ <https://www.gov.uk/government/publications/rpc-case-histories-permissive-legislation-february-2020>

and benefits to business as indirect is not necessarily therefore correct; however, it seems reasonable here to classify the costs and benefits to business in the same way and whether they are together direct or indirect does not affect the EANDCB figure.

The department's classification of business impacts for the other measures were appropriate on original submission. The main driver of the EANDCB is the cost saving from the DAML SAR Review measure's exemptions which directly reduce the number of DAML SARs that need to be reported by businesses.

Counterfactual/baseline

The IAs use appropriate counterfactuals. For example, the DAML SAR Review and Exemptions IAs allow for observed growth in the number of DAMLs.

Assessment of impacts at primary legislation stage

The Department's assessment of impacts at primary legislation stage is consistent with RPC guidance.⁶ As with the two BEIS IAs, the RPC can validate an EANDCB figure for the primary and related secondary legislation at this stage. There is no need to submit a further IA to the RPC unless there is a significant change in policy affecting the EANDCB figure. This could include, for example, any extension in secondary legislation of the information sharing provision to other sectors (pages 7-8 of that IA).

Transparency of impact of the whole Bill

Following the RPC's initial review, the department has clarified the impacts of the overall Bill, i.e. including the BEIS measures. The department notes the independent nature of the HO and BEIS reforms in tackling economic crime and the need to avoid double counting the BEIS proposals. The RPC acknowledges these points but the IA would benefit significantly from providing, for information, a summary of the impacts of all the proposals in the Bill, including more detail on the BEIS proposals. This could be done, for example, by including the further information provided, if only as an annex to the IA. This would help facilitate greater transparency over the impact of the whole Bill. For this purpose, this opinion additionally presents the EANDCBs for the BEIS measures, as validated in separate RPC opinions (see footnote 4), and for the overall Bill, for information. The IA would also benefit from providing confirmation of the expected implementation dates of the proposed measures and the timings of impacts on business.

⁶ <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>. The Department's assessment is consistent with 'scenario 1a' in the guidance.

SaMBA

Most of the proposals are permissive and beneficial to business, and the IAs provide a proportionate assessment of impacts on SMBs. The SaMBAs in the FIOs and crypto assets IAs have been strengthened by discussing the proportionality of impacts on SMBs. The assessments would generally benefit from further consideration of disproportionality of impact and from discussing further how SMBs might be affected if other businesses take advantage of the measures but SMBs do not.

Rationale and options

Rationale

The IAs generally provide a clear rationale supported by evidence. For example, the Exemptions IA notes that the proposal was a recommendation of the Law Commission and included evidence of hardship from the existing arrangements. On FIOs, the IA would benefit from explaining further why the proposal is required given the statement that the current FIO power is “untested” (paragraph 6, page 8 of that IA).

Options

Given that most of the proposals are permissive, the limited discussion of options is generally satisfactory. The revised DAML SAR review IA does now discuss further why other threshold values had been rejected (paragraph 13, page 4). However, the IAs would benefit from some additional discussion in places of why other options, including non-regulatory ones, were rejected. For example, the information sharing IA does mention that using guidance was explored and the explanation for why this was not pursued could extend beyond the explanation that this was not deemed to have legal force (page 8 of that IA).

Cost-benefit analysis

Evidence and data

The IAs appear to be based upon a good level and range of evidence, in particular information provided from stakeholder engagement. For example, the DAML SAR Review IA uses stakeholder workshops, cost savings from a survey of regulated entities across different sectors and data from the UK Financial Intelligence Unit. The FIOs IA provides a useful set of case studies at annex B; the other IAs would benefit from providing something similar, where possible.

The IA would benefit from providing information on collaboration with other government departments, such as BEIS and HM Treasury, in producing the assessments.

Methodology

The IAs usefully monetise a number of wider societal impacts of the proposals. On the cost side, the DAML SAR Review IA monetises a reduction in public asset denial opportunities that may be lost because of exemptions. On benefits, the information sharing IA models the number of crimes that might help be prevented by the proposal. The IA would benefit from providing more information on the unit costs of crime used for the monetised estimates. The assessments could generally benefit from further discussion of impacts on individuals. For example, the Exemptions IA could usefully provide further discussion of the financial impacts on individuals under suspicion, especially those whose frozen property are later deemed legitimate. The FIOs IA provide a useful analysis of the level of asset seizures required for the measure to break-even.

On the crypto assets IA, the analysis would benefit from being clearer on whether the assumed 500 live cases being investigated by LEAs is current or additional. The 500 figure is assumed for the estimation of asset recovery benefit (page 14 of that IA). The IA would benefit from discussing whether a proportion of those cases would fail to establish a crime and therefore reduce the societal benefit estimates.

Assumptions

The DAML SAR Review and information sharing IAs provide a good assessment of risks and allow for uncertainties, through providing ranges and/or sensitivity analysis. The DAML IA would benefit from expanding its sensitivity analysis. The information sharing IA uses three ‘scenarios’ but the modelling estimates simply scale impacts against a high figure and the IA would benefit from considering a more sophisticated modelling of the scenarios. Similarly, the use of optimism bias is welcome but the IA would benefit from further discussion of this. The Exemptions IA addresses ‘tipping off’ risks but could usefully provide further discussion.

On familiarisation costs, the estimates use standard quantification techniques of reading speeds, salary data etc. The revised IAs now explain that business engagement during the targeted consultation did not indicate any further costs of dissemination or training. As relatively small, one-off impacts, familiarisation costs have little impact on the EANDCB here but the IA would benefit from further consideration of this area.

Wider impacts

The DAML SAR Review IA monetises impacts on the public sector. However, most of the assessments simply state “*There are no anticipated wider impacts of these proposals.*” The assessments would benefit from proportionately discussing why there are no significant wider impacts, such as in relation to trade, innovation or competition, from the measures. More specifically, this should address:

- *Trade*. Potential negative impacts if legitimate funds are deterred by increased bureaucracy and positive impacts if legitimate are funds encouraged through a 'cleaning up' of the system.
- *Competition*. Potential risks to competition of allowing financial and accounting firms to share client information.

Monitoring and evaluation plan

Most of the assessments include only a brief plan on the basis that the proposed legislative measures are amendments to current systems that are monitored and evaluated. The assessments would benefit from proportionately providing additional information on how the specific amendments will be monitored and evaluated, such as that provided in the crypto assets assessment. Where success measures are given, such as a reduction in DAMLs, the assessment would benefit from discussion of other factors that could affect the metric.

Regulatory Policy Committee

For further information, please contact regulatoryenquiries@rpc.gov.uk. Follow us on Twitter [@RPC_Gov_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website www.gov.uk/rpc. To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).