

Criminal Finances Bill – extension of suspicious activity reports moratorium period

Home Office

RPC rating: fit for purpose

Description of proposal

The proposal is to permit extensions to the moratorium period for law enforcement agencies (LEAs) to address suspicious activity reports (SARs). The moratorium period is intended to give LEAs time to investigate reports that money laundering may have taken place. At present, LEAs often have insufficient time within the moratorium period (31 days) to gather evidence and carry out investigations, particularly in complex cases requiring material from overseas. Under the proposal, this period would be renewable for further periods of 31 days, up to a maximum of six months, in order to facilitate better use of information provided by the regulated sector.

Impacts of proposal

The impact assessment (IA) explains that no direct costs to businesses are expected as a result of the proposal, as they are already familiar with the current SAR mechanism. Extending the moratorium period would not place any new requirements upon regulated businesses, although the department has considered the potential for legitimate business activity to be delayed as a result. The IA states that this risk would be mitigated through the necessary fulfilment of strict thresholds, outlined in paragraph 31, before extensions can be granted. The IA explains that these thresholds should ensure that potential costs to compliant businesses, in terms of delayed transactions and additional time preparing for court hearings, are avoided. The IA also explains that there would be ongoing costs for the Crown Court for hearings to consider extensions to the moratorium period.

The IA states that no direct benefits to businesses would arise as a result of the proposal. However, LEAs are expected to benefit from improved use of regulated sector information and a greater proportion of their time being devoted to restraining criminal assets as a result of longer moratorium periods. To support this, the IA provides an illustrative five-month sample of previous cases that did not reach the restraint order stage due to the length of the moratorium period. This evidence

demonstrates that, over the five-month period, approximately £103 million was potentially available but not restrained due to the moratorium period elapsing.

Quality of submission

Although the department provides only limited analysis of the proposal, the IA presents sufficient information to enable validation of an equivalent annual net direct cost to business (EANDCB) of zero, because businesses are already subject to the current SAR mechanism and the policy would not bring about a change in requirements for them. The IA addresses the risk of legitimate business activity being delayed as a result of extensions to the moratorium period. The department has provided sufficient information to show that this risk is small, by specifying the requirements that investigating LEAs must satisfy before moratorium periods can be extended. However, prior to publication the IA should provide further explanation of this potential impact. In doing so, the IA would benefit from addressing the possibility that legitimate business activity that is linked to, but not directly covered by, the matter under investigation is affected.

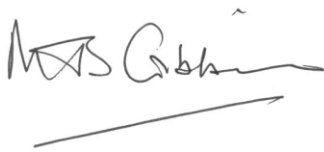
The department's small and micro business assessment explains that granting an exemption could result in a significant risk to the policy objective, where LEAs require more time to investigate intelligence provided by smaller businesses. Although the impact of the proposal to legitimate small business activity appears minimal, the IA would benefit from presenting information on how many of the current SARs involve small businesses.

Departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	Zero
Business net present value	Not monetised
Societal net present value	Not monetised

RPC assessment

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated	Zero
Business impact target score	Zero
Small and micro business assessment	Sufficient



Michael Gibbons CBE, Chairman