

Criminal Finances Bill – power to obtain further information

Home Office

RPC rating: fit for purpose

Description of proposal

The proposal is to provide the National Crime Agency (NCA), and/or the police when investigating terrorist finance cases, with the power to request further information relating to incomplete suspicious activity reports (SARs). At present, if the NCA or the police receive a SAR that lacks sufficient information to make an assessment of whether an investigation should be undertaken, the reporter is not obliged to respond to requests for additional information. The proposal would enable law enforcement agents (LEAs) to request the provision of additional information, and to apply for a court order if a request is refused. It would also enable the court to impose a penalty on the reporter for non-compliance.

Impacts of proposal

The impact assessment (IA) states that there will be costs to the regulated private sector for replying to requests for further information. The estimated annual net direct cost to business (EANDCB) is approximately £0.3 million per year, based on a total of 1,400 requests, each taking 7.5 hours to respond. The department has derived this unit cost through both internal analysis of the time burden involved in due diligence procedures, as well as an independent review of the time commitment associated with completing freedom of information requests.

The IA uses, as a proxy for the assumed number of requests, the number of refused SARs, which are those cases currently resulting in the NCA requiring more information before proceeding to the restraint phase. However, there is a possibility that the actual volume may prove to be higher than expected, where the IA explains that, in an attempt to avoid underestimating the proposal's overall cost to business, a cautious approach has been taken in regard to the unit cost used. The department also notes that, based on the current number of incomplete SARs the NCA receives, this new power is likely to be used for only a small number of cases.

In addition to impacts on business, the IA states that there will be ongoing costs for the court system in dealing with court orders.

The IA also explains that, while there would be no direct benefit to businesses from the proposals, wider society would benefit from a reduction in money laundering and terrorist financing. As the measure incentivises the production of better quality SARs, over time the NCA would also benefit from a reduction in the resources spent on obtaining further information.

Quality of submission

The IA presents sufficient information to enable validation of an EANDCB of £0.3 million. The unit cost assumption is well-evidenced, using information from consultations, internal analysis, and an independent study. By taking a cautious approach to this assumption, the department has sought to mitigate the risk of underestimating the volume of requests that may be issued in future. A sensitivity analysis has also been provided in the IA's risks section, which estimates that a 50 per cent increase (to 2,100) in the number of further information requests made would result in an EANDCB of £0.4 million.

Although the department has quantified the costs to business associated with the proposal, it has not been able to monetise any non-business impacts, such as the ongoing costs incurred by both the courts and LEAs. The IA would benefit from quantification of non-business costs or at least an explanation of why this is not proportionate.

The department's small and micro business assessment (SaMBA) states that small and micro businesses are likely to be affected by further information requests, as they make up "...the vast majority of the regulated sector by number of businesses" (paragraph 31). The SaMBA explains that exempting them from the proposal would significantly compromise the policy objective of providing the NCA with better quality SARs. The IA also explains that the EU is likely to put in place, as part of the fourth anti-money laundering directive, regulation requiring member states to provide LEAs with the power to request further information. Were this to take effect, exempting smaller businesses may be illegal. The SaMBA would benefit from including an indicative breakdown of the regulated sector by size of business, and from estimating the number of refused SARs that currently involve smaller businesses.

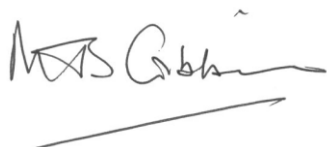
With regard to the monitoring and evaluation of the measure, although the IA explains that the NCA will be asked to keep records, and the views of the regulated sector will be sought periodically, the IA would benefit from explaining how this will be used to assess the effectiveness of the proposal.

Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£0.3 million
Business net present value	-£2.5 million
Societal net present value	-£2.5 million

RPC assessmentⁱ

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated	£0.3 million
Business impact target score	£1.5 million
Small and micro business assessment	Sufficient



Michael Gibbons CBE, Chairman

ⁱ For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000