



Department for  
Business, Energy  
& Industrial Strategy

# BUSINESS IMPACT TARGET

Statutory and administrative exclusions  
guide

Withdrawn

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# Introduction

This document is intended to provide further information and guidance on the business impact target (BIT) statutory exclusion and administrative exclusion categories.

Statutory exclusions are those prescribed in the [Small Business, Enterprise and Employment Act 2015 \(SBEE Act\)](#) itself. If a measure falls within one of the statutory exclusions, it is not a regulatory provision and does not score against the BIT.

Administrative exclusions are those published in the [written ministerial statement](#). If a measure falls within one of the administrative exclusions, it is a non-qualifying regulatory provision and does not score against the BIT, but does require reporting on.

Information on each exclusion is provided in a table format. The different sections of the table, and the information that they contain, is summarised below for ease of reference.

<b>Full Text</b>	The published text of the exclusion, taken either from the SBEE Act 2015, or the written ministerial statement.
<b>Scope (only applicable for administrative exclusions)</b>	What type of <b>regulatory provision</b> the exclusion applies to. Most exclusions apply to all types of <b>regulatory provision</b> – i.e. both legislation and regulator activities. There are however some exclusions that only apply to regulator activities i.e. activities falling within section 22(6)(c) of the SBEE Act 2015, including the activities of ministers/departments.
<b>Examples of measures that would fall within the exclusion</b>	Some examples of the kind of measure that it is expected would fall within the exclusion, and would therefore not be scored against the BIT. These examples are provided to help the user understand the intended scope, and the range of different provisions that could potentially fall within it. Includes both generic and specific examples. This not an exhaustive list.
<b>Examples of measures that would not fall within the exclusion</b>	Some examples of the kind of measure that would not fall within the relevant exclusion, and would therefore potentially score against the BIT (unless it fell into another of the exclusions). These are intended to help with understanding of what the exclusion doesn't cover. As with the previous category, this is not an exhaustive list.
<b>Definitions</b>	Definitions of any key terms (highlighted in bold). Most of the definitions derive from the BRFM glossary, or the SBEE Act 2015.
<b>Notes</b>	Other notes that are intended to assist the user. May include a brief explanation of the policy rationale (where appropriate), or other guidance to assist with application of the exclusion.

# Statutory exclusions

## Exclusions under section 22 of the SBEE Act 2015

### Tax, duty, levy or other charge – 22(4)(a)

<b>Full Text</b>	<p>a “regulatory provision” does not include a statutory provision if or to the extent that it makes or amends —</p> <p>(i) provision imposing, abolishing or varying any tax, duty, levy or other charge, or</p> <p>(ii) provision in connection with provision falling within sub-paragraph (i);</p>
<b>Examples of measures that would fall within the exclusion</b>	<p>Apprenticeship Levy.</p> <p>Legislation changing the level of regulator fees/charges – for example to move towards cost recovery – or the administrative requirements around fees and charges.</p> <p>New legislation creating new reporting obligations which relate to the operation of taxes such as the Real Time Information scheme.</p> <p>The DECC Levy Control Framework - such as the Renewables Obligation, Feed-in Tariffs and Contracts for Difference.</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>The Defra 5p charge for plastic bags.</p>
<b>Definitions</b>	<p>Please refer to <a href="#">Managing public money</a> for government guidance on handling public funds and determining the difference between charges and tax.</p>
<b>Notes</b>	<p>For the BIT, this exclusion only applies to charges directly made by or on behalf of a public body</p>

**Procurement – 22 (4)(b)**

<b>Full Text</b>	a “regulatory provision” does not include a statutory provision if or to the extent that it makes or amends provision in connection with procurement
<b>Examples of measures that would fall within the exclusion</b>	<p>Measures that concern procurement by or on half of a public authority.</p> <p>The Public Contracts Regulations 2015 (implementing Public Sector Procurement Directive (2014/24/EU)</p> <p>The Utilities Contracts Regulations 2006 (implementing Utility Contracts Directive 2014/25/EU)</p> <p>The Defence and Security Public Contracts Regulations 2011 (implementing Defence &amp; Security Directive 2009/81/EC)</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Money Laundering regulations.</p> <p>The Bribery Act.</p>
<b>Definitions</b>	Procurement has its common meaning.
<b>Notes</b>	

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### Grants or other financial assistance on behalf of a public authority – 22 (4)(c)

<b>Full Text</b>	a “regulatory provision” does not include a statutory provision if or to the extent that it makes or amends provision in connection with the giving of grants or other financial assistance by or on behalf of a public authority.
<b>Examples of measures that would fall within the exclusion</b>	<p>Provisions transferring the responsibility for administering the grant or other form of financial assistance from one public body to another body.</p> <p>Regulations made under the Common Agriculture policy placing obligations on farmers as a condition of grants.</p> <p>Obligations on Higher Education Institutions imposed as a condition of grant funding.</p> <p>The familiarisation costs associated with changes to conditions of a grant given by a public body.</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Obligations on employers regarding deductions from payroll to facilitate repayment of student loans.</p> <p>Regulatory measures that are a connected to a spending decision.</p>
<b>Definitions</b>	Public authority: has the same meaning as in the <a href="#">Freedom of Information Act 2000</a> (see section 3 of that Act)
<b>Notes</b>	There is no general exclusion of spending-related measures from the BIT – in practice, most regulatory interventions have some sort of implication in terms of government spending. Given pressures to reduce public spending it is particularly important to ensure that associated changes in regulatory burdens are reported transparently, and the departments (and regulators) have strong incentives to ensure that burdens are minimised and offset wherever possible.

**Measures that have effect for less than 12 months – 22 (4)(d)**

<b>Full Text</b>	a “regulatory provision” does not include a statutory provision if or to the extent that it makes or amends provision which is to have effect for a period of less than 12 months.
<b>Examples of measures that would fall within the exclusion</b>	<p>Temporary relaxation of Sunday trading restrictions during the 2012 London Olympics</p> <p>Many road closure notices and air navigation orders (where these have a time limited effect)</p> <p>Short term controls on animal movement in response to animal health issues.</p> <p>Guidance issued with a specific duration of less than 12 months, such as some Marine Information Notices (MINs)</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Early implementation EU gold plating with duration of less than 12 months where the legislation itself has duration of greater than 12 months.</p> <p>Extension of a temporary measure so that cumulatively it has effect for more than 12 months.</p>
<b>Definitions</b>	Gold-plating: see BRFM glossary for definition
<b>Notes</b>	Whilst the BIT only includes measures that have effect for more than 12 months, under the methodology we still in some cases score impacts that have effect for less than 12 months for example, early implementation of an EU measure that would be considered gold plating.

## Exclusions falling under section 27 of the SBEE Act 2015

### Regulation of activities that are not “business activities” – 27 (2)

<b>Full Text</b>	<p>For the purpose of determining whether a “statutory provision” is in relation to a business activity, and therefore a regulatory provision: “Business activities” means any activities carried on—</p> <p>(a) by a business for the purposes of the business, or                  (b) by a voluntary or community body for the purposes of the body.</p>
<b>Examples of measures that would fall within the exclusion</b>	<p>Legislation or regulator action that impacted purely on individuals or people in an individual rather than a business capacity.</p> <p>This includes measures that impact sole traders in a non-business capacity (i.e. not for the purposes of their business).</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Measures that set out requirements for employees, e.g. specific skills or safety requirements</p> <p>Measures that have effect on essential functions required to run a business e.g. paying wages</p>
<b>Definitions</b>	<p>Business: takes its natural meaning. Includes different legal forms (sole traders, partnerships, companies).</p> <p>Voluntary and community body: <a href="#">section 27(5) and (6) of SBEE Act 2015</a>.</p>
<b>Notes</b>	<p>This takes a broad view of business activity including activities that are essential for the operation of the business in delivering its aims.</p>

### Control by a public authority – 27 (3)(a)

<b>Full Text</b>	<p>For the purpose of determining whether a “business activity” is carried out by a business or a voluntary or community body: References to a business or a voluntary or community body do not include a business or a voluntary or community body which—</p> <p>(a) is controlled by a public authority</p>
<b>Examples of measures that would fall within the exclusion</b>	<p>Legislation or regulator activity that impacts solely on the activities of public sector businesses</p> <p>Regulation of NHS Charities.</p> <p>Regulations relating specifically to Manchester Airport</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Regulation of HE institutions</p> <p>Example of regulations applying to activities that are performed within both public and private sectors – the provision is a regulatory provision, but the impacts are only scored in respect of the private sector impacts</p>
<b>Definitions</b>	
<b>Notes</b>	<p>The government has published statutory guidance on how “<a href="#">control by a public authority</a>” is to be determined.</p>

**Acting on behalf of a public authority – 27 (3)(b)**

<p><b>Full Text</b></p>	<p>For the purpose of determining whether a “business activity” is carried out by a business or a voluntary or community body: References to a business or a voluntary or community body do not include a business or a voluntary or community body which—</p> <p>(b) is acting on behalf of a public authority in carrying out the [business] activities.</p>
<p><b>Examples of measures that would fall within the exclusion</b></p>	<p>DfE regulations on the children’s homes market. Local authorities have a statutory duty to provide suitable accommodation (including places in children’s homes) for children under specific circumstances.</p> <p>Regulation of Further Education Colleges</p> <p>Regulation of NHS Pharmacies and Dentists specifically concerned with how they carry out their NHS functions. Other general pharmacy/dentistry regulation would still be a regulatory provision, because it applied to non NHS pharmacy and dentistry.</p>
<p><b>Examples of measures that would not fall within the exclusion</b></p>	<p>Legislation that has an impact on those businesses beyond their actions on behalf of a public authority (e.g. most activities of Housing Associations).</p>
<p><b>Definitions</b></p>	<p>Public authority” has the same meaning as in the <a href="#">Freedom of Information Act 2000</a> (see section 3 of that Act)</p> <p>Please refer to government guidance on how “<a href="#">control by a public authority</a>” is determined.</p>
<p><b>Notes</b></p>	<p>Key indicator of what counts as “on behalf of a public authority” is whether there is a statutory duty in respect of that provision, for example, legal duty of a Local Authority under the Childcare Act to ensure that prescribed childcare is available free of charge, childcare providers in receipt of funding under section 7 of that Act would be considered as acting on behalf of a public authority.</p>

# Administrative exclusions

## A: European Union Regulations, Decisions and Directives

<b>Full Text</b>	<b>Regulatory provisions</b> that implement new or changed obligations arising from European Union Regulations, Decisions and Directives, and other changes to international commitments and obligations, except in cases of <b>gold plating</b> .
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	Ofcom second class letters price cap (implements EU Postal Services Directive requirement for universal postal service to be “affordable”) Gas and Electricity European Network Codes (stemming from the Third Energy Package) CAA implementation of ICAO "Standards and Recommended Practices" Implementation of the minimum requirements of the international Maritime Labour Convention through DfT's Merchant Shipping regulations
<b>Examples of measures that would not fall within the exclusion</b>	Changes to regulator activities, where these are not related to a change in the relevant EU or international obligation
<b>Definitions</b>	<b>Gold-plating</b> : see BRFM glossary for definition <b>Statutory provisions</b> : see BRFM glossary for definition
<b>Notes</b>	EU decisions includes decisions of European Supervisory Authorities (and equivalent bodies), where these result in new obligations. Gold-plating also includes :- <ul style="list-style-type: none"> <li>• where legislation introducing or recasting a European Directive either (i) fails to take available derogations which would reduce costs to business or (ii) uses a derogation which imposes increased costs on business</li> <li>• Early implementation of a net burden EU directive</li> <li>• Any aspects of implementing measures that are not consistent with, or directly related to, the commitment or obligation</li> <li>• Retention of higher pre-existing UK standards. This is classified as gold plating. However as in such cases there is no change to the obligations on business, they would be scored as having a zero impact under the BIT.</li> </ul> Changes required to address previous under-implementation (e.g. in the context of infraction proceedings, or a court decision) would also fall within the exclusion, as these still relate to implementation of the new or changed EU obligation

## B: Monopoly providers (or those with significant market power)

<p><b>Full Text</b></p>	<p><b>Regulatory provisions</b> applying to certain <b>business activities</b> of operator(s) of a network or system where the operator(s) is/are deemed to be a monopoly or to have significant market power, specifically :</p> <p>(i) the terms upon which access is provided to those networks and systems; and</p> <p>(ii) effective network and systems operation and coordination.</p>
<p><b>Scope</b></p>	<p>All <b>statutory provisions</b> (i.e. both legislation and regulator activities)</p>
<p><b>Examples of measures that would fall within the exclusion</b></p>	<p>Ofwat price controls (wholesale water, wholesale wastewater, retail water and wastewater (household), retail water and wastewater (non-household)) and related quality, service and terms of sale connected to the price control)</p> <p>Ofcom general access conditions on Royal Mail to provide access to its network for D+2 and large letters</p> <p>Ofcom monitoring of compliance with BT Openreach undertakings</p> <p>Ofgem network price controls (electricity and gas transmission operators, electricity and gas distribution operators, ); Strategic Wider Works mechanism as part of the transmission price control; relative price control for Independent Gas Transporters; price control for Data and Communications Company; System Operator incentive scheme; data assurance and monitoring activities associated with price controls</p> <p>CAA price controls and related service quality standards at Heathrow</p>
<p><b>Examples of measures that would not fall within the exclusion</b></p>	<p>Regulatory provisions applying to other activities of relevant operators (i.e. activities not covered by (i) or (ii)).</p> <p>Price controls not related to network monopolies (or operators with significant market power) – but see exclusion C</p>
<p><b>Definitions</b></p>	
<p><b>Notes</b></p>	<p>The term network or system needs to be interpreted in the circumstances of each sector. For example in some sectors it will cover a physical network of pipes or wires; in other sectors it will cover a set of interconnected activities which together make up a “system” in the broader sense. That includes networks / systems that operate on a very localised level, as well as national or regional networks.</p> <p>Access terms exclusion is intended to cover access price controls, investment obligations and incentives, service quality and other output obligations, and related monitoring frameworks, and determination of a rate of return or allowable revenues and related controls</p> <p>Network and systems operation is intended to cover interconnectors and connection providers, communications and data transfers, and transfers or trades between resource providers, network or system operators</p>

## C: Price controls

<b>Full Text</b>	<b>Regulatory provisions</b> that are price controls, except for the introduction of price controls to previously unregulated activities, or removal of pre-existing price controls.
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	<p>Changes to the rate cap applied by Ofcom to termination of mobile phone calls</p> <p>CLG periodic legislation that changes the statutory rent controls for social housing providers</p> <p>Changes to level of FCA cap on cost of payday lending</p> <p>Changes to minimum price control for alcohol</p> <p>Disaggregation of existing price controls and/or the information that underpins them</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Introduction of new price controls where activities subject to the new control have not been subject (directly or indirectly) to price regulation immediately before the new price controls are introduced</p> <p>Extension of existing price controls to include previously unregulated activities</p> <p>Withdrawal of pre-existing price controls</p> <p>Introduction of a ban on commission for certain activities</p> <p>Controls related primarily to quantity rather than price (e.g. gambling machine stake limits)</p> <p>Wage controls (not a price control)</p>
<b>Definition</b>	<b>Price controls</b> : Government mandated minimum or maximum prices that can be charged for specified goods or services.
<b>Notes</b>	Where the price control has been set to operate for a time limited period (e.g. 5 years), the change from one price control to a successor price control should be treated as a change to an existing price control assuming that there is no change to the scope of the price control.

## D: Civil emergencies

<b>Full Text</b>	<b>Regulatory provisions</b> specifically relating to <b>civil emergencies</b>
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	New legislation or other regulatory action imposed to response to an outbreak of foot and mouth disease (e.g. animal movement bans) Restrictions on fuel supply to in response to a major fuel shortage
<b>Examples of measures that would not fall within the exclusion</b>	General legislation regulating animal movement (e.g. routine reporting obligations)
<b>Definitions</b>	<b>Civil emergencies</b> : see section 1 of the <a href="#">Civil Contingencies Act 2004</a>
<b>Notes</b>	

Withdrawn

## E: Fines and penalties

<b>Full Text</b>	<b>Regulatory provisions</b> concerning <b>fines and penalties</b> , and redress and restitution
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	Changes to the level of fines applicable for a particular breach Introduction of criminal sanctions, including custodial penalties Financial Conduct Authority redress schemes introduced under s404 FSMA powers
<b>Examples of measures that would not fall within the exclusion</b>	Other procedural changes (e.g. addition / removal of requirement for application to court before penalty can be imposed)
<b>Definition</b>	<b>Fines and penalties</b> : fines and other penalties imposed on a regulated entity for non-compliance with a regulatory obligation
<b>Notes</b>	Fines and penalties associated with a specific enforcement decision are already classed as a non-qualifying regulatory provision under the case work exclusion (L1). This therefore covers fines and penalties at the policy level, which will usually be specified in legislation.  There are a wide range of penalties that are potentially covered by this exclusion – for example withdrawal of obtained rights, permits or consents, disqualifications from the ability to hold a particular office (e.g. directorships).

## F: Pro-competition

<b>Full Text</b>	<b>Regulatory provisions that promote competition</b> (where these result in an increase in the net direct burden on business)
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	Ofgem “Competition in connections” code of practice; Offshore transmission regime based on competitive tendering; Secure and Promote licence condition Promotion of switching and active engagement by consumers Implementation of CMA remedies Payment Services Regulator directions on Access and Governance OFWAT accounting separation requirements (e.g. water resources, sludge) where these are a necessary pre-cursor to future development of a competitive market
<b>Examples of measures that would not fall within the exclusion</b>	Measures that promote competition where there is no increase in the net burden on businesses – these are Qualifying Regulatory Provisions, and any beneficial impact should be scored
<b>Definitions</b>	A regulatory provision can be considered to <b>promote competition</b> if it satisfies all of the following criteria: <ul style="list-style-type: none"> <li>• The measure is expected to directly or indirectly increase the number or range of sustainable suppliers; to strengthen the ability of suppliers to compete; or to increase suppliers' incentives to compete vigorously.</li> <li>• The net impact of the measure is expected to be an increase in [effective] competition (i.e. if a policy fulfils one of the criteria at (a) but results in a weakened position against another)</li> <li>• Promoting competition is a core purpose of the measure</li> <li>• It is reasonable to expect a net social benefit from the measure (i.e. benefits to outweigh costs), even where all the impacts may not be monetised</li> </ul>
<b>Notes</b>	Exclusion is also capable of extending to pre-cursor measures i.e. in regulated monopoly sectors, interventions that can be shown to be a necessary step to the development of a competitive market in certain activities

## G: Large infrastructure projects

<b>Full Text</b>	<b>Regulatory provisions</b> that enable delivery of large infrastructure projects
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	Crossrail Act 2008 High Speed 2 Rail Bill (when enacted)
<b>Examples of measures that would not fall within the exclusion</b>	Regulatory provisions that have implications for public spending Measures that are required as a result of the removal of public spending or other subsidy (for example where obligations are transferred to business or voluntary or community bodies)
<b>Definitions</b>	
<b>Notes</b>	<p>This exclusion derives from a decision in the previous Parliament relating to the treatment of regulations that enable large infrastructure projects, such as HS2 or the Thames Tideway. Many of these projects will be nationally significant infrastructure projects (see <a href="#">section 14 Planning Act 2008</a>), or projects that fall within the remit of the National Infrastructure Commission.</p> <p>There is no general exclusion of spending-related measures from the BIT – in practice, most regulatory interventions have some sort of implication in terms of government spending. Given pressures to reduce public spending it is particularly important to ensure that associated changes in regulatory burdens are reported transparently, and the departments (and regulators) have strong incentives to ensure that burdens are minimised and offset wherever possible.</p>

## H: Misuse of Drugs Act and National Minimum Wage

<b>Full Text</b>	<b>Regulatory provisions</b> that implement changes to the classification and scheduling of drugs under the Misuse of Drugs Act 1971, or to the National Minimum Wage hourly rates, where these follow the recommendations of the <b>relevant independent advisory body</b> .
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	Changes to National Minimum Wage hourly rates that implement Low Pay Commission recommendations.  Changes to the classification and scheduling of substances under the controlled drugs framework recommended by the Advisory Committee on the Misuse of Drugs
<b>Examples of measures that would not fall within the exclusion</b>	Changes to National Minimum Wage hourly rates where government decides not to follow Low Pay Commission recommendations  Changes to legislation arising from Advisory Committee on the Misuse of Drugs advice on other drug-related issues (i.e. issues other than classification or scheduling)
<b>Definitions</b>	<b>Relevant independent advisory body</b> means either Advisory Committee on the Misuse of Drugs, or the Low Pay Commission
<b>Notes</b>	

## I: Systemic financial risk

<b>Full Text</b>	<b>Regulatory provisions</b> relating to <b>systemic financial risk</b>
<b>Scope</b>	All <b>statutory provisions</b> (i.e. both legislation and regulator activities)
<b>Examples of measures that would fall within the exclusion</b>	[the definition of systemic financial risk has recently been amended, examples under the new definition will be included in due course.]
<b>Examples of measures that would not fall within the exclusion</b>	All other areas of financial services regulation, including financial crime regulation (such as anti-money-laundering) and conduct of business regulation.
<b>Definition</b>	<p><b>Systemic financial risk</b> : a risk of disruption in the UK financial system or to the supply of financial services in the UK with the potential to have serious negative consequences for the UK financial system and the real economy market. All types of financial intermediaries, markets and infrastructure may be potentially systemically important to some degree.</p> <p>Systemic risks may include</p> <ul style="list-style-type: none"> <li>(a) risks arising from structural features of, or the distribution of risk in, one or more financial markets,</li> <li>(b) risks to the stability, orderly operation or integrity of one or more financial markets in the UK, including threats to the integrity of widely used financial benchmarks used in a significant part of the UK financial system,</li> <li>(c) risks to the operation of authorised persons in a significant part of the UK financial system,</li> <li>(d) risks arising from unsustainable levels of credit growth, debt or leverage in the UK.</li> </ul> <p>It is immaterial if such risks arise in the United Kingdom or elsewhere.</p>
<b>Notes</b>	

## J: National living wage

<b>Full Text</b>	<b>Regulatory provisions</b> that introduce the National Living Wage
<b>Scope</b>	Legislation only
<b>Examples of measures that would fall within the exclusion</b>	<p>Legislation introducing the National Living Wage coming into force in April 2016</p> <p>Changes to the Low Pay Commission remit / terms of reference related to the introduction of the National Living Wage</p> <p>Annual increments to the National Living Wage after introduction where these follow LPC recommendations</p>
<b>Examples of measures that would not fall within the exclusion</b>	Annual increments to the National Living Wage after introduction, where these do not follow LPC recommendations
<b>Definitions</b>	
<b>Notes</b>	

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## K: Industry codes

<b>Full Text</b>	Changes to <b>industry codes</b> , except those arising from regulator action or new legislation
<b>Scope</b>	Regulator activities only
<b>Examples of measures that would fall within the exclusion</b>	Changes to market codes in the gas, electricity and (in future) water sectors, provided that these are not initiated by the regulator or required through new legislation – even where the regulator has a formal role in approving the code. <b>Examples</b> : Electricity Market Codes, Gas Market Codes
<b>Examples of measures that would not fall within the exclusion</b>	Changes to codes arising initiated by regulator action (under relevant statutory powers), or through legislation Changes to codes that are not industry codes – for example a government sponsored code, or regulator guidance that is badged as an industry code
<b>Definitions</b>	<b>Industry code</b> : a scheme with regulatory effect governed by an independent (non-government) body
<b>Notes</b>	Where regulators have statutory powers to initiate code changes, then changes to codes brought about as a result of the exercise of those powers would be in scope. That also applies to changes to codes required to comply with new legislative requirements (although in those cases, impacts would normally be scored as part of the appraisal of the legislative change itself).

## L1: Regulator case work

<b>Full Text</b>	Regulator casework including specific investigation and enforcement activity, individual licence decisions, and individual advice
<b>Scope</b>	Regulator activities only
<b>Examples of measures that would fall within the exclusion</b>	<p>Ad hoc requests for information made as part of an investigation</p> <p>‘Naming and shaming’ publicity</p> <p>A decision whether to grant an individual applicant a licence</p> <p>Appeals made against licence applications and other regulatory decisions</p> <p>Handling of individual registrations</p> <p>Detention, prosecution or other sanction</p> <p>Improvement/prohibition notice</p> <p>Licensing decisions related to a specific case (e.g. conditions attached to the licence of a specific airport) where these do not reflect a general policy change</p> <p>Individual compliance advice (including advice records) provided by inspectors</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Enforcement Policies - setting out how investigations and enforcement activity will be conducted</p> <p>Enforcement rules (not processes) – i.e. where enforcement is dealt with</p> <p>Changes in the regulator’s policy approach to risk-based inspection</p> <p>Changes to standard licence conditions, or the licensing policy or approach, unless they come under another exclusion</p>
<b>Definitions</b>	
<b>Notes</b>	Exclusion of individual casework is consistent with the maintenance of operational independence

## L2: Educational, communications activities etc. by regulators

<b>Full Text</b>	Education, communications activities, and promotional campaigns by regulators, including media campaigns, posters, factsheets, bulletins, letters, websites, and information / advice helplines
<b>Scope</b>	Regulator activities only
<b>Examples of measures that would fall within the exclusion</b>	<p>Information sheets that provide general information about the regulator</p> <p>Letters to regulated businesses providing factual information regarding changes to legislation</p> <p>Training sessions for business</p> <p>Helplines for business</p> <p>Promotional material such as posters or leaflets</p> <p>Fishing Industry Safety Group</p> <p>MCA assistance for safety roadshows and workshops for UK fishermen</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p><b>Guidance</b></p> <p>Best practice material</p>
<b>Definitions</b>	<b>Guidance:</b> information provided to businesses on how to comply with their regulatory obligations.
<b>Other notes</b>	Although the activities covered by this exclusion may be carried out by regulators, they generally do not in themselves have a regulatory or deregulatory effect, or specifically relate to business compliance with regulation

### L3: Policy development by regulators

<b>Full Text</b>	Policy development by regulators, including formal and informal consultations, policy reviews, and ad hoc information requests;
<b>Scope</b>	Regulator activities only
<b>Examples of measures that would fall within the exclusion</b>	<p>Formal or informal consultation with stakeholders</p> <p>Ad hoc information requests (one-off, not repeated regularly)</p> <p>Policy reviews</p> <p>Post-implementation reviews</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Changes in regulator policy or practice resulting from policy development process</p> <p>Information requests made under licence or equivalent obligations (e.g. scheme returns prepared by pensions schemes)</p>
<b>Definitions</b>	
<b>Notes</b>	Although consultation and related activities can result in burdens on businesses, policy development activities do not in themselves impose new regulatory obligations. Including them in the BIT would create a disincentive for regulators around their engagement with regulated businesses

## L4: Changes to the organisation and management of the regulator

<b>Full Text</b>	Changes to the organisation and management of the regulator, except for those resulting from legislative changes or another policy change that is in scope for the BIT
<b>Scope</b>	Regulator activities only
<b>Examples of measures that would fall within the exclusion</b>	<p>Changes to structure, governance, reporting, communications, employment, location etc. of regulator (where these are not related to a legislative or policy change)</p> <p>Example : A regulator seeks to improve delivery through a change in its recruitment or training policies.</p> <p>Changes in the size or budget of the regulator (where the change is not related to a legislative or policy change)</p> <p>Example : A regulator has to downsize part of its operations in response to the need for efficiency savings.</p>
<b>Examples of measures that would not fall within the exclusion</b>	<p>Changes to organisation resulting from other policy changes that are in scope of the BIT</p> <p>Example : a regulators makes a policy decision to change the process for renewal of licences may have implications for the organisation / management of the regulator – for example it may require fewer local offices. All impacts associated with the policy change, including those related to organisational / management changes, would potentially be scored (in this case, the requirement for fewer local offices could result in a reduction in licence fees).</p> <p>Changes in organisation / management resulting from legislative changes</p>
<b>Notes</b>	<p>Major changes to regulatory organisation (e.g. merger of regulatory bodies, addition or transfer of functions, or addition of new duties e.g. SBAC) would normally be reflected in changes in legislation and so any impacts would be already be captured for the BIT.</p> <p>There will be many other potential changes to regulator organisation and management that are not connected to changes in regulatory policy e.g. changes in staffing, location of offices etc. In theory, these could be read as “related to the securing of compliance with, or enforcement of, ....” (<a href="#">SBEE Act 2015 section 22(3)</a>). However as these don’t actually change the regulatory obligations on business, it would not be appropriate or proportionate to include them in the BIT.</p>

Withdrawn



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