



HM Treasury

# Review of the UK's AML/CFT regulatory and supervisory regime

---

June 2022

# Review of the UK's AML/CFT regulatory and supervisory regime



© Crown copyright 2022

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at: [www.gov.uk/official-documents](https://www.gov.uk/official-documents).

Any enquiries regarding this publication should be sent to us at [public.enquiries@hmtreasury.gov.uk](mailto:public.enquiries@hmtreasury.gov.uk)

ISBN: 978-1-915596-02-4 PU: 3225



# Contents

	<b>Ministerial Foreword</b>	1
	<b>Executive Summary</b>	3
Chapter 1	<b>Introduction</b>	6
	The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017	7
	AML/CFT supervision	7
	The Financial Action Task Force and the EU	8
	Review of the UK's AML/CFT regulatory and supervisory regime	9
	Post-Implementation Review 2017-22	10
	The way forward	11
Chapter 2	<b>Defining Effectiveness</b>	12
	Objectives of the MLRs	12
	Measuring effectiveness	16
	High value activity	17
	Strategic National Priorities	20
	Emerging risks	22
Chapter 3	<b>Driving Effectiveness</b>	24
	Risk-based approach	24
	New technologies	33
	Supervisors' role in the SARs regime	35
	Gatekeeping functions	37
	Guidance	39
Chapter 4	<b>AML/CFT Supervision</b>	43
	Enforcement	43
	Supervisory gaps	45

	Supervisory reform	46
	Next steps	51
Chapter 5	<b>Conclusion</b>	52
Annex A	Professional Body Supervisors	54
Annex B	Glossary	55

# Ministerial Foreword



Few other years have so clearly brought home the importance of the UK's fight against economic crime. As Russia's invasion of Ukraine has made all too clear, it is a fallacy to conceptualise economic crime as simple white-collar misdeeds that take place in board rooms and skyscrapers, with consequences far removed from everyday life. We have seen the true human cost of dirty money splashed across the front pages of our newspapers and the nightly news: the true price of bribes taken, tax unpaid and cash quietly assimilated into our financial system.

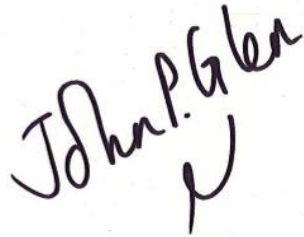
My commitment to upholding the UK's high standards in the fight against economic crime is unwavering, as is my dedication to advocating for our overseas partners to do the same. The UK's close alignment with international standards on economic crime – and our role in shaping those standards, remains one of the most effective tools at our disposal for influence on the international stage. Emboldened by our departure from the EU, we will continue to exercise global leadership on economic crime.

Meanwhile, government action on economic crime will continue at an unprecedented pace at home. The recent Economic Crime (Transparency and Enforcement) Act, the upcoming reforms to Companies House and the second Economic Crime Plan are strengthening the interconnected components of the UK's comprehensive economic crime response. The Money Laundering Regulations, and this review, form only one part of that overall effort, but a vital one.

We continue to make good progress, but economic crime cannot be fought by government alone. We rely on businesses, up and down the country, to be meticulous in their understanding of risk and the application of the regulations. I am grateful for all that the private sector does to prevent and detect economic crime, but it is apparent that there is more work to be done.

Indeed, while our legislative controls are strong, dirty money continues to find its way into the UK's economy. So we must go beyond mere tick-box compliance and build a thorough and dynamic system of controls which responds to the real risks that we face. We must increase accountability, improve oversight, share more information, and not be afraid to intervene where necessary to improve outcomes. This review sets

out where we are on that journey, and where we need to go next to protect the UK, and the wider world, from the scourge of economic crime.

A handwritten signature in black ink that reads "John P. Glen" with a stylized flourish underneath.

John Glen MP  
Economic Secretary to the Treasury



# Executive Summary

Illicit finance and economic crime are serious risks to the UK, causing deep harm to people's lives and threatening the integrity of the UK economy. The UK has an extensive anti-money laundering and countering the financing of terrorism (AML/CFT)<sup>1</sup> regime, drawn in part from international standards, which works to protect against these risks. In recent years this has been strengthened through the creation of new bodies such as the National Economic Crime Centre and the Office for Professional Body AML Supervision (OPBAS), new powers granted to law enforcement, greater levels of beneficial ownership transparency, and heightened levels of action by AML supervisors.

However, we must ensure the UK's regime continues to evolve to meet the changing nature of economic crime. In recent months, the government has taken unprecedented steps to target illicit finance, including where it has links to Russia, such as accelerating new primary legislation. The Economic Crime (Transparency and Enforcement) Act introduces a new "Register of Overseas Entities Beneficial Ownership of UK property" to tackle foreign criminals using UK property to launder money, and reforms to our Unexplained Wealth Orders regime, to address key barriers faced by law enforcement and help target more corrupt elites.

This review has focused on: improving the effectiveness of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs), ensuring the application of effective risk-based controls across the regulated sector and developing a world-class AML supervisory regime. This recognises the unique threats facing the UK from illicit finance and reiterates the government's desire to protect the economy and ensure the UK remains a safe and prosperous place to do business.

The review is structured around three key themes.

- **Systemic Effectiveness:** ensuring that as the government works to reform and improve the UK's regime we have an agreed definition of what effectiveness looks like and some proposals on how we can start to measure this with more precision.
- **Regulatory Effectiveness:** ensuring that those firms and individuals on the front line of the UK's fight against illicit finance are well-equipped, with a strong risk-understanding and capability to implement effective risk-based controls within their business, as well as the scope to target that activity at areas of highest risk.
- **Supervisory Effectiveness:** continuing reform of the supervision regime, building on the improvements made in recent years while assessing the rationale for further structural change to the regime.

A key element of developing the UK's AML regime is ensuring we understand what progress has been made in recent years, and where we still have further to go. The post-implementation review (PIR) of the MLRs, conducted alongside this review and published in parallel, draws on the methodology of 'Immediate Outcomes' established by the Financial Action Task Force (FATF), the international standard-setter for AML. This report builds on that work, outlining updated objectives for the MLRs and setting out an intention to develop an improved range of metrics by which the range of activity and outputs under the MLRs can be measured and evaluated to

---

<sup>1</sup> Unless otherwise specified, where this report uses 'AML', it should be taken to refer to AML/CFT.

support future assessments of effectiveness. These will be incorporated into existing reporting mechanisms, such as the HM Treasury annual supervision reports.

The rapidly changing nature of economic crime means that risks will not always come from the regulated sector. The review lays out the government's intention to use the National Risk Assessment of Money Laundering and Terrorist Financing (NRA) and existing public-private fora to assess emerging risks and potential changes to the scope of the MLRs, now the UK is no longer bound to follow changes set by the European Union.

The UK's departure from the EU also offers the opportunity to consider where current AML requirements aren't fully suited to the UK's situation, while ensuring we retain an effective, robust regime and remain fully committed to the standards set by the FATF. The government has identified some areas where regulatory changes could improve the risk-based approach without weakening overall controls. There are other areas, such as gatekeeping and suspicious activity reporting (SARs), where the case for further regulatory change at this stage is limited, and others where further work is needed before the full impact of proposed changes can be understood. The government is also committed to working with supervisors and regulated firms on some of the common findings of the Call for Evidence including in relation to the difficulties faced by small or new firms, the supervisory approach to the risk-based approach and varying levels of risk understanding.

As part of its objective to drive effectiveness, the review has also considered the potential levers for government to support businesses in increasing their own effectiveness, for example through the appropriate use of new technology, ensuring businesses have up-to-date understandings of the risks they face, and improving the AML guidance regime. Focus on making incremental improvements within existing structures, in collaboration with partners across the regime, is deemed to be the most appropriate approach in this area.

Finally, the review recognises that the UK's AML supervision regime will play a crucial role in the continued improvements to the UK's defences against illicit finance, and therefore that we must prioritise ensuring that the regime is best prepared to meet the challenges of the future. The supervision regime has made strong progress in recent years, with the Financial Conduct Authority (FCA) and HMRC further developing their risk-based approach to supervision under the Economic Crime Plan 2019-22 and the UK's Professional Body Supervisors making improvements supported by OPBAS. However, there is more to be done. The UK's AML supervisors play a hugely important role in the wider AML regime, not only ensuring compliance with the MLRs and enforcing against non-compliance, but supporting their supervised populations through engagement and education, developing understanding of risk across their sectors, and protecting the perimeter of the regulated sector from non-supervised businesses. The review considers possible reforms to the fundamental structure of the supervision regime, aiming to ensure effective supervision across all sectors in the future.

The challenges facing the UK from illicit finance remain significant, and the proposals set out in this review are only the start of our reform agenda relating to the AML regulatory and supervisory regime. They also form a part of the government's wider ambitious agenda, which will this year include the second public-private Economic Crime Plan, Companies House reform and the Economic Crime and Corporate Transparency Bill. Taken together, they will ensure businesses and supervisors are well

prepared to tackle the threat, protecting the economy from illicit finance and ensuring the UK remains a global leader in the fight against economic crime.

# Chapter 1

## Introduction

**1.1** The government is taking firm and coordinated action to crack down on economic crime. This includes through the landmark public-private Economic Crime Plan 2019-22, passing legislation to help reveal the true owners of UK property, and setting up a 'Combatting Kleptocracy Cell' in the National Crime Agency. We are also increasing law enforcement capacity to investigation. In total, the 2021 Spending Review settlement and the Economic Crime (Anti-Money Laundering) Levy represent a package of c.£400 million to tackle economic crime over the next three years.

**1.2** However, the UK's role as one of the world's leading international financial centres and, our reputation for ease of doing business, openness to overseas investment, status as a major overseas investor and exporter and embrace of new and innovative technologies all create a vulnerability to economic crime. This has a significant impact on the UK's economy and undermines all three of the government's national security objectives: to protect our people; to project our global influence; and to promote our prosperity.

**1.3** Money-laundering (ML) and terrorist financing (TF) are only two aspects of economic crime, which also covers fraud, insider trading, sanctions contravention and many other offences. As with many economic crimes, money-laundering and terrorist financing enable other serious and organised crimes including drug and human trafficking and terrorism, by ensuring financial gain for their perpetrators and securing funds for further criminal activity.

**1.4** The UK's open economy can be abused when the proceeds of criminality based overseas are laundered in the UK through the purchase of property and other assets, or through UK corporate structures or financial instruments. The government is equally determined to tackle both UK-based economic crime that directly damages our economy and society and overseas-based economic crime that undermines the integrity of the UK economy, the UK's reputation and the security and prosperity of overseas countries.

**1.5** The government's response to economic crime is led by HM Treasury and the Home Office, with key responsibilities also held by the Department for Business, Energy and Industrial Strategy, the Ministry of Justice, the Attorney General's Office, the Cabinet Office, the Foreign, Commonwealth and Development Office and many others. However, to be a world-leader in the global fight against economic crime, the UK's AML regime needs to harness the capabilities, expertise, and information of both the public and private sectors.

**1.6** While the UK's response to the threat of illicit finance is strong, we are determined to go further. Additional legislative measures will be introduced as part of a second Economic Crime Bill later this year to safeguard and support the UK's open economy, whilst cracking down on people abusing that openness. Measures will include reform of Companies House; reforms to prevent abuse of limited

partnerships; new powers to seize crypto assets from criminals; and reforms to give businesses more confidence to share information on suspected money laundering.

## The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

**1.7** The MLRs use powers under the Sanctions and Anti-Money Laundering Act 2018 (SAML) and are a vital part of the UK's overall economic crime response. They ensure firms in scope of the regulations (the 'regulated sector') take steps to detect and prevent ML/TF. They also establish the legal basis for the UK's supervisory regime, consisting of 25 AML supervisors who oversee those firms and ensure their compliance with the regulations. There is an overlap between ML and TF, as both criminals and terrorists use similar methods to store and move funds, but the motive for generating and moving funds differs.

**1.8** The UK has had regulations intended to prevent ML in place for nearly thirty years. Over time, these have evolved in line with international standards and multiple EU Anti-Money Laundering Directives (AMLDs). The most substantial recent revision was in June 2017, transposing the European 4th Anti-Money Laundering Directive (4MLD) and the Funds Transfer Regulation, which were themselves heavily informed by a substantial rewrite of international standards in 2012. Since 2017, the MLRs have been further amended, most significantly through the transposition of the 5th Anti-Money Laundering Directive (5MLD) in January 2020. Through all these revisions, the MLRs have expanded in scope, bringing in new sectors outside of the original financial industry focus, and extending the requirements for those in scope to ensure an understanding of the beneficial ownership structure of those involved in transactions.

## AML/CFT supervision

**1.9** HM Treasury appoints AML supervisors to ensure compliance with the requirements of the MLRs. The UK has 25 supervisors: three statutory supervisors (the FCA, HMRC and the Gambling Commission) and 22 legal and accountancy Professional Body Supervisors (PBSs). The list of PBSs is defined by Schedule 1 of the MLRs and copied in Annex A of this report.

**1.10** Supervisors are required to monitor their supervised populations effectively and take necessary measures to secure their compliance with the MLRs, as well as being responsible for applying several gatekeeping tests that prevent unfit or criminal persons from operating in the regulated sector.

**1.11** HM Treasury is responsible for ensuring the effectiveness of the supervisory regime, and engages regularly with the supervisors, either bilaterally, or through several fora which exist to support supervisory cooperation and engagement. These include the AML Supervisors' Forum, the Public Sector Affinity Group, the Legal Sector Affinity Group, and the Accountancy Sector Affinity Group.

**1.12** In 2017, the government also created OPBAS through the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision

Regulations 2017 ('the OPBAS Regulations'). OPBAS oversee parts of the supervisory landscape with a view to ensuring a robust and consistently high standard of supervision by the PBSs, and to facilitate collaboration and information and intelligence sharing between PBSs, statutory supervisors, and law enforcement agencies.

## The Financial Action Task Force and the EU

**1.13** The MLRs, alongside other legislation, transpose the EU's AMLDs into UK legislation. As set out above, the UK transposed 4MLD and 5MLD into UK law through amendments to the MLRs in 2017 and 2020. This process gave limited scope for UK-specific changes to be made.

**1.14** The EU's own approach was heavily informed by the recommendations of the FATF, an intergovernmental body which sets and promotes full implementation of international standards for measures to combat ML, TF, and weapons of mass destruction proliferation financing.

**1.15** The FATF is a member-led organisation, although it is supported by a relatively small professional secretariat of under 100 staff. Member countries may stand for election to the FATF Presidency and hold leadership positions (e.g., chairing responsibilities) responsible for advancing the FATF's agenda. The UK with the G7 is a founding member of the FATF. The UK remains committed to upholding the international standards set by the FATF and contributing to the global fight against ML and TF through other parts of FATF infrastructure (i.e., the FATF 'Global Network' of nine FATF-Style Regional Bodies).

**1.16 Recommendations:** The FATF's 40 recommendations (sometimes referred to as the 'standards') are the international AML standards.

**1.17 Evaluations:** Every 8-10 years, each jurisdiction around the world is evaluated by assessors from other member countries and a report documenting the result is published by the FATF. These are called Mutual Evaluation Reports (MERs). The UK's last MER was published in 2018. MERs assess members on two grounds: technical compliance and effectiveness. Technical compliance assesses if members have implemented the recommendations, and effectiveness assesses the overall effectiveness of that jurisdiction's AML regime.

**1.18 The UK's 2018 MER:** The UK was found to be among the highest-performing countries in the world for technical compliance with the FATF's recommendations. However, the FATF set out some priority actions for the UK to improve its AML effectiveness. Those directly relevant to the MLRs included:

- Improving risk-based supervision, especially by HMRC and the FCA.
- Addressing significant weaknesses in legal and accountancy supervision.
- Improving Suspicious Transaction Reporting levels from legal and accountancy sectors.
- Improving the quality of financial intelligence available to UK law enforcement.

1.19 It also noted some specific weaknesses in the understanding of risk across the regulated sector and the preventative measures put in place.

1.20 This review (and the PIRs published alongside it) reflect on the UK's progress since the 2018 MER and set out further actions to improve in some of the areas highlighted in by the FATF.

## Review of the UK's AML/CFT regulatory and supervisory regime

1.21 The government has a legal obligation to publish a five-year PIR of both the 2017 MLRs and the 2017 OPBAS Regulations in 2022. These two PIRs are published separately alongside this document. Following the UK's exit from the European Union the UK has greater autonomy in setting AML regulations and so, in addition to the two PIRs, the government decided to conduct a more strategic forward-looking review of the MLRs and the supervision regime, of which this document is the result.

1.22 To inform this review, the government launched a Call for Evidence in July 2021. This concluded in October 2021. The Call for Evidence and this resulting review document are focussed around "effectiveness" in accordance with the action set by the 2019 Economic Crime Plan, and the findings of the UK MER.

1.23 Since the Call for Evidence closed, the government has been considering the responses. This document is structured along the same lines as the Call for Evidence and the responses are discussed throughout.

1.24 Alongside the Call for Evidence, the government also consulted on some specific, time-sensitive or relatively minor amendments to the MLRs, which were taken forward through the statutory instrument that was laid on 15 June<sup>2</sup>. The restricted scope of these amendments mean they have limited relation to the broader findings of this review. Where those amendments are relevant to the conclusions in this review, this is noted in the text.

1.25 The government is progressing a number of other initiatives in the economic crime space. These include the recent Economic Crime (Transparency and Enforcement) Act which introduces a new "Register of Overseas Entities Beneficial Ownership of UK property" to tackle foreign criminals using UK property to launder money, and reforms our Unexplained Wealth Orders regime, to improve key barriers faced by law enforcement and help target more corrupt elites. The forthcoming Economic Crime and Corporate Transparency Bill will include significant reforms of Companies House, reforms to prevent abuse of limited partnerships, new powers to seize cryptoassets from criminals, and reforms to give businesses more confidence to share information on suspected money laundering.

1.26 In February 2022, the Treasury Select Committee published the report of its inquiry into economic crime<sup>3</sup>. This inquiry reviewed the progress made by the government in combatting economic crime since the Committee's previous inquiry in 2020. While the full report covered a range of economic crime-related topics, including the first iteration of the public-private Economic Crime Plan, fraud and

---

<sup>2</sup> [The Money Laundering and Terrorist Financing \(Amendment\) \(No. 2\) Regulations 2022 \(legislation.gov.uk\)](#) (accessed on 21 June 2022)

<sup>3</sup> Treasury Committee. 'Eleventh Report - Economic Crime' 2 February 2022 (accessed 21 June 2022)

Companies House reform, it made several recommendations on future reform of the UK's AML regime and supervisory approach. Many of those recommendations are also considered throughout this review. Other Committee recommendations will inform, for instance, the second iteration of the Economic Crime Plan.

## Post-Implementation Review 2017-2022

### *Money Laundering Regulations Post-Implementation Review*

**1.27** The full PIR of the MLRs is published alongside this report, although several proposals for future reform made in this report are informed by the findings of the PIR.

**1.28** The PIR was required to assess the extent to which the MLRs had been successful in meeting their stated policy intent, which was to transpose 4MLD and 5MLD, making the UK economy a hostile environment for illicit finance while minimising unnecessary burdens on legitimate businesses. As proposed in the Call for Evidence, the PIR based its methodology for assessing progress against this goal on the FATF's own methodology for assessing effectiveness, recognised as the best-available approach to tackling this complex question.

**1.29** The PIR used a range of evidence to assess the progress made against the findings of the 2018 UK MER, focusing particularly on the FATF Immediate Outcomes 3 and 4 (explained further below). Under the current methodology, these assess the effectiveness of preventative measures taken by firms to detect and prevent ML/TF and the effectiveness of a country's supervision regime.

**1.30** The analysis of the PIR suggests three key findings:

- There are continuing deficiencies in ML/TF risk assessment and understanding across the regulated sector.
- Specific deficiencies remain in the application of risk mitigating measures by the private sector, with supervisors noting inadequate customer due diligence or policies, controls and procedures as a common failing identified through their supervision.
- There have been some improvements in the supervision regime, with the FCA and HMRC both responding to recommendations from the MER to strengthen their risk-based approach. However, the latest OPBAS report suggests continuing issues with inconsistent supervision by professional body supervisors with varying levels of effectiveness despite improvements in their technical compliance with the MLRs.

### *OPBAS Regulations Post-Implementation Review*

**1.31** The PIR of the OPBAS Regulations considered the implementation and effectiveness of the Regulations and the activity they require of supervisors.

**1.32** The PIR measured the progress of OPBAS and effectiveness of the OPBAS Regulations. In particular, the PIR has used a range of evidence to analyse how far OPBAS has met its specific policy objectives:

- Ensuring a robust and consistently high standard of supervision by the professional body AML supervisors overseeing the legal and accountancy sectors.



- Facilitating collaboration and information and intelligence sharing between PBSs, statutory supervisors, and law enforcement agencies.

1.33 Based on the analysis set out in the PIR, OPBAS has made significant progress since its inception in 2018. Policy objectives have been met to some extent but there is more that can be done. The objectives remain appropriate but there is scope to reconfigure how they are best met, which has been considered through the forward-looking part of the review:

- Consistency of Professional Body Supervisor approach to supervision is still limited, despite improvements that have been seen. OPBAS has further to go in this area to meet the policy objective of the OPBAS Regulations.
- Information and intelligence sharing has improved significantly, much because of the work OPBAS has done in creating, and encouraging use of, sharing forums.
- There have been improvements made to the UK supervisory regime and PBS compliance with the MLRs, reflected in sector feedback in the Call for Evidence and an increase in overall enforcement against breaches of the MLRs by regulated entities. Policy objectives in this area have been largely met, with the need for a focus on overall effectiveness rather than compliance moving forward. OPBAS has already begun to focus on the effectiveness of PBS supervision with its third report, published in September 2021.

## The way forward

1.34 The two PIRs have been helpful in charting the progress of the MLRs and of OPBAS since 2017, and since the 2018 UK MER. While some improvements are clear, there is further to go in improving the effectiveness of the UK's AML regime.

1.35 Informed by the Call for Evidence, the rest of this report focusses on the areas which the government considers are the most important for improving effectiveness. This includes large overarching areas (such as the risk-based approach and the objectives of the MLRs) and much more specific areas (such as the gatekeeping test or guidance drafting process). The report largely follows the structure of the Call for Evidence and covers the same topics, and the responses are discussed throughout.

1.36 This report ultimately sets out the key findings on the barriers and difficulties in the way of a more effective AML regime, and the government's initial views on what changes need to be made, and where the focus should be for further work.

# Chapter 2

## Defining Effectiveness

### Objectives of the MLRs

#### Context

2.1 This review has aimed to evaluate the effectiveness of the MLRs and OPBAS Regulations to date, and to establish a framework for measuring and improving their future effectiveness. It has therefore been necessary first to review the objectives of the regulations, and their role within the UK's wider AML regime, especially now that there will no longer be an obligation to derive these from EU AMLDs.

2.2 Defining and assessing AML effectiveness is a complex, much-debated topic. The Call for Evidence proposed building on the FATF methodology when establishing a framework for the review, as this methodology is considered best-practice worldwide for assessing the effectiveness of a jurisdiction's AML regime.

2.3 The FATF measures the effectiveness of a jurisdiction's AML regime against the overarching objective of protecting financial systems and economies from the threats of ML/TF and proliferation financing, thereby strengthening financial sector integrity, and contributing to safety and security<sup>4</sup>. As a committed member of FATF, the UK shares this overarching objective.

2.4 The FATF recognises that evaluating the effectiveness of an individual jurisdiction's AML system requires more than assessing technical compliance with the FATF recommendations; effectiveness is therefore defined as the extent to which eleven specific "Immediate Outcomes", representing the thematic goals of an effective system, are achieved. Overall, this approach seeks to provide a more holistic view of system strengths and weaknesses, and to enable countries to prioritise measures for improvement.

2.5 As discussed earlier in this report, the UK achieved a high level of technical compliance in the 2018 MER but was assessed by the FATF to have made only moderate progress in achieving some of its key AML goals relating to supervision, risk-understanding and preventative measures by regulated firms, and the quality of financial intelligence available to law enforcement agencies. Alongside the Call for Evidence and several other publications and data sources, this assessment has helped to identify the priorities for increasing future effectiveness of the MLRs.

2.6 The MLRs are only one component of the UK's overall AML regime, therefore the specific objectives of the regulatory and supervisory regimes being reviewed here are narrower than those underpinning the government's overall strategy for tackling economic crime. Other key features of the wider regime include the all-crime approach taken by the Proceeds of Crime Act 2002 (POCA), investigations by law enforcement agencies, prosecutions by the UK's prosecutorial authorities and information and intelligence gathering and dissemination undertaken by several

---

<sup>4</sup> FATF, 'Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT system' (viewed on 24 May 2022)

authorities, including the UK Financial Intelligence Unit. The conclusions of this review will support the overarching development of the second Economic Crime Plan, for instance.

**2.7** To help establish a framework for the review, the Call for Evidence proposed three primary objectives to judge the effectiveness through which the MLRs had met their specific policy goal, based on the FATF's Immediate Outcomes 3-5<sup>5</sup>:

- The regulated sector acts to identify, prevent and report suspicious transactions.
- Supervisors take a risk-based approach to monitoring compliance and make proportionate and dissuasive use of their powers and enforcement tools.
- Accurate and up-to-date Beneficial Ownership information is collected, maintained, and made available to competent authorities to prevent the exploitation of UK corporate vehicles and other forms of legal personality.

**2.8** The Call for Evidence also proposed a secondary objective for the MLRs to make further progress, as part of a whole AML system approach, towards several of FATF's wider Immediate Outcomes (such as 1, 6, 7)<sup>6</sup>:

- The regulated sector works in partnership with supervisors and the government to improve collective understanding of the ML/TF threat, which in turn ensures compliance activity is focussed on the highest risks and the regulated sector provides valuable information to law enforcement.

Call for Evidence

**2.9** The majority of respondents to the Call for Evidence were broadly in agreement with the proposed approach to base the PIRs and future effectiveness framework on the FATF methodology. Support was most pronounced for the first two objectives, while responses on the third objective were split. Some respondents, particularly in the property sector, agree that the collection and provision of Beneficial Ownership information should be a key aim of the MLRs, and pointed to the challenges they face in carrying out customer due diligence (CDD) in the context of complex corporate structures. Others, for instance in the financial services sector, disagreed with a perceived move to transfer additional accountability for Beneficial Ownership to the regulated sector, arguing that this should primarily be a function of Companies House which sits outside of the MLRs. Most respondents either did not comment specifically on the proposed Beneficial Ownership objective or acknowledged its importance while expressing uncertainty about how the contribution of the MLRs to meeting this objective would be measured.

**2.10** In 2018 the FATF assessed that the UK had made substantial progress against Immediate Outcome 5, which focuses on Beneficial Ownership information and legal persons and arrangements, and the government has since brought forward primary

---

<sup>5</sup>FATF. 'Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT system' (viewed on 24 May 2022)

<sup>6</sup>FATF. 'Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT system' (viewed on 24 May 2022)

legislation to deliver significant corporate transparency reforms<sup>7</sup>. In contrast, the FATF assessed AML supervision and preventative measures by regulated firms to be only moderately effective. On balance, to help focus efforts on particular areas of weakness the government has decided not to distinguish the gathering of accurate information on Beneficial Ownership as a primary objective of the MLRs but rather as part of the role that regulated firms should carry out as part of identifying, preventing and reporting suspicious activity.

**2.11** Some responses suggested that the primary objectives should be framed using slightly more proactive language, as the inclusion of the phrase “act to” is too accommodating of a box-ticking compliance approach rather than a focus on results and impact. Similarly, a strong theme across responses was that there should be more visible evidence of supervisors “enforcing” as well as “monitoring” compliance. Several responses also highlighted that the objectives should be equally relevant to all persons and activity (not just “transactions”) regulated under the UK’s MLRs.

**2.12** Responses predominantly supported a secondary objective for the MLRs, but for a variety of reasons. Several respondents across different sectors proposed greater adoption of something similar to the Wolfsberg Group’s Principles for Demonstrating Effectiveness<sup>8</sup>, in which the provision of “valuable intelligence” to law enforcement is seen as integral to the effectiveness of preventative measures. The government sees merit in this approach, as it enshrines the principle that technical compliance by regulated sectors with AML legislation is a necessary but insufficient condition of AML effectiveness. Some respondents also noted the proposal by the US Government to define clearly in legislation the characteristics of an effective and reasonably defined AML programme<sup>9</sup>, which has some overlap with the Wolfsberg Principles and wider international frameworks for AML effectiveness. This suggests an emerging global consensus around the necessary conditions for an “effective” AML regime, which goes beyond technical compliance with specific regulations to focus on targeted action that contributes most meaningfully and directly to driving bad actors and illicit finance out of the system.

**2.13** Most responses on this issue were also in favour of including an explicit objective to improve collective understanding of the ML/TF threat, with many drawing a link between proactive information-sharing between entities and “high-value” activity. Others, particularly in the regulated sector, argued in favour of further efforts to build granular risk understanding on the basis that this would help highlight where current requirements under the MLRs are disproportionate to the nuanced risks in individual sectors.

---

<sup>7</sup> The UK places a significant focus on ensuring beneficial ownership transparency and is the only G7/G20 country with a free, fully public, and easily accessible beneficial ownership register, while the recent Economic Crime (Transparency and Enforcement) Act 2022 introduced a new Register of Overseas Entities Beneficial Ownership. However much of this activity derives from other legislation and is therefore beyond the scope of this review. The MLRs do provide for Beneficial Ownership transparency of trusts, through the creation of the Trust Registration Service (TRS). This is currently undergoing a significant expansion in scope following the Money Laundering and Terrorist Financing (Amendment) Regulations 2019 so has not been assessed here, however its implementation will continued to be monitored as part of the government’s broader work to prevent the abuse of trusts and Trust and Company Service Providers.

<sup>8</sup> [The Wolfsberg Group. ‘Demonstrating effectiveness’ \(accessed on 24 May 2022\)](#)

<sup>9</sup> [Federal Register. ‘Anti-Money Laundering Program Effectiveness’ \(accessed on 24 May 2022\)](#)

2.14 A vast majority of responses to questions on this topic stressed that the clarification of the objectives of the MLRs would only go so far in driving tangible improvements in effectiveness, unless they are accompanied by clearer expectations of how the impact of activity will be measured.

Conclusions

2.15 **The government has refined further the objectives for the MLRs proposed in the Call for Evidence based on the evidence gathered.** The overall link to the FATF methodology will be retained, with amendments as follows:

- Including the “provision of valuable intelligence” by the regulated sector more explicitly among the primary objectives of the MLRs, to embed the principle that “effective” prevention involves more than just technical compliance with the regulations.
- Clarifying that supervisors should be both monitoring and enforcing compliance with the Regulations, as part of a risk-based approach to supervision.
- Not distinguishing “gathering accurate information on Beneficial Ownership” as a primary objective of the MLRs but rather as a means to identifying, preventing, and reporting suspicious activity.

Overall objective of the UK’s AML regime:

*Financial systems and the broader economy are protected from the threats of money laundering and terrorist and proliferation financing, thereby strengthening financial sector integrity and contributing to safety and security.*

Primary objectives of the MLRs:

*The regulated sector identifies, prevents and reports suspicious activity, including through the provision of valuable intelligence to law enforcement.*

*Supervisors monitor and enforce compliance with the regulations using a risk-based approach, making proportionate and dissuasive use of their powers and enforcement tools.*

Secondary objective of the MLRs:

*The regulated sector work in partnership with supervisors and the government to improve collective understanding of the ML/TF threat, which in turn ensures compliance activity is focussed on the highest risks.*

2.16 While respondents broadly agreed with this framework for defining the objectives of the MLRs, the Call for Evidence reinforced both the clear need for, and inherent difficulty of, more systematically measuring tangible progress towards these objectives. Assessing effectiveness against this framework will also necessitate greater clarification of what constitutes “valuable intelligence” for the purposes of preventing or disrupting ML/TF.

## Measuring effectiveness

### Context

**2.17** As outlined above, the PIRs have attempted to evaluate the effectiveness of the regulations by drawing on several evidence sources, including previous assessments of the UK's AML regime carried out by the FATF and the International Monetary Fund (IMF), AML supervision reports published by HM Treasury and OPBAS, supervisors' self-assessments, and the Call for Evidence.

**2.18** The National Crime Agency (NCA) publishes annual National Strategic Assessments<sup>10</sup>, which detail the estimated scale of money laundering in the UK, recent trends in different areas of risk, as well as the impact of certain preventative measures. For instance, £172 million was denied to suspected criminals as a result of defence against money laundering requests between April 2019 and March 2020<sup>11</sup>. However, it remains difficult to quantify the scale of money laundering in specific detail, due to the variety of methods used to launder criminal proceeds generated from inside and outside the UK, and there are also challenges in measuring the direct impact of activity under the MLRs on the prevention and disruption of ML and TF.

**2.19** HM Treasury is required by the MLRs to collect and publish data on supervisory and enforcement activity undertaken by the 25 AML supervisors. Nine reports have been published to date, with the most recent report (for 2019-20) published in November 2021<sup>12</sup>.

**2.20** OPBAS assesses PBSs against the requirements of the MLRs and against its Sourcebook<sup>13</sup>, which provides guidance for PBSs on how they can meet their obligations. OPBAS has to date published three reports, most recently in September 2021<sup>14</sup>. After focusing on the technical compliance of PBSs with the requirements of the MLRs in its first two reports, the third OPBAS report moved to a greater focus on how effectively PBSs conducted their AML supervision.

**2.21** As well as self-assessments by some supervisors (including HMRC and the Gambling Commission), Regulation 46A of the MLRs also requires PBSs to publish annual reports setting out their activity undertaken as supervisors. PBSs published their first reports under Regulation 46A in November 2021. HM Treasury and OPBAS jointly provide guidance to support PBSs in the drafting of these reports<sup>15</sup>.

### Call for Evidence

---

<sup>10</sup> [National Crime Agency. 'National Strategic Assessment of Serious and Organised Crime 2021' \(accessed 24 May 2022\)](#)

<sup>11</sup> [UK Financial Intelligence Unit. 'Suspicious Activity Reports: Annual Report April 2020' November 2020, page 2 \(accessed 6 June 2022\)](#)

<sup>12</sup> [HM Treasury. 'Anti-money laundering and counter-terrorist financing: Supervision Report 2019-20' \(accessed on 6 June 2022\)](#)

<sup>13</sup> [OPBAS. 'Sourcebook for professional body anti-money laundering supervisors' \(accessed on 6 June 2022\)](#)

<sup>14</sup> [OPBAS. 'Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors: Progress and themes from our 2020/21 supervisory assessments' \(accessed on 6 June 2022\)](#)

<sup>15</sup> [OPBAS. 'OPBAS Update Regulation 46A \(Publication of Annual Reports\)' \(accessed on 6 June 2022\)](#)

2.22 Respondents frequently reiterated how long-running challenges of measuring progress towards the objectives of the MLRs are constraining efforts to target activity at improving areas of particular weakness in the AML regime.

2.23 The underlying issue, highlighted by many respondents, is difficulty measuring the extent to which specific requirements under the MLRs are having a tangible impact on the overall scale and nature of ML/TF, especially as the MLRs contribute to a “system-wide” strategy for tackling economic crime. Several respondents raised that capturing data on volumes of SARs submitted by firms is not in isolation a direct measure of the overall effectiveness of preventative measures without more evidence that these are leading to more disruption of ML/TF.

2.24 Data collected across reports on AML supervision forms a limited picture of the overall “effectiveness” of supervision. Some responses acknowledged that the selection of data provides a wide-ranging overview of the technical compliance of supervisors with the MLRs, showing the actions they take to sanction any breaches and explaining the approach they take to regulated entities with different levels of risk. However, there is clear appetite for more evidence of continuous improvements over time that demonstrate that supervisors are revisiting problem areas/entities in the regime, undertaking (and publicising) enforcement activity commensurate with the size and risk profile of their supervised populations, and that this is decreasing the amount of illicit finance entering or leaving the financial system in the UK.

#### Conclusions

2.25 The government will be setting out wider “outcomes-focused” metrics as part of the updated Economic Crime Plan later this year. The evidence gathered through this Call for Evidence will help to inform this work as part of the development of the Plan.

2.26 **The government is committed to developing a revised set of priority metrics**, with the aim of providing clearer feedback on the overall effectiveness of the MLRs. This will be informed by the detailed FATF methodology, among other sources, and may require some additional data to be collected.

2.27 As noted above, HM Treasury currently publishes an annual Supervision Report, which is informed by annual questionnaires completed by the supervisors. **We will engage with supervisors ahead of any updates to the questionnaire and/or further enhancements to the reporting process.**

## High/low impact activity

#### Context

2.28 The Call for Evidence sought to gather views on whether, in general terms, a significant proportion of financial crime resource is deployed on activity which makes a limited contribution towards the objectives set out above and whether there is scope to rebalance resource towards higher impact activity.

2.29 The risk-based approach, discussed in more detail in chapter 3, underpins the MLRs. In essence, it requires the undertaking of risk assessments, which should inform how the requirements under the MLRs are implemented (e.g. firms should carry out enhanced due diligence checks on higher-risk customers). This will vary depending on the judgment of the relevant person and the information available to them about the

nature of ML/TF risks relevant to their business. The MLRs also contain mandatory requirements in areas of high risk, and in areas where this is recommended by the FATF.

**2.30** A common critique has been that the current balance between mandatory and judgement-based requirements, and the enforcement of these by supervisors, does not allow existing resource to be targeted towards high-impact actions that contribute most meaningfully and directly to driving bad actors out of the system and preventing illicit transactions.

**2.31** As previously noted, while the UK is no longer bound by the EU's AMLDs, it remains committed to international standards as defined by FATF given that these are central to global efforts to tackle illicit finance. There are therefore places in which the scope to diverge significantly from the current regulations is rightly limited.

**2.32** Nevertheless, the government has considered opportunities to reduce activity that contributes less directly to AML objectives. For instance, it has made some time-sensitive changes to update and clarify requirements under the MLRs through a Statutory Instrument laid in June 2022, informed by a separate consultation<sup>16</sup>. The Call for Evidence for this review sought views on some specific proposed changes to due-diligence requirements under the MLRs, and these are covered in section 3. However, it also sought to establish more fundamentally whether the types of activity required under the MLRs are likely to lead to the desired outcome (protection from the threats of money laundering and terrorist and proliferation financing).

Call for Evidence

**2.33** There was a wide range of views on the issue of high/low impact activity. Regulated sector respondents were generally in favour of reducing the number of mandatory requirements in the MLRs, citing the burdens on firms and customers and limited feedback on the extent to which enhanced due diligence and reporting of suspicious activity, for example, were actively contributing to prevention and disruption of money laundering. Some supervisors and wider respondents did not consider there to be requirements within the MLRs that can be singled out as high and low impact; rather, they suggested all provisions in the MLRs should be considered holistically, with risks assessed proportionately to the activities being undertaken.

**2.34** The following themes emerged across the responses:

- Several responses recognised the “high impact” of consistent compliance with customer due diligence requirements and good quality suspicious activity reporting as a line of defence against the significant ML/TF threat. Some responses also explained how individual measures can contribute indirectly to wider prevention of risk. For example, fit and proper testing could prevent criminal actors from operating businesses which could be used to process illicit funds.
- In response to the call for specific examples of “low impact” activity, several firms raised some elements of routine due diligence and transaction monitoring driven by mandatory requirements (often linked directly to FATF standards) or suggested that the perimeter of the regulated sector has been drawn too widely. Many respondents

---

<sup>16</sup> [HM Treasury. Amendments to the Money Laundering, Terrorist Financing, and Transfer of Funds \(Information on the Payer\) Regulations 2017 Statutory Instrument 2022: Response to the consultation \(viewed on 22 June 2022\).](#)



pointed to disproportionate business burden, and the inability to move resource to other “higher impact” activity, such as proactive information-sharing, as the main cause for concern. However, there were relatively few suggestions of specific areas in which burden could be reduced without detriment to the overall objectives of the MLRs, or these were already discretionary as part of a risk-based approach. The later section on “the risk-based approach” discusses some of the suggestions in more detail.

- Evidence from supervisors, also reflected in their annual reporting, shows that some firms (across all areas of the regulated sector) are not consistently meeting mandatory requirements, potentially weakening the effectiveness of preventative and/or disruptive measures. However, there was also evidence provided by several respondents of regulated firms being especially risk-averse, defaulting to de-banking or applying a blanket exclusion to whole sectors.
- Several responses pointed to enforcement activity by supervisors and law enforcement agencies as “high impact”, especially where this is timely and visible such that it has a dissuasive effect. However, regulated firms pressed for greater clarity and consistency of expectations from supervisors, to ensure that they are not penalised for “dialling up/down” activity as part of a risk-based approach.

**2.35** The government recognises that requirements under the MLRs, alongside wider regulatory requirements on firms, create costs and burdens which can be significant. However, the Call for Evidence has reaffirmed that the overarching measure of whether the MLRs are effective, is the extent to which financial systems and economies prevent and mitigate the risks and threats of ML/TF and proliferation financing. While firms have some discretion to target their activity in line with their risk assessments, regulated firms must ensure they have the resources and policies in place to comply with their obligations and meet a primary objective of the MLRs: to identify, prevent and report suspicious activity, including through the provision of valuable intelligence to law enforcement. There are also reputational risks for all those with a role to play in improving the AML regime; wider public and parliamentary scrutiny of the UK’s record in tackling ML and sanctions evasion has been further heightened, for instance, following the invasion of Ukraine by Russia.

**2.36** The government will continue to consider whether there may be further opportunities to dial-down activity which less directly contributes to the objectives of the MLRs. However, the review has demonstrated that the government should continue to focus on working with businesses and supervisors to build greater understanding of risk and the requirements of the regulations, and to support more consistent application of a risk-based approach. The Call for Evidence highlighted areas that should be priorities for further improvement, including through the forthcoming second iteration of the public-private Economic Crime Plan:

- Respondents noted that easy access to and utilisation of SARs, for instance, by supervisors and law enforcement agencies was crucial for an effective AML/CFT regime. However, the regulated sector expressed appetite for more specific feedback on and flexibility around the SARs they are required to submit, and/or more evidence that their preventative measures were having any ultimate dissuasive/disruptive effect. Law enforcement respondents pointed to certain barriers to providing very granular tactical feedback, and other respondents also raised data protection concerns.

However, the government will further explore how law enforcement agencies and supervisors can support firms in providing valuable intelligence.

- Some respondents pointed to lack of clarity about strategic priorities, and an inability to “dial down” activity that is not focused on these threat areas. In particular the regulated sector seeks more reassurance that they would not be penalised by supervisors for reducing the resources dedicated to other lower-priority areas. This is covered in more detail in the next section.

## Conclusions

**2.37** In light of the overall balance of responses to the Call for Evidence, the government has concluded that there is insufficient evidence at the current time for a fundamental overhaul of the preventative measures required under the MLRs, and that increasing consistency of compliance with the current requirements should be a priority in order to increase the overall effectiveness of the MLRs. This may require relevant persons to review both the prioritisation and overall scale of resources invested in AML activity, in line with a risk-based approach.

**2.38** The Call for Evidence has also made clear the responsibility of supervisors, law enforcement and policymakers to provide greater “system leadership” and set clear expectations so that the regulated sector can undertake the medium- and longer-term investments required to comply more effectively with the MLRs. In practice this means well-designed regulations, clear guidance, proportionate and dissuasive enforcement, and clear messaging on the scale and nature of the changing ML/TF threats. These principles are covered in more detail throughout this review and will underpin next steps following the review and the government’s wider work with partners to tackle economic crime.

## Strategic National Priorities

### Context

**2.39** Regulated firms must have a good understanding of the risks that apply to their sector, products, and customers in order to apply an effective risk-based approach to activity required under the MLRs. The PIRs however, have highlighted that it seems likely many businesses fail to properly understand the risk they are exposed to and to tailor their preventative measures accordingly. The UK already publishes regular National Risk Assessments (NRA) of ML/TF<sup>17</sup> as well as proliferation financing<sup>18</sup>, which draw on intelligence from the public and private sectors to set out key threats and vulnerabilities within the UK’s specific financial system. These are intended to support understanding of threat linked to different predicate offences and the international outlook, and to guide regulated firms when they carry out their individual risk assessments and in applying preventative measures.

**2.40** In June 2021, the Financial Crimes Enforcement Network (FinCEN) in the United States published “Anti-Money Laundering and Countering the Financing of

---

<sup>17</sup> [HM Treasury. ‘National risk assessment of money laundering and terrorist financing 2020’ \(accessed on 6 June 2022\)](#)

<sup>18</sup> [HM Treasury. ‘National risk assessment of proliferation financing’ \(accessed on 6 June 2022\)](#)

Terrorism National Priorities<sup>19</sup>". These included a list of the high-risk threats that financial institutions should incorporate into their risk-based AML programmes. The Call for Evidence sought views on whether publishing a similar set of National Priorities for the UK would be of additional value to the regulated sector, supervisors, and law enforcement in targeting their activity.

#### Call for Evidence

**2.41** While there is clear appetite for increased guidance and granular risk information from the public sector, most respondents did not see a strong case for standalone National Priorities or were not clear how this would help coordinate the system towards "high impact" activity. For instance, several respondents commented that the US National Priorities were very broad and would not necessarily inform clear prioritisation decisions. They stressed that the National Priorities would need to be accompanied by clear expectations for how and when regulated firms and supervisors should respond, suggesting that there is limited flexibility under the MLRs to "dial-down" wider activity in order to "dial-up" activity in response to new priorities. Supervisors noted an openness to updating and communicating their expectations to allow regulated firms to adapt to short-term priorities. As an example, the FCA issued a statement during the Coronavirus pandemic recognising that, while continuing to operate within the legislative AML framework, firms may need to re-prioritise or reasonably delay some activities, on a time-limited basis<sup>20</sup>. Supervisors have also issued additional guidance and communications in response to the increased risks of sanctions evasion following the Russian invasion of Ukraine. However, some firms asserted that updates to priorities still increase the overall volume of activity unless other requirements are formally removed (i.e., not just delayed to be picked up later).

**2.42** Further, several respondents raised concerns that publishing National Priorities could create confusion rather than helping to clarify where high value activity should be focused:

**2.43** Some raised questions about how the Priorities would relate to the existing NRA, as well as wider government strategies such as the Economic Crime Plan. Many recognised that the MLRs interact with several other elements of the AML regime, and so it is important that any priorities represent a "system-wide" response to ML/TF. In particular, the scope of the MLRs includes some overlap with other legislation; for example POCA places a legal duty on all businesses within the regulated sector to report suspicious activity that drives substantial activity (and is informed by activity stipulated by the MLRs).

**2.44** Many respondents raised that, like the NRA and Economic Crime Plan, National Priorities would likely be updated relatively infrequently, and so felt the most pressing need was for more granular sharing of public-private intelligence including responding to live threats and emerging risks. Respondents pointed to the value they derived from existing fora for public-private information-sharing, such as the Joint Money Laundering Intelligence Taskforce (JMLIT) - a partnership between law enforcement and the financial sector to exchange and analyse information relating to money laundering and wider economic threats. Suggestions included expanding these groups to include representation from wider sectors, exploring changes to

---

<sup>19</sup> [FINCEN. 'Anti-Money Laundering and Countering the Financing of Terrorism National Priorities' \(accessed on 6 June 2022\)](#)

<sup>20</sup> [FCA. 'Financial crime systems and controls during coronavirus situation' \(accessed on 6 June 2022\)](#)

legislation to enable the sharing of valuable intelligence at an earlier stage, and further data sharing projects.

## Conclusions

**2.45** On balance, the government agrees with the majority of respondents that we should not publish standalone National Priorities for the AML regime at this time. Rather, the focus will be on incorporating feedback from this Call for Evidence during the development of the upcoming Economic Crime Plan and NRA, to ensure that these vehicles can be more effective in providing strategic leadership on the changing nature of the UK's AML risks and priorities, from a "system-wide" perspective. However, we will continue to explore with law enforcement agencies how coordinated and timely communications could more clearly demonstrate how firms should flex their compliance activities to align with changing threats and enforcement priorities, as well as how supervisors could better enable and support this.

## Emerging risks

### Context

**2.46** The sectors in scope of the MLRs are defined by Regulation 8 and currently include credit institutions; financial institutions; auditors, insolvency practitioners, external accountants and tax advisers; independent legal professionals; trust or company service providers; estate agents and letting agents; high value dealers; casinos; art market participants; crypto asset exchange providers; and custodian wallet providers.

**2.47** The risks relating to each sector in scope of the MLRs can vary, as set out in the NRA 2020. Changes to the extent of the regulated sector have often been informed by changes to international standards, for example the inclusion of crypto asset exchange providers and custodian wallet providers. Changes have also been made where risk assessments suggest a heightened risk in sectors currently outside of scope. Sectors, or sub-sectors, may also be removed from scope if assessments show they are so low risk that inclusion under the MLRs becomes disproportionate. Factors which may trigger such a consideration, in addition to new evidence of specific instances of exploitation for ML/TF, may be evidence of a significant change in the scale or accessibility of these sectors; or the recent or anticipated emergence of transformative technologies; or possible new vulnerabilities or weakened mitigations emerging.

### Call for Evidence

**2.48** In the Call for Evidence, we asked about the information, factors and processes that should assist in determining the UK's approach to exclusion and inclusion of sectors in scope of the MLRs.

**2.49** Respondents broadly agreed the assessment should be made using a wide range of data sources including law enforcement intelligence and supervisory data which should be reviewed against robust assessment criteria. Similarly, consistency with the NRA was highlighted. Many respondents also suggested that an impact assessment should be completed during the process.

2.50 Respondents were also asked to name sectors or sub-sectors not listed above that should be considered for inclusion or exclusion from the regulated sector. A broad range of sectors were proposed for potential inclusion or exclusion of the MLRs.

#### Conclusions

2.51 The NRA has a robust methodology for assessing the threat, the inherent and the mitigated risks each sector faces. It draws on the wide range of information sources, including law enforcement intelligence, supervisory data and expert advice cited in the Call for Evidence. **The government is proposing that the NRA acts as the central vehicle through which emerging risks are assessed to determine whether inclusion in the MLRs is a proportionate outcome. This would involve using the NRA MORILE methodology, analysing the information sources cited in the Call for Evidence against robust assessment criteria<sup>21</sup>.** Using this methodology will ensure consistency between emerging risks and NRA threat ratings for sectors already in scope of the MLRs. Sectors flagged by respondents in the Call for Evidence will be considered for inclusion in the emerging threats chapter in the next iteration of the NRA.

2.52 However, in recognising that risks may emerge or change outside of the NRA timelines, we are proposing the take forward further scoping work on how to best use the current system for intelligence development and analysis to identify, review and escalate emerging risks, whilst maintaining consistency with the NRA methodology.

2.53 Any changes to the scope of the MLRs requires an impact assessment as part of the legislative process. The government considers that this impact assessment sufficiently addresses respondents' requests that the impact on the sector should be considered as part of any process being considered for inclusion or exclusion of the MLRs and no new process is needed.

---

<sup>21</sup> Management of Risk in Law Enforcement (MORILE) is a longstanding law enforcement tool used to assess the level of risk, using a range of factors to create a score.

# Chapter 3

## Driving Effectiveness

### Risk-based approach

#### Context

**3.1** The risk-based approach is a core feature of the UK's AML regime, derived from the FATF. It means that resources and activity should be targeted at areas with the highest risk of ML and TF, allowing them to be allocated in the most efficient ways<sup>22</sup>. The risk-based approach is intended to operate at all levels of the system – governments, regulators and individual firms and decision makers. The risk-based approach is inherent in how the MLRs are drafted, giving firms discretion to apply higher controls in areas of higher risk rather than prescribing the same approach in all situations.

**3.2** The risk-based approach is at the heart of the FATF's recommendations, and the FATF has published several pieces of guidance about the risk-based approach including overarching principles<sup>23</sup>. These are a useful reference point when examining the effectiveness of the UK's own risk-based approach. In particular, the FATF outlines a list of key elements for a successful risk-based approach at a national level, many of which continue to be areas of difficulty or criticism in the UK's approach:

- Financial institutions and regulators should have access to reliable and actionable information about the threats.
- There must be emphasis on cooperative arrangements among the policy makers, law enforcement, regulators, and the private sector.
- Authorities should publicly recognise that the risk-based approach will not eradicate all elements of risk.
- Authorities have a responsibility to establish an atmosphere in which financial institutions need not be afraid of regulatory sanctions where they have acted responsibly and implemented adequate internal systems and controls.
- Regulators' supervisory staff must be well-trained in the risk-based approach, both as applied by supervisors and by financial institutions.
- Requirements and supervisory oversight at the national level should be consistent among similar industries.

**3.3** In the 2018 UK MER, the FATF found that there was a poor understanding of risk across the regulated sector (with pockets of good practice, largely among bigger

---

<sup>22</sup> [FATF. 'Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing – High Level Principles and Procedures \(2007\)' Paragraph 1.7 \(accessed on 6 June 2022\)](#)

<sup>23</sup> [Paragraph 1.7, FATF Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing – High Level Principles and Procedures \(2007\)](#)

firms)<sup>24</sup>. A poor understanding of risk naturally inhibits an effective risk-based approach.

**3.4** Through the government's regular dialogue with stakeholders, recurring criticisms are that the MLRs do not allow for a sufficiently risk-based approach and that other aspects of the current system create barriers to ensuring preventative measures are well-targeted. The section above on "High-Impact Activity" discussed some of these overarching concerns in more detail.

**3.5** The government therefore asked several specific questions about the risk-based approach in the Call for Evidence, falling into four broad categories: barriers to the risk-based approach, understanding of risk, expectations of supervisors and some specific requirements/provisions of the MLRs (enhanced due diligence, simplified due diligence and reliance).

Overarching themes

**3.6** The government received a wide range of responses across the first three groups of questions (barriers to the risk-based approach, understanding of risk, expectations of supervisors). All of these responses have been helpful in informing the government's understanding of the barriers and challenges in the current system. Many of the issues raised were very broad, but there were some common themes identified which are discussed below.

**3.7 Mandatory Requirements:** Many respondents said that the MLRs contain too many mandatory or prescriptive provisions, which are fundamentally not risk-based. Some respondents felt that there should be no mandatory requirements in the MLRs, and everything should be carried out in line with a risk-based approach, while others felt that there was a better balance to be struck. Many respondents commented that mandatory requirements encouraged a 'tick-box mindset' and therefore decreased the effectiveness of the risk-based approach overall. **As noted in the earlier section on "High/Low Impact Activity", the government is not minded to fundamentally shift the balance of mandatory requirements under the MLRs. However, this is discussed further below, along with some of the specific mandatory requirements under consideration.**

**3.8 Smaller/newer firms:** A very common response was that small firms, or firms without experience in AML (especially those newly brought into scope of the regulations) are not able to pursue a risk-based approach due to the knowledge and resources required. Some respondents felt the solution was to have a separate list of mandatory requirements for these firms, rather than requiring a risk-based approach.

**3.9** The government considers that it is not viable to give small or newly regulated firms a different set of obligations to the rest of the regulated sector. This would not be in accordance with the risk-based approach and could mean the UK is misaligned with the FATF's recommendations. However, the government is interested in better supporting these firms to help them to implement an effective risk-based approach. **The government will work with supervisors and OPBAS to understand how small and newly regulated firms are currently supported to fulfil their obligations, and whether there is any additional support that could be offered, while remaining mindful of the**

---

<sup>24</sup> [FATF. 'Anti-money laundering and counter-terrorist financing measures United Kingdom Mutual Evaluation Report December 2018' Executive Summary Paragraph 23-25 \(accessed 6 June 2022\)](#)

need for both the supervisory approach and the approach taken by those firms to remain risk-based.

**3.10 Guidance/Information-sharing:** Respondents identified the need for more guidance and information-sharing to improve the understanding of risk and the application of an effective risk-based approach. Respondents mentioned the need for more granular information about risk from law enforcement to improve risk understanding.

**3.11** There are many existing ways in which information about risk is currently shared, and so it is notable that a lack of information to inform the risk-based approach was a common theme. **The government will work with supervisors, OPBAS and law enforcement agencies to understand how information and intelligence is currently shared, whether this is useful and how these methods might be enhanced as well as where existing structures are less useful or providing less value.** As set out in the earlier section on “Strategic National Priorities”, we will also explore how coordinated and timely communications could more clearly demonstrate how firms should flex their compliance activities to align with changing threats and enforcement priorities. The government’s views on guidance are discussed below in the “Guidance” section.

**3.12 Supervisory Approach:** There were two issues identified with the supervisory approach to the risk-based approach. First, many respondents felt that supervisors’ understanding of firms’ risks is poor, and therefore their ability to accurately assess firms’ risk-based approach is limited. Second, many respondents felt that front-line supervisory staff tended to take a tick-box approach to compliance.

**3.13** The government is aware of the challenges of supervising a risk-based approach (which are also noted by the FATF, see section 1). At the strategic level, supervisors appear to have an effective and nuanced expectation of the risk-based approach, but there appears to be a gap between this and the experience of firms at the level of individual interactions. **The government will work with supervisors and OPBAS to understand how the risk-based approach is incorporated into front-line supervision and consider what improvements can be made.**

**3.14** While the issues set out above were common themes identified, there were also many instances of conflicting responses.

- **Understanding of Risk:** While many respondents identified understanding of risk as something that could be improved, there was some discrepancy between industry, who felt that supervisory understanding of risk was limited, and supervisors, who felt that it was firms’ understanding of risk which needed to improve.
- **Value of the risk-based approach:** While some respondents strongly championed the risk-based approach and the importance of strengthening the risk-based approach through the MLRs review, others felt that the risk-based approach was not practically viable and favoured a more prescriptive approach. It was notable that many of those who doubted the feasibility of the risk-based approach were from industries with a high number of small firms.

**3.15** Finally, there were also many comments throughout the Call for Evidence that mentioned more nuanced barriers to an effective risk-based approach including mentality and incentives. For example, many respondents mentioned that mandatory requirements encourage a ‘tick-box mentality’ and others mentioned that the



perceived risk of supervisory enforcement action encourages a risk-averse rather than a risk-based approach, which in turn may contribute to activities such as de-risking. **The government is interested in exploring these themes further with stakeholders, to understand what can be done to disrupt these unhelpful patterns of mentality and incentives.**

**3.16** The government will progress these workstreams through existing governance structures, including both public and public-private sector groups.

Enhanced due diligence, simplified due diligence and reliance

**3.17** The Call for Evidence also asked about parts of the MLRs that are particularly relevant to the risk-based approach: enhanced due diligence, simplified due diligence and reliance.

**3.18** Enhanced due diligence (EDD) is the increased checking that relevant persons must conduct in situations of higher risk, including certain high-risk situations in which EDD is mandatory. Conversely, simplified due diligence (SDD) is a version of customer due diligence that may be done in instances of low risk. Reliance allows one regulated firm to 'rely' on the checks performed by another regulated firm on the same customer, rather than perform their own from scratch. This provision is aimed at reducing duplicated checks across the regulated sector. The MLRs place a number of conditions on how reliance is done and when it can be used.

**3.19** There were general responses against each of these areas, as well as suggestions for specific regulatory changes. Not all of those changes suggested by respondents are discussed below, and some were not directly related to the risk-based approach. The government will continue to review suggestions in light of future legislative opportunities.

Mandatory requirements and mandatory EDD

**3.20** One of the key points raised by respondents was the tension noted above between mandatory provisions and the risk-based approach. A large number of comments were focussed around EDD, as this is one of the principal areas in which the MLRs contain mandatory or prescriptive requirements.

**3.21** Internationally, the FATF, who hold the risk-based approach as a central principle of an effective AML regime, still include certain mandatory requirements in areas perceived to be high-risk within their recommendations, and a significant number of the mandatory requirements in the MLRs, including some of those around EDD are drawn directly from the FATF's recommendations.

**3.22** The government believes it is justifiable to maintain some mandatory requirements beyond those required by the FATF where the benefits of mitigating higher risks outweigh the risk of resources being directed towards low-risk activity. This means that mandatory requirements should only be in place in the areas of higher risk, where either the threat or the vulnerability is substantial enough that mandating a specific response is justified. Considering the substantial vulnerability of the UK to economic crime<sup>25</sup>, it is right that in some cases, the UK's controls go beyond those

---

<sup>25</sup> [HM Treasury. 'National risk assessment of money laundering and terrorist financing 2020' Foreword \(accessed on 6 June 2022\)](#); [FATF. 'Anti-money laundering and counter-terrorist financing measures United Kingdom Mutual Evaluation Report December 2018' Executive Summary Paragraph 2-3 \(accessed on 6 June 2022\)](#)

applied by other nations or recommended by the FATF, and that the government takes a cautionary approach to amending aspects of the UK's AML regime.

**3.23** While reducing mandatory requirements has the potential to increase the effectiveness of the overall system by improving the risk-based approach and directing resources in a more efficient way, it undoubtedly has the potential to weaken the regime by creating room for error and inadequate controls. In this review, the government has looked at mandatory requirements in the MLRs that go beyond the FATF and considered the case for change.

**3.24** The government plans to maintain the mandatory requirement to perform EDD in the cases currently listed in Regulation 33 including customers established in high-risk third countries (HRTCs), foreign politically exposed persons (PEPs) and correspondent relationships. The reasons for these decisions are discussed below.

**3.25 PEPs:** The FATF requires certain mandatory checks on foreign PEPs, whom it is globally recognised pose a high money-laundering risk. The UK implemented these requirements through the EU's AMLDs. The FATF allows for jurisdictions to treat people who hold a political function domestically (domestic PEPs) differently compared to those who hold a political function in a foreign country (foreign PEPs), with foreign PEPs attracting much more stringent checks. However, the 4MLD required the same level of checks to be done on domestic and foreign PEPs, and this is the current approach in the MLRs.

**3.26** The government remains committed to aligning with the FATF's recommendations and agrees that foreign PEPs generally have a high risk of money laundering<sup>26</sup>. In addition, the unfamiliarity of the regulated sector with a foreign jurisdiction's norms and processes and a likely lack of available information regarding them compounds the risks that foreign PEPs may pose. The government is therefore satisfied that mandatory EDD is justified along with the additional requirements in Regulation 35 of the MLRs. Within this, it is still possible for relevant persons to flex the intensity of EDD, having regard to the particular risks posed by an individual or their jurisdiction where these are known.

**3.27 Domestic PEPs:** The NRA 2020 identified UK domestic PEPs as lower risk compared to those holding prominent political functions overseas<sup>27</sup>. The FCA guidance on PEPs, published in 2017, is also clear that UK PEPs should be treated as lower risk, unless there are other risk factors identified which mean they should be treated as high risk<sup>28</sup>. While the FATF recommendations mandate the identification of domestic PEPs, the requirement to do EDD and check the source of wealth of domestic PEPs and their family and close associates goes beyond the FATF's recommendation and requires significant resources by relevant persons. **The government is committed to doing further work to better understand the risk profile of domestic PEPs.** If the risks around domestic PEPs are found to be sufficiently low, the government will consider changing the MLRs such that EDD and the additional requirements in Regulation 35 are not automatically required on domestic PEPs, but instead only triggered when

---

<sup>26</sup> [HM Treasury. 'National risk assessment of money laundering and terrorist financing 2020' Paragraph 4.7-4.11 \(accessed on 6 June 2022\)](#)

<sup>27</sup> [HM Treasury. 'National risk assessment of money laundering and terrorist financing 2020' Paragraph 4.10 \(accessed on 6 June 2022\)](#)

<sup>28</sup> [FCA. The treatment of politically exposed persons for anti-money laundering purposes. Para 2.29 \(Access 6 June 2022\).](#)

there are other high-risk factors also present. The government is aware of the problems caused when domestic PEPs face unnecessarily intrusive checks, and this potential amendment would allow for scaling back of the enhanced measures currently applied to UK PEPs and their families and close associates, reducing disproportionate burdens.

**3.28 Correspondent relationships:** Correspondent relationships are the provision of services by one institution to another. Traditionally, this is large international banks acting as correspondents for smaller banks without the same infrastructure or facilities. The FATF identifies these kinds of relationships as high risk because the correspondent institution processes or executes transactions for the customers of the respondent institution without directly vetting those customers. The FATF therefore mandates certain checks which are replicated in the MLRs. In the Call for Evidence, some stakeholders requested changes to the definition of correspondent relationships to make it more risk-based, including similar high-risk relationships currently not covered, and excluding other low-risk relationships.

**3.29** The government understands the desire to refine the definition of ‘correspondent relationship’ which has been a topic of discussion for several years both at the national and international level. However, the definition of correspondent relationships currently in the MLRs is shaped directly by the FATF’s own definition of correspondent banking. Aligning with internationally consistent standards can in itself be a way to streamline administration for the regulated sector, as rules will be the same across the multiple jurisdictions in which they operate. Therefore, having reviewed the suggestions in the Call for Evidence, **the government is not minded to make any changes to the definition of correspondent relationships in the MLRs.**

**3.30 Customers established in High Risk Third Countries:** For customers from most jurisdictions, firms take a risk-based approach to applying EDD, where the geographic location of a customer is one of a number of factors considered. However, the MLRs currently mandate EDD for customers established in countries on the UK’s High Risk Third Countries (HRTC) list. **The government continues to think that it is proportionate to maintain a list of HRTCs on which mandatory EDD is required, and that the countries on that list should be those which pose a high risk of ML/TF.**

**3.31** As well as helping to ensure there are no gaps in the application of appropriate controls for transactions and customers with nexus to these high-risk jurisdictions. requiring EDD on a mandatory basis accounts for the varying degrees of firms’ risk appetite. It mitigates against the potential where firms may be willing to tolerate much higher levels of risk due to the potential for significant commercial gains (despite risks arising from failures in another jurisdiction’s technical controls and less mature understanding of this impacts ML/TF risks).

**3.32** Respondents noted the misalignment of EDD for HRTCs compared to EDD for other high-risk customers. Currently, the MLRs require a specific set of measures to be undertaken on customers established in HRTCs as part of EDD (Regulation 33(3A)). In other situations where the MLRs require a specific set of controls, these are usually directly mandated by the FATF, such as the source of wealth checks required on PEPs. Usually, the FATF does not specify which measures of EDD to apply on customers from specific jurisdictions (with the exception of counter measures for Iran between October 2018 – February 2021; the FATF required the application of specific elements of EDD.)

**3.33** The government is minded to remove the list of required checks for customers in HRTCs (Regulation 33(3A)), except in the case where the FATF requires the application of specific elements of EDD, and plans to consult on this change. If taken forward, removing this list of requirements would align EDD for customers in HRTCs with EDD for other circumstances, where firms are able to flex which checks they do in relation to the specific risks posed. The government will consider how to ensure that firms continue to have a clear impression of what EDD might consist of on a discretionary basis, in accordance with the suggestions given by the FATF<sup>29</sup>, for example by changes to Regulation 33(5).

**3.34** Respondents also wanted to see changes to the criteria for putting countries on the UK's HRTC list. The current list is a combination of two lists of high-risk jurisdictions decided by the FATF (those subject to a call for action and those under increased monitoring). Following the UK's exit from the European Union the UK chose to align its High Risk Third Country List with the FATF lists.

**3.35** The government acknowledges that the current listing methodology may not account for all kinds of ML/TF risk, and also that not all the countries listed by the FATF pose the same level of risk to the UK. For example, jurisdictions with large financial centres, or with serious deficiencies identified by the FATF are more likely to pose more significant risks than those without. The change to Regulation 33(3A) proposed above is likely to allow firms to take a more risk-based approach to jurisdictions on the HRTC list by varying the checks done, as well as the extent or intensity of EDD in accordance with the risk posed by the specific jurisdiction. However, it does not resolve the issue that there may be high-risk jurisdictions not currently on the UK's HRTC list, such as some of those listed in the NRA. **The government will consider options for what further benchmarks could inform the UK's HRTC list beyond those considered and jurisdictions listed by the FATF.**

**3.36** **Complex or unusually large transactions:** Respondents noted potential confusion around the policy intent of the requirement to do EDD and enhanced ongoing monitoring in response to 'complex or unusually large transactions'. As well as ambiguity around what constitutes either a 'complex' or an 'unusually large' transaction, respondents noted that EDD or enhanced ongoing monitoring would not always be appropriate in these cases, if evidence was found which showed that the transaction had a clear reason, for example. While this phrase is drawn in part from the FATF<sup>30</sup>, there may be room to tweak the language to ensure that EDD is not being mandated in low-risk situations that are accidentally captured by this provision. **The government will review this wording and consider whether an alternative provision would more clearly deliver the policy intent.**

**3.37** Finally, while a number of stakeholders recognised the fundamental value of EDD, many also said that they didn't know how effective it was, as they didn't have the feedback to make that determination. **The government is keen to understand more about the effectiveness of EDD, and will work with the regulated sector and supervisors to gather information about this.**

---

<sup>29</sup> [FATF. 'The FATF Recommendations 2012' Interpretative note to Recommendation 10, page 70-71 \(accessed on 24 May 2022\)](#)

<sup>30</sup> [FATF. 'The FATF Recommendations 2012' Interpretative note to Recommendation 10, page 70 \(accessed on 24 May 2022\)](#)

## Simplified due diligence

**3.38** Simplified due diligence (SDD) is defined in Regulation 37 of the MLRs. This regulation gives firms flexibility on how to do customer due diligence in lower-risk situations. Simplified due diligence allows relevant persons to adjust the extent, timing or type of measures carried out, but states that each element of normal customer due diligence must be carried out (i.e. identification and verification of the customer, information on the intended nature of the business relationship etc.)

**3.39** Many respondents noted that because each element of normal CDD must still be performed, and despite the provision that the 'extent, timing or type' of measure may be altered, they find that SDD requires the same amount of resource as ordinary CDD and therefore is not useful. However, the requirement to perform each element of CDD when conducting SDD comes directly from the FATF recommendations. While some respondents may not feel this is sufficient for SDD to be less resource-intensive, the government believes that the flexibility currently in the MLRs is appropriate and in line with FATF's recommendation. **The government does not plan to make changes to the components of SDD or the description of flexibility currently given in the MLRs.**

**3.40** Respondents also said that they were not always clear when SDD was appropriate. The MLRs explain that SDD can be applied in low-risk situations and list several factors that should be considered when assessing low risk. This is further supported by sector-specific guidance approved by HM Treasury. The government believes that this is as comprehensive a list as it is appropriate to give as part of the regulations themselves, and that any additional steers should be picked up through guidance if they are not already. The final risk assessment rests with the relevant person on a case-by-case basis in accordance with the risk-based approach and cannot be substituted by an additional provision in the MLRs. **The government is therefore not minded to change this regulation.**

**3.41** Finally, an area in which respondents identified the need for change was regarding Pooled Client Accounts (PCAs). PCAs are a type of bank account used by brokers and agents of all kinds to hold client funds from a number of different clients. They are often used as a mechanism to ensure the safety of client funds if a firm goes bankrupt during a transaction, as the funds are not held directly by the company. Because of this, PCAs are sometimes mandated by regulators or by industry bodies. PCAs are therefore an important part of business banking infrastructure, although alternatives do exist.

**3.42** Prior to 2017, the Money Laundering Regulations 2007 explicitly permitted SDD for PCAs held by independent legal professionals, while banks could choose to apply SDD for services to other businesses. In practical terms, this enabled banks to open PCAs without the obligation to do due diligence on each of the clients whose money was held in the PCA, but did require ongoing monitoring of the operation of the account. In 2017, in the transposition of 4MLD, the ability to do 'default' SDD was removed and the current provision inserted.

**3.43** Financial sector respondents said that PCAs are only viable for banks to provide where SDD is possible, as doing due diligence on each client is neither commercially nor practically viable. However, respondents noted that the circumstances which are currently required by the MLRs for SDD to be possible is very narrow, and that this has resulted in issues accessing PCAs for a wide range of industries, even when they are assessed as low risk.

3.44 The government has reviewed the wider guidance available and has concluded that broadening the circumstances in which SDD can be considered to reflect, for example, the Joint Money-Laundering Steering Group (JMLSG) guidance would be beneficial in improving access to PCAs while still maintaining that SDD can only be done in low-risk situations. **The government plans to consult on options aiming to address the difficulties in accessing PCAs, including the option of broadening the range of low-risk circumstances in which PCAs may be provided without checks being required on the clients whose funds are held in the account.**

#### Reliance

3.45 Reliance is a streamlined way to perform CDD, where one firm can 'rely' on the checks performed by another regulated business on the same customer, rather than perform their own from scratch. Respondents noted many difficulties around the use of reliance, although these varied notably from industry to industry depending on how often reliance is used and industry practices which may affect the usefulness of reliance.

3.46 The most significant barrier mentioned by respondents was that liability for due diligence remains with the relying firm. This arrangement is drawn from the FATF language that 'ultimate responsibility for the CDD measures' must remain with the relying firm. In practice, this means that if a firm relies on another firm's due diligence, and this is found to be deficient in some way, the relying firm would still be responsible, and potentially subject to penalty or enforcement action. Some respondents suggested removing this liability entirely, while others felt it could be restricted to a responsibility for ensuring that the checks had been done but not, for example, for their accuracy.

3.47 Reliance is intended to be a more efficient way to complete CDD on a customer, but the government (and the FATF) is clear that it should not create a 'short-cut' by which a firm can take less responsibility for those checks. While restricting or removing the current liability provisions would be likely to increase the uptake of reliance across the regulated sector, it might also water down the overall responsibility of firms for CDD on their customers.

3.48 The government considers that the current liability arrangements are an appropriate reflection of the FATF's recommendation and produce the desired policy outcome. **The government is therefore not minded to change liability in reliance arrangements.**

3.49 The MLRs also contain provisions requiring relying parties to ensure that they can access 'immediately on request' documents and data concerning CDD. Respondents noted that compliance with this regulation might require a contract or data-sharing agreement and sometimes even IT system changes. In particular, respondents said the word 'immediately' drove significant administrative arrangements. The FATF's language around this issue is very similar to that in the MLRs, requiring that relying entities must satisfy themselves that they would be able to access documents and data concerning the CDD 'without delay'. **The government is satisfied that the current requirements are an accurate reflection of the policy intention of the FATF. The government is therefore not minded to change this wording.**

**3.50** Finally, the MLRs also specify that copies of documents and data used in reliance arrangements must be retained for the same time period as in normal CDD i.e. five years. Many respondents mentioned that this posed a practical barrier to the use of reliance as it might require complicated data agreements between parties.

**3.51** The FATF makes no specific record-keeping provisions around reliance, although it makes a general recommendation that CDD records must be retained for five years. The government is clear that reliance should not be a way to circumvent the obligations of CDD, and therefore it is right that records of the documents and data used in reliance should be retained in the same way as in ordinary CDD. **The government is not minded to change the record-keeping requirements around reliance, which mirror those around ordinary CDD in the intended way.**

**3.52** Respondents cited a number of other practical barriers to the use of reliance, including that while it offers a different route to initial CDD, reliance arrangements cannot be used to conduct ongoing monitoring. A number of respondents also noted that CDD performed by one firm may not be suitable for use by another due to differences in the risk exposure or risk appetite. While these are clearly challenges to the use of reliance, reliance is not intended to be able to replace ordinary CDD across the board, and the reasons given above are examples of situations in which reliance simply may not be the appropriate tool.

**3.53** Finally, many respondents mentioned a general reluctance by firms to have their CDD relied upon. Given that liability for the CDD remains with the relying firm, it may be due to the practical constraints noted above that these firms are unwilling to enter reliance arrangements. As noted above, the government is not planning to make changes to those requirements, as they follow the policy intention of reliance and of the FATF. It may be that wider awareness of the benefits of reliance or practical guidance from supervisors on how to put reliance arrangements in place would be beneficial to improving its uptake.

## New technologies

### Context

**3.54** Over recent years, a variety of new technologies have been developed to help in the prevention and detection of financial crime, and to streamline and improve the compliance processes of firms. Technologies enabling more straightforward verification of a customer's identity, tools enabling the analysis of large quantities of data to identify patterns and trends, and Privacy Enhancing Technologies have all attracted recent interest.

**3.55** The government has sought to actively encourage technological innovation, including through such enabling initiatives as the UK Digital Identity and Attributes Trust Framework<sup>31</sup> and via the Innovation Working Group,<sup>32</sup> delivering on

---

<sup>31</sup> An initiative of the Department for Digital, Culture, Media & Sport to establish a set of rules that organisations can follow to enable the consistent description of digital identities and attributes. The aim is to make it easier for individuals and organisations to interact and share information. The framework will include certification of organisations' compliance with the framework.

<sup>32</sup> A public private forum which was established in 2019 to explore and promote innovation and RegTech solutions that stand to increase effectiveness and efficiency, and consider the barriers to their adoption.

commitments established by the Economic Crime Plan. These efforts have been supplemented at the international level: the FATF has published guidance on digital identity technologies<sup>33</sup>, which the UK took an active role in developing and promoting, as well as reports on the opportunities and challenges presented by new technologies, including a stocktake of technologies facilitating advanced analytics.

**3.56** Nevertheless, both industry and government have remained concerned that opportunities to improve the application of AML controls and systems through technological innovation are not being fully realised. This is potentially causing inefficiencies, as firms retain compliance processes which are more resource intensive and may be less effective at identifying customers or identifying suspicious activity than they need to be, and the latest innovations are not being used to fight financial crime.

#### Call for Evidence

**3.57** The Call for Evidence sought views on how the MLRs support or inhibit the use of new technology, and especially digital identity. The Call for Evidence also asked what broader action from government and industry would improve the adoption of new technologies. The MLRs are intended to be “technology neutral”, meaning that they should not privilege the use of one technological approach to compliance over another, provided that the required result is still achieved.

**3.58** Respondents raised a variety of concerns in response to these questions, which may be broadly grouped under (i) certainty, (ii) encouraging innovation, and (iii) providing for the safe and effective use of digital identity.

**3.59 Certainty:** respondents highlighted the need for more certainty as to whether new technologies are sufficient to meet their obligations under the MLRs, and that existing guidance and the MLRs do not adequately keep pace with technological change. However, there was no consensus as to whether changes to the MLRs themselves or additional guidance is the best vehicle for that certainty.

**3.60 Encouraging innovation:** multiple respondents suggested that while the MLRs do not actively inhibit the adoption of new technologies by merit of the few references to specific technologies in them, more work is needed to actively encourage the adoption of new technologies. Some respondents suggested establishing universally recognised standards that are accepted as sufficient for regulatory compliance. Others proposed that systems should be based on standardised data: agreeing the content and format of data fields to allow interoperability between technological solutions. A number of respondents believed that behavioural change is also needed at the firm level to improve their receptivity to new technologies.

**3.61 Digital identity:** numerous respondents requested additional clarity on whether digital identity processes comply with AML regulations, either via additional guidance or a reference to the DCMS Digital Identity and Attributes Trust Framework in the MLRs. Respondents also highlighted that the absence of internationally agreed digital identity standards continues to present a barrier to adoption, especially for sectors involved in cross-border transactions. A few respondents expressed concern that the transposition of 4MLD appeared to water down the UK’s support for digital identity.

---

<sup>33</sup> [FATF. ‘DIGITAL IDENTITY’ \(accessed on 6 June 2022\)](#)



## Conclusions

**3.62** The government has identified three distinct workstreams which reflect the areas identified by the Call for Evidence, while recognising that further work is required to develop a shared understanding of potential solutions:

**3.63** The government considers that some form of further ongoing engagement with stakeholders could contribute to a clear and evolving understanding of the opportunities and obstacles presented by new technologies. Such engagement would need to build on lessons learnt from the Innovation Working Group, to promote more focused, solution-oriented and productive engagement with between stakeholders. **The government will therefore explore with civil society stakeholders the possibility of a more effective model for additional engagement on this issue: synthesizing feedback received via the Call for Evidence and lessons learnt from the Innovation Working Group to promote more effective engagement.**

**3.64** As the MLRs are intended to be technology neutral, and any references to specific technologies could become rapidly outdated, it is likely not appropriate to make specific references to new technologies in the text of the MLRs. The government also considers that an accreditation scheme for new technologies/providers of new technologies could inhibit flexibility and distort the market. It would be neither appropriate nor possible to provide total certainty for businesses implementing new technologies. However, in recognition of the value of providing businesses with the level of certainty they need to invest in new technologies confidently, **the government will engage with stakeholders to consider whether and where additional guidance would prove most valuable as a route an appropriate degree of certainty, balancing this against the need to maintain some flexibility in the system, and the resource considerations updated guidance would entail.**

**3.65** As set out in the Economic Crime Plan 2019-22, the government is committed to enabling the use of secure and trusted digital identity products in the UK. The government recognises the value of digital identity in making services more efficient and effective, as well as improving people's ability to operate confidently in an increasingly digital economy. Call for Evidence responses clearly signalled a desire for greater clarity with respect to which electronic identity verification processes satisfy MLR requirements. **The government will therefore consider amending the MLRs to ensure greater clarity on how electronic identity processes certified against DCMS's Digital Identity and Attributes Trust Framework support MLR requirements.**

## Supervisors' role in the SARs regime

### Context

**3.66** Suspicious Activity Reports (SARs) are the method by which individuals and businesses should report knowledge or suspicion of possible illicit activity relating to ML/TF to the UK Financial Intelligence Unit (UKFIU). The requirement to submit SARs is specified in the Proceeds of Crime Act 2002 (POCA).

**3.67** SARs are a critical source of intelligence not only for tackling economic crime but on a wide range of predicate criminal activity such as drug trafficking or modern slavery. They provide information and intelligence from the private sector that would otherwise not be visible to law enforcement such as details on transactions and linked

individuals/entities. SARs can also be submitted by private individuals where they have suspicion or knowledge of ML/TF.

**3.68** Effective suspicious activity reporting is central to the UK's ability to prevent, protect and prosecute in relation to illicit finance flows that underpin the most serious and organised crime in the UK. The government is already carrying out a range of activity to improve the SARs regime through the SARs reform programme with a focus on three key areas:

- Uplifting staffing: increasing capacity within law enforcement to analyse and act on SARs intelligence.
- IT transformation: a new SARs Digital Service including data analytics, to replace legacy IT implemented more than 20 years ago.
- Legislation and guidance: improved guidance and better feedback to the private sector who report SARs, and legislative changes including exemptions to Defence Against Money Laundering (DAML) SAR requirements to reduce the volume of ineffective reports, bringing Electronic Money Institutions into scope of existing reporting exemptions and further legislative changes to be brought forward as part of the Economic Crime and Corporate Transparency Bill announced in the Queen's Speech 2022.

**3.69** Supervisors can also play a role in supporting their supervised populations with submitting better quality SARs and raising awareness of best practice about intelligence and information sharing. On the MLRs specifically, while they are not the legislative basis for the SARs regime, there is pre-existing provision in Schedule 4 of the MLRs which allows supervisors to collect information regarding the quantity of SARs it, as a supervisory authority, or any of its supervised persons has submitted.

**3.70** Stakeholders have often raised concerns that, under the MLRs, the current role of supervisors in accessing, considering and assessing the quality of the SARs submitted by their supervised population is unclear and limited. This ambiguity has resulted in differing interpretations and approaches by supervisors.

**3.71** Separately to the Call for Evidence, the government launched a consultation in July 2021 on specific changes to the MLRs, including how they could be amended to ensure clarity on supervisors' access to SARs. Following on from this, a Statutory Instrument was laid on 15 June 2022 which included an amendment making clear that supervisors can directly request the content of SARs submitted by their supervised population and consider this as part of their assessments under the MLRs<sup>34</sup>. This will give supervisors better information and intelligence about risks and trends in their sectors, allowing them to strengthen training and guidance, both on SARs and more widely, and hopefully increasing the quality of SARs.

**3.72** The Call for Evidence sought views on whether the MLRs could go any further in enhancing the obligations of supervisors (rather than just clarifying their existing legal access) with relation to SARs.

Call for Evidence

---

<sup>34</sup> [The Money Laundering and Terrorist Financing \(Amendment\) \(No. 2\) Regulations 2022 \(legislation.gov.uk\)](https://legislation.gov.uk)

3.73 From the responses, it was clear that there was appetite to clarify the role that supervisors should play in assessing whether the regulated sector is providing high quality information and adequately reporting SARs to law enforcement, subject to appropriate safeguards around information and information handling. However, respondents weren't entirely convinced that the role of supervisors should be further enhanced through legislation. Instead, across all sectors, respondents said that issues with SARs were wider than supervision and there was broad agreement that improvements to SARs technology and IT, increased feedback from law enforcement and better information and intelligence sharing should be the key focus of change within the SARs regime.

3.74 The government acknowledges the wider issues raised but considers that the necessary work to address these is already underway as part of the SARs reform programme, although the timescales for these changes are necessarily longer-term. Alongside this, the UKFIU have increased proactive engagement with supervisors to undertake bespoke work on the effectiveness and quality of SARs submitted by their populations. Take-up of that engagement has varied between supervisors, and more work is needed to ensure that this initiative has a sustained impact.

#### Conclusions

3.75 The government recognises the value an effective supervisory regime can play in improving SARs and welcomes stakeholder appetite for the MLRs to be clarified, which the MLRs SI will implement. OPBAS already expects PBSs to request, review and assess the quality of the SARs submitted by their supervised populations as part of their risk-based supervisory approach to intelligence and information sharing. OPBAS are planning a sourcebook update this year which will further clarify how PBSs can increase their supervisory effectiveness, including a reiteration of expectations on assessing SARs.

3.76 Noting stakeholders' hesitations around the enhancing the role of supervisors, the government is committed to improving evidence on the effectiveness of supervision in relation to SARs. The UKFIU has been running a year-long pilot project with the Gambling Commission and their proactive use of SARs for regulatory purposes. This successful pilot has been extended and a similar approach is planned to be expanded into HMRC and the FCA (subject to progress on IT and SARs reform). Projects like these will provide better evidence on the direct use of SARs by statutory supervisors to influence intelligence led supervisory action. **The government will keep possible legislative changes under review in light of the outcomes of this work.**

## Gatekeeping function

#### Context

3.77 The MLRs give supervisors the responsibility to act as 'gatekeepers' to the regulated sector. There are several gatekeeping tests which look at different information related to Beneficial Owners, Operators, and Managers (BOOMs) or sole practitioners and apply to different sectors within the AML regime. These tests include:

- The Reg 26 ('approvals' test). This test is in place to prevent bad actors or criminals convicted in relevant areas from operating in key roles. It specifically covers legal and accountancy businesses, estate and letting agents, high value dealers and

art market participants. This test ensures applicants for relevant positions have not committed any of the offences listed in Schedule 3 of the MLRs.

- The Reg 58 ('fit and proper' (F&P) test). This test is focussed on ensuring the appropriateness of firms and individuals applying for registration. It covers those exercising significant control in Trust and Company Service Providers (TCSPs), Money Service Businesses (MSBs), Annex 1 firms<sup>35</sup> and crypto asset businesses. F&P testing gives supervisors greater scope to consider an applicant's suitability for relevant positions, as supervisors can consider factors such as whether they have consistently failed to comply with the MLRs, are higher risk for ML/TF and whether they have adequate skills and experience to properly perform the function in question.

**3.78** There are other gatekeeping tests which may apply to regulated firms but are not rooted in the MLRs. These include PBSs' own fit and proper tests, the Gambling Commission's licence conditions and the FCA's requirements for the senior managers regime.

**3.79** The Call for Evidence sought views on whether the two current gatekeeping tests sufficiently support supervisors in their gatekeeping function; if it would be more effective to introduce a single, consistent gatekeeping test; if there are additional requirements which would improve the gatekeeping function; and whether the current obligations and powers for supervisors, and the current set of penalties for non-compliance, support an effective gatekeeping system.

Call for Evidence

**3.80** Responses to the Call for Evidence were uncontentious and broadly in agreement that the current requirements in the MLRs do provide an effective basis for the gatekeeping function and are proportionate in principle.

**3.81** The majority of responses showed support for the proposal of a single, consolidated gatekeeping test in principle and suggested that the current approach, of having both regulations in place, may result in inconsistent and uneven approaches across the regulated sector. However, this view was balanced by some responses highlighting that it is important to keep or introduce enhanced gatekeeping measures for those sectors which may be considered higher risk, examples cited included the crypto asset sector and Annex 1 firms.

**3.82** Although the majority of Call for Evidence responses suggest that the current gatekeeping provisions are effective and proportionate in principle, some responses highlight specific proposals which may improve the current gatekeeping function, such as:

- More regular and ongoing testing of BOOMs and sole practitioners (to ensure individuals remain fit and proper).
- Improved intelligence and information sharing (to help identify non-compliance issues).

---

<sup>35</sup> The FCA is the supervisory authority for approx. 870 Annex I financial institutions. This includes a diverse group of institutions, including existing firms who have registered an unregulated part of their group to do corporate finance or lending, and perform activities such as renting out safe deposit boxes and commercial lending (the full list of activities of an Annex I firm is defined in Schedule 2 to the MLRs).

- An extension of the 45-day turnaround process for assessing applications (to allow supervisors more time and resource when individual cases are significantly complex).

## Conclusions

**3.83** The Call for Evidence responses were generally in favour of adopting a single consistent gatekeeping test, in place of the current tests under Regulations 26 and 58. However, further discussion with supervisors has indicated that the administrative complexities involved in consolidating the tests could be significant. For example, if the government were to consolidate requirements under Regulations 26 and 58, this would likely result in costs and administrative burdens (for supervisors who will be required to carry out more tests on their supervised populations; and for those individuals or businesses who are already registered in sectors which are not subject to certain gatekeeping tests, who would be brought into scope of further fit and proper testing).

**3.84** The government also believes that it may be too premature to reform the gatekeeping function radically before wider decisions are made on supervisory reform. Therefore, the gatekeeping function will be kept under review alongside decisions being made on potential supervisory system reforms – as this may present further and stronger opportunities for simplification.

**3.85** The government has concluded that there currently isn't sufficiently strong support or appetite to overhaul the gatekeeping function at this time. The government believes it would be sensible to retain the overall structure of the current gatekeeping regime and work with industry stakeholders to consider next steps on some of the specific issues raised in response to the Call for Evidence. This might include ensuring fit and proper monitoring of BOOMs and Sole Practitioners is an ongoing requirement.

## Guidance

### Context

**3.86** In the Call for Evidence, there were questions aimed at understanding and improving the quality of the guidance and finding ways to streamline the current drafting and approvals process, which is time-consuming and can involve lags between legislative changes and sectors having access to approved guidance.

**3.87** Currently, there is a separate piece of guidance produced for each sector covered by the MLRs. Guidance is produced in a slightly different way for each sector, with a varying amount of supervisory input and industry consultation:

- **Financial Services:** drafted by the Joint Money-Laundering Steering Group (JMLSG), which is made up of industry bodies, although the FCA also reviews the guidance produced and provides comments. The FCA also drafts and publishes the Financial Crime Guide although this goes much broader than just AML and presents the findings of FCA supervisory work such as thematic reviews. The FCA also has a statutory obligation to publish guidance on PEPs.
- **Legal:** drafted by the Legal Sector Affinity Group (LSAG), which is made up of all the legal sector supervisors, including both the Law Society and the body to which it has delegated its supervisory function, the Solicitors Regulation Authority (SRA).

- **Accountancy:** drafted by the Consultative Committee of Accountancy Bodies (CCAB), with consultation of the non-member smaller supervisors.
- **Casinos:** drafted by the Gambling Commission.
- **Money Service Businesses, Trust and Company Service Providers, High Value Dealers, Letting and Estate Agents:** drafted by HMRC.
- **Art Market Participants:** drafted for HMRC by the British Art Market Federation.

**3.88** All guidance drafted by these bodies (except for the FCA’s Financial Crime Guide and PEPs guidance) is approved by HM Treasury. This approach is not specifically mandated by the MLRs, although there are several provisions that a relevant person ‘may take into account any guidance which has been (a) issued by the FCA; or (b) issued by any other supervisory authority or appropriate body and approved by the Treasury’ e.g., when assessing the extent of EDD to be applied.

**3.89** The MLRs also contain provisions that when considering a civil penalty or criminal offence, a supervisor or court must consider whether an individual was following ‘any relevant guidance which was at the time (i) issued by the FCA; or (ii) issued by any other supervisory authority or appropriate body and approved by the Treasury’ (Regulation 76 and 83). This is an important provision in the civil and criminal enforcement system and would need to be carefully considered in light of any major changes to the guidance system.

#### Call for Evidence

**3.90** In the Call for Evidence, there were some differences in views between sectors, often corresponding either to differences in drafting processes or to the complexity and diversity of the sectors themselves, and sometimes to specific relationships within the sector.

**3.91** However, some comments were almost universal across all respondents. These were:

- Sector-specific guidance is crucial, and this must be drafted by experts who understand the sector.
- HM Treasury approval takes too long.
- Guidance is too long and too complex.
- Guidance can be inconsistent, especially between sectors.
- The drafting process is time-consuming.
- Guidance cannot be updated quickly and is therefore not responsive.
- Guidance does not cover all the areas that are needed.

**3.92** Many respondents also acknowledged the fundamental difficulty in making guidance useful, and suitably granular, without making it too long, complex, or prescriptive, and not allowing enough room for the risk-based approach. Different sectors felt this balance had been achieved to a different degree.

#### Conclusions

**3.93** From these comments, the government has concluded that a radical overhaul of the guidance system is not required and would not solve the issues identified in the Call for Evidence.

**3.94** There was limited support for generalist guidance (i.e., not sector-specific) in the responses. Many respondents, particularly those from the financial, legal and accountancy sectors, felt that there was a limit to how much guidance could be usefully given in a sector-neutral form, and there was broad agreement that some form of sector-specific guidance would always be needed.

**3.95** In addition, HM Treasury is unlikely to have the expertise or resources to draft sector-specific guidance for the entire regulated sector, and the guidance produced in this way would likely be lower-quality than through the current framework.

**3.96** The government has also considered the option of having no HM Treasury approvals process. However, this could exacerbate the issues of quality and consistency identified by respondents and might also cause legal issues.

**3.97** **The government has concluded that the overall structure of the current regime should be maintained, and that further reform should be considered in line with three key principles:**

- Largely or entirely sector-specific guidance, drafted by experts (supervisors or industry, or a mixture).
- Improved approval processes to streamline and speed up approval.
- Improved quality control to ensure consistency, clarity, and conciseness.

**3.98** There were some issues raised by respondents which are not covered by the principles above. This includes the issue of areas being missing from guidance and guidance not being responsive to rapid developments.

**3.99** The government agrees that guidance should be comprehensive, but not exhaustive; space must be left for the risk-based approach. There may ultimately be a tension between more comprehensive guidance and the clear steer from respondents that guidance is already too long. There may also be situations in which it is not appropriate for the government to approve guidance. This might be true where there is a market impact, for example, or limited information upon which government may form its view. Even where there is Treasury-approved guidance, this does not represent the single definitive legal interpretation of the regulations. It is ultimately for the court to determine in any given situation whether the law has been followed.

**3.100** The government acknowledges the importance of making regular timely updates to the guidance to ensure that it keeps pace with changes to the regulations and remains relevant. However, guidance must be relatively stable as it takes time for firms to update their practices and procedures in line with each update. The benefits of ad-hoc changes to guidance need to be carefully weighed against the risk that a constantly shifting guidance landscape results in confusion and mistakes.

**3.101** Throughout several sections of the Call for Evidence, respondents suggested more guidance as a possible solution in areas including new technology and the risk-based approach. Respondents suggested that more 'thematic' guidance might be useful, citing the FCA's guidance on PEPs as an example. In line with the third principle above, clarity and consistency of guidance is a priority, and the benefits of any

additional guidance will be considered against the risks of complicating the guidance landscape.

**3.102** Respondents also suggested that more case studies might be a way to convey how the regulations should be applied in practice. While case studies do have the benefit of showing a practical example, they can lead individuals to a rigid or overly narrow interpretation of the regulations, and one that is not in accordance with the risk-based approach. This is particularly true of case studies in Treasury-approved guidance, although industry sharing of best practice might avoid this issue to some extent.



# Chapter 4

## AML/CFT Supervision

4.1 All businesses required to comply with the MLRs must be supervised by one of the UK's 25 AML supervisors. There are three statutory supervisors, the FCA, HMRC and the Gambling Commission, and 22 PBSs who supervise the legal and accountancy sectors<sup>36</sup>.

4.2 The UK's supervision regime has evolved along with the regulated sector; most recently the FCA became the supervisor for cryptoasset service providers and HMRC the supervisor for letting agents and art market participants following the Money Laundering Regulations 2019 amendments to the MLRs. Compared to other AML regimes internationally, the UK has a relatively large number of supervisors, for example France has 14 supervisors while Ireland has 13, though countries with highly devolved supervision regimes (e.g., USA and Germany) often have many more supervisors. The majority of these supervisors are self-regulatory bodies (such as the UK's PBSs), and FATF MERs commonly identify such bodies as less effective elements of the countries' supervision regimes<sup>37</sup>.

4.3 The Treasury works with the 25 supervisors, as well as OPBAS, to support the government's objective of a robust and risk-based approach to supervision, applying dissuasive sanctioning powers when appropriate. The government is committed, including through the Economic Crime Plan 2019-22, to improving the effectiveness of its supervision regime by the time of its next MER.

## Enforcement

### Context

4.4 The FATF methodology recognises the need for countries to have 'effective, proportionate, and dissuasive sanctions' for failure to comply with AML requirements. These should be proportionate to the severity of the breach, effective at ensuring future compliance by sanctioned businesses, and dissuasive of non-compliance by others. The extent to which this is met is a core issue within Immediate Outcome 3 (Supervision).

4.5 The UK's AML supervisors have a broad range of enforcement powers, but the type and extent of these powers varies between each supervisor, most often due to their wider enforcement functions. For example, the FCA has access to a range of

---

<sup>36</sup> There are a further 3 PBSs with delegated regulatory functions (CILEx Regulation, Bar Standards Board and Solicitors Regulation Authority), bringing the total to 25.

<sup>37</sup> The FATF guidance on risk-based supervision, published in March 2021, acknowledges that a variety of supervisory frameworks are available and does not prescribe a particular supervisory framework as long as the outcomes address ML/TF risks. However, it does acknowledge that self-regulatory bodies may be sub-optimal, where they lack the powers and tools of government supervisory agencies, have conflict of interest- and independence-related issues, or human resources and other capacity constraints.

powers under the Financial Services and Markets Act 2000 (FSMA) which it may choose to make use of where an AML-supervised firm is also authorised under FSMA. PBSs have varying powers of enforcement which can be used in relation to their supervised firms in their capacity as members of the professional body.

**4.6** The MLRs provide for civil penalties, including fines and public censures, where a regulated business has failed to meet relevant requirements (set out in Schedule 6 of the MLRs). They also allow supervisors to impose penalties on officers of regulated businesses if they were knowingly involved in contravening the requirements of the MLRs. The MLRs also provide for a criminal offence where regulated businesses have failed to meet the relevant requirements. Criminal prosecutions can be brought against regulated businesses by HMRC and FCA as statutory supervisors, or by the Crown Prosecution Service.

Call for Evidence

**4.7** The Call for Evidence sought views on the MLRs' enforcement powers; including whether they were sufficient, whether they were used proportionately and dissuasively, and whether there is sufficient use of criminal sanctions for the worst offences.

**4.8** Respondents broadly thought the powers of enforcement available to supervisors (including non-MLRs powers) were sufficient. PBSs noted their own broad range of powers against members, though highlighted this can limit their enforcement of unregulated entities where these powers cannot be used. Though many supervisors are able to impose unlimited fines on members, the SRA, for instance, is limited to £2,000 through its own internal processes and must go to the Solicitors Disciplinary Tribunal for greater fines, which is lengthier and more resource-intensive.

**4.9** However, respondents noted the inconsistency in the application of enforcement powers across different sectors, and between PBSs for the legal and accountancy sectors. Several responses from the financial services sector noted the level of fines brought against financial institutions has been significantly higher than other sectors, and this has led to high levels of investment in AML regimes but has also made banks risk-averse and keen to avoid relationships with higher risks or higher costs attached.

**4.10** Supervisors have demonstrated differing views on the appropriateness of stringent enforcement decisions. A number of PBSs noted pressure for PBSs to be heavy-handed in enforcement even for administrative errors, but they believe such mistakes are better dealt with through education and guidance, since an overly severe approach could risk some businesses withdrawing membership while continuing to provide some services. Some PBSs expressed concern that current enforcement by way of fines is not sufficiently dissuasive and may be seen as a 'cost of doing business'.

**4.11** Several respondents called for greater transparency and consistency of supervisors' approach to enforcement; for example, common risk-based supervision methodologies or minimum expectations for enforcement, and common standards for publicising enforcement actions.

**4.12** The performance framework proposed earlier in this report would set out clearly the expectations of the supervisory regime, including on supervisors' approach to enforcement and ensuring they apply effective, proportionate and dissuasive

sanctions. Broader reform will be dependent on changes to the structure of the regime discussed below, and the government will include enforcement considerations in its planned consultation.

## Supervisory gaps

### Context

**4.13** The UK's supervision regime is comprehensive, with all regulated businesses being required under the MLRs to be subject to supervision. However, the government is aware of the possibility that some firms may, knowingly or not, operate outside of the supervision regime. This creates risk, as firms operating without supervision will have a poorer understanding of their vulnerabilities and may be more easily abused for criminal purposes.

**4.14** The Call for Evidence noted the potential supervisory gap within the legal sector, where independent legal professionals who undertake regulated activity but are not a member of one of the legal professional body supervisors do not have a 'default supervisor'. HMRC plays a similar role for the accountancy sector, whereby any accountancy service provider that is not a member of a professional body supervisor must register with HMRC for AML supervision.

**4.15** It also noted the broader concern that some businesses or individuals may deliberately attempt to evade AML supervision. This can also occur in cases where there is a clear supervisor for the business's regulated activities.

### Call for Evidence

**4.16** The Call for Evidence sought views on specific types of businesses which may offer regulated services without a designated supervisor, on the potential to create a default supervisor for the legal sector, and on how the government should best ensure businesses cannot conduct regulated activity without supervision. The majority of respondents were in the financial, legal and accountancy sectors, including supervisors.

**4.17** Legal sector responses agreed that some types of legal services could fall within scope of the MLRs but practitioners are often not members of one of the legal PBSs. The most common type of services identified were wills and estate planners and estate administration firms. The responses also highlighted potential complexity. For example, barristers who no longer have a practising certificate ("unregistered barristers") are prevented by law from offering legal services, but may continue to offer regulated services under the MLRs, for which they will not be supervised by the Bar Standards Board.

**4.18** The majority of respondents from other sectors who responded to this section were not aware of businesses operating outside of the supervision regime. However, a small number of respondents did raise possible risks. One response from the accountancy sector noted the rise of the gig economy had led to individuals offering accountancy services on a temporary basis, likely without supervision. Several accountancy professional bodies noted in their responses that the government should consider protecting the title of accountant, to make it easier to police the sector. One response from the property sector noted concerns that some estate and lettings agents had not yet registered for supervision with HMRC.

4.19 Responses from the legal sector generally favoured the creation of a default supervisor for the sector. This was partly in response to the gaps noted above, but respondents also noted that the lack of a default supervisor currently presented a risk to supervisory continuity if a legal PBS decided to withdraw as an AML supervisor, or if HM Treasury and OPBAS agreed to remove it from Schedule 1 of the MLRs.

4.20 Respondents noted the importance of effective collaboration and information sharing between supervisors to identify entities and individuals providing regulated services without being supervised.

## Supervisory reform

### Context

4.21 The UK's AML supervision regime received a rating of "moderate" effectiveness in its 2018 MER; indicating the FATF identified "major" deficiencies in the UK's regime. The FATF noted deficiencies including the need for all supervisors other than the Gambling Commission to improve their risk-based approach, the importance of applying proportionate, dissuasive and effective sanctions, and ensuring all supervisors provide effective guidance and engagement to their supervised populations. The recommendations of the MER were included in the actions of the first Economic Crime Plan.

4.22 The PIR of the MLRs conducted alongside this review has considered the progress made against these actions. The FCA and HMRC have both made improvements in their risk-based approach to supervision and have brought several significant sanctions against relevant businesses for breaching the requirements of the MLRs. However, there has been recent criticism from the IMF about the resource the FCA is able to dedicate to AML and low numbers of desk-based reviews and on-site visits<sup>38</sup>.

4.23 The PIR of the OPBAS Regulations concluded that OPBAS has made some progress against its objective to improve PBS supervision since 2018, and good progress against its remit to improve information and intelligence sharing across the regulated sector. PBSs have made significant improvement in their technical compliance with the requirements of the MLRs, aided by the OPBAS Sourcebook and ongoing engagement with PBSs. However, the third OPBAS report found significant deficiencies remain in the effectiveness of PBS supervision.

4.24 The importance of driving supervisory effectiveness has been highlighted elsewhere. In February 2022, the Treasury Select Committee published the report on the Committee's inquiry into Economic Crime. In the report, the Committee expressed disappointment that poor performance remained, and recommended that the review considers radical reforms including a move away from the self-regulatory model and reviewing the enforcement measures available to professional bodies. The Committee also reiterated the consideration of a supervisor of supervisors, to provide greater oversight across the whole supervision regime.

4.25 Though this review has considered the holistic case for reform, the government has also continued to make proactive steps to improve supervisory

---

<sup>38</sup> [IMF; United Kingdom: Financial Sector Assessment Program-Some Forward Looking Cross-Sectoral Issues. Paragraph 23 \[Accessed 6 June 2022\].](#)

effectiveness. In July 2021, the government consulted on potential amendments to the MLRs which formed the substance of the SI laid earlier in June. The consultation sought views on a number of proposals to improve supervisory effectiveness, including by clarifying supervisors' access to SARs for supervisory purposes, and improving their powers to share information.

#### Call for Evidence

**4.26** The Call for Evidence, while acknowledging the potential benefits of a broad range of supervisory bodies, sought views on the UK's supervisory regime. These included seeking views on the relative strengths and weaknesses of the regime, in particular deriving from statutory supervision and professional body supervision, and on any areas of potentially weak standards of supervision within the regime.

**4.27** To inform any future reform the Call for Evidence also sought views on which potential models, such as expanding OPBAS's remit or some degree of consolidation, would lead to improved supervisory effectiveness. Responses demonstrated divergent views on the current structure of the regime, set out below.

**4.28 Strengths of the current regime:** Respondents argued that the current model (with multiple PBSs across the legal and accountancy sectors) allows for sector-specific expertise to underpin supervision, with PBSs benefiting from closer relationships with their supervised population and, in some cases, of the jurisdiction in which they operate (for example, the legal PBSs supervising firms in Scotland or Northern Ireland). Respondents also noted that the principle of combining AML supervision with broader regulatory remits allows for more effective join-up between all activities, for example developing joint training or supervisory programmes, and reduces complexity for supervised populations.

**4.29 Rationale for change:** Most respondents agreed on the importance of the government's continued focus on improving the effectiveness of the supervision regime, but views on the extent and type of potential reform varied. Respondents, particularly in the financial services sector, expressed concern that the standard of supervision for legal and accountancy sectors remained poor, despite their high risk-rating in the NRA, and suggested the high numbers of supervisors risked inconsistency, regulatory arbitrage, and poor information sharing.

**4.30** Divergent to the reasoning that the PBSs are closer to their supervised sectors and therefore have better risk understanding, some responses pointed to the findings of the OPBAS third report that only a third of PBSs were effective in developing and recording in writing adequate risk profiles for their sector, and a similar proportion of PBSs were effective in regularly reviewing and appraising risks. Several respondents also raised concerns that PBSs were not fully independent of the sectors they supervised, with the potential to colour their development of policies and approach to licensing, compliance and enforcement.

**4.31** Some respondents argued that while structural reform was important, the focus should remain on improving current practices, including increasing the sharing of ML typologies, information and intelligence across supervisors, law enforcement and firms, and for increased consistency in standards and expectations. Respondents suggested that the regime suffered from insufficient resourcing as supervisory measures have not kept pace with responsibilities as the regulated sector has expanded.

**4.32 Possible models:** As noted above, respondents did not agree on which broad category of reform the government should seek, though there was broad agreement that maintaining the current system with no change would be unlikely to result in the improvement in effectiveness that is needed and would not address the criticisms that the government has received.

**4.33** The government is committed to ensuring the AML regime is effective; delivering risk-based supervision across the regulated sector, supporting businesses in meeting their obligations under the MLRs while implementing effective, proportionate, and dissuasive sanctions where required. Although the PIR of the MLRs has identified positive progress made in recent years, the government recognises there is more to do.

**4.34** This report has set out several areas in which improvements should be made, such as the provision of high value information to law enforcement and developing the understanding of risk across the regime. Supervisors have a key role to play in this, and HM Treasury will continue to work with supervisors on these incremental improvements to the functioning of the regime.

**4.35** More holistically, the review provides an opportunity to consider how the effectiveness of the regime can be improved through more substantial reform, including through amendments to the structure of the regime. Based on engagement with partners across government and the supervision regime, the government has developed four potential options for reform, discussed below.

Shortlisted options for reform

**4.36 OPBAS+:** The PIR of the OPBAS Regulations has found OPBAS has made good progress against its objectives, with PBS technical compliance against the MLRs being much improved and identifiable improvements in information-sharing platforms. Although there are still deficiencies in the effectiveness of PBS supervision, this suggests the regime is on an upwards trajectory that could be continued and reinforced rather than reformed. This model would therefore maintain the existing PBS framework, preserving progress made in recent years and the structural benefits of PBSs, including a deep understanding of sector, close relationships with industry, and benefits of integration with broader supervision.

**4.37** The government would support OPBAS's continued shift to focus on effectiveness by updating its formal remit alongside its ongoing Sourcebook review, and creating additional powers for OPBAS to intervene where it identifies deficiencies in PBS supervision. The government will consider whether additional powers, including a power to issue financial penalties, would be appropriate to strengthen OPBAS's impact.

**4.38** This option avoids major structural reform which may have its own drawbacks including the potential for weaker supervision during the transition period while resources are devoted to the transition rather than business and usual supervision.

**4.39** However, while this model would be more straightforward to deliver, it represents a continuation of the UK's existing approach. It would therefore not address structural concerns that the review has highlighted, for example the potential for inadequate regulatory/representative divides within the PBSs or weaker enforcement powers available to PBSs. The difficulty of a large number of supervisors, and resulting inconsistencies across the regime, would also persist.

**4.40 PBS consolidation:** There have been varying levels of improvement across the PBS regime, with some now providing significantly more effective supervision than others. The government will therefore consider a consolidation of the number of PBSs, transitioning supervised firms into between 2 and 6 remaining PBSs; i.e. either 1 or 3 PBSs for each of the legal and the accountancy sectors to reflect the different jurisdictions of the UK. This would be likely to decrease inconsistency across the PBS regime, allowing for a greater focus on effectiveness. If pursuing this option, the government would set out formal criteria to determine which PBSs should remain as AML supervisors, which could for example draw on current effectiveness, ability to onboard additional supervised population, and the potential for increased future effectiveness.

**4.41** This model would maintain some of the benefits of the current regime (noted above). It also presents an opportunity to simplify information-sharing across the legal, accountancy and TCSP sectors, as well as with other supervisors and law enforcement, where respondents to the Call for Evidence noted that a high number of supervisors could create barriers to effective sharing of information.

**4.42** The consolidation would not require firms currently supervised by a PBS that is removed as an AML supervisor to become full members of a new PBS. Rather the proposed model would create a new tier of sole AML supervision within the remaining PBSs. The reforms necessary to allow PBSs to supervise non-members for AML purposes would address the identified issue of a lack of default legal supervisor. However, it would require regulated firms not currently supervised by one of the remaining PBSs to pay fees to two professional bodies.

**4.43 Single professional services supervisor (SPSS):** The PIR of the MLRs noted improvements in statutory supervision provided by FCA and HMRC, including improvements in their risk-based approach to supervision and notable enforcement actions taken in recent years. It also noted the findings of the third OPBAS report of remaining deficiencies in PBS supervision, including a third failing to implement effective separation of advocacy and regulatory functions, just under half failing to demonstrate active engagement from senior management in AML supervision and over 80% failing to implement an effective risk-based approach. This was supported by Call for Evidence responses which question the regulatory/representative split in some PBSs. The government will therefore consider the establishment of a single statutory supervisor for professional services allowing for a greater focus on the effectiveness of these high-risk enabling services.

**4.44** The new supervisor would be given similar statutory powers (for AML purposes) to those provided by the MLRs to FCA and HMRC. As with PBS consolidation, the significant reduction in the number of supervisors across the regime should also support information and intelligence sharing with other supervisors, government and law enforcement, particularly where law enforcement may be limited in the intelligence they can share with PBSs as non-statutory bodies. The new supervisor could also assume the role of default supervisor for the accountancy and TCSP sectors from HMRC, and (as with PBS consolidation) would address the issue of a default supervisor for the legal sector.

**4.45** The government would consult on the extent of professional services that should be encompassed by the SPSS, for example its remit could extend beyond accountancy and legal supervision to cover estate and letting agents. Once established, it is possible this model could be expanded further, and could also provide

an additional option for future sectors added to the regulated sector. The creation of a dedicated AML authority within the UK regime also offers broader opportunities to achieve the UK's objectives of preventing illicit finance from entering the economy. These could include work across the regime to improve information and intelligence sharing (similar to OPBAS's current remit), or engagement and education with sectors currently beyond the scope of the regulated sector but which may still present a risk of ML/TF.

**4.46** The reform necessary to implement this model would be intensive and take several years to complete. There are risks inherent in this transition, including a lack of focus on supervision of high-risk sectors while the new supervisor is established. There is also a risk of potential 'brain-drain', as experienced supervisory staff at the PBSs may not apply for roles at the new supervisor, who might be left with a relatively inexperienced workforce.

**4.47 Single AML supervisor (SAS):** While the greatest rationale for reform is in the supervision of high-risk professional services (legal, accountancy, TCSP, property), greater consolidation of the regime beyond a Single Professional Services Supervisor may offer further effectiveness gains.

**4.48** This new supervisor would represent a dedicated AML authority, placing AML supervision across the regulated sector on an equal footing without competing organisational priorities and ensuring a consistent approach to supervision and enforcement. Similar to SPSS, it should also simplify sharing across sectors, as well as sharing between the new supervisor and other organisations, including law enforcement agencies.

**4.49** As with SPSS, a single AML supervisor could easily take on new regulated sectors, and could act beyond supervision to improve the UK's approach to tackling illicit finance, such as improving information and intelligence sharing across the public and private sectors and engaging with sectors outside the scope of the MLRs who may still be at risk of being abused for criminal purposes.

**4.50** The single AML supervisor would face similar transition challenges to a single professional services supervisor, with the risk that supervision may be temporarily weakened and valuable expertise could be lost. However, the risk could be magnified given the consolidation would occur across the whole of the regulated sector, though this could be mitigated through a phased transition.

**4.51** A single AML supervisor would also lose areas of AML supervision that are currently effectively embedded within broader regulatory functions, such as the FCA's supervision of financial institutions and the Gambling Commission's supervision of casinos. The current integration within general supervision would have to be replaced by activity undertaken by the new single AML supervisor, though may be mitigated through information and intelligence sharing between the new supervisor and the regulators.

**4.52** Finally, a single AML supervisor would have to be carefully monitored to ensure it was appropriately prioritising resources and targeting risks across the whole of the regulated sector.

## Next steps



4.53 As set out above, the government is committed to continuing to identify and address deficiencies in the supervision regime and believes that the options set out above would all deliver improvements in the effectiveness of AML supervision, strengthening the UK's regime. The short-listed options range in the impact and level of reform they would represent. For example, OPBAS+ represents a continuation of the existing approach, embedding the OPBAS model and ensuring it is equipped to continue its shift to focus on effective PBS supervision, while SPSS and SAS represent fundamental reforms to the UK's approach to supervision, which have the potential for substantial improvements in the UK regime but come with commensurate risks.

4.54 Given the impact of such reform, the government is not proposing a single model to pursue at this stage. A formal consultation will be issued in order to better understand the implications and practicalities of each model, and test our understanding of the benefits and risks before deciding on any option.

4.55 Any changes would take place over a period of years, particularly for major structural reform. In the interim, the government will continue to work with supervisors to improve supervisory effectiveness and ensure that more short-term improvements are still achieved while longer term reform is considered.

# Chapter 5

## Conclusions

**5.1** Money laundering and terrorist financing continue to be significant threats to the UK, to its economy, stability, and the welfare of its citizens, as well as to people overseas. The threat continues to evolve, and while the UK has some of the strongest AML controls in the world, there remains more to be done to make our AML regime more effective.

**5.2** This review has deepened the government's understanding of the barriers to an effective AML system. While some of these may have legislative solutions, many do not, and there are also those for which the solutions are not yet clear. In these cases, the government has proposed further work, or further engagement to improve the implementation of the regulatory framework.

**5.3** **On supervision**, the government is clear that reform is needed, but the best scale and type of reform to improve effectiveness and solve the problems that have been identified is not yet clear. The government has laid out a shortlist and will consult further on options for reform.

**5.4** **On the specific regulations**, the government is confident that most of the requirements and provisions currently in the MLRs are the right ones. The government is committed to continuing to align with and champion the FATF's recommendations. Where the government is confident that changes will improve the effectiveness of the regulations, including the risk-based approach, they have been proposed in this review. However, there are other areas for change that will need to remain under consideration as the government continues to gather evidence and better understand some of the risks and drawbacks.

**5.5** **On objectives**, the government will set out clear new objectives to the MLRs, in line with the FATF's methodology and embedding a renewed definition of effectiveness. Measuring effectiveness remains difficult, but the government is committed to setting out an improved set of metrics to move forward in this area.

**5.6** **On risks**, the government will use existing processes including the NRA to consider emerging ML/TF risks and consider sectors for addition to the MLRs. The government will not set out National Priorities at this time but will instead focus on a system-wide effort to improve risk understanding and information sharing around risks and threats.

**5.7** **On wider levers for effectiveness**, the government continues to engage with stakeholders to deepen our understanding of the application of new technologies, the challenges faced by small or newly regulated firms, the incentives of the current system and the supervisory approach to the risk-based approach. The review has also assessed the MLRs' approach to gatekeeping, and concluded a radical overhaul is not required at this time.

**5.8** **On guidance**, the government will not overhaul the current guidance arrangements but will seek to make the existing guidance more streamlined,

consistent and clear, and consider requests for further guidance on a case-by-case basis.

**5.9** Taken together, these steps comprise the government's key areas of focus for the next phase of the development of the MLRs and the wider AML regime that sits around them. This review has made clear that some of our most powerful levers for change are those which are wider than the regulations, including how we work with partners in law enforcement and beyond. The government is due to publish its second Economic Crime Plan later this year, and many areas of interest from this review will naturally flow into that wider forum.

# Annex A

## Professional Body Supervisors

1. Association of Accounting Technicians
2. Association of Chartered Certified Accountants
3. Association of International Accountants
4. Association of Taxation Technicians
5. Chartered Institute of Legal Executives/CILEx Regulation
6. Chartered Institute of Management Accountants
7. Chartered Institute of Taxation
8. Council for Licensed Conveyancers
9. Faculty of Advocates
10. Faculty Office of the Archbishop of Canterbury
11. General Council of the Bar/ Bar Standards Board
12. General Council of the Bar of Northern Ireland
13. Insolvency Practitioners Association
14. Institute of Certified Bookkeepers
15. Institute of Chartered Accountants in England and Wales
16. Institute of Chartered Accountants in Ireland
17. Institute of Chartered Accountants of Scotland
18. Institute of Financial Accountants
19. International Association of Bookkeepers
20. Law Society/ Solicitors Regulation Authority
21. Law Society of Northern Ireland
22. Law Society of Scotland

# Annex B

## Glossary

4MLD – 4<sup>th</sup> Anti Money Laundering Directive

5MLD – 5<sup>th</sup> Anti Money Laundering Directive

AML/CFT – Anti money laundering and countering the financing of terrorism

AMLD – (European Union) Anti Money Laundering Directive

BOOM – Beneficial Owners, Operators and Managers

CCAB – Consultative Committee of Accountancy Bodies

CDD – Customer due diligence

DAML – Defence Against Money Laundering (SAR)

DCMS – Department for Digital, Culture, Media & Sport

EDD – Enhanced due diligence

EU – European Union

F&P – Fit and proper

FATF – Financial Action Task Force

FCA – Financial Conduct Authority

FinCEN – (United States) Financial Crimes Enforcement Network

FSMA – Financial Services and Markets Act 2000

HMRC – Her Majesty's Revenue and Customs

HRTC – High risk third countries

IMF – International Monetary Fund

IO – (FATF) Immediate Outcome

JMLIT – Joint Money Laundering Intelligence Taskforce

JMLSG – Joint Money Laundering Steering Group

LSAG – Legal Sector Affinity Group

OPBAS – Office for Professional Body AML Supervision

OPBAS Regulations – Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017

MER – (FATF) Mutual Evaluation Report

ML – Money Laundering

MLRs – Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

MORILE – Management of Risk in Law Enforcement

MSB – Money service business

NCA – National Crime Agency

NRA – National Risk Assessment of Money Laundering and Terrorist Financing

PBS – Professional Body Supervisor

PCA – Pooled client account

PEP – Politically exposed person

PIR – Post-implementation review

POCA – Proceeds of Crime Act 2002

SAMLA – Sanctions and Anti Money Laundering Act 2018

SAR – Suspicious Activity Report

SAS – Single AML supervisor

SDD – Simplified due diligence

SI – Statutory Instrument

SPSS – Single professional services supervisor

TCSP – Trust and company service provider

TF – Terrorist Financing

UKFIU – UK Financial Intelligence Unit

## HM Treasury contacts

This document can be downloaded from [www.gov.uk](http://www.gov.uk)

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

Correspondence Team  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: 020 7270 5000

Email: [public.enquiries@hmtreasury.gov.uk](mailto:public.enquiries@hmtreasury.gov.uk)