

Title: Criminal Finances Act – Forfeiture of bank accounts  
IA No: HO0287

RPC Reference No: RPC-3495(1)-HO

Lead department or agency: Home Office

Other departments or agencies:

## Impact Assessment (IA)

Date: 20-06-2017

Stage: Enactment

Source of intervention: Domestic

Type of measure: Primary legislation

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### 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
£12.5m	-£6.8m	£0.8m	Not in scope	Qualifying provision

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

In October 2015, the Government published the National Risk Assessment for Money Laundering and Terrorist Financing (NRA), identifying a number of areas where the response to these threats could be strengthened, including a power to seize funds held in bank accounts. Previously, law enforcement agencies could not freeze and forfeit the contents of accounts where there is a reasonable suspicion that the funds within them are the proceeds of criminality, or may be used to fund criminality or terrorism. Where there has been no conviction or the value is less than £10,000, there was no formal mechanism for forfeiting the funds. This created two problems. The first faced banks and HMG, in terms of their reputation in dealing with criminality and terrorism. The second was a growing stock of funds that are not put to productive economic use.

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

There are two main means of identifying suspicious accounts. The banks themselves do the majority of this and it is estimated that, over the past 15 years, banks have frozen thousands of accounts because of suspicions they are linked to criminality. In total it is estimated by the British Bankers Association that these accounts hold between £30 and £50 million (the current stock), while every year more accounts are frozen (the flow). It is the intention of this policy to freeze and forfeit the contents of both the stock and flow of accounts. The other route of identifying suspicious accounts is through criminal and counter-terrorist investigations. Less is known on the scale of this, but again it is the objective of this policy to freeze and forfeit the contents of such accounts.

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

**Option 1:** Do Nothing.

**Option 2:** We have considered whether the problem could be resolved through the use of the Dormant Bank and Building Society Accounts Act 2008. This allows banks and other financial institutions to pass the contents of accounts that have not been active for 15 or more years to a central reclaim fund. Between 2008 and 2014, more than £600m had been transferred. However, after consultation, it's clear the Act forbids the transfer of funds where there is a suspicion of criminality and therefore further analysis of this option does not seem proportional. It also only addresses dormant accounts, not active ones.

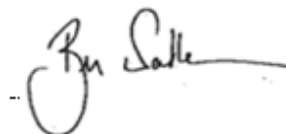
**Option 3 (Preferred):** Create a power for law enforcement agencies to obtain a court order freezing accounts where there are reasonable grounds to suspect that the funds are illicit, and create a procedure for the forfeiture of the accounts.

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 <input checked="" type="checkbox"/> Yes	Small <input checked="" type="checkbox"/> Yes	Medium <input checked="" type="checkbox"/> Yes	Large <input checked="" type="checkbox"/> 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	Optional	Optional	Optional
Best Estimate			0

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

There are zero net costs in this option, which is the baseline and do-nothing. The stock of accounts would likely continue to grow. Firstly, based on historical evidence, it is likely that the stock of suspended accounts would continue to grow by £2.5m per annum. Given that the banks do not use them to make returns, the increase represents a withdrawal of funds from the productive economy.

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

There are non-monetised costs associated with maintaining the suspended accounts for the banks. Growing reputational risk to both HMG and the banks of being unable to effectively seize the proceeds of crime. Putting a value on reputation is an exceedingly difficult exercise and doing so would not appear proportionate for this IA. Consultation suggests the banking sector would voluntarily resource the removal of accounts. Freezing and forfeiture of active accounts would be a matter for police, but there will be far fewer of these. This in turn suggests the reputational issues are significant in the context of this IA.

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

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

No monetised benefits from the do nothing option have been identified.

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

No non-monetised benefits from the do nothing option have been identified.

Key assumptions/sensitivities/risks (%)	Discount rate
<p>The banks continue to freeze suspicious accounts in line with historical trends, thus increasing the value of the stock, valued at £30m to £50m. Maintenance cost is expected to grow in real terms in line with the increase of stock value.</p> <p>The funds remain on the banks' books and are ring-fenced and therefore cannot be put to legitimate uses. Law enforcement agencies freeze and forfeit active accounts.</p>	

## 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 3

**Description:** Provide a power to law enforcement agencies for forfeiting illicit funds held in bank accounts

## FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £2.9m	High: £22.2m	Best Estimate: £12.5m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	10.0	0.8	18.2

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

There will be costs to the **regulated** sector of setting up teams to forfeit the accounts and respond to court orders, however it should be stressed the majority of accounts forfeiture will be done so on a voluntary basis. We estimate that the costs are **£6.8m gross** in present value over ten years.  
 The cost to LEAs has been estimated at **£4.3m** in present value over ten years.  
 The cost to courts has been estimated at **£7.1m** in present value over ten years.

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

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	20	1.1	30.8

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

There is benefit from injecting back into the legitimate economy stock of criminal funds in suspended accounts (benefit of **£20m**), and the ongoing flow of newly suspended accounts (present value of **£10.8m** over ten years). There may also be additional funds as a result of the freezing and forfeiture by law enforcement agencies of active accounts.

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

No non-monetised benefits have been identified.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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The proportion of the total stock the banks decide to voluntarily close is unknown (50% assumed). A lower limit of £1,000 will be imposed, given the fact that some accounts have very small amounts in them. We have assumed 50% of the value of the accounts will be forfeited in our central estimate and conducted sensitivity analysis around this. The profile of closures to erode the stock is not known (frontloaded or spread). The freezing and forfeiture of active accounts will add to the overall total.

## BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £0.8m	Benefits: £0m	Net: £0.8m	£4.0m

# 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.
3. A problem was identified in relation to the ability of law enforcement agencies to freeze the contents of accounts where there is a reasonable suspicion that the funds within them are the proceeds of criminality, or that they may be used to fund criminality. The contents of accounts can currently be forfeited following a conviction, or civil recovery powers and can be used where the value is more than £10,000. Where neither of these conditions apply, there was no formal mechanism for forfeiting the funds.
4. There are two major areas where this is a concern. Firstly, banks that identify accounts that they believe to contain illicit funds can inform the NCA of this through raising a suspicious activity report (SAR). However, for many accounts, no action could be taken as there is no specific power for LEAs to use. Secondly, law enforcement agencies may wish to take action on an account themselves, on the grounds of reasonable suspicion.

#### *Banking sector*

5. The banking sector has consistently raised the issue of accounts that a bank has suspended because they have strong suspicions regarding the funds held within them. They may suspect the funds are illicit because the account was opened with fake documents, or that the transaction history looks suspicious.
6. The banks hold a significant number of these accounts, and estimate the overall value to be in excess of £30m. Most of the accounts have a low value, although some are in the tens of thousands of pounds. Following discussion with banks, it was found there is a considerable stock of these accounts that have built up over the last 15 years, together with a flow of new suspended accounts.
7. Prior to the provisions in the Act, it was difficult to take action against these accounts. Most are below the threshold for civil recovery action, and while it has been proposed that accounts could be grouped to get a total value over the civil recovery threshold, this has not been tested in court and would not enable swift action to be taken against individual accounts.

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#### *Law enforcement agency action*

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

9. Where LEAs had reasonable suspicion that an account contains the proceeds of crime, but an investigation is not possible or civil recovery cannot be used, there were no specific powers for LEAs to take action. LEAs would also want to be able to remove part of the account, in cases where they have seized a cheque drawn against that account, where the cheque is used for illicit purposes.

## **A.2 Groups Affected**

10. The groups likely to be affected by this policy are:

- **The Regulated Sector:** These provisions affect the regulated sector, with the group most affected (because of the number of accounts) being the retail banking sector. The biggest banks will most likely have to set up teams to respond to court orders and forfeit the suspended accounts, and active accounts separately identified by law enforcement agencies for freezing and forfeiture. This could come at significant costs to business, however given the voluntary nature of the proposal it would be assumed that whatever cost is incurred by banks is justified by the reducing burden of having the suspended accounts on their books.
- **Justice:** The biggest impact is likely to be on the courts. Each account requires a detention and transfer order granted by a magistrate's court before it is forfeited. This could take up significant court time given the potential volumes. New powers of administrative forfeiture of cash and monies in bank and building society accounts under the Anti-Terrorism, Crime and Security Act 2001 may offset this impact as, where forfeiture is uncontested, there is no need for law enforcement bodies to involve the court. However, these administrative forfeiture powers only apply in relation to terrorist finance.
- **Law Enforcement Agencies:** The NCA, police forces, HMRC, SFO and immigration officers will have to familiarise themselves with the new legislation. There will be additional demands on officers' time as they will need to complete administrative work to go to court and any investigation work before the account can be forfeited. For terrorism finance cases, new powers of administrative forfeiture of cash and monies in bank and building society accounts under the Anti-Terrorism, Crime and Security Act 2001, may offset this impact where forfeiture is uncontested, as there will be no need for law enforcement bodies to involve the court.

## **A.3 Consultation**

### **Within Government**

11. We consulted with the NCA, police forces, the Crown Prosecution Service, HMRC, and with counter terrorist financing colleagues.

### **Public Consultation**

12. 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. This focused primarily on suspended accounts, rather than freezing of active accounts. The Government published a response to the consultation alongside the publication of the Bill in October 2016.
13. Following the introduction of the Bill, consultation with law enforcement agencies and the banks was maintained to ensure that they could continue to provide their views during the Bill's passage.

## **B. Rationale**

14. Law enforcement agencies were not always able to seek the forfeiture of the contents of accounts where there was reasonable suspicion that the funds within them were the proceeds of criminality, or

that they may have been used to fund criminality or terrorism. The contents of accounts could be restrained during investigations, or civil recovery powers could be used where the value is more than £10,000. Where neither of these conditions applied, there was no formal mechanism for forfeiting the funds.

15. This created two main problems. The first is a cost faced by banks and HMG, in terms of their reputation and ability to deal with criminality, and particularly the proceeds of crime. This will impact on the effectiveness of efforts to reduce crime. The second is a growing stock of funds (estimated to have grown over the past 15 years to between £30m-£50m) that are no longer being put to productive economic use, because they are contained in frozen bank accounts.

## C. Objectives

16. The primary objective of the provisions is to recover illicit funds through permitting law enforcement agencies to freeze and forfeit easily and cheaply the contents of banks accounts, where those funds are reasonably suspected of being illicit.
17. A secondary objective is that the accounts suspended by the banking sector on their own initiative can be investigated and the contents recovered. The banking sector has many thousands of these accounts, and they wish to remove them from their books.

## D. Options

18. The following options have been considered:

- **Option 1: Do Nothing**

If we took no action this problem would continue to grow. The banks would continue to suspend accounts adding to the existing stock of accounts and causing increased burden to business of having these accounts on their books. We would also be unable to freeze and forfeit active accounts.

- **Option 2 – Use the Dormant Accounts Act**

The Dormant Bank and Building Societies Act allows banks to transfer accounts on which there has been no activity to a central reclaim fund. Any individual who has a claim against an account that has been transferred can apply to the fund for their money to be returned. The fund provides some of the funds within it to charity each year.

Advice from HMT has been that the Act was set up to allow the transfer of dormant funds where there was no suggestion of criminality. Where there is a suspicion that the funds are illicit, the Act cannot be used.

- **Option 3 – Provide a power to law enforcement agencies to allow them to forfeit illicit funds held in bank accounts (Preferred option)**

We have developed an administrative forfeiture power for bank accounts, based on the principles of the cash seizure regime. The statutory basis for administrative forfeiture of cash (“the cash system”) is the model for the new power. In the cash system, officers have a power to search (s289), seize (s294) and detain (s295) cash. Each of these stages is subject to certain controls - officers must have “reasonable grounds to suspect” that cash is recoverable property or intended for use in unlawful conduct before they can search for cash, or seize cash. Finally, an order by the magistrates court permitting detention of the cash beyond the initial 48 hour period is required (the order is made under s295(2), and s297A(2) provides that this must be in place before the cash system can commence).

## **E. Appraisal (Costs and Benefits)**

### **GENERAL ASSUMPTIONS & DATA**

19. It is assumed the current stock of frozen accounts continues to grow from the current estimate of £30m - £50m. The flow of accounts is based on the stock having built up over the last 15 years (from consultation with the sector). It is therefore assumed that the flow is ~£2.5m per year.
20. We have assumed that the banks set up small teams to work through the current stock of frozen accounts over a 1 year period, while also handling the flow of new accounts.
21. In practice not all accounts will be frozen or forfeited as it would not be proportionate in cases where accounts have very low value. There is a lower limit of £1000 in an account before LEAs move to freeze it. For those cases where the rationale stems from terrorist finance, there may not be a lower limit. We have used an estimate that we will seize 50% of the overall value held in suspended accounts due to this limit, we have conducted sensitivity analysis around this changing the forfeiture rate by plus and minus 25%.
22. These assumptions have been tested with the banking sector.

### **OPTION 1 – Do nothing**

#### **COSTS**

23. We have assumed the flow of new frozen accounts will be £2.5m per annum. This average annual rate of growth is in line with trends over the past 15 years.
24. We have taken a cautious approach and not monetised the cost that banks currently face for the admin burden of freezing suspicious accounts and maintaining the stock of suspended accounts. Consultation with banking industry suggested there is a small cost to both the freezing and maintenance of an individual account, including various internal issues surrounding the accounting of these frozen accounts. Consulting with industry resulted in a wide range of costs and industry was unable to point to exact costs. As such, given the lack of sufficiently well evidenced data, we could not provide a robust monetised cost for which we would have confidence. This significantly reduces the NPV of the preferred policy option 3, and increases the cost to business as a result of no costs to business in the counterfactual.
25. Further and more significantly, we have not put a cost on the reputational burden placed on HMG and the banks from having a growing stock of such accounts, but assume it to be significant given the banks willingness to support action to remove them even if this places an administrative burden upon them.

### **OPTION 3 – Provide a power to law enforcement agencies to allow them to forfeit illicit funds held in bank accounts**

#### **COSTS**

26. This is a discretionary power, and law enforcement agencies would not be required to use it. It is also a discretionary process on the part of the banks, as their decision to suspend an account is for the bank alone. However, the Government should support the action by the banks, and support them in assessing whether there are sufficient grounds for law enforcement agencies to seek to forfeit the monies in question.
27. The banks have already suspended many thousands of accounts. It is likely that the approach we will need to take with seeking to transfer those funds is to set up a formal programme between the banks, Ministry of Justice and law enforcement agencies. The costs of this would be significant, and

as an estimate, we believe, having had consultation with the sector, that each major high street bank (which is where the bulk of the accounts are held) would require the following:

- A team of 6 – 10 people to review the accounts and the reasons for the initial assessment, and develop a package of information for provision to law enforcement agencies.
- The team would need to work together for a year.
- Cost per person of £50,000, so a maximum £500,000 per bank, and an average of £400,000.
- Assume that this applies mainly to banks with significant account volumes; 8 main high street banks £400,000 each, so £3.2m for this transition cost to business.
- In addition to the initial stock of accounts, it is estimated that one person needs to deal with flows each year for each bank, costing £3.4m over ten years. Again, this was agreed in discussion with the retail banking sector.
- As this covers the 8 main high street banks, we have up-rated the cost. We estimate that these 8 banks hold a 98% share of the total number of personal bank accounts within the UK<sup>2</sup>, and as such have scaled the transition cost to account for this. We assume that the accounts are spread out across the industry and that the costs are variable (since they already conduct compliance activity) such that the costs are shared evenly with market share. It is possible that it may be more costly for a small bank to deal with suspended accounts than a large bank due to economies of scale. Policy experts, however, have suggested that, in practice, there is a higher concentration of suspended accounts in the main high street banks. This leads to a total transition cost of **£3.3m**, an ongoing cost of **£3.5m** over ten years. The total cost is **£6.8m**.

28. We assume that the flow of accounts would be managed in the same way as they are today, and that there would be no additional on-going costs.
29. We have estimated the initial transition cost for the LEAs. This has been calculated through an estimated stock of accounts in the first year (30,000), the time taken per forfeiture (5 hours), agreed in discussion with LEAs, and the cost per hour of Law Enforcement Officer of Sergeant grade or below (£37.67 per hour)<sup>3</sup>. The volume of accounts is based on a high level estimate by the sector, and the hours per case on consultation with law enforcement for forfeiture activity. We then assume that this work is only conducted on those accounts over £1,000 in value and therefore multiply it by either 25%, 50% or 75% depending on the scenario. For the central scenario, this results in a transition cost of £2.8m.
30. We have also assumed that there is an associated cost with the flow of new accounts which would require additional LEA cost. This has been calculated through taking the assumptions of the value (£40m) and number of existing stock (30,000) and applying this to the additional flow (£2.5m per annum). This gives a figure of an additional flow of 1,875 accounts which, applying the same methodology as for the transition cost, results in the cost of LEA for the additional flow of accounts in the central scenario of £1.5m over 10 years.
31. We have estimated the court costs for option 3. All of the suspended or live accounts that LEAs wish to forfeit will need an individual account freezing order made against them, hence all orders will have to be heard in Magistrates court before the account can be frozen. The impact on court time could potentially be higher if the owner of the account appeals the freezing order, however we do not expect this will happen in the majority of cases. After consultation with the Ministry of Justice, it is understood that a case to forfeit a suspended account would be subject to an initial fee (£226) to commence proceedings and a secondary hearing fee (£567) if the case is to be contested<sup>4</sup>. If the case is not contested, then the secondary fee is not charged. After consultation with policy officials, we believe the duration of an accounts suspension will impact on the likelihood of it being contested. Given the flow of accounts will either be active or recently suspended, their chance of contention is significantly higher. Due to this, we have assumed a 5% chance of contention for accounts older than 2 years old, 15% for accounts less than 2 years old, and a 30% chance for new accounts.

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<sup>2</sup> Personal Current Accounts: Market Study Update, Competition & Markets Authority, 2014

<sup>3</sup> Home Office Police Unit Costs Calculator 2015

<sup>4</sup> The Civil Proceedings, First-tier Tribunal, Upper Tribunal and Employment Tribunals Fees (Amendment) Order 2016



32. To account for the above this, we have assumed a linear growth to the stock of 30,000 accounts over the last 15 years. Therefore this leads to 24,000 accounts older than 2 years and 6,000 less than 2 years. We then assume in a similar manner as LEA costs that only the accounts with over £1,000 go to court and therefore multiply by 25%, 50% or 75% depending on the scenario. As above, we assume a £266 fee for cases that only have an initial fee and £793 for cases which are contested. With the above assumptions in place, this leads to a transition cost of £3.9m of the original stock of suspended accounts in the central scenario. For the flow of accounts, we have calculated a cost of £3.2m over the 10 years in the central scenario.

## BENEFITS

33. There are significant policy benefits of implementing this change. In particular, the effective implementation of the policy objectives of recovering criminal assets, and supporting more effective public-private partnership.
34. As evidenced in the section above, there is a stock of potentially £30 - £50 million of criminal funds that will be injected back into the legitimate economy by returning it to victims or placing the forfeited funds into the Asset Recovery Incentivisation Scheme. The scheme reinvests recovered proceeds of crime, which cannot be returned to victims, into law enforcement and prosecuting agencies. This acts as an incentive for said agencies to undertake further asset recovery work amongst other potential community projects. We have used an estimate of £40m, the mid-point of the £30 - £50 million of criminal funds, as the current stock and forecast a £2.5m flow each year based on past trends. We do not have figures for active accounts that might be frozen and forfeited, as these are likely to be identified during investigations, but they would be dwarfed by suspended accounts. As stated above, for the central scenario we assume that 50% of the accounts value will be forfeited as a result of the £1,000 threshold. Therefore, in the central scenario there is a transitional benefit of £20 million recovered and a discounted annual average of £1.1 million over the 10 years recovered from the flow of accounts.

## SUMMARY

35. Overall we have a positive Net Present Value (NPV) of **£12.5 million** over the next 10 years. The main bulk of benefit coming from the transition period in year one where we expect to clear a lot of the stock that has built up over the last 15 years and accrue a large amount of benefit at a small cost. The "Average Annual" for economic costs does not include the bank transition costs and is comprised of the banks' on-going costs, and the cost of LEA time and court costs for the flow of accounts.

<b>Cost and Benefit Summary £m discounted</b>	<b>Baseline</b>	<b>Option 3</b>	<b>Incremental</b>
<b>Central case (50% is forfeited)</b>	<b>A</b>	<b>B</b>	<b>B - A</b>
Banks' labour cost	-	6.8	<b>6.8</b>
Ongoing cost of money leaving economy	21.5	10.8	<b>10.8</b>
Cost of LEA	-	4.3	<b>4.3</b>
Cost of Court	-	7.1	<b>7.1</b>
Stock of funds cleared	-	20.0	<b>20.0</b>
<b>Net present value</b>			<b>12.5</b>

<b>Option 3</b>	<b>Transition</b>	<b>Average Annual</b>	<b>Total</b>
Economic Benefits	£20,000,000	£1,075,961	£30,759,608
Economic Costs	-£10,019,343	-£822,975	-£18,249,098

## BUSINESS IMPACT TARGET

36. The BIT score is £4.0m, from five years of c. £800,000 EANDCB. This is in 2014 prices, using 2015 present value base year. The EANDCB has been worked out using an annuity rate of 8.61 is taken from the Better Regulation Unit annuity calculator and applied to the overall £6.8m business net cost to business figure. The £6.8m net cost to business is the bank labour costs in option 3 (£6.8m) over 10 years, transition and annual cost.

<b>Business Impact Target Calculations</b>	
Discount rate	3.5%
Annuity rate	8.60768651
Net Cost to Business	£6,778,648
EANDCB	£787,511
Costs (EA)	£408,163
Benefits (EA)	£0
BIT Score	£4,000,000

### Costs

37. The net direct cost to business under option 1 occur over a 10 year period stemming from the maintaining of a growing stock of frozen accounts has not been monetised.
38. Under option 3 the large initial transition cost, in addition to the ongoing yearly cost of reviewing accounts, produces a £6.8m cost to business over the same period. This £6.8m comprises of the £3.3m of transition costs to banks and £3.5m of on-going costs, calculated as described in point 28.
39. As we have not monetised the net direct cost in option 1, the net direct cost to business over 10 years is the cost calculated in option 3, estimated to be £6.8m. This is comprised of the reduced administrative burdens from maintaining dormant accounts and the added resource cost of closing accounts. This is likely to be overstated given that costs in the counterfactual have not been monetised and industry appear willing to absorb the costs themselves due to the voluntary nature of the scheme.

### Benefits

40. Improved reputation, which although the benefits have not been quantified or monetised, is assumed to be significant in the context of the IA given the banks appear to be willing to voluntarily absorb the costs to implement this action.

## SMALL AND MICRO BUSINESS ASSESSMENT

41. The impacts will fall on the banks who will administer the closure of accounts used for criminal funds. We expect these to be large businesses, namely retail banks and some internet banks. As referenced above, with the largest 8 banks holding a 98% market share of personal bank accounts, there is unlikely to be significant burden upon smaller banks. The power will be to freeze accounts from any business in the regulated sector; however we do not anticipate an impact on small companies, and if it materialises will be limited in extent. This measure is anticipated to be highly voluntary in practice, with the cooperation and support of the businesses affected. It would not be appropriate or necessary to put an explicit exemption for small or medium sized companies, which may limit the effectiveness of the policy.

## F. Risks

### OPTION 3 – Provide a power to law enforcement agencies to allow them to forfeit illicit funds held in bank accounts

42. There are risks that:

- The regulated sector may not voluntarily cooperate with law enforcement agencies' action to forfeit monies held in the account if they do not consider the costs to them of forfeiting the monies held in accounts to outweigh the benefits they will gain from removing the monies from their books.
- The regulated sector decide that only suspect monies in accounts with a value over a threshold significantly above what law enforcement view are worth forfeiting, and this may limit the level of cooperation provided.

43. There is an additional risk where an LEA may freeze the legitimate funds of compliant bank account holders. However this is mitigated by a standard cash seizure test, to which an LEA must demonstrate they have reasonable ground of suspecting the funds are illicit. In seeking forfeiture it will also need to satisfy, either itself or a court, that the funds are again illicit. Furthermore in both instances, a suspected agent will be able to argue that their funds are legitimate.

### Sensitivity Analysis

44. It is likely that LEAs will have a lower limit of £1000 before they try to freeze an account for money laundering concerns, therefore we have not assumed a 100% forfeiture rate as a large volume of low value accounts will not be forfeited. It is uncertain how much value is left to be forfeited if we subtract accounts with amounts under £1000. Therefore we have conducted sensitivity analysis to show the effects of this uncertainty on the NPV. We have assumed for our central estimate that 50% of the

<b>Cost and Benefit Summary £m discounted</b>	<b>Baseline</b>	<b>Option 3</b>	<b>Incremental</b>
<b>Central case (50% is forfeited)</b>	<b>A</b>	<b>B</b>	<b>B - A</b>
Banks' labour cost	-	6.8	<b>6.8</b>
Ongoing cost of money leaving economy	- 21.5	10.8	<b>10.8</b>
Cost of LEA	-	4.3	<b>4.3</b>
Cost of Court	-	7.1	<b>7.1</b>
Stock of funds cleared	-	20.0	<b>20.0</b>
<b>Net present value</b>			<b>12.5</b>
<b>Higher case (75% is forfeited)</b>			
Banks' labour cost	-	6.8	<b>6.8</b>
Ongoing cost of money leaving economy	- 21.5	5.4	<b>16.1</b>
Cost of LEA	-	6.5	<b>6.5</b>
Cost of Court	-	10.7	<b>10.7</b>
Stock of funds cleared	-	30.0	<b>30.0</b>
<b>Net present value</b>			<b>22.2</b>
<b>Lower case (25% is forfeited)</b>			
Banks' labour cost	-	6.8	<b>6.8</b>
Ongoing cost of money leaving economy	- 21.5	16.1	<b>5.4</b>
Cost of LEA	-	2.2	<b>2.2</b>
Cost of Court	-	3.6	<b>3.6</b>
Stock of funds cleared	-	10.0	<b>10.0</b>
<b>Net present value</b>			<b>2.9</b>

value will be recovered.

## G. Enforcement

45. This is not a regulatory measure.

## H. Summary and Recommendations

46. The table below outlines the costs and benefits of the proposed changes.

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>3</b>	£6.8m net cost to business (PV over 10 years)	£20m recovered in transition
	£4.3m cost to LEA	£1.1m annual average recovered
	£7.1m cost to Courts	
	<b>£18.2m total economic cost (PV over 10 years)</b>	<b>£30.8m total economic benefit (PV over 10 years)</b>

## I. Implementation

47. 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

48. This is not a new regime, but a discretionary power to freeze and forfeit illicit funds. The use of the power will be recorded through the Ministry of Justice recording mechanisms, and the amounts recovered will be included in the Asset Recovery Incentivisation Scheme figures.

## K. Feedback

49. We have consulted with the banking sector on the proposals. We will continue to do so following implementation.