HM Treasury

Economic Crime (Anti-Money Laundering) Levy

Response to the consultation

September 2021

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Contents

Chapter 1

Introduction

Background

1.1 At Budget 2020 the government announced it would introduce a new levy to be paid by entities subject to the Money Laundering Regulations (MLRs) to help fund new government action to tackle money laundering and ensure delivery of the reforms committed to in the 2019 Economic Crime Plan[1] – the Economic Crime (Anti-Money Laundering) Levy, the 'ECL' or 'levy' for short. This announcement followed the commitment in the Economic Crime Plan for the government to develop a sustainable resourcing model for economic crime reform which included both public and private sector sources of funding.

1.2 The levy represents one part of this long-term sustainable resourcing model. Alongside the levy, the government has committed significant public sector funding into resourcing the response to economic crime. In Spending Review 2020 the government announced an extra £83m, including £20m for Companies House reform, to be invested in tackling economic crime in financial year 2021/22. Additional government funding for later years will be determined through future Spending Reviews.

1.3 The government held a consultation on the design of the levy from July to October 2020. The consultation sought views on: the levy principles; what the levy will pay for; how the government can ensure there is transparency over levy spending; how levy liability will be calculated, and which entities should be paying the levy; and how the levy will be collected and enforced.

1.4 This document summarises the feedback to the consultation and the government's response. Draft legislation[2] has been published alongside this document and will now be subject to a short technical consultation running until Friday 15 October 2021. Please see Chapter 8 for details on next steps.

[1] https://www.gov.uk/government/publications/economic-crime-plan-2019-to-2022

[2] https://www.gov.uk/government/publications/economic-crime-anti-money-laundering-levy-draft-legislation

Overview of responses received

1.5 The levy consultation provided a policy framework for the levy based around five core chapters covering: the underlying principles of the levy; how it should be spent; how it should be calculated; how the calculation should be applied; and how the levy should be collected. A final chapter included a mini call for evidence on funding the response to fraud.

1.6 We received 119 responses to the consultation from across industry. Most responses came from the legal and banking sectors. Other industry groups who provided responses included: the accountancy sector, the asset management sector, the insurance & pension sector, the art market, the casino & gambling sector, estate and letting agents, money service businesses, and the crypto assets sector. There were also a small number of miscellaneous respondents not situated within the regulated sector. Trade and regulatory bodies were among those who responded and have been considered part of the sector they represent during the response analysis.

1.7 Throughout this document levy payers are referred to as entities. For the avoidance of doubt, entities include sole traders, partnerships, businesses, and companies.

1.8 A full list of the consultation respondents can be found in Annex A.

Summary of responses

Opinion on the policy

1.9 Many respondents agreed that an enhanced response to economic crime is needed and recognised that the levy could represent a core part of sustainably resourcing this. Respondents also considered that responsibility for tackling the threat posed by economic crime should be shared between the anti-money laundering (AML) regulated (i.e. the sector subject to the MLRs) and non-regulated sector, and be supplemented by additional government funding. However, some respondents had reservations about a new levy on the AML regulated sector. In part, because the relevant sectors had been affected by changes in the economics circumstances resulting from the pandemic.

1.10 Respondents were also in general agreement with the government's proposed design principles. Of these, proportionality, predictability, simplicity, and cost-effectiveness were regarded as core principles to government should endeavour to reflect in the final possible as much as possible.

Spending the Levy

1.11 There was support in the consultation responses from industry – to varying degrees – for the following initiatives to receive funding: the Suspicious Activity Reports (SARs) Reform Programme; National Economic Crime Centre (NECC) costs; an uplift for the UK Financial Intelligence Unit (UKFIU); National Assessment Centre (NAC) and National Data Exploration Centre (NDEC) costs; a Financial Investigator uplift; awareness raising campaigns; and Companies House reform. Though, some respondents did think Companies House reform should be funded by raising the

organisation's fees instead. Respondents were also supportive of the proposed transparency mechanisms – an annual report and more in-depth review after a certain number of years. Please see Chapter 4 for full details.

Levy Calculation

Calculation mechanism

1.12 *Levy base*: Respondents were in broad agreement that revenue, and specifically UK revenue, would be the most appropriate base. Further, that it would be most appropriate to define revenue using UK Generally Accepted Accounting Practice (GAAP) standards, like the Financial Reporting Standards (FRS). There was also a strong consensus that the levy base should preferably be based on 'revenue derived from UK AML regulated activity', or UK AML revenue, if possible as this would align as closely as possible with the purpose of the levy. Respondents also showed a preference to have the levy applied as a fixed percentage rather than as different bands to be as accurate as possible, though there was also clear cross-sector recognition that banding would be simpler to administer.

1.13 There was some concern at the costs industry would need to bear to calculate their AML revenue, with a limited and varied response from respondents on how much of their activity they judged to be AML regulated. There were also concerns that specific sectors and entities at low risk of money laundering, or with different operating models, could be disproportionality impacted by a revenue base. Art market respondents suggested gross profit would be a more proportional base for the sector, whilst overall there was a mixed view on whether deposit-taking institutions (DTIs) should be reporting total income or net operating income (NOI). The casino sector also showed a preference for their levy liability to be based on gross gambling yield (GGY). Other alternative levy bases that received some support included the number of SARs submitted and adding the levy charge into existing AML supervisory fees.

1.14 *Money laundering risk metric*: Respondents were largely supportive of money laundering risk being reflected in the levy calculation. However, there were mixed views on the proposed weighting options – number of SARs, National Risk Assessment (NRA) scores, supervisor risk assessments – with concern that they would over complicate the calculation and never truly reflect money laundering risk. Support for the use of SARs as a metric was largely limited to the legal sector. They felt the use of SARs would – if used alongside revenue – provide the most risk reflective base. However, other sectors were clearly concerned about including anything in the levy mechanism that might disincentivise SARs reporting, especially with reporting figures inconsistent across the regulated sector. Notably, some respondents argued money laundering risk should not be reflected in the levy calculation as such risk varies year-to-year and can be quite subjective. Thus, a risk-based metric would make the levy unpredictable and could result in unintended consequences, both of which stand contrary to the levy principles.

Applying the calculation

1.15 *Structure of the levy*: When it came to the treatment of smaller entities, respondents were split on including a small entity exemption, but supportive of these entities paying a flat fee. There was a strong feeling that in some cases smaller entities pose a clear risk of money laundering, especially those who invest comparatively less in AML controls than larger entities. Thus, there was support for

small entities to contribute, even if just a symbolic flat fee, to better align with the principle of solidarity. However, there was also a recognition that due to the Covid-19 pandemic these entities are being more financially stretched than their larger counterparts, and that exempting them would help ease the administrative burden for the levy collector(s).

1.16 *Other calculation considerations*: On the technicalities of applying the levy calculation, most respondents believed that: the levy rate should be set annually; the reference period should be an entity's accounting period; the levy should apply from the date from which the activity became regulated; the levy should be calculated and invoiced at entity level, rather than group level; and partnerships should be required to pay at partnership level. Please see Chapter 5 for full details.

Levy Collection

1.17 Respondents had mixed views on the proposed collection models. In aggregate, there was a marginal preference for a "single agency model", where the levy is collected by just one organisation. It was seen to provide clear accountability, tax delivery expertise, potential simplicity, and cost efficiency in comparison to a model where all 25 AML supervisors collect, the "supervisor model". That said, there was still concern that the single agency model could be expensive, especially if it involved setting up a new body.

1.18 *Collection models*: When considering responses solely from industry (i.e. excluding the AML supervisors that responded), the supervisor model was in fact the marginally preferred option. The supervisors themselves were instead in favour of the single agency model. Industry respondents felt supervisors would be well placed to make use of existing supervisee relationships, and fee and compliance processes. However, they did also recognise the potential cost and complexity of multiple collectors and the value in having some form of oversight to ensure consistency and accountability in collection. Further, supervisors themselves provided a varied response on the potential costs they would incur if required to collect the levy. New IT systems and processes were identified as the biggest obstacle. Also mentioned were the need for new powers, balancing ECL responsibilities on top of existing regulatory commitments and diversifying their workforce's skillset.

1.19 *Other collection considerations*: On the technicalities of collecting the levy, most respondents thought that the collector(s) should issue a notice to file, rather than rely on proactive reporting. They also felt all entities should report their levy liability to the collection agency and, that where an entity is not in scope of the levy, that they submit a nil return. Views were more mixed when asked to consider whether supervisors should be able to determine the frequency of reporting and payment, which was only marginally supported. Please see Chapter 6 for full details.

Funding for fraud

1.20 Respondents provided very few quantitative estimates of industry costs for counter fraud activity and noted that their current spending on fraud prevention is targeted across a wide range of initiatives. Most responses also thought funding for fraud outcomes should be secured through general taxation, on the basis that the responsibility and benefit for countering fraud sits across society, rather than just with the private sector. It was further noted that were industry asked to contribute,

more than just the AML-regulated sector should be involved in countering the system-wide fraud risk. Please see Chapter 7 for full details.

1.21 There was broad support that funding be secured through general taxation, on the basis that the responsibility and benefit for countering fraud sits across society.

Chapter 2

Government response summary

Overview

2.1 The process of designing the ECL, a novel task, has always required an innovative solution. The approach set out in this response, in the government's view, represents the most balanced and workable design considering the wide-ranging evidence and views provided by industry and other relevant parties throughout the policy making process. To the extent possible, the approach aligns with the set of design principles, as set out in the consultation document. The government notes respondents' agreement with these principles and agrees that some, such as predictability, proportionality, and simplicity, should have more influence on the policy design than others. We also acknowledge the views received that in some cases there is inherent conflict between the principles; for example, making the levy design more proportionate risks making the levy less simple and cost effective.

2.2 The consultation document stated that the government intended for the first set of levy payments to be made in the financial year 2022/23. Many consultation responses made representations that this should be delayed, considering the economic impact of the Covid-19 pandemic. Further, it has become clear that more time is needed to finalise the legislation for the levy and set up the necessary collection infrastructure.

2.3 The government has decided that AML regulated entities will first be charged the levy during the year 1 April 2022 to 31 March 2023. The first payment of the levy will only be due after that year ends. This means the first set of levy payments will not be made until the year 2023/24 (running 1 April 2023 to 31 March 2024). For more information on this, and the information entities will be required to submit, please see further down this chapter as well as in Chapters 5 and 6.

Spending the levy

2.4 *Levy-funded initiatives*: At consultation, we outlined the broad principles that would underpin how the government intends to use any funds from the levy and what reporting and review processes will be considered to maintain transparency. The government notes that respondents were consistent in their views that funds from the levy should only be used for initiatives intended to tackle money laundering. The final decisions on which initiatives will receive funding will be made through existing spending processes. We also note where capabilities outlined in the

consultation document received clear support, such as the SARs Reform Programme, and where support was more mixed, such as Companies House reform.

2.5 *Allocating spend*: Decisions on how funding is allocated will be made through, and form part of, existing government spending processes. Existing economic crime governance frameworks will be a means for industry to scrutinise how the levy is spent and what outcomes have been generated by levy-funded initiatives. The government also leaves open the opportunity to explore other AML initiatives proposed by respondents in later years.

2.6 *Reporting and transparency*: Another important way to ensure transparency on levy spend is regular communication from government which, in line with respondents' views, will take the form of an annual report on the operation of the levy. The government will also undertake a review of the levy by the end of 2027 (i.e. a 3-year review) to provide a fuller stocktake of how the levy is performing against its original purpose.

2.7 Please see pages Chapter 4 for full details.

Levy Calculation

2.8 How the levy is calculated is central to the policy and can broadly be sub-divided into three components: the levy base, a money laundering risk metric, and the structure of the levy:

Calculation mechanism

2.9 *Levy base*: Consultation respondents validated the government's position that revenue remains the best base available for the purposes of the levy and expressed strong support for only revenue generated from UK activity to be in-scope. However, while there was also strong support to consider revenue generated from just AML activity, many entities would find it difficult and cost-inefficient to identify their AML revenue. Further, as a novel metric, it would be challenging to corroborate the veracity of AML revenue figures submitted. In recognition of this, the government has decided to calculate the levy on entity size based on just UK revenue.

2.10 We were aware that basing the levy on UK revenue could be disproportionate for certain sectors. Therefore, at consultation we asked whether there were any sector-specific considerations we should be aware of. Responses indicated that art market participants were in favour of a gross profit base whilst the casino and gambling sector favoured being charged the levy based on gross gambling yield. We also consulted on whether deposit-taking institutions should be charged based on their total or net operating income given financial statements are prepared differently for these entities. We acknowledge that each of these industry groups has an argument for being levied based on an alternative metric. However, after thoroughly considering each proposal, we have decided all in-scope entities will pay the levy based on UK revenue. This will help keep the policy simple and understandable for payees and collectors alike.

2.11 Further, the government agrees with respondents that defining revenue in accordance with UK Generally Accepted Accounting Practice (GAAP) standards, like the Financial Reporting Standards (FRS), provides a suitable and commonly understood definition. Please see Box 2.A for the proposed definition.

2.12 This definition should be applicable across the different AML regulated sectors, including to deposit-taking institutions and other entities in the financial sector that may generate income from activities separate to the provision of goods and services.

2.13 The levy will be based on revenue derived from UK activity, rather than a broader – less proportionate – measure like global revenue. This means the government needs to define what is meant by 'UK activity'. In the case of a:

- UK resident entity, the entity's UK revenue is all of that entity's revenue after deducting so much of its revenue as, on a just and reasonable apportionment, is attributable to the activities of any permanent establishment of the entity in a territory outside the United Kingdom.
- non-UK resident entity, the entity's UK revenue is so much of the entity's revenue as, on a just and reasonable apportionment, is attributable to activities of any permanent establishment of the entity in the United Kingdom.

2.14 We are also aware of some non-UK resident casinos – regulated by the Gambling Commission – which provide facilities for remote gambling but have no permanent establishment in the UK. The government believes these entities should fall in scope of the ECL as they are undertaking UK AML-regulated activity.

2.15 Full details of how UK revenue is determined, and specific provisions made for remote gambling operators with no UK permanent establishment, can be found in clause 5 of the draft legislation.

2.16 We encourage responses to the technical consultation (please see Chapter 8) on the proposed definition and determination of UK revenue, and recognise it is an element of the policy that will be reviewed in due course to ensure it is suitable for the diverse ECL payee base.

Box 2.A: Revenue definition for the ECL

Revenue will be defined as turnover – as defined in the Companies Act 2006 – plus any other amounts (not included within turnover) which, in accordance with generally accepted accounting practice ("GAAP"), are recognised as revenue in the entity's profit and loss account or income statement.

2.17 *Money laundering risk metric*: The second core element of the calculation policy was whether to include a money laundering risk weighting to the levy base. We acknowledge respondents' views that money laundering risk should be accounted for in the levy; but also, that the dynamic nature of this risk means that this would be challenging to achieve in practice.

2.18 The government has decided that the ECL calculation will not include an additional money laundering risk metric. The government views all three potential metrics consulted on as offering more disadvantages than benefits. Using SARs numbers in this capacity could disincentivise reporting and penalise good compliance practice. Respondents considered the NRA too broad and at risk of deterring industry engagement in the NRA process. Respondents also felt that basing the weighting on supervisors' own risk assessments would be misaligned to money laundering risk and a breach of supervisor-member confidentiality. To avoid

including an imperfect auxiliary weighting, the government has endeavoured to reflect money laundering risk elsewhere in the policy design. This will also provide more predictability in what entities can expect to pay year-to-year. We believe the levy review could be an opportunity to revaluate this element of the policy.

Applying the calculation

2.19 *Structure of the levy*: Entities will pay different levy amounts depending on the size of their UK revenue. Overall, there will be four size bands: small; medium; large; and very large. These are inspired by the Companies Act[1] 2006 categories for business size, with the addition of the very large band which is not present in the Act. Payment based on size offers a simple and predictable way for entities to identify their levy fee, and for government to maintain greater certainty over the levy yield. Table 2.A outlines what fee ranges entities might expect to pay based on their size and UK revenue in the first year of the levy.

2.20 The government has decided small entities (i.e. all regulated entities with UK revenue below £10.2 million) will be exempt from paying the levy. Whilst this does come at a cost of greater solidarity, this policy decision will reduce the overall compliance burden of the levy on industry. It will also make the levy more cost efficient to collect, for example by helping avoid scenarios where the cost of collecting any entity's levy contribution is higher than the amount being collected.

2.21 The levy will thus be paid by medium, large and very large regulated entities. This will help ensure those entities that are exposed to the greatest levels of money laundering risk, due to the large volume of activity they undertake in the financial and economic system, pay their fair share. The inclusion of the very large threshold helps ensure greater proportionality in paying the levy, in large part due to the considerable difference between a large and very large entity as defined in Table 2.A.

2.22 *Fees and rate setting*: We note respondents' wide-ranging views on whether the levy charge should be either a fixed fee or fixed percentage rate. The government has opted to use a fixed fee system and intends to adjust the levy calculation methodology (e.g. fixed fee sizes) periodically, as this offers greater cost-efficiency, certainty and predictability for all involved. The methodology is therefore not intended to change in the initial period leading up to the 3-year levy review. However, fee rates may be updated before this stage: if the levy is not yielding the desired £100 million per year; to reflect the availability of new data; and/or in response to wider macroeconomic changes (like inflation). Table 2.A outlines potential first year ECL fee ranges.

2.23 *Other calculation considerations*: In line with respondents' preferences, the levy will apply at entity level. When compared to group level invoicing, this will be simpler and drive consistency with existing reporting requirements in the regulated sector.

2.24 Partnerships will be charged at partnership level and – alongside sole traders – will be treated like any other regulated entity. This means partnerships will not be

[1] The Companies Act 2006 business size definitions can be found at: https://www.gov.uk/government/publications/life-of-a-company-annual-requirements/life-of-a-company-part-1-accounts. Each size can be defined as follows with respect to turnover alone: Micro (below £632,000), Small (between £632,000 and £10.2 million), Medium (between £10.2 million and £36 million), and Large (above £36 million).

required to allocate the levy charge between members, but instead the partnership itself would return and pay the levy centrally. Partners will also be jointly and severally liable for levy debt.

2.25 Table 2.A below provides a set of anticipated fixed fee ranges for each size band in the first year of the ECL. The government is in the process of finalising these fixed fees and will confirm the final amounts in the Finance Bill legislation. However, the government does not intend for entities to pay more than 0.1% of their UK revenue in ECL liability. Please see Chapter 5 for full details.

Table 2.A: Who is in scope of the levy and what might they expect to pay in year 1?

Entity size	Small	Medium	Large	Very large
UK revenue threshold	Under £10.2m	Between £10.2m - £36m	Between £36m - £1bn	Over £1bn
Fixed fee ranges (£,000)	n/a (exempt)	5 - 15	30 - 50	150 - 250

Levy collection

2.26 *The collectors*: The government considered a range of options for collection of the levy, including different single agency and supervisor collection models. We concluded that a single agency, although desirable for its consistency, accountability and potential existing expertise and powers, was ultimately difficult to justify on cost-efficiency and delivery grounds.

2.27 In contrast, the model where all 25 supervisors played a collection role did present opportunities for efficiencies given existing regulatory fee structures. But it was likely to be very complex and resource inefficient. It would also have raised cost-efficiency concerns with several supervisors at risk of collecting less in levy proceeds than spent on collection.

2.28 In light of these difficulties, and to strike the right balance between design simplicity and cost-efficiency the levy will be collected by the three statutory AML supervisors – HMRC, the FCA and the Gambling Commission. HMRC will also take on collection responsibilities for in-scope legal and accountancy firms supervised by the 22 Professional Body Supervisors (PBSs). The PBSs will just be required to share information with HMRC to assist their collection efforts and undertake some outreach work on the levy with their members.

2.29 As public bodies the statutory supervisors will be able to build on existing links with government and Parliament in their collection capacity. Further, by limiting the collection bodies to just three, there is greater opportunity to achieve consistency and cost-efficiency when compared to other models considered. We do however recognise that the collectors are taking on a new responsibility and

challenge in this role. To support this, the collectors' cost of administering the levy will be funded and netted off through yield on an annual basis.

2.30 *Reporting and assessment periods*:

- The process to determine if an entity is in scope of the levy and how they can determine and make their payment is outlined in Box 2.B.

Box 2.B: How to determine if you are in scope of the ECL

- **Each levy year will run from 1 April to 31 March** (i.e. the government financial year) with the first levy year beginning on 1 April 2022.
- **An entity is in scope of the levy if they are AML regulated** – have carried out regulated activity as per Chapter 1 of the MLRs[1] – **at any point in a levy year.**
- **An entity will determine its size based on the UK revenue it has made during its period of accounts that ends in the levy year.** Provision will be made for entities who have multiple periods of account in the levy year and for those who have no periods of account in the levy year (see draft legislation Clause 4).
- **Levy payments will be made by entities to their relevant collector in the year after the levy year.** For example, payments in the first levy year (2022/23) will be made after 31 March 2023.

- In line with consultation response preferences, new joiners to the regulated sector, who meet the eligibility criteria in terms of their size and UK revenue, will pay the levy – pro rata – from the point they became AML regulated. For example, if an entity joined the regulated sector halfway through the 22/23 levy year, then they would be expected to pay 50% of the fee attributable to their size and UK revenue in the following year, 23/24.
- Entities that leave or are deregistered from the sector part way through an ECL assessment period will also be treated on a pro rata basis. Entities that were previously regulated by the FCA or Gambling Commission, prior to de-registration, will be liable to pay their levy to HMRC if they no longer have a regulatory relationship with the FCA/GC.

2.31 *Payment process:*

- The three collectors' processes for collecting the levy will have to adhere to the following requirements:
    - In scope entities will be required to make a return to their collector by self-declaring, or responding to an invoice, that they are in scope of the levy and what band they fall within.
    - Entities will be required to pay their levy charge within six months of the end of the levy year (i.e. by 30 September). However, the collectors will

be able to require entities to pay in advance of this date, within reason, if this aligns with their existing fee processes.

    - Collectors will have to transfer their levy receipts by the end of the financial year that follows the end of a levy year (i.e. by 31 March).

- Medium, large and very large entities will be required to make their payment to the relevant collector. Depending on the collector's process, this will be following (or at the same time as) a self-declaration or will be in response to an invoice from the collector. Entities out of scope of the levy, namely those categorised as small, will not need to self-declare or be invoiced for their liability to minimise the burden placed on them and the collectors. However, we acknowledge that all entities will at least need to consider whether they are in scope of the levy and, if they are in scope, what band they fall within.
- The collectors will be given the flexibility to make use of existing processes and mechanisms to undertake their functions, where possible, around a consistent timetable to ensure all steps in the process take place with maximum consistency.

2.32 *Compliance and enforcement*: The government notes the mixed views on whether the levy collectors should undertake enforcement and compliance activity, and where responsibilities should lie. Unpaid levy debt will be owed as a civil debt to the Crown, and will incur interest. The government is also considering what further non-compliance provisions are necessary and will set the detail of these out in regulations.

2.33 Please see Chapter 6 for full details.

Funding for Fraud

2.34 The government welcomes the response from industry on the fraud funding call for evidence. There was limited support for a financial contribution from the AML-regulated sector to improve fraud outcomes through the ECL. However, sustainably funding economic crime, including fraud, remains a central priority for the government. We will continue to explore funding requirements for fraud and ensuring those sectors at risk of facilitating fraud play their part in the response. Please see pages Chapter 7 for full details.

Chapter 3

Levy principles

Summary of responses received

Question 1: Do you agree with the design principles as set out above? Should the government consider any further criteria?

3.1 Respondents were in general agreement that the proposed design principles are correct. Proportionality, simplicity, cost-effectiveness, and predictability were regarded as the central design principles.

3.2 There were some suggestions for extra principles to highlight central requirements of the levy. These included: return on investment or ambition, collaboration, oversight, and fairness. A principle of effectiveness was also mentioned to ensure that the levy remains the best method of funding the proposed initiatives. More widely, there were a few calls for AML risk to be better reflected in the principles.

Government response

3.3 The government notes respondents' broad agreement with the levy principles as set out in the consultation. We also agree that there are certain principles, such as predictability, proportionality and simplicity, that are particularly important for a levy of this nature:

- Predictability to help ensure: those paying the levy are able to plan ahead with confidence; and, that the collectors and the government have greater certainty regarding the amount the levy is expected to generate year-to-year.
- Proportionality to, as far as possible, have relatively more of the levy being paid by those with the greatest exposure to money laundering risk.
- Simplicity, because any levy needs to be as simple as possible to understand, calculate and collect for all stakeholders involved.

3.4 We have endeavoured to reflect these (and other) principles in the final policy. However, we recognise that in some design choices we have had to compromise one or more of these principles.

Chapter 4

Spending the levy funds

Summary of responses received

Question 2: What do you believe the levy should fund? Are there any other activities the levy should fund in its first five years?

4.1 There was broad agreement from respondents that the activities consulted on were the correct ones to receive levy funding. The SARs reform programme received notable support for ECL funding.

4.2 There were calls for the levy funding to be ringfenced to fund just new or uplifted AML initiatives, as well as concerns that the levy should not be used to fund 'business as usual' activity. It was also noted that some of the initiatives proposed in the consultation could have applications which are wider than just AML.

4.3 Views on funding Companies House register reform through the levy were mixed. Some industry responses voiced strong support, noting the reforms would lead to the regulated sector having more access to, and confidence in, the information held. However, other respondents noted that funding Companies House reform through changes to its existing fee model would be preferable to using the levy.

4.4 Several respondents called for other activities to be considered for funding. These were wide-ranging, but some more frequently mentioned initiatives included: compliance training for the private sector, enhancing the consistency of AML supervision; and countering fraud. However, most responses were strongly against funding fraud related activities from this levy. Chapter 7 considers fraud in more detail.

Question 3: Do you agree with the government's approach to publish a report on an annual basis? What do you think this report should cover other than how the levy has been spent?

4.5 Respondents agreed that an annual report on the levy should be published.

4.6 Recommendations for what should be covered in the report included: the outcomes generated by initiatives funded through the levy; future changes to the how the levy will operate, such as how it is calculated and collected; an assessment of the value for money being delivered, such as through as assessment of how levels of economic crime have been affected by the reforms receiving funding; transparency on overspends; a sector by sector breakdown on contributions; and feedback and lessons learnt.

4.7 There was also a feeling by some, especially the banks, that the report should become an instrumental part of the levy governance and be considered by the existing economic crime governance structures including the Economic Crime Strategic Board. Many of the same respondents felt the report should be independently produced, for example by a consultancy or the National Audit Office.

4.8 On timings, the majority felt an annual report was correct. However, a few responses mentioned six-monthly or quarterly 'notes' could add value by offering a 'health-check' against early priorities and milestones, and an assessment of whether the levy needs to be re-focused or re-directed in response to emerging threats.

Question 4: What are your views on what the proposed levy review should consider and when it should take place?

4.9 Most responses favoured the review taking place at or before the 3-year mark.

4.10 There were a wide range of views on what the review should cover, which largely followed suggestions made in the consultation document. There was support for the review to consider: the effectiveness and impact of the levy against its intended objectives, including the impact on economic crime levels; whether the scope of the levy should be expanded to other sectors that might pose a risk of money laundering risk; and, whether the methodology for calculating the levy remains appropriate. There were also some calls for the review to: assess the impact on payees' behaviour and consult on any improvements which could be made; include a third-party assurance report, or business case, on how the levy proceeds are being spent and whether they are delivering value for money; and assess the competitiveness impacts of the levy on specific sectors.

4.11 Whilst the review at, or before, the 3-year mark was the preferred option, some supported the five-year mark in order to provide industry longer-term certainty about how the levy will operate and allow enough time for the system to show analysable results. However, most felt this was too far down the line. In contrast, there were a handful of respondents calling for a review after the first year to provide an early check-up on the levy's short-term performance, to be followed up with reviews every three years thereafter.

Government response

Levy-funded initiatives

4.12 The government notes respondents' strong views that the levy should only fund initiatives aimed at tackling money laundering. This aligns with the government's proposal, at consultation, to use proceeds from the levy for this purpose.

4.13 It is our intention to determine which initiatives receive levy funding, alongside broader decisions on economic crime funding, through existing spending processes. The responses to the consultation will inform that decision-making process.

4.14 The government notes the wide range of other initiatives respondents suggested could receive levy funding. Whilst many of these are not yet sufficiently developed to implement immediately, there may be scope to consider new proposals – provided they contribute to tackling money laundering – in later years.

4.15 More specifically, there were multiple suggestions that the levy could fund industry led counter-fraud initiatives (e.g. the Pension Scams Industry Group). As a levy on the AML-regulated sector, the government does not intend for this levy to fund such, or similar, activity. We will however continue to explore funding requirements for fraud. More information on the next steps for funding the whole system response to fraud can be found in Chapter 7.

4.16 We note the mixed support for Companies House reform receiving levy funding. The planned reforms are wide-ranging but are a core element of the Economic Crime Plan. The reforms will give the Registrar of Companies a greater role to address economic crime through new capabilities, including: identity verification of those seeking to set up, own, manage or control companies; and enhanced powers to query information submitted to Companies House. These reforms will improve the integrity of the companies register, assisting users of the register, such as law enforcement and businesses, in undertaking AML activities, while also preventing the abuse of UK corporate entities for AML purposes. As the levy will pay for enhanced government action to tackle money-laundering, it is reasonable to use it to part fund new capabilities of a reformed Companies House, which are being undertaken primarily to provide AML benefits.

4.17 As the consultation proposed, it is also intended for the levy to contribute to reasonable and justifiable overhead costs incurred by organisations involved in collecting the levy. We recognise that becoming levy collectors is an additional role for the statutory AML supervisors, not envisaged within their current fee structure. The government will work with the collectors to ensure the administration of the levy is efficiently carried out and that the approach taken represents best possible value for money. This includes by using transparency mechanisms (like the annual report) to monitor costs incurred by the collectors. The exact mechanism through which collection costs will be funded will be determined through discussions with the supervisors.

Allocating spend

4.18 Funding allocations will be decided through the existing spending processes and structures. Existing public-private economic crime governance structures will provide an opportunity for industry to share their views on this with the government.

4.19 Within government, we will ensure the monitoring of in year spending performance; to consider where any emerging underspends could be reallocated onto alternative high priority AML programmes; and to consider reallocation where unexpected and significant new risks have arisen.

4.20 It is our intention to use all proceeds from the levy, after deducting collectors' costs, on AML related programmes. We will seek to reallocate underspends which may arise to alternative AML programmes within a financial year, however there may some limited instances in which this cannot be done in a

efficient and value for money way. Should regular underspends emerge, we will revisit the total levy requirement and correct the rate appropriately.

Reporting and transparency

4.21 We note respondents' agreement that the government should publish an annual report on the levy to provide transparency and confidence in how it is administered. The government intends to publish an annual report on the operation of the levy. The annual report is provisionally expected to provide: a breakdown of how the levy was spent in the previous year; an assessment of how much of that year's levy was generated by different sectors and entity sizes; and, an outline of any changes in spend and to how the levy will operate in the forthcoming year.

4.22 We also acknowledge some views that the levy report and governance should be considered at existing economic crime governance structures. As the levy is only a small part of the wider public-private economic crime work, we do not think ECL governance and reporting should be a major feature at these oversight structures.

4.23 The government acknowledges industry's desire for a review of the levy three years after it is implemented, rather than after five years as was proposed at consultation. We also agree that this earlier than proposed review still provides enough time for the levy mechanism to settle and provide demonstrable results, albeit at the cost of reduced longer-term certainty to in scope entities. The government will undertake a review of the levy by the end of 2027. This would seek to take place after around three years of operation, and may consider matters such as whether the levy: is meeting its original policy objectives; should continue; should remain based on just the AML-regulated sector; and, is still being calculated and collected appropriately.

Chapter 5

Levy calculation

Summary of responses received

Question 5: Do you agree with our proposal that revenue from UK business should form the basis of the levy calculation? Please explain your reasoning.

5.1 Respondents were in broad agreement that UK revenue should be the levy base. There was also common agreement that the base should account for money laundering risk in order to be proportionate. Here there were suggestions that only revenue generated by AML-regulated activity should be in scope, or that an auxiliary risk metric should be included and play a central role, like those suggested in the consultation document (e.g. number of Suspicious Activity Reports (SARs)).

5.2 However, some respondents belied that: revenue doesn't have a clear definition across sectors; some entities might find it difficult to split UK revenue from global revenue; and there are entities with a small UK-presence, but that account for much money laundering risk, that could potentially benefit if only UK revenue were used as the base. Conversely respondents were clear that bringing non-UK revenue in scope could harm domestic competitiveness in several industries.

5.3 There were some calls for alternative bases. This included several: organisations from the legal sector calling for the levy to be based on the number of SARs submitted; banks preferring a profit base; and, financial institutions suggesting a surcharge on existing AML supervisory fees. Some responses also argued for sector-specific levy bases to align with the data they collect and for reasons of fairness. This included the art market calling for their liability to be based on gross profit and the casino sector calling for theirs to be on gross gambling yield.

Question 6: Are there any sectors that would be disproportionately impacted if revenue is used as a metric, or where revenue would be disproportionate to level of risk?

5.4 As outlined in Question 5, there was support for a revenue base. Despite this, respondents had mixed views on which specific sectors might be disproportionality impacted by such a base. The most common assertion was that sectors with little exposure to money laundering risk would be the hardest hit.

5.5 There was concern from some respondents that the risk brought into the system by some entities – e.g. a law firm or a building society – is disproportionately low relative to the amount of revenue they generate and, especially for larger

entities, relative to the amount invested in AML controls. Some respondents did note that using UK AML revenue as the base would help mitigate this.

5.6 Several banks noted that the financial sector could be negatively impacted by using revenue. This, due to its unique business model whereby products and services can include indirect revenue and cost implications not directly charged to the consumer. Whereas, for sectors which offer a single purpose business model (such as money service businesses or law firms), revenue might be a more transparent and reflective option.

5.7 Art market participants felt that revenue would not be a fair metric for the sector due to their dual goods and services business. The financial services and crypto asset sectors also considered the payments sector at risk of being unfairly penalised by the levy since it is a volume driven sector with, in many cases, low profitability at the outset. The casino sector respondents were also keen to note that gross gambling yield would be a more proportionate metric for the sector, and that land-based casinos – when compared to online casinos – were at risk of disproportionate treatment due to their existing higher tax commitments and more acute Covid-19 financial impacts.

Question 7: Do you believe other levy bases would provide a better basis for the levy calculation? These could be the ones outlined in Table 4.A (of the consultation document) or those not considered in the consultation document.

5.8 Respondents reiterated that revenue was the best levy base, preferably with money laundering risk factored in. Revenue was viewed as the 'best fit' when analysed against the levy principles and was readily comparable between sectors. There was notable support from the financial services sector.

5.9 However, there were also preferences for the levy to be based on other metrics, including: the number of employees, a fixed fee per annum, profit, and SARs numbers. However, each of these metrics also elicited opposition from other respondents.

5.10 SAR numbers received strong support from some in the legal sector who viewed this metric as a better reflection of money laundering risk than revenue and a generally simpler metric to calculate. These respondents considered it would be simpler for levy payments to be made using the number of SARs at the point one is submitted, or annually if preferable, and would be straightforward for in scope entities to check numbers against internal records.

5.11 A further suggestion that received support was to charge the levy through existing supervisor levy structures, where supervisors would increase their supervision fees by a fixed percentage increase to account for the levy. This was recommended by some in the financial services sector.

5.12 The art market reiterated its preferences for a sector-specific levy base using gross profit, as did the casino sector for gross gambling yield, given the potential impact of a revenue base.

Question 8: Should a fixed percentage or banded approach be taken to utilising revenue as a metric? Please explain your reasoning.

5.13 Responses were mixed on this question; however, a fixed percentage approach was preferred. There was a widely held view that whatever the approach taken, there was a need for simplicity.

5.14 The fixed percentage option was widely seen as more accurate and proportionate. Respondents also argued it would avoid potential 'cliff-edges', unlike in a banded approach. However, several respondents felt it would be more administratively burdensome to calculate, lack predictability, and be less familiar to some sectors.

5.15 Strong arguments were also made for the banded approach. Respondents noted that it would help keep payments low for smaller entities in the lower bands; be more predictable; and be simpler to provide figures for, given that it would reduce the need and cost of providing an exact percentage. However, those of the opposing view suggested it would be complex, could drive inequality if the bands were wide, and could potentially drive perverse incentives to 'game' the calculation by keeping one's revenue in a lower band.

Question 9: What are your views on the principle of exempting small businesses from paying the levy, and on the level of a potential threshold?

5.16 Responses were mixed on a small business exemption. Responses in favour of an exemption reasoned that: small entities have been particularly hard hit economically by the Covid-19 pandemic; having all c.90,000 regulated entities pay the levy, or a flat fee, would be cost-inefficient and burdensome for the collector; and, the levy fees from smaller entities will be unlikely to contribute materially to the overall £100 million annual yield the levy will raise.

5.17 However, those against an exemption argued that money laundering risk is still present in smaller entities with it noted that in some sectors these entities may pose a greater risk than larger entities who tend to invest proportionately more in AML-compliance programmes. Further, there were representations that it would be more proportionate and show greater solidarity if all regulated entities pay something, however larger or small. Some responses that were not in favour of an exemption for small entities, however, were still supportive of one for micro entities (i.e. the very smallest entities).

5.18 Views were also mixed on the potential threshold for an exemption, with most not providing a view. Of those that did, a £10.2 million exemption threshold was the most supported, especially to help reduce the compliance burden facing the levy collector(s). A threshold set at £1 million was also mentioned.

Question 10: What are your views on having businesses below the threshold subject to a small flat fee?

5.19 Respondents were mostly supportive of a low flat fee paid by entities below the small business threshold. This view was shared by a broad spectrum of entities within the AML-regulated sector.

5.20 Some respondents argued such a fee would help meet the solidarity principle of the levy, help drive awareness of the levy and, in turn, re-iterate the message that the responsibility for preventing money laundering was shared by all entities within the AML-regulated sector regardless of their size. Comparatively, a flat fee was also viewed as simpler to administer.

5.21 However, there were some concerns that a widely paid flat fee could make collection cost-inefficient for the levy administrator and potentially be disproportionate for some smaller entities.

Question 11: Do you believe the small business threshold should be determined by reference to revenue alone or to all three of the Companies Act 2006 criteria[1]? Please explain your reasoning.

5.22 Respondents had mixed views on this question, but a majority preferred the option of basing the levy on just revenue, rather than all three of the Companies Act criteria.

5.23 There was a clear view that to keep the levy as simple, consistent and transparent as possible it would be best to use just revenue as the levy base. Further, with many – especially in the financial services sector – keen for the levy to reflect money laundering risk as far as possible, there was a view that adding in other criteria like employee numbers and balance sheet totals would not make the base any more reflective of this risk, at the cost of added complexity.

5.24 There was still some support for using all three Companies Act criteria to determine the small business threshold. It was argue using all the Act criteria would: be familiar to regulated entities; may be more comprehensive than a single metric; and, would be less prone to fluctuations than a single metric like revenue. This support was most notable from the legal and accountancy sectors.

5.25 Despite the support received for the Companies Act criteria, some responses did note that: balance sheet totals as a criteria could be manipulated; using employee numbers could disincentivise hiring; and, entities often lack readily available data on all three of the Companies Act criteria. Thus, being required to start collecting this data could add unnecessary complexity and administrative burdens for both smaller entities and the levy collector(s).

Question 12: For businesses not exempted by a threshold, how should their revenue below the level the threshold is set at be treated – as an allowance, levied at the same level as the main levy rate, or levied through a fixed amount?

5.26 Most responses, notably from the financial services, property and gambling sectors, showed a preference for revenue below the chosen threshold to be levied as a flat fee, with only revenue above the threshold levied at the main rate. This was deemed the simplest and least administratively burdensome option, a way to reduce the potential for 'cliff edge' scenarios, and a way to provide consistency and transparency.

[1] Company accounts guidance - GOV.UK (www.gov.uk)

5.27 There was also some minor support for exempting revenue below the threshold entirely, and for it being treated as an allowance.

5.28 Some responses did also suggest that a maximum amount should be set for what entities could pay as levy liability. This, it was argued, would help with entities' financial planning and avoid all the levy falling on the very largest entities.

Question 13: How do you think money laundering risk should be accounted for in the levy calculation?

5.29 Most responses agreed that the levy should reflect money laundering risk in some form. However, there were mixed views on whether any of the proposed metrics would be able to do so effectively and in a way that does not overcomplicate the calculation. Several respondents cautioned against trying to capture money laundering risk at all, given that it is constantly evolving and thus could never be accurately represented in the levy.

5.30 While there were some strong advocates for using SARs to account for money laundering risk (primarily from the legal sector), most respondents were concerned that reporting could potentially be discouraged.

5.31 The UK's National Risk Assessment[2] (NRA) of money laundering and terrorist financing received some support. However, it also received censure, both because it was produced for a different purpose and because some felt there would be a potential conflict of interest for HM Treasury.

5.32 Comparatively, the supervisor risk assessment option received muted support, most audible from the banks, with the levy viewed as a potential means of driving increased consistency in their assessments. However, there was also notable concern for the effect it could have on supervisor-supervisee confidentiality and the potential for the metric to be 'gamed' to influence how risks are rated.

5.33 Some banks did also suggest a combination of all the three metrics, combined with other reputable sources of money laundering risk, such as the Financial Action Task Force (FATF), the Office for Professional Body Anti-money maundering Supervision (OPBAS) and Joint Money Laundering Steering Group (JMLSG) assessments, would be the best option.

Question 14: Do you believe using number of SARs reported as a metric through a banded approach would be an appropriate means of achieving this objective? Please explain your reasoning.

5.34 Most respondents agreed that using the number of SARs though a banded approach would not be an appropriate means of measuring money laundering risk. The legal sector was the only respondent group where there was notable support for this proposal, but even in this sector views were split.

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[2] The NRA sets out the main money laundering and terrorist financing risks for the UK, how these have changed since the UK's previously published NRA, and the action taken since to address these risks. The last NRA was published in 2020 and can be found at: National risk assessment of money laundering and terrorist financing 2020 - GOV.UK (www.gov.uk)

5.35 The most common concerns with this approach were: the potential for disincentivising SARs reporting; that the high threshold proposed would be a poor reflection of risk; that rather than risk, SARs are more a reflection of suspicion (potentially in other sectors, or clients), or of the effectiveness of an entity's financial crime systems and controls; and, that there is known inconsistency between sectoral reporting of SARs.

5.36 However, supportive law firms noted that even though SARs are not a perfect measure of risk, incorporating them alongside revenue would still be the most risk-reflective option available. Further, it was noted that the legal obligation to submit SARs should outweigh the disincentive to report risk. They also suggested using a banded approach with a reference period of multiple years would help mitigate this risk further.

Question 15: Do you believe there should be a periodic or annual process for setting the levy rate? If periodic, what would an appropriate period be?

5.37 Most respondents believed the levy rate should be set annually, rather than periodically. An annual rate was viewed as: more reflective of the changeable nature of money laundering risk and of fluctuations in revenue; a better fit with supervisor's fee processes; and more likely to result in better collection rates.

5.38 Several respondents did however support a periodic levy rate. This was judged to be more cost-efficient and a way to help provide levy payers clarity and certainty on their liability. Many of these respondents felt the periodic rate should coincide with a levy review at around the 3-year mark. But there were also calls for it to be set for a 5-year period.

Question 16: Would you prefer to calculate the levy based on total revenue or revenue from AML-regulated activity only? Please explain why.

5.39 A majority of respondents would prefer the levy to be based on AML-regulated activity revenue. This was suggested as fairer, more reflective of money laundering risk, and more representative of the levy principles.

5.40 However, other respondents did feel calculating AML-regulated activity would not be cost-efficient and could be difficult to disaggregate from total revenue.

Question 17: If applicable, what is your initial estimate of the proportion of your UK business which is AML-regulated (in revenue terms)? How many labour hours would initially be required to enable your business to robustly calculate the proportion of regulated business on an ongoing basis?

5.41 Respondents submitted limited data on their estimated AML regulated revenue. However, the data provided did suggests banks, for example, will likely have a higher proportion of AML revenue when compared to, say, the legal sector.

5.42 Respondents also had mixed views on how easy it would be to calculate their AML revenue. A small majority suggested it would not be a significant burden to

calculate. However, the rest said it could be difficult, and that for some entities it could cost more to calculate than their actual levy liability.

5.43 Some trade bodies noted that the time and cost of splitting revenue into regulated and unregulated activity would be dependent on each entities, as some would do so already while others would need to establish a new stand-alone exercise.

5.44 Respondents were also asked to estimate how many labour hours would initially be required to calculate the proportion of regulated entities on an ongoing basis. Limited data was provided in response to this question.

Question 18: Which is your preferred option for defining revenue?

5.45 Most respondents suggested using UK Generally Accepted Accounting Practice (GAAP) standards, such as the UK Financial Reporting Standards (FRS), to define revenue. The next most popular option, supported by a minority of responses, was to use the Companies Act 2006 definition for turnover.

5.46 Respondents generally favoured definitions they were familiar with. The art market and the gambling sector suggested using gross profit and gross gambling yield respectively, as being more reflective of revenue for their respective sectors.

Question 19: Do you agree the levy should be based on UK revenue only? How easy would it be to split out your UK revenue from your total global revenue?

5.47 Almost all responses agreed that the levy should be based on just the portion of total revenue made in the UK, or UK revenue. Fewer responses clarified how easy it would be to identify their UK revenue. However, of these, most said it would be relatively easy to identify.

5.48 UK revenue was judged to be: more in line with the principles and purpose of the levy, especially in terms of fairness and proportionality; simpler to administer; less likely to harm competitiveness; and more representative of the AML risk that entities bring into the domestic system.

5.49 A handful of legal sector responses noted that the definition of UK revenue would be a core determinant for how easy it is to identify. A couple of these respondents further highlighted that much of the money laundering risk posed to the UK comes from overseas-based clients. Thus, they suggested any UK revenue definition should be based on revenue generated by UK-based permanent establishments.

Question 20: Do you think it would more appropriate to use total income or net operating income as a metric for calculating levy liability for deposit-taking institutions, and if so, which metric would be the most appropriate?

5.50 The overall responses to this question was mixed. Responses were mostly from the banking and building society sector. The sector was in favour of using net operating income (NOI) instead of total income. However, a few responses from

other sectors (accountancy, legal and financial services) suggested total income would be better.

5.51 Banking sector respondents felt NOI would be more proportionate, particularly given the unexpected increase in credit impairment due to Covid-19. Further, as it is premised more precisely on the business activities of the institution, it was viewed as fairer than total income.

5.52 In contrast, respondents in favour of total income argued that: the metric is already in use across their annual reporting processes; the measures for considering NOI can differ across organisations; total income is the fairest representation of the inherent risk linked to the entity's activities; and that it would be simpler and more transparent than NOI.

5.53 Building societies specifically cautioned against NOI. They were concerned that it would have the unintended consequence of favouring those entities with higher losses because of a lack of proper control over lending quality or mis-selling.

Question 21: Do you agree that the reference period for the levy calculation should be a business's accounting period? Please explain your reasoning.

5.54 Most respondents agreed that the reference period for the levy should be a business's accounting period.

5.55 Respondents felt, as the standard accounting practice, that this would: simplify administration, be simple to calculate, be the most cost-effective option, and avoid finance teams having to calculate multiple accounting periods for the purpose of different compliance obligations.

5.56 The alternative to using businesses' accounting periods – using the government financial year – was supported by a few respondents.

Question 22: Do you agree that the levy should apply to activity carried out from the date from which the activity is regulated? Please explain your reasoning.

5.57 Almost all responses agreed that the levy should apply from the date from which the activity became regulated. That is, newly regulated entities are liable for the levy from the point they become a regulated entity, onwards. This was judged to be the best way to reflect money laundering risk and treat all sectors equally.

5.58 In line with this, several respondents did suggest a pro rata application might be sensible for new joiners (entities that become part of the regulated sector during a financial year ECL assessment period).

5.59 In contrast, some respondents preferred that newly regulated entities should be liable from their first *full* assessment period, to reduce the admin burden of identifying the relevant pro rata regulated income.

Question 23: Do you believe levy liability should be calculated and invoiced at entity or group level? Please explain your reasoning.

5.60 A small majority believed the levy should be calculated and invoiced at entity level. This, because it would drive accountability and simplify administration, be consistent with other calculating and reporting requirements, help avoid double counting of revenue, and be more reflective of money laundering risk as it avoids a blanket charge to a group.

5.61 A minority preferred the group level option, with some similar arguments being made. That is, it would minimise compliance and admin costs; align with how some other levies and fees are already applied; and help avoid the risk of groups 'gaming' the system where, for example, the group spreads revenue across its entities to take advantage of any de minimis threshold in place.

Question 24: Do you agree limited partnerships should pay the levy at partnership level? Do you have any other views on how partnerships should be treated for the purposes of the economic crime levy?

5.62 Respondents agreed that limited partnerships should pay the levy at partnership level.

Government response

Calculation mechanism

Levy base

5.63 The responses received validated the government's position that revenue, and specifically revenue derived from UK activity, or 'UK revenue', remains the best base available for the purposes of the levy. The government notes the strength of feeling that only revenue generated from AML-regulated activity – i.e. 'AML revenue' – should be accounted for in the levy (see responses to Question 16). We do also recognise the arguments that a levy based on an entity's total UK revenue could be unfair on those entities whose AML revenue is only a small portion of their total UK revenue. However, consultation with industry and the AML supervisors has shown that going ahead with a levy based on AML revenue could be overly complex and ultimately be uneconomical for some entities. For example, it would be difficult to corroborate any AML revenue figures reported and, for that reason, could have incurred secondary costs for entities to hire the necessary expertise to quality assure the figures. Thus, we have decided that the levy will be based on an entity's UK revenue only. This will reduce the secondary costs and the compliance burden of the levy.

5.64 The government notes the support shown for some alternative bases, most notably: from the legal sector for a SARs-based metric; from some financial services firms for a profit-based levy; and for the supervisor AML-fee surcharge model. However, after careful consideration we have concluded each would not be appropriate for the levy. Taking each in turn:

- Basing the levy solely on the number of SARs could be simple for regulated entities and, in certain scenarios, could be argued to be a rough reflection of

money laundering risk. However, this approach would risk disincentivising the reporting of SARs, and potentially amplify the issues of under-reporting of certain parts of the AML-regulated sector, and arguably would penalise entities with strong financial crime systems and controls. Further, regulated entities report SARs in a vast range of scenarios, all with different levels of money laundering risk involved. And in some of these scenarios, the subject of the SAR may not even be an entity using the services provided by the reporting entity. Therefore, the government sympathises with the view that the number of SARs submitted does not equate to money laundering risk.

- As a typical basis for taxation, profit is familiar to regulated entities and easily reportable. However, profit is also more susceptible than revenue to year-on-year fluctuations and could unfairly exempt entities that conduct a high volume of activity from paying the levy. Further, an entity's risk of money laundering is less likely to be proportionate to profit than to their revenue.

- The supervisor fee surcharge model was suggested by a handful of respondents, where a percentage rate would be added to AML regulated entities existing supervisory fees. Whilst simple to apply, collect and pay, this option could be complex to implement consistently and fairly across the regulated sector given supervisors' different fee systems.

5.65 There are many different types of business in the AML regulated sector, and we note revenue may not constitute the most suitable metric for every sector in scope. As such, we have considered several representations made for sector-specific treatments. To maximise consistency and simplicity in all aspects of the levy design, however, the government has decided against including any sector-specific treatments in the final policy design. We have set out below our response to the main sector-specific representations advocated for:

- We received mixed responses to Question 20 on whether net-operating income or total income would be a more suitable metric for deposit-taking institutions. Following engagement with accountants and other technical specialists, we have decided deposit-taking institutions (DTIs) should report their levy liability on UK revenue in line with other in-scope entities. This is because we consider DTIs will be familiar with the definition of UK revenue we intend to use (see proposed definition below). However, we would particularly seek views from the financial sectors on whether this is correct in any responses to the technical consultation on the draft legislation.

- Equally, we acknowledge art market participants (AMPs) and high-value dealers (HVDs) are two parts of the regulated sector that derive income both from services provided and tangible goods purchased and sold, instead of just services. This appears to create a risk that their revenue figures (and therefore levy liability) could be inflated when compared to purely service-based sectors. We have considered potential alternatives like gross profit. However as so few AMPs/HVDs are expected to be in scope due to the size thresholds before entities become liable to pay the levy, AMPs/HVDs will be required to pay the levy based on their UK revenue. We also considered alternative metrics (like gross profit) unsuitable as they could be difficult to define clearly and be open to misinterpretation.

- Finally, we note responses received from casinos and others in the gambling sector seeking that they be allowed to use gross gambling yield (GGY) as their levy base instead of revenue. The government accepts that GGY could be a viable alternative for these entities, especially if AML revenue were used as the levy base. However, as AML revenue is not being used in the ECL, to ensure consistency with the rest of the regulated sector, casinos will pay the levy based on their UK revenue. Allowing casinos to pay the levy based on their GGY might also have unfairly advantaged them over the rest of the AML-regulated sector.

5.66 We recognise that how revenue is defined needs to be as simple and understandable as possible to minimise any inconsistencies or potential for misunderstanding. On this basis, the government agrees with respondents that defining revenue in accordance with UK Generally Accepted Accounting Practice (GAAP) standards, like the Financial Reporting Standards (FRS), provides a suitable and commonly understood definition (please see Box 5.A for the proposed definition). This should be appropriate for in scope entities from across the different AML regulated sectors.

5.67 The levy will be based on revenue derived from UK activity, rather than a broader – less proportionate – measure like global revenue. This means the government needs to define what is meant by 'UK activity'. In the case of a:

- UK resident entity, the entity's UK revenue is all of that entity's revenue after deducting so much of its revenue as, on a just and reasonable apportionment, is attributable to the activities of any permanent establishment of the entity in a territory outside the United Kingdom.

- non-UK resident entity, the entity's UK revenue is so much of the entity's revenue as, on a just and reasonable apportionment, is attributable to activities of any permanent establishment of the entity in the United Kingdom.

5.68 We are also aware of some non-UK resident casinos – regulated by the Gambling Commission – which provide facilities for remote gambling but have no permanent establishment in the UK. The government believes these entities should fall in scope of the ECL as they are undertaking UK AML-regulated activity. Full details of how UK revenue is determined, and specific provisions made for remote gambling operators with no UK permanent establishment, can be found in clause 5 of the draft legislation.

5.69 We encourage responses to the technical consultation (please see Chapter 8) on the definition and determination of UK revenue, and recognise it is an element of the policy that will be reviewed in due course to ensure it is suitable for the diverse ECL payee base.

Box 5.A: Revenue definition for the ECL

Revenue will be defined as turnover – as defined in the Companies Act 2006 – plus any other amounts (not included within turnover) which, in accordance with generally accepted accounting practice ("GAAP"), are recognised as revenue in the entity's profit and loss account or income statement.

Money laundering risk metric

5.70 The government is sympathetic to the arguments that the concept of 'money laundering risk' is too dynamic and ever-changing to ever be accurately reflected as

an additional levy base metric; and, that the currently available metrics proposed at consultation are imperfect. Namely, the number of SARs, National Risk Assessment (NRA) scores, and/or supervisor risk assessment scores.

5.71 There were clear views that using the number of SARs could disincentive reporting and augment the issue of underreporting in certain sections. It could also be perceived as penalising good behaviour. Meanwhile, using the NRA ratings was seen (a) to lack granularity, and (b) as a potential deterrent for continued industry engagement in the NRA process. Finally, due to the number of supervisory bodies, there was concern that using the supervisor risk assessments to assess money laundering risk would bring too much variability, if used for the levy. There was also a suggestion that it would risk undermining the supervisor-supervisee confidentiality of these assessments.

5.72 The government has decided that no additional money laundering risk weighting will be included in the levy calculation. The proposed 3-year levy review will present an opportunity to reconsider whether there is appetite and scope for amending the levy to further reflect money laundering risk.

Applying the calculation

Structure of the levy

5.73 Entities will determine their size and levy liability by considering what size band their UK revenue falls into (see Table 5.A). The bands are inspired by the turnover thresholds used in the Companies Act 2006, which are considered familiar to industry. However, the for the ECL, we are proposing a UK revenue definition (see Box 5.A above) in line with UK GAAP accounting standards, which is different to the turnover definition used for the purposes of the Companies Act. This banded approach will be simpler for: industry to calculate and assess; the collector to administer; and the government to design to ensure predictability in the fixed fee rates and annual levy yield.

5.74 At consultation, the government had considered whether entity size could be determined by all three of the criteria used in the Companies Act (turnover, employee numbers and balance sheet totals). However, we agree with respondents' preference that only revenue should be used to determine entity size – using all three of the criteria would have added complexity to the policy design and generated additional compliance costs on payees.

5.75 The government considers that, in general, the larger the regulated entity, the more exposed they are to money laundering risk. This, in large part due to the sheer volume of transactions and activity they enable. That is why medium, large, and very large entities will be those that pay the levy. The very large band is unconnected to the Companies Act turnover and size thresholds and will be treated as a separate threshold. A threshold we consider necessary due to the considerable difference between a large entity and what we have termed a very large entity. Our initial estimates suggest up to 200 entities could be in scope of this band. These entities – with over £1 billion in UK revenue each – will pay a higher fixed fee (than the large or medium size thresholds). Please see Table 5.A for the anticipated fixed fee ranges for each size band.

5.76 We recognise the need to make the levy as cost effective as possible to collect, and to not overly burden small entities. However, this must be balanced with

the need for solidarity in paying the levy across the regulated sector, especially as smaller actors still have the potential to be exposed to money laundering risk. Noting these considerations and respondents' mixed views, the government has decided that all entities with UK revenue under £10.2m will be exempt from paying the levy. We expect this is likely to result in approximately 4,000 regulated entities falling in scope for the levy. As such, we have prioritised simplicity over solidarity at this stage. Please see Table 5.B for our estimated breakdown of regulated entities by Companies Act size based on revenue.

Fees and rate setting

5.77 The government notes the wide-ranging views on whether in scope entities should pay their levy liability as either a: (a) fixed fee based on UK revenue bands, or (b) fixed percentage rate of their leviable UK revenue. A fixed percentage rate would be more proportional and more accurate. In contrast, requiring entities to identify what UK revenue band they fall into and the corresponding fixed fee would be simpler and could ease burdens on businesses. A banding approach would also make the levy yield more predictable for the government. To keep the levy design simple and predictable the levy will be paid as a fixed fee.

5.78 The government intends to adjust the levy calculation methodology (e.g. fixed fee sizes) periodically, as this offers greater cost-efficiency and certainty for levy payers as well as predictability for recipients of levy funding. This means the methodology is not intended to change in the initial period leading up to the 3-year levy review. However, whilst the underlying methodology will not change, if the levy is not yielding the desired £100 million per year (be it by bringing in too much or too little) then the fee rates may be updated before the 3-year review mark to reflect this. There might also be a need to periodically update elements of how the levy is calculated to account for changes to wider economic indicators, such as inflation.

5.79 Table 5.A below sets out some fixed fee ranges for the first year of the ECL, within which the final fixed fees are likely to fall. The government is in the process of finalising these fixed fees and will confirm the final amounts in the Finance Bill legislation. To the extent possible, the government's intention is for no entity's levy fee to represent more than 0.1% of their UK revenue. Fees in future years of the ECL could change as new data becomes available, and to adjust for relevant factors such as inflation. The annual report will be used to review fees. However, the intention is to keep fees predictable for payees and avoid unnecessary changes.

Table 5.A: Fixed fees to be paid based on size thresholds in year 1

Entity size	Small	Medium	Large	Very large
UK revenue threshold (inspired by the Companies Act 2006)	Under £10.2m	Between £10.2m - £36m	Between £36m - £1bn	Over £1bn
Fixed fee ranges (£,000)	n/a (exempt)	5 - 15	30 - 50	150 - 250

Table 5.B: Approximate number of entities in the regulated sector by size

Entity size	Approximate number of entities*	
Micro	70,000	
Small	16,000	
Medium	4,000	2,000
Large		1,800
Very large		200

*Notes on data: data based on HMRC modelling done on just revenue, not in all cases based on UK revenue or revenue itself (but the most analogous metric for certain organisations). As such, these estimates should be treated with caution. They represent our best estimates using available data.

Other calculation considerations

5.80 In line with the preference of most respondents, the government has decided that the levy should be calculated and reported at entity level to maximise simplicity and drive consistency with existing reporting requirements in the regulated sector. This will also encourage greater awareness at individual entity level of levy and its purpose.

5.81 Partnerships will be treated like any other regulated entity, and as entities in their own right. The government agrees that partnerships – including limited partnerships, limited liability partnerships, and general partnerships – should pay the levy at partnership level. This means that all partnership structures will be charged once for the partnership, rather than each partner being individually liable for their respective levy liability. Partners will be treated on a jointly and severally liable basis for the ECL payment, with appropriate provisions outlined in legislation for partnership structures where this is not the case already. Sole traders will also be treated like all other regulated entities. For example, if an AML-regulated sole trader makes between £10.2m and £36m of UK revenue, it will be classified as a medium entity and will be liable to pay the relevant fixed fee.

Chapter 6

Collecting the levy

Summary of responses received

Question 25: Do you think the agency should issue a notice to file or that businesses should be required to submit a return proactively? Please explain your reasoning.

6.1 Most respondents thought that the agency should issue a notice to file. This was viewed as the best way to ensure levy payers know when they should file a return. Equally, it was judged to result in better compliance; be consistent with current invoicing arrangements and internal accounting practices; and help keep the administrative burden down for levy payers.

6.2 A notable minority of respondents did however think entities should be proactively submitting their returns. This, as it would better mirror current processes for tax reporting and would reduce administrative cost for the levy collector(s). Nonetheless, several banks and building societies did suggest notices to file, if sent out electronically, should mitigate any administrative burden.

Question 26: Do you think all businesses should report their levy liability to the agency? If not, do you think small businesses should report a nil declaration or nothing at all?

6.3 Most respondents judged that all entities should report their levy liability to the collection agency and, that where an entity is not in scope of the levy, that they submit a nil return. This was considered more transparent, a way to drive better compliance and accountability, and a way to help highlight entities attempting to circumvent the levy without legitimate grounds for doing so.

6.4 However, several organisations noted that it would be more cost effective and minimise the administrative burden to allow non-paying entities not need to submit any form of return.

Question 27: Do you agree with the proposed approach for calculating the levy rate, invoicing, and payment of the levy? If not, please explain why.

6.5 A majority of responses agree with what was proposed at consultation: that the collection agency should calculate an entity's levy liability based on data provided by entities (using the calculation methodology set out in legislation) and

then, following the liability being calculated, issue an invoice with entities given a set period of time to pay the amount due. A minority felt the proposed approach would present opportunities for miscalculation and higher admin costs.

Question 28: What are your views on the proposed compliance framework in a single agency model?

6.6 The overwhelming majority of responses agreed with the proposed compliance framework: late payments incur changes recoverable as civil debt.

6.7 There were calls for a correct balance between promoting compliance and being proportionate to the offence. Equally, that the opportunity should be given to the entity to pay any unpaid amount in full before enforcement action is taken and that appropriate processes of appeal are made available. Some responses also suggested that the government should show greater leniency during the first year of the levy.

6.8 In contrast, there were suggestions that harsher enforcement measures – beyond penalty charges – could be used, up to including removal from the regulated sector (e.g. being prohibited from undertaking regulated activity).

Question 29: Do you agree that supervisors should be able to determine the frequency of reporting and payment, provided they transfer levy payments to the government a maximum of a year after the end of a business' accounting period?

6.9 Respondents were split on this question, with a small majority supportive of supervisors being able to determine the frequency of reporting and payment.

6.10 There were cross-sector calls for a unified approach across all regulators to ensure greater transparency, predictability and fairness. There was also support for the flexibility to embedded new requirements into existing processes and timeframes to ensure minimum disruption to both supervisors and the regulated population.

6.11 However, some respondents also cautioned against the proposed approach. Several banks suggested reporting and payment should be determined by the government to assist those paying the levy with calculation and budgeting; and to be more consistent across sectors where business operations within groups are subject to different supervisory authorities. A wider concern was that it would be highly inconsistent due to supervisors' different operation models and timeframes, and would be an administrative burden.

Question 30: What are your views on the supervisor carrying out compliance activity as set out above?

6.12 Responses were very mixed on this question, with no clear preference.

6.13 Those in favour of supervisors carrying out compliance activity were clear that the supervisory body, as the levy collector, is the most appropriate agency to ensure compliance with the levy returns and payments. There was cross-sector recognition of potential synergies from linking the levy compliance framework to the

existing regulatory framework. Some also thought this could reduce the risk of late submission and non-payment of levy funds.

6.14 However, many respondents argued that requiring supervisors to enforce the levy could: bring inconsistency to the approach; add costs disproportionate to the amount collected; require complex changes to supervisors' operating models; and potentially lead to costs being passed on to regulated entities, such as in the form of increased membership fees.

Question 31: Which model do you prefer? Please explain why. Do you have suggestions for any other models that could be used?

6.15 Neither collection model received overwhelming support. When looking at responses holistically there was slightly more support for a single agency model. However, when considering that a large proportion of both the accountancy and legal sector respondents were AML supervisors, the preferred collection model among regulated entities was the supervisor collection model.

6.16 Respondents in favour of the single agency model noted that, when compared to the alternative options, it could be more cost-efficient; provide clearer consistency and accountability; and would be simpler given that bodies like HMRC already have statutory powers to collect revenue data for existing taxes and duties and have suitable infrastructure.

6.17 However, some argued a single agency would be expensive to set up and resource, and divert funding away from the purpose of the levy – to fund AML initiatives.

6.18 Support for the supervisor collection model was notable outside of the accountancy and legal sectors. Supervisors were judged best placed to monitor compliance, act on breaches, and to be able to make use of existing collection facilities to minimising collection and enforcement costs. However, concerns were raised with supervisors being required to enforce the levy, which could: add costs disproportionate to the amount collected, especially among smaller supervisors; require complex changes to operating models; and, potentially lead to increased membership fees for regulated entities.

6.19 Several respondents suggested OPBAS could play a supporting role to monitor collection and enforcement. They felt this would provide an opportunity to address the lack of consistency across supervisors.

Question 32: If you are a supervisor, what do you estimate your costs would be in each model?

6.20 Most AML supervisors responded to the consultation.

6.21 Many AML supervisors agreed that there was currently insufficient information on the policy to provide good estimate costs. There was agreement that either collection model would result in increased costs for supervisors. Some supervisors were also concerned they would not achieve cost neutrality for several years if required to collect the levy.

6.22 The principally cited reasons for increased costs were embedding the necessary IT programmes and processes, and additional 'Full Time Equivalents' (FTEs) required for increased administrative functions. However, there was wide variation in the expected number of FTE required by each supervisor.

6.23 The estimated costs provided varied. One mid-size professional body supervisor estimated its set-up costs would be in the tens of thousands of pounds.

Government response

The collectors

6.24 No clear lead option emerged from the consultation regarding how the levy should be collected. It has become evident both models have distinct advantages and challenges.

6.25 A single agency model would provide a consistent application and enforcement of the levy, and clear accountability. However, there were concerns that it would have high start-up costs, particularly if a new standalone body was created to act as the single agency. Identifying an existing organisation that could readily assume responsibility for collecting the levy has also proved challenging. The most natural candidate might be HMRC, which has extensive experience in administering taxes effectively and efficiently. However, the organisation continues to face considerable other demands on its capacity that could impede delivery of the levy. The FCA, as the body with the most entities in-scope of the levy, was another potential candidate. However, this would have involved the FCA establishing tax collection relationships with AML regulated entities it has no regulatory relationship with. This would have constituted a significant extension to the FCA's remit and potentially distracted the FCA from its core regulatory functions. It could also have been relatively cost inefficient.

6.26 Meanwhile, in theory, a model where supervisors collect the levy could potentially have been simpler for those in-scope of the levy. These entities already report and pay fees to the supervisors, who themselves already have existing fee collection processes that the ECL could have looked to use. Yet, having 25 separate collectors would have proved complex and resource inefficient, and might have required another body to take on a more hands-on oversight capacity. Further, with some supervisors likely to have very few, if any, entities in scope of the levy, there was a real risk that several supervisors would be collecting less in levy proceeds than their potential collection costs.

6.27 Given that no existing organisation was readily able to take on this function alone, that setting up a new body would be bureaucratic and expensive, and that it would be too cost-inefficient and complex to have all the AML supervisors collecting the levy, the government has decided that the levy will be collected by the three statutory AML supervisors – HMRC, FCA, and the Gambling Commission – with HMRC also taking on collection responsibilities for the entities supervised by the 22 Professional Body Supervisors (PBSs).

6.28 As public bodies the statutory supervisors will be able to build on existing links with government, Parliament, and their regulated populations in their collection capacity. Further, by limiting the collection bodies to just three, there is

greater opportunity to achieve consistency and cost-efficiency when compared to other models considered. Their flexibility to adapt existing systems and processes, where possible, should help here.

6.29 However, we recognise that there remains a risk of some administrative inefficiency be having three levy collectors, rather than a single body. We are also aware that the collectors are taking on a new responsibility and challenge in this role. The collectors will also have costs of administering the levy funded and netted off through yield on an annual basis. We will seek to use the annual levy report and 3-year review – discussed in Chapter 4 – to monitor spend and consistency across the collectors.

6.30 Some consultation responses queried how entities with more than one supervisor would be treated. Regulation 7(2) of the MLRs stipulates that "*where there is more than one supervisory authority for a relevant person, the supervisory authorities may agree that one of them will act as the supervisory authority for that person*." Whichever organisation has agreed to act as the supervisor for an entity under this mechanism would also be responsible for collecting – if relevant – that entity's ECL.

Reporting and assessment periods

6.31 The government recognises industry's preference that the assessment period for the levy should be a business's accounting period, most notably to minimise the administrative burden on in scope entities. Box 6.A below outlines the process to determine ECL eligibility.

Box 6.A: Summary of ECL calculation process

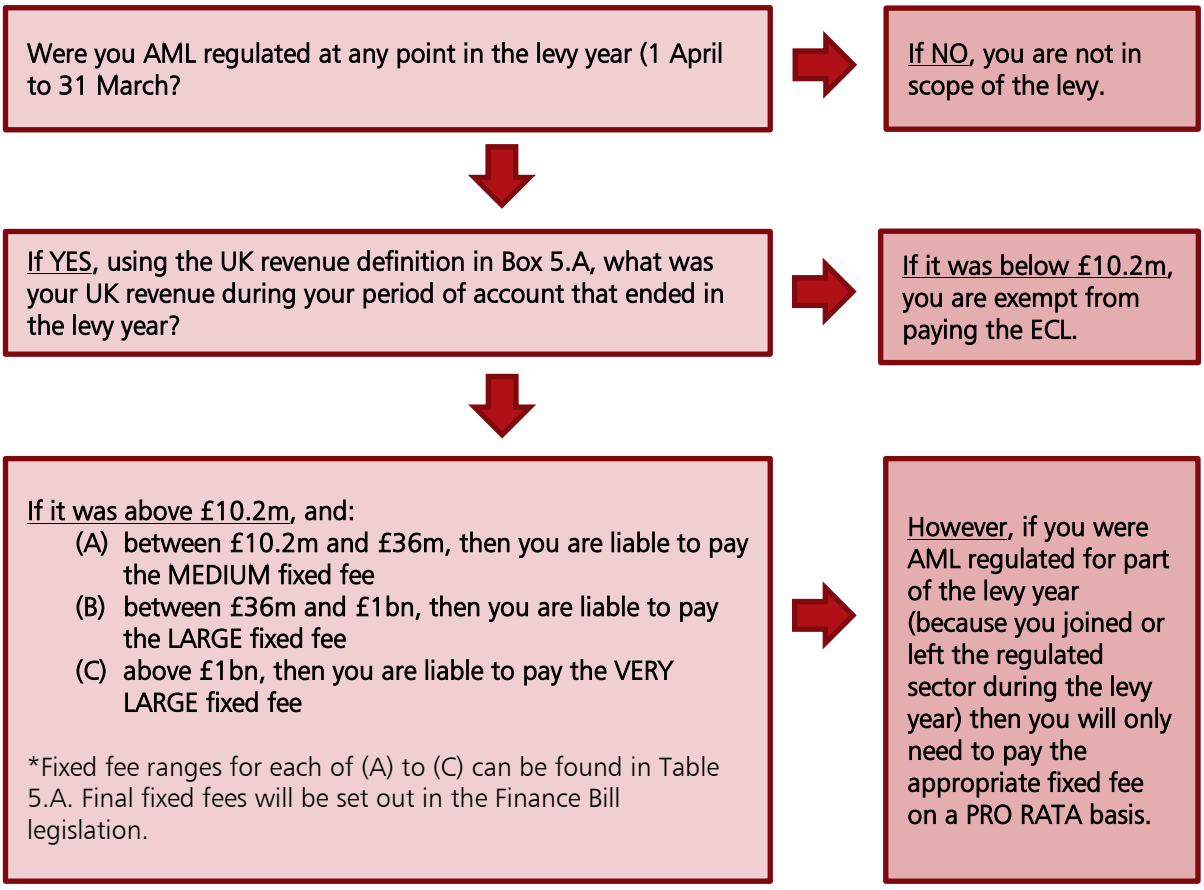
- **Each levy year will run from 1 April to 31 March** (i.e. the government financial year) with the first levy year beginning on 1 April 2022.
- **An entity is in scope of the levy if they are AML regulated** – have carried out regulated activity as per Chapter 1 of the MLRs[1] – **at any point in a levy year.**
- **An entity will determine its size based on the UK revenue it has made during its period of accounts that ends in the levy year.** Provision will be made for entities that have multiple periods of account in the levy year and for those who have no periods of account in the levy year (see draft legislation Clause 4)
- **Levy payments will be made by entities to their relevant collector in the year after the levy year.** For example, payments in the first levy year (2022/23) will be made after 31 March 2023.

6.32 **The levy will apply to entities in any levy year (1 April – 31 March) in which they are AML regulated and, where the entity is only regulated for part of a levy year, a pro rata adjustment will be made**. The government agrees with respondents

that this is the fairest approach. That means a new joiner to the regulated sector will be liable to pay the levy from the levy year in which they are first regulated. In these situations' new joiners will pay the levy on a pro rata basis. For example, if an entity joined the regulated sector halfway through the first levy year (i.e. joined half-way through 22/23), then when reporting their 22/23 levy they would be expected to pay only 50% of the fee attributable to their size and UK revenue.

6.33 Entities that leave or are deregistered from the sector part way through an ECL assessment period will also be treated on a pro rata basis. However, due to the exiting processes in place at the FCA and Gambling Commission, any FCA or Gambling Commission entities that cease being registered for AML purposes in a given levy year will pay their outstanding ECL fee on a pro rata basis to HMRC.

Chart 6.A: How to determine whether you are in scope of the levy and what you will pay



Payment process

6.34 On the practicalities of collection, the government would like to make this as efficient and cost-effective as possible. We also believe the collectors should be able to exercise as much flexibility as possible in how they determine the timing of reporting, invoicing, and payments in line with the proposed levy financial year assessment period. For example, they could seek to align reporting and payment with their existing fee frameworks.

6.35 The three collectors' processes for collecting the levy will have to adhere to the following requirements:

- In scope entities will be required to make a return to their collector by self-declaring, or responding to an invoice, that they are in scope of the levy and what UK revenue / size band they fall within.

- Entities will be required to pay their levy charge within six months of the end of the levy year (i.e. by 30 September). However, the collectors will be able to require entities to pay in advance of this date, within reason, if this aligns with their existing fee processes.

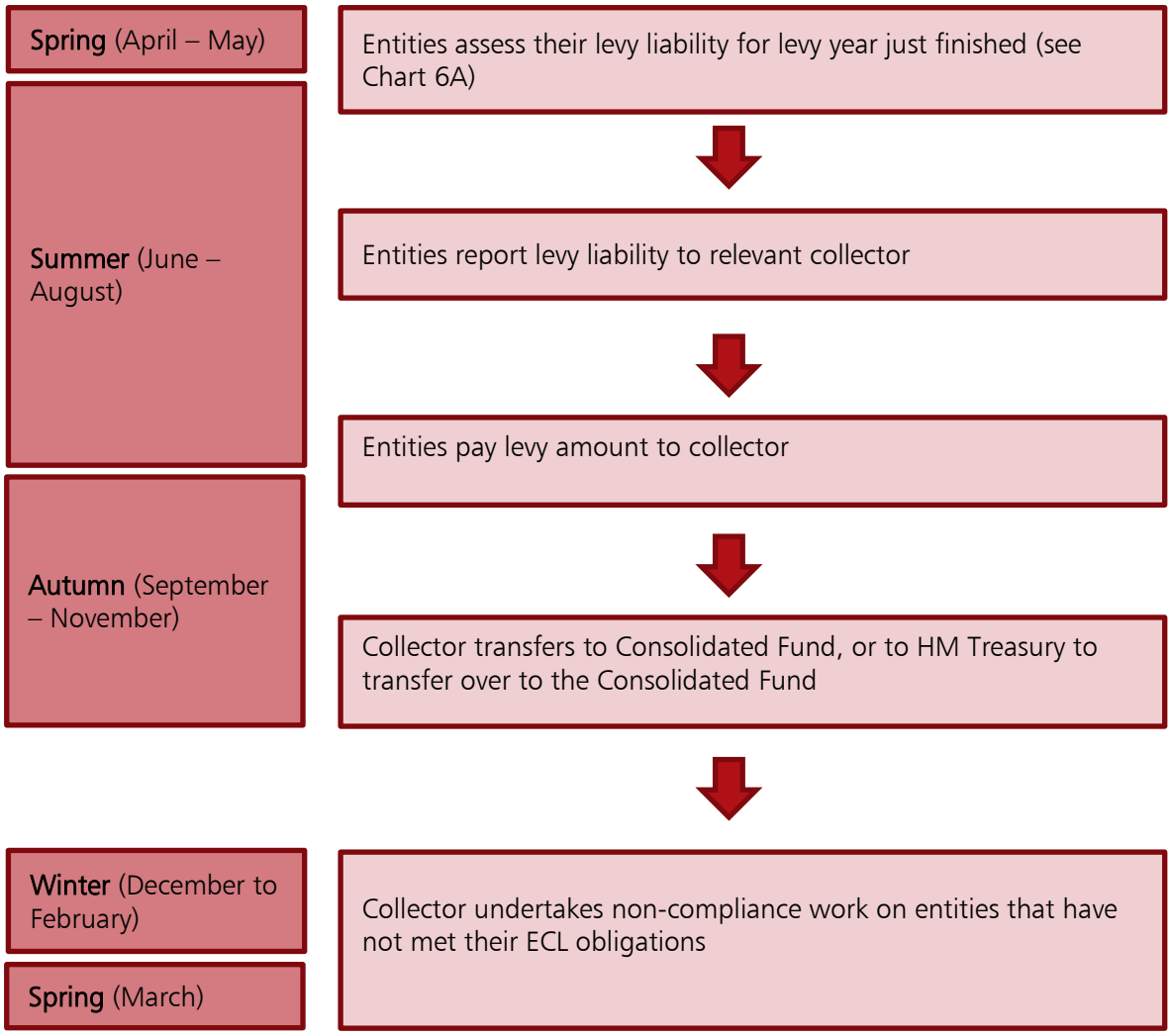
- Collectors will have to transfer their levy receipts by the end of the financial year that follows the end of a levy year (i.e. by 31 March).

6.36 To minimise the compliance burden of the levy, only medium, large and very large entities need to self-declare, or be invoiced for, their levy liability. This means small entities (i.e. those with under £10.2 million UK revenue) will not be required to report any information.

6.37 Beyond the above requirements, collectors will have discretion on how to collect the levy. For example, they could require their ECL population to self-declare and self-pay by a certain date. Alternatively, a collector may wish to issue a notice to make a return. A collector may also wish to invoice for payments. The detail of each collector's collection process will be specified in regulations.

6.38 Below, Chart 6.B outlines the processes entities and levy collectors can expect when it comes to their ECL obligations. Whilst this is the common framework, as noted in 6.35 each collector will have the flexibility to adjust the details to align, as desired, with their existing processes. This will especially be the case when it comes to the exact timings of each step, which for illustration have been divided into seasons below.

Chart 6.B: Collection flowchart – common framework



Compliance and enforcement

6.39 The government notes the mixed views on how the levy collectors should undertake enforcement and compliance activity, with respondents noting that a balance needs to be struck between deterring non-compliance and creating an overly punitive process. The collectors will be responsible for undertaking compliance activity. They will be encouraged to make use of existing fee process and systems where possible. This will ensure consistency and keep administrative burdens as low as possible for collectors and payees alike. The government is also considering what further non-compliance provisions are necessary and will set the detail of these out in regulations in due course.

6.40 Late-, under- or non- payment of the levy or incurred penalties will be recoverable as a debt due to the Crown, and will incur interest. Interest will accrue from the payment date. Rates will be based on HMRC's late payment interest rate[3].

[3] Interest rates for late and early payments - GOV.UK (www.gov.uk)

Chapter 7

Funding for fraud

Summary of responses received

Question 33: How much did your organisation spend on countering fraud in 2019? What are these funds spent on, in high level terms?

7.1 We received very few quantitative estimates of industry costs for counter-fraud activity. Responses varied on the quantity of expenditure and the examples of activity paid for between tens of millions for large entities and thousands for smaller entities. Spending was targeted across a broad spectrum of items, including membership subscriptions to counter-fraud collaborations, training for staff, fraud detection capabilities, general compliance costs and specialist counter-fraud staff.

Question 34: What additional financial contribution should the private sector contribute towards improving fraud outcomes?

7.2 Most responses did not support an additional financial contribution from the private sector to improve fraud outcomes. Most respondents were eager to see the government make an additional contribution, from funds secured through general taxation, and argued that the responsibility and benefit for countering fraud sits across society.

7.3 Responses noted that some industries bear a larger financial burden of the cost of fraud (including reimbursing victims), with many keen for these activities and their costs to be shared across a wider range of sectors.

Question 35: Which sectors do you think should be involved in countering the system-wide fraud risk? Please explain your rationale – for example whether you believe that those included should be included based on benefit, or risk?

7.4 There was a strong consensus among respondents that more sectors than just those that are AML-regulated should be involved in countering the system-wide fraud risk. Respondents pointed to the importance of assessing where risk is brought into the system and vulnerabilities are increased or exploited. Examples given include Internet Service Providers (ISPs), social media companies and other companies operating in the online space.

Question 36: What mechanism would you recommend in order to collect additional funding?

7.5 Most responses were critical of any mechanism which would collect additional funding from the private sector. There was broad support that funding be secured through general taxation. Those that were supportive of additional funding being provided by the private sector suggested that it should be collected through an expansion of the ECL, to minimise the administrative burden.

Government response

7.6 The government welcomes the responses from industry on the topic of funding for fraud.

7.7 In February 2021 the Home Secretary chaired a meeting of the Economic Crime Strategic Board where an ambitious framework for a Fraud Action Plan was agreed. The plan, covering 2022 to 2025, will include actions by notable partners in the public sector and industry to do more to tackle fraud, with a focus on important areas of response, public awareness, and victim support. The government's Economic Crime Plan Statement of Progress[1], published this Spring, detailed activity that the government and industry will take forward in 2021/22.

7.8 Sourcing sustainable funding for economic crime, including fraud, remains a top priority for the government as part of its commitment to the Economic Crime Plan and the upcoming Fraud Action Plan. We will seek to use the upcoming Spending Review and continue to explore other funding options.

7.9 The government also welcomes views from respondents on the scope of responsibility for the counter-fraud system. It is clear from the consultation that industry believe that this scope should be broadened. The government is considering all options to work with sectors to mitigate risk, protect the public and support victims. The Home Office has been working with the banking, telecoms and accountancy sectors to agree voluntary sector charters to identify and implement protective measures. Furthermore, the government intends to extend the membership of the Joint Fraud Taskforce.

7.10 The government understands the concerns of respondents about the risk brought into the system by certain sectors. All industries at risk of facilitating fraud should be prioritising protecting their customers. To reduce the risk to the public posed by fraud, we want to see a wider range of industries playing a stronger defensive role. This problem extends beyond the AML regulated sector and we will be exploring how we can encourage and, if necessary, compel through legislation a wider range of sectors to play their part. This will build on existing ambitious legislative proposals in this space which include the Online Safety Bill (which creates a new duty of care on relevant online companies to tackle fraud that is perpetuated through user-generated content and search engines) and the Online Advertising Programme, which will consult before the end of the year on tackling scam adverts on the internet.

[1] https://www.gov.uk/government/publications/economic-crime-plan-2019-to-2022

Chapter 8

Next Steps

8.1 The government would like to thank stakeholders for their engagement with the consultation and wider policy making process.

8.2 The government is has published draft legislation alongside this summary of responses and will now undertake a short technical consultation on the contents of that draft legislation until Friday 15 October 2021.

8.3 Responses to the technical consultation can be submitted via the methods set out below. The government would strongly encourage early responses focused on specific technical issues where possible.

Email: eclevyconsultation@hmtreasury.gov.uk

Post: EC Levy Consultation

Sanctions & Illicit Finance Team

HM Treasury

1 Horse Guards Road,

London

SW1A 2HQ

8.4 Elements of the policy not put into primary legislation in the coming Finance Bill will appear in regulations (secondary regulations). This will take place in due course.

Data protection notice

Processing of Personal Data

This notice sets out how HM Treasury will use your personal data for the purposes of the ECL technical consultation and explains your rights under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

Your data (Data Subject Categories)

The personal information relates to you as either a member of the public, parliamentarians, and representatives of organisations or companies.

The data we collect (Data Categories)

Information may include your name, address, email address, job title, and employer of the correspondent, as well as your opinions. It is possible that you will volunteer additional identifying information about themselves or third parties.

Legal basis of processing

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in HM Treasury. For the purpose of this consultation the task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies.

Special categories data

Any of the categories of special category data may be processed if such data is volunteered by the respondent.

Legal basis for processing special category data

Where special category data is volunteered by you (the data subject), the legal basis relied upon for processing it is: the processing is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department.

This function is consulting on departmental policies or proposals, or obtaining opinion data, to develop good effective policies.

Purpose

The personal information is processed for the purpose of obtaining the opinions of members of the public and representatives of organisations and companies, about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest.

Who we share your responses with

Information provided in response to a consultation may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public

authorities must comply and which deals with, amongst other things, obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.

Where someone submits special category personal data or personal data about third parties, we will endeavour to delete that data before publication takes place.

Where information about respondents is not published, it may be shared with officials within other public bodies involved in this consultation process to assist us in developing the policies to which it relates. Examples of these public bodies appear at: https://www.gov.uk/government/organisations

As the personal information is stored on our IT infrastructure, it will be accessible to our IT contractor, NTT. NTT will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

How long we will hold your data (Retention)

Personal information in responses to consultations will generally be published and therefore retained indefinitely as a historic record under the Public Records Act 1958.

Personal information in responses that is not published will be retained for three calendar years after the consultation has concluded.

Your Rights

- You have the right to request information about how your personal data are processed and to request a copy of that personal data.
- You have the right to request that any inaccuracies in your personal data are rectified without delay.
- You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.
- You have the right, in certain circumstances (for example, where accuracy is contested), to request that the processing of your personal data is restricted.
- You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.
- You have the right to data portability, which allows your data to be copied or transferred from one IT environment to another.

How to submit a Data Subject Access Request (DSAR)

To request access to personal data that HM Treasury holds about you, contact:

HM Treasury Data Protection Unit

G11 Orange

1 Horse Guards Road

London

SW1A 2HQ

dsar@hmtreasury.gov.uk

Complaints

If you have any concerns about the use of your personal data, please contact us via this mailbox: privacy@hmtreasury.gov.uk.

If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, the UK's independent regulator for data protection. The Information Commissioner can be contacted at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

0303 123 1113

casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Annex A

List of respondents

1. Association of Accounting Technicians
2. Association of British Insurers
3. AEGON
4. Association of International Accountants
5. Association of Investment Companies
6. Alternative Investment Management Association
7. Alipay UK
8. Allen & Overy
9. Association of Practicing Accountants
10. Ashurst
11. Association of Chartered Certified Accountants
12. Association of Taxation Technicians
13. Atom Bank
14. Aviva
15. British Antique Dealers' Association
16. British Art Market Federation
17. Bar Northern Ireland
18. Barclays
19. BDO
20. BetFred
21. BNP Paribas
22. Bonhams
23. British Insurance Brokers' Association
24. Bar Standards Board

25. Building Societies Association
26. Cannons Law Practice
27. Chambers Rutland & Crauford
28. Chartered Accountants Ireland
29. Chartered Institute of Taxation
30. Cheesewrights
31. Christie's
32. Chartered Institute of Legal Executives
33. Chartered Institute of Legal Executives Regulation
34. Chartered Institute of Management Accountants
35. Chartered Institute of Patent Attorneys
36. Chartered Institute of Trade Mark Attorneys
37. City of London Law Society
38. Council for Licensed Conveyancers
39. Coventry Building Society
40. Credit Services Association
41. DAC Beachcroft
42. Dudley Building Society
43. Duncan & Toplis
44. Electronic Money Association
45. Faculty Office of the Archbishop of Canterbury
46. Financial Conduct Authority
47. Fenwick Elliott
48. Finance & Leasing Association
49. Fraud Advisory Panel
50. Freshfields Bruckhaus Deringer
51. Gambling Anti Money Laundering Group
52. Gambling Commission
53. Gambling Compliance & Risk Consultants
54. Gowling WLG
55. Herbert Smith Freehills
56. Howes Percival

57. HSBC
58. Hunters
59. Institute of Chartered Accountants of Scotland
60. Institute of Chartered Accountants in England and Wales
61. Investment and Life Assurance Group
62. Institute of Financial Accountants
63. International Underwriting Association
64. Investment Association
65. Irish League of Credit Unions
66. JMW Solicitors
67. Jones Lang LaSalle Limited
68. JP Morgan Chase
69. Just Group
70. Keith Knowles Accountants
71. Knight Frank
72. KPMG
73. Latham Watkins
74. Law Society
75. Law Society of Northern Ireland
76. Law Society of Scotland
77. Leeds Building Society
78. Linklaters
79. Lloyds Banking Group
80. Lloyds Market Association
81. LSL Property Services
82. Metro Bank
83. MFG Solicitors
84. Michael Flanigan
85. Moore Kingston Smith
86. N Brown Group
87. Nationwide Building Society
88. Newcastle Building Society

89. Office of Police and Crime Commissioner for Gwent
90. Penningtons Manches Cooper
91. Pension Scams Industry Group
92. Personal Investment Management & Financial Advice Association
93. Pirie Palmann
94. Post Office
95. Quilter
96. Revolut
97. Santander
98. Scottish Widows Schroder Personal Wealth
99. Shearman & Sterling (London)
100. Shentons Solicitors / Hampshire Law Society
101. Shoosmiths
102. Skipton Building Society
103. Slaughter and May
104. Society of Licenced Conveyancers
105. Smart Currency Exchange
106. Society of Scrivener Notaries
107. Sotheby's
108. Solicitors Regulation Authority
109. St James's Place Wealth Management
110. Standard Chartered Bank
111. Tesco Bank
112. The Norinchukin Bank
113. The Phoenix Group
114. The Society of London Art Dealers
115. TSB Bank
116. UK Finance
117. Weightmans
118. World First UK
119. Xreg Consulting

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