Opinion: Final IA
Origin: Domestic
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Regulatory Policy Committee

Immigration Act 2016 regulations: tackling existing current accounts held by illegal migrants

HM Treasury

RPC rating: fit for purpose

Description of proposal

The IA is a secondary legislation of the Immigration Act 2016 regulations relating to current accounts held by illegal migrants. In developing the regulations, the department has refined the proposal in the following ways in relation performing a one-time check of existing accounts and specific checks on new clients.

The proposal:

- introduces secondary legislation that requires banks to check their existing personal current account customer details against a list of known illegal migrants on at least a quarterly basis, and to notify the Home Office of any matches.
- creates a duty on the Home Office to check and confirm all matches; and
- allows the Home Office to obtain a court order to freeze selected accounts, in order to motivate illegal migrants to leave the UK where prosecution is unavailable.

For routine cases without court orders, the proposal also requires banks to prevent illegal migrants having access to banking services. The Treasury is leading on this particular element of the proposal.

Impacts of proposal

Banks are already required to check the details of account holders against watch lists, for example in relation to counter-terrorism. The Immigration Act 2014 also introduced a requirement for banks to screen new current account applications for immigration offenders, against a list of disqualified persons. The measure builds on these existing processes, widening the scope of screening to all current accounts.

The Treasury and the Home Office have collected stakeholder evidence from the banking sector, Credit Industry Fraud Avoidance Service (Cifas) - the UK's fraud prevention service - and industry experts to inform their cost/benefit analysis. Based on a Competition and Markets Authority retail banking market investigation, the department estimates that there are 70 million current accounts in the UK.

Costs to business

The department estimates that one-off costs associated with familiarisation, software and IT development, the setup of reporting systems and modifications to firms' existing checking processes amount to £0.2 million, based on evidence from industry. The department anticipates on-going costs related to business process change costs and potential debt loss. These costs depend on the number of accounts held by illegal migrants, which is subject to particular uncertainty. The process changes relate to checking data quarterly, checking matches, reporting them to the Home Office and closing accounts where the match is confirmed. The department expects 6000 matches in year 1, falling to 900 per year for years 2-10. The department estimates that these process change costs will total £2.4 million over 10 years.

Based on banking sector evidence, the department anticipates that one third of current accounts are in debt. Based on this, and the estimated number of illegal migrant matches, the department estimates a potential total annual cost to firms to be within a range of £1.0 million to £3.1 million, with a central estimate of £2.1 million. This cost arises as a result of the closure of illegal migrants' accounts that have outstanding debt and overdraft charges. Banks may also experience losses from credit cards and loans held by illegal migrants. The department gives a central estimate of £8.3 million over 10 years for these losses, although it states that there is considerable uncertainty around this figure.

Benefits to business

The department identifies two significant monetised benefits to business, based on evidence from public and private sector experts. The first of these is the recovery of the Cifas development cost. Cifas developed a secure portal that firms are able to use to access Home Office data, and will recover the costs of developing this resource over 5 years. The IA states that overall, this transaction will be cost neutral. Under the Act, banks can confiscate current accounts held by illegal migrants, so that court orders or offsetting rules can be used to prevent debt losses. The Cifas development cost is estimated at £0.1 million over 10 years. The department estimates the benefit from debt loss prevention to be between £10,000 and £63,000 over 10 years, giving a central estimate of £31,000.

Wider impacts

The IA also states that it is not possible to quantify all of the benefits of the proposal, given the qualitative nature of the benefits of reforming the immigration system. The department highlights impacts such as reducing the appeal of migrating to London and making settling unlawfully in the UK more difficult by restricting access to services. The IA also discusses the risk of migrants remaining in the black economy.

The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of £0.4 million. This will be a qualifying regulatory provision that will score under the Business Impact Target.

Quality of submission

The IA provides sufficient discussion and analysis for it to be considered fit for purpose. Since the primary legislation IA, the department has consulted with industry in roundtables and meetings with banks. The department states that this engagement has informed the current IA. In certain sections, such as the description of process change costs, the department has improved its estimates but overall, the assumptions remain largely unchanged from the primary stage. The department could have provided further breakdown of cost estimates in the proposal. However, the estimates provided appear to be supported by business.

The department states that *'evidence from the sector indicates that about one third of all current accounts held are likely to be in debt balance'.* They estimate the debt loss linked to illegal migrants' accounts using this proportion. By doing so, the department assumes that one third of any given group of accounts are in debt. However, it seems probable that this group is more likely to be in debt, given factors such as the difficulty of finding employment. The IA could have explored this further.

The IA would also have benefited from further explanation of what the Cifas development cost is, how it affects business and how and from whom it is to be recovered. In relation to compliance the IA would have benefited from a discussion on the course of action covering accidentally penalised non-compliant businesses.

The SaMBA appears sufficient. The IA states that there will not be a significant impact on small and micro businesses as these have been excluded from scope or do not offer current accounts.

The RPC validated an EANDCB of £0.2 million at the primary stage IA. The secondary legislation proposal has an EANDCB of £0.4 million. The increase can mainly be attributed to the inclusion of process change costs. As the primary legislation IA has not yet been scored against the BIT, the secondary legislation IA captures the total EANDCB contribution for the Act. We do not expect both figures to be scored against the BIT.

Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£0.4 million
Business net present value	£-4.6 million
Societal net present value	£-2.5 million

RPC assessment

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated[1]	£0.4 million
Business Impact Target (BIT) Score[1]	£2.0 million
Small and micro business assessment	Sufficient

Michael Gibbons CBE, Chairman

[1] For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.