Regulatory Policy Committee

EU Market Abuse Regulation

HM Treasury

RPC rating: validated

The IA is now fit for purpose as a result of the HM Treasury's response to the RPC's initial review. As first submitted, the IA was not fit for purpose.

Description of proposal

The Market Abuse Regulation (MAR) is a set of directly applicable regulations that will come into force on 3 July 2016. MAR supersedes and extends the existing EU-wide regime aimed at tackling market abuse and market manipulation to new forms of financial instruments and platforms. HM Treasury proposes to ensure that UK statute is compliant with MAR by introducing the following changes:

- The Financial Conduct Authority (FCA) is designated as the UK competent authority for the purposes of the market abuse regulation;
- Rules are put in place governing when issuers must provide the FCA with an explanation of a delay in disclosing inside information; and
- The FCA is given powers to:
  - (i) require information from issuers and other persons
  - (ii) compel the publication of information by issuers
  - (iii) compel the publication of corrective statements by issuers and other persons
  - (iv) suspend trading in financial instruments
  - (v) impose penalties, prohibitions and suspensions or restrictions for contraventions of the market abuse regulation.

Impacts of proposal

HM Treasury explains that "*the provisions that do apply to business do not represent a significant change in the existing framework*" (page 2). HM Treasury explains that in two areas they are gold-plating requirements by maintaining existing higher standards. These elements of the proposal are, therefore, qualifying regulatory provisions that will score under the business impact target. All other elements of the proposal are non-qualifying regulatory provisions that will not score under the business impact target.

<u>Non-qualifying regulatory provisions</u>

Based on discussions with the FCA, HM Treasury expects the proposal to impose minimal costs on business. In particular:

- HM Treasury explains that the FCA already has powers to require information from issuers. HM Treasury expects that the expansion to other persons will result in an additional 30 requests each year, at a cost to business of £500 per request. HM Treasury, therefore, expects a total cost of £15,000 per year as a result of this element of the proposal.

- HM Treasury expects the FCA's ability to compel the publication of information by issuers will require the publication of a further 10 statements each year, at a cost of £750 each. HM Treasury, therefore, expects a total cost of £7,500 per year as a result of this element of the proposal.

- HM Treasury expects the FCA to request 15 explanations of delays in disclosing inside information each year. HM Treasury explains that firms are already required to keep records of the decision to delay. HM Treasury expects some firms will seek legal advice at £1,000 per notification. These costs are deemed to be indirect. There are no additional direct costs to business as a result of this element of the proposal.

The impact of these elements of the proposal, therefore, rounds to zero.

<u>Qualifying regulatory provisions</u>

HM Treasury are deemed to be gold-plating requirements by maintaining existing higher standards in two areas:

a) HM Treasury explains that MAR allows Member States to choose between a threshold of €5,000 (£3,956) and €20,000 (£15,823), above which those with managerial responsibilities and those closely associated with them are required to notify all transactions to the competent authority. HM Treasury is choosing to maintain existing higher standards by retaining the existing threshold of €5000. [lower threshold – means more businesses will be caught]

b) The FCA will retain the ability to impose unlimited fines on non-compliant businesses.

Assessed against the counterfactual of these existing higher standards, these changes will have zero additional impact on compliant businesses.

The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of zero. Parts a) and b) will be qualifying regulatory provisions that will

score under the business impact target. The rest of the proposal will be a non-qualifying regulatory provision that will not score under the business impact target.

Quality of submission

As initially submitted, the RPC did not consider the IA fit for purpose. Following the RPC's initial review, HM Treasury submitted a revised IA that adequately responds to the issue raised:

- HM Treasury have reclassified parts a) and b) of the proposal from non-qualifying regulatory provisions to qualifying regulatory provisions.

HM Treasury has provided sufficient information to support the assessment of the rest of the proposal as not going beyond the minimum EU requirements.

In relation to parts a) and b) of the proposal, the IA would benefit from providing assessment of the costs to business of maintaining existing higher standards above the EU minimum.

Departmental assessment

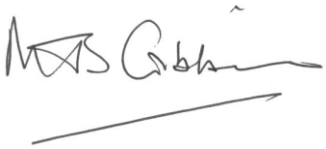
Classification	Qualifying regulatory provision where maintaining existing higher standards Non-qualifying regulatory provision (EU) elsewhere
Equivalent annual net cost to business (EANDCB)	Zero
Business net present value	Zero

RPC assessment

Classification	Qualifying regulatory provision where maintaining existing higher standards Non-qualifying regulatory provision (EU) elsewhere
EANDCB – RPC validated[1]	Zero
Business Impact Target (BIT) Score[1]	Zero

[1] For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.

Small and micro business assessment	Not required (fast track low-cost regulation)
RPC rating (of initial submission)	Not fit for purpose



Michael Gibbons CBE, Chairman