



HM Treasury

Anti-money laundering and counter-terrorist financing: **supervision report 2017-18**

July 2019



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Contents

Foreword	2	
Chapter 1	Introduction	5
Chapter 2	Methodology	8
Chapter 3	Supervisory activities	9
Chapter 4	Promoting and ensuring compliance	17
Annex A	List of supervisors	25
Annex B	Definitions of sanctions or penalties	27
Annex C	Characteristics of an effective AML/CTF System (FATF)	28
Annex D	FATF: key findings and recommended actions	30

Foreword

The UK is one of the world's largest and most open economies, and a leading global financial centre. This benefits the UK, but also brings with it the heightened risk of illicit financial flows from money laundering and terrorist financing, presenting threats to our security and prosperity. The government has long acknowledged these risks and has taken robust action over recent years to clamp down on illicit finance, protecting our citizens and helping legitimate businesses to thrive.

The UK's anti-money laundering (AML) and counter-terrorist financing (CTF) supervisory regime is comprehensive, seeking to regulate and supervise those firms most at risk from money laundering and terrorist financing. In December 2018, the Financial Action Task Force (FATF), the global standard-setter for AML/CTF, published its Mutual Evaluation Report of the United Kingdom (the MER). The MER recognised that the UK's AML/CTF regime is the strongest of over sixty countries assessed by FATF and its regional bodies to date.

This result is indicative of the steps taken by the government, particularly in partnership with the private sector, to create an increasingly robust regime. Nevertheless, the MER noted shortcomings in the preventative measures that regulated firms take under the Money Laundering Regulations 2017 (MLRs) to detect and deter money laundering and terrorist financing, as well as the performance of the 25 supervisors whose role it is to monitor, facilitate and ensure compliance with the MLRs. The MER particularly found shortcomings amongst the 22 Professional Body Supervisors (PBSs). The government accepts the MER findings and is progressing a series of measures to redouble the fight against economic crime and further strengthen the supervisory regime.

All firms and supervisors must comply with the robust standards of the MLRs while delivering on FATF's recommendations. We continue to work in partnership with the private sector to deliver on our aim to ensure that the UK's financial system is hostile to illicit finance. The government is particularly focussed on improving the quality and consistency of compliance by legal and accountancy firms with their AML/CTF obligations, and their supervision by the PBSs. The respectability and legitimacy of the UK's professional services firms, the types of services they provide to companies and the crucial role they can play as gatekeepers to the UK's financial system, make them particularly vulnerable to abuse by criminals.

As we continue to implement the biggest reforms to our AML/CTF regime in a decade, the work of the Office for Professional Body AML Supervision (OPBAS) is essential in ensuring consistently high levels of AML supervision in the legal and accountancy sectors. The recent Treasury Select Committee report on Economic Crime supported the role OPBAS was given in relation to the PBSs and recognised the need for oversight of the PBSs given the inherent conflict between their AM/CTFL

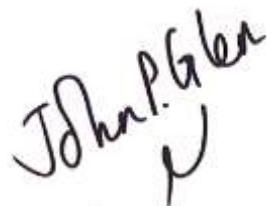
supervisory function and their role as a membership organisation. In 2018, OPBAS conducted initial visits to all 22 PBSs to assess their respective AML/CTF frameworks. Findings of these visits formed the basis for an OPBAS publication 'Themes from the 2018 OPBAS anti-money laundering supervisory assessments'¹ in March of this year. Both the conclusions of the FATF MER and OPBAS' initial findings confirm that the inconsistent effectiveness of the professional body supervisors is a major issue for the UK AML/CTF regime. I have met with CEOs & Presidents of a range of professional body AML supervisors to emphasise that the government expects much more to be done to tackle illicit finance in the professional services sectors and how important I consider the work of OPBAS to be. The government expects all PBSs to meet the action plans they have agreed with OPBAS. I will continue to convene similar meetings to ensure issues within these organisations are being addressed.

I will also be looking to the statutory supervisors – the Financial Conduct Authority (FCA), HM Revenue and Customs (HMRC) and the Gambling Commission – for evidence of improvements in their areas. Given the size and importance of the UK's financial sector, and the high ML/TF risks it faces, effective and risk-based supervision by the FCA is critical to the overall effectiveness of the UK's AML/CTF regime. The FCA is committed to improving intelligence sharing with the government and relevant agencies and to use intelligence, data and technology to improve their approach to AML. HMRC regulates several high-risk sectors such as Money Service Businesses (MSBs), Trust and Company Services Providers (TCSPs) and parts of the accountancy sector. Following the recent Treasury Select Committee inquiry into economic crime, the Treasury committed to review HMRC's role as an AML supervisor and its relationship with OPBAS by September 2019. HMRC has also recently increased the fees it charges to relevant businesses for AML supervision by 130%, which will enable HMRC to significantly enhance its supervisory function. The FATF MER found that the Gambling Commission had a good understanding of the ML/TF risks in the gambling sector and applied risk-based approach to supervision. I will look to the Gambling Commission for continued high standards of AML/CTF supervision.

To further enhance the UK's response to economic crime, and address the findings of the FATF MER, the government will shortly publish a new Economic Crime Plan in partnership with the private sector, with effective risk controls by the private sector and AML/CTF supervision at the core of its objectives. Public-private partnership will be critical to this plan's development and success.

¹ <https://www.fca.org.uk/publication/opbas/themes-2018-opbas-anti-money-laundering-supervisory-assessments.pdf>

I would like to thank all supervisors for their ongoing collaboration and contribution to the publication of this report. The Treasury remains committed to working in partnership with all supervisors as we continue to be the global leader in fighting illicit financial flows.

A handwritten signature in black ink that reads "John P. Glen". The signature is fluid and cursive, with "John" on top, "P." in the middle, and "Glen" on the bottom right.

John Glen MP
Economic Secretary to the Treasury

Chapter 1

Introduction

This is the Treasury's seventh annual report on AML/CTF supervision. This report includes self-reported data about activity undertaken in 2017-18 across the UK's AML/CTF regime, which AML/CTF supervisors provided to the Treasury in their annual returns. This report provides transparency about the performance of AML/CTF supervisors and fulfils the Treasury's obligation under the MLRs, to ask all designated AML/CTF supervisors to provide information on their supervisory activity and publish a consolidated review of this information.

- 1.1 Under the MLRs, the Treasury is responsible for appointing AML/CTF supervisors (see Annex 1 for the full list of current supervisors). Working closely with both statutory supervisors (FCA, HMRC and the Gambling Commission) and the 22 PBSs, the Treasury seeks to ensure they deliver upon the government's objective of a robust and risk-based approach to supervision, applying dissuasive sanctioning powers when necessary, while minimising unnecessary burdens on regulated firms.
- 1.2 The UK's AML/CTF regime is based on the international standards set by the FATF. These standards form the basis of the European Union's Fourth Money Laundering Directive (4MLD) which was transposed into UK law by the MLRs. The European Union published the Fifth Money Laundering Directive (5MLD) in June 2018 to further enhance money laundering legislation.¹ 5MLD amends 4MLD and is due to be transposed into UK legislation by January 2020; the public consultation on the UK's approach to transposition took place between April and June 2019.
- 1.3 In December 2018, the FATF MER of the UK's AML/CTF regime concluded with the publication of the final evaluation report.² The UK achieved the best ratings of any of the 60 countries assessed to date. The FATF, however, did have significant concerns about the UK's supervision regime, assessing it as only moderately effective.
- 1.4 The MER found significant weaknesses in the risk-based approach to supervision among all the UK's supervisors except the Gambling Commission. The statutory supervisors – the Financial Conduct Authority (FCA), HMRC, and the Gambling Commission – and the largest legal sector supervisor (the Solicitors Regulation Authority) were assessed to have a stronger understanding of the risks present in their sectors than the other Supervisors. The report concluded that:

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0843&from=EN>

² <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-Kingdom-2018.pdf>

- PBSs have significant weaknesses in the application of a risk-based approach to supervision, which is particularly concerning, as an effective risk-based approach is central to combatting illicit finance
- there is lack of dissuasive sanctioning for non-compliance with the MLRs, particularly within the accountancy and legal sectors

The UK accepts these findings, noting their consistency with the Government's National Risk Assessments of Money Laundering and Terrorist Financing.

- 1.5** The government established OPBAS as part of a wider package of government reforms to strengthen the UK's AML/CTF regime. OPBAS is housed within the FCA and became operational on 1 February 2018. OPBAS was created to oversee the 22 PBSs to ensure a consistent standard of AML/CTF supervision. OPBAS also seeks to facilitate information and intelligence sharing between PBSs, statutory supervisors and law enforcement agencies.
- 1.6** In 2018, OPBAS conducted supervisory assessments of each of the 22 PBSs listed in Schedule 1 of the MLRs to assess how they supervise their members in line with the requirements set out in the MLRs and guidance set out in the OPBAS sourcebook. OPBAS subsequently published an overview of their findings in March 2019.³ OPBAS' AML supervisory assessments found significant weaknesses in PBSs' approach to supervision including that:
- 80% of PBSs lacked appropriate governance arrangements and 86% preferred offering support and guidance to their members rather than issue penalties
 - 91% of relevant PBSs were not fully applying a risk-based approach to AML/CTF supervision, 23% of relevant PBSs undertook no form of AML supervision and 18% had no fully identified their supervised population
 - PBSs had an inconsistent approach to intelligence and information sharing, some lacked sufficient record-keeping practices and 80% lacked appropriate staff competence training

Following its supervisory assessments, OPBAS asked PBSs to develop individualised AML strategy plans detailing how they intend to rectify identified deficiencies.

- 1.7** As in previous years, the Treasury has fulfilled its legislative requirement to ask all designated supervisors to provide information on their supervisory activity to inform the content of this report. This report sets out AML/CTF supervisory activity in 2017-18 (the first year following the introduction on the MLRs 2017) based on the self-reported information provided by AML/CTF supervisors in their annual returns to the Treasury. This report does not attempt to replicate the in-depth assessments undertaken by OPBAS but provides a factual review of the information AML/CTF supervisors provided in their annual returns. In view of the new requirements introduced by 5MLD on PBSs to publish annual reports about their AML/CTF supervision, the

³ <https://www.fca.org.uk/publication/opbas/themes-2018-opbas-anti-money-laundering-supervisory-assessments.pdf>

Treasury will review how best to comply with its legal obligations under Article 44 of 4MLD as amended by 5MLD.

1.8 Each chapter considers a specific area:

- chapter 2 outlines the methodology the Treasury used to develop this report
- chapter 3 considers supervisor's supervisory activities
- chapter 4 considers supervisors' promotion and enforcement of compliance with the AML/CTF standards among their supervised population

Chapter 2

Methodology

- 2.1 The MLRs require all AML/CTF supervisors to provide the Treasury with information to inform this report. The core content of the questionnaire is set out in Schedule 4 of the MLRs. It includes questions on the number of regulated firms and persons supervised, the number of breaches of the MLRs, and the sanctions employed using powers provided under the MLRs.
- 2.2 This report details AML/CTF supervisory activity in 2017-18 (the financial year which saw the implementation of the MLRs 2017) based on the annual returns from AML/CTF supervisors. While the updated MLRs were only adopted in June 2017, full year data is presented in this report as most reporting requirements were unaffected by the change. This report covers activity by statutory supervisors – the FCA, HMRC and the Gambling Commission – and by PBSs – the legal and accountancy sector professional body supervisors.
- 2.3 The Treasury sought quantitative as well as qualitative evidence to help inform and present this report. Due to the specificities of each sector – including differences in size of supervised population and distribution of ML/TF risk within this population – it is not always appropriate to compare supervisors based on quantitative data alone. The Treasury has sought to capture the data reported by supervisors as accurately as possible. However, it was not possible to include the full range of data provided due to inconsistencies in the ways the returns were filled.
- 2.4 Prior to this report, there was no standard reporting period for AML/CTF activities. To streamline data collection and aid year-on-year comparisons, the Treasury commissioned supervisors to submit their AML/CTF returns to the Treasury on a financial year basis (6 April 2017–5 April 2018).
- 2.5 In 2017-18, the Treasury enhanced the scope of the data collected to inform this report to aid understanding of supervisory authorities. The Treasury requested more information from AML/CTF supervisors on several areas including supervision of Trust or Company Service Providers (TCSPs), the number of supervised persons refused the right to practice for AML/CTF reasons, and on breaches of the MLRs by the regulated businesses they supervise. This information has been incorporated into this report.

Chapter 3

Supervisory activities

Context

- 3.1 The MLRs require AML/CTF supervisors to take a risk-based approach to the supervision of their population. This involves understanding of the ML/TF risk within their supervised populations to target resources on the activities that criminals are most likely to exploit. This approach ensures that supervision is focused on areas where it will have the greatest impact on detecting, deterring and disrupting criminals whilst minimising unnecessary burdens on legitimate businesses.
- 3.2 An effective risk-based approach requires a deep understanding of the supervised population, differentiating between types of firms, the services they provide, and their clients, amongst other factors. There are various resources available to assist AML/CTF supervisors build an understanding of ML/TF risks within their regulatory population, such as the guidelines published by the European Supervisory Authorities and reports published by FATF. The MLRs also require supervisors to refer to the National Risk Assessment (NRA) 2017 when they carry out their own AML/CTF risk assessments. This will support supervisors in building a solid intelligence picture of the relevant sector and to disseminating findings to their supervised populations.
- 3.3 A robust and up-to-date risk methodology is key to effective implementation of a risk-based approach to AML/CTF. Supervisors have access to a range of powers to ensure the firms they supervise are implementing appropriate AML/CTF controls; they include: powers to request information, require attendance at interview, and to access firms' premises. In practice, supervisory activities often help supervisors update their understanding of the ML/TF risk within their population, and to refine their supervisory approach to focus resources where they have greatest effect.
- 3.4 Collaboration amongst AML/CTF supervisors and with law enforcement is also useful to share skills, knowledge and experience. In addition to improving supervisors' monitoring of their members, these relationships also enable supervisors to aid law enforcement investigations, ensuring criminals are successfully identified and prosecuted. Adequate data protection safeguards, both in terms of processes and integrity of supervisory personnel, underpin this collaboration and are key to ensuring information is used appropriately.

Analysis

Onsite visits and desk-based reviews (DBRs)

- 3.5 Supervisors have a range of on-site and off-site supervisory tools at their disposal to monitor their supervised population including meeting senior management, desk-based reviews, questionnaires, periodic and *ad hoc* information requests. The MLRs require AML/CTF supervisors to effectively monitor their supervised populations and to vary the frequency and intensity of their on-site and off-site supervision based on the different risk profiles within their supervised population.
- 3.6 This section of the report sets out data provided by AML/CTF supervisors as part of their annual returns on the number of on-site visits and desk-based reviews (DBRs) they carried out and their assessment of the compliance of the supervised firms reviewed with the MLRs. Due to the specific attributes of each sector – including differences in size of supervised population and distribution of ML/TF risk within the populations – it is not appropriate to compare supervisors based on quantitative data alone. In addition, the data does not reflect the quality of the on-site visits and DBRs undertaken.

PBSs' supervisory activity

- 3.7 The 22 PBSs responsible for AML/CTF supervision for the accounting and legal sectors cover supervision for a range of services including accountancy, audit, bookkeeping, legal and notarial and the size of their supervised population varies. In 2017-18, 19 PBSs reported that they carried out visits or DBRs as part of their supervisory actions. Data provided by supervisors as part of the annual returns is set out in the tables below.¹

Table 3.A: Supervisory activity by members of the Accountancy Affinity Group

2017-18 2	Total no. of DBRs	No. of DBRs assessed as "compliant"	No. of DBRs assessed as "generally compliant"	No. of DBDRs assessed as "non- compliant"	Total no. of onsite visits	No. of Onsite visits assessed as "compliant"	No. of onsite visits assessed as "generally compliant"	No. of onsite visits assessed as "non- compliant"	No. of compliant"
	817 (1,031)	465 (674)	301 (305)	51 (52)	930 (946)	534 (516)	259 (359)	137 (71)	
Institute of Chartered Accountants of England & Wales	291 (215)	103 (153)	186 (62)	2 (0)	140 (163)	122 (147)	16 (16)	2 (0)	
Association of Chartered Certified Accountants									

¹ The reporting period of the data is different from the reporting period used in OPBAS's assessment of the PBSs.

² The Treasury asked PBSs for data relating to the reporting period between 6 April 2017 and 5 April 2018 however some of data PBSs reported in their returns related to slightly different periods. Data from previous reporting year is presented in brackets where available. Where no data was provided the entry is denoted with "-".

Association of Accounting Technicians	98 (132)	68 (8)	25 (74)	5 (50)	79 (89)	51 (5)	21 (50)	7 (34)
Association of Taxation Technicians	2 (547)	0 (-)	1 (-)	1 (-)	10 (18)	6 (9)	2 (2)	4 (7)
Chartered Institute of Taxation	1 (884)	1 (-)	0 (-)	0 (-)	22 (25)	2 (13)	13 (8)	7 (4)
International Association of Bookkeepers	15 (28)	- (-)	- (-)	3 (-)	3 (1)	- (-)	2 (-)	- (-)
Institute of Certified Bookkeepers	318 (-)	316 (-)	0 (-)	2 (-)	15 (-)	12 (-)	2 (-)	1 (-)
Institute of Chartered Accountants	4 ³ (3)	4 (-)	0 (-)	0 (-)	54 ⁴ (33)	46 (26)	4 (2)	2 (2)
Accountants of Ireland	69 (85)	60 (72)	9 (13)	0 (0)	113 (135)	53 (87)	51 (48)	9 (0)
Accountants of Scotland	17 (-)	0 (-)	14 (-)	3 (-)	40 (-)	15 (-)	18 (-)	7 (-)
International Accountants	0 (1,377)	0 (859)	0 (491)	0 (27)	7 (22)	5 (6)	1 (0)	1 (16)
Management Accountants	0 (-)	0 (-)	0 (-)	0 (-)	262 (-)	185 (-)	61 (-)	16 (-)
Insolvency Practitioners	0 (-)	0 (-)	0 (-)	0 (-)	262 (-)	185 (-)	61 (-)	16 (-)
Association of Financial Accountants	64 (75)	36 (6)	22 (6)	6 (29)	12 (41)	2 (13)	6 (5)	4 (0)
<hr/>								
Source: HM Treasury								

³ This number only includes DBRs carried out on firms or sole practitioners within the UK.

⁴ This number only includes visits carried out on firms or sole practitioners within the UK.

Table 3.B: Supervisory activity by members of the Legal Affinity Group

5 2017-18	Total no. of DBRs	No. of DBRs assessed as "compliant"	No. of DBRs assessed as "generally compliant"	No. of DBRs assessed as "non-compliant"	Total no. of onsite visits	No. of Onsite visits assessed as "compliant"	No. of onsite visits assessed as "generally compliant"	No. of onsite visits assessed as "non-compliant"
	DDBRs				Onsite visits			
Solicitors Regulation Authority	113 (140)	- (-)	- (-)	- (-)	73 (-)	- (-)	- (-)	- (-)
Law Society of Scotland	0 (0)	0 (0)	0 (0)	0 (0)	266 (239)	125 (-)	124 (-)	17 (-)
Law Society of N. Ireland	489 (500)	268 (125)	208 (305)	13 (25)	209 (286)	85 (143)	23 (14)	93 (129)
Council of Licensed Conveyancers	- (-)	- (-)	- (-)	- (-)	91 (80)	35 (-)	35 (-)	21 (-)
Chartered Institute of Legal Executives	2 (0)	2 (0)	0 (0)	0 (0)	3 (0)	2 (0)	1 (0)	0 (0)
Council of Bar	General	0 (0)	0 (0)	0 (0)	0 (1)	0 (-)	0 (-)	0 (-)
General	0 (-)	0 (-)	0 (-)	0 (-)	- (-)	- (-)	- (-)	- (-)
Council of the Bar of N. Ireland	Faculty of Advocates	- (-)	- (-)	- (-)	- (-)	0 (-)	0 (-)	0 (-)
Faculty Office of the Archbishop of Canterbury	0 (-)	0 (-)	0 (-)	0 (-)	14 (-)	14 (-)	0 (-)	0 (-)

Source: HM Treasury

HMRC's supervisory activity

- 3.8** HMRC is responsible for the supervision of estate agency businesses, high value dealers, money service businesses, and trust or company service providers who are not supervised by the FCA or PBSs. HMRC is also the supervisor of default for Accountancy Service Providers (ASPs); it supervises those ASPs that are not supervised by one of the PBSs or the FCA. In its

⁵ The Treasury asked PBSs for data relating to the reporting period between 6 April 2017 and 5 April 2018 however some of data PBSs reported in their returns related to slightly different periods. Data from previous reporting year is presented in brackets where available. Where no data was provided the entry is denoted with "-".

annual return, HMRC reported that it supervised 27,666 entities during the reporting period.

Table 3.C: Supervisory Activity by HMRC

2017-18	Total no. of DBRs	Total no. of onsite Visits	No. of DBRs & onsite visits assessed as "compliant"	No. of DBRs & onsite visits assessed as "generally compliant"	No. of DBRs & onsite visits assessed as "non-compliant"
Her Majesty's Revenue & Customs	273	1,323	167	161	294

Source: HM Treasury

- 3.9** Not all interventions started by HMRC will result in recording a compliance rating (compliant, partially compliant or non-compliant). These figures include over 800 visits to MSB agents, the results of which were reported to the principal and are not included in the compliance ratings above. In addition, where a business has ceased to trade or otherwise gone out of business, no compliance marking will be recorded.

FCA's supervisory activities

- 3.10** The FCA is the AML/CTF supervisor for financial services firms in the UK; it supervises c. 19,620 firms under the MLRs. Given the size and diversity of its supervised population the FCA adopts a risk-based approach to AML/CTF supervision and allocated its resources to focus most closely on those firms and activities that present the highest AML/CTF risks. These figures reflect the output of the FCA's 3 core supervisory programmes of work outlined below.
- The Systematic Anti Money Laundering Programme covers the 14 largest retail and investment banks operating in the UK who are subject to the most intensive AML/CTF supervision. The FCA's engagement with these firms is continuous given the high risk they present, and each has a dedicated relationship manager and dedicated frontline supervision team.
 - The Proactive Money Laundering Programme covers predominantly smaller firms assessed as higher risk. The programme covers approximately 150 firms over the course of four years. The population in the programme is dynamic with firms moving in and out of the programme depending on risk. The data return is used to determine if firms are in scope. This ensures that the FCA inspects the firms posing the greatest money laundering risk.
 - The Risk Assurance Programme covers all remaining firms within the FCA's supervised population. A selection of approximately 100 firms are reviewed on a yearly cycle across all sectors subject to the MLRs with some targeted on a risk-based basis.

- 3.11** In addition to these programmes, the FCA also runs an AML call campaign focused on firms identified as lower risk who were not targeted as part of other programmes. This involves asking eight questions to a firm's money

laundering reporting officer regarding the firm's AML systems and controls. The FCA discussed AML with around 550 firms as part of this programme.

- 3.12** FCA specialists also respond to referrals from a variety of sources where there are concerns about weaknesses in a firm's systems and controls. They assessed nearly 150 referrals and took action in over 70 cases, covering both desk-based assessments and firm visits. The FCA also completed a thematic report on the money laundering and terrorist financing risks in the E-Money sector and conducted 13 visits to E-Money institutions as part of this work.

Table 3.D: Supervisory activity by the FCA

2017-18	Total no. of DBRs	No. of DBRs assessed as "compliant"	No. of DBRs assessed as "generally compliant"	No. of DBRs assessed as "non-compliant"	Total no. of onsite visits	No. of Onsite visits assessed as 'compliant'	No. of onsite visits assessed as "generally compliant"	No. of onsite visits assessed as "non-compliant"	No. of onsite visits
Financial Conduct Authority	38	0	38	0	98	0	84	14	

Source: HM Treasury

Supervisory activity by the Gambling Commission

- 3.13** The Gambling Commission is the supervisory authority for approximately 270 land-based, remote casinos, and money service businesses offered in casinos that are not supervised by HMRC. The Commission conducted an increased amount of DBRs and onsite visits in 2017-18 by conducting visits to 38 out of 270 licensed businesses.

Table 3.E: Supervisory activity by the Gambling Commission

2017-18	Total no. of DBRs	No. of DBRs assessed as "compliant"	No. of DBRs assessed as "generally compliant"	No. of DBRs assessed as "non-compliant"	Total no. of onsite visits	No. of Onsite visits assessed as 'compliant'	No. of onsite visits assessed as "generally compliant"	No. of onsite visits assessed as "non-compliant"	No. of onsite visits
Gambling Commission	17	3	13	11	15	4	4	6	

Source: HM Treasury

Areas of identified non-compliance

- 3.14** The Treasury asked AML/CTF supervisors to share information about breaches of the MLRs by their regulated population. As in previous years, supervisors' returns suggest that regulated firms' most common breaches of the MLRs remain failure to carry out client risk assessment or to conduct appropriate customer due diligence. Less common breaches included failure to carry out ongoing monitoring on clients or implement AML/CTF policies and procedures, and failure to maintain records or provide adequate training.

Cooperation, coordination and information-sharing

- 3.15 Regulation 50(1) of the MLRs 2017 requires AML/CTF supervisors to take such steps as it considers appropriate to:
- co-operate with other supervisory authorities, the Treasury and law enforcement authorities in relation to the development and implementation of policies to counter money laundering and terrorist financing
 - co-ordinate activities to counter money laundering and terrorist financing with other supervisory authorities and law enforcement authorities
 - co-operate with overseas authorities to ensure the effective supervision of a relevant person where that person is established either a) in the UK with its head office in another country or b) in another country but with its head office in the UK
- The MLRs 2017 (Regulation 50(3)) specify that such co-operation may include the sharing of information which the supervisory authority is not prevented from disclosing.
- 3.16 In their Treasury returns, supervisors highlighted their regular attendance to a range of supervisors' forums and discussion groups to coordinate AML/CTF activities including:
- the Anti-Money Laundering Supervisors' Forum (AMLSF), which all supervisors are invited to attend. The Treasury, the Home Office, the National Crime Agency (NCA) and OPBAS are also invited to attend and contribute
 - the Accountancy Affinity Group, which is attended by accountancy sector professional bodies
 - the Legal Sector Affinity Group, which is attended by legal sector professional bodies
 - discussion groups, including those run by the Royal United Services Institute and other UK and international specialist fora
- 3.17 Several supervisors also noted that their membership of FIN-NET, an intelligence-sharing network with quarterly meetings, helps facilitate the sharing of operational information with law enforcement and government. Supervisors commented that gateways for sharing information with a wide range of agencies helps inform their own investigative capabilities. Proactive use of the Shared Intelligence Service (SIS) was also identified as a means to facilitate information and intelligence sharing but membership and utilisation of the service remains low among the smaller PBSs.
- 3.18 Accountancy sector supervisors mentioned the OPBAS-created 'Expert Working Group', which was launched in late 2018. The purpose of the Group (based in part on the Joint Money Laundering Intelligence Taskforce model) is to share strategic and tactical intelligence with the NECC and law enforcement, such as typology reports, alerts and anonymised case studies and, more generally, to create an environment to work collaboratively to

improve intelligence sharing arrangements by building trust and agreeing a consistent approach.

Chapter 4

Promoting and ensuring compliance

Context

- 4.1 Under the MLRs 2017 (Regulations 17(1), 47(1), 47(3)), Supervisors are required to provide appropriate and up-to date information on AML/CTF requirements to their supervisory population. The MLRs 2017 (Regulation 49(1)(d)), also require supervisors to ensure that regulated firms who contravene relevant requirements are liable to effective, proportionate and dissuasive measures. Supervisors may use a range of sanctions to this effect including sanctions such as fines, public censure, suspension or withdrawal of the right to provide services consistently and proportionately. Enforcement action should be effective, proportionate and dissuasive.
- 4.2 The Treasury-approved sectoral guidance provides advice to firms on how to efficiently and effectively detect, deter and disrupt criminals and terrorists, targeting resources at risk whilst minimising unnecessary burdens on their business. Under the MLRs, supervisors and law enforcement authorities should consider whether firms have followed their respective sectoral guidance when deciding whether a MLR requirement has been contravened.
- 4.3 Most supervisors provide AML/CTF information online, including through webinars, and many answer specific queries through an email or a telephone advice service. Other forms of engagement include email updates, membership magazines, provision of training events or AML/CTF specific sessions at professional conferences or roadshows.

Analysis

Refusing licenses to provide services

- 4.4 Supervisors can refuse a licence to practise to prevent criminals from infiltrating the regulated sector. Supervisors subject key staff in regulated firms to a ‘fit and proper’ test to determine whether it is in the public interest that an individual be permitted to practice; it considers several factors, including the potential risk that the individual may facilitate money laundering or terrorist finance.
- 4.5 Many PBSs have established processes to assess prospective new members. For example, they may require individuals to have qualifications and work experience, to have completed training and continuous professional development, and to undergo ‘fit and proper’ or criminality checks. Consequently, prospective members that may pose a risk to the AML/CTF regime may be rejected before they gain membership.

- 4.6 The Gambling Commission and the FCA often issue 'minded to refuse' letters prior to formally declining an application for a license to practice – this reduces the expense of undergoing a time consuming and complex rejection process.
- 4.7 HMRC is not a membership organisation; the application to register for money laundering supervision from a prospective regulated firm often is the first AML/CTF contact HMRC has with the applicant and the first opportunity to refuse the right to practice. HMRC is increasingly requesting more information from businesses seeking to be supervised by them. In 2017-18, 5,691 businesses submitted applications to be registered with HMRC for AML supervision, 844 were refused under Regulation 59. A further 798 businesses had their registration cancelled or suspended under Regulation 60.
- 4.8 HMRC also conducts fitness and propriety tests on certain individuals in MSBs and TCSPs. Under the MLRs 2017, in addition to the 'fit and proper' tests in MSBs and TCSPs, HMRC is also required to conduct criminality tests for key individuals in accountancy service providers, high value dealers and estate agency businesses, ensuring that individuals who have a relevant criminal conviction are not able to hold relevant positions.

Enforcement action

- 4.9 This section considers enforcement action across the supervision regime. In contrast to previous years, this report presents data on enforcement actions of individual supervisors to allow for greater transparency. All supervisors have a full range of enforcement tools and are expected to investigate a failure to comply with the MLRs and to consider an appropriate sanction that is effective, proportionate and dissuasive.

Enforcement action by PBSs

- 4.10 Overall, the data below shows low levels of AML/CTF related enforcement activity, particularly within the accountancy and legal sectors, with many PBSs taking no disciplinary action in 2017-18. This correlates with the findings of the FATF MER.

Table 4.A: Enforcement action by members of the Accountancy Affinity Group

2017-2018 ¹	Expulsion / Withdrawal of membership	Suspension	Fine ²
Institute of Chartered Accountants of England & Wales	8 (11)	0 (1)	11 - £77,625 (9)
Association of Chartered Certified Accountants	9 (0)	1 (0)	0 (0)
Association of Accounting Technicians	4 (1)	0 (0)	53 - £47,112.92 (23 - £30,047.09)
Association of Taxation Technicians	0 (1)	0 (0)	12 - £2,394 (13 - £1,534)
Chartered Institute of Taxation	0 (-)	0 (-)	28 - £3,378 (12- £6,708.13)
International Association of Bookkeepers	1 (5)	0 (0)	0 (0)
Institute of Certified Bookkeepers	0 (-)	0 (-)	16 - £4115 (-)
Institute of Chartered Accountants of Ireland	0 (0)	0 (0)	2- £750 ³ (0)
Institute of Chartered Accountants of Scotland	0 (1)	0 (0)	0 (0)
Association of International Accountants	1 (-)	0 (-)	2 - £400 (-)
Chartered Institute of Management Accountants	1 (0)	0 (0)	1 - £675 (0)
Insolvency Practitioners Association	2 (-)	1 (-)	0 (-)
Institute of Financial Accountants	2 (2)	0 (-)	1- £500 (-)

Source: HM Treasury

Table 4.B: Enforcement action by members of the Legal Affinity Group

¹ The Treasury asked PBSs for data relating to the reporting period between 6 April 2017 and 5 April 2018 however some of data PBSs reported in their returns related to slightly different periods. Data from previous reporting year is presented in brackets where available. Where no data was provided the entry is denoted with "-".

² Monetary value is reported when available. Where monetary value is noted, it represents the total of sum of monetary fines.

³ This number only includes fines to firms or sole practitioners within the UK

2017-18 ⁴	Expulsion / Withdrawal of membership	Suspension	Fine
Solicitors Regulation Authority	1 (3)	1 (2)	7-£70,500 (2-£60,000)
Law Society of Scotland	1 (1)	0 (0)	2-£4,000 (0)
Law Society of N. Ireland	0 (0)	0 (0)	0 (0)
Council of Licensed Conveyancers	1 (0)	0 (0)	0 (0)
Chartered Institute of Legal Executives	0 (0)	0 (0)	0 (0)
General Council of Bar	0 (0)	0 (0)	0 (0)
General Council of the Bar of N. Ireland	- (-)	- (-)	- (-)
Faculty of Advocates	0 (-)	0 (-)	0 (-)
Faculty Office of the Archbishop of Canterbury	1 (-)	0 (-)	0 (-)

Source: HM Treasury

Enforcement Action by HMRC

- 4.11 HMRC has taken more enforcement action in recent years, including the number and value of penalties issued. Financial penalties increased from over £1.1 million in 2016-17 to over £2.2 million in 2017-18.
- 4.12 HMRC is not a membership organisation and therefore cannot use member expulsion as an enforcement tool. However, HMRC can deregister firms it supervises as a form of enforcement action. For example, HMRC can withdraw the fit and proper status of key personnel, and where no other fit and proper individuals can take over these key roles, the business must stop providing the regulated service, which can mean it closing.
- 4.13 Alongside its supervisory role, HMRC can also pursue prosecutions through its law enforcement powers either under the MLRs or under the Proceeds of Crime Act 2002 (POCA), which covers money laundering offences. Staff working on supervisory issues work closely with the wider investigation teams elsewhere in HMRC to ensure intelligence is shared effectively. In 2017-18, HMRC secured 1 conviction under the MLRs and 17 convictions under the POCA.

Table 4.C: Enforcement action by HMRC

⁴ The Treasury asked PBSs for data relating to the reporting period between 6 April 2017 and 5 April 2018 however some of data PBSs reported in their returns related to slightly different periods. Data from previous reporting year is presented in brackets where available. Where no data was provided or the question was not applicable the entry is denoted with “-”.

2017-18	Expulsion / Withdrawal or Suspension Fine of Registration	
Her Majesty's Revenue & Customs (HMRC)	798	655 – approx. £2.2m

Source: HM Treasury

Box 4.A: Case study

As part of its commitment to tackle money laundering, HMRC is conducting coordinated weeks of action. The first week of action, took place in February 2019, with the overall aim of cracking down on Estate Agency Businesses (EABs) who fail to comply with their obligations under the MLRs.

The coordinated week of activity included:

- Unannounced visits to 50 EABs, across London and the Home Counties. The larger proportion of these were identified as trading as an EAB, whilst not currently being registered for MLR supervision with HMRC. In these cases, enforcement action is underway.
- HMRC published its latest list of businesses who have failed to comply with the MLRs and who have received a penalty during 1 August – 31 October 2018. Three EABs are listed, including Countrywide Estate Agents, who received a penalty for £215,000 for failing to put in place adequate policies, controls and procedures.

HMRC is taking a harder line in relation to non-compliance. In 2017-18 HMRC recovered over £31.5 million using the confiscation, civil recovery and cash forfeitures regimes in the Proceeds of Crime Act and successfully prosecuted 18 individuals for money laundering offences and failures to follow regulations. Criminals are serving a combined jail sentences of nearly 30 years as a result of the action taken.

Enforcement Action by the FCA

4.14 The FCA has a range of powers to address AML/CTF deficiencies in regulated firms. In addition to financial penalties, the FCA uses early intervention techniques, firm-specific action plans and its power to require firms to cease certain types of business. The FCA can also require a firm to have a report undertaken by an independent skilled person – a Section 166 Report - to review aspects of a firm's activities that cause concern or where further analysis is required. While the FCA did not take sanction during the reporting period, the authority currently has over 60 investigations currently open into suspected AML systems and control failings. In addition, the FCA exercised its Section 166 power 11 times during 2017-2018 in relation to AML.

Table 4.D: Enforcement Action by the FCA

2017-18	Expulsion / Withdrawal of membership	Suspension	Fine
Financial Conduct Authority	0	0	0

Source: HM Treasury

Box 4.B: Case study

In April 2019, the FCA fined Standard Chartered Bank (SCB) £102 million for breaches in two higher risk areas of its business. SCB's failings occurred in its UK Correspondent Banking business during the period from November 2010 to July 2013 and in its UAE branches during the period from November 2009 to December 2014. This is the second largest financial penalty ever imposed by the FCA for AML failings.

Under the Money Laundering Regulations 2007 (MLRs), SCB was required to establish and maintain appropriate and risk sensitive policies and procedures to reduce the risk it may be used to launder the proceeds of crime, evade financial sanctions or finance terrorism.

The FCA found significant shortcomings in SCB's own internal assessments of the adequacy of its Anti-Money Laundering (AML) controls, its approach towards identifying and mitigating material money laundering risks and its escalation of money laundering risks. These failings exposed SCB to the risk of breaching sanctions and increased the risk of receiving and/or laundering the proceeds of crime. Examples include:

- opening an account with 3 million UAE Dirham in cash in a suitcase (just over £500,000) with little evidence that the origin of the funds had been investigated
- not reviewing due diligence on a customer despite repeated red flags such as a blocked transaction from another bank indicating a link to a sanctioned entity

The FCA found that SCB had breached Regulations 14(3), 15(1) and 20(1), and failed to comply with Regulations 7(1) to (3), 8(1) and (3), and 14(4) of the MLRs by failing to establish and maintain risk-sensitive policies and procedures, and failing to require its non-EEA branches and subsidiaries to apply UK-equivalent AML standards regarding customer Due Diligence and ongoing monitoring.

The FCA worked alongside a number of authorities during this investigation including a number of UK and overseas agencies such as the US Department of Justice, New York County District Attorney, US Board of Governors of the Federal Reserve, New York State Department of Financial Services and US Office of Foreign Assets Control.

Enforcement Action by the Gambling Commission

- 4.15 The Gambling Commission made 231 referrals to law enforcement for ML/TF related matters, an increase from 197 in the previous reporting year. Operators failing to comply with AML/CTF obligations would be in breach of their licence, allowing the Commission to impose sanctions against their licence including fines, or revocation of the operator's licence.
- 4.16 The Gambling Commission supervises its sector via a licensing regime rather than a membership scheme and undertakes numerous enforcement actions, for breaches of licence conditions and codes of practice relating to AML and CTF measures, relating to other gambling operators who fall into sectors outside the remit of the Regulations. The Gambling Commission published enforcement action relating to AML/CTF failings within the remote and non-remote casino industry on its website, for the period 6 April 2017 - 5 April 2018; which included an overall penalty package of £6,276,600.

Table 4.E: Enforcement action by the Gambling Commission

2017-18	Expulsion / Withdrawal of membership	Suspension	Fine
Gambling Commission	0	0	1 - £6.4 million

Source: HM Treasury

Box 4.C: Case study

The MLRs, pursuant to Regulation 21(1)(a), require casino operators to appoint an individual who is either a member of the board of directors or of its senior management, as the officer responsible for the operator's compliance with the Regulations. Additionally, Regulation 21(3) requires casino operators to appoint an individual within the firm as a nominated officer.

To ensure compliance with these new requirements, the Gambling Commission (the Commission) planned a systematic, risk-based approach in its work with both remote and non-remote casino businesses. All casinos are required to notify the Commission, via online 'key event' submissions, of any event that could have a significant impact on the nature or structure of their business, this includes any appointments and/or changes to AML positions.

To facilitate engagement and compliance with all casino operators, including those based overseas, various methods of communication were utilised, such as: Skype, direct letter, and notices published via the website, which had 1,051 hits in the first 18 days.

The follow-up activity was split into two main strands. Actions within these strands were further prioritised based on risk.

- 16 businesses were identified whose nominated officers/MLROs had been outsourced and successfully brought them into compliance as employees of the casino operator.
- The Commission sought assurances from 12 operators who held ‘umbrella’ licence arrangements where a single nominated officer/MLRO was covering more than one business.
- The Commission contacted a further 12 casino businesses operating within group structures, where a single nominated officer/MLRO was covering more than one business, to again seek assurances around time management and effectiveness.

Following this, work was focussed on ensuring all casino operators had informed the Commission of the details of the senior manager/board appointment responsible for adherence to the Regulations. Non-compliance was escalated via the internal management processes, whereby it was agreed that determining the required information would be incorporated into targeted Compliance activity using an educational approach, which prioritised higher impact operators.

As a sign of the effectiveness of the planned approach, the communication and follow-up strategies, and the casino sector’s adherence to the Regulations to inform the Commission regarding AML positions, ‘key event’ submissions in this specific area have more than doubled from 69 to 164 when comparing year on year.

Going forward, the Commission continues to engage with operators on this topic through direct communication, publication of guidance, and targeted compliance assessments.

Annex A

List of supervisors

Accountancy professional body AML supervisors

- Association of Accounting Technicians
- Association of Chartered Certified Accountants
- Association of International Accountants
- Association of Taxation Technicians
- Chartered Institute of Management Accountants
- Chartered Institute of Taxation
- Insolvency Practitioners Association
- Institute of Certified Bookkeepers
- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants in Ireland
- Institute of Chartered Accountants of Scotland
- Institute of Financial Accountants
- International Association of Bookkeepers

Legal professional body AML supervisors

- Chartered Institute of Legal Executives
- Council for Licensed Conveyancers
- Faculty of Advocates
- Faculty Office of the Archbishop of Canterbury
- General Council of the Bar
- General Council of the Bar of Northern Ireland
- Law Society
- Law Society of Northern Ireland
- Law Society of Scotland

Statutory AML Supervisors

- HM Revenue and Customs
- The Financial Conduct Authority
- The Gambling Commission

Annex B

Definitions of sanctions or penalties

- Expulsion: To remove membership, authorisation, fit and proper status, and/or registration.
- Suspension: To suspend membership, authorisation, fit and proper status, and/or registration.
- Fine: To levy a financial penalty.
- Reprimand: Any type of formal written warning issued by a tribunal, committee or organisation.
- Undertaking or condition: Any formal requirement to implement remediation or restrict ability to carry on business or offer specific services.
- Action plan: Any communication seeking improvements which is considered as part of the general capacity development and monitoring programme, rather than part of a formal disciplinary programme.
- Warning: Any communication with a firm cautioning against specific conduct.

Annex C

Characteristics of an effective AML/CTF System (FATF)

C.1 Immediate Outcome 3: Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CTF requirements commensurate with their risks.¹

Characteristics of an effective system

C.2 Supervision and monitoring address and mitigate the ML/TF risks in the financial and other relevant sectors by:

- preventing criminals and their associates from holding, or being the beneficial owner of, a significant or controlling interest or a management function in financial institutions or DNFBPs
- promptly identifying, remedying, and sanctioning, where appropriate, violations of AML/CTF requirements or failings in ML/TF risk management

C.3 Supervisors provide financial institutions and DNFBPs with adequate feedback and guidance on compliance with AML/CTF requirements. Over time, supervision and monitoring improve the level of AML/CTF compliance, and discourage attempts by criminals to abuse the financial and DNFBP sectors, particularly in the sectors most exposed to ML/TF risks.

C.4 This outcome relates primarily to Recommendations 14, 26 to 28, 34 and 35, and also elements of Recommendations 1 and 40.

Core Issues to be considered in determining if Outcome 3 is being achieved

- How well does licensing, registration or other controls implemented by supervisors or other authorities prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in financial institutions or DNFBPs? How well are breaches of such licensing or registration requirements detected?
- How well do the supervisors identify and maintain an understanding of the ML/TF risks in the financial and other sectors as a whole, between different sectors and types of institution, and of individual institutions?
- With a view to mitigating the risks, how well do supervisors, on a risk sensitive basis, supervise or monitor the extent to which financial institutions and DNFBPs are complying with their AML/CTF requirements?

¹ <http://www.fatf-gafi.org/media/fatf/content/images/FATF%20Methodology%202022%20Feb%202013%20.pdf> 34

- To what extent are remedial actions and/or effective, proportionate and dissuasive sanctions applied in practice?
- To what extent are supervisors able to demonstrate that their actions have an effect on compliance by financial institutions and DNFBPs?
- How well do the supervisors promote a clear understanding by financial institutions and DNFBPs of their AML/CTF obligations and ML/TF risks?

Annex D

FATF: key findings and recommended actions

Key findings

- All regulated activities under the FATF Standards are supervised for AML/CTF compliance under the UK regime. The quality of supervision varies among the 25 AML/CTF supervisors which range from large public organisations to small professional bodies.
- The statutory supervisors (FCA, HMRC and the Gambling Commission) and the largest legal sector supervisor (which supervises around 90% of solicitors in the UK) have a stronger understanding of the ML/TF risks present in the sectors than the other 22 professional bodies that supervise most accountants and the remainder of the legal sector.
- Each supervisor takes a slightly different approach to risk-based supervision. While positive steps have been taken, there are significant weaknesses in the risk-based approach to supervision among all supervisors, with the exception of the Gambling Commission.
- Systemic AML/CTF failings identified at some large multinational UK firms over the last decade raises questions, but the assessors recognise that there is an increasing trend in levying penalties for serious failings.
- For the accountancy and legal sectors, weaknesses in supervision and sanctions are a significant issue which the UK has put steps in place to address. However, these failings have an impact on the preventative measures applied (Chapter 5 on IO.4) and the quality of financial intelligence (section 3.2 on IO.6).
- Supervisors' outreach activities, and fitness and propriety controls are generally strong.

Recommended actions

- The FCA should consider how to ensure appropriate intensity of supervision for all the different categories of its supervisory population from low risk to high risk.
- HMRC should consider how to ensure appropriate intensity of supervision for all the different categories of its supervisory population from low risk

to high risk. HMRC should ensure that it properly takes into account ML/TF when risk rating firms subject to their supervision. The UK should continue its efforts to address the significant deficiencies in supervision by the 22 legal and accountancy sector supervisors through: ensuring consistency in ML/TF risk understanding; taking a risk-based approach to supervision; and ensuring that effective and dissuasive sanctions apply. The UK should closely monitor the impact of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) in undertaking this work.

- All supervisors should continue to ensure, in accordance with the increased trend for levying penalties, that proportionate, dissuasive and effective sanctions are applied for violations of AML/CTF and sanctions obligations.
- Supervisors should routinely collect statistics and feedback on the impact of supervisory actions. They should introduce systems for maintaining statistics on the numbers and trends of findings to enable them to better target their supervisory activities and outreach, and demonstrate the impact of their supervision on AML/CTF compliance.
- The FCA should consider the wider use of criminal background checks as part of its processes to ensure that criminals and their associates are prevented from owning or controlling FIs. This would bring them into line with the approach taken by other statutory AML/CTF supervisors (HMRC, Gambling Commission) where such checks are performed routinely in respect of all relevant persons.
- Supervisors should ensure that their guidance is timely and fit-for-purpose. For example, legal and accountancy supervisors should continue to provide guidance and outreach to their members and seek to ensure the updates to guidance are provided in a timely manner. The FCA should ensure that the guidance it provides meets the needs of the range of firms within the sectors it supervises.
- Progress plans to extend AML/CTF requirements and related supervision to virtual currency exchange providers.

HM Treasury contacts

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If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gov.uk