Title: The Small and Medium Sized Business (Finance Platforms) Regulations 2015	Post Implementation Review
PIR No: N/A	**Date: 30/10/2024**
Original IA/RPC No: RPC14-HMT2153(2)	**Type of regulation: Domestic**
Lead department or agency: HM Treasury	**Type of review: Statutory**
Other departments or agencies: **N/A**	**Date measure came into force:** **01/01/2016**
	Recommendation: Subject to consultation
Contact for enquiries: SMELending@hmtreasury.gov.uk	**RPC Opinion: N/A**

1. What were the policy objectives of the measure?

The policy objectives of the Bank Referral Scheme (BRS) were to address a market failure of imperfect information, where providers of finance were not aware of the existence of SMEs requiring loans and, on the other side, SMEs were unaware of the existence of alternative sources of finance. This was impeding SMEs' ability to access finance which they needed to grow and compete.

HM Treasury therefore created a statutory scheme to support SME lending, as set out in the Small and Medium Sized Business (Finance Platforms) Regulations 2015. These Regulations place an obligation on designated banks to refer SME business customers that they reject for finance, to platforms that can match the SME with alternative finance providers. The regulations give HM Treasury the power to designate the banks and platforms to which the regulations apply.

Specifically, a designated bank is required to pass on details of SME applicants – with the SME's permission – that do not meet the lending requirements of the bank concerned, to designated private sector finance platforms. The designated finance platform then has a duty to provide finance providers with access to the information received by the platform. Initially, the SME is not identified and is only identified if the provider requests it and the SME agrees.

This measure was therefore also designed to level the playing field for alternative credit providers and improve competition in the SME lending market, by highlighting potential lending opportunities from alternative lenders.

Further context is provided below.

In 2014-15, when the policy was designed, the largest four banks accounted for over 80 per cent of UK SMEs' main banking relationships. Evidence at the time suggested that the majority of SMEs only approached their main bank for finance, with around 40 per cent giving up their search if they were unsuccessful with their main bank. A proportion of the SMEs that were being rejected by the largest UK lenders were thought to generally be viable businesses, but were rejected for finance due to a variety of issues such as the age of the business or industry in which they operated. At the time, challenger banks and other providers of finance were often unable to offer finance to smaller businesses because these lenders were often not aware of the finance needs of SMEs, and SMEs were also similarly unaware of the existence of these alternative sources of finance. The Independent Lending Review of the Royal Bank of Scotland, led by Sir Andrew Large in 2013[1], found that a lack of awareness of the alternative sources of finance available to SMEs was a major structural problem in the UK lending market

[1] https://lexlaw.co.uk/wp-content/uploads/2014/01/Sir-Andrew-Large-RBS-Independent-Lending-Review-Report.pdf

at that time. Although the largest banks would sometimes refer SMEs on to other providers or strategic partners on a bilateral basis, this was not happening systematically.

The Government, therefore, took the decision to legislate to address this market failure.

The review clause in regulation 44 of the Small and Medium Sized Business (Finance Platforms) Regulations 2015 requires a post-implementation review (PIR) of the 2015 Regulations to be conducted, and to set out the conclusion of the review in a report, and publish that report. The report must in particular set out the objectives intended to be achieved by the regulations and assess the extent to which they have been achieved. This review should also assess the extent to which those objectives remain appropriate and, if so, assess whether a system that imposes less regulation could achieve the same result.

HM Treasury last reviewed the scheme on 14 October 2020. Under the Regulations, subsequent reviews must be published at intervals not exceeding five years. As such, an updated review is now due by 14 October 2025.

Following a recommendation set by the Centre for Finance, Innovation and Technology (CFIT) for the Government to review the scheme, HM Treasury has decided to bring forward this review.

2. What evidence has informed the PIR?

HMT has engaged with a range of sources to inform this review. This includes:

- Hosting a roundtable with designated banks and finance platforms, focused on the performance and functioning of the scheme.
- Qualitative feedback from wider stakeholders not designated under the scheme such as business and banking trade representation groups, e.g. UK Finance, as well as the Autumn Budget 2024 representations made to HM Treasury from organisations such as the Finance and Leasing Association (FLA).
- The British Business Bank has also collected performance data on HM Treasury's behalf. This data covers scheme performance metrics such as cumulative referral numbers over time, contact and conversion rates, as well as distributional data across geographical locations. The official statistics have previously been published[2] and HM Treasury intends to update and release this data by the end of the year.
- The 'Smart Data: improving SME lending to drive economic growth' report published by The Centre for Finance, Innovation and Technology[3] (CFIT)'s SME Finance Taskforce - a group of banks, alternative lenders, fintechs, accountancy software providers, payment schemes, credit reference agencies and industry bodies.

Notably, the report by CFIT's SME Taskforce, published in August 2024, explores how smart data can enhance access to finance for SMEs. It discusses the potential of data-driven innovations to improve lending processes, making it easier for SMEs to secure the funding they need for growth and development. The report sets out seven 'key actions' for leveraging smart data to address the challenges faced by SMEs in the financial landscape. One of those actions is for the Government to 'review and improve HM Treasury's Bank Referral and Commercial Credit Data Sharing (CCDS) Schemes', which the report recommends is done 'at the earliest opportunity by the incoming Government so that they reflect today's lending environment'.

It is in response to this recommendation that we have brought forward this review, and endeavoured to collect evidence from key stakeholders and sources relevant to the scheme.

3. To what extent have the policy objectives been achieved?

[2] https://www.gov.uk/government/collections/bank-referral-scheme-official-statistics
[3] https://cfit.org.uk/wp-content/uploads/2024/08/CFIT-SME-Finance-Taskforce-Smart-Data-Unlock-SME-Lending-Aug-2024.pdf

It is our view that the scheme has generally met its objectives. Stakeholder feedback suggests that the Bank Referral Scheme has helped to better inform businesses of the finance options available to them, and helped facilitate market access to smaller lenders within the business lending market. This speaks directly to the policy objectives of correcting a market failure in the information available regarding SME loans and supporting alternative credit provision. There is also data available as to the amount of credit provided under the scheme, indicating that it has contributed to SMEs' ability to access finance. However, finance platform conversion rates suggest that only 5% of businesses that are initially rejected for finance end up securing finance through the scheme. Whilst this shows that some businesses are being supported by the scheme, we anticipated a higher conversion rate with the scheme.

A more substantive assessment is provided below.

The original post implementation review of the Regulations[4] noted that the scheme provided a well-functioning referral system, which supported customers where designated banks were unable to provide finance. It was also noted that whilst the scheme had been permanently ingrained into the digital infrastructure of both designated banks and platforms, feedback suggested that there was room for improvement in the overall implementation of the scheme. The review further suggested some improvements that could be made, such as more accuracy in the data provided with each referral, and work to understand why SMEs do not take up the scheme in the first place. As part of that review, the previous government made a commitment to continue monitoring the scheme and undertake further work to identify if updated guidance could make a meaningful improvement to the scheme.

Up to Q3 2024, over the lifetime of the scheme, a total of 5,387 deals worth over £128 million have been approved between alternative credit providers and SMEs through the Bank Referral Scheme, with an average deal size of around £24,000. Since its launch, the scheme has seen yearly increases in the number of successful deals it has facilitated, with the exception of 2020 when lending was disrupted by the pandemic. This data shows that a portion of businesses referred through the scheme are successful in securing finance, meeting the scheme's overall objectives to facilitate access to finance. However, the proportion of businesses benefitting from the scheme in terms of acquiring finance has been smaller than expected.

Additionally, stakeholder feedback received by HM Treasury suggests that the Bank Referral Scheme has helped to better inform businesses of the finance options that are available to them. Some stakeholders believe that the BRS is an important part of the business lending market, noting that whilst it generally has a small impact on overall lending, in their view it ensures that the businesses it does help can continue to invest and grow after obtaining finance through the scheme.

Stakeholders have also suggested that the scheme may have played an important part in facilitating market access to smaller lenders within the business lending market. However, as the market has changed over time, feedback also suggests that the scheme may have become less reflective of current market conditions.

Additionally, there are some indications that participants in the scheme may experience frictions in the referrals process. These could be affecting the scheme's overall performance, which may help in part to explain why the proportion of businesses successful in securing finance through the scheme has been smaller than originally expected. Some examples of the frictions highlighted to HM Treasury include:

- **There may be some notable differences in the way designated banks have implemented the process of referral.** Some feedback has suggested that SMEs' knowledge of the scheme, and their subsequent consent to onboard onto the scheme,

[4] https://www.legislation.gov.uk/uksi/2015/1946/pdfs/uksiod_20151946_en.pdf

has been negatively impacted by each designated bank having a bespoke process for communicating the existence of the scheme and referring SMEs to it. An example provided was that methods of obtaining consent vary, with feedback suggesting that some banks require a physical ‘wet’ signature from an SME to onboard them.

- **What amounts to a ‘rejection’ from the perspective of an SME may be broader than is currently reflected in the scheme.** Currently, the scheme can only kick in at the point of an unsuccessful finance application. Feedback suggests that some designated banks may have interpreted this as when a bank formally declines the application, through an official notice of rejection in writing or where the bank offers finance on a different basis than the SME applied for and is not accepted by the SME. HMT intends to consider this issue further, including whether to provide updated guidance.

- **There may be issues with data quality.** Feedback suggests that some of the data designated finance platforms are receiving may be incorrect, inaccurate, or incomplete. However, we note that regulation 4(1) requires the designated bank to ask the SME whether it agrees to specified information being provided and, if the SME agrees, ask it to provide any specified information which the bank does not hold. Incorrect, inaccurate or missing specified information has a significant impact on the ability of finance platforms to effectively support the referred SMEs.

- **Many businesses going through the scheme may be rejected again for finance.** Feedback and data suggest that many of the businesses referred onto the scheme experience a double rejection when going through the process. Ultimately, many of the SMEs do not qualify for finance at all, whether through their main bank or an alternate lender through the BRS. This can be for a variety of reasons such as the age of a business, lack of collateral, the quality of associated business plan, or other issues which impact the assessment of risk and affordability criteria. Stakeholder feedback suggests that this may be the primary reason that the scheme has resulted in only around 5% of initially rejected businesses securing finance through the BRS.

Whilst the scheme continues to meet the original objectives, collectively, the above factors indicate there is further scope to explore whether the current statutory and operational design of the scheme is properly aligned with those objectives. HM Treasury intends to use a consultation to gauge wider stakeholder views on the above frictions and explore whether there are any gaps within the existing legislative framework which impact the scheme’s current performance. This includes looking at whether any of the issues discussed in this document can be effectively addressed by appropriate guidance, instead of imposing more or updated forms of legislation. This will ultimately help to ensure that the scheme remains fit for purpose and continues to meet its objectives, and as the business lending market also evolves over time.

Sign-off for Post Implementation Review: Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***Tulip Siddiq*** Date: 24/10/2024

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions?

It was assumed that the Bank Referral Scheme would improve outcomes compared to the voluntary or bilateral schemes that previously existed.

The costs of the BRS – calculated in 2015/16 in the original Regulatory Impact Assessment (RIA)[5] – were estimated at £13.26 million.

The nine currently designated banks bore most of the costs at central assumptions of £6.3 million on additional IT requirements. The platforms also experienced estimated transition costs of approximately £500,000 and a supplementary £200,000 for the sending/receiving of specified information.

Moreover, the business assessment for this policy estimated a direct impact annual equivalent of £1.2 million. This was all founded on a 10-year time period with an assumed discounted rate of 3.5%, meaning costs were essentially initial infrastructure spending – with a relatively small maintenance cost.

As part of a future consultation, HMT will invite stakeholders to consider the original cost estimates of the regulation and to offer stakeholders an opportunity to provide evidence or estimates where they consider the original IA to have been inaccurate.

5. Were there any unintended consequences?

Generally, the consequences of the Bank Referral Scheme have been as identified in the original Regulatory Impact Assessment.[6]

A known possibility was that some SMEs who are rejected by a bank may also be rejected by an alternative finance provider under the BRS, illustrating the problem of the low creditworthiness of some businesses who go through the scheme. This has been confirmed through stakeholder feedback. Consequently, data shows that approximately 5% of businesses that are initially rejected for finance end up with finance through the BRS.

6. Has the evidence identified any opportunities for reducing the burden on business?

For the businesses that choose to participate in the scheme, the current burden they experience can be worthwhile, if they secure finance after completing the application process.

However, many businesses do not get finance through the scheme and, as mentioned in the section above, feedback suggests that there may be aspects of the scheme which are unnecessarily burdensome. These primarily fall into two overarching categories, which are:

- The customer journey of the referred businesses going through the scheme.
- Overall scheme efficiency.

Customer journeys of referred businesses:

[5] https://www.legislation.gov.uk/ukia/2015/269/pdfs/ukia_20150269_en.pdf
[6] https://www.legislation.gov.uk/ukia/2015/269/pdfs/ukia_20150269_en.pdf

- The process by which SMEs consent to the scheme may not be sufficiently customer-friendly to encourage participation in the scheme. SMEs are currently required to provide consent at multiple points in the referrals process, which can be overly burdensome for businesses. This, when combined with insufficient or unclear communication about the purpose of the scheme and the process involved, may help explain why nearly half of businesses who are initially referred onto the scheme, drop out before reaching the stage of obtaining finance quotes. HM Treasury intends to consider further how the customer journey for an SME referred into the scheme could be further streamlined; this could, for example, include reducing some of the regulatory requirements.

- As discussed in the section above, several stakeholders also highlight that there is potentially little standardisation in communications for the Bank Referral Scheme across the designated banks. This may create a situation where businesses are not adequately signposted to the scheme, or they find the process of consenting to the scheme too burdensome. HM Treasury intends to examine these issues and explore methods available to reducing them.

Overall scheme efficiency:

- In addition to the potential data quality issues discussed in the section above, some feedback also suggested that the type of data required to be sent under legislation might not be sufficient for the platform to effectively assess the application, which also extends lead times for businesses. HM Treasury intends to explore how the provision of data between banks and platforms can be improved in order to create better outcomes for businesses.

- We have also identified from feedback and data that the relative cost to benefit ratio of the scheme for finance platforms may increase over a time as a result of fewer referrals being funnelled through the BRS. This is because the business lending market has changed since the scheme was first established. At launch, the designated banks had around an 80% share of the business lending market. Their designation ensured that the scheme would capture the majority of SMEs seeking finance. However, with challenger banks and other non-bank lenders gaining significant market share, this no longer holds. British Business Bank data shows that challenger and specialist banks had a record 59% market share of gross new SME bank lending in 2023 compared to an estimated 20% of gross new lending in 2016.7 As a result, the BRS may now be capturing a smaller proportion of rejected SMEs, impacting in turn the overall efficacy of the scheme. HM Treasury intends to explore further the relationship between designation and market share.

Can the scheme objectives be achieved with a system that imposes less regulation:

As above, HM Treasury intends to explore through consultation whether there are opportunities for improvement and to reduce burdens relating to the current scheme and the way it is operated. However, we conclude that the overall scheme objectives could not be achieved to the same scale with a different system that imposes less regulation. This is because any such alternative would most likely be a return to the previous system (before the regulations were introduced) where the declining bank may have limited bilateral partnerships offering a referral service to rejected businesses. Those bilateral partnerships would not result in a systematic referral scheme across the SME lending market, to the detriment of SMEs and alternative credit

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[7] https://www.british-business-bank.co.uk/sites/g/files/sovrnj166/files/2024-03/small-business-finance-market-report-2024.pdf

providers. The Explanatory Memorandum produced alongside the regulations additionally noted that previous voluntary commitments had been limited in scope and slow in achieving results.[8]

We have also concluded that the objectives remain appropriate and that the scheme continues to be meet those objectives. However, no changes were made to the scheme following the previous review published in 2020, not least due to the pressures of Covid-19 at the time, and many of the issues identified from that review are still prevalent.

This indicates that there is further scope to explore whether the current statutory and operational design of the scheme is properly aligned with the scheme's objectives, via consultation with industry. HM Treasury intends to use this consultation to gauge wider stakeholder views on the frictions identified above and explore whether there are any gaps within the existing legislative framework which impact the scheme's current performance. The consultation will also look at whether any of the issues discussed in this document can be effectively addressed by appropriate guidance instead of imposing more or updated forms of legislation.

This will ultimately help to ensure that the scheme remains fit for purpose and continues to meet its objectives optimally, and as the business lending market evolves over time.

Environmental impacts:

The scheme does not have any associated environmental impacts.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

We are not aware of any current international measures comparable to the Bank Referral Scheme.

Recommended next steps (Keep, Amend, Repeal or Replace)

The Bank Referral Scheme has made a positive contribution to competition in business lending, and improved some SMEs' ability to access finance since its launch.

Stakeholder feedback has highlighted that the scheme is meeting its objectives and that those objectives remain appropriate. Feedback has also suggested that the same objectives cannot be met to the same extent by a system that imposes less regulation than the current scheme.

However, the overall proportion of SMEs securing finance through the scheme may potentially be improved by further evaluation to ascertain if the scheme remains optimal and fully fit for purpose. As such, HM Treasury intends to carry out a consultation to better assess the options available in order to potentially improve the scheme. We intend to use this consultation to gauge wider stakeholder views on the issues discussed in this review and explore whether there are any gaps within the existing legislative framework which impact the scheme's current performance.

The consultation will also look at whether any of the issues discussed in this document can be effectively addressed by appropriate guidance instead of imposing more or updated forms of legislation. This will ultimately help to ensure that the scheme remains fit for purpose and continues to meet its objectives, and as the business lending market evolves over time.

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[8] https://www.legislation.gov.uk/uksi/2015/1946/memorandum/contents