

Title: Criminal Finances Act – Overarching Impact Assessment

IA No: HO 0281

RPC Reference No: N/A

Lead department or agency: Home Office

Other departments or agencies: HMRC

Impact Assessment (IA)

Date: 20-06-2017

Stage: Enactment

Source of intervention: Domestic

Type of measure: Primary legislation

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Summary: Intervention and Options

RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£21.9m	-£9.3m	£1.1m	Not in scope	Qualifying provision

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

The UK is one of the best places in the world to do business, but the size of our financial sector and open economy, and the attractiveness of the London property market to overseas investors, makes this country unusually exposed to the risks of international money laundering. Financial profit is the driver for almost all serious and organised crime, and other lower-level acquisitive crime. The best available estimate of the amounts laundered globally are equivalent to 2.7% of global GDP in 2009, while the National Crime Agency assesses that billions of pounds of proceeds of international corruption are laundered into or through the UK. In October 2015, the Government published the National Risk Assessment for Money Laundering and Terrorist Financing (NRA), identifying a number of areas where the response to these threats could be strengthened.

What are the policy objectives and the intended effects?

The *Action Plan for anti-money laundering and counter-terrorist finance*, published in April 2016 contained a range of measures to build on the UK's risk-based approach to addressing the areas flagged in the NRA. The Act focuses on four key priorities:

- Strengthening the relationship between public and private sectors.
- Enhancing the UK law enforcement response.
- Significantly improving our capability to recover proceeds of crime, including international corruption and serious crime.
- Combating the financing of terrorism.

These strengthen HMG's response to money laundering; improve the amount of criminal assets confiscated by the State; increase our international reach to crack down on money laundering, tax evasion and corruption; and to counter terrorist financing

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: do nothing

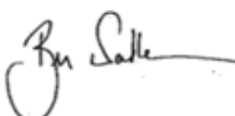
Option 2: Enact legislation to improve our capability significantly to recover the proceeds of crime; to tackle money laundering and corruption; and to counter terrorist financing. The Act will improve the operation of legal powers to combat money laundering and terrorist financing and create new powers where they are needed.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: By 03/2022

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister



Date:

20-06-2017

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			0

Description and scale of key monetised costs by 'main affected groups'

Areas identified and addressed in option 2, will continue to be exploited by those conducting criminal activity.

Other key non-monetised costs by 'main affected groups'

Areas identified and addressed in option 2 will continue to be exploited by those conducting criminal activity.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

No Change

Other key non-monetised benefits by 'main affected groups'

No change

Key assumptions/sensitivities/risks (%)

Discount rate

Current legislation provides inadequate function and power to government agencies attempting to recover the proceeds of crime; to tackle money laundering and corruption; and to counter terrorist financing.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	Benefits:	Net:	

Summary: Analysis & Evidence

Policy Option 2

Description: Enact the Criminal Finances Act

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 21.9

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				25.4

Description and scale of key monetised costs by 'main affected groups'

The **regulated sector**, consisting mainly of banks, are expected to incur costs while assisting in the seizure of bank accounts and providing further information under Suspicious Activity Reports (SARs). There will be costs to **Law Enforcement Agencies** where they are able to utilise newly introduced tools such as Unexplained Wealth Orders and; have the ability to seize proceeds of crime that were previously out of reach before the introduction of the Act. There are various costs to the **UK justice system** (England & Wales, Scotland and Northern Ireland) that have been monetised.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				47.4

Description and scale of key monetised benefits by 'main affected groups'

The measures within the Act enable **Law Enforcement Agencies** to be increasingly effective in seizing the proceeds to crime.

Other key non-monetised benefits by 'main affected groups'

- Make the UK a more hostile place for organised criminals.
- Allow LEAs to tackle cases that previously they have been unable to undertake.
- Better quality intelligence reaching the NCA as a result of the SARs system, enabling decisions to be based on more robust information. This should lead to benefits for wider society from tackling money laundering and terrorist finance.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Please see table in section E for individual NPVs of the policies.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £1.1m	Benefits: £0m	Net: -£1.1m	£5.5m

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

1. Financial profit is the driver for almost all serious and organised crime, and other lower-level acquisitive crime. The UK drugs trade is estimated to generate revenues of nearly £4bn each year and HMRC estimate that over £5bn was lost to attacks against the tax system in 2012/13. Criminals launder their money – moving, using and hiding the proceeds of crime – to fund their lifestyles and to reinvest in their criminal enterprises. The best available estimate of the amounts laundered globally are equivalent to 2.7% of global GDP, or US\$1.6 trillion in 2009, while the National Crime Agency assesses that billions of pounds of proceeds of international corruption are laundered into or through the UK. This threatens the integrity and reputation of our financial markets.
2. The UK remains the largest centre for cross-border banking, accounting for 17% of the total global value of international bank lending and 41% of global foreign exchange trading. The size of the UK's financial and professional services sector, our open economy and the attractiveness of the London property market to overseas investors makes the UK unusually exposed to financial crime.
3. Money laundering is also a key enabler of serious and organised crime, the social and economic costs of which are estimated to be £24 billion a year. Taken as a whole, money laundering represents a significant threat to the UK's national security. The 2013 Serious and Organised Crime Strategy and, more recently, the Strategic Defence and Security Review 2015 (SDSR) set a clear goal – in cooperation with the private sector – of making the UK a more hostile place for those seeking to move, hide or use the proceeds of crime or corruption.
4. There is a marked overlap between money laundering and terrorist financing – both criminals and terrorists use similar methods to store and move funds. However, the motive for generating and moving funds differs. Terrorists ultimately need money to commit terrorist attacks. Unlike criminal gangs, terrorist groups involve disparate individuals coming together through a shared motivation and ideology. Finance is an essential aspect of enabling terrorist groups to function, recruit and commit terrorist acts.
5. In October 2015, the Government published the National Risk Assessment for Money Laundering and Terrorist Financing (NRA), identifying a number of risks and areas where the regimes that could be strengthened. The Action Plan for anti-money laundering and counter-terrorist finance, published in April 2016, contained a range of proposals to build on the UK's risk-based approach to addressing these areas. The Criminal Finances Act is a core part of our approach to achieving that objective.
6. This document should be read alongside the standalone impact assessments for each of the measures included in the Criminal Finances Act, as well as the Act's other supporting documents, available at www.gov.uk/home-office.

A.2 Groups Affected

7. The groups affected by this legislation include:
- Law enforcement agencies, including the National Crime Agency, National Policing, HMRC, the Serious Fraud Office, and other prosecuting authorities.
 - Entities in the regulated sectors i.e. banks, accountancy firms, lawyers, estate agents.
 - Regulatory bodies, such as the Financial Conduct Authority.
 - The Criminal Justice System including the Crown Prosecution Service; HM Courts and Tribunals Service; and HM Prison Service;
 - Devolved Administrations;
 - Overseas Governments and other international bodies, such as the Financial Action Task Force.
 - The general public, whose safety and security is impacted by the threat of serious and organised criminals.

A.3 Consultation

8. In April 2016, the Government published an Action Plan for anti-money laundering and counter-terrorist finance, setting out the steps we will take to address weaknesses identified in the October 2015 National Risk Assessment of Money Laundering and Terrorist Financing. The Government ran a consultation, from April to June 2016, to seek views on potential changes to legislation and options to reform the anti-money laundering and counter-financing of terrorism regime.
9. The Government received 52 responses from respondents from all of the key areas including a range of trade bodies, regulators, law enforcement agencies, individuals and statutory organisations. Respondents also included umbrella bodies who represent a significant number of individual members. The table below sets out the breakdown by respondent type.

Sector	Number of Responses
Civil Society	4
Financial Services Provider	14
Government Department	1
Individual view	4
Law Enforcement Agency	2
Legal Sector	7
Regulator	1
Representative Bodies (trade bodies and associations, membership bodies and associations, professional bodies and industry bodies)	15
Other	4
Total	52

10. In addition to the formal consultation on the Action Plan, the Home Office attended a series of engagement events from September to October, prior to the Bill's introduction in Parliament, including with:

Other Government departments: Director-level meeting with attendees from Cabinet Office, HM Treasury, HMRC, DWP, MoJ, FCO, BEIS, Scotland Office, Wales Office,

Northern Ireland Office to discuss the proposed measures in the Bill.

Law enforcement: The Home Office met with representatives from the Serious Fraud Office, Police and NCA to discuss the proposed measures and address concerns about potential liability issues.

Lawyers representing law enforcement agencies: A cross-sector meeting with lawyers to discuss issues of liability and safeguards in relation to specific clauses of the Bill.

Money Laundering Advisory Committee (MLAC): A cross-sector stakeholder working group, including policy officials, law enforcement agencies and representatives from the financial, legal, gambling and accountancy sectors. This was an extraordinary meeting of the MLAC specifically to discuss and clarify the Bill, and discuss any concerns. The group was broadly supportive of the aims of the Bill and members reiterated their desire to be involved as the legislation progresses.

Banks: Attendees included Allied Irish, Barclays, HSBC, Santander, BNP, RBS, JP Morgan, SocGen, and Lloyds. They had a particular interest in implementation and the potential administrative burden that the new provisions might create. However, the banks largely welcomed the measures.

Financial Sector Forum: This was a positive discussion with both HMG officials and bank representatives agreeing the need to work together collaboratively and engage regularly as the Bill progresses. There was collective support for the core principles of the Bill, Attendees include representatives from RBS, Lloyds, Barclays, BBA, FCA, FFA-UK, CITI, BNP Paribas, Nationwide, JP Morgan, CIFAS, HSBC, Bank of America Merrill Lynch

Civil society: The Minister of State for Security met with representatives from civil society groups with particular interests in asset recovery, corruption and tax evasion. They broadly welcomed and commended the Bill's provisions, but made suggestions for how some measures could be strengthened.

11. After the Bill's introduction, engagement and consultation continued with the regulated sector, other government departments, law enforcement agencies and civil society groups to ensure that they were consulted on changes that arose from amendments to the Bill.

B. Rationale

12. Protecting the UK against the threat of serious and organised crime, and terrorism is a fundamental role of Government. In the SDSR (2015), the Government committed itself to working with the private sector, to make the UK a more hostile place for those who seek to move, use and hide the proceeds of crime and corruption.
13. The UK remains the largest centre for cross-border banking, accounting for 17% of the total global value of international bank lending and 41% of global foreign exchange trading. The size of the UK's financial and professional services sector, our open economy and the attractiveness of the London property market to overseas investors makes the UK unusually exposed to financial crime.

C. Objectives

14. The Criminal Finances Act improves the operation of existing legal powers to combat money laundering and terrorist finance, and creates new powers to support these aims. In order to give effect to key elements of the Action Plan, the Act focuses on four key priorities:
- a) *Strengthening the relationship between public and private sectors.* We have encouraged better use of public and private sector resources against the highest threats; permitted better information sharing to enable production of better intelligence; and motivated private companies to protect themselves and deny access to their products and services to criminals.
 - b) *Enhancing the UK law enforcement response.* We have given law enforcement agencies additional powers to investigate and bring to justice more offenders; and to increase our international reach by leveraging the power of the UK's financial sector to disrupt money laundering.
 - c) *Significantly improving our capability to recover the proceeds of crime, including international corruption.*
 - d) *Combating the financing of terrorism.* We have made complementary changes to the law enforcement response to the threat of terrorist finance, helping to combat the raising of terrorist funds through vulnerabilities in the regulated sector.
15. Further information on the policy objectives for each measure is set out at the relevant section in the standalone impact assessments at www.gov.uk/home-office.

D. Options

16. Two policy options were considered:

Option 1 was to make no changes (do nothing).

Option 2 was to enact legislation to improve our capability significantly to recover the proceeds of crime; to tackle money laundering and corruption and to counter terrorist financing

17. **Option 2 was the preferred option.** An overview of each of the measures included in the Criminal Finances Act is set out below:
- a) Introducing Unexplained Wealth Orders which would require non-EEA Politically Exposed Persons or those suspected of serious crime (or those associated with such people) to explain the source of their assets, helping to facilitate the recovery of illicit wealth.
 - b) Extending Disclosure Orders to money laundering investigations, authorising a law enforcement officer to require anyone that they think has relevant information to an investigation to answer questions, provide information or to produce documents that is relevant to that investigation.

- c) Provide for the publication and laying before Parliament, by 1 July 2019, of a report on the effectiveness of the bilateral arrangements in place between the UK and the governments of the Overseas Territories with financial centres and of the Crown Dependencies on the exchange of beneficial ownership information. The report would cover the period from 1 July 2017 to 31 December 2018.
- d) Extending the Proceeds of Crime Act 2002 (POCA) to allow for the recovery of the proceeds of gross human rights abuses or violations committed overseas.
- e) Providing a power to extend the moratorium period. This power enables an extension to the investigative period (i.e. the 'moratorium' period) where the NCA can investigate a SAR prior to consent being granted to the reporter to process the transaction. A renewable extension of up to 31 days can be applied for. There may be no further application for extension where the moratorium period has been extended in total to a period of 186 days from the date of the end of the initial 31 day moratorium period.
- f) Enabling the sharing of information between regulated companies by providing for a legal gateway for the sharing of information between entities within the regulated sector (e.g. banks), where they have notified the NCA that they suspect activity is related to money laundering. This will encourage better use of public and private sector resources in relation to combating money laundering and will help to underpin the ongoing work of the Joint Money Laundering Intelligence Taskforce.
- g) Introducing further information orders. This is a power for the NCA to request further information from the regulated sector following receipt of a SAR; or where they have received a request from a Financial Investigation Unit in another country.
- h) Introducing new seizure and forfeiture powers. This provides new civil powers, modelled on the existing cash seizure and forfeiture scheme in Part 5, Chapter 3 of POCA to enable the forfeiture of:
 - i. monies stored in bank accounts; and
 - ii. mobile stores of value, like precious metals and jewels. There is evidence that these items are being used to move value, both domestically and across international borders.
- i) Introducing additional items to the cash seizure provisions. This permits law enforcement agencies to seize and seek the forfeiture of:
 - i. Betting slips
 - ii. Gaming vouchers; and
 - iii. Casino tokens.
- j) Introducing Terrorist Finance measures, by making complementary changes to the law enforcement response to the threat of terrorist finance, helping to combat the raising of terrorist funds through vulnerabilities in the regulated sector. This includes mirroring many of the provisions in the Act on SARs, Disclosure Orders and Seizure and Confiscation powers, so that they also apply for investigations into offences under the Terrorism Act 2000 (TACT) and Anti-Terrorism, Crime and Security Act 2001 (ATCSA); and extending financial investigation powers under the Terrorism Act

2002 to civilian accredited financial investigators (AFIs) within police workforces. Specific changes to TACT and ATCSA include:

- i. Amending TACT to provide a regulatory framework for voluntary information sharing in the regulated sector;
 - ii. Amending TACT to enable the use of disclosure orders in connection with terrorist finance investigations;
 - iii. Amending ATCSA to adjust the definition of terrorist cash to include the betting receipts, gaming vouchers and casino tokens;
 - iv. Amending ATCSA to create an administrative forfeiture power for terrorist cash;
 - v. Amending ATCSA to enable the forfeiture of moveable property and money held in bank accounts or building society;
 - vi. Creating an assault and obstruction offence in relation to Counter-Terrorism Financial Investigators, to protect civilians exercising financial investigation powers; and
 - vii. Amending TACT to ensure that relevant orders made in one part of the UK can be enforced in another part.
- k) Introducing criminal offences for corporations who fail to prevent their staff facilitating tax evasion. These offences address the current gap whereby a person evading tax and a person from a corporation advising them how to do so may be prosecuted, but the corporation itself bears no criminal liability. There are two offences – one covering evasion of UK tax; and one covering evasion of overseas tax, which would have effect on a corporation with a presence in the UK, even if the staff in question were not based in the UK.
- l) Other minor and/or technical changes to POCA , including:
- i. Granting Civil Recovery powers to the Financial Conduct Authority and HM Revenue and Customs.
 - ii. Making it a criminal offence to obstruct/assault officers using POCA search and seizure powers, where this is not already the case (e.g. immigration officers, SFO).
 - iii. Granting continuing investigation powers to support revisits of confiscation orders under s22 (and the Scotland and Northern Ireland equivalent provisions).
 - iv. Provide that confiscation orders previously discharged can be revisited if further evidence comes to light.
 - v. Amending s25A to allow for the writing off of orders under the Drug Trafficking Offences Act 1986.
 - vi. Amending s47G and s290 to address the issue of authorisation prior to the exercise of the s47 search and seizure powers.
 - vii. Amending s306(3) to add to the list of scenarios when mixed property is recoverable.
 - viii. Amending s82 (and the equivalents in Scotland and Northern Ireland) to clarify the definition of “free property”.
 - ix. Amending s245D to clarify the concept of distress.
 - x. Providing the SFO with direct access to POCA investigation and ancillary powers.

- xi. Tidying up various definitions in POCA, where they relate to repealed legislation.

E. Appraisal (Costs and Benefits)

Table 1: Costs and benefits of policies in the Criminal Finance Act

Policy	Present Cost (millions)	Present Benefit (millions)	Net Present Value (millions) ¹	Non-monetised costs	Non-monetised benefits
UWOs	1.4	6.1	4.7		
Disclosure Orders	N/A	N/A	N/A	Court granting disclosure order	Streamlined process, better use of orders
Statutory review of the effectiveness of the Exchange of Notes	N/A	N/A	N/A		
Unlawful conduct: gross human rights abuses or violations overseas	N/A	N/A	N/A		
Extension to moratorium period	0.3	N/A	-0.3		Restraint of criminal assets
Information sharing	N/A	N/A	N/A		Better information for law enforcement
Obtain further information	2.5	N/A	-2.5		Better information for law enforcement
Seizure and forfeiture of mobile stores of value	3.0	10.5	7.5		
Forfeiture of bank accounts	18.2	30.8	12.5		
Terrorist finance (AFI)	N/A	N/A	N/A		More efficient use of police constable time
Corporate offences of failure to prevent facilitation of tax evasion	N/A	N/A	N/A		
POCA changes	N/A	N/A	N/A		
Total ²	25.4	47.4	21.9		

- The main individual measures are assessed in individual IAs. The Terrorist Finance provisions (which mirror those for money laundering) are covered by the relevant IA where applicable.
- The individual IAs are:
 - o UWOs IA

¹ All costs and benefits are over 10 years, discounted at 3.5%

² Numbers rounded

- Disclosure Orders IA
 - Information Sharing IA
 - SARs moratorium extension IA
 - Power to obtain further information IA
 - Seizure of mobile stores of value IA
 - Forfeiture of bank accounts IA.
- A Privacy Impact Assessment has also been conducted on the Act.

F. Policy Summaries

Unexplained Wealth Orders

Problem under consideration

18. Law enforcement agencies have identified assets where there are good grounds to suspect that they are the proceeds of corruption, but were unable to freeze or recover them under the provisions in the Proceeds of Crime Act 2002. There were a number of reasons for this. Notably, in order to investigate the origin of funds and protect against potential asset dissipation, law enforcement agencies rely on full cooperation from other jurisdictions to obtain evidence. Often, politically exposed persons (PEPs) still exert significant influence in their host jurisdictions so willingness to provide assistance is not forthcoming. This means that it can be very difficult, and sometimes impossible, to obtain enough evidence to undertake civil proceedings or convict an individual of a criminal offence.

Proposal

19. The measure creates Unexplained Wealth Orders (UWO). The applicant for the UWO must be satisfied that the value of the property in question is over £50,000, and that the respondent is either a Politically Exposed Person (outside of the EEA) or an associate of such, or that there are reasonable grounds to suspect that the respondent, or a person connected to them is (or has been) involved in serious crime (as defined in the Serious Crime Act 2007). UWOs require an individual to explain the origin of assets that appear to be disproportionate to his or her known income. UWOs reverse the burden of proof and make it easier for law enforcement agencies to recover the proceeds of corruption and other serious crime.

Rationale for intervention

20. Law enforcement agencies often have reasonable grounds to suspect that identified assets of persons who are suspected of involvement in or association with serious criminality are the proceeds of serious crime. However, they were unable to freeze or recover the assets under the previous provisions in POCA due to an inability to obtain evidence (often due to the inability to rely on full cooperation from other jurisdictions to obtain evidence).
21. UWOs provide an alternative way of obtaining information and allowing for action against those about whose source of wealth little information is available. UWOs enable civil recovery powers to be used to go after assets that clearly are not supported by legitimate income, but where it has proved impossible to trace the source of the wealth (to the current standard required by Part 5 of POCA).

Impact

22. Consultation with practitioners has indicated the use of UWOs in 20 cases per year. With the power being new, there is uncertainty regarding the volume. In the first year it is assumed there will not be any cases, as part of the learning curve of their use.

23. Law Enforcement Agencies (LEA) will incur ongoing costs. For 20 cases a year, this is £37k pa³ or £0.3m present value over ten years. In addition, it is expected there would be minimal one-off costs for acclimatisation for the LEAs in understanding the new power.
24. Costs are expected to be incurred by the courts. There are ongoing costs to courts at the initial stage of granting a UWO by request of a LEA at the High Court. If the application conditions are met then the property is assumed to be “recoverable property” for the purposes of civil recovery under Part 5 of POCA, unless the respondent can provide evidence to the applicant to rebut such assumptions. There will be a time limit to respond to the court. After this period, LEAs can then make an application, depending on the response, to further investigate or to proceed to full civil recovery proceedings. Any successive civil recovery action against property will take place in the High Court.
25. Following conversations with the NCA, we expect court costs and other surrounding costs to be in the ball park of around £5,000 - £10,000 based on using the application for a disclosure order and a property freezing orders as a proxy. This includes active Counsel participation but excludes LEA internal resource and cost. The low cost estimate gives a cost of £0.8m in present value over 10 years and the high cost estimate a cost of £1.5m in present value over 10 years.
26. There is an unquantified cost on an individual who will be presented with a UWO. As an investigative order, a UWO demands that an individual provides evidence about the source of their property. This may require an amount of unknown costs such as legal fees. There is also the possibility that an individual is obscuring their income for reputational or other legitimate reasons that could be outed by such an order. We do not consider this likely and believe the likelihood of such a cost happening low.
27. The measure will enable more effective law enforcement of identifying and seizing the proceeds of crime. Not every UWO will result in further investigation or seizure of the asset. However, it is expected that the average value will be above the minimum £50k. For the impact assessment, it is assumed in all cases that the value of the asset is exactly £100k, a conservative estimate which will underestimate the benefit. In the low case it is assumed that 20% of UWOs will result in forfeiture or further investigation, in the central case, 40%, and in the high case, 60%. The benefit in the central case is £6.1m, the low case £3.0m, and the high case £9.1m. However, this excludes the wider economic benefit of UWOs disincentivising criminal activity.
28. The NPV for the measure is £4.7m, with a range of £1.2m - £8.1m.
29. Further detail on the measure is available in the individual IA.

Disclosure Orders

Problem under consideration

30. Part 8 of POCA provides a set of investigatory powers to be used in connection with a range of investigations, namely confiscation, civil recovery, detained cash, money laundering and

³ Estimates are based on “Activity Based Costing” police data using fraud as a proxy activity, without overheads.

exploitation proceeds investigations. The Act creates a further two types of investigation, namely a frozen funds investigation and detained property investigation.

31. A disclosure order is a powerful investigative tool that enables an appropriate officer, through issuing a written notice, to require a person to answer questions, provide information or produce documents on any matter that is relevant to the investigation. The order remains in force for the duration of an investigation. It is available for confiscation, civil recovery and exploitation proceeds investigations, but it was not available for detained cash or money laundering investigations (or the new types of investigation created by the Act).
32. Investigatory powers are generally exercised by 'appropriate officers' and 'senior appropriate officers'. These are defined separately depending on the type of investigation being conducted, but the majority of orders may be sought by an appropriate officer provided the necessary level of authorisation has been given. However, the approach for applying for disclosure orders differs in that an application may only be made by the relevant authority (i.e. a prosecutor) at the request of an appropriate officer.

Proposal

33. POCA has been amended to change the definition of 'relevant authority' from 'prosecutor' to 'appropriate officer on the authority of a senior appropriate officer'. Secondly, an amendment has been made to bring money laundering investigations into the scope of investigations for which disclosure orders may be sought. (Similarly, the definition of relevant authority has been changed for disclosure orders in money laundering cases.) Thirdly, a power has been provided to compel evidence from family members and associates relating to suspected money launderers. Complementary changes to TACT have been made to enhance the law enforcement response to the threats from terrorist financing.

Rationale for intervention

34. Disclosure orders have not been used to the extent that was originally intended, because: i) a prosecutor must authorise applications for them, creating a cumbersome decision making process, deterring investigators from seeking orders where they would be effective and appropriate; ii) prosecutors are not assigned to cases at an early stage in the investigation where a disclosure order would be sought; and iii) disclosure orders are currently unavailable in money laundering investigations, restricting the range of instances in which they can be used.

Impact

35. The changes are unlikely to result in increased net costs to law enforcement or courts. There will be one off acclimatisation costs to the public sector in switching from production orders to disclosure orders, and from using the CPS to using a senior appropriate officer in making the application. These are expected to be minimal since the sector is already familiar with the existence and impact of disclosure orders.
36. Businesses are currently required to respond to requests for information and material specified in a production order within a stated timescale. This places an administrative burden on financial institutions and other businesses who may be required to respond to a number of production orders. However, a disclosure order is expected replace production

orders. There is not expected to be an increase in direct or indirect cost to businesses required to produce information for an investigation

37. The primary intended benefit of changing the scope and application route of disclosure orders is to ensure that the tool is used in appropriate investigations. The measure provides the opportunity for investigators to deploy orders against individuals, including associates of the suspect/defendant. There was hitherto no such tool available to investigators.
38. Disclosure orders are a more efficient process compared to production orders. Investigators will not be required to apply for a production on each and every occasion that new material is required, nor will the court be burdened with a series of applications connected to the same investigation.
39. Further detail on the measure is available in the individual IA.

Statutory review of the effectiveness of the Exchange of Notes

Problem under consideration

40. The vast majority of companies incorporated around the world are legitimate. However, the lack of transparency about who ultimately controls companies (the 'beneficial owners') means there are a small number of entities that facilitate criminal activity, enabling the corrupt to hide their ill-gotten gains.
41. Increasing beneficial ownership transparency is a simple yet transformative solution to this problem, helping LEAs to unravel the complex cross-border chains used by criminals to hide wealth.
42. The agreements (known as the Exchange of Notes) reached in April 2016 with the Overseas Territories with a financial centre and Crown Dependencies on beneficial ownership mean that information on all entities incorporated in their jurisdictions will be centrally held and directly accessible by law enforcement. This will allow UK law enforcement agencies to better tackle money laundering, corruption and terrorist finance. The effectiveness of the arrangements will be reviewed six months after implementation (implementation should be completed by June 2017) and annually thereafter. However, there is no obligation for these reports to be published or laid before Parliament.

Proposal

43. A report on the effectiveness of the bilateral arrangements in place between the UK and the governments of the Overseas Territories with financial centres and of the Crown Dependencies on the exchange of beneficial ownership information will be laid before Parliament, by 1 July 2019. The report would cover the period from 1 July 2017 to 31 December 2018.

Rationale for intervention

44. Whilst the Exchange of Notes already provide for periodic reviews, there is no obligation for these to be published or laid before Parliament. Placing a review of the first eighteen months of operation of the arrangements on a statutory basis will provide further assurance that Parliamentary scrutiny will be given to the effectiveness of the arrangements, and

demonstrate that they are being implemented properly, working effectively and meeting our law enforcement objectives.

Impact

45. This report will place the first annual review on a statutory footing and does not place any requirements to conduct additional reviews. Therefore, there are no additional costs. The report will confirm if the arrangements have been implemented properly, working effectively and meeting our law enforcement objectives. As part of the review, relevant international standards can be taken into consideration. This ensures that the UK will continue to consider the bespoke arrangements set out in the Exchange of Notes in relation to these standards as they evolve and ensure that the UK and our Overseas Territories and Crown Dependencies remain ahead of the curve.

Unlawful conduct: gross human rights abuses or violations overseas

Problem under consideration

46. The Government is committed to promoting and strengthening universal rights globally. It is important that law enforcement agencies have sufficient powers to seize the proceeds of gross human rights abuses and violations, wherever they have taken place, to ensure that these assets are not laundered in or through the UK.
47. There was a gap in the law that meant that the civil recovery powers in POCA could not be used to recover property or other assets connected to gross human rights abuses and violations overseas when those activities are not criminalised in the country in which they occurred.

Proposal

48. This measure amends Part 5 of POCA to extend the existing civil recovery provisions by expanding the definition of unlawful conduct to include conduct which occurs in a country or territory outside the United Kingdom; constitutes, or is connected with, the commission of a gross human rights abuse or violation; and, if it occurred in the United Kingdom, would constitute a criminal offence triable on indictment.
49. The measure defines 'gross human rights abuse or violations' as torture or cruel, inhuman or degrading treatment or punishment by a public official (or a person acting in an official capacity, or with the consent or acquiescence of a public official) of a person because they have sought to expose illegal activity of a public official or obtain, exercise, defend or promote human rights.

Rationale for intervention

50. If persons who have committed human rights abuses overseas have used proceeds from said abuses to acquire assets, then these are proceeds of serious crime. However, under the previous provisions in POCA, if human right abuses and violations are not criminalised in the country in which they took place, they would not fit within the definition of unlawful conduct, and civil recovery powers could not be used to recover these assets.
51. This amendment to POCA allows law enforcement to recover said assets, even when those acts are not criminalised in the country in which they occurred, if there are reasonable grounds to suspect these are the proceeds of gross human rights abuse or violations. This

demonstrates that the UK is a hostile environment for those who commit human rights abuses or violations abroad, and for the proceeds of these crimes if they are brought to the UK.

Impact

52. The amendment is expected to have a deterrent effect to individuals around the world who have committed gross abuses and violations and might seek to launder their money in the UK.
53. An illustrative case is presented as an example of when the measure could be used:

1. Mr A was paid a salary by an overseas government to run an internment camp in that country. His activities were state sanctioned and legal in that country. Many human rights abuses, including torture, took place in the internment camp. He moved some of his salary into a UK bank account and also purchased a property in the UK.
2. No action could be taken against Mr A's assets in the UK under previous civil recovery rules because his activities were not unlawful in the overseas country in which they took place. The dual criminality test that was required under the previous POCA provisions would not be met.
3. Under the amended civil recovery regime, the dual criminality test would be waived for offences involving torture and cruel, inhuman or degrading treatment. Therefore, civil recovery action against Mr A's assets in the UK would be possible.

54. It is a matter for the relevant enforcement agencies (the CPS, the FCA, HMRC and the NCA) to decide which powers are justified for use on a case-by-case basis.
55. Increasing the scope of POCA to encompass the proceeds of human rights abuses committed overseas significantly strengthens the powers available to LEAs to use against the laundering of money linked to human rights abuse.
56. Due to the high level of uncertainty around the volume of expected cases per year and the substantial variance in the potential values of forfeiture, an estimate of the impact has not been made. The expected case-by-case nature of this power and there being no existing proxy of the number of persons who could have proceeds from gross human rights abuses or violations overseas seized, means a robust estimate of volume can not be made.

Power to extend Suspicious Activity Report moratorium period

Problem under consideration

57. The UK National Risk Assessment of money laundering and terrorist finance (NRA), published in October 2015, found that high-end money laundering into and through the UK, particularly linked to grand corruption and major fraud, is a significant threat. The SARs regime is a critical element of the UK's response to that threat. However, LEAs often have insufficient time to respond to intelligence provided by the private sector. In complex cases, particularly where material is needed from overseas, the current moratorium period does not allow sufficient time to gather evidence and carry out the investigation.

Proposal

58. The SAR regime has been enhanced, through an extension to the investigative period (the 'moratorium' period) whereby a law enforcement agency can investigate a SAR for 31 calendar days. Following the changes, a renewable extension of up to 31 days can be applied for. This may be renewed, using extensions of up to 31 days, for a total of 186 days from the date of the end of the initial 31 day moratorium period.

Rationale for intervention

59. The Consent SAR regime provides the NCA and other LEAs with a moratorium period of 31 calendar days, during which they can investigate whether there is money laundering. In complex cases, and particularly where there is need to obtain evidence from overseas, the previous moratorium period did not allow LEAs sufficient time to gather evidence and carry out the investigation to the stage where they were able to determine whether further action is necessary, such as whether to apply for restraint, or a property freezing order.

Impact

60. It is estimated that 10.5% of 1,374 refused consent SARs cannot be taken forward because the moratorium period is too short – amounting to 144 cases per year. It is further estimated that there will be 173 extensions per year, since some cases may be extended multiple times. The proportion of cases that are extended multiple times is subject to particular uncertainty.

61. There will be ongoing costs for Crown court hearings to grant further extensions. Discussions with the MoJ have suggested a variable cost of £450 per hour of Crown Court sitting time whilst policy colleagues have estimated each extension will last approximately half an hour. We have thus assumed a cost of per extension of £225 resulting in an annual cost of £38,925 and cost of £0.3m in present value over 10 years.

62. Extensions will make better use of intelligence flowing from the reporting sector to law enforcement, the period will allow law enforcement sufficient time to reach the restraint stage. There are case studies in the individual IA evidencing the amounts that are not restrained due to the moratorium period elapsing to be in the millions. For these cases, the benefits in money restrained are likely to outweigh the cost of pursuing court-granted extensions.

63. Further detail on the measure is available in the individual IA

Information Sharing

Problem under consideration

64. Both the private sector and the law enforcement agencies hold significant amounts of data on individuals and legal entities. The private sector holds data on financial transactions and related personal data; the law enforcement agencies hold details of criminals, and intelligence on crime. When this data has been shared, such as under the Joint Money Laundering and International Taskforce (JMLIT), there have been benefits to both sectors. But the level of sharing has been limited thus far by concerns about the legal framework under which information is shared. The nature of money laundering is that illicit funds move across the reporting sector and through business structures, and it may be that only the private sector entities can see how those flows, or the interactions between money

launderers, occur. Having the ability for a group of firms to share information directly with one another, either at their own instigation, or on request from the NCA, would have significant benefits.

65. Reporting sector institutions have asked that legal cover is provided to allow them to implement data sharing between individual institutions for the purpose of developing more detailed and accurate SAR, and to help them to protect themselves more effectively from the risks of money laundering and terrorist financing. Where individual institutions identify individuals or accounts they suspect of being involved in money laundering or terrorist financing, they wish to be able to share their own data, or to request it from others. LEAs are supportive of this approach.

Proposal

66. Legislation has been introduced to support data sharing, on a voluntary basis, between regulated sector entities, initiated either by the regulated sector, or by the NCA asking a regulated sector entity to share information with another. It provides the regulated sector with the ability to seek data from, and share data between, a range of entities where there is a suspicion of money laundering or terrorist financing. The NCA must be informed at the outset, and the entities must, if they have suspicion of money laundering provide either a joint report, or separate reports, to the NCA. The legislation provides cover from civil liability for those sharing information in good faith. The provisions for terrorist finance work in the same way, however law enforcement can shorten or lengthen the standard data sharing period based on operational requirements. ..

Rationale for intervention

67. The policy aims are to encourage greater data and information sharing from the reporting sector, better to harness the private sector's understanding of the flows of transactions and entities engaged in money laundering, terrorist financing or other criminal activity.
68. This should lead to better quality SARs submitted by the reporting sector, more effective insight drawn from information across private sector entities, and therefore higher quality intelligence available to LEAs.

Impact

69. There will be minimal one off familiarisation costs for the regulated private sector who wish to take part for establishing how to correctly share data under the mechanism. There will be ongoing gross costs for managing the information sharing process. Despite attempts at obtaining them, it has not been possible to obtain estimates for this cost from the sector. The legislation we have put in place permits the voluntary sharing of personal data for the purpose of tackling money laundering and terrorist finance. The regulated private sector entities that will use this legislation will choose to do so on their initiative, and will accept the ongoing cost of doing so. There is therefore zero net cost.
70. The measure may yield more information submitted to law enforcement, potentially leading to new investigations. Any such investigations would be an opportunity cost for law enforcement, but would represent better user of time compared to the alternative, without the better insight gleaned from information sharing. Law enforcement will have better insight to fight financial crime, including money laundering and terrorist finance
71. The benefits for the private sector using the legislation will be that it will allow them to better identify the threat from money laundering or terrorist finance and the individual behind it, and take measures to inform the authorities and to protect themselves. The changes are part of the wider programme of work to reform the UK's anti-money laundering regime, and

will operate alongside changes brought about through the delivery of the Action Plan for Anti-Money Laundering and Counter Terrorist Financing.

72. Further detail on the measure is available in the individual IA

Further information orders

Problem under consideration

73. POCA contains three money laundering offences, relating to: concealing criminal property (s327); entering into arrangements to facilitate the acquisition, retention, or use or control of criminal property (s328); and the acquisition, use and possession of criminal property (s329).
74. A requirement exists to report suspicion that another person is engaged in money laundering, contained in s330, and which applies to the regulated sector only. There were about 380,000 SARs last year, and these reports are used by the NCA to identify money laundering and the financing of terrorism.
75. The information provided in a SAR is sometimes too limited for the NCA to make an assessment, the information provided is limited or wrong, or further information would help determine whether an investigation should be undertaken. This is a significant problem for the NCA and for police, who are often presented with SARs that lack relevant information. Both the NCA and police spend time chasing further details that could or should have been provided when the SAR was raised. There were therefore strong grounds to argue that a power to obtain information should be provided to support the work of the NCA and police.
76. The NCA did not have a power to require the provision of information in this circumstance, unless they meet the criteria for asking for information as part of an investigation. The NCA has the power to request information from the reporter that should have been in the form prescribed when they submitted it. However, that power has no penalty associated with it, and is therefore reliant on the reporter complying. This situation hinders the NCA's ability to effectively respond to the c. 380,000 SARs that are raised.

Proposal

77. A new power has been provided that permits the NCA to compel the provision of further information on a SAR. This will allow the NCA (or additionally police, for terrorist finance purposes) to seek further information in relation to a SAR, from either the regulated sector entity that raised it, or any other regulated sector entity. This information could extend beyond what was missing in the original SAR. The NCA (or police for terrorist finance) can apply to a Magistrate for an Order to compel the provision of the information. This will require the additional information to be provided within a specified length of time specified by the LEA. Where the reporter does not hold the information, they will be required to declare that they do not. If they continue to refuse to provide the information, there would be a penalty of a fine. This facility would also be available to foreign Financial Intelligence Units through the NCA.

Rationale for intervention

78. The information provided in a SAR, is sometimes too limited for the NCA (or the police for Terrorist Finance) to make an assessment on whether an investigation should be undertaken. Both the NCA and police spend time chasing further details that could or

should have been provided when the SAR was raised. This situation hinders the NCA's ability to effectively respond to the c. 380,000 SARs that are raised, and government intervention is necessary to address the situation. The UK is also bound by the Financial Action Task Force Recommendations, which require the UK to be able to gather further information.

79. The option enables the NCA (or additionally police for terrorist finance purposes) to request more details on SARs that are inadequately completed or where further information would be helpful. This will incentivise better information alongside the suspicions, leading to better decisions on potential investigations and consequent improvements to countering the threat of money laundering and terrorist finance.

Impact

80. There will be ongoing costs on the regulated private sector for the production of information in response to requests. The request can only be for information that the entity could be reasonably expected to have, so the costs are purely in responding to the request, rather than obtaining any new information. There is no requirement to provide information the reporter does not have. Using an estimate of 1,400 requests at c. £205 per request, costs have been estimated at £2.5m in net present terms over ten years. This is equivalent to an annualised net direct cost to business of £0.3m.
81. Where the NCA secures a court order requiring further information, there will be ongoing costs for courts.
82. There is a benefit to society from the measure's impact in addressing the threat of money laundering and terrorist financing. It has not been possible to proportionately obtain an estimate of the scale of this benefit.
- i. The NCA (for anti-money laundering) and the police (for terrorist finance) should gain a better ability to obtain information to inform potential investigations. This will enable decisions to be based on more robust information, with the potential effect of investigations being launched where previously the incomplete information meant this did not happen. With prioritisation of investigative resource better informed, we may expect improvements to anti-money laundering and terrorist financing outcomes.
 - ii. Further, better quality, more relevant information can be used to improve the intelligence picture in relation to money laundering and terrorist financing. A better understanding of the threat can be used to drive insights for the response to it.
 - iii. The measure can help support international cooperation against the threats, utilising the existing strong relationship between the NCA and international equivalents.
83. Further detail on the measure is available in the individual IA

Seizure and forfeiture of mobile stores of value

Problem under consideration

84. Previous legislation only allowed law enforcement to take action against cash. There is some evidence that the following types of property are also being used by criminals to move value, both domestically and across international borders:
- Precious metals;
 - Precious stones;
 - Watches
 - Artistic works;

- Gift vouchers (not cards);
- Postage stamps.

85. We want to ensure that we can disrupt such activity where it is a means of moving criminal assets or of storing their value.

Proposal

86. POCA has been amended (complementary changes made to the ATCSA for terrorist finance purposes) to create new powers to search, seize and forfeit mobile stores of value (MSV). MSV will be defined by a list that can be amended by secondary legislation. The legislation is based on the existing cash seizure powers. Forfeiture of MSV and the rights of associated and joint property will be subject to judicial oversight (there will not be a power of administrative forfeiture).

87. The items on the MSV list have been selected because:

- law enforcement have provided evidence of these items and/or there are credible reports in media of these items being as *movable* stores of value for proceeds of crime internationally,
- an officer can realistically identify (with the help of an expert if necessary) that the minimum value threshold is reached at the time of seizure (for terrorist finance related cases there will be no minimum seizure value so this will not apply), and
- existing powers to recover the property are inadequate/too slow given the ability to move and transfer the items quickly.

Rationale for intervention

88. Criminals use property to transfer the proceeds of unlawful conduct or property intended for use in such conduct. Law enforcement have the power to search for, seize and forfeit cash being used for such purposes. A further power is required to search for, seize and forfeit other types of movable property which store value. This power enables rapid seizure or confiscation of items which do not fall within existing cash seizure schemes in POCA. This includes high-value property, like precious metals and jewels.

Impact

89. It is assumed that the number of cases will be between 150 and 250 per year. This estimate is subject to uncertainty, since this is a new power not tried in practice. The value of these items are estimated to be between £5,000 and £8,000 on average. The lowest value is assumed to be £1000 (the minimum threshold), but on average it is expected to be higher than this. The presence or absence of large forfeitures will vary the annual cash forfeiture revenue from year to year to a great extent. We have not made any assumptions to the degree of this variation. These assumptions form the range for the costs and benefits. The central estimate is taken as the midpoint of the range.

90. There will be costs to the courts (in England & Wales, Scotland and Northern Ireland) in obtaining permission to seize, obtaining expert valuation (if necessary), storing and insuring, and recovering MSV. This has been estimated at £0.3m per annum or £2.4m in present value over 10 years in the central cost scenario.

91. There will be opportunity cost to law enforcement. This has been estimated at between £60k and £90k per year, or in present value over ten years between £0.4m and £0.7. The central cost estimate is £75k per year or in present value over ten years £0.6m.

92. Money laundering is a global threat. This power significantly strengthens the law enforcement response to tackle the use of MSV for money laundering linked to the most serious threats including drugs, fraud and modern slavery and as an enabler of serious and organised crime and grand corruption. This will send a clear message and deter those seeking to use listed MSV to move proceeds of crime through UK. The complementary changes to ATCSA will ensure that police investigating terrorist finance have similarly strengthened powers delivering a similar deterrent effect.
93. Realised proceeds are paid into the relevant consolidated fund (after costs and any payments to joint or associated property owners). The forfeiture amounts are expected to be £0.75m pa in the low scenario and £2m pa in the high scenario, though it is assumed that there are no benefits in 2016 due to the policy not be operational until 2017. The central estimate is the midpoint, at £1.375m per year. Total monetised benefits in present value over ten years are between £5.7m and £15.2m. The central estimate is £10.5m.
94. The NPV is estimated to be £7.5m, with a range of £3.5m to £11.5m.
95. Further detail on the measure is available in the individual IA.

Forfeiture of bank accounts

Problem under consideration

96. A problem was identified in relation to the ability of LEAs to freeze the contents of accounts where there is a reasonable suspicion that the funds within them are the proceeds of criminality, or that they may be used to fund criminality including terrorism. The contents of accounts can currently be forfeited following a conviction, or civil recovery powers can be used where the value is more than £10,000. Where neither of these conditions apply, there was no formal mechanism for seizing the funds.
97. There are two major areas where this is a concern. Firstly, banks that identify accounts that they believe to contain illicit funds can inform the NCA of this through raising a SAR. However, for many accounts, no action can be taken as there is no specific power for LEAs to use. Secondly, LEAs may wish to take action on an account themselves, on the grounds of reasonable suspicion.

Proposal

98. A power has been created in POCA and ATCSA that permits LEAs to seek a court order freezing accounts where there are reasonable grounds to suspect that the funds are illicit or linked to terrorism. The legislation permits either administrative forfeiture, or forfeiture by the order of a court. For terrorist finance related cases there will be no minimum seizure value.

Rationale for intervention

99. LEAs are not always able to seize the contents of accounts where there is a reasonable suspicion that the funds within them are the proceeds of criminality, or that they may be used to fund criminality or terrorism. The contents of accounts can be restrained during investigations, or civil recovery powers can be used where the value is more than £10,000. Where neither of these conditions apply, there was no formal mechanism for forfeiting the funds. The banking sector had many thousands of accounts suspended by the banking sector on their own initiative, and they wished to remove them from their books. This created two main problems. The first was a cost faced by banks and HMG, in terms of their

reputation and ability to deal with criminality, and particularly the proceeds of crime. The second is a growing stock of funds (estimated to have grown over the past 15 years to between £30m-£50m) that are suspicious but have not been seized, because there is no power to seize them.

100. Without government introducing a formal mechanism the volume of accounts will continue to grow. This policy puts in place a simple and effective solution for law enforcement agencies to be able to freeze and forfeit these accounts

Impact

101. The banks have already suspended many thousands of accounts. It is likely that the approach we will need to take with seeking to transfer those funds is to set up a formal programme between the banks, Ministry of Justice and law enforcement agencies. We estimate transition costs of £3.3m and ongoing costs of £3.5m to business over 10 years. This gives £6.8m present cost, or an EANDCB of £0.8m.
102. We have estimated the initial transition cost for the LEAs. This has been calculated through an estimated stock of accounts in the first year (30,000), the estimated time taken per seizure (5 hours) and the cost per hour of Law Enforcement Officer of Sergeant grade or below (£37.67 per hour). We then assume that this work is only conducted on those accounts over £1,000 in value and therefore multiply it by either 25%, 50% or 75% depending on the scenario. For the central scenario, this results in a transition cost of £2.8m.
103. There is also an associated cost with the flow of new accounts which would require additional LEA cost. This has been calculated through taking the assumptions of the value (£40m) and number of existing stock (30,000) and applying this to the additional flow (£2.5m per annum). This gives a figure of an additional flow of 1,875 accounts which, applying the same methodology for the transition cost, results in a cost to LEAs in the central scenario of £1.5m over 10 years.
104. There is a cost for the UK Justice System via the courts as all accounts that LEAs wish to forfeit will need an individual account freezing order made against them. We have assumed, through consultation with the MoJ, that there will be an initial fee (£226) to commence hearings and a secondary hearing fee (£567) if the owner of the account appeals the freezing order. We assume that the longer the duration of a suspended account, the lower the likelihood of it being contested is. Therefore, we assume a 5% chance of contention for accounts older than 2 years, 15% less than 2 years and 30% chance for new accounts. By assuming the stock of suspended accounts has been linear over the last 15 years, this give 24,000 accounts older than 2 years and 6,000 less than 2 years with 1,875 the flow of new accounts. We further assume that, similar to LEA costs, only those above £1,000 go to court, therefore multiply it by 25%, 50% or 75% depending upon the scenario. This leads to a transition cost of £3.8m for the suspended accounts in the central scenario and a cost of £3.2m for costs of the flow accounts over 10 years.
105. There is a stock of potentially £30 - £50 million of criminal funds that will be injected back into the legitimate economy by returning it to victims or placing the seized funds into the Asset Recovery Incentivisation Scheme. We have used an estimate of £40m as the current stock and forecast a £2.5m flow each year based on past trends. The central estimate (50% of accounts) has c. £31m present benefit.

106. The net present value is £12.5m.

107. Further detail on the measure is available in the individual IA.

Extend Terrorist Finance financial investigation powers to accredited counter-terrorism financial investigators (CTFIs)

Problem under consideration

108. Investigations into “terrorist financing” offences (as set out in sections 15-18 of TACT) are often conducted by Accredited Financial Investigators (AFIs) in the police. The Act extends certain powers to Counter-Terrorism Financial Investigators (CTFIs) based in the police and make it an offence to assault or obstruct CTFIs who are acting in the exercise of a relevant power.

Proposal

109. TACT and ACTSA have been amended to allow specified CTFIs to:

- apply to a Circuit Judge or a District Judge (in the Magistrates’ Courts) for a production order in relation to special procedure material or excluded material;
- be named in a financial information order so that they can require financial institutions to provide customer information for the purposes of an investigation;
- apply for, discharge, or vary an account monitoring order; and
- seize terrorist cash

110. TACT has also been amended to include TACT Disclosure Orders which extend the existing assault and obstruction offences in respect of CTFIs.

Rationale for intervention

111. Increasingly, the financial investigatory work of police counter-terrorism units (CTUs) in police investigations into terrorism offences is undertaken by AFIs who are not constables. The effect of the previous legislation imposes a heavier administrative burden on investigations into the financing of terrorism and the financial aspects of wider terrorism investigations under TACT, in comparison with investigations into money laundering or other criminal financial activity under POCA

112. It does not make financial sense for a police force or a regional CTU to train a constable to become an AFI, when the work of AFIs does not otherwise require the powers and privileges of a constable. However, the lack of AFIs who are also constables can cause difficulties in the investigation of terrorist finance offences and the financial aspects of terrorism investigations

113. Terrorism presents different considerations in relation to the risks present to those investigating it. In particular, violence is more likely to be the intent of those involved in terrorist financing, than with individuals engaged in money laundering. The extension of assault and obstruction offences in respect of CTFIs to include assault or obstructing CTFIs

who are exercising powers in relation to Disclosure Order powers provides an important safeguard.

Impact

114. This change allows police resources to be used more efficiently, by having civilian CTFI replace police constables in conducting some of this work whilst ensuring they have the legal safeguards in exercising their duties.
115. An estimate of the impact has not been made. The benefit for the police through internal resourcing and prioritisation by having civilian CTFIs conduct work previously done by AFIs has been unable to be quantified as no robust assumption could be made around the quantity of work that CTFIs would replace police constables for. However, CT policing roughly indicate that the extension of these powers to CTFIs will increase the capacity of the police to apply for the orders in question by over 50%.

Other changes to Proceeds of Crime Act (POCA)

Problem under consideration

116. POCA contains various powers to investigate the financial circumstances of criminals and to recover the proceeds of crime through criminal and civil proceedings. POCA is now 14 years old and although remains an overall effective piece of legislation, there are parts that require amending, either because they have become ineffective through legal challenge or because they require updating so that the powers remain effective and able to respond to the demands of modern criminality.

Proposal

117. These general measures make various amendments to POCA to further strengthen the operational impact of various powers.
118. These measures :
- a. Grant Civil Recovery powers to the Financial Conduct Authority and HM Revenue and Customs.
 - b. Make it a criminal offence to obstruct/assault officers using POCA search and seizure powers, where this is not already the case (e.g. immigration officers, SFO)
 - c. Grant continuing investigation powers for s.22 (and the Scotland and Northern Ireland equivalents) revisits of confiscation orders.
 - d. Allow for the revisit of confiscation orders that have been discharged if further evidence comes to light.
 - e. Amend s25A to allow for the writing off of orders under the Drug Trafficking Offences Act 1986.
 - f. Amend s47G (and the Northern Ireland equivalent) and s290 to address the issue of authorisation prior to the exercise of the s47 search and seizure powers.
 - g. Amend s306(3) to add to the list of scenarios when mixed property is recoverable.
 - h. Amending s82 (and the Scotland and Northern Ireland equivalents) to clarify the definition of “free property”
 - i. Provide the SFO with direct access to POCA investigation powers.
 - j. Tidy up various definitions in POCA, where they relate to repealed legislation, such as distress and the Banking Act.

- k. Amend s289(6) to insert three additional items to the cash seizure provisions: betting slips, gaming vouchers; and casino tokens.

Rationale for intervention

119. Operational experience of POCA identified where powers and laws could be strengthened. The amendments are largely technical, but are important to ensure the proper operation of the legislation and to ensure that law enforcement agencies are able to have fully effective powers in recovering the proceeds of crime.
120. For example, further strengthening the investigation powers increases the possibilities to revisit old orders, ensuring that defendants cannot avoid their payment. Granting SFO officers direct access to the powers in POCA recognises their unique role in investigating complex financial crime, and simplifies the application process for them.
121. Granting civil recovery powers to the Financial Conduct Authority and HMRC widens the number of agencies who can use this important power to recover assets in the absence of a conviction. Both agencies investigate cases that are financially complex and lucrative, but have been unable to access these powers previously.
122. Police, HMRC officers and accredited financial investigators are covered by existing assault and obstruction offences. The Act creates new offences to ensure that others operating under the Act, notably the Serious Fraud Office and the Financial Conduct Authority are also covered by like offences.
123. A civilian investigator in the police will be able to seek authorisation for their searches and seizures from an inspector rather than being required to obtain authorisation from an equivalently senior civilian staff member.
124. The Serious Crime Act amended the provisions in POCA to allow for the writing off of orders where a defendant has died. These provisions are extended to allow for orders made under the Drug Trafficking Act 1986 can also be written off. A separate amendment made by the Act also allow for the revisit of confiscation orders which have been discharged to allow for the amount to be paid to be increased.
125. Under previous cash seizure provisions, betting slips, gaming vouchers and fixed value casino tokens were unable to be seized as they were not contained within the list of items which includes cash, cheques and bearer bonds. This gave criminals an avenue for holding cash which could not be seized by law enforcement agencies through civil recovery mechanisms.
126. The remaining amendments are purely technical – for example, to update parts of the legislation in line with repealed provisions in other pieces of legislation, or to allow for changes to definitions.

Impact

127. As these amendments are in the main technical, the impact is likely to be minimal.
128. The impact of the expanded cash seizure provisions to include betting slips, gaming vouchers, and casino tokens is expected to be low as usage is expected to be minimal. The main impact is to cut off avenues that criminals could use to get around existing

forfeiture measures. We have not quantified the impact due to the low levels of usage expected.

Other assessments

129. A Policy Equality Statement has been completed following consideration of the Equality Duty which requires public bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
130. Impact tests have also been completed on Human Rights, reflected in the Memorandum submitted to the Joint Committee on Human Rights, as well as the Privacy Impact Assessment.