 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Transparency & Trust: Company directors and opacity of corporate control	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Final	
IA number	Not provided	
Origin	Domestic	
Expected date of implementation	October 2014	
Date submitted to RPC	14 March 2014	
RPC Opinion date and reference	23 April 2014	RPC13-BIS-1989(2)
Departmental Assessment		
One-in, Two-out status	Out of scope	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	N/A	
RPC Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is fit for purpose. The Department has addressed the comments in the Committee’s consultation stage opinion of 4 February 2014. The Department has provided much stronger evidence in support of its One-In, Two-Out (OITO) assessment. The Committee can confirm the proposal as out of scope of OITO. The Department has also strengthened its evidence base for its estimated EANCB of £4.48 million. Based on the evidence presented, this is a reasonable assessment of the impact on business.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p><i>“Opacity of the control of corporate structures can firstly facilitate illicit activity, and secondly lead to a deficiency in corporate governance which erodes trust and damages the business environment. Both can ultimately hold back economic growth. Government intervention is necessary both to correct the regulatory failure underpinning the first, and the information asymmetry reflected in the second.</i></p> <p><i>Opacity of the control of corporate structures can result from arrangements involving a company’s directors. Corporate directors – one company (or legal person) as the director of another – are inherently opaque with respect to the natural person in fact controlling a company. Where someone controls an appointed director – who might be acting irresponsibly as a ‘front’ for them – there is also scope for opacity and a lack of accountability. The central problem under</i></p>		

consideration is therefore the scope for abuse and mistrust in the current legal framework which provides for opaque arrangements involving a company's directors."

What are the policy objectives and the intended effects?

"The policy objective of the Transparency and Trust package is to reduce corporate opacity in the UK. Corporate opacity can derive from opaque arrangements involving a company's directors, including the use of corporate directors, and directors acting as a front for others' control. By tackling these arrangements the government is seeking to reduce the potential for abuse of the company structure (for purposes such as laundering money). It is also seeking to realise the benefits of trusted capitalism to support the business environment. The intended effect is a proportionate and effective system which deters illicit activity and promotes good corporate behaviour.

The options considered to achieve this objective:

Option 1. A complete prohibition of corporate directors

Option 2. A prohibition of corporate directors in primary legislation with exemptions." (the recommended option)

Comments on the robustness of the OITO assessment

The Department has addressed the comments in the Committee's consultation stage opinion of 4 February 2014. The Department has provided more detail on the nature of the G8 international commitment; information on what other G8 countries are doing in relation to the opacity of corporate structures; and, in particular, how the individual policy proposals of the UK Action Plan correspond to the specific commitments in the G8 agreement (pages 48-52 of the IA, and accompanying paper).

Using the additional information provided by the Department, the Committee is satisfied that the proposals are not likely to impose burdens on business beyond the minimum necessary to meet the international commitments. The Committee can confirm the proposal as out of scope of OITO in line with paragraph 1.9.8 (iii), 'International agreements and obligations' of the Better Regulation Framework Manual.

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

A SaMBA is not required as the proposals are of international origin. However, the IA includes a SaMBA (pages 51-54). The SaMBA explains why small and micro businesses cannot be exempt as "shell" companies are "*often the vehicle of choice for money-laundering and other crimes*" and "*we believe that the majority of shell companies would be classified as small and micro businesses*" (page 52). The IA also presents an analysis of the costs to small businesses (using data from an IFF Research survey) and considers how the Department might mitigate the impacts on small and micro businesses.

Quality of the analysis and evidence presented in the IA

The IA is part of a set of proposals that aims to reduce the opacity around the control of corporate structures, in order to reduce the damage from illicit activity, and improve the trust in corporate governance. This IA focuses specifically upon the prohibition of corporate directors (which is where one company is the director of another company), but with a provision for exemptions, such as in areas where there is already high transparency, regulation or disclosure.

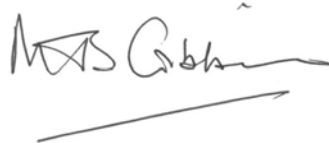
The Department has addressed the Committee's comments in its consultation stage opinion. In particular, the Department has:

- removed the percentage cost savings assumptions used previously (page 31);
- provided monetised estimates relating to reputational damage (pages 34-36);
- raised the 'low' estimate for familiarisation costs, so that it now applies to the same number of companies as the 'best' estimate (pages 36-37);
- provided further sensitivity analysis and improved qualitative assessment of benefits (page 4).

The Department has also now been able to monetise savings to the criminal justice system resulting from an anticipated reduction in director disqualification court cases (pages 23-25).

The Department has updated the evidence base in its final stage IA through conducting a follow-up survey of a sample of respondents to the IFF Research survey (pages 64-66). The cost estimates, which have increased in overall terms since the consultation stage IA, appear to be more robust. Based on the evidence provided the estimated EANCBS of £4.48 million appears to be a reasonable estimate, although out of scope of OITO as noted above.

Signed



Michael Gibbons, Chairman