

Title: Extension of the Business Impact Target IA No: Lead department or agency: Department for Business, Innovation and Skills / Cabinet Office Other departments or agencies:	Impact Assessment (IA)
	Date: 01/08/2015
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
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Summary: Intervention and Options	RPC Opinion: GREEN
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of One-In, Two-Out? Measure qualifies as
£-10.51m	£-5.30m	£0.61m (zero at this time)	Yes IN

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

The Business Impact Target (BIT) is a target for Government in respect of the economic impact of regulation on business. The target currently applies to legislation and the actions of UK Ministers. The Government is required to measure and report on the economic impact of all legislation that comes into force or ceases to have effect over the course of the Parliament. Businesses consistently tell Government that the actions of regulators are as important as the content of legislation in determining their experience of regulation. Currently the costs imposed on business by regulators' activities are not routinely measured or reported upon. Government therefore wishes to expand the BIT to include the activities of National Regulators.

What are the policy objectives and the intended effects?

The overall objective behind setting a Business Impact Target is to manage and control regulatory burdens on business which, in turn, frees up business resources to be used in more productive ways. Expanding the coverage of the target to include the actions of National Regulators will allow for a wider range of Government regulatory activity that imposes burdens on business to be captured under the target and reported on. Regulators will have to undertake more routine measurement of the economic impacts of their policies and practices. It will ensure that Government works closely with regulators to deliver its deregulation target and incentivise regulators to consider business impacts in developing policies and practices.

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

Option 1 - Do nothing. Rely on the existing business impact target and ARI policy to ensure that regulatory burdens on business are identified and reduced.

Option 2 - Alter the existing ARI policy and monitor and report on the actions of regulators on an administrative basis.

Option 3 - Legislate to extend the business impact target to ensure that statutory regulators measure and report on the impacts of their actions on business. (Preferred option)

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 07/2020

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 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 (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:  **Date** 08/09/2015

Summary: Analysis & Evidence

Policy Option 3

Description: Legislate to extend the Business Impact Target

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -28.11	High: -5.55	Best Estimate: -10.5

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0	0.6	5.5
High	0.1	3.3	28.1
Best Estimate	0.0	1.2	10.5

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

The key monetised costs relate to the resources used by regulators to produce cost-benefit assessments of any changes they make and submit the assessments to the RPC for independent validation. These costs are estimated to be £1.3M with half of these costs recovered from business through fees and charges. Regulators may also incur some familiarisation costs, part of which will also be recovered from business. These costs however will only be generated by secondary legislation.

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

There are no non-monetised costs identified

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

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

There are no monetised benefits identified

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

Bringing the activities of regulators into scope of the BIT will ensure that the impact imposed on business by regulators is routinely measured and reported on. This will increase the transparency of the system and provide business with greater assurance that any costs and benefits imposed on them are thoroughly assessed. Business will also benefit from the savings generated through delivery of the BIT but these impacts would be scored in the impact assessments for each individual measure.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
The estimates will be sensitive to a range of assumptions made including - the number of impact assessment produced by regulators, the time taken, the salary of the staff who produce them, and the amount of cost recovery by regulators which is assumed to be around 50%.		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.6	Benefits: 0	Net: -0.6	Yes	IN

Evidence Base (for summary sheets)

Background

1. The 2010 Coalition administration adopted the One-In, One-Out rule in January 2011. From 1 January 2013 this was increased to a 'One-In, Two-Out' (OITO) rule. OITO operated on an administrative basis and focused on the total net cost of regulation to business. For every pound of additional net cost imposed on business by new regulation, Departments were asked to find two pounds of net savings from measures which removed or reduced regulatory requirements. Under OITO the costs to business of each measure were assessed on the basis of the Equivalent Annual Net Cost to Business.¹ Measures with a positive EANCB imposed costs on business (INs) while negative EANCBs generated savings to business (OUTs).² The OITO policy was enforced by the Reducing Regulation Sub-Committee (RRC), the cabinet sub-committee that cleared all new measures that regulate or deregulate business.
2. Impact assessments were required to measure the economic impact of new regulatory proposals and in particular the net direct costs to business (EANCB). In the last Parliament, these analytical documents were independently scrutinised (and the impact figures validated) by the Regulatory Policy Committee – an advisory Non-Departmental Public Body of BIS. The RPC assessed the estimates of the economic impact of new regulatory proposals that were provided by the regulating Department. If the quality of the analysis - specifically the analysis relating to the estimated costs to business - was rated 'fit for purpose' then the impact assessment was accepted as valid. Assessments which were not "fit for purpose" had to be revised until they met that criterion. If the measure was within scope of the OITO system, the validated EANCB figure relating to the measure was included within the overall Government account. The sum of the EANCBs across all of the INs and OUTs then gave an overall estimate of the net costs to business from regulatory change. At the close of the OIOO/OITO account, the annual net costs to business from the changes were -£2.2bn (i.e. an overall net saving).
3. Departments were held to account for their overall performance under the OITO rule in the Statement of New Regulation³, which was published every six months by the Better Regulation Executive.

Business Impact Target under SBEE Act 2015

4. The Small Business, Enterprise and Employment (SBEE) Act 2015 enshrined the fundamental principles of the OITO system in law: a requirement to set a target for the economic impact of new regulation on business, a requirement to regularly report on progress against the target and a requirement that estimates of economic impact of new regulation should be verified by an independent body.
5. Section 21 of the SBEE Act defines the Business Impact Target (BIT) as "a target for Government in respect of the economic impact on business activities of qualifying regulatory provisions". The target is set for the term of Parliament. The SoS can determine which categories of "regulatory provisions" fall within the BIT and which may be excluded.
6. The SBEE Act framework was designed, from a policy perspective, to broadly follow the outlines of the OITO system. It focuses explicitly on the actions of UK Ministers, and on statutory measures that regulate or deregulate business.

¹ EANCB is an estimate of the annual net direct costs to business over the lifetime of a measure. Any upfront costs or benefits are smoothed out over the lifetime of the measure. EANCB also only captures direct impacts i.e. costs or benefits to business that arise as an immediate consequence of compliance. Second order, or indirect, impacts are not included in EANCB.

² Some measures also scored as Zero Net Cost (ZNC) where the costs and benefits were equal, the costs and benefits could not be monetised, or where a regulatory proposal was calculated to be net beneficial to business.

³ <https://www.gov.uk/government/collections/one-in-two-out-statement-of-new-regulation>

Problem Under Consideration

7. Business consistently tells Government that the actions of regulators are at least as important as the content of legislation in determining their experience of regulation. For example, in the recent Business Perception Survey, 46% of businesses agree that preparing for inspections or dealing with inspectors is burdensome, 49% of businesses considered that they do not receive good enough advice from regulators to make confident investment decisions⁴, and 73% of scale-ups said they would be able to grow faster if dealing with regulators was easier.⁵
8. The Regulatory Enforcement Business Survey⁶ also identified a number of areas where the actions of regulators can impose a significant and material impact on business activities. For example, 34% of businesses reported that their decisions had been affected by a regulator's actions; 26% reported that a regulator's actions had had an impact on their plans to expand; and 16% felt there was unexplained duplication between inspections with the same regulator.
9. Furthermore, under the previous Government, a series of 'Focus on Enforcement' reviews were carried out.⁷ These reviews looked in detail at the impact on regulated businesses within certain specific sectors of how regulations were implemented and enforced by national regulators and local authorities. During the course of these reviews, a number of systemic issues regarding poor enforcement practice were raised by business that appeared to be common to many regulators, and across sectors of the economy.
10. In the chemicals sector, for example, the review found some trade associations were actively advising smaller companies not to expand their business as the enforcement regime (COMAH) for larger operations was seen as too complex and burdensome for a smaller firm to manage. The increased burdens and costs were perceived as outweighing the benefits of expansion. Following the review, companies are now receiving support to expand their operations. Another review found that the approaches to the enforcement of fire safety regulations varied massively across the country, making the role of fire and rescue authorities confusing, frustrating and costly to business. Following the review the fire services are trialing a new audit process which will reduce the amount of time they spend visiting compliant businesses.
11. Under the previous OIOO and OITO systems the costs imposed on business by the actions of national regulators were not routinely captured or reported on, as the system focused on legislative measures. To ensure that these costs were being made more transparent, the previous administration introduced the Accountability for Regulator Impact scheme in July 2013. This voluntary scheme asked regulatory bodies to engage with business prior to introducing a change in policy or practice that had a significant impact on business. Regulators were asked to estimate the impact to business of the change, and to agree this with business. However, the coverage of ARI has been patchy with only a handful of regulators undertaking assessments as a matter of course. As of January 2015, 13 Business Engagement Assessments had been produced by six regulators as part of ARI. Only two of these quantified an impact on business.
12. Whilst attempts have been made to focus on and improve the impacts associated with the regulatory actions of regulators, these have not been comprehensive or wide-ranging. Historically, Government has focussed more on the costs imposed on business by legislation rather than the ways in which this legislation is enforced. Currently the costs imposed on business by regulators' activity are not routinely measured or reported on. As a result there is a lack of transparency around the size and scale of these costs.

⁴ NAO/BIS Business Perceptions Survey 2014

⁵ The Scale-up Report on UK Economic Growth, 2014 <http://www.scaleupreport.org/scaleup-report.pdf>

⁶ Regulatory Enforcement Business Survey 2013, BIS (forthcoming)

⁷ More information can be found at <http://discuss.bis.gov.uk/focusonenforcement/>

Rationale for Intervention

13. The Government propose to amend the BIT provisions in the Small Business, Enterprise and Employment Act 2015 to ensure that the target can cover the actions of national regulators. At present the target only covers legislation and the actions of UK Ministers.
14. This extension will allow for a wider range of regulatory activity that imposes costs on business to be captured under the target and reported against. It will ensure that all national regulators that have an impact on business operate within a system where there is active management and transparent reporting of the costs to business of their regulatory activities, underpinned by statute.
15. Government will consult on the detail of the national regulators whose regulatory activities will fall in scope of the BIT, but its operating principle is that all national regulatory bodies should be in scope of the target unless there are exceptional reasons.
16. This intervention forms part of a package of existing and new better regulation policies through which Government are aiming to facilitate a step change in how regulators think about and deal with business. These include:
 - **The Regulator's Code**, a framework which sets out what regulators must do to comply with the overarching principles of better regulation.
 - **The Growth Duty**, a statutory duty which requires regulators to have regard to the desirability of promoting economic growth when exercising their regulatory functions.
 - **Small Business Appeals Champions**, which provides for an independent appointee for each regulator, tasked with reviewing their appeals system to make sure that it works for business.
17. Government are also introducing a new reporting duty on regulators which proposes that regulators be required to report on what they are doing to follow through their obligations under the Growth Duty and Regulators' Code (this is subject to a separate impact assessment). Through these policies we will ensure that the regulatory activity of national regulators better meets the needs of business.

Policy Objective

18. The main objective for this measure is to make the costs of regulators' actions on business both visible and transparent. It enables the management and control of regulatory burdens on business which, in turn, frees up business resources to be used in more productive ways. Expanding the BIT to cover the actions of regulators will also mean that it more completely and accurately reflects business' experience of regulation. Along with the other policies outlined above, it is intended that this measure will increase transparency, and also provide greater incentives for regulators to design and deliver policies that better meet the needs of business through greater awareness and understanding of the business impacts of new proposals.
19. Regulators will undertake more routine measurement of and transparent reporting against the economic impacts of their policies and practices. It will mean that Government and national regulators work closely together to deliver its stretching deregulation target.

Options Considered

20. Three options have been considered to improve the transparency of the costs imposed on business by the actions of regulators:
 - Option1 - Do nothing. Rely on the existing ARI policy to ensure that regulatory burdens on business are identified and reduced.
 - Option 2 – Alter the existing ARI policy to monitor and report on the actions of national regulators on an administrative basis.
 - Option 3 - Legislate to extend the business impact target to ensure that statutory regulators measure and report on the impacts of their actions on business. (Preferred option)

21. Option 3 will most comprehensively achieve the increase in transparency and reduction in burdens on business that the Government wishes to achieve. A “do nothing” approach would fail to address the fact that at the moment, there is no robust framework in place for Government to comprehensively monitor the costs imposed on business by the actions of regulators. As a result there is a lack of transparency around the costs imposed on businesses by the actions of regulators.
22. Whilst Option 2 would be similar in design to Option 3, the policy would be delivered administratively and would not, therefore, guarantee a comprehensive coverage of the target system. This option would require regulators to expend additional resource to carry out the assessments of impact beyond the status quo, however without a legislative requirement underpinning this it is likely that the co-operation of national regulators would not be as widespread as Ministers and businesses would want.
23. This approach would also result in a two-target approach, one underpinned by legislation and the other not. Legislative changes would be subject to one control mechanism and enforcement changes would be subject to another. This would generate unnecessary confusion regarding the Government’s performance on deregulation.

Option 3 – Legislate to extend the Business Impact Target

Assumptions

24. Government would use the upcoming Enterprise Bill to amend existing legislation to ensure that the BIT can cover the actions of statutory regulators. The Enterprise Bill would be used to:
 - amend the SBEE Act definition of “regulatory provision” to expand the types of regulatory provision that fall within the business impact target – specifically the actions of named bodies that would be specified in statute;
 - create a new power for the Secretary of State to determine these specified bodies (i.e. statutory regulators) by order; and
 - create a new requirement that the specified bodies provide information to the Secretary of State to enable them to fulfil their reporting requirements under the target.
25. Assuming successful passage of the Enterprise Bill, Government would consult on the detail of the national regulatory bodies that will be specified by secondary regulations in order for their regulatory activities to fall within scope of the BIT.
26. These changes will mean that regulators will need to carry out assessments of the economic impacts of changes to their policies and practices. The main costs of this measure arise from the resource cost to regulators of undertaking assessments of economic impact. These costs are calculated from the salaries of the staff undertaking these assessments. There may also be some familiarisation costs for regulators as they adapt to the requirement to produce assessments of economic impact.
27. The Treasury Guide to Managing Public Money states that the standard approach to setting charges for public services is full cost recovery. Many regulators are moving in this direction. We therefore assume that regulators will recover some of their costs from businesses, in accordance with their existing practices through fees and charges. As a result of the extension of the target, there are also likely to be very small voluntary one-off familiarisation costs to regulators. A proportion of these costs would also be expected to be recovered from business.
28. Although this measure does not require any action of businesses, we assume that a small proportion will choose to familiarise themselves with its provisions.

29. The costs of this policy to regulators will depend upon the number of assessments required per annum and the resource cost of undertaking the assessments. For the purposes of this assessment we have made a number of assumptions which are set out in the paragraphs below.

Achievement of Objectives

30. Legislating to extend the BIT will most comprehensively achieve the increase in transparency and reduction in burdens on business that Ministers wish to achieve. It represents an ambitious development of previous policies designed to improve the ways in which regulations are enforced.

31. Unlike the voluntary ARI policy, this option will mean that regulators have a statutory requirement to measure the costs imposed on business by changes they make to their policies and practices. The increased transparency that this will bring will make it easier for Departments and regulators alike to identify opportunities for savings and improvements.

Costs

32. An increase in mandatory assessment activity will impose a cost to regulators. Some of this will be passed directly to businesses through fees and charges, especially where the regulator is industry funded. The remainder will be borne by regulators. If there is no corresponding increase in central funding, this remainder will represent a cost to regulators that will have to be absorbed through efficiency savings or cutting certain activity.⁸ We have also considered the possible costs to businesses and regulators of familiarising themselves with the new process.

33. The main cost arises from regulators undertaking assessments of impact for changes in policy and practice. To estimate the number of assessments that will be generated under the target extension we have assumed that the Government will set as the BIT for the current Parliament a £10bn saving for business. In order to do this, it will need to have a number of assessments validated by the Regulatory Policy Committee (RPC) that sum to that cumulative figure. We assume that Government will need to generate a minimum of £2 billion in annual ongoing savings by the end of the Parliament to achieve the BIT.

34. There is no quantitative information relating to the number or scale of the assessments regulators would be expected to make to the RPC. Some informal contact was made with a number of the larger regulators to provide some initial estimates of the likely scale of activity that they expected they would need to undertake under an expanded BIT, but at this early stage no credible data has been provided. The indicative cost-benefit analysis presented here is therefore based on existing information that relates to the impact assessments supporting legislative changes that were made during the operation of OIOO/OITO in the last Parliament.⁹ However, changes to the enforcement activity of regulators are likely to be different to changes in legislation. We make some adjustments to the analysis to allow for this but at this stage it is unclear how different the two sources of submissions to the RPC will be. As the measure progresses to secondary legislation the assumptions will be tested and updated as new information becomes available through closer engagement with regulators during the consultation process.

35. Under OIOO/OITO, the previous administration reached a position where the regulatory changes made during the lifetime of the policy achieved an annual ongoing saving to business of £2.188BN. There were 516 measures that were in scope of OIOO/OITO and therefore contributed to this final savings figure. Taking the average implies that £4.240M of savings were generated per in scope measure.¹⁰

⁸ This could also be seen as a direct cost to business where a regulator is funded by industry. The treatment of these costs is discussed in the Equivalent Annual Net Cost to Business section.

⁹ Securing the evidence base for regulation: Regulatory Policy Committee scrutiny during the 2010 to 2015 parliament, RPC (2015).

¹⁰ In-scope measures were classified as INs (with positive EANCBS), OUTs (negative EANCBS) or Zero Net Cost. The sum of the 516 EANCBS gives £-2.188BN i.e. a net annual ongoing saving. For simplicity, the analysis here works with the magnitude of the savings i.e. £2.188BN where INs reduce the savings and OUTs increase the amount of savings.

36. However, this average is skewed by a relatively small number of large legislative INs and OUTs. For example, the impact of the change to CPI for uprating occupational pensions delivered a £3,342M OUT, while the auto enrolment of workers into pension schemes generated a £2,700M IN. The net effect of these two measures is a saving of £642M per annum. The next four largest INs imposed costs of £178M and the next four largest OUTs generated savings of £1,171M, leaving a net saving of £993M.
37. For the purposes of this analysis we therefore remove the five largest INs and the five largest OUTs to produce a more representative estimate of the average saving per measure. Removing these measures means that 506 measures delivered an annual saving of £553M or an average of £1.093M per measure that was in scope of OIOO/OITO. At this stage, we have no information relating to whether this is a reasonable approximation for the average saving generated by each change relating to regulators' activities. We believe that the activities of individual regulators are relatively unlikely to generate very large impacts and that the impact assessments produced by regulators will be more like the bulk of smaller measures under OIOO/OITO. We therefore take a cautious approach at this time and assume that most changes will be relatively small as was the case for legislative changes under OIOO/OITO where three-quarters of the measures cost or saved business less than £1m per year.¹¹ We will continue to refine this assumption as more information from regulators is collected but for this impact assessment we assume an average saving of £0.5m per in scope measure.
38. To achieve the BIT, £2BN of ongoing annual savings will need to be delivered by the end of this Parliament. At this stage, however, it is unclear what proportion of the savings will come from legislative changes made by Departments and from enforcement changes made by National Regulators. As was the case in the last Parliament, it would seem likely that there will again be a small number of legislative changes that generate a significant proportion of the overall net savings. It is unclear at this stage what those changes will be, but we assume £1BN of savings will come from a small number of measures i.e. roughly the same amount generated by the four largest INs and OUTs (excluding the two DWP pension reforms). As Departments' forward plans relating to legislative changes for the Parliament emerge we will be able to adjust this assumption.
39. In the best estimate we assume some overachievement against the BIT with £2.25BN of annual savings being realised. Deducting the savings generated by the expected small number of relatively large measures leaves £1.25BN of additional savings to be found by Departments and regulators.
40. As an initial assumption we assume a 50-50 split between Departments and regulators for the £1.25BN, although in the Low and High estimates we alter this to 33% and 67% of the savings being generated by regulators.
41. Applying the 50% assumption means that regulators would be expected to deliver £625M of annual savings by the end of the Parliament. Using the assumption that each in scope measure (excluding the ten largest INs and OUTs) delivers an average saving of £0.5M, the total number of in scope measures delivered by regulators is expected to be 1,250 over the Parliament.
42. In addition to the measures that are in scope of the BIT, regulators would also be expected to make a number of changes that fall outside of the scope of the BIT. It is unclear what the ratio of out of scope to in scope measures would be for regulators, but during the operation of OIOO/OITO, 54.25% of the proposals that reached a final stage impact assessment were in scope (516 in scope and 435 out of scope). By applying this percentage, we estimate that the total number of in and out of scope measures is 2,304.

¹¹ RPC (March 2015) p7

43. Each measure will typically involve more than one submission to the RPC. During the operation of OIOO/OITO, each measure would be expected to go to the RPC more than once e.g. at consultation and final stage, triage and validation stage, or a resubmission following a not fit for purpose opinion. For the 951 in scope and out of scope measures in the last Parliament, 2,064 submissions were made to the RPC, or 2.17 submissions per measure (this includes some attrition i.e. proposals that were initially submitted but did not reach final stage). Some streamlining of the system is expected for the BIT meaning that fewer submissions will be made by regulators to the RPC. In the best estimate we assume that for each of the 2,304 regulator measures over the Parliament there will be 1.5 submissions. Initially, we may expect a relatively high number of resubmissions in order to reach fit for purpose status as regulators adjust to the BIT requirements. In 2010, 56% of first-time submissions from Departments were rated as fit for purpose, rising to 82% in 2012.¹² An assumption of 1.5 submissions per measure does not seem unreasonable, at least in the early years of the BIT. Applying this gives a total number of submissions made to the RPC of 3,456.
44. 3,456 submissions represents the total number made over the Parliament. Dividing through by the five years of the Parliament gives an average annual number of submissions from regulators of 691.¹³
45. To estimate the resource costs to regulators of producing 691 submissions per annum, we need to estimate the amount of time required to produce each submission and the monetary value of the time. Taking the value of the time first, we would typically expect submissions to the RPC to be produced by G7 policy and analyst officials. As part of the Small Business Appeals Champions we consulted regulators on the hourly rate of G7 level staff who would have been expected to provide support to the Champions. The mean hourly rate was £27.20 which we multiply through by 7.5 hours to give a daily rate, and then uprate by 19.8% for non wage costs¹⁴ to give an overall daily rate of £244.39.
46. There is less information available on the number of days it takes to write a submission for the RPC. The time taken is likely to vary considerably according to the complexity of the measure, the amount of data gathering and consultation required, and the scale of the measure. We assume it takes 7.5 days of G7 time to produce a submission of the scale assumed for activities of regulators.¹⁵
47. Applying these estimates of the resource costs, the total cost to regulators of producing 691 submissions per annum is estimated to be £1.267M in the best estimate.
48. Finally, it is expected that some of these costs will be passed through to business through cost recovery. The estimates used for cost recovery are taken from the consultation with regulators undertaken as part of the development of the Small Business Appeals Champion policy. During the consultation, 58 regulators were asked if they would recover the costs of appointing the Champions. Responses were received from 24 regulators with 13 reporting that they would cost recover in full and 11 indicating they would not recover the costs. For those regulators which did not respond to this question we used the responses from the 2012 Regulators' Questionnaire on the extent to which their regulatory enforcement activity was fully, partially or not cost recovered. We assigned values of 100%, 50% and 0% to these responses respectively. Where no information for a regulator was available from these two sources, we assumed 50% would be recovered. Across the regulators we estimated that 50.4% of cost would have been recovered if regulators had to cover the costs of appointing the Champions. Although this relates to a different policy, it is the best estimate available of the extent to which regulators would cost recover from business.

¹² RPC (March 2015) Figure 2.2, p25

¹³ Departments and regulators will have five years to submit the measures required to reach the £2.25BN annual saving figure by the end of the Parliament.

¹⁴ Eurostat 2015

¹⁵ This assumption is derived from experience within BIS of the time taken to produce impact assessments. The time taken was reported to be between 5 and 10 days depending on the scale of the measure and type of assessment (e.g. consultation, final, triage, validation). The mid-point of 7.5 is used for simplicity.

49. Applying the assumption of 50.4% cost recovery means that the expected annual cost to business is estimated at £0.638M.
50. Table 1 sets out the assumptions for the best estimate of the total cost of bringing regulators into scope of the BIT and the impact on business. Some assumptions are then altered in the low and high estimates. For the low estimate, we assume that the BIT is just met (£2BN) rather than being exceeded and that only 1/3 of the savings come from regulator activity. This produces an estimated total cost of £0.669M with £0.337M of costs falling on business.
51. In the high estimate, we assume that £2.5bn of annual savings are delivered with 67% coming from regulator activity. The average saving from each measure is also much smaller at only £100K. This leads to a large increase in the total cost to £10.185M. With a higher cost recovery assumption of 70%, £7.130M of costs fall on business.¹⁶ However, this scenario would seem unlikely as the prospect of a very large volume of low savings measure being submitted to the RPC (5,557 per annum) would require more streamlining of the process to make it manageable which would lower the costs. In addition, if the average saving per measure was only £100K it would seem unlikely that multiple submissions would be required, with each taking 7.5 days of staff time.
52. It is unclear at this stage how much streamlining could be made to the process of validating the savings figures with the RPC. The High scenario presented below is however unrealistic as some additional streamlining would be necessary to avoid an unmanageable number of submissions. As an alternative High estimate, we make an additional assumption relating to how the process may be streamlined. It is assumed that with each individual measure producing relatively small savings (£0.1M) there will be scope for measures that are similar in nature (e.g. changes to guidance) to be grouped into one submission – we assume three measures per submission.
53. Applying this additional streamlining assumption to the high estimate gives a new total cost of £3.395M with £2.377M of costs passed through to business. We use these values for the alternative High estimate.
54. Along with the ongoing costs associated with the submission of cost-benefit analysis to the RPC, there are likely to be some familiarisation costs to regulators from understanding the processes involved and building any capability required to undertake the analysis. The latter is likely to be minimal as regulators are already familiar with the analysis required for ARI assessments. Overall we assume four days of G7 equivalent time would be required to familiarise with the change in the best estimate. With 70 regulators affected by the change, this gives a total familiarisation cost of £0.068M with £0.034M passed through to business. In the low estimate, we assume only two days of familiarisation is required (total cost of £0.034M), increasing to eight days in the high estimate (£0.137M with 70% being met by business).
55. Some businesses may also choose to familiarise themselves with the inclusion of regulators within the BIT. Any costs incurred, however, would be voluntary and the benefits would be expected to at least outweigh the costs. The net cost of this activity is therefore assumed to be zero.

Benefits

56. Businesses will be expected to benefit from the extension of the BIT to include the actions of national regulators. Bringing the activities of regulators into scope of the BIT will ensure that the impact imposed on business by regulators is routinely measured and reported on. This will increase the transparency of the system and provide business with greater assurance that any costs and benefits imposed on them are thoroughly assessed. It is not possible, however, to monetise the benefits to business from greater transparency.

¹⁶ We have no evidence to quantify what the possible growth in cost recovery over time could be that would be consistent with the movement to full cost recovery. In the High estimate we therefore assume that cost recovery is 70% in each of the ten years of the appraisal period.

57. The objective of the Business Impact Target is to continue to drive down the costs to business from complying with regulation. Widening the BIT to include the activity of regulators will help to deliver a wider range of deregulatory savings to business over the Parliament and incentivise regulators to better consider business needs in their policies. Business will be expected to benefit from the savings generated, but to avoid double-counting, we assume these benefits will be assessed in the impact assessments that accompany each change within the scope of the BIT and do not attempt to include them here.

Table 1 – Assumptions used for the low, best and high cost scenarios

	Low estimate	Best estimate	High estimate	High estimate (Alternative)
Total saving (BIT)	£2,000M	£2,250M	£2,500M	£2,500M
Large legislation	£1,000M	£1,000M	£1,000M	£1,000M
Remaining savings	£1,000M	£1,250M	£1,500M	£1,500M
% from regulators	33%	50%	67%	67%
Regulator savings	£330M	£625M	£1,005M	£1,005M
Saving per measure in scope	£0.5M	£0.5M	£0.1M	£0.1M
No. in scope measures	660	1,250	10,050	10,050
In scope measures as % of all	54.25%	54.25%	54.25%	54.25%
No. regulator measures	1,216	2,304	18,522	18,522
No. submissions per measure	1.5	1.5	1.5	1.5
No. submissions	1,825	3,456	27,784	9,261 *
No. submissions p.a.	365	691	5,557	1,852
Days per submission	7.5	7.5	7.5	7.5
Daily rate	£244.39	£244.39	£244.39	£244.39
Total annual cost	£0.669M	£1.267M	£10.185M	£3.395M
Cost recovery (%)	50.4%	50.4%	70%	70%
Cost to business p.a.	£0.337M	£0.638M	£7.130M	£2.377M
Cost to regulators p.a.	£0.332M	£0.628M	£3.056M	£1.019M
Days to familiarise	2	4	8	8
Familiarisation costs - business	£0.017M	£0.034M	£0.096M	£0.096M

Familiarisation costs – regulators	£0.017M	£0.034M	£0.041M	£0.041M
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Notes: * it is assumed that 3 measures are grouped into one submission as an additional streamlining assumption

Equivalent Annual Net Cost to Business (EANCB)

58. This measure will use primary legislation to amend the BIT provisions in the Small Business, Enterprise and Employment Act 2015 to cover the actions of national regulators. This will not in itself have any direct impact on business. However, the subsequent secondary legislation will list the bodies whose regulatory activities will be in scope of the target. It is at this point that business will be impacted. In accordance with the Better Regulation Framework Manual, this impact assessment sets out the expected costs and benefits of the measure overall. The estimates will be revised as necessary during the drafting of any secondary legislation.
59. This measure will impose a cost on regulators from undertaking economic assessments of the impact of changes in their activity. These costs, however, will not be incurred until the point at which the secondary legislation is implemented. In previous cases relating to imposing costs on regulators, RPC have judged that where the regulator is funded by industry, all of these costs should be considered as a direct cost on business. In addition to any cost recovery through increased fees, any remaining cost to the regulators form an opportunity cost to business. For example, if the regulator made efficiency savings to cover these costs, such savings would normally have been expected to be passed to business through lower fees, meaning that a saving has been foregone.
60. Across the 70 regulators potentially in scope of this measure, we do not have a clear picture at this stage of their funding arrangements and ability to cost recover from business as not all are fully or partially funded by industry. The best information we have is from previous analysis of Small Business Appeals Champions where 50.4% of the total costs could potentially have been recovered. We therefore use this estimate to proxy the extent to which regulators are funded by industry and thus the direct costs to business for inclusion in the EANCB. This 50.4% is applied to both the annual ongoing costs and the one-off familiarisation costs.
61. The remaining costs to the regulators would not be included in the EANCB but are included in the overall NPV of the proposal. Any costs from businesses familiarising themselves with the change are voluntary and assumed to be offset by the benefits, leaving no net impact.
62. Table 2 sets out the costs that are used to calculate the NPV, Business NPV and EANCB of the proposal. It is assumed that the transition costs fall only in year 1 and the ongoing costs last for 10 years.

Table 2 – Summary of costs to business and regulators

	One-off transition costs (£M)			Annual ongoing costs (£M)		
	Low	Best	High	Low	Best	High
Business	0.017	0.034	0.096	0.337	0.638	2.377
Regulators	0.017	0.034	0.041	0.332	0.628	1.019

Note: Shaded cells indicate direct impacts on business used in Business NPV and EANCB calculation; all costs are included in the NPV

63. A further adjustment is made to the figures in table 2 to reflect that the costs in each of the ten years of the appraisal period (calendar years 2015 to 2024¹⁷) will vary slightly. It is assumed that regulators will not submit any impact assessments until October 2015 at the earliest. This means regulators'

¹⁷ For the calculation of NPV, Business NPV and EANCB, costs and benefits are considered on a calendar year basis

contributions to the BIT this Parliament will be made over 55 months rather than the full 60 months.¹⁸ Three months of ongoing costs will therefore only occur in calendar year 2015, a full 12 months in each of 2016, 2017, 2018 and 2019, and then four months in 2020. If the BIT is renewed in May 2020, there will be 60 months to achieve the new target, with eight months of ongoing costs occurring in 2020.¹⁹

64. The NPV and the Business NPV (both measured in 2015 terms) are estimated to be -£10.51M and -£5.30M respectively under the best estimates.
65. The EANCB (measured in 2014 prices and discounted to a 2015 base) associated with the expected total impact of the combined primary and secondary legislation is **£0.61M**. This estimate will be revised as more information becomes available. At this stage of the legislative process (primary enabling powers), however, the EANCB is classified as “**zero at this time**”.

¹⁸ The annual costs to business and regulators are each multiplied by five to give the total cost over the Parliament and then divided by 55 to generate a monthly cost figure

¹⁹ The total cost to business and regulators over the subsequent Parliament is assumed to be the same, but the monthly cost falls as it is spread over the full 60 months.

Specific impact tests

Small and Micro Business Assessment

1. This measure is expected to impact on all businesses. Although the proposal to extend the business impact target does not directly involve the regulation of business, some costs will be incurred by small and micro business as regulators recover a proportion of the costs from undertaking economic impact assessments. We assume that the distribution of costs among businesses (including small and micro businesses) will reflect the structure of existing fees and charges, and so should not produce a disproportionate burden on small or micro businesses. In a similar way we would expect all businesses to benefit from a more transparent system that incentivises regulators to consider and measure the impact of their policies on business.
2. We have considered the possibility of fully exempting small and micro businesses from these costs as well as a number of potential mitigating options e.g. a temporary exemption, voluntary contributions, or different cost recovery rates for small and micro businesses. However, all of the options would require revision of the fee structures of all or most of those regulators which pass on the costs of the policy. Changing fee structures, as well as levels, would be a very complex undertaking creating further costs and would not be proportionate to the scale of this proposal.

Competition

3. We have not identified any specific impacts on competition.

Equalities and human rights

4. We have not identified any negative impact on protected groups or human rights as a result of our proposal.

Family impact test

5. There will be no impact on strong and stable family relationships as a result of this proposal.