Regulatory Policy Committee	**Opinion**	
Impact Assessment (IA)	The Implementation of the EU Mortgage Credit Directive	
Lead Department/Agency	HM Treasury	
Stage	Final	
IA number	Not provided	
Origin	European	
Expected date of implementation	March 2016 (SNR 11)	
Date submitted to RPC	12 December 2014	
RPC Opinion date and reference	14 January 2015	RPC14-HMT-2144(2)
Departmental Assessment		
One-in, Two-out status	**Out of scope (EU)**	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	**£1.5 million**	
RPC Overall Assessment	**GREEN**	

RPC comments

The impact assessment is fit for purpose. The Treasury has set out how it intends to transpose the requirements of the EU Mortgage Credit Directive (MCD). The Treasury explains how the costs of the proposal relate to transposition of the Directive by the Treasury, and how the Financial Conduct Authority (FCA) can be expected to make changes to its 'rule book'. The Treasury also sets out that it has not taken advantage of certain exemptions provided for in the EU Directive because it considers that there are benefits from retaining certain existing UK requirements. The result is no increase in new costs burden on business.

On this basis, the RPC can confirm the proposal as out of scope of OITO with a resulting estimated equivalent annual net cost to business of £1.5 million.

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

common regulatory standards that Member States are required to meet in order to protect consumers purchasing mortgage loans.

The UK Government needs to make some 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 approach is to achieve compliance with the MCD while minimising the impact on UK industry in terms of their costs and competitiveness. The UK Government has not seen evidence 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 (FCA) regime for mortgages."

Comments on the robustness of the OITO assessment

The proposal is of European origin. In a limited number of instances, the Treasury is not proposing to take advantage of certain exemptions provided for in the EU Directive in favour of retaining certain existing UK requirements. The Treasury explains that it is seeking to maintain the status quo and prevent an additional regulatory burden arising from the approach to transposition. Although not all available exemptions have been exploited in full, the Treasury explains that this 'gold-plating' of the Directive does not result in a net cost to business.

On the basis that the Treasury is not imposing any new costs on business as a consequence of retaining these existing requirements, the proposal is out of scope of 'One-in, Two-out' in line with previous interpretations of the guidance.

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

The proposal is EU in origin. A SaMBA is, therefore, not required

Quality of the analysis and evidence presented in the IA

The proposals relate to the regulation of first charge and second charge mortgages[1] under the requirements of the MCD regime. This means that the regulation of second charge lending will no longer be regulated under the Consumer Credit Regulations. UK mortgage lenders and intermediaries who do not participate in first charge lending (and are therefore already subject to to existing regulations), will now incur one off costs of gaining permission from the FCA to undertake second charge lending under the MCD.

[1] The terms first and second charge refer to the priority of securities held by a lender over a property. Second charge mortgages are loans secured on a property that is already acting as security for a first charge mortgage. A second charge is subordinate to a first charge in the event of default and the sale of a property. Once the liability of a first charge lender has been satisfied, only then will a second charge lender be able to recover on its liability.

The Treasury explains in its impact assessment that there are approximately 160 lenders currently involved in the second charge lending market, of which approximately 70 are already authorised as first charge lenders. This leaves approximately 90 who may apply for fresh authorisation as second charge lenders. Based on information from the FCA, the Treasury assumes that around 200 to 400 intermediaries will apply for authorisation. To obtain authorisation, firms will need to pay a fee to the FCA to assess their application. The fees charged by the FCA are based on certain criteria based on the size of the firm, and complexity of the application that will be submitted for authorisation.

As such, the Treasury models two scenarios in its impact assessment to generate low and high cost assessments for authorisation costs for lenders and intermediaries. The Treasury's best estimate of the one off cost to lenders is approximately £240,000 and £500,000 for intermediaries. Once authorisation has been granted, lenders and intermediaries will have to pay an ongoing periodic fee to the FCA. The Treasury estimates these costs to be negligible, as the required fees will be largely the same under the new regime as they would have been under the Consumer Credit Regulations. The Treasury also explains that there may be costs to firms of having to familiarise themselves with a new application and complete the documents required to gain a permission. Based on information from a survey of firms and intermediaries, the Treasury estimates costs of approximately £450,000 to lenders and £530,000 to intermediaries.

The proposed new regulatory regime for buy-to-let lending will impose one-off and ongoing costs on lenders and intermediaries relating to changes to IT systems and additional staff training. Using evidence from its survey of lenders and intermediaries, the Treasury estimates one-off transition costs of approximately £2.1 million for lenders and £860,000 for intermediaries, and ongoing costs of approximately £800,000 for lenders and £314,000 for intermediaries. The Treasury explains that lenders and intermediaries will also face costs from registering with the FCA to undertake consumer buy-to-let business. The Treasury estimates that there are approximately 100 lenders and 4,000 intermediaries active in this sector who will face total one off fee costs of just over £10,000 for lenders and approximately £500,000 for intermediaries. These firms will also be charged by the FCA periodically so that they remain on the consumer buy-to-let register.

The Treasury explains that in its consultation, it anticipated that there might be benefits to second charge firms already providing first charge lending from operation under one regulatory regime (the mortgage regulations), as opposed to two regimes (the mortgage and consumer credit regulations). However, evidence gathered from the consultation did not support this. The consultation assumed that the proposals would encourage more first charge firms to enter the second charge market. Again, the evidence gathered by the Treasury at consultation did not support this. As such, the Treasury estimates the net benefit to firms of the proposals to be negligible.

The estimated equivalent annual net cost to business of the proposal from HMT, at £1.5 million, does not include the impact on business of the FCA changing its rules in order to meet the requirements set out by the MCD. The Treasury explains that this impact is dependent on how exactly the FCA, in its capacity as the independent regulator, decides to change its rules. In addition, the FCA is also required by legislation to carry out its own cost benefit analysis for any changes it makes to its rules in response to the MCD.

The Treasury provides in its impact assessment a summary of the FCA's own cost benefit analysis, highlighting the likely impact on business of its planned rule changes as a result of the MCD. The equivalent annual net cost to business of the possible FCA rule change has been presented by the Treasury in this impact assessment as approximately £0.7 million each year. The RPC notes that the FCA has not opted into the OITO policy. Therefore, this cost to business has not been included in the Treasury's assessment of the estimated equivalent annual net cost to business. However, the RPC considers that the total cost of implementing the MCD should be recorded.

Signed		**Michael Gibbons,** Chairman