

Anti Money Laundering Supervision: Fees Review

**Summary of responses to the informal
consultation**
January 2015

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1. Introduction

- 1.1 On 30 September 2014 we published an informal consultation on the way we charge fees to the businesses we supervise under the Money Laundering Regulations.
- 1.2 The informal consultation closed on 21 November 2014. This document summarises the responses we have received, and the decision we have reached on how to charge fees from 1 April 2015.
- 1.3 We would like to thank all of the many stakeholders and businesses who have taken the time to respond, attend meetings and engage with officials during this process.

Background

- 1.4 The Money Laundering Regulations allow HMRC to charge fees to applicants for registration and to the businesses we supervise, to meet any expenses we reasonably incur in providing supervision. These costs are not allowed to be met from general taxation. Total fees income should not exceed costs. There is specific provision in the Money Laundering Regulations for fees to be charged on a per premises basis.
- 1.5 'Reasonably incurred' expenses include: the costs of the registration system, supervision of businesses, help, guidance and advice to businesses, and work with other supervisors and law enforcement agencies.
- 1.6 The fee enables us to cover the costs of carrying out our role as supervisor of some 26,000 businesses in 7 business sectors:
 - Accountancy Service Providers who aren't supervised by a professional body
 - Estate Agency Businesses
 - Money Service Businesses
 - High Value Dealers
 - Trust and Company Service Providers
 - Bill Payment Service Providers
 - IT and Digital Payment Service Providers.

For the purposes of the consultation, trust and company service providers, bill payment service providers and information technology and digital payment service providers were considered together as one group.

1.7 Our strategy is to:

1.7.1. Promote: raise anti money laundering standards across each sector, helping businesses to have the right controls in place that are working well.

1.7.2. Prevent: help businesses stay on the right side of the law, but challenge poor controls where we find them.

1.7.3. Respond: close down business models where there is evidence of criminal exploitation and deploy a new and effective hierarchy of sanctions.

1.8 The fees you pay cover a number of cost elements:

- Compliance activity such as visits to your business. We aim to help businesses stay on the right side of the law and challenge poor systems and controls.
- Working with intelligence and enforcement agencies to close down criminal business models.
- Producing guidance to help you to comply with your legal obligations, and raising standards across each sector.
- Carrying out risk assessments and keeping abreast of market developments.
- Registering new businesses and maintaining our registers.
- Carrying out fit and proper persons tests.

1.9 HMRC currently charge two types of fee to registered businesses:

- A £110 registration fee, renewed annually, for every premises a business or brand operates from. This fee is due when a complete application is received and on the same date each year after that. A business that is refused registration has this fee refunded.
- A £50 fit and proper persons test fee for each director, beneficial owner, nominated officer, and any other person exercising effective control of the business. The Money Laundering Regulations only require fit and proper tests for Money Service Businesses and Trust and Company Service Providers. There is no refund if a person fails a test.

1.10 Registration fees accounted for 99 per cent of HMRC's fee income in 2013-14, compared to 1 per cent generated by fit and proper persons test fees.

1.11 The annual per premises registration fee has effectively reduced in real terms, having remained at £110 since 2010. Under the current fee structure, £110 per premises will not be able to finance our future

supervisory duties.

- 1.12 HMRC assumed responsibility for supervising Estate Agency Businesses on 1 April 2014, when the previous supervisor, the Office of Fair Trading (OFT), closed. The fee for estate agents under the OFT was £49, which increased to £110 once HMRC became the supervisor.
- 1.13 HMRC announced that as a transitional measure we would retain the cap used by the OFT that limited the maximum registration fee payable by Estate Agency Businesses to 20 premises. We agreed to do this for one year pending a fees review, to ease the short term impact on large estate agency chains moving to a new fees regime.
- 1.14 We have looked carefully at our costs for 2015-16 and 2016-17 in order to ensure the fee structure is consistent, keeps fees proportionate to the work we do as supervisor, and reflects costs where they fall.
- 1.15 In reviewing our fees, we have taken into account the following principles:
- we cannot charge different fees to different businesses for the same service
 - a simple fees structure provides greater certainty for registered businesses
 - a more complex fees structure would require more information from businesses, increasing the administrative burden for you and for us.

Purpose of the consultation

- 1.16 The objectives of the informal consultation were to:
- present the three options to registered businesses
 - seek the views of the public on those options, to identify which was perceived to be the fairest and which had the most support
 - understand any concerns that businesses had about the options or the way fees are charged
 - collect a body of evidence from businesses that enabled HMRC to make a final decision on the fee structure to have in place for 2015-16 and 2016-17

Method and detail

- 1.17 HMRC emailed 23,000 businesses (all those for whom email addresses are held) from our total register of 26,000 for whom email addresses are held, linking them to the discussion document publicly available on the GOV.UK website and inviting their views. Responses were invited by email or letter. We also contacted representative bodies for the business sectors we supervise, and met with the largest fee payers on the register. Other money laundering supervisors were advised that the consultation

was underway.

1.18 Three options were drawn up from the estimates of costs that would enable HMRC to meet our supervisory obligations under the Money Laundering Regulations for the financial years 2015-16 and 2016-17.

1.19 The three options consulted on were:

- Option 1
 - Retain the current fees structure and increase the fee by £10 in 2015 with a further £5 increase the following year.
- Option 2
 - Retain the current fees structure and increase the fee by £5 in 2015 with a further £5 increase the following year.
 - Remove the transitional cap on the fee payable by Estate Agency Businesses with more than 20 premises.
- Option 3
 - Retain the current per premises registration fee for new businesses and those renewing in 2015 with an increase of £5 in 2016-17.
 - Introduce a non-refundable processing fee of £100 for businesses applying to be registered for the first time.
 - Increase the fit and proper persons test fee from £50 to £100, to reflect the current cost of carrying out the test.
 - Remove the transitional cap on the fee payable by Estate Agency Businesses with more than 20 premises.

2. Responses

- 2.1 This section summarises the responses received to our informal consultation questions and highlights the key messages.
- 2.2 HMRC received 604 responses to the informal consultation including 6 responses from representative bodies and 598 responses from registered businesses of all sizes.
- 2.3 The majority of respondents were in favour of option 3, and a few did not express any preference. The numbers for each business sector are set out in the table below.

Summary Table

	Number	Per cent
Total number of responses	604	100
Responses by sector		
Accountancy Service Providers	244	41
Estate Agency Businesses	165	27
Money Service Businesses	33	6
High Value Dealers	8	1
Trust and Company Service Providers	56	9
Responses not attributable to a sector	92	15
Responses from representative bodies	6	1
Responses by option		
Option 1	9	1
Option 2	21	3.5
Option 3	418	70
No preference	147	24
Other	9	1.5

- 2.4 In relation to removing the cap on fees for large Estate Agency Businesses, and alternative charging structures, a minority of respondents preferred a fee based on turnover to a flat per premises fee. These comments were generally from among the smallest businesses. The majority of respondents in all sectors favoured removal of the estate agent premises cap. No respondents were planning any changes to their business that would affect the impact fees had on them.

Responses on the premises cap	Number	Per cent
Keep the cap	23	4
Remove the cap	443	73
No view	15	3
No response	123	20

Responses to each consultation question

Question 1 asked: “What are your views on the fee structure proposed in HMRC's preferred option (option 3)?”

- 2.5 The majority of respondents (70 per cent) supported option 3, with many saying it was the fairest of the options put forward in the discussion document, or that it was the option that suited them best.

“Option 3...would appear to give an equitable answer to the increasing burden of costs of compliance.”

- 2.6 A number of those respondents favouring option 3 added that they felt it was right that costs should be recovered from the businesses generating those costs. A small number of registered businesses expressed resistance to cross-subsidising new applicants joining the register.

“It would be unfair to penalise existing businesses for the costs of processing new applications and other scenarios where more work is required. It is obvious that a new application requires considerably more work than renewing an application year on year and the charges should reflect this fact.”

- 2.7 Respondents voiced support for maintaining the current level of per - premises fee at £110 for as long as possible. A small number of respondents added they would prefer to see a graded fee increase over time than an increase all at once.

Question 2 asked: “If you are not content with option 3, what are your concerns and do you have a preferred alternative?”

- 2.8 The majority of replies (55 per cent) did not give a response for this question, either because they favoured option 3 or they did not express any preference at all.

- 2.9 Nine respondents (1 per cent) expressed a preference for option 1.

- 2.10 Twenty-one respondents (3.5 per cent) expressed a preference for option 2.

- 2.11 A number of businesses in the accountancy and estate agency sectors expressed a concern about the potential increased cost of entry to the register for new small business applicants under option 3. They felt that increased fees and registration costs might adversely affect their compliance.

- 2.12 Three respondents in the accountancy sector, running very small or micro-businesses, said that if fees increased they would consider whether it was

worth carrying on in business.

- 2.13 Many smaller businesses, especially self-employed and part-time businesses in the accountancy sector, said the fee was a large expense in relation to their total income. They also expressed dissatisfaction about paying the same fee as a larger business in the same sector trading from one set of premises. They felt the per - premises basis for charging was not fair to them because it did not recognise the differing size of each business accurately enough, and that this tipped the fee structure in favour of larger businesses. The commonest suggested alternatives were either a fee exemption for the smallest businesses or a turnover-based fee.

“The current system penalises the small self-employed bookkeeper like myself. I have a full time job but still carry out a small number of hours of bookkeeping for a couple of clients with whom I have worked for many years. I pay the same fee as someone who runs a full time business from one set of premises.”

Question 3 asked: *“What are your views on the transitional cap on the registration fee for estate agency businesses with more than 20 premises?”*

- 2.14 Two per cent of respondents felt they could not offer an opinion on the Estate Agency Business premises cap because it did not affect them as they were not Estate Agency Businesses.
- 2.15 The majority (73 per cent) felt the premises cap was unfair and created a situation where smaller businesses were subsidising the registration and supervision of larger ones. This percentage increased to 77 per cent when the estate agency sector respondents were considered alone.
- 2.16 Twenty-three respondents (4 per cent), 15 of whom were in the estate agency sector, supported the retention of the estate agency cap, because removal of the cap would increase their total fee.

Question 4 asked: *“Are you planning any changes in your business model for the future which you think HMRC should be aware of when planning the future fees structure?”*

- 2.17 Almost all respondents said they were not planning any changes to their business model. A very small number replied that the only change they were planning was to wind down their business as they approached retirement, and that the fee as currently charged would therefore become a proportionately larger cost to them. Two respondents indicated they would be expanding their businesses.

Further comments received outside the scope of the consultation

- 2.18 Many respondents took the opportunity to comment more widely about anti

money laundering supervision.

2.19 These comments fell into the following general categories:

- Why do certain business fall within the scope of the regulations? Why do they need to be registered?
- What do supervised businesses get for their fee?
- Who supervises other businesses through which money laundering can occur, such as banks and financial institutions?
- How is anti money laundering supervision co-ordinated across the UK?
- What impact on money laundering is compliance with the regulations having?

2.20 We are grateful for these further comments. We will address them as part of our commitment to improving communications with supervised businesses and promoting compliance with the Money Laundering Regulations.

3. Decision

- 3.1 HMRC have considered and analysed all the responses received in the consultation period.
- 3.2 The analysis of the replies show that 70 per cent of respondents favour HMRC's preferred choice of option 3 - a margin of 66.5 percentage points over the next favoured fee structure (option 2, supported by 3.5 per cent of respondents). Option 3 is also preferred by HMRC, because it is the option which we consider most fairly distributes the cost of supervision.
- 3.3 HMRC will therefore implement option 3 from 1 April 2015, and will communicate the decision to our registered population and relevant trade bodies as widely as possible. This means that we will:
- retain the current per premises registration fee for new businesses and those renewing in 2015 with an increase of £5 in 2016-17
 - introduce a non-refundable processing fee of £100 for businesses applying to be registered for the first time
 - increase the fit and proper persons test fee from £50 to £100, to reflect the current cost of carrying out the test
 - remove the transitional cap on the fee payable by Estate Agency Businesses with more than 20 premises

Section 4 shows the timeline of key steps that will be followed.

- 3.4 New applications for registration received before 1 April 2015 will be processed under the current structure. New applications for registration received from 1 April inclusive will be processed under the new structure.
- 3.5 For some larger businesses, the number of premises they have within the year can vary. An in year increase in premises does not require a new application fee of £100 for each set of premises. However, an additional premises fee of £110 will need to be paid for each new premises opened, continuing the process already in place.
- 3.6 The consultation highlighted other issues HMRC will need to consider in more detail. These comments will be considered and taken into account in planning future reviews as well as communication:
- the impact of fees on the smallest businesses on HMRC's register
 - the frequency and extent of support and communication that businesses on HMRC's register receive

- addressing misunderstandings and misconceptions about anti money laundering supervision and the role of HMRC as supervisor
- giving feedback to registered businesses on the positive impact that compliance with anti money laundering regulations provide.

4. Next steps

- 4.1 We are grateful for the constructive engagement received during this consultation. Each response has been read and all views considered.
- 4.2 The steps HMRC need to take to implement our decision are:
- Updates to registration guidance published 1 April 2015
 - Implementation date for the new fees structure 1 April 2015

Annex A: Representative bodies responding

HMRC invited views by email from over thirty representative bodies.

Responses were received from six bodies, and several individual responses from a further one:

- Association of Commonwealth Universities
- Home Builders Federation
- Homes for Scotland
- Independent Network of Estate Agents (INEA)
- Institute of Chartered Accountants in England and Wales (ICAEW)
- National Pawnbrokers Association

- National Association of Estate Agents (NAEA)