

Title: Impact Assessment of CRD 2 regulations Lead department or agency: HM Treasury Other departments or agencies:	Impact Assessment (IA)
	IA No:
	Date: 01/09/2009
	Stage: Enactment
	Source of intervention: EU
	Type of measure: Secondary legislation
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Summary: Intervention and Options

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

The financial crisis revealed demonstrable short comings in the regulatory framework with regards to cross-border supervisory arrangements. In response to this, in September 2009 the European Parliament and Council adopted a Directive (CRD 2) aimed at improving cross-border supervisory cooperation. The UK is obliged to transpose CRD2 by 31 October 2010 and this requires amendments to be made by HMT to the Capital Requirements Regulations 2006, which implement the existing CRD provisions on supervisory arrangements. HMT is required to transpose the regulations related to supervision whilst the revisions related to securitisations and risk management will be implemented through the FSA rule book.

What are the policy objectives and the intended effects?

The policy objective and intended effect of those amendments to the CRD are to strengthen the supervisory framework for cross-border banking and investment groups by establishing colleges of supervisors to foster stronger co-operation between supervisors of cross border groups. CRD 2 intends to reduce the likelihood and impact of any further financial crises and the associated economic and social costs, which are typically loss of GDP resulting from a constriction of credit conditions and the resulting impacts on businesses. The objective of the Regulation is to create an requirement for the FSA to co-operate with supervisors in other EEA states, and to meet the obligation on Member States to transpose CRD 2 by 31 October 2010 and to apply those provisions from 31 December 2010.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

As CRD2 is an EU directive, the UK is under a legal obligation to implement it in accordance with the timelimits prescribed. CRD2 amends the CRD, which was implemented in the UK, in part, by way of Regulations made in 2006. As such, the most sensible approach to implementation is to amend those 2006 Regulations and there is limited scope for different options in the way the amendments are made. The amending Regulations follow the "copy out approach" to transposition. We have not identified any areas where it is desirable to implement further legislation over and above the minimum requirements of the Directive. The only plausible alternative would be to create new regulations rather than amending the 2006 regulations, however amending the regulations is the more efficient and time effective approach.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 01/2012
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For enactment stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Marginal	Marginal	Marginal
High	Marginal	Marginal	Marginal
Best Estimate	Marginal	Marginal	Marginal

Description and scale of key monetised costs by 'main affected groups'

The FSA, together with other national regulators, will have to establish supervisory colleges to deal with the regulation of cross-border groups that operate in a number EEA jurisdictions. The net impact of the additional supervisory obligations resulting from the establishment of supervisory colleges on the Financial Services Authority is expected to be marginal as cooperation and sharing of information is already largely undertaken by the FSA as a matter of best practice.

Other key non-monetised costs by 'main affected groups'

Zero

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

We expect an overall reduction in industry compliance costs as a result of greater efficiency of supervision and a reduction in the number of overlapping and conflicting regulatory requirements. This is not quantifiable as it is not possible to determine in advance the extent of changes in supervisory behaviour.

Other key non-monetised benefits by 'main affected groups'

The amendments will increase the efficiency of supervision through greater cooperation which would lead to reduced competitive distortions arising from differential approaches to supervision, enhanced financial stability, increased access to information for host supervisors; and improved crisis management solutions for cross-border groups. In aggregate, the amendments will reduce the potential economic and social crisis related costs for both investors and creditors.

Key assumptions/sensitivities/risks

Discount rate (%)

The key assumption that informs this impact assessment is that greater supervisory cooperation and information sharing will ensure more effective regulation of cross-border groups. CRD 2 will ensure that these practices applied across the EU. The key risk is that supervisory cooperation could become obstructed by overly bureaucratic processes in the supervisory colleges. To mitigate this risk the FSA will engage with CEBS.

Impact on admin burden (AB) (£m):		Impact on policy cost savings (£m):		In scope
New AB:	AB savings:	Net:	Policy cost savings:	No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	Other				
From what date will the policy be implemented?	31/12/2010				
Which organisation(s) will enforce the policy?	HMT				
What is the annual change in enforcement cost (£m)?	Marginal				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: Zero		Non-traded: Zero		
Does the proposal have an impact on competition?	Yes				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	6
Small firms Small Firms Impact Test guidance	Yes	7
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	http://ec.europa.eu/internal_market/bank/docs/regcapital/resume_impact_assessment_en.pdf
2	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0602:FIN:EN:PDF
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Addressing market failures

Significant progress has been made in developing a single market in financial services across the EU. However, while many areas of the supervisory requirements have been harmonised, supervision takes place on a national basis. Therefore a key component of harmonising standards and facilitating greater cross-border competition is the effective coordination of supervisory activity between national supervisors. Where this coordination is sub-optimal there will be increased compliance burden on cross-border firms that have to deal with multiple national regulators.

Changes introduced to the CRD make explicit the obligations on the consolidating supervisor of a cross-border group. This will reduce the level of conflict and overlap in supervisory activity between national supervisors by improving the level of coordination that occurs. More efficient supervision will reduce the compliance burden, which in turn should lead to greater cross-border competition. The Committee of European Banking Supervisors ("CEBs") will help ensure this outcome by promoting convergence and monitoring the activities of supervisory colleges to aid consistency.

Improving the effectiveness of colleges should also lead to better detection of the early signs of stress, as a wider range of information will be assessed on a timely basis by a broader group of supervisors, who will each benefit from seeing a fuller picture. The ability to create more coordinated contingency plans will lessen the tendency for national interests to result in suboptimal decision-making that could have an adverse outcome for the UK. It is also apparent that there may currently be legal impediments to the sharing of information between supervisors, central banks and finance ministries in crisis situations, which these amendments will force Member States to address. Taken together, these improvements will improve financial stability and lessen the social and economic costs arising from banking crises.

For host supervisors there are significant benefits arising from these amendments. Currently a host supervisor is not entitled to receive specific prudential information relating to a branch operating in their jurisdiction. The UK hosts a large number of branches, and where a branch is large enough to pose a threat to financial stability, the FSA may be left with inadequate information to match up to their responsibilities. By allowing the FSA to designate certain branches as 'significant', and therefore to participate in that supervisory college, they will gain access to the information that is appropriate to their obligations and will be better able to ensure financial stability.

As part of supervisory best practice the FSA is already involved in supervisory colleges at an international level and regularly shares information with other supervisors. Therefore the additional cost to them as a result of this regulation should be marginal. The key risk relating to the impact of CRD 2 is that the requirements are placed on the FSA in a overly bureaucratic manner. This risk will be mitigated through FSA engagement with CEBs.

Overall, the amendments should lead to a reduction in the compliance costs experienced by cross-border firms, by reducing multiple and conflicting data requests. For supervisors the incremental costs will be marginal as the financial crisis has already driven improved supervisory cooperation and in several areas these amendments merely formalise existing requirements. To the extent that more robust supervisory arrangements minimise both the frequency and severity of future crises, there will be a reduction in the associated social and economic costs.

Hampton principles

The provisions largely facilitate, but place no direct burdens, on businesses, as they enable the FSA to take part in a system of enhanced supervisory cooperation. The FSA has been assessed as complying well with Hampton principles: the activities of the FSA are risk-based, principles-based and proportionate. No new information burdens will be placed on new businesses.

Super-equivalence

Implementation will be delivered using a copy-out approach and does not add to the minimum EU requirements.

Competition

Having assessed this legislation against the OFT's criteria on competition impacts, we believe these proposals raise no significant competition concerns. Rather, there are several ways in which the legislation may facilitate greater cross-border trade and reduce competitive distortions. We therefore expect the legislation to have a positive impact on competition.

Small firm impact test

The Government is required to examine the impact on businesses with fewer than 50 employees and to quantify the annual costs placed on micro, small and medium size businesses. The legislation places no direct obligations on firms. The obligations placed on the FSA by this legislation are targeted at larger cross-border firms. A small firm is not likely to meet the criteria to be designated as a significant branch. Further, the FSA operates a risk-based approach, focusing more supervisory resources on higher impact, higher risk firms, and ensuring regulation is proportionate to the size of the firm. This legislation will therefore have no materially adverse impact on small firms.

The following has also been considered in this assessment:

- legal aid;
- sustainable development;
- carbon assessment and other environment;
- health;
- race, disability, gender equality;
- human rights; and
- rural proofs.

There is no material impact on these areas of consideration

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; N/A</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] N/A</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] N/A</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] N/A</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] N/A</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] N/A</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] There is no plan to undertake a PIR because the costs of CRD 2 on the public, private and third sector is marginal.</p>

Add annexes here.