Regulatory Policy Committee	**Opinion**	
Impact Assessment (IA)	The implementation of the EU Mortgage Credit Directive	
Lead Department/Agency	HM Treasury	
Stage	Consultation	
IA Number	Not provided	
Origin	European	
Expected date of implementation	21 March 2016	
Date submitted to RPC	24 June 2014	
RPC Opinion date and reference	25 July 2014	RPC14-HMT-2144
Overall Assessment	**AMBER**	

RPC comments

The IA will be fit for purpose, provided the Department improves the IA before consultation so that it provides more detail on the impacts on business from the new legislative framework for buy-to-let mortgage lending.

The Department's assessment that the proposal is out of scope of 'One-in, Two-out' is sufficient, provided the Department does not decide to implement the Directive early.

A SaMBA is not required for this proposal but the Department should consider the impacts on small and micro businesses in its implementation.

Background (extracts from IA)

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

"The UK is required to implement the EU Mortgage Credit Directive (MCD) requirements by 21 March 2016, in order for the UK to meet its treaty obligations and avoid the risk of facing legal proceedings as a result of infraction. The MCD sets the minimum regulatory standards that Member States are required to meet in order to protect consumers purchasing mortgage loans. The UK Government needs to make some minor changes to its existing regime for mortgage regulation in order to meet the requirements set out in the MCD."

What are the policy objectives and the intended effects?

"The policy objective in our implementation is to achieve compliance with the MCD

while minimising the impact on UK industry in terms of their costs and competitiveness. The UK Government does not believe that the MCD offers many benefits to consumers beyond that which is already provided by the high level of protection offered by the existing Financial Conduct Authority regime for mortgages."

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

The proposal makes adjustments to the current regulatory system for mortgage lending:

- it brings 'second charge mortgage lending' under the Financial Conduct Authority's (FCA) mortgage regime instead of the consumer credit regime;

- it brings buy-to-let lending where the borrower lives in the property under the FCA mortgage regime; and

- it requires an 'appropriate framework' to apply to the buy-to-let lending sector, as well as introducing smaller technical amendments.

This will affect businesses that lend money to consumers and landlords for mortgages. There will be some familiarisation costs resulting from the new requirements, and changes in the application process for permission to lend mortgages. Some businesses that provide the different types of mortgages, subject to different rules, may benefit from the alignment of the regulatory regimes.

The Department has provided a qualitative and indicative assessment of the potential costs and benefits of removing the existing mortgage regulation framework and replacing it with the requirements of the Mortgage Credit Directive (option 1). The IA states that a full analysis at final stage will not be proportionate even after collecting additional evidence from the consultation. The Department will need to provide further evidence regarding proportionality at final stage to justify this assessment. It should ensure that there is sufficient discussion of the likely scale of costs and benefits, even where monetising them is not considered possible.

Before consultation, the Department should improve the impact assessment with respect to the creation of an *"appropriate framework"* (page 8) for buy-to-let mortgage lending. The impact assessment contains a limited discussion on what this means, how it is structured and what are the impacts on business. The IA should give more information on the *"appropriate framework"* to inform the consultation.

Before publication, the Department should also provide further details on the impact of the proposal on the Financial Conduct Authority (FCA).

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

The proposal is of European origin and, therefore, a SaMBA is not required.

However, the IA could also explain more clearly how, and the extent to which, the proposals will mitigate the burdens on small and micro-businesses, as required by paragraph 1.6.9 of the Better Regulation Framework Manual.

Comments on the robustness of the OITO assessment.

The proposal is of European origin. There is no evidence that the increase in regulation would go beyond minimum requirements, or that the Department is failing to take advantage of available derogations that would reduce the costs to business. It is, therefore, out of scope of ‘One-in, Two-out’ in accordance with the Better Regulation Framework Manual (paragraph 1.9.8 ii).

This assessment is on the basis that the implementation date for the policy is the same as the required date as prescribed by the EU Directive. Any early implementation would bring the proposal in scope of OITO.

Signed **Michael Gibbons,** Chairman