Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Implementation of the EU Payments Account Directive	
Lead Department/Agency	HM Treasury	
Stage	Consultation	
IA Number	Not provided	
Origin	European	
Expected date of implementation	September 2016 (SNR 12)	
Date submitted to RPC	25 March 2015	
RPC Opinion date and reference	11 May 2015	RPC15-HMT-2348
Overall Assessment	**GREEN**	

RPC comments

The IA is fit for purpose.

HM Treasury has set out the rationale for intervention and identified possible options for the implementation of the Directive. The IA describes the expected impacts of the proposal and HM Treasury intends to test its assumptions with stakeholders through consultation. HM Treasury should also use consultation to gather evidence on the costs to business arising from changes that will be made by industry regulators to their rules in order to meet the requirements of the Directive. These costs should be included in the EANCB to provide a more complete assessment of the impact of EU regulation.

The proposal is of European origin. While the preferred option, Option 2, appears to go beyond Option 1 because it maintains existing requirements on business to provide certain banking products and services, HM Treasury considers it to be out of scope of 'One-in, Two-out'. This is in line with past interpretations of paragraph 1.9.9.ii of the Better Regulation Framework Manual (March 2015).

Background (extracts from IA)

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

"The Government are required to implement the Payments Accounts Directive (2014/92/EU) (PAD) in the UK by 18 September 2016 to meet its treaty obligations and avoid the risk of facing legal proceedings as a result of infraction. PAD sets out common regulatory standards that member states are required to meet in order to improve the comparability of fees related to current accounts (payment accounts that are used for day-to-day transactions), switching of those accounts, and access to accounts with basic features. The Government will need to legislate in order to ensure these standards are fully implemented in the UK."

What are the policy objectives and the intended effects?

“To achieve compliance with PAD while continuing to protect consumers and minimising the impact on UK industry in terms of their costs and competitiveness. PAD seeks to recreate in other EU member states similar services and products to those that already exist in the UK (e.g. a procedure for switching current accounts, independent comparison websites, basic bank accounts). The UK Government intend to ensure that these services and procedures continue to be delivered in line with the UK market and domestic policy objectives.”

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

HM Treasury will be required to legislate in order to implement the Payments Accounts Directive (2014/92/EU) (‘PAD’). PAD sets common regulatory standards that member states are required to meet in order to:

- improve the transparency and comparability of fees related to payment accounts that are used for day-to-day transactions (i.e. current accounts);
- facilitate switching of those accounts; and
- ensure access to accounts with basic features (i.e. basic bank accounts).

Options under consideration

HM Treasury has considered two options:

1. Copy out PAD’s requirements into UK legislation.
2. Maintain the existing regulatory framework and UK structures, minimising any adjustments required to implement PAD (preferred option).

Option 1 would avoid gold plating but would not reflect the UK’s existing policy and structures. HM Treasury estimates that this option would result in a higher cost to industry than option 2 as it would draw a wider range of payment accounts and payment service providers into the Directive’s scope.

Option 2 employs copy-out wherever possible, but tailors the approach to the UK market where necessary by:

- using a definition to help payment service providers determine which of their accounts the regulations must apply to, including current accounts. This will effectively reduce the scope of the Directive so that a smaller number of firms and products will be affected than under Option 1;
- using the discretion available in the Directive to maintain an existing switching service, CASS, ensuring that only minimal changes are needed to achieve compliance with the Directive;
- ensuring that credit institutions which offer basic bank accounts maintain existing UK policy on fee-free banking. This represents a higher standard than that required by the Directive.

While Option 2 minimises adjustments to the existing regulatory framework to implement the Directive, it contains some aspects of gold plating. As these higher standards pre-date the implementation of the Directive, HM Treasury considers them to be out of scope of 'One-in, Two-out'. It would, however, be helpful if HM Treasury provided an assessment of the costs and benefits of maintaining the existing standards.

Impact of the proposal

HM Treasury has described the expected impacts of the proposal and intends to use information obtained from consultation to monetise the impacts. HM Treasury should also include in its EANCB figure at the final stage the costs and benefits resulting from changes in the rules of the independent regulators that are required to implement the Directive. This will provide for a more complete assessment of the impact of EU regulation.

The IA explains that the proposal will affect UK current account providers in terms of the following requirements:

- Identifying which accounts will be affected. HM Treasury estimates that there are approximately 50 active bank and building society account providers in the UK. The IA explains that these firms are already required to identify which of their products are current accounts so costs for doing this under existing proposal will be minimal. A further 5 -10 payment service providers that offer similar products, such as e-money current accounts, may also be affected by the proposal.
- Complying with switching requirements. HM Treasury estimates that around 40 of the 50 - 60 firms that offer current accounts are members of CASS, accounting for 99% of the UK's current account market. Existing members would incur no additional costs from complying with the switching requirements in PAD by remaining within CASS. Firms that are outside CASS may incur transitional and ongoing administrative costs from offering a switching procedure required by PAD.
- The provision of basic bank accounts. HM Treasury intends to ensure that basic bank accounts continue to be delivered in line with the UK market and domestic policy objectives. The IA explains that, in December 2014, an agreement was reached with the banking industry that will see improved basic bank accounts available in the UK from the end of 2015. The IA explains that nine firms provide basic bank accounts in line with the December 2014 agreement. This agreement pre-dates the proposal and will be in force prior to the implementation of PAD.

The IA explains that the regulators are expected to incur costs as a result of this proposal. As these regulators are funded by industry, any costs incurred by them will represent a direct cost to business and hence should be included in the EANCB calculation.

Under the proposal, the Money Advice Service will be required to operate a comparison website. HM Treasury estimates this will incur a one-off cost of between £0.2-0.8 million and on-going annual costs of between £0.1-0.2 million. To the extent that the Money Advice Service is financed by industry, these costs should also be included in the EANCB calculation.

HM Treasury expects consumers to benefit from the proposal through improved information and increased certainty around the provision of, and eligibility for, basic bank accounts. It will test its assumptions further at consultation.

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

The proposal is of European origin and therefore a SAMBA is not required.

The IA explains that HM Treasury has not identified any small or micro-businesses that would be caught by the proposal and has used the flexibility in the Directive to exempt a number of entities, including credit unions.

Comments on the robustness of the OITO assessment.

The proposal is of European origin. While the preferred option, Option 2, appears to go beyond Option 1 because it maintains existing requirements on business to provide certain banking products and services, HM Treasury considers it to be out of scope of 'One-in, Two-out'. This is in line with past interpretations of paragraph 1.9.9.ii of the Better Regulation Framework Manual (March 2015). To support balanced reporting of overall EU burdens in the Statement of New Regulation, the final stage IA should include an estimated EANCB figure, with supporting evidence, for RPC validation.

Signed **Michael Gibbons,** Chairman