

EXPORT CREDITS GUARANTEE DEPARTMENT: CHANGE INTRODUCED IN DECEMBER 2004 TO ANTI-BRIBERY AND CORRUPTION PROCEDURES

Partial Regulatory Impact Assessment

Proposal

To consider the changes made in December 2004 to ECGD's anti-bribery and corruption procedures.

Issue

ECGD has in place anti-bribery and corruption procedures to try to ensure that it does not put at risk taxpayers' money by inadvertently supporting export contracts that have been won as a result of corrupt practices and so that ECGD plays what part it can in the implementation of the Government's policy to deter wrong doing in international business transactions. ECGD has a statutory duty to consider arrangements for the facilitation of exports.

In December 2004, ECGD revised the anti-bribery and corruption procedures it had introduced in May 2004 after it received representations from exporters, trade and banking associations.

Objective

The purpose of this consultation is to seek representations on the following question:

Do the changes made to ECGD's anti-bribery and corruption procedures in December 2004 have the effect of ensuring that, so far as practicable, (1) taxpayers' money is not used to support transactions tainted with bribery and/or corruption; and (2) an undue burden is not placed on exporters and/or banks?

Within this RIA, ECGD therefore seeks to outline areas where regulatory impacts caused by the changes to the procedures may have occurred, and to invite comments on the associated costs and benefits of those impacts.

ECGD wishes to obtain a full understanding of the regulatory impacts that the changes to ECGD's anti-bribery and corruption procedures introduced in December 2004 may have had. This RIA seeks only to set out the areas in which these regulatory impacts may have occurred and does not attempt pre-judge the result of the consultation by offering any conclusions based on the information within the document.

Options

ECGD's options at the time of considering making the changes to its procedures which it eventually introduced in December 2004 were to:

- i.) Retain the procedures it introduced in May 2004; or
- ii.) Amend its procedures

The differences between the May 2004 and the December 2004 procedures

A summary of the principal changes between the May 2004 and December 2004 procedures can be found in the main consultation document. Consultees are also invited to examine the ECGD standard application forms and schedules appended to the consultation document for a more detailed information about the changes made.

Regulatory impact of the changes to the procedures

ECGD seeks comments on the regulatory impacts of the individual changes to ECGD's anti-bribery and corruption procedures introduced in December 2004, including those ECGD believes to be the principal changes, as set out in section eight of the consultation document, and at Annex A.

Areas on which consultees may wish to offer representations with regard to each of the changes to ECGD's anti-bribery and corruption procedures introduced in December 2004 include:

- The impact in terms of the regulatory burden on applicants and the practical workability of those changes;
- The monetary impact of each of the principal changes to the procedures.

Within these areas, consultees may wish to refer in their representations to potential regulatory impacts in the following fields:

- Legal compliance: the actions required to comply with the changes to the procedures;
- Legal liability: the consequences of failing to comply with the changes to the procedures;
- Confidentiality: the protection of commercially sensitive information;
- Administrative requirements: the administrative burden of complying with the changes to the procedures.

The Costs and Benefits of the Changes to the Procedures

ECGD seeks comments on the costs and benefits of the changes to ECGD's anti-bribery and corruption procedures introduced in December 2004, including those ECGD believes to be the principal changes, as set out in section nine of the consultation document, and at Annex A.

Areas on which consultees may wish to offer representations with regard to the costs and benefits of each of the changes to ECGD's anti-bribery and corruption procedures introduced in December 2004 include:

- The costs and benefits of any difference in the administrative burden upon applicants and banks;
- The costs and benefits of any difference to the monetary impact on applicants and banks;
- The costs and benefits of any difference in the actions required to comply with the changes to the procedures
- The costs and benefits of any changes in contractual liability arising from the changes to the procedures
- The costs and benefits of any difference to the extent to which commercially sensitive information is protected.

Business sectors affected

Amendments to any of ECGD's procedures affect those UK exporters and their financing banks that use ECGD's services. These include those in civil business sectors (such as power generation and transmission, energy and transport) as well as those in the defence and aerospace sectors.

Environmental Impacts

ECGD does not believe that the changes to its anti-bribery and corruption procedures will have any environmental impacts.

Competition assessment

ECGD provides support for exporters and investors overseas. The competition assessment is not designed to consider whether proposals will affect the ability of UK firms to compete outside the UK, but rather seeks to consider the potential impact on UK competitiveness arising from changes to regulations within the UK market. ECGD's major customers are some of the UK's largest manufacturers, who between them enjoy a significant proportion

of UK market share in their respective fields. The changes to ECGD's procedures should not:

- affect firms in any particular sector more greatly than others;
- change the number or size of firms operating in the UK;
- lead to high ongoing costs for new or potential firms that existing firms do not have to meet;
- restrict the ability of firms to choose the price, quality, range or location of their products.

Small businesses: The Impact Test

ECGD underwrites very few transactions for small businesses. However, the CBI considered the impact of ECGD's anti-bribery and corruption procedures on businesses generally and have stated that they believe the changes to the procedures would lessen the administrative burden resulting from the May procedures. ECGD seeks further views on the impact to small businesses of the changes to ECGD's anti-bribery and corruption provisions introduced on 1 December 2004.

Enforcement and compliance

ECGD believes that, although the precise terms of the representations made by applicants have changed, the sorts of liability that companies will be under for misrepresenting information in application or proposal forms has not changed; nor have the types of contractual liability that applicants will be under by virtue of ECGD's standard forms. ECGD seeks consultees views regarding the impact of any change in the definition of liability as a result of the changes made in December 2004 to ECGD's anti-bribery and corruption procedures as referred to above.

Monitoring and review

ECGD carries out regular reviews of its anti-bribery and corruption procedures. ECGD undertakes to carry out a further review of its anti-bribery and corruption procedures within three years.

Summary

ECGD seeks consultees' views on the information and analysis contained within this RIA. Representations should be provided alongside consultees' responses to the Consultation document. ECGD encourages the provision of further information, including that relating to the monetary impact of the

changes to ECGD's anti-bribery and corruption procedures introduced in December 2004. This information will be taken into account within the Government's Response to the Consultation, which will be issued within three months of the close of the consultation.

Contact point

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