

**Title:** Criminal Finances Act – Further information orders  
**IA No:** HO0285  
**RPC Reference No:** RPC-3516(1)-HO  
**Lead department or agency:** Home Office  
**Other departments or agencies:** National Crime Agency, Police forces, Ministry of Justice

## Impact Assessment (IA)

**Date:** 20-06-2017  
**Stage:** Enactment  
**Source of intervention:** Domestic  
**Type of measure:** Primary legislation  
**Contact for enquiries:**  
 public.enquiries@homeoffice.gsi.gov.uk

### Summary: Intervention and Options

**RPC Opinion:** GREEN

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
-£2.5m	-£2.5m	£0.3m	Not in scope	Qualifying provision

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

The information provided in a suspicious activity report (SAR), raised by the money laundering regulations' reporting sector, was sometimes too limited for the National Crime Agency (NCA) to make an assessment on whether an investigation should be undertaken. Both the NCA and police spent time chasing further details that could or should have been provided when the SAR was raised. This situation hindered the NCA's ability to effectively respond to the c. 380,000 SARs that are raised, and government intervention was 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 such information.

**What are the policy objectives and the intended effects?**

The policy objectives are to enable

- Production of better quality SARs, leading to more informed decisions by the NCA
- Reduction in the burden of chasing information from incomplete SARs for the NCA
- Improve intelligence gathering on money laundering, and the sharing of such intelligence at international level.
- Meet international obligations in relation to the NCA being able to obtain information.

These should lead to disruption of money laundering and terrorist financing.

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

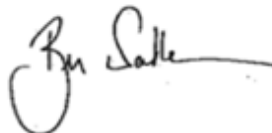
1. **Do nothing**
2. **Legislate a new power to request further information relating to a SAR. (Preferred option)** This will enable the NCA (or additionally police for terrorist finance purposes) to request more details on suspicious activity reports that are inadequately completed or where further information would be helpful. This should 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.

**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 <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> 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	0	Optional	Optional
Best Estimate	0	0	0

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

No change from baseline.

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

No change from baseline.

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 from baseline.

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

No change from baseline.

Key assumptions/sensitivities/risks (%)	Discount rate	3.5%
---	---------------	------

## 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:** Power to obtain information

## FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -£2.5m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	0	Optional	Optional
Best Estimate	0	£0.25m	£2.5m

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

Cost on the regulated private sector (under anti money laundering regulations) for replying to requests to information from law enforcement. Estimated to be around £250k per year, present value terms over ten years.

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

There may be opportunity costs to law enforcement as a result of better intelligence for decisions on investigations, as well as some cost in requesting the information.

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	0	0	0

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

None

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

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%

Further info policy induces a behavioural change, making regulated sector compliant with completing SARs adequately.

If the NCA secures a court order requiring further information, there will be magistrate court costs.

Volumes are well approximated by the number of refused consent SARs, unit costs are similar to FOI burden and/or due diligence. Risk that volumes or burden is higher than estimated.

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £0.3m	Benefits: 0	Net: £0.3m	
			£1.5m

# 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<sup>1</sup> 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 (NCA) 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. 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 combat those threats could be strengthened. 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 these areas. The Criminal Finances Act is a core part of our approach to achieving that objective.
3. The Proceeds of Crime Act (POCA) 2002 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).
4. A requirement exists to report suspicion that another person is engaged in money laundering, contained in s330 POCA, and which applies to the regulated sector only. There were about 380,000 Suspicious Activity Reports (SARs) last year, and these reports are used by the NCA and wider law enforcement agencies to identify money laundering and the financing of terrorism.
5. The Financial Action Task Force (FATF), the global body responsible for monitoring the effectiveness of the response of member states to money laundering and the financing of terrorism, has produced a recommendation requiring countries to provide a power to allow their Financial Intelligence Unit (FIU) to request further information following a SAR. The FIU for the UK is part of the NCA. It is also likely that the EU will put in place legislation, as part of the amendments to the 4<sup>th</sup> Anti-Money Laundering Directive (4AMLD) that will require EU Member States to put in place such provisions.

### A.2 Groups Affected

6. The groups affected by this legislation include:
  - Law enforcement agencies, including the NCA, the police, and other prosecuting authorities.
  - Entities in the regulated sectors under anti money laundering regulations, i.e. banks, accountancy firms, lawyers, estate agents.
  - Regulatory bodies, such as the Financial Conduct Authority (FCA).
  - The Criminal Justice System including HM Courts and Tribunals Service;
  - Overseas Governments and other international bodies, such as the FATF.
  - The general public, whose safety and security is impacted by the threat of serious and organised criminals.

### A.3 Consultation

---

<sup>1</sup> *Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes*, UNODC 2011

## **Within Government**

7. The NCA, police forces, the CPS, HMRC, and counter terrorist financing colleagues.

## **Public Consultation**

8. The public consultation took place through the Action Plan for anti-money laundering and counter-terrorist finance, which was published on 21 April 2016, with the consultation finishing on 2 June 2016. A response to that consultation was published by the Government alongside the Criminal Finances Bill in October 2016.
9. We also consulted further with banks on the detail of the proposals.
10. Following the introduction of the Bill, consultation with law enforcement agencies and the regulated sector was maintained to ensure that they could continue to provide their views and shape this measure during the Bill's passage.

## **B. Rationale**

11. 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 was a significant problem for the NCA and for police, who are often presented with SARs that lack relevant information. Both the NCA and police spent 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.
12. The NCA did not have a power to require the provision of information in this circumstance, unless they met 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 hindered the NCA's ability to effectively respond to the c. 380,000 SARs that are raised.
13. The FATF standards require the UK to provide a power for the FIU to be able to obtain information from any regulated sector entity. We have implemented this through providing a power for the NCA to request information relating to a SAR from any entity within the regulated sector, and not just the entity that raised it. Both FATF and the EU 4AMLD are keen to support increased powers for FIUs to be able to gather intelligence relating to money laundering, and to be able to share such intelligence between themselves. The changes in the Act to POCA permit the use of these powers on behalf of foreign FIUs.

## **C. Objectives**

14. Improve the quality of SARs being submitted first time, reducing the time the NCA (or additionally police, for terrorist finance purposes) spend chasing further details that could or should have been provided when the SAR was raised.
15. Provide better quality information to the NCA (or additionally police, for terrorist finance purposes) for assessing whether the information in the SAR merits further investigation.
16. Improve intelligence on money laundering, and the sharing of such intelligence at international level.
17. Meet our international obligations in relation to the FATF and the 4th Anti-Money Laundering Directive (4AMLD).

## D. Options

18. The following options have been considered:

- Option 1 is to make no changes (do nothing).
- Option 2 (preferred) legislates for a new power to request further information on a SAR. This allows the NCA (or additionally police, for terrorist finance purposes) to apply to a Magistrate for a Further Information Order to compel the provision of the information. This will require the additional information to be provided within a specified length of time. Where the requested entity 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 is also be available to foreign FIUs through the NCA.
- This option previously included further information notices which could be issued by the NCA (or additionally police, for terrorist finance purposes) to initially request further information in relation to a SAR, from either the regulated sector entity that raised it, or any other regulated sector entity. However, following further consultations with operational partners, we concluded that a further information notice is not required, as the NCA can already request information to be provided voluntarily under existing powers.

## E. Appraisal (Costs and Benefits)

### GENERAL ASSUMPTIONS & DATA

19. The SARs Annual Report 2015, produced by the NCA, reports the following volumes of SARs, consent SARs, and other data.

Key statistics	Oct 2014 to Sept 2015		Oct 2013 to Sept 2014	
Total SARs	381,882		354,186	
Consent SARs	14,672		14,155	
Consent SARs refused (and %)	1,374	9.40%	1,632	11.50%

### OPTION 2 – power to obtain information

#### COSTS

20. 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.
21. It is assumed that it will take one day (7.5 hours) to respond to a request. This has been estimated in a manner that will tend to overestimate impact on business. The time burden of a request is based on two sources: 1) consultations and internal analysis on due diligence as a proxy, which is a more extensive burden; 2) the independent 'Review of the impact of the Freedom of Information Act' (by Frontier Economics, 2006), which found the average time to complete an FOI was 7.5 hours. The hourly cost is taken from ASHE data for "Financial service activities, except insurance and pension funding", making the cost per request £204.53.
22. A cross check was conducted comparing estimated costs of Freedom of Information requests. Recent estimates are from the higher education sector<sup>2</sup> (£144.93) and the local government sector<sup>3</sup>

<sup>2</sup> [www.jisc.ac.uk/blog/ever-wondered-how-much-freedom-of-information-costs-the-sector-04-mar-2013](http://www.jisc.ac.uk/blog/ever-wondered-how-much-freedom-of-information-costs-the-sector-04-mar-2013)

<sup>3</sup> <https://constitution-unit.com/2011/11/11/foi-and-local-government-in-2010-the-experience-of-local-authorities-in-england/>

(£159.80). It is expected that an FOI request may be more complicated or diverse than a request to the regulated sector for further info, but a cautious approach is adopted using the higher figure, as above.

23. Volumes are very uncertain. As a proxy, the NCA refuse c. 1,400 consent SARs. In these cases, the NCA have decided they need more time and information to make a decision to proceed to the restraint phase based on what they have received in the SAR. Similarly, when using the power to obtain further information the NCA (also including police for TF purposes) will be making a decision to build a fuller intelligence picture, potentially leading to investigations, based on information contained in the SAR. Therefore an indicative estimate of volume is 1,400 per year.
24. Using an estimate of 1,400 requests, costs have been estimated **at £290k pa (undiscounted) or £2.5m in net present terms over ten years.**
25. Where this power is used to obtain information that should have been provided in an original SAR, there is no additional burden on business since the SAR was inadequately completed (and so the reporter was being non-compliant) – however the analysis does not reduce the calculated burden. Nevertheless, there remains uncertainty for both the unit cost to business and especially the volume of this new power.
26. Where the NCA secures a court order requiring further information, there will be ongoing **costs for courts.** These are being agreed with the Ministry of Justice.
27. The **NCA** itself will incur ongoing costs through processing better information, and potentially launching investigations as a result. This will be as a result of better quality intelligence leading to law enforcement action. These have not been quantified due to uncertainty on the nature of cases that may result, and will be opportunity costs rather than financial costs.

## **BENEFITS**

28. There will be 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.
29. 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.
30. 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.
31. The measure can help support international cooperation against the threats, utilising the existing strong relationship between the NCA and international equivalents.
32. The provision of an incentive to produce SARs of adequate quality (where such information is available to the reporter) should enable better quality intelligence reaching the NCA as a result of the SARs system in initial submission of SARs. There should be a reduction in the NCA's workload in chasing information, since all the details relevant to a reporter's suspicion should be included first time.
33. There should be a reduction in the NCA's workload in chasing information, since all the details relevant to a reporter's suspicion should be included first time.

## **BUSINESS IMPACT TARGET**

34. The EANDCB is £0.3m in 2014 prices and 2015 present value base year. Therefore the BIT score is £1.5m.
35. The costs to business identified above are included in the EANDCB calculation. Benefits to business (as part of wider society and as financial institutions) from the anti-money laundering actions taken as a result of information obtained from the sector are not included.

## **SMALL AND MICRO BUSINESS ASSESSMENT**

36. Small and micro businesses make up the vast majority of the regulated sector by number of businesses. It is reasonable to expect requests will be made to these businesses. However, it would not be appropriate (and probably not legal if this is included in the 4AMLD) to exclude small and micro businesses from this measure since this would go against the policy aim of getting full information to the NCA, and some important sectors (lawyers, accountants) can fall into this category.

## **F. Risks**

37. We have used latest data as our best estimate of the likely burden, but there is a risk that the number of requests is higher than expected, and this will create a larger burden on business. We would expect this only to be used in circumstances where the initial SAR was faulty, where there is a decision needed on whether to take further action, or where there is a need for more information for intelligence purposes. While this could be a reasonable number, it will be a very small proportion of the overall SARs.
38. As a sensitivity analysis to capture a potential increase in the number of requests, which can originate for anti-money laundering, terrorist finance, domestically or from a foreign FIU, an additional 50% of requests was modelled. Using an estimate of 2100 requests, the rounded EANDCB increases to £0.4m, and the NPV becomes -£3.7m (still excluding the benefits from the better intelligence that this will represent).
39. There is a risk that the complexity of the request is greater than costed in this assessment. The type of information that can be requested by the NCA is potentially broad. The burden is limited by the fact that the organisation can only be asked for information it holds, and the risk to the calculated burden has been mitigated by taking a cautious approach to modelling the costs compared to FOI examples.

## **G. Enforcement**

40. The NCA can seek a further information order, through application by a senior NCA officer, from the magistrates' court. If this is not complied with, the person who the notice is served upon will be liable for a fine of up to £5000. Failure to comply means not providing the information requested.

## **H. Summary and Recommendations**

41. Option 2 is preferred. It achieves the policy objectives and can provide useful tools to law enforcement to tackle money laundering and terrorist finance.

## **I. Implementation**



42. The powers will be commenced by order subject to operational needs and the passage of any necessary secondary legislation/publication of statutory guidance. Where appropriate, this will be on a common commencement date

## **J. Monitoring and Evaluation**

43. There is no formal monitoring requirement. However, we will ask the NCA to keep accurate records of the use of the information orders.

## **K. Feedback**

44. We will seek the views of the regulated sector on the use of this power, from time to time.