Regulatory Policy Committee

The Financial Services and Markets Act 2000 (Ring-fenced Bodies, Core Activities, Excluded Activities and Prohibitions) (Amendment) Order 2016

HM Treasury

RPC rating: confirmed as a non-qualifying regulatory provision

Description of proposal

Under the forthcoming ring-fencing regime, UK banks with retail deposits totalling more than £25 billion will be required to separate their core retail banking from their investment banking activities. The regime will come into place on the 1st January 2019. The Government and the Prudential Regulation Authority (PRA) have been monitoring banks' implementation plans, and have identified a number of technical amendments that would aid the implementation of the regime.

The validation sets out these seventeen amendments. To provide an example, one amendment concerns liquid assets. Under the ring-fencing regime, ring-fenced banks are unable to hold 'high quality liquid assets' if doing so would lead to exposure to a financial institution. However, banks are required to hold a specific amount of quality liquid assets under existing regulation. This particular amendment would allow ring-fenced banks financial institution exposure, if their intention is to meet current regulatory requirements.

Impacts of proposal

The department states that there are no additional costs to business as a result of this proposal. Many of the amendments involve altering the ring-fencing requirements so that they are in keeping with current regulatory requirements. The IA states that these measures would produce no new costs to business, as firms are already familiar with these requirements. Other amendments involve updating text in the regime requirements so that they are in line with businesses' expectations. The department states that these will also not place an additional burden on business, as firms will not change any plans as a result of these changes.

The department believes that two amendments could reduce the burden on business, but does not monetise these potential benefits. The first will remove the requirement for banks to provide information about ring-fencing to unaffected customers, leading to a small reduction in banks' costs.

The second amendment regards permitted derivatives. The ring-fencing regulations will allow ring-fenced banks to offer certain simple derivatives – these will be limited to those which can be traded on European Economic Area trading venues, such as multilateral trading facilities. This amendment will alter the definition of the 'material date' for derivatives. Under the ring-fencing regulations that will come into effect, the material date for a derivative is defined as the day on which a bank entered into that specific derivative transaction. However, this definition is problematic for derivative transactions that occurred in the past, and those that occur up until the ring-fencing regulations come into place, as it means that ring-fenced banks and the PRA will need to keep records of transactions for every single date up until 1st January 2016. The department states that banks have argued that this requirement is highly burdensome. Therefore, the department wishes to amend the regulations so that '*the material date for derivatives entered into before the ring-fenced bank became a ring-fenced bank will be the day it became a ring-fenced bank'.* Thus for derivative transactions that have already occurred, and those that occur up until 1st January 2016, this amendment will change the 'material date' for these derivatives to 1st January 2016. The IA states that this amendment could lead to reduced costs for the PRA and ring-fenced banks, as they will no longer be required to keep records of transactions for all past dates.

This will be a non-qualifying regulatory provision that will not score under the business impact target.

Quality of submission

This proposal is defined as a non-qualifying regulatory provision (NQRP) under the exemption of financial systemic risk. The initial IA for the ring-fencing regime was also defined as a NQRP on the basis of financial systemic risk, so the department has classified these amendments in line with the previous assessment. This conclusion appears valid.

Departmental assessment

Classification	Non-qualifying regulatory provision (Financial systemic risk)
Equivalent annual net cost to business (EANCB)	Not applicable (low cost non-qualifying regulatory provision)

RPC assessment

Classification	Non-qualifying regulatory provision (Financial systemic risk)
Small and micro business assessment	Not required (low-cost regulation)

Michael Gibbons CBE, Chairman