

<b>Title:</b> Immigration Act 2016 regulations: tackling existing current accounts held by illegal migrants  <b>IA No:</b> RPC16-HMT-3519(1)  <b>Lead department or agency:</b> HM Treasury  <b>Other departments or agencies:</b> Home Office, Ministry of Justice, Financial Conduct Authority (FCA)	<h2 style="margin: 0;">Impact Assessment (IA)</h2>
	Date: 06/10/2016
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: 0207 270 5000 publicenquiries@hmtreasury.gsi.gov.uk
<b>Summary: Intervention and Options</b>	RPC Opinion: GREEN

**Cost of Preferred (or more likely) Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
-£2.5	-£4.6	0.4	Yes	In

**What is the problem under consideration? Why is government intervention necessary?**  
New current account openings by known illegal migrants are prohibited under the Immigration Act 2014. However, current accounts opened by illegal migrants before those measures came into force in December 2014, or that legal migrants opened legitimately before subsequently becoming illegal, are not subject to restrictions. The Government intends to ensure that banks are required to undertake checks for current accounts held by known illegal migrants, notify the Home Office where they identify matches, and take action that will contribute to encouraging the illegal migrant to leave the UK.

**What are the policy objectives and the intended effects?**  
Current accounts are the gateway to other financial products and services. Denying known illegal migrants the ability to continue to access banking services (including accounts opened before they overstayed) will make it harder for them to establish or maintain a settled life in the UK and should incentivise voluntary departure. In a very limited number of cases, the power to freeze significant sums held in the illegal migrant's account/s will create a powerful incentive to agree to voluntary departure and secure the release of frozen funds once the illegal migrant has returned to their country of origin; unless the account is separately subject to investigation or action to recover proceeds of crime under the Proceeds of Crime Act.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
The Government considered two options (a voluntary agreement and legislation) compared to the 'do nothing' option in IA RPC15-HMT-3042 to support the measure in primary legislation, the Immigration Act 2016. The Government concluded in this Impact Assessment that legislation is the only effective way of delivering the policy intention. A non-legislative option would not be sufficient to guarantee that the Government's objectives could be achieved, nor would it provide the banking sector with the legal certainty that is required. Therefore, this final impact assessment only considers the legislative policy option compared to a 'do nothing' option.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date: October 2020**

Does implementation go beyond minimum EU requirements?	N/A				
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
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		

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Ministers:  Date: 07 October 2016

# Summary: Analysis & Evidence

# Policy Option 2

Description: Legislation

## FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -£1.4	High: -£6.5	Best Estimate: -£2.5

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.2	0.2	2.0
High	0.2	1.3	12.1
Best Estimate	0.2	0.5	4.8

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

Firms: The cost for each firm will vary depending on its business model, and the degree to which each is exposed to losses as a result of having provided access to credit facilities for customers who are, or in future become, illegal migrants. The total transitional cost of changes is estimated to be approximately £0.2 million in year 1. The potential losses due to unrecovered debit balances are estimated to be £1.0 m in year 1 only and £2.1 million over 10 years (PV), although it is likely that these losses would have occurred over a longer timeframe. Ongoing costs are estimated to be £4.6 million (PV) and total costs are estimated to be £4.8 million (PV), both over 10 years. The process change cost is estimated to be £1.1 million in Year 1 and £2.4 million (PV) over 10 years.

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

Firms: There may be costs as a result of firms no longer being able to provide current accounts and other products to individuals which may have generated revenue. Given the difficulty of estimating the number of illegal migrants who will be refused access to financial services, this impact assessment does not look to monetise these costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	0.1	0.6
High	N/A	0.6	5.6
Best Estimate	N/A	0.3	2.3

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

Cifas have revenue paid by firms to them for development costs of £17,000 paid each year for 5 years. However, this is cost neutral, given Cifas expend this money in Year 1 on development of the secure portal. The benefit from the avoidance of provision of public services cost is assumed to accrue for 1 year in the Low scenario, 3 years in the central scenario and for 5 years in the high scenario. The central estimate of this is £2.2 million (PV) over the 10 years.

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

This measure will ensure that illegal migrants known to the Home Office are not able to continue to operate existing current accounts in the UK. This impact assessment provides a qualitative description of some of these benefits. Firms will benefit from not continuing to offer banking services, including credit, to individuals who are liable to removal by the Home Office at short notice.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
Costs are based on estimates of required training and other set up costs, including systems changes. There is a considerable degree of uncertainty around these estimates. The estimate of any additional net benefit to firms and the wider economy from restricting access to financial services to illegal migrants, including any potential deterrent effect on prospective future illegal migrants is also uncertain.		

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: 0.4	Yes	IN
Benefits: 0.0		
Net: -0.4		

# Evidence Base

## Problem under consideration

- Illegal migrants have been prevented from opening new current accounts with banks and building societies (hereafter 'firms') under the Immigration Act 2014, but it is possible that a proportion of firms' stock of existing current accounts may belong to illegal migrants who were never legally resident in the UK. In addition, accounts may be held legally now, but belong to persons who become illegal migrants in the future.

## Rationale for intervention

- Current accounts are the gateway to other financial products and services. Denying known illegal migrants the ability to continue to access banking services (including accounts opened before they overstayed) will make it harder for them to establish or maintain a settled life in the UK and should incentivise voluntary departure.

## Policy objective

- The policy objective is to ensure that known illegal migrants are not able to access banking products and services that they may already have access to, as part of a further series of measures being introduced across Government in the Immigration Act 2016 which are designed to reduce the attractiveness of the UK as a destination for those intending to work or stay illegally, by restricting access to the practical means of living in the UK unlawfully, such as employment, housing and benefits.
- In addition, in a very limited number of cases, the power to freeze significant sums held in the illegal migrant's account/s will create a powerful incentive to agree to voluntary departure and secure the release of frozen funds once the illegal migrant has returned to their country of origin; unless the account/s are separately subject to investigation or action to recover proceeds of crime under the Proceeds of Crime Act 2002 (POCA).

## Description of options considered

- The Government considered its preferred option compared to a 'do nothing' option.

### ***Option 0 - Do nothing***

- In this final impact assessment the 'do nothing' option is to make no change to current policy. This option has no cost associated with it. However, critically, it does not meet the Government's objective of denying illegal migrants continued access to financial services. However, it is useful to set out the key characteristics of the 'do nothing' scenario, so that the impacts of the preferred option (option 1) can be better understood:
  - The Immigration Act 2014 ('the 2014 Act') provides that a firm must not open a current account for a disqualified person (a person requiring leave to remain in the UK but does not have it) unless one of two conditions has been satisfied. The first condition is the most relevant: that the firm has carried out a status check in respect of the applicant and this has indicated the person is not a disqualified person for whom an account should not be opened.
  - The status check is, in practice, made using the Cifas database, which is populated with data from the Home Office on disqualified persons. It is important to note that the 2014 Act does not actually require firms to use Cifas, but the bank will not breach the prohibition if they can show that they have carried out a status check before opening the account.
  - The firms are able to make the check before they enter into a relationship with an illegal migrant and before they hold any funds on their behalf, which reduces the policy's complexity. The 2014 Act therefore tackles the 'flow' of new current accounts that might be applied for by illegal migrants on the Cifas database.
  - Firms are only required to report to their regulator that they are compliant with the 2014 Act's requirements.

- Firms' conduct in relation to current accounts generally is already regulated by the Financial Conduct Authority (FCA) under the Banking Conduct of Business Sourcebook (BCOBS).
- The UK has a comprehensive anti-money laundering and counter financing of terrorism regime, governed principally by the Money Laundering Regulations (2007) (the Regulations), the Terrorism Act 2000 (TACT) and the Proceeds of Crime Act 2002 (POCA). Firms are required to identify and verify their customers, and conduct ongoing monitoring under the regulations. They must report suspicious money laundering or terrorist financing transaction activity to the NCA under POCA or TACT and to obtain appropriate consent from NCA before processing any suspicious transactions if they seek a defence to such activity.
- If a bank seeks consent under TACT and it is refused by NCA, the bank cannot proceed to transact with a defence for doing so. If a bank seeks consent under POCA and it is refused by NCA within seven working days, NCA has a further 31 calendar days to give consent. During the time periods, NCA will make a decision with the local law enforcement agency on whether to apply to restrain or freeze the funds pending criminal or civil court proceedings. If they decide to give consent or time expires to make a decision, the transaction may go ahead. There is no requirement under TACT or POCA to end the relationship with the individual, although in practice firms may take steps to do so, and may liaise with NCA when doing so.
- POCA permits certain persons to search, seize and seek the forfeiture of cash in civil proceedings before a Magistrates' Court where it is believed, in essence, that the cash is derived from or intended for use in unlawful conduct, but this does not apply to balances held in accounts. There also exists in POCA a separate civil power for the High Court to freeze assets before the start of civil proceedings against the property. A conviction is not needed in respect of either of these proceedings because the action is against the cash/property rather than the persons. A separate criminal power in POCA provides that a court order can be sought to restrain assets at the start of a criminal investigation; a conviction would be required against a person in order to confiscate them.
- Firms are also required to have mechanisms in place to permit them to screen their customer details against other lists (for example, HM Treasury's consolidated list of sanctions targets under TACT). HM Treasury provides these lists via its website in a number of formats that firms and any other third parties that may be at risk of breaching sanctions regulations are able to use to complete regular searches.

### **Option 1 - Legislation**

- In Option 1, the Government legislates to create:
  - A duty on firms to check their existing current account customer details against a list of immigration offenders.
  - A duty on firms to notify the Home Office of any accounts they hold for the disqualified person in event of a match.
  - A duty on the Home Office to check and confirm all matches.
  - A new power for the Home Office to seek a court order to freeze accounts (including other accounts held by the same customer) in cases where it is judged necessary to exert some leverage so that illegal migrants leave the UK voluntarily, and where prosecution/confiscation under POCA is not possible or appropriate.
  - In routine cases where a court order will not be sought, a duty on the firm to take steps to prevent continued access to the services they provide to the identified illegal migrant, and notify the Home Office of the steps taken.
- Option 1 meets the Government's objective of ensuring that known illegal migrants are not able to continue to access banking products and services. The power to freeze significant sums held in the illegal migrant's account/s will create a powerful incentive to agree to voluntary departure and secure the release of frozen funds once the illegal migrant has returned to their country of origin; unless the account/s are separately subject to investigation or action to recover proceeds of crime under POCA.
- Since the original impact assessment was prepared, HM Treasury and the Home Office have been working on finalising the policy and operational details of the regime for the secondary

regulations, which the primary legislation gives HMT powers to make. In developing the regulations, we have further refined the legislative option (Option 1) in the following ways:

- Firms must check personal current accounts only (i.e., accounts they hold for consumers) against a list of disqualified persons;
  - Firms must make this check on at least a quarterly basis, although they are free to check more frequently if they want to;
  - Firms are required to make the notification through a Home Office web portal;
  - Firms are required to include information in the notification which is essential to the successful operation of the regime: (the name, date of birth and address of the person, the accounts the bank holds for that person, and balances held, whether any account is held jointly, [details of payments which appear to be a salary or wages paid in the last two years], and any other information held which the bank believes may be relevant to the Secretary of State's functions in the 2016 Act).
- It is possible that a proportion of firms' existing current accounts, opened before the 2014 Act came into force, may belong to persons who were never legally resident in the UK. In addition, accounts may be held legally now, but belong to persons who become illegal migrants in the future.
  - To address this, in the Immigration Act 2016 we place a new requirement on firms to use Home Office data, provided by Cifas via a secure online portal, to screen their existing current account customer details. Firms will notify the Home Office in the event of a match, providing details of their relationship with the customer as part of the notification process. The notification will allow the Home Office to confirm that the firm has correctly identified a known illegal migrant.
  - Thereafter, depending on the case, the Home Office may seek a court order to freeze the illegal migrant's accounts. This power would be used in a very small number of cases where it is judged necessary to encourage a voluntary return or if action cannot be taken under POCA. Court orders would allow for payments to meet basic needs, avoiding the risk of migrants being forced onto local authority support, and reducing the risk of legal challenge where funds in the account may have been lawfully obtained.
  - Where the Home Office does not wish to seek a court order, it will notify the firm. We do not expect that firms will wish to continue to offer their services to known illegal migrants, and are likely to seek to exit their relationships once the customer's status has been confirmed. To ensure appropriate action is taken and make the Government's expectation explicit, the Act includes a duty to take steps to prevent continued access to the services they provide to the identified illegal migrant.
  - The policy intention will be achieved through conducting checks on existing personal current accounts. Firms will not be required to extend checks to all existing current accounts (those operated by/for banking customers, including charities and micro-enterprises), or their other products. This reflects strong feedback from industry that a requirement to check all existing current accounts, and further products, would be a disproportionate burden, with significant cost and resource implications. Narrowing the scope of the check on current accounts to those held only by consumers ensures that the measure is proportionate, and reflects the fact that personal current accounts are the gateway product to other financial services. If screening reveals that the firm is providing a current account and other accounts to the illegal migrant, the Home Office's power to seek a court order would apply to these accounts. If no court order is sought, the duty to prevent continued access would require the firm to take action not just on the current account, but on any other accounts the firm provides to the identified illegal migrant.
  - The 2014 Act, combined with the status of current accounts as a gateway product, means that it should not then be possible for the illegal migrant to open a new current account, or take out most other financial products without a current account. The 2014 Act prevents illegal migrants opening current accounts as a micro-business or charity, so illegal migrants will not be able to evade the legislation by closing their current account and opening a business account as a sole trader or charity.

- The Home Office expects the different categories of illegal migrants to include Foreign National Offenders served with deportation orders, encountered illegal entrants, those refused further permission to stay who are being treated as overstayers and failed asylum seekers who have exhausted their appeal rights, all of whom are liable to removal or deportation from the UK.
- This measure will apply to all banks and building societies, including UK firms, and UK subsidiaries and branches of relevant EEA and non-EEA firms offering current accounts in the UK. Banks will be required to process data inside the EEA, in light of data protection concerns, and to prevent firms needing to comply with individual adequacy assessments for data sharing.
- As the proposed legislation will put a requirement on firms, the 2016 Act will enable the Financial Conduct Authority (FCA) to supervise compliance in a proportionate way as part of their existing regulation regime.

## **Appraisal**

### ***Approach to analysis of costs and benefits***

- The sections below look at the costs and benefits of these changes to UK firms and consumers under Option 1 as it is the only feasible option that can deliver the Government's objectives.
- The monetised and non-monetised costs and benefits highlighted in this impact assessment have been derived through discussion with regulators, industry experts (for example, the British Bankers' Association (BBA)) as well as representatives of a number of individual firms that may be affected. This has been supported by internal analysis to estimate the changes that firms and consumers may experience.
- As above, in our assessment of costs and benefits for Option 1 we have taken the 'do nothing' scenario to be the counterfactual.
- This analysis is focused on the costs and benefits of the legislative changes that HMT is making. It does not seek to quantify the costs and benefits of the changes that the FCA may make on implementation using their existing powers. The FCA is an independent regulator and will publish its own cost-benefit analysis alongside any proposed rule changes that it may consider necessary.

### ***Sources of evidence and assumptions***

- The appraisal in this impact assessment has been carried out applying the guidance of the Green Book (HM Treasury, 2003) and the Better Regulation Framework manual, v2, February, 2015).
- HM Treasury and the Home Office have engaged in ongoing informal consultation with the banking sector, Cifas, the regulator and industry experts about the best way to secure these changes, minimising impacts on the industry where possible, from the development of the measure in the primary legislation, to the policy detail set out in the secondary regulations. In developing the secondary regulations, HM Treasury has hosted two series of roundtables (in January 2016 and September 2016) with the banking sector. These have been attended by a cross-section of large and small UK-based banks, building societies that offer current accounts, foreign banks, and trade bodies (the British Bankers' Association, the Building Societies Association, and the Association of Foreign Banks). At these roundtables we have consulted banks on the key policy choices under consideration for the secondary regulations, such as the types of current accounts banks are required to check, how frequently they are required to check, and the information they include in their notification. We have shared our draft regulations with industry, and used their feedback when finalising our policy decisions.
- In developing our regulations, we have sought to achieve our policy intention whilst avoiding placing disproportionate burdens on industry. Our policy decisions, on questions such as how frequently banks make checks, the types of account they check, and what information they include when they notify the Home Office, reflect this balance. We consider that the policy design realises the Government's intention of curtailing access to banking for illegal migrants in a timely and consistent manner, creating a hostile environment that encourages departure from the UK, and creates a regime which is proportionate.
- There has been analysis conducted by both the sector and Government to inform this impact assessment. Individual banks provided some data on the volume of current accounts, credit and

debit balances, loans and credit cards, account duration and status of accounts. Due to the commercially sensitive nature of these data, they are not published in this impact assessment but have been used to inform the assumptions used in the impact assessment.

- Our regulations intend to specify that banks are required to check the accounts they hold for consumers only (i.e., personal current accounts) against a list of immigration offenders. Latest figures suggest that there are 70 million personal current accounts in the UK.<sup>1</sup> The proposals in this Impact Assessment assume that all personal current accounts would be checked. Based on the information received from the industry, a considerable number of matches (around 6,000) are expected in the first year of the checks due to a backlog of accounts being discovered. Thereafter, the number of matches is expected to fall to about 900 per year. The volumes in the years 2-10 are taken from the volume of notices issued by the Home Office to illegal migrants and applied to the volume of matched accounts using the estimated match rate. The low and high scenarios incorporate sensitivity analysis to test the assumptions (see the Appraisal section).
- Wage and occupational data is taken from the Annual Survey of Hours and Earnings, 2014 (see Table 14.5a). The social rate of discount used is 3.5 per cent and the appraisal is conducted over a ten year period.

## **COSTS AND BENEFITS**

### **Direct costs (monetised and non-monetised)**

#### **Set-up Costs – Private Sector (INs)**

- **Familiarisation Set-up Cost:** Firms, and Cifas staff (compliance staff in firms and operational staff in Cifas) may be required to read two pages of guidance on the changes proposed, to check the immigration status of an existing current account holder. Based on reading times for slow, average and good readers it is assumed that the time taken to read two pages for a low, central and high estimate is 10, 20 and 30 minutes<sup>2</sup>. Firms and Cifas provided the volume of staff involved for a low, central and high scenario and the combined volumes are 350, 620 and 890 respectively. The relevant occupations are: Financial Account Manager (SOC 3538) and Administrative Officer (Finance) (SOC 412) which have gross hourly median wages of £21.62 and £12.71 respectively. Familiarisation cost is calculated as:

time taken to read guidance x volume of staff x gross median hourly wage

**Table 1: Reading times, assumptions for familiarisation times.**

	Speed wpm	Comp	Time x 2	Allowance	Total
High	(slow) 100	50%	12	3	<b>30</b>
Central	(average) 200	60%	8	2	<b>20</b>
Low	(good) 400	80%	4	1	<b>10</b>

Source: [www.readingsoft.com](http://www.readingsoft.com)

- For the private sector, familiarisation is expected to be in a range of £1,400 to £9,700 with a central estimate of £4,700 in year 1 only.
- **Process Change Set-up Costs:** The private sector are likely to undertake a number of other changes to their processes to make the checking of existing accounts work smoothly. Firms may have a cost of around £92,000 in Year 1 only to introduce the new checks on immigration status for existing account holders, with a low to high range of £81,000 to £105,000. Firms and Cifas will have an IT/software set-up cost of £10,000. This is based on the assumptions made by firms and Cifas. There are also development costs associated with the new checks of about £87,000 in Year 1 only. This cost may be recovered from firms either in Year 1 or over five years. It is not yet

<sup>1</sup> Competition & Markets Authority, Retail banking market investigation: Final Report, Summary, Pg. iii (<https://assets.publishing.service.gov.uk/media/57ac9667e5274a0f6c00007a/retail-banking-market-investigation-full-final-report.pdf>)

<sup>2</sup> See: <http://www.readingsoft.com/> Estimates of reading speed are given in the Table and in all calculations the time was doubled (time in minutes) and readers (slow, average and good – average readers are 5 x slower than a good reader) may have to read about two pages of text (about 400 words) plus an allowance is made for those that English may not be their first language and those with dyslexia.

clear how this will be resolved; however, this cost is included in the impact assessment so that the costs reflect the highest possible expenditure anticipated. This could mean that firms pay back an estimated £87,000 to cover development costs. There will be a requirement for firms to report back to the Home Office if they find one of their customers is an illegal migrant. The reporting system needs to be secure and involve firms and the Home Office. According to industry information this is estimated to cost the private sector about £10,000 in Year 1 only.

### Public Sector Set-up Costs

- The public sector (the Home Office) will also incur set-up costs in Year 1 only. Home Office staff will be required to familiarise themselves with the guidance. The familiarisation costs for the public sector are estimated on the same basis as that for the private sector and calculated as:

time taken to read guidance x volume of staff x gross median hourly wage

The estimated cost of familiarisation for the public sector is about £700. The Home Office are likely to incur a one off cost in Year 1 of £5,000 for setting up a reporting system in conjunction with firms and Cifas.

### Total Set-up Costs

- This impact assessment indicates that transitional costs of familiarisation, software and IT development, setting up a reporting system and changes to firms checking processes, are estimated to be approximately £0.2 million in Year 1 only. The total set-up costs are very similar for the low, central and high scenarios for the transitional costs, even given there has been a different set of assumptions derived for the low, central and high scenarios. The conclusion of this is that the setting up of a system to check immigration status of existing account holders is a relatively low cost measure.

### Ongoing Costs - Private Sector (INs)

- **Ongoing costs** are costs that are repeated each year or for a number of years across the appraisal period. The costs for each firm will vary depending on its business model, and the degree to which each is exposed to losses as a result of having provided access to credit facilities for customers who are, or in future become, illegal migrants. The main ongoing costs will be associated with business process change costs, potential debt loss and those of the public sector.
- **Process Change Costs:** Firms will electronically check data on a quarterly basis. Given there are 70 million current accounts to check the central estimate of this cost about £0.1 million (PV) over 10 years and the high estimate is £0.2 (PV). Firms also incur costs from checking matches (there are 6,000 matches anticipated in Year 1 and 900 for years 2-10 in the central scenario) that are generated from the electronic check. We estimate that this may take 3 hours, 7 hours and 21 hours for a low central and high scenario. Administrative officers and financial managers are involved in this process and the estimated cost of this lies in a range of £0.3 million (PV) to £6.4 million (PV) with a central estimate of £1.3 million (PV). There are also costs to firm from raising a notification (reporting) and closing an account. These costs are in a range of £0.2 million (PV) to £1.0 million (PV) each, with a central estimate of £0.5 million (PV). The costs here (as elsewhere in ongoing costs) are larger in year 1 where 6,000 matches are expected but are significantly smaller in years 2-10 as the assumed volume of matches falls to 900 per year in the central scenario. For example, the cost of checking matches in year 1 is estimated to be £0.6 million compared to £0.1 million each year over the years 2-10. The total process change costs are estimated to be £2.4 million (PV) over 10 years and lie in a range of £0.7 million (PV) to £8.5 million (PV) over 10 years.
- **Debt Loss:** Evidence from the sector indicates that about one third of all current accounts held are likely to be in a debit balance. The estimate of debt loss is made by scaling up the percentage of those likely to be in debt to the estimated number of matches of illegal migrants who hold current accounts. Over the 10 year period it is estimated that firms may face a potential loss of between £1.0 million to £3.1 million (PV), with a central estimate of £2.1 million (PV).
- Firms may also face losses from credit cards and loans that illegal migrants may hold. Given the status of the account holders (illegal migrants who are liable to removal from the UK, having exhausted the immigration and appeals process), it is likely that these losses would have occurred in any case, but over a longer timeframe. Banks have recourse to offsetting, debt

collection agencies and other commercial practices and this policy does not prohibit firms from continuing to engage in this activity. Therefore, these losses are excluded from the NPV calculation. However, firms may still face losses from this in a range of £4.2 million to £12.4 million (PV) over 10 years with a central estimate of £8.3 million (PV). There is considerable uncertainty around these estimates.

- **Public Sector Ongoing Costs:** The public sector ongoing costs include data provision (a list of known illegal migrants to Cifas), checking notifications and data sent back to the Home Office, reporting, court orders and legal fees. Data provision is estimated to be in a range of £0.01 to £0.02 million (PV) over 10 years. Checking and reporting are also estimated to be less than £0.1 million (PV) over 10 years. Court orders and legal fees are similarly estimated to be about £0.1 million (PV) over 10 years. The total public sector ongoing costs are estimated to be between £0.0 million (PV) and £0.3 million (PV) over 10 years, with a central estimate of £0.1 million (PV).

#### **Other costs**

- No monetisable costs to wider society have been identified at this stage. There may be costs as a result of firms no longer being able to provide current accounts and other products to individuals which may have generated revenue. Given the difficulty of estimating the number of illegal migrants who will be refused access to financial services, this impact assessment does not look to monetise these wider costs.
- Justice system impacts are assessed by the Ministry of Justice to be minimal given the volume of freezing orders that may be sought over the 10 year period (2 to 12 per year for the years 2-10). A Justice Impact test has been cleared by the Ministry of Justice.

#### **Total costs**

- Total set-up costs are estimated to be £0.2 million in Year 1 only. The total ongoing costs are estimated to be £4.6 million (PV) over 10 years in a low to high range of £1.8 million to £11.8 million (PV) over 10 years. Total costs (set-up and ongoing) are estimated to be £4.8 million (PV) over 10 years with a low to high range of £2.0 million (PV) to £12.1 million (PV) over the same time period.

#### **Benefits (monetised and non-monetised)**

- This impact assessment considers three main monetised benefits using evidence from private and public sector experts: recovery of the Cifas development cost, the prevention of debt loss and public sector costs that are avoided (enforced removals and the consumption of public services).
  - i. The recovery of the Cifas development cost is estimated to be £0.1 million (PV) over 10 years.
  - ii. The estimate of the prevention of debt loss is taken to be where account holders who are illegal migrants have a freezing order placed on them, meaning that either court orders or offsetting rules could be used to prevent losses due to debt. The estimate for debt loss prevention lies in a range of £10,000 to £63,000 (PV) over 10 years with a central estimate of £31,000 over the same time period.
  - iii. The public sector benefit is estimated to be £2.2 million (PV) over 10 years with a low to high range of £0.5 million to £5.5 million (PV) over the same time period. This is based on avoidance of removal costs, and public service costs. Removal costs avoided are calculated as the enforcement cost avoided due to the number estimated to have a freezing order where the funds are returned to the individual once they leave the UK. This is valued as £14,000 as the published cost<sup>3</sup> of an enforced removal with detention. The avoidance of the consumption of public services is based on HM Treasury Public Expenditure Statistical Analysis (PESA), (2015) Chapter 5, Table 5.2 (2014-15) and the Annual Population Survey household dataset Jan 2013-December 2013. It includes the provision of education, health and personal services plus wider services (including crime

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<sup>3</sup> Home Office (2013) 'Costs involved in Detaining and Removing Illegal Migrants,' 8 November, London. See <https://www.gov.uk/government/publications/costs-involved-in-detaining-and-removing-illegal-migrants> Note: This is the average cost of detention and removal only for the period 2001 to 2013. In the period 2014/15 when overheads are apportioned, this rises to £20,800 for 8,635 enforced removals (Source: McKinsey report (2015) unpublished).

and transport services) but specifically excludes welfare as these individuals are not entitled to welfare. There is no robust published data on the length of time illegal migrants spend working illegally in the UK before leaving. It is assumed in the low scenario that the benefit of avoiding the costs of providing services to an illegal migrant only occur for one year. In the central scenario, it is assumed that the benefit of avoiding public service costs accumulates over three year which would be similar to a legal working migrant. In the high scenario the benefit is assumed to accrue over a five year period as migrants are typically here for up to 5 years. In the low scenario the avoidance cost is taken as £4,254 per year, in the central scenario (an average of the low and high) it is £6,123 and in the high scenario it is £7,992. The estimated benefits of avoiding public service costs lie in a range of £0.1 million (PV) and £3.8 million (PV) over 10 years, with a central estimate of £1.2 million (PV) over 10 years. The total benefit to the public sector is estimated to be £2.2 million (PV) over 10 years and is in a range of £0.5 million (PV) to £5.5 million (PV) over 10 years.

- The total monetised benefits are estimated to be £2.3 million (PV) over 10 years, with a range of £0.6 million to £5.6 million (PV) over the same period.
- It is not possible to monetise all the benefits of this measure. The primary benefit of this measure is to ensure that known illegal migrants are not able to continue to access banking products and services, as part of a series of measures that have already been and are in the process of being introduced across Government to reform the immigration system. These are intended to reduce the attractiveness of the UK as a destination for those intending to work or stay illegally, by restricting access to the practical means of living in the UK unlawfully, such as employment, housing and benefits. The benefits of this measure will therefore be the result of a cumulative impact of the foregoing 2014 Act, the 2016 Act and wider Government policy, rather than this measure in isolation.

### Costs and Benefits: Summary Tables

Table 2: Summary of Costs and Benefits (£millions)	10 yr impact - (£m) PV		
	Low	Central	High
<b>COSTS</b>			
1. Familiarisation Costs	£0.0	£0.0	£0.0
2. Process Change Costs	£0.2	£0.2	£0.2
3. Public Sector Set-up Costs	£0.0	£0.0	£0.0
Total Set-up Costs	£0.2	£0.2	£0.2
4. Process Change Costs	£0.7	£2.4	£8.5
5. Debt Loss Cost	£1.0	£2.1	£3.1
6. Public Sector Ongoing Cost	£0.0	£0.1	£0.3
Total Ongoing Costs	£1.8	£4.6	£11.8
<b>Total Costs</b>	<b>£2.0</b>	<b>£4.8</b>	<b>£12.1</b>
<b>BENEFITS</b>			
1. Income	£0.1	£0.1	£0.1
2. Prevention of Debt Loss Cost	£0.0	£0.0	£0.1
3. Public Sector Benefit	£0.5	£2.2	£5.5
Ongoing Benefits	£0.6	£2.3	£5.6
<b>Total Benefits</b>	<b>£0.6</b>	<b>£2.3</b>	<b>£5.6</b>
<b>NET PRESENT VALUE (Benefits-Cost)</b>	<b>-£1.4</b>	<b>-£2.5</b>	<b>-£6.5</b>

Note: Totals may not sum due to rounding. Source: Home Office and HM Treasury calculations.

- The sensitivity analysis has been incorporated into the low and high scenarios (see the Costs and Benefits Summary Table). The estimate of the volumes of account matches in year 1 varies from 3,000 in the low scenario to 9,000 in the high scenario, with a central estimate of 6,000 account matches. The respective figures for the years 2-10 are 450 (low) to 1,350 (high) with a central estimate of 900.

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>2</b>	<b>£4.8 million (PV over 10 years)</b>	<b>£2.3 million (PV) over 10 years</b>
	<ul style="list-style-type: none"> <li>Set-up costs including familiarisation of staff and development costs.</li> <li>Costs to the private sector of ongoing checks, matching, reporting and handling court orders of about £2.4 million (PV) over 10 years.</li> <li>Debt loss (for firms) of about £2.1 million (PV) over 10 years.</li> <li>Public sector ongoing costs.</li> </ul>	<ul style="list-style-type: none"> <li>Income to Cifas from recovery of the development costs for a secure portal that firms can use to access Home Office data.</li> <li>Prevention of some debt loss (for firms).</li> <li>Avoidance of removal costs and consumption of public services costs of about £2.2 million (PV) over 10 years.</li> <li>Possible reduction in illegal migrants relieving pressure on public services.</li> </ul>
Source: Home Office and HM Treasury Analysis.		

### **Net Position**

- The Net Present Value (NPV) of Option 2 is -£2.5 million calculated as total benefits minus the total costs over the 10 year appraisal period. While the NPV of the 'Do Nothing' option is greater at £0, this option does not meet the Government's objective.

### **Business Impact Target**

- The preferred option is in scope for the Business Impact Target in accordance with s.21 of the Small Business, Enterprise and Employment Act 2015. The business net present value is -£4.6 million (PV) over a ten year period. The equivalent annual net cost to business (EANCB) is estimated to be £0.4 million.

### **Small and Micro Business Assessment (SaMBA)**

- The Government does not expect there to be a significant impact on small and micro organisations within the banking sector as these have either been excluded from scope or do not offer current accounts.
- The Government intends to exempt credit unions from compliance with the duties created by legislation. This impact assessment has not identified any specific bank or building society current account providers that would fall within the definitions used by the Government for small or micro organisations. The authorisation requirements for firms – which are set at a European level through the Capital Requirements Directive – mean that these organisations must (with limited exceptions) hold over €5 million capital. Even recent new entrants to the current account market (such as Virgin Money and Tesco) would not be considered micro or small organisations for the purposes of this impact assessment, and the smallest building societies would be considered medium-sized businesses.
- The Government has also taken the power in the 2016 Act to commence the relevant measures at different times. We considered whether it would be appropriate to permit an extended transition period for relatively smaller firms to adjust to the requirements, or a temporary exemption for relatively smaller firms, but have concluded that it is necessary for the regime to come into force for all firms at the same time, to ensure that the legislation is applied consistently and effectively across industry. The Government will seek to make regulations as far in advance of the implementation date as possible, so that firms have as much time as possible to understand and

implement the changes. The FCA, who would be implementing the changes, would also communicate with firms to raise awareness.

- The Government does not believe that there is a case for direct financial aid to firms in this case, and does not believe this would represent good value for money, in light of the wider approach to minimise the impact on business wherever possible.
- As set out in the impact assessment, the business net present value is -£4.6 million (PV) over a ten year period. The equivalent annual net cost to business (EANCB) is estimated to be £0.4 million. The Government does not expect there to be an impact on small and micro organisations within the banking sector as these have either been excluded from scope or are not able to offer current accounts.
- There may be impacts on small and micro businesses more generally, for example where an illegal migrant would have used their access to banking services to make payments for other goods and services on a one-off or regular basis. Those payments would stop under this legislation, either due to the effects of a freezing order, or as a result of the firm taking steps to prevent the illegal migrant from continuing to use the services the firm has provided.
- The Act may limit access to banking services for illegal migrants running small and micro organisations in the UK (as firms are required to report any products that they find to be operated by an illegal migrant when they find matches against their database of personal current accounts). However, this is in line with the overall policy intention for the Act; to create a hostile environment for illegal migrants, encouraging their departure from the UK.
- As with other current accounts, those small and micro businesses seeking to legitimately open or operate an account will not be impacted by the provisions of the Act.

### ***Wider impacts***

- The proposed measures may have the potential to impact on the appetite of firms to offer banking services to legal migrants who do not have permanent leave to remain in the UK.
- The government recognises that there has been a reduction in firms' risk appetite. The withdrawal of banking services from certain customers or categories of customers is a global problem affecting many countries and sectors. It is due to a complex combination of factors, including concerns over money laundering and terrorist financing, and increased pressure on profit margins. The government remains at the forefront of the global efforts to raise the profile of this de-risking trend.
- In addition, the government considers that the potential impact on legal migrants' access to a bank accounts should be mitigated by the requirement under the Payment Accounts Regulations 2015, which states that a *“credit institution must not discriminate against consumers legally resident in the EU by reason of their nationality or place of residence”*.
- As a result, the Government does not consider the risk that firms will cease to offer bank accounts to legal migrants to be material and will monitor the impact of this legislation.
- It is not known with any certainty how many illegal migrants will be identified as a result of this policy alone or in conjunction with other similar measures. There are a number of policies in the 2016 Act designed to make it more difficult for an illegal migrant to sustain living and working in the UK. It may be that an illegal migrant will be uncovered through this policy but also through a landlord check or a driving licence check, so potentially there may be some double counting but because of the degree of uncertainty and low volumes involved this is perceived as a very marginal risk.
- Similarly, there may be a risk that illegal migrants who have a bank account, instead of being encouraged to leave the UK resort to remaining in the 'black economy' by working illegally and operating on a strictly cash basis only, due to the 'hidden nature' of illegal migrants. Again, this is not seen as a significant issue as these individuals are already in the UK working illegally and therefore are already breaking the law. Many illegal migrants will not be paying tax, will receive low wages and will not be subject to health and safety and employment protection so this policy is

not expected to exacerbate this situation but to contribute to the hostile environment, encouraging illegal migrants to leave the UK on a voluntary basis.

- HM Treasury has not identified any other wider impacts resulting from this proposal, including on our responsibilities under the Equalities Act 2010.

### **Preferred option and implementation plan**

- The Government's preferred option is Option 1, which guarantees that the Government's objectives are achieved, and provides the banking sector with the legal certainty that is required.
- The Government has consulted informally with the industry in order to understand the impact of the measures before they were included in the Immigration Act 2016. We have continued to consult with industry, as outlined above, in developing the secondary regulations, and this input has informed our policy design. The Government will seek to make regulations as far in advance of the implementation date as possible, so that firms have as much time as possible to understand and implement the changes. The regulations shall be laid before Parliament in November 2016. Implementation of these legislative changes will take place in autumn 2017.
- The FCA will also consult on the changes it considers necessary. The FCA's consultation will include a cost-benefit analysis of their proposed changes.
- HM Treasury and the Home Office will conduct an informal review of the operation of the scheme, drawing on input from the FCA, 12 months after the legislation is implemented to ensure it is working effectively. HM Treasury, in line with the Government's better regulation objectives and the review timelines envisaged for the rest of the Immigration Act 2016, will carry out and publish a review of the legislation within three years of the measures coming into force.

### **Risks**

- The main risk is the uncertainty in the estimates given the lack of data in some areas. However, engagement with the sector and the regulators is ongoing and the expectation is to manage and control these risks. In particular, IT and compliance costs may be higher than estimated depending on the final specification of the Cifas secure portal for accessing data, and arrangements for reporting matches to the Home Office.

### **Monitoring and feedback**

- HM Treasury and Home Office maintain very regular contact with the banking industry and regulators. Data will be available from reporting to the Home Office. Information may also be sought from Cifas and FCA supervision. Government will monitor and consider feedback on the way the measures work in practice.

### **Review and evaluation**

- HM Treasury and the Home Office will conduct an informal review of the operation of the scheme, drawing on input from the FCA, 12 months after the legislation is implemented to ensure it is working effectively. HM Treasury, in line with the Government's better regulation objectives and the review timelines envisaged for the rest of the Immigration Act 2016, will carry out and publish a review of the legislation within three years of the measures coming into force.