



Small Business, Enterprise and Employment Act:

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Access to Finance

Invalidating restrictive terms in business contracts to increase access to invoice finance

Aims of the measure:

- To improve small businesses' access to finance by removing legal barriers to invoice finance.
- To remove unnecessary costs in providing invoice finance by creating greater clarity around the ability of finance providers to enforce charges over assets in the case of non-payment or insolvency.

Measure will:

- Allow the Secretary of State to nullify the impact of clauses in business contracts that prohibit a business from selling their invoices to a third party finance provider.
- Financial service contracts as defined by this clause are excluded from the measure.
- The measure makes separate provisions for enactment in Scottish law.

Specific outcomes and impacts / next steps:

- A consultation on draft secondary regulations to implement the nullification of anti-assignment clauses closed on 11 February. A summary of responses was published on 27 February 2015.

Business payment practices

Aims of the measure:

The aim of the measure is to incentivise businesses to improve their payment policies and practices so that:

- Suppliers have more information on what to expect from their customers and are therefore in a better position to make an informed judgement on whether to enter into a commercial relationship, negotiate fair terms or challenge unfair terms, and understand what they need to do to ensure they get paid on time.
- There is competitive pressure to improve payment practices in line with peers.
- Payments are processed more efficiently.

Measure will:

- Allow the Secretary of State to introduce a new reporting requirement on large companies and public companies to report on their payment practices and policies.
- We intend the requirement to apply only to those public companies which meet the thresholds' criteria required to qualify as a large company. Therefore public companies which would for accounting purposes qualify as micro, small, and medium but for the fact that they are public will not be covered by the reporting requirement. We also intend the secondary legislation to extend the requirement to large Limited Liability Partnerships, making use of the powers available in the Limited Liability Partnerships Act 2000.
- A reporting requirement will make large companies more responsible and accountable for their payment practices and policies. Publication will be in an accessible and effective way for customers and suppliers to gain value from it.

Specific outcomes and impacts / next steps:

- A consultation on draft secondary regulations to implement the reporting requirement closed on 2 February. A summary of responses was published on 27 February 2015.

Provision of credit information on small and medium sized businesses

Aims of the Measure:

- To help improve access to finance for small and medium sized businesses.
- To encourage greater competition in banking by improving the ability of challenger banks and alternative finance providers to conduct accurate risk assessments on small and medium sized businesses and, by levelling the playing field between providers, make it easier for small and medium sized businesses to seek a loan from a lender other than their bank.

Measure will:

- Require banks (which meet a certain market share threshold) to share data on their small and medium sized business customers with other lenders through Credit Reference Agencies (CRAs), and require those CRAs to ensure equal access to that data for all lenders.
- Enable HM Treasury to designate those banks which will be required to share data (on the advice of the Bank of England). The Government announced at Autumn Statement 2014 that it intends to designate the following banks: Royal Bank of Scotland, Barclays, Lloyds Banking Group, HSBC, Santander, Clydesdale and Yorkshire Banks, Bank of Ireland, Allied Irish Bank, and Danske Bank.
- Enable HM Treasury to designate those CRAs that will have access to the data (on the advice of the British Business Bank).
- Provide the necessary protections for small and medium sized businesses. In addition to ensuring that data is only shared with CRAs where the business has signed terms and conditions allowing that data to be shared, and ensuring that the businesses consent is required before a credit provider can access that data, a number of additional protections will be provided.
- Widen the pool of small and medium businesses that can have recourse to the Financial Ombudsmen Service (FOS) in respect of disputes with designated CRAs to all microbusinesses (those with turnover of less than £2 million). This will ensure that small and medium sized businesses whose information is held by designated CRAs have the same level of protection under the FOS as they do when borrowing from a bank.

Specific outcomes and impacts:

- Reduce barriers to entry and improve competition in the small and medium sized business lending market.
- Provide a better understanding of the small and medium business lending sector to stimulate competition and innovation, improving the cost and quality of services offered.

Small and medium businesses: information to finance platforms

Aims of the measure:

- Improve access to finance for small and medium sized businesses by addressing a problem where businesses approach their main bank first for finance, and give up their search if rejected.
- Support competition in the provision of finance to small and medium sized businesses by improving non-bank lenders' ability to compete with traditional banks.

Measure will:

- Require designated banks to share information on small and medium sized businesses that they reject for finance (where businesses have given their consent) with online platforms that will help those businesses be linked up with alternative lenders.
- The Government announced at Autumn Statement 2014 that it intends to designate the following banks: Royal Bank of Scotland, Barclays, Lloyds Banking Group, HSBC, Santander, Clydesdale and Yorkshire Banks, Bank of Ireland, Allied Irish Bank, and Danske Bank.
- Enable HM Treasury on advice of the British Business Bank to designate private sector platforms – against clear criteria – to receive information on small and medium sized businesses that have been rejected for finance.
- Enable HM Treasury to set out clear designation criteria for platforms, including: how platforms must ensure businesses' information is properly protected, and removed at their request; and how platforms must give fair access to credible alternative lenders that wish to join them.
- Enable HM Treasury to de-designate platforms that fail to meet minimum standards.

Specific outcomes and impacts:

- Small and medium sized businesses benefit from improved access to alternative finance providers, and in some cases will secure finance where they would not have previously.
- Greater competition in the provision of finance to small and medium sized businesses, which could lead to improved outcomes for small and medium sized businesses, for example through innovation in finance products for small and medium sized businesses.
- Alternative lenders will be more visible to small and medium sized businesses and will benefit from increased opportunities to compete for small and medium sized business customers.
- Platform providers will generate profits from offering their service.

Disclosure of VAT registration information

Aims of the measure:

- Improve small business access to credit by sharing non-financial VAT registration data.

Measure will:

- Improve the reliability of credit scoring information, thereby improving access to credit for VAT registered businesses, particularly smaller businesses.
- Help businesses reduce fraud and comply with anti-money laundering obligations by improving the identification of legitimate businesses.

Specific outcomes and impacts:

- The measure will provide a power for HMRC to make available non-financial VAT registration data for specific purposes to qualifying parties.
- The data which will be shared is the identifying data (eg, name and contact details) for VAT-registered businesses. No financial data will be shared.
- The data will only be used for a small range of purposes which benefit business (ie, credit scoring, fraud prevention, anti-money-laundering, compliance with financial regulation). It cannot be used for other purposes, like cold calling or marketing.
- Use of the data will be strictly controlled and limited to qualifying parties. Those wanting to use it will have to meet rigorous conditions up-front, and will be subject to serious penalties, including criminal penalties, if the data is misused.

Release of Exporters Details

Aims of the measure:

- To provide greater visibility of UK exporters to new customers in the global market place.
- To assist developers to create exporter registers and online shop fronts to advertise and showcase UK exporters and their products.
- To enable those who provide export services to more easily identify their customers.
- To help importers to locate alternative UK suppliers.

Measure will:

- Allow enquirers to request details of UK exporters and the products they export via a stand-alone website provided free of charge by HM Revenue and Customs.

Specific outcomes and impacts:

- Access to details of UK exporters will be greatly increased in line with the Government's open data initiative.
- There will be greater transparency and re-use of government-collected data.
- HM Revenue and Customs' policy and practices in respect of importers and exporters details will be consistent.

Exports: UK Export Finance

Aims of the measure:

- To enable UKEF to support UK businesses engaged, or wishing to become engaged, in exporting or in an exporting supply chain.
- To give UKEF more flexibility when providing support for exports, especially where exporting arrangements involve complex contracting or financing arrangements.
- To enable UKEF to support exports of intellectual property rights and other intangibles.
- To remove the need for the Secretary of State to consult with the Export Guarantees Advisory Council on matters relating to reinsurance.
- To simplify the administration of UKEF.

Measure will:

- Help UK Export Finance contribute to meeting the Government's objectives to improve the UK's export performance.
- Facilitate the commitments regarding access to trade finance made in the Trade and Investment for Growth White Paper and the Government's 2011 "Plan for Growth"¹ which committed to "extend the range and eligibility of products offered by the Export Credits Guarantee Department....", in order to encourage exports.
- Help to ensure that UK Export Finance can give support to UK firms, which is more comparable than at present with that given by similar overseas export credit agencies.

Specific outcomes and impacts:

- The changes will increase the size of UKEF's "tool-kit" and make it easier to conduct UKEF's operations. UKEF will be able to respond in a more agile way to changes in market conditions with greater certainty that its powers are wide enough to allow it to offer products that fill market gaps as they appear.
- It is not possible to judge the additional volume of business which might arise solely as a result of these changes. UKEF is and will remain demand-led, with that demand being related to the performance of UK exporters generally and to the appetite of the private market for risk.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31584/2011budget_growth.pdf

Presentment of cheques

Aims of the measure:

- Provide for an innovation called cheque imaging that will make paying in cheques quicker and easier.
- Cheque imaging means an electronic image of a cheque, rather than the physical piece of paper, can be presented to a bank for payment.

Measure will:

- Speed up cheque clearing times.
- Increase consumer convenience and choice of ways to pay.
- Make the cheque clearing system more efficient and cost-effective to operate.
- Reduce barriers to entry and increase competition in retail banking.

Specific outcomes and impacts:

- Enable a faster clearing cycle, meaning consumers and businesses (including small and micro businesses) receive their funds more quickly.
- Provide significant cost savings for the banking industry, as running the system will be more efficient and cost-effective.
- Help future-proof the cheque as a sustainable payment option that financial institutions can afford to continue to provide.
- Customers will have greater convenience and choice in when and how they deposit cheques: by smartphones and other mobile devices, as well as at bank branches, cash points and Post Offices.
- The possibility of later last times of deposit in-branch if banks no longer require couriers to collect paper cheques daily from branches.
- Reduce barriers to entry and encourage greater competition in retail banking, by helping smaller banks to compete with incumbents where they lack an established physical branch network: paying in cheques remotely via smartphone will help challengers expand their customer base beyond the traditional brick and mortar footprint.

Payment Systems

Aims of the measures:

- To ensure that the Payment Systems Regulator's powers on access are aligned with the requirements of the Payment Services Directive and the Settlement Finality Directive.
- To provide that the Payment Systems Regulator's power to order divestment of ownership interests in payment systems extends to infrastructure providers to payment systems.

Measures will:

- Ensure that the Payment Systems Regulator can function as envisaged, in being able to order access to key payment systems for challengers and new entrants.
- Unless this change is made, the interaction of the existing legislation with the Payment Services Directive and the Settlement Finality Directive would mean that the Regulator would be unable to function as envisaged.
- Ensure that the Payment Systems Regulator has divestment powers over a significant part of the ownership of payment systems, namely the provider of the infrastructure over which the payment systems run, in line with original policy intention.

Specific outcomes and impacts:

- Ensure the Payment Systems Regulator has a legally robust suite of powers to enforce fair access terms for small banks and non-bank players seeking to access the payment systems, one of the key purposes for which it was set up.
- Ensure the Payment Systems Regulator is not unduly constrained in its ability to deliver on its objectives to improve competition and choice in the retail banking market and to ensure that the UK's payment systems operate for the benefit of end-users, including businesses and consumers.



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