 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Enhanced Transparency of Company Beneficial Ownership	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Consultation	
IA Number	Not provided	
Origin	International	
Expected date of implementation (and SNR number)	-	
Date submitted to RPC	20/12/2013	
RPC Opinion date and reference	04/02/2014	RPC13-BIS-1990
Overall Assessment	AMBER	
RPC comments		
<p>The IA is fit for purpose. However, there is insufficient evidence presented in the IA to confirm the Department’s view that this proposal is out of scope of One-in, Two-out (OITO). The Department should provide further information relevant to this issue, covering the areas identified below. This additional information will be necessary at final stage for a definitive assessment to be made.</p> <p>The IA generally provides a clear assessment of the costs and benefits of the proposal. However, there are some areas that should be strengthened. These are also presented below.</p> <p>Finally, we note that the IA was submitted to us after the main consultation. We would expect to scrutinise any IA at this stage of the process before the main consultation is undertaken.</p>		
Background (extracts from IA)		
<p>What is the problem under consideration? Why is government intervention necessary?</p> <p><i>Opacity of the control of corporate structures can firstly facilitate illicit activity, and secondly lead to a deficiency in corporate governance which erodes trust and damages the business environment. Both can ultimately hold back economic growth. Government intervention is necessary to correct the regulatory failure underpinning the first, and the information asymmetry reflected in the second. A lack of knowledge around the beneficial ownership of UK companies – i.e. around the individuals who really own and control the company – can contribute to corporate opacity. The central problem under consideration is therefore the scope for misuse and poor corporate behaviour as a result.</i></p> <p>What are the policy objectives and the intended effects?</p> <p><i>The policy objective is to enhance the transparency of UK company beneficial ownership. The chosen option should implement the UK’s G8 commitments and</i></p>		

meet international standards on tackling the misuse of companies. We intend that enhanced transparency will deter illicit activity and improve enforcement outcomes where misuse does take place; and promote good corporate behaviour. We intend to implement a system that is both proportionate and effective.

Three options are considered:

Option 0 - do nothing;

Option 1- implementation of a central registry of beneficial company ownership;

Option 2 - government-led campaign to promote the importance of corporate transparency.

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 IA is part of a set of four proposals that aim to reduce the opacity around the control of corporate structures, in order to reduce the damage from illicit activity and improve the trust in corporate governance. This IA specifically focuses upon the setting up of a publicly accessible central registry of company beneficial ownership information at Companies House.

The IA explains how the proposals will have an impact on business from set-up costs (familiarisation, identification, collection, collation and storage of data) and from the provision of updated information and returns to Companies House.

We note that there are some areas that should be strengthened.

Cost assumptions. The cost assumptions are informed by costs from an IFF Survey of 574 companies, carried out specifically for the purposes of informing these policy measures. The IA acknowledges openly that these data have been processed to exclude unrepresentative extreme values. This approach appears to be reasonable and is presented transparently (with the full distribution of costs given and zero, as well as very high, values discarded). However, this should be strengthened further in the two areas below:

- greater explanation where alternative (to the IFF survey) sources have been used and why. The IA presents the costs per company that are used in arriving at the aggregate estimates of cost (Table 3, page 35). The IA should explain more clearly how far these figures have been drawn from the IFF survey and how far from other sources;
- further use of sensitivity analysis, presenting what the costs would be if the IFF survey data were processed differently and/or if the IFF survey data were used for some costs, instead of the alternative sources.

This will be necessary to enable validation of an EANCB at final stage.

Benefits. The IA provides a detailed discussion of the possible benefits of the proposals. It provides estimates for the current cost of fraud and illustrates what the benefits would be if this were reduced by the proposal. However, the Department is unable to provide monetised estimates of benefits because of insufficient information to reliably attribute a quantified reduction in fraud (or greater economic growth

through enhanced trust and transparency) to these specific proposals. This seems reasonable. However, the qualitative assessment of benefits should be strengthened, notably:

- paragraph 118 states: *“For example, in the representative company survey, whilst 60% of companies surveyed indicated that there were no benefits to them from changes to the beneficial ownership requirements, 10% indicated that it would ensure they know with whom they are doing business. Other benefits cited included increasing trust and confidence in their organisation, creating a level playing field, exposing companies that are breaking the law and improving their own peace of mind.”* The IA appears to place greater emphasis on the smaller percentage of companies who expect benefits than the reported 60% who did not. The IA should address whether the survey information indicates that benefits might be more modest than claimed;
- paragraph 198 states: *“By extension, we would not therefore expect to see any benefits associated with a reduction in criminal activity to individuals and business under Option 2.”* It would seem reasonable to conclude that the benefits (and costs) of this non-regulatory option would be much smaller than for option 1. However, the conclusion that there would not be *any* benefits (of a reduction in criminal activity) from option 2 should be justified further or revised.

Sensitivity Analysis. It is not clear that the variation of costs by 20% either side of the point estimate (paragraph 174, page 35) adds much value. Annex B provides a much more useful sensitivity analysis. The sensitivity analysis in the IA at final stage should also take account of the comments above.

Finally, we note that the IA was submitted to us after the main consultation. We would expect to scrutinise any IA at this stage of the process before the main consultation is undertaken. The IA should have been clearer as to what consultation has taken place and, particularly, the further consultation to come. The final stage IA should provide more information on the consultation stages.

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

The proposals regulate business and are intended to come into force after 31 March 2014. The IA includes a SaMBA. This explains satisfactorily why small and micro businesses cannot be exempt (as “shell” companies are *“often the vehicle of choice for money-laundering and other crimes”* and *“we believe that the majority of shell companies would be classified as small and micro businesses”* (page 47). The IA presents a preliminary analysis of the costs to small businesses using the data from the IFF survey. The SaMBA is fit for purpose.

Comments on the robustness of the OITO assessment.

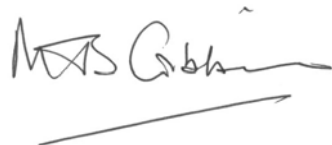
The IA has a section on OITO (paragraphs 232-37, pages 45-46). This states that the proposals are out of scope *“on the grounds of implementation being required to meet international obligations”*. However, there is insufficient evidence presented in the IA for this assessment to be confirmed at this stage. The IA should provide

additional information relevant to this issue. This information should include:

- further details on the binding nature of the commitments, including information on the legal position of G8 agreements, any enforcement mechanisms and the consequences should the UK not keep them. (We note that the IA states at paragraph 233 that the [G8] commitments are "*public and binding*");
- a detailed explanation of the commitments and comparison against each individual element of the policy proposal, to enable confirmation or otherwise that the proposal represents the minimum to which the UK has committed. Even if the minimum commitment is deemed out of scope, any action beyond this would be considered to be in scope;
- As part of addressing the above two bullets the Department should consider providing details of what other G8 countries are doing to meet their G8 commitments.

This additional information will need to be provided at final stage to enable the Committee to assess whether this proposal should be considered to be in or out of scope of OITO.

Signed

A handwritten signature in dark ink, appearing to read 'Michael Gibbons', with a long horizontal line extending from the end of the signature.

Michael Gibbons, Chairman