 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Reform of the consumer credit regulatory framework	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Final	
IA number	BIS0389	
Origin	Domestic	
Expected date of implementation (and SNR number)	6 April 2014 (SNR7)	
Date submitted to RPC	06/06/2013	
RPC Opinion date and reference	12/06/2013	RPC10-BIS-0641(4)
Overall Assessment	GREEN	
RPC comments The IA is fit for purpose, but should be improved in a number of areas prior to publication.		
Background (extracts from IA) What is the problem under consideration? Why is government intervention necessary? Consumer credit is regulated by the OFT under the Consumer Credit Act 1974 (CCA). Other retail financial services are regulated by the new Financial Conduct Authority (FCA) under the Financial Services and Markets Act 2000 (FSMA). There are two issues to be addressed. First, the CCA is insufficiently flexible to keep pace with a rapidly evolving market and tackle consumer detriment. Secondly, the lack of a single regulatory regime for retail financial services can lead to a lack of coherence in consumer protection and market oversight, and to duplication for firms and consumers. Replacing the current basis of consumer credit regulation with the FCA's rules-based approach will allow rapid intervention in problem practices, products, firms and individuals. What are the policy objectives and the intended effects? The intended effect is to deliver a regulatory regime that keeps pace with developments in the market, is more flexible and contains stronger powers for the regulator to tackle detrimental practices and root out rogue firms. This can best be achieved by transferring responsibility for consumer credit regulation from the OFT to the FCA which will have a wider range of tools to tackle consumer detriment, including the ability to make binding rules on firms and their activities, stronger controls on market entrants, and powers to secure redress for consumers where firms cause detriment.		
Comments on the robustness of the OITO assessment The IA records that this is a regulatory proposal (an IN) with an equivalent annual net cost to business of £32 million. This is consistent with paragraph 2.9.10 of the Better Regulation Framework Manual (March 2013) and provides a reasonable assessment of the likely impacts.		

Comments on the robustness of the small & micro-business assessment (SMBA)

The proposals regulate business and are intended to come into force after 31 March 2014 and therefore the SMBA is applicable.

The IA's section titled "Micro Businesses Exemption" explains (paragraph 158) that: micro-businesses are not exempt from the proposals because they are not exempt under existing regulation; many of the activities considered high risk (debt management, debt collection, short term credit) are undertaken by micro-businesses; and, if exempt, would place consumer protection at risk. It also explains that additional burdens to micro-businesses are mitigated by: a lower cost regime for certain lower risk firms; an option (open to certain firms) to become an appointed representative; and adaptations made to the regulatory regime to ensure it is proportionate and suited to the consumer credit market.

This falls short of the level of analysis that is expected in an SMBA as set out in paragraph 2.6.7 *et seq* of the Better Regulation Framework Manual (March 2013). For example, there is no discussion of the impacts on small businesses. The section also fails to discuss what other options have been considered for achieving maximum mitigation of disproportionate burdens on small and micro businesses, and why they have been rejected. From 1 July 2013, this would result in the IA being considered to be not fit for purpose.

A proportionate analysis of the affected business population should be presented in the IA to justify why a full exemption is not compatible with the relevant policy objectives. For example, a description of the business population affected by the proposals and the distribution of their costs and benefits. In addition, the IA should include an analysis of the impact of the mitigating options proposed, their effect and their rationale.

Quality of the analysis and evidence presented in the IA

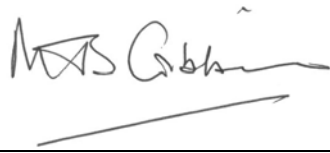
Estimated Costs. The Committee questioned in its opinion dated 21 February 2013, the estimated costs presented in the consultation stage IA as they did not include an estimate of costs to those firms which would exit the market as a consequence of the proposal. The IA now provides such an estimate (paragraphs 115-119). This cost is recorded in the IA as £1.8 million of a possible maximum £8 million per annum. The IA should provide more detail of the basis of this estimate.

Estimated Benefits. The Committee also questioned in its opinion of the consultation stage IA, the extent to which estimates of benefits based on resolution of detriment case could be used to estimate the benefits of the proposal, given that the new regime is not intended to operate through the greater resolution of cases as such. The final stage IA does not, for example, provide estimates and costs for the increased enforcement that would be required to process and produce such an increase in the resolution of detriment cases.

While the IA now provides additional alternative estimates of benefit to consumers, the main figures it uses still appear to be based on the greater resolution of detriment cases. The IA remains unclear as to how, and to what level, the proposal will reduce consumer detriment over the next decade.

Other issues. The Committee recommended in its previous opinion, that the IA should provide more information on why alternatives to the preferred option would not be viable. The IA (paragraphs 35-41) now provides this information.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal stroke underneath.

Michael Gibbons, Chairman