

Consultation Response

*Reforming anti-money laundering and counter-
terrorism financing supervision*

September 2023

AIA Response: Reforming anti-money laundering and counter-terrorism financing supervision

The Association of International Accountants (AIA) welcomes this opportunity to present a response to HM Treasury's 'Reforming anti-money laundering and counter-terrorism financing supervision' consultation published in June 2023.¹

AIA strongly supports measures to combat money laundering and terrorist financing and recognises the significant role that accountants play as gatekeepers to financial integrity.

As a professional body supervisor recognised (PBS) under Schedule 1 of the amended Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, AIA understands its key role in preventing economic crime and contributing to a robust approach to anti-money laundering (AML) safeguards.

This consultation response builds upon evidence previously submitted to the following calls for evidence:

- The Treasury Select Committee's Economic Crime Inquiry 2020²
- HM Treasury's Review of the UK AML/CFT Regulatory and Supervisory Regime 2021³
- HM Treasury's consultation into Amendments to the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 Statutory Instrument 2022⁴

The response is also framed following discussion with other PBSs. Working with other accountancy sector supervisory bodies through the Accountancy AML Supervisors' Group (AASG), Intelligence Sharing Expert Working Group (ISEWG), and more widely with government, regulators and other sectors through the AML Supervisors Forum (AMLSF) and Public Private Threat Groups (PPTGs) enables a real public-private partnership delivering a focussed response to the serious threat of money laundering and terrorist financing.

Although AIA shares the government's commitment and ambition to reforming the AML regime to ensure the effective combat of economic crime, it should be stressed that this can only be achieved by working positively with the various sectors present in the United Kingdom and building upon progress made since the implementation of the Office for Professional Body Supervision (OPBAS).

AIA recognises the proposed options for reform however the only effective model for implementation quickly and efficiently, and therefore the most feasible, is option 1: OPBAS+. The remaining models suggested carry significant risk of money laundering growing and extreme pressure being placed on the supervision of accountants in particular leading to a collapse in the supervisory regime and weakening of controls.

Alongside other PBSs AIA's main concerns can be summarised under three broad headings:

- **Transition and failure risk** – all proposed models, excepting Model 1, would require significant

¹ <https://www.gov.uk/government/consultations/reforming-anti-money-laundering-and-counter-terrorism-financing-supervision>

² <https://www.aiaworldwide.com/news/news/economic-crime-inquiry-2020/>

³ <https://www.aiaworldwide.com/media/2264/review-of-the-uk-s-aml-cft-regulatory-and-supervisory-regime-aia-response.pdf>

⁴ <https://www.aiaworldwide.com/media/2263/mlr-amendments-aia-response.pdf>

resource to ensure that supervision is maintained during any implementation. There is also the risk of a fall in standard of supervision during any implementation period as the incentive to maintain and enhance supervision by PBSs facing derecognition would not be present. In addition, there are risks involved in transferring large amounts of data and sensitive information from the current recognised PBSs to any new supervisor. Under Model 2 there is also the key risk that if any consolidated PBS were to fail, there would be no backstop to cover AML supervision leading to substantial gaps in the UK's AML defences.

- **Loss of expertise** – the current supervisory model serves a particular purpose due to the nature of the AML regulated sector; there are a broad range of PBSs because there is a variety of supervision needed, which spans diverse sectors, professions and size of firms. Since the implementation of MLR2017 PBSs have spent significant time and resources developing models of supervision, training and educating staff, recruiting and developing a skilled workforce and educating members on the risk and requirements of the AML landscape. Moving away from Model 1 would mean the loss of this expertise within PBSs and weaken the UK's supervision of professionals.
- **Feasibility** – AIA argues within this consultation response that Models 2, 3 and 4 would result in a significant rise in fees and bureaucracy magnified by the challenges of implementing a single AML supervisor. UK firms would face a confusing marketplace of dual supervision and regulation, with multiple fees for different organisations which would put pressure on the current market. In addition, the length of time needed to successfully and completely implement all proposed models (excluding Model 1) may cause significant disruption to and gaps in AML supervision.

It should be stressed that AIA does not support maintaining the status quo and recognises the need for reform. AIA has consistently undertaken significant investment and resourcing to ensure its supervised population are appropriately monitored.

Model 1 (OPBAS+) is the only solution of the four which meets the consultation's three objectives and addresses the concerns expressed in AIA's response to this consultation document. AIA would disagree with the consultation that this would only see 'incremental' change as it depends entirely on the new powers given to OPBAS.

If OPBAS were to be given more robust powers to hold PBSs accountable, AIA believes this would improve supervisory effectiveness. Its new powers could also be used to improve system co-ordination (another consultation objective) to ensure PBSs are sharing timely and accurate information with OPBAS and other bodies. As already acknowledged in the consultation, OPBAS+ already meets the final objective as it is 'the most immediately feasible, requiring no structural change'.

While OPBAS+ would not solve the lack of a default supervisor in the legal sector, this issue should be addressed separately. The accountancy sector has a well-structured regime in place for AML supervision and it would be counterproductive to choose a different model that is unsuitable for one profession just to meet a specific gap in the other. It is also worth noting that OPBAS has only been operational for approximately five years which is not enough time to justify whether a wholesale change of the system is justified.

The effectiveness of the UK's AML supervision in the accountancy sector has continually improved since OPBAS was established. In order to deliver the change that the government wants, it should build on this progress to ensure PBSs are held accountable, expertise is retained in the sector, failure risk is managed, and disruption and cost is kept to a minimum.

Areas for Specific Comment

OBJECTIVES

- 1. Do you agree that increased supervisory effectiveness, improved system coordination, and feasibility are the correct objectives for this project? Do you agree with their relative priority? Should we amend or add to them?**

AIA agrees that increased supervisory effectiveness alongside feasibility should be treated as a priority in this process.

Expertise should be considered in addition within the objective of supervisory effectiveness as this provides a foundation for understanding and adapting supervision. AML/CFT supervision within the accountancy (and associated TCSP) sector is complex due to the specific nature of the accountancy sector with various-sized firms and models. This has necessarily resulted in a widespread supervision model which acts to inform specialised supervision and provide effective focussed insight into different aspects of accountancy provision in the United Kingdom. This form of supervision requires PBSs to have a detail level of knowledge of firms and expertise in staff to supervise firms to a high standard and analyse the unique characteristics of the parts of the overall profession that they oversee. Proposed Models 2, 3 and 4 would put this expertise and familiarity with supervised populations at significant risk.

The importance of transition and failure risk cannot be overstated. Models 2, 3 and 4 will require significant resource to ensure money laundering supervision is maintained while any new supervisor is established. There are significant risks of transferring data and sensitive information and intelligence from 22 supervisors to a new single supervisor which may result in incidents of money laundering being missed during any change. A transition period may mean that staff retention and recruitment would also be affected within PBSs as skilled and experienced staff – which PBSs have spent considerable time and financial resource training – may leave the sector and it may be difficult to recruit in the short term to PBSs due to the nature of supervision being transferred to a single supervisor and the short-term nature of any position.

AIA would also draw particular attention to failure risk associated with Model 2 in which it is feasible that HMRC would also transfer the firms which it supervises to a consolidated PBS.

There is a risk that if a single PBS for the accountancy sector was to fail, however large, whether commercially or for another reason, there would be no backstop available to cover supervision. With all other PBSs undergoing derecognition for AML and no statutory supervisor, there would be no capacity available, which could lead to collapse of the UK's AML regime for accountants.

OPBAS+

- 2. What would the impact be of OPBAS having the FCA's rulemaking power? What rules might OPBAS create with a new rulemaking power that would support its aim to improve PBS supervision?**

AIA supports the granting of the FCA's rule-making power to OPBAS and believes this will support OPBAS in achieving its objectives and strengthen its ability to take action against PBSs which do not meet required standards.

However, AIA would highlight in this regard that providing increased clarity of the use of the term 'effective' would enhance the ability of PBSs to implement risk-based approaches which are suitable to

continue to meet regulatory requirements to the extent interpreted by OPBAS.

Clarification on effectiveness will also enable OPBAS to clearly identify PBSs not following set requirements and take proportionate action to encourage compliance.

3. Which, if any, of these powers should OPBAS be granted under this model? Are there any other powers that OPBAS could be granted under this model to aid OPBAS in increasing the effectiveness and consistency of PBS supervision?

AIA agrees with the powers proposed within the consultation document and understands them to be in line with other statutory regulators when approaching proportionate regulation.

AIA believes that the integrity of AML supervision and the OPBAS model could be increased by acknowledging that OPBAS could be given more powers to hold PBSs to account which are not meeting the required standards. This could include publication of findings against PBSs who are deemed to be 'ineffective' in an OPBAS annual report. This would improve supervisory effectiveness and provide clarity on the effectiveness of supervision within the accountancy sector by sharing positive examples too.

Although AIA supports proposed powers being granted to OPBAS and notes the positive impact this may have it is important to stress that any additional powers should come a system of assurance to ensure that findings made and potentially published by OPBAS are consistent, transparent, proportionate and accurate.

OPBAS may need to develop its own enforcement framework to support the process when using any additional powers. This could include ensuring PBSs receive sight of findings prior to publication in order to correct inaccuracies or factual errors and subsequent incorporate of an appropriate appeal period for any incidence where powers are used to make formal findings. For example, PBSs that are being publicly named may disagree with the findings and will require a period of appeal and a process to manage this before the publication.

The power to name the PBSs deemed as 'ineffective' would clearly strengthen the objective of increasing supervisory effectiveness. Currently there is no way of knowing what impact any 'ineffective' PBS has on the wider supervision landscape; the size of supervised population is currently unclear alongside whether the PBS represents the accountancy or legal sector.

In OPBAS's most recent reporting only one of the 22 PBSs has been highlighted as 'ineffective' in three areas; this clearly demonstrates the progress that has been made by the PBSs under the current OPBAS model which could only be improved upon by adopting OPBAS+. In addition, no PBS was classified as 'ineffective' for supervision which underpins the remaining regulations.

AIA supports additional powers for OPBAS as outlined within the consultation as it is hoped this will continue to ensure effectiveness and allow for action to be taken relating to any PBS deemed 'ineffective'.

4. What new accountability mechanisms would be appropriate in order to ensure proportionate and effective use by OPBAS of any new powers?

AIA would argue that for any increased power granted to OPBAS there should be a proportionate process of assurance to ensure that findings are consistent, transparent and accurate.

This could include ensuring PBSs receive sight of findings prior to publication in order to correct inaccuracies or factual errors and subsequent incorporate of an appropriate appeal period for any incidence where powers are used to make formal findings.

5. Do you have evidence of any specific types of regulated activity which are at high risk of being illegally carried out without supervision?

AIA has long argued that the government should explore the protection of the title 'accountant' to ensure high standards in the sector, reduce fraud and protect the public interest.

When the term is unprotected there is a significant risk of individuals who are not members of a PBS, and who have no formal qualifications, using the term to describe themselves and their services and operating without supervision. This presents a significant public interest risk which is not addressed by any model proposed within the consultation document.

Without protection for the term accountant AIA believes that adopting the OPBAS+ model, and exploring supervision of HMRC within that model, will encourage greater consistency in the standards to which qualified and unqualified accountants are held and provide fairer and more transparent supervision.

Transparency would also be improved by the introduction of a register of supervised entities – including those supervised by PBSs – and this is an initiative that AIA would wholeheartedly support.

6. Do you think a “default” legal sector supervisor is necessary? If so, do you think a PBS could be designated as default legal sector supervisor under the OPBAS+ option?

As an accountancy PBS AIA will not comment on this question on behalf of the legal sector.

7. Overall, what impact do you think the OPBAS+ model would have on supervisory effectiveness? Please explain your reasoning.

Implementation of OPBAS+ would be the easiest of the proposed models to implement and would therefore be the most feasible, requiring no structural change. This means that supervisory effectiveness would not be decreased.

OPBAS+ would build upon the significant progress already made by PBSs to reform supervision within the UK and build upon resources invested to date.

The OPBAS+ model maintains the expertise and level of supervision conducted across the PBSs; new powers proposed will enhance this. Furthermore, there will be continuity of supervision so ultimately less scope for bad actors engaged in economic crime to lever gaps that will form during transition to any other proposed model.

However, there is currently a significant gap in supervisory effectiveness which is not addressed by the proposed model where OPBAS does not have oversight of all AML supervisors within the accountancy sector. Including HMRC within this supervision would increase consistency and oversight and decrease risk.

8. Overall, what impact do you think the OPBAS+ model would have on system coordination? Please explain your reasoning.

AIA would take this opportunity to highlight the good work already undertaken by both the public and private sector to coordinate tackling money laundering and terrorist financing threats through joint initiatives such as the AML Supervisors' Forum (AMLSF), Intelligence Sharing Expert Working Groups (ISEWGs) and Public-Private Threat Groups (PPTGs).

Introducing OPBAS+ should further develop ongoing coordination activity, including at a sector level where accountancy supervisors regularly contribute to establishing standard responses to supervisory issues or promoting intelligence and information sharing within the Accountancy AML Supervisors' Group (AASG) and to third parties such as Companies House.

Furthermore, accountancy sector PBSs have proactively engaged with law enforcement authorities to support intelligence sharing, specific money laundering cases, and raise awareness more generally of the PBSs' supervisory roles. To support this activity AIA has designated points of contact and secure methods of communication to enable intelligence to be shared confidentially.

9. Overall, how significant do you think feasibility constraints would be for the OPBAS+ model? Please explain your reasoning.

OPBAS+ is the only proposed model which significantly meets the consultation's objective of feasibility.

Under proposed models of supervision 2, 3 and 4 fees for firms would likely be significant higher given the challenges across the wider that a consolidated PBS would face. In addition, firms would likely face the prospect of paying for both AML supervision and membership to two different professional bodies, with confusion over responsibility for monitoring and supervision an added negative. Creation of an entirely new public body under models 3 and 4 would provide unnecessary cost to the taxpayer and ultimately be disproportionate to the issues attempting to be solved by this consultation. Although OPBAS is not without additional cost, by the terms of this consultation, the costs involved are more proportionate to the required outcomes of the intended reform and offer better value for money to the government.

In addition, OPBAS+ is the proposed model which provides minimal disruption for firms and does not seek to increase their regulatory burden. Models 2, 3 and 4 will create additional bureaucracy for firms requiring dual registration with a single AML supervisor and their professional body and interaction with different systems and different processes.

PBS CONSOLIDATION

10. Were we to proceed with the PBS consolidation model, what would the relative advantages be of (a) a UK-wide remit, (b) retaining separate PBSs in the Devolved Administrations? Which would best achieve the consultation objectives? Please answer with explicit reference to either the legal sector, the accountancy sector, or both.

AIA is providing comment to this question in respect of the accountancy sector only notwithstanding the comments provided elsewhere in this consultation response the responses made to the questions relating to PBS consolidation should not be taken to signify approval of this model.

If this model was chosen by HMT then AIA believes that there should be a single accountancy PBS overseeing supervision in all jurisdictions rather than each devolved jurisdiction as specific risks relating to separate jurisdictions are not diverse enough to warrant separate supervisors and this would not make supervision more effective which is an outcome required by the consultation. Furthermore having separate devolved supervisors would not remove perceived weaknesses of inconsistent supervision and may lead to confusion for firms operating in dual administrations.

AIA would argue strongly that any proposed benefits of consolidating PBSs are fundamentally outweighed by the inconsistencies and risk created by its creation.

11. How could HM Treasury and/or OPBAS ensure effective oversight of consolidated PBSs under

this model? Would it be appropriate to provide OPBAS with enhanced powers, such as those described in the OPBAS+ model description?

Should a single consolidated supervisor be designated it would be arguable that this should be a PBS demonstrably effective in all areas of supervision and any additional requirements for OPBAS to ensure effective oversight of that PBS would be minimal – oversight could be undertaken using the same framework as now for multiple PBSs.

However, it should be highlighted that whilst OPBAS is currently funded by multiple PBSs there would be no additional funding stream available from derecognised PBSs and all funding would fall on the consolidated PBS which may be unsustainable.

12. Under the PBS consolidation model, do you think that HMRC should retain supervision of ASPs and TCSPs which are not currently supervised by PBSs? Why/why not?

Yes, AIA believes that HMRC should retain supervision of ASPs and TCSPs not currently supervised by a PBS under a PBS consolidation model.

Forcing unqualified accountants to be supervised by a PBS of professionally qualified accountants introduces further confusion into the marketplace and diminishes the requirement or professional need to hold qualified status. This will work to undermine the role of professional bodies within the sector and damage public confidence and trust.

For example, AIA's wider investigation and disciplinary powers ensure that members are held to account for poor work or performance and that the public have a clear and transparent framework of resource for if things go wrong in their relationship with their accountant. Being a member of a PBS gives consumers confidence in the ability of their professional accountant and the services they provide. If current HMRC supervised firms were to be supervised by a consolidated PBS for AML, this would give them the benefit of being supervised by a PBS despite not holding qualifications to be a member of that PBS.

As explained further in AIA's response to Question 5 it is vital that the issue of protecting the term accountant is given further discussion in order to protect the public interest.

13. What would the impact be of consolidated PBSs having a more formal role in identifying firms carrying out unsupervised activity in scope of the MLRs? What powers would they need to do this?

There is currently unclear analysis or detail within the consultation to enable a in-depth assessment of this question.

Agreed criteria currently exist regarding the supervision of members of PBSs which have been agreed between accountancy bodies as part of AASG. By clarification, most PBSs have powers within their agreed enforcement frameworks to take disciplinary action against members, but by the nature of a PBS these powers do not extend to non-members.

Making a fundamental change to supervision within the sector and the nature of a professional body's responsibilities would require significant changes to legislation to provide for a consolidated PBS acting against individuals which are not members and who have not signed up to that PBSs' code of conduct or membership requirements.

14. Under the PBS consolidation model, what would the advantages and disadvantages be of a

consolidated accountancy or legal sector body supervising a range of different specialisms/professions for AML/CTF purposes?

Effective supervision is conducted best by PBSs with an in-depth knowledge and understanding of a varied sector; this leads to an effective assessment of the money laundering risk facing accountants in the UK and how wider risk can be mitigate and addressed. Because PBSs understand their populations and have wider information available than simply relating to AML compliance this strengthens supervision and ensures that the potential for misunderstanding or inaccurate assessment of money laundering risk is minimised. Consolidating PBSs may lead to a loss of some of the nuances of assessing this risk as the population becomes bigger but retains its diversity.

Ultimately even with PBS consolidation, retaining and attracting expertise will remain an issue as firms supervised by each PBS vary widely, with a range of services and firm structures.

There is also a concern here that if PBS consolidation includes the supervision of HMRC firms then this may allow those firms to present themselves as a member of the PBS through their AML supervision despite not having the requisite qualifications, which would be a risk for consumers and have public interest concerns attached.

15. What steps, if any, could HM Treasury take under this model to address any inconsistencies in the enforcement powers available to supervisors?

AIA has structured, flexible and proportionate enforcement powers which are derived from the AIA Constitution and an independent disciplinary and complaints framework and process.

16. Which option, to the extent they are different, would be preferable for providing for supervision of non-members under the PBS consolidation model? Are there alternatives we should consider?

Within the consultation there does not appear to have been consideration given to aligning the wider supervision activities conducted by PBSs. By treating AML as a 'standalone activity' that can simply be moved to a consolidated PBS, the proposal fails to take into account the large-scale impact this will have on all other areas of a PBS's quality assurance, regulatory work, and any other regulatory responsibilities or supervision.

17. What powers, if any, might be required to minimise disruption to ongoing enforcement action and to support cooperation between the PBSs retaining their AML/CTF supervisory role and the PBSs which are not?

Although the consultation focusses on the initial transfer of ongoing cases – and does not provide information on how many cases this would involve – there is no reference to any future cases that may have crossover of breaches with the MLRs and other wider ethical or conduct issues. In respect of those cases, further discussion and analysis is required to agree the process, remit and responsibilities for enforcement activity which may be complex. This will ultimately lead to a more fragmented disciplinary process which would increase both the time taken to resolve and the complexity of cases.

18. Overall, what impact do you think the PBS consolidation model would have on supervisory effectiveness? Please explain your reasoning.

AIA would argue that implementing a consolidated PBS model would result in a decrease in supervisory

effectiveness requiring significant investment and resource to return to current levels of effectiveness.

Currently levels of effectiveness demonstrated by the accountancy sector PBSs are the result of working together with OPBAS since the creation of the supervising authority in 2018 and represent significant resource invested by PBSs into both member guidance, staff and expertise, and supervisory tools.

Any consolidated PBS would likely be unable to access non-AML related information that current PBS maintain on their supervised populations; related information is important in creating an overall picture of a supervised firm and undertaking a holistic risk-based approach. Removing access to this information would weaken a consolidated PBS's risk-based approach and therefore overall supervision.

19. Overall, what impact do you think the PBS consolidation model would have on system coordination? Please explain your reasoning.

Consolidating PBSs into one supervisor would not resolve issues posed by the consultation but AIA would argue that additional levels of complexity in the AML supervision regime would be created due to removing current PBSs from secure intelligence sharing gateways and removing incentives to share information or intelligence. By consolidating, it is arguable that new processes, systems and regulations would require development to allow sharing between the AML supervisory body and other PBSs – until their creation there will be substantial supervisory gaps which risk an increase in reported money laundering activity.

Having a consolidated PBS will result in a reduction of intelligence and information sharing, and cooperation, across the sector as current committees and working groups in the accountancy sector, including AASG, ISEWG and AMLSF, will no longer be required to exist. These are valuable channels of information sharing which make a valuable coordination to the fight against economic crime in the UK and meaning that government and law enforcement activity relating to accountancy will be severely undermined.

20. What additional powers or tools, if any, could enable OPBAS to ensure the transition to a new model is smooth and supervision standards do not fall in the interim?

AIA argues that due to the volume of firms requiring transfer (with or without HMRC's inclusion of supervised firms), there would be a significant period where supervisory activity decreases as the new consolidated PBS develops its framework and increases its capacity. Any detail on how long a projected interim period would last would be helpful at this stage.

AIA would also highlight at this stage that there is a lack of detail or analysis on what will occur should a consolidated PBS be unable to meet any required standard by the end of an interim period, given its increased responsibilities.

21. How do you believe fees should be collected under the PBS consolidation model?

AIA would argue that fee collection is a complex area made more so by the fact that a firm or individual may belong to multiple organisations. Consideration should be given to ensuring firms, especially smaller firms, are not subject to increased fees and regulatory burden. It is not clear that in all options proposed except for Model 1 that this would not be the case.

Although this consultation is focussed on AML supervision, it is also clear that there is no reference made to the upcoming Economic Crime Levy that firms in scope of the requirement in the accountancy sector be subject to increased fees to be collected by HMRC. Additional fee collection rules and

processes may significantly affect the AML levy and provide additional confusion not supervised firms who may question whether paying multiple fees relating to AML is cost effective.

22. Overall, how significant do you think feasibility constraints would be for the PBS consolidation model? Please explain your reasoning.

For the reasons outlined above AIA believes that feasibility constraints for the PBS consolidation model would be extremely significant.

SPSS

23. Do you agree these would be the key structural design features to consider if creating a new public body (whether it was an SPSS or an SAS)? Should anything be added or amended?

AIA agrees with the points outlined in the consultation, however there are additional issues which require exploring.

Consideration is required relating to any proposed new public body's relationship with the existing PBSs and HMRC as this is not covered by the points outlined. Particularly when considering coordination of the system this relationship is vital as significant interaction will be required between any SPSS and professional bodies. By the nature of its remit a SPSS will have only a limited view of any firm and require support from professional bodies to obtain information to understand the wider context of a firm's operations.

The availability and existence of employees with the relevant skill set to ensure effective AML supervision for a wide and diverse range of firms being supervised is vital for ensuring an effective structure is operated which meets the objectives. This will also require significant resourcing to match a similar level of activity conducted under the current framework by PBSs and this may have significant cost implications for firms as fees meet expenditure.

24. If an SPSS were to be created, which sectors do you think it should supervise?

AIA is clear in that the key strength of the UK supervisory regime lies in that supervision is undertaken by those with expertise in the sector. This enables supervision to be conducted by those with the best understanding of their population, and to effectively assess the money laundering risk posed by those they supervise.

The fact that supervision takes place closely to the supervised population minimises the potential for any misunderstanding and enables a holistic approach to the identification of money laundering risk. Accountancy is a diverse sector consisting of different sized firms and activities and a supervisor with no experience of the sector may not be able to fully assess and identify money laundering risks to the appropriate standard.

Ultimately it is hard to envisage that with the scale and experience of staff required for an SPSS that this would be achievable in line with meeting the aims of this consultation. Finding AML professionals with the relevant level of AML experience for the range of sectors and at a reasonable salary cost will prove challenging. The SPSS will likely end up as a large unit working in silos with staff being split into teams based on their expertise which does not address the areas of reform set out in this consultation however merely transfers supervision to one entity.

25. Were an SPSS to be created, what powers should it have?

An SPSS should mirror the powers currently held by PBSs and HMRC.

26. How should enforcement responsibility be transferred should an SPSS be created?

It is foreseeable that powers will require being granted to the SPSS in legislation to enable it to take enforcement action.

However, there is a lack of analysis within the consultation dealing with the impact of the transfer of enforcement responsibility into the future which explains how future cases with crossover of breaches of the MLRs and other wider ethical or integrity issues. In those cases, further discussion and analysis is required to agree the process, remit and responsibilities for enforcement activity.

Consequently, there will be significant disruption and confusion for the SPSS, existing PBSs, and firms, during the initial transfer and ongoing relationship.

27. What powers should HM Treasury have to oversee an SPSS?

Should this model be chosen AIA believes that HM Treasury should have similar powers as those exercised over PBSs and the statutory supervisors in order to achieve a form of consistency and continuity.

However, accountability for any powers over an SPSS would be vital for ensuring, due to the significant public cost, that performance metrics in line with the objectives of this consultation document are met which are able to provide demonstrable improvements in supervision.

28. Overall, what impact do you think the SPSS model would have on supervisory effectiveness? Please explain your reasoning.

AIA does not envisage that the SPSS will increase supervisory effectiveness.

Since the creation of OPBAS in 2018 there has been significant improvement and development of AML the supervisory frameworks operated by PBSs. This confirms that improvements to this system are required rather than a complete overhaul, which would take a lengthy process, risking an increase in economic crime.

AIA believes that the creation of an SPSS will furthermore increase the risk of firms operating without appropriate AML supervision as a well-established framework between PBSs and HMRC is diverged from. Under the SPSS model, firms will have the additional requirement of completing another registration specifically for AML supervision with a new public body using a different system.

AIA would also argue that a further weakness in the SPSS model relates to a SPSS not having an overall holistic view of a firm which currently exists within PBSs. This will also create an additional layer to information or intelligence sharing as the SPSS or law enforcement will need to approach the professional bodies to identify any relevant information to support the matter being investigated.

The consultation and proposed SPSS do not give sufficient recognition of the wider benefits that a PBS brings to the accountancy profession, such as the standards it upholds and the work in raising the quality of professional accountants. Members of PBSs are subject to high ethical standards and are supported through qualifications to produce high standards of work for clients and the public, with robust disciplinary processes.

Furthermore, a key strength of the UK supervisory regime is that the sectors are supervised by those with expertise in the sector, enabling the supervision to be conducted by those with the best understanding of their population.

29. How significant would the impact be on firms of splitting AML/CTF supervision from wider regulatory supervision in the sectors to be supervised by the SPSS?

There is the potential for a significant negative impact on AML supervision as a result of this proposed model of supervision within the accountancy sector.

The consultation document itself does not accurately establish the impact of dual regulation. For example, there are currently 22 PBSs with unique governance frameworks, processes and IT infrastructure that holds members details or access to it. Developing a single system would require significant work and cost, with complex legal restrictions and data sharing provisions in order to facilitate the sharing of AML-related information, which in itself is a fraction of the information held on each firm by a PBS.

Any SPSS would still be required to interact with the existing PBSs and therefore this proposed model does not address the intended issue of creating a single authority nor remove the assertion that having a broad range of PBSs creates a weakness.

30. Overall, what impact do you think the SPSS model would have on supervisory effectiveness? Please explain your reasoning.

See the answer to question 28.

31. Overall, how significant do you think feasibility constraints would be for the SPSS? Please explain your reasoning.

AIA is of the opinion that the feasibility constraints as set out within the model in the consultation would be high and the issues and costs presented do not represent value to firms or the UK taxpayer, nor address the aims set out for increasing effectiveness of the UK's AML supervision.

Whilst the consultation states that the SPSS would operate on a full cost recovery model, there is limited analysis on proposed costs and the impact that this will have on the fees of those supervised by the SPSS. There will be significant one-off costs in setting up the SPSS (recruitment, office space etc) that would require consideration and allow a more detailed assessment of impact.

As explained in AIA's response to Question 29, there are significant negative impacts of the SPSS.

SAS

32. Do you foresee any major challenges for effective gatekeeping, under either the SPSS or SAS model? If so, please explain what they are, and how you propose we could mitigate them?

AIA believes that the creation of either a SPSS or a SAS will ultimately lead to significant additional and unnecessary bureaucracy and financial cost for firms and professional bodies. This will ultimately result in increased costs being passed onto consumers and will have a negative impact on the perception of AML legislation.

There is also a significant risk of AML activity being viewed as a box-ticking exercise and unfortunately

this will undo a significant proportion of the positive work raising standards and educating firms undertaken by PBSs in recent years, ultimately leading to an increase in the risk of exploitation of professionals by those engaged in economic crime.

The SPSS/SAS would not have a holistic view of the firm supervised so there is the potential to miss important information held by PBSs which may impact gatekeeper assessments. Due to the size of the proposed supervised populations in both the SPSS and SAS, the size of team to manage this administrative task will need to be large and this will result in further cost that needs to be considered for this model.

Furthermore, AIA disagrees that under an SAS it would be easier to achieve a single register of supervised firms. There is already evidence of PBSs maintaining a complete register of those supervised firms providing TCSP services in the UK using the HMRC portal. In addition, PBSs have expressed willingness to include all firms in a public list and options are currently being explored by the AASG.

Notwithstanding the above it should be possible to facilitate an appropriately effective gatekeeping framework however further work would need to be undertaken to ensure fairness, funding and functionality.

33. Overall, what impact do you think the SAS model would have on supervisory effectiveness? Please explain your reasoning.

See responses to questions 28 and 30.

34. Does the separation of AML/CTF supervision from general regulatory activity present a major issue for those firms currently supervised by the statutory supervisors? Please explain your reasoning.

AIA is not a statutory supervisor so will therefore not comment on this question.

35. Overall, what impact do you think the SAS model would have on system coordination? Please explain your reasoning.

The proposed SAS model would have a negative impact on system coordination and would conceivably result in a worse position than the current model.

This is because there would be limited information held by the SAS which meant it would be unable to satisfactorily benefit from the holistic picture that a PBS has due to the many interactions and engagements with its members outside simply AML supervision.

The SAS model outlined does not remove the requirement to interact with separate professional bodies which will be undertaking monitoring of their members for a variety of other supervisory reasons or quality assurance requirements. The creation of a SAS means that an additional layer of regulation will be created which may require additional legislation to facilitate lawful intelligence or information sharing as well as a way of sharing this information securely. It may also be an unintended consequence that professional bodies may have no legal requirement to interact with a SAS unless this is mandated within new legislation and there would be additional funding requirements imposed on professional bodies to undertake this work whilst receiving no income from supervisory work.

Implementing a SAS model would also have significant reductions in the effectiveness of supervision as the usefulness of important groupings such as AASG and ISEWG, which have developed consistency between PBSs would be lost, severely weakening the coordination of the system and sector.

36. Overall, how significant do you think feasibility constraints would be for the SAS? Please explain your reasoning.

See answer to Question 31.

SANCTIONS

37. Given the change in the sanctions context in the UK since Russia's invasion of Ukraine, have supervisors changed their approach to oversight of sanctions systems and controls amongst regulated populations? If so, what activity has this entailed?

The imposition of new sanctions on the Russian Federation since February 2022, including on individuals, and companies, meant an increased focus on the way in which AIA members conduct due diligence and how AIA supervises its population.

As per current regulatory requirements AIA members must screen new and existing clients against the consolidated sanctions listings including those maintained by the United Kingdom and European Union. This requirement has not been amended, however the range of sanctions and fast-moving nature of events means that it is important members are up to date in their knowledge and application of restrictions. AIA contacted members to confirm our supervisory expectations during this time and into the future regarding sanctions, including signposting key guidance and regulatory requirements.

AIA noted that the recent imposition of further sanctions on Russia and named individuals and entities increased the potential risk of money laundering as individuals and business may seek to evade these respective sanctions regimes. Recent developments in Russia and Ukraine may also potentially impact on the classification of new and existing clients and cause them to fall within the definition of Politically Exposed Persons ("PEP").

Members in Practice were reminded of their obligation under the UK Money Laundering Regulations 2017 and the Republic of Ireland Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) respectively, to conduct risk assessments and to perform Enhanced Due Diligence checks where required. Members should ensure that they fully understand the source of funds and wealth in relation to their clients identified as high-risk.

Since many of those who are subject to sanctions may also be PEPs, Members were reminded of their obligation to ensure that they have adequate and up to date procedures in place to identify whether a client, or the beneficial owner of a client, is a PEP or a family member or known close associate of a PEP.

Firms were also reminded to be aware that sanctions are subject to change and that they should maintain up to date screening processes.

We then initiated a data request to our supervised firms across the UK and Republic of Ireland. We requested information to inform our members' exposure to sanctions.

AIA reviewed the returns supplied by members and undertook the following targeted interventions which would not be appropriate to detail in a public consultation.

38. Do supervisors need additional powers to monitor sanctions systems and controls effectively, or can this be done under existing powers? What would any new powers need to consist of?

AIA would not need additional powers to monitor the sanctions compliance of its members provided

this is within the context of MLR and the undertaking of Client Due Diligence at the start of a business relationship and as part of ongoing monitoring for members. AIA currently undertakes checks on members due diligence and compliance with the regulations to ensure that appropriate checks have been undertaken.

Should additional responsibilities be expected to be undertaken by professional body supervisors then it is envisaged that this may require additional powers or formal duties to be conferred upon PBSs with relation to sanctions enforcement/disciplinary measures and the issuing of guidance.

39. Aside from legislative powers, do you foresee any other barriers to supervisors effectively monitoring sanctions systems and controls?

Undertaking additional monitoring of sanctions compliance as a separate undertaking would necessarily divert resourcing away from monitoring of compliance with the MLR overall or may result in additional costs imposed on the supervised population. Extending supervision may also require additional training and human resource to cover additional monitoring and this would incur a supervisory cost.

40. Should any new potential supervisory powers relating to sanctions broadly cover all types of UK sanctions?

It is reasonable that any potential supervisory powers relating to sanctions should broadly cover all types of UK sanctions to ensure a complete future framework and reduce risk of regulatory arbitrage.

OPTIONS COMPARISON

41. How would expect losing AML/CTF supervision to affect PBS' financial models, and the fees charged to supervised populations?

Fees for AIA's supervised population will remain unchanged as AML supervision is amalgamated into wider Practising Certificate fees and covers broad Quality Assurance Monitoring & Review. However, as a professional body supervisor AIA has invested heavily in systems, training and development for staff and processes and this cost would not be recovered.

42. Based on your experience and the considerations set out in this document, what is your analysis of the relative extent to which each of the four reform options would lead to (a) improved supervisory effectiveness and (b) improved system coordination.

AIA believes that Model 1, OPBAS+, is the only solution of the four available options which meets the consultation's three objectives and could be easily implemented and therefore be the most feasible.

The implementation of this option would not necessarily see only 'incremental' change as this would depend on regulatory activity undertaken by OPBAS and supervisory activity undertaken by PBSs – notwithstanding that there may not be fundamental change required to ensure all PBSs score 'effective' on all areas.

The accountancy sector has a well-structured regime in place for AML supervision and it would be counterproductive to choose a different model that increases risk of money laundering and economic crime.

The creation of a new separate public body however, or consolidation to a single PBS, will raise costs,

*Consultation Response: Reforming anti-money
laundering and counter-terrorism financing*

create confusion and ambiguity, lead to additional bureaucracy for UK firms, and not meet the objectives of the consultation.

PUBLIC SECTOR EQUALITY DUTY

43. Are you able to provide evidence as to how the options set out in this document would help or harm individuals or households with protected characteristics?

No evidence to supply regarding this question.

About AIA

The Association of International Accountants (AIA) was founded in the UK in 1928 as a professional accountancy body and promotes the concept of 'international accounting' to create a global network of accountants.

AIA is recognised by the UK government as a recognised qualifying body for statutory auditors under the Companies Act 2006, across the European Union under the mutual recognition of professional qualifications directive and as a prescribed body under the Companies (Auditing and Accounting) Act 2014 in the Republic of Ireland. AIA also has supervisory status for its members in the UK under the Money Laundering Regulations 2017. AIA is a Commonwealth Accredited Organisation. AIA is a member of the European Federation of Accountants and Auditors (EFAA) for SMEs and SMPs.

AIA believes in creating a global accountancy profession and supports the International Federation of Accountants (IFAC) in their vision of a global accountancy profession recognised as a valued leader in the development of strong and sustainable organisations, financial markets and economies. AIA has adopted IFAC's Code of Ethics for professional accountants and also incorporates IFAC's International Education Standards (IES) into its qualifications and policies.

AIA has members working throughout the whole spectrum of the accountancy profession. Many of our members are at the top of the accountancy industry, from senior management to director level. Conversely, significant numbers of our members work in small and medium sized businesses (SMEs) and we strive to champion the importance of SMEs and their needs.

Further Information

The above replies represent our comments upon this consultation document. We hope that our comments will be helpful and seen as constructive. AIA will be pleased to learn of feedback, and to assist further in this discussion process if requested.

If you require any further information, please contact:

AIA Policy & Public Affairs Team
The Association of International Accountants
Staithes 3 The Watermark
Metro Riverside
Newcastle upon Tyne
NE11 9SN
United Kingdom

T: +44 (0)191 493 0269

E: consultations@aiaworldwide.com



© 2023 Association of International Accountants