

Senior managers and certification regime: extension to UK branches of foreign banks

HM Treasury

RPC rating: fit for purpose

Description of proposal

The new regime for regulating individual conduct in banking, the ‘Senior managers and certification regime’ (SM&CR) will be extended to cover individuals working in UK branches of foreign banks (foreign branches). This is intended to ensure a uniform approach to regulating individual conduct in the banking sector in the UK; currently, individuals in foreign branches are regulated through the “approved persons” regime. In July 2013, the Parliamentary Commission on Banking Standards reported that the approved persons regime did not provide a system that could hold senior managers to account for failures that took place within banks, such as those that were brought to light in the financial crisis.

Impacts of proposal

HM Treasury (HMT) has based its estimates on the data and assumptions included in the 2014 joint consultation paper *Strengthening accountability in banking: a new regulatory framework for individuals* issued by the Financial Conduct Authority and Prudential Regulation Authority (the regulators).

HMT estimates that 174 branches will be affected by the proposal. It estimates total one-off costs to be £36.7 million and on-going costs of £6.6 million each year. These costs include setting up and operating systems to submit applications for approval of senior management appointments; to check initially and to recheck annually that senior managers and staff are fit and proper; to perform specific functions such as provision of financial advice to customers; to issue certificates; to notify regulators of disciplinary action taken against staff; and to ensure staff are aware of the rules of conduct that apply to them. HMT’s estimates are based on a number of key assumptions, including the number of branches (10) that could be classed as ‘large’ based on the number of staff employed and will thus incur higher costs of putting systems in place.

HMT expects the proposal to limit the need for regulatory pre-approval of senior managers and that to eliminate pre-approval of customer dealing functions. This is expected to reduce the number of applications to the regulators, leading to annual savings of £1.1 million.

HMT does not expect the regulators to incur any one-off costs as the intention is to use the same system that will apply the SM&CR to UK banks. On-going costs will be determined by the number of applications that the regulators receive that require desk-based processing and candidate interviews. HMT estimates that the total annual cost to the regulators of processing senior manager applications will be £45,000 (173 applications with a processing cost of £50 each and 36 interviews at a cost of £1,000 per interview). The associated

savings from not having to operate the existing approved persons regime is £153,000 (3,057 applications being processed at a cost of £50 each) each year. As the regulators are funded by industry, these changes in cost are considered to accrue to businesses.

HMT expects the proposal to result in better conduct and performance of staff in foreign branches. They argue that this should benefit the wider economy, through better financial market integrity and reductions in mis-selling to UK consumers of financial services provided by foreign branches located in the UK. HMT has not monetised these benefits or provided evidence of the prevalence of the problem, but has provided a good qualitative description of the impacts. It explains that these benefits cannot easily be quantified as they would depend, in part, on the current scale of current activities that could give rise to misconduct or other forms of economic or social harm as well as the extent to which foreign branches would be deterred from engaging in those activities. HMT also expects foreign-based banks to take the SM&CR into account when considering wider location decisions. The new regime may deter some banks from opening a branch in the UK but HMT has not been able to monetise the costs of this impact.

On the basis of the figures provided, HMT expects the proposal to result in an annual net cost to business of £6.89 million; this estimate appears reasonable.

HMT explains that extending the SM&CR to foreign branches will not have a disproportionate impact on small firms or micro-businesses because a foreign branch opened in the UK is likely to be part of a larger international bank.

Quality of submission

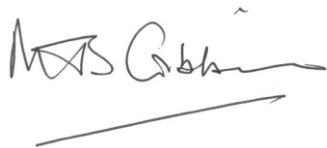
HMT have provided a well written impact assessment, which identifies the relevant impacts on business. In response to comments received at consultation, HMT revised upwards its estimates of the costs of the proposal.

Initial departmental assessment

Classification	IN
EANCB	£6.89 million
Net present value	-£78.02 million
Business net present value	-£78.02 million

RPC assessment

Classification	IN
EANCB – RPC validated	£6.89 million
Small and micro business assessment	Sufficient



Michael Gibbons CBE, Chairman