

<b>Title:</b> <b>Financial Services Authority regulation of the sale and rent back market</b>  <b>Lead department or agency:</b> HM Treasury <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b>
	<b>Date:</b> 21/12/2010
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
<b>Contact for enquiries:</b> public.enquiries@hmtreasury.gsi.gov.uk	

## Summary: Intervention and Options

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

Sale and rent back schemes allow public or private sector organisations to buy a property and rent it back to the occupant. This can allow homeowners in financial difficulties to avoid the distress and expense of repossession. An interim system of FSA regulation started in July 2009, and was replaced by a full regime on 30 June 2010. The FSA's regulation captures firms that meet the 'by way of business' test. This test is intended to include firms that carry out the specified activity as a business arrangement but exclude those that carry it out for other purposes, such as arrangements with immediate family members. Following feedback, the FSA now believes that many sale and rent back transactions are taking place outside regulation, despite the intention of the original consultation.

### What are the policy objectives and the intended effects?

The policy objective is to ensure that regulation achieves its initial intention - to ensure appropriate consumer protections in the sale and rent back market. The intention is to improve outcomes for consumers entering into sale and rent back, increase the transparency of information provided by sale and rent back providers, reduce the potential for consumers to enter into unsuitable arrangements, and increase product quality by driving providers to improve or exit the market.

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

The Government has considered the following options:

- option 0 - maintain existing regulatory framework; and
- option 1 - amend the 'by way of business' test for sale and rent back providers in the Financial Services and Markets Act 2000 (Carrying on Regulated Activities By Way of Business) Order 2001.

The Government intends to proceed with the second option. The most effective way to ensure appropriate consumer protection is to amend the 'by way of business' test for sale and rent back providers. This will ensure FSA regulation operates as originally intended.

**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  
11/2013

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

**SELECT SIGNATORY Sign-off** For final proposal 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 Minister:

Date: 15/12/2010

# Summary: Analysis and Evidence

# Policy Option 1

## Description:

Amend the 'by way of business' test for sale and rent back providers in the Financial Services and Markets Act 2000 (Carrying on Regulated Activities By Way of Business) Order 2001

Price Base Year 2009	PV Base Year 2009	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £66.4m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£1.9m	£1.26m	£12.8m

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

Costs are based on the assumption that 120 sale and rent back providers currently outside regulation will incur one-off costs of £16,000 each, totalling £1.9million, and annual costs of £10,000 per year, totalling £1.2 million. The increase in FSA costs is £66,000 annually. The total cost is estimated at £12.8 million over 10 years npv.

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

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/A	£9.2	£79.2m

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

Prevention of a net welfare loss of £9.2 million per year, totalling £79.2 million over 10 years npv.

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

This Impact Assessment does not estimate the value of the wider benefits of consumer protection, including longer security of tenure, fairer treatment or reduced stress incurred through poor treatment.

### Key assumptions/sensitivities/risks

Discount rate (%)

As this part of the market is currently outside regulation, assumptions have been made based on FSA best estimates of the potential size of the market.

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

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	N/A				
Which organisation(s) will enforce the policy?	FSA				
What is the annual change in enforcement cost (£m)?	£0.066m				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A		
Does the proposal have an impact on competition?	Yes				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	<b>Costs:</b> N/A		<b>Benefits:</b> N/A		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	<b>Micro</b> 0.001	<b>&lt; 20</b> 0.001	<b>Small</b> 0.001	<b>Medium</b> N/A	<b>Large</b> N/A
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
<b>Statutory equality duties<sup>1</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes	10
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	10
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	No	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> 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.

# Summary: Analysis and Evidence

# Policy Option 2

Description:

N/A

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	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

**Description and scale of key monetised costs by 'main affected groups'**  
 Maximum of 5 lines

**Other key non-monetised costs by 'main affected groups'**  
 Maximum of 5 lines

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

**Description and scale of key monetised benefits by 'main affected groups'**  
 Maximum of 5 lines

**Other key non-monetised benefits by 'main affected groups'**  
 Maximum of 5 lines

**Key assumptions/sensitivities/risks** **Discount rate (%)**   
 Maximum of 8 lines

<b>Impact on admin burden (AB) (£m):</b>		<b>Impact on policy cost savings (£m):</b>		<b>In scope</b>
<b>New AB:</b>	<b>AB savings:</b>	<b>Net:</b>	<b>Policy cost savings:</b>	<b>Yes/No</b>

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		United Kingdom			
From what date will the policy be implemented?		01/01/2010			
Which organisation(s) will enforce the policy?					
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?		Yes/No			
Does implementation go beyond minimum EU requirements?		Yes/No			
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		Traded:		Non-traded:	
Does the proposal have an impact on competition?		Yes/No			
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?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/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
<b>Statutory equality duties<sup>2</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	Yes	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes	
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	Yes/No	N/A
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	Yes/No	N/A
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	Yes	
Human rights <a href="#">Human Rights Impact Test guidance</a>	Yes	
Justice system <a href="#">Justice Impact Test guidance</a>	Yes	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	Yes	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	Yes/No	N/A

<sup>2</sup> 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	Financial Services and Markets Act 2000 (Carrying on Regulated Activities By Way of Business) Order 2001
2	Regulating the sale and rent back market: summary of responses to consultation, <i>HM Treasury</i> , June 2009
3	Regulating the sale and rent bank market: a consultation, <i>HM Treasury</i> , February 2009
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 <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	1.90									
<b>Annual recurring cost</b>	1.26	1.26	1.26	1.26	1.26	1.26	1.26	1.26	1.26	1.26
<b>Total annual costs</b>	3.16	1.26	1.26	1.26	1.26	1.26	1.26	1.26	1.26	1.26
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>	9.20	9.20	9.20	9.20	9.20	9.20	9.20	9.20	9.20	9.20
<b>Total annual benefits</b>	9.20	9.20	9.20	9.20	9.20	9.20	9.20	9.20	9.20	9.20

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

## Evidence Base (for summary sheets)

### Introduction

Sale and rent back offers some homeowners the option of selling their home at a discounted rate in exchange for a tenancy arrangement. This can lower the home owner's monthly outgoings, allowing them to stay in their own home, and can allow homeowners in financial difficulties to avoid the distress and expense of repossession.

### Regulation of sale and rent back

In 2008, the Office of Fair Trading (OFT) published a study of the sale and rent back market. It found that the sale and rent back market was not working well for consumers, and recommended that HM Treasury should introduce specific statutory regulation of the market by the Financial Services Authority (FSA).

An interim system of FSA regulation of private sale and rent back schemes started in July 2009 and was replaced by full regulation on 30 June 2010.

### By way of business test

The FSA's regulation only captures providers that engage in sale and rent back 'by way of business'.

The 'by way of business' test is intended to catch providers that carry out sale and rent back for commercial purposes, but to exclude those who carry it out for other purposes, such as arrangements with immediate family members.

The frequency with which providers engage in by way of business arrangements should not affect whether they are included within regulation. The FSA stated in CP 09/22 (4.27) that "the guidance makes it clear that a firm can be undertaking [sale and rent back] activities 'by way of business' even where they enter into only one sale and rent back agreement per year, particularly where a commercial element is involved. Therefore persons undertaking such [sale and rent back] business will need to be authorised".

The FSA could take enforcement action against firms and individuals who conduct sale and rent back agreements on an occasional basis and have interpreted the 'by way of business' test to mean that they do not need to be FSA authorised. However, this would require the FSA to demonstrate that each transaction had been done 'by way of business'. This would involve the use of significant FSA resources and, under the current definition, could be challenged. It would therefore be more efficient to amend the 'by way of business' test in order to remove doubt over which sale and rent back transactions should be regulated.

A total of 82 transactions were completed under the FSA's interim regime, undertaken by 10 interim authorised firms. The FSA has 14 firms authorised under the full regime to date, and expects this to increase to around 30 firms by the end of the year.

Following feedback received from consultation and discussions with the industry during their interim regime, the FSA's best estimate is that 80% of sale and rent back transactions operated outside regulation. The FSA's best estimate of the market based on the evidence available is 1250 sale and rent back transactions per year, provided by 150 firms or individuals.

### Market failure analysis

The market in sale and rent back agreements suffers from an information asymmetry. Many consumers will not be aware of, or able to fully assess, the true costs and risks they face in entering into a sale and rent back transaction.

Sale and rent back agreements are extremely complex contracts. This complexity is often compounded by an intentional lack of transparency in relation to the agreement being offered.

The OFT study of the sale and rent back market showed that consumers entering into sale and rent back agreements are often vulnerable individuals with low levels of financial capability, who are already in debt, with the perception that their financial situation is out of control, and are unlikely to seek financial advice.

They found that the majority of negotiations relating to sale and rent back agreements were conducted by professional sales people, who in some cases may also play on the emotional or psychological aspects of a sale and rent back agreement (for example, attachment to a family home). Transactions



often take place in the consumer's home, where people are typically more vulnerable to persuasion and deals can take place very quickly.<sup>3</sup>

Behavioural theory also suggests that consumers are likely to be myopic when considering a trade-off that involves outcomes with different time horizons – in this case between clearing debts in the short term and the long-term implications of the sale and rent back agreement.

This results in two significant market failures. The first is financial loss to the consumer through a distressed sale. The OFT Study found evidence to suggest that most sale and rent back providers pay between 70 and 90 per cent of the market value of the property.<sup>4</sup>

The second is a lack of security of tenure. The homeowner may, wrongly, believe that he or she cannot be evicted from their home.

Without proper regulatory oversight, the lack of (or provision of misleading) information on the part of the sale and rent back provider may lead to poor outcomes for consumers, such as early eviction, which entails significant financial and psychological costs and therefore decreases consumer welfare.

In addition, for most consumers a sale and rent back agreement will be a one-off transaction. Consumers are unlikely to have had previous experience of such transactions and may not know anyone else who has. This means that there is almost no scope for learning effects; that is, consumers cannot be expected to learn from their mistakes and avoid making the same mistakes in the future. The absence of this potential feedback channel as an additional disciplinary mechanism further hampers competitive forces in this market.

### Policy intervention

The FSA would need to dedicate significant resources to take enforcement action against the large numbers of small providers which are not currently under FSA regulation. In addition, the enforcement of the current 'by way of business' test is likely to be legally challenged. The FSA have therefore asked that the Government amend the 'by way of business' test for sale and rent back providers, in order to make absolutely clear that FSA regulation applies to all commercial sale and rent back agreements.

The Government has considered two policy options:

- Option 0 – maintain the existing regulatory framework. This would involve the FSA continuing to enforce the existing regulatory regime, and no further Government action to improve consumer protection.
- Option 1 – bring forward legislation to amend 'by way of business' test to ensure FSA regulation operates as intended.

The Government has decided to proceed with option 1 – amending the by way of business test for sale and rent back providers in the Financial Services and Markets Act 2000 (Carrying on Regulated Activities By Way of Business) Order 2001.

### **Option 1 – Amend the 'by way of business' test to ensure FSA regulation operates as originally intended**

This option would involve an amendment to the 'by way of business test' for sale and rent back providers in the underlying legislation.

The proposed amendment states that persons who carry out sale and rent back activities will be regarded as doing so by way of business unless they already benefit from a specific exemption under FSMA or they are carrying out the transaction with a close family member. The effect of this amendment will be to make it clear in the legislation that any carrying on of sale and rent back activities, even on an occasional basis, is by way of business and the provider will require authorisation unless they are otherwise exempt.

### **Costs**

The sale and rent back market has reduced significantly since the 2008 OFT study, due to falling property prices and a reduction in lending. The FSA's best estimate is of a market of 1250 sale and rent back transactions per year, provided by 150 providers.

---

<sup>3</sup> Doorstep Selling – A report on the market study, *Office of Fair Trading*, May 2004, Annex F.

<sup>4</sup> Sale and rent back – An OFT market study, *Office of Fair Trading*, October 2008, Chapter 3.



## RESTRICTED

The FSA expects 30 providers to be authorised under their current regime by year end. This amendment would bring 120 more providers under FSA regulation.

The 2009 FSA consultation paper on sale and rent back (CP 09/22) stated that the regulation of sale and rent back agreements imposed one-off costs on providers of between £16,000 and £36,000, and ongoing costs of between £10,000 and £15,000.

It is likely that the larger sale and rent back providers will be among the 30 providers that have already applied for FSA authorisation. This Impact Assessments therefore presumes that the cost will be at the minimum of this range, so one-off costs of £16,000 and annual costs of £10,000 per firm. As a result, we anticipate a total one-off cost of £1.9 million and an annual cost of £1.2 million.

The proposed amendment to the 'by way of business' test is intended to ensure that FSA regulation of sale and rent back agreements operates as first envisaged. These costs were expected to be incurred as a result of the original legislation, which estimated one-off costs £8.1 million and annual costs of £20.1 million for sale and rent back providers. It is important to note that the costs stated in this impact assessment are a proportion of the total costs estimated in the initial impact assessment. If the Government proceeded with option 0, and maintained the existing regulatory framework, the costs outlined above should still be felt by firms as a result of FSA enforcement. This is likely to prove a costly and inefficient use of FSA resources however.

As the full regulatory regime for sale and rent back has been in place since 30 June 2010, this Impact Assessment assumes there will be a marginal resource cost of £66,000 annually. The FSA anticipates a cost saving as a result of reduced enforcement obligations on existing resources.

### Benefits

The benefits of this amendment will be felt by consumers in the sale and rent back market.

#### Property sale

Sale and rent back agreements will necessarily involve a discount in value when the house is sold, in exchange for a tenancy agreement. However, many sale and rent back providers do not pay a 'fair' price. In the Impact Assessment published with HM Treasury's February 2009 consultation, 85 per cent was used as an approximation of 'fair' price.

The OFT Study found evidence to suggest that most sale and rent back providers pay between 70 and 90 per cent of the market value of the property.<sup>5</sup> The difference between the 85 per cent 'fair' value and the price paid is a cost to consumers in terms of equity forgone. Using the FSA's estimate of 1250 sale and rent back transactions per year, of which 80% currently take place outside regulation, the cost is £15.4 million of foregone equity per year. This is based on an average market value of £100,000 as used in the OFT Study.

This foregone equity represents a transfer of wealth from sale and rent back consumers to sale and rent back providers. Once distributional considerations are taken into account, it can have a significant impact on the relative welfare of the two parties to this transaction.

It is likely that the value placed on £15.4 million of foregone equity by the sale and rent back consumer is greater than the value placed on that equity by the sale and rent back provider.

In line with the methodology for valuing the distributional impact of transfer payments set out in the Green Book in Annex 5: Distributional Impacts, a reasonable approximation could be to model the transfer of £15.4m of equity as going from lower income households to higher income households.

This is taken to be a transfer payment from the 2nd income quintile to the 4th. Using the illustrative weights for the marginal utility of consumption for different income quintiles set out in Box 5.2 (page 94) of the Green Book, this results in a net welfare loss of £9.2 million per year, or £79.2 million npv over 10 years.

While the decision on the final sale price is ultimately one for the sale and rent back consumer, FSA regulation will ensure that this decision is made on a better informed basis. The FSA regulatory regimes places a number of pre-sale disclosure requirements on firms, and also includes a requirement for an independent valuation to be provided. A 'fair' price is therefore more likely to be agreed.

---

<sup>5</sup> Sale and rent back – An OFT market study, *Office of Fair Trading*, October 2008, Chapter 3.

### Tenancy agreements

The above figure takes into account only one element of the sale and rent back transaction: the property sale.

In fact, sale and rent back customers appear to experience their most significant costs due to the tenancy agreement element of the transaction. For example, this could include instances whereby the consumer is evicted from rented accommodation after the expiration of a tenancy agreement, when rent is suddenly and significantly increased, or consumers paying well above market rents. FSA rules will seek to address these scenarios through, for example, conduct rules on the tenancy term.

### Wider consumer benefits

This impact assessment does not seek to monetise the significant wider benefits of improved consumer protections and better outcomes for mortgage holders.

These benefits are greatest in minimising consumer detriment when things go wrong. The benefits for a mortgage holder of being able to remain in their own home, when it is financially viable to do so, rather than being repossessed, are significant. There are emotional benefits in avoiding the misery and stress of repossession, such as relocating a family. There are also financial benefits, as repossession imposes significant costs on a mortgage holder, including court costs, home-moving costs, and fees and charges levied by their mortgage lender.

Repossession has a negative impact on wider communities. At least in the short-term, repossession creates vacant properties, which drags down house prices and can attract crime. In the longer term it results in a lack of stability in the community, with an accompanying decrease in community cohesion.

Repossession also creates significant direct costs for Government. Over a third of those who lose their homes will go on to need support from Government, for example social housing or housing benefits.

A recent report by the Centre for Housing Policy, on behalf of the Department for Communities and Local Government, said "It is appropriate to discuss wider social costs of home repossession ... because the narrower financial /resource cost assessments do not provide an unambiguous picture of net value-for-money. ... the available evidence would probably not provide a basis for quantification of either the incidence or severity of relevant social consequences, and that it was highly unlikely that we would be able to 'monetise' these effects.

## **Specific Impact Tests**

### *Small Firms Impact Test*

This measure will affect investors and small firms who are currently outside FSA regulation. It should be emphasised that the policy intention behind the original extension of FSA regulation to sale and rent back agreements was that they should be included within scope of the regulation.

It is possible that there will be some restructuring and consolidation of the sale and rent back market in response to regulation. Some small sale and rent back providers may exit.

The Government's objective is a market of authorised and regulated sale and rent back providers. This will provide a better outcome for consumers.

### *Competition Assessment*

The Government does not anticipate a significant impact on competition.

It is possible that some providers of sale and rent back agreements will leave the market. This could be due to the costs of regulation, or to the threat of sanctions under regulation. This could increase concentration in the market and decrease competition. The OFT report noted that some consolidation, or the development of more extensive franchise or network operations, may be likely.

Alternatively, regulation could increase competition in the sale and rent back market. As the OFT report noted, regulation may encourage entry by new providers that have previously been deterred by the negative reputation of sale and rent back agreements. Regulation might also encourage more financially aware consumers to consider sale and rent back agreements.

It is therefore difficult to estimate the net impact on competition of regulation in the sale and rent back sector. The Government does not, however, anticipate a significant overall reduction in competition.

*Gender Equality Impact Test*

It is not thought that there will be any risk of exclusion on the basis of gender. This was not raised by respondents during consultation.

*Disability Equality Impact Test*

It is not thought that there will be any risk of exclusion on the basis of disability. This was not raised by respondents during consultation.

*Race Equality Impact Test*

It is not thought that there will be any risk of exclusion on the basis of race. This was not raised by respondents during consultation.

## 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><b>Basis of the review:</b> [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];</p> <p>The Government keeps all legislation under review, and in line with good practice would expect to review the policy within three years.</p>
<p><b>Review objective:</b> [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?]</p> <p>The objective of the review is to undertaken a proportionate check that regulation is operating as expected to tackle the problem of concern.</p>
<p><b>Review approach and rationale:</b> [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]</p> <p>The review approach will be to evaluate monitoring data collected by FSA as market regulator.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The baseline position will be the current regulatory position and sale and rent back market conditions.</p>
<p><b>Success criteria:</b> [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]</p> <p>The sale and rent back market will work well for consumers under the FSA's regulation.</p>
<p><b>Monitoring information arrangements:</b> [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]</p> <p>The FSA will provide a systematic collection of monitoring information as part of their regulation of the sale and rent back market.</p>
<p><b>Reasons for not planning a PIR:</b> [If there is no plan to do a PIR please provide reasons here]</p> <p>N/A</p>

Add annexes here.