



HM Treasury

Reform of the Anti-Money Laundering and Counter- Terrorism Financing Supervisory Regime

Consultation

June 2023

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Laundering and Counter-
Terrorism Financing
Supervisory Regime

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Ministerial Foreword

Money laundering and terrorism financing continue to pose a significant threat in the UK and worldwide. Money laundering is the lifeblood of organised crime, allowing individuals to profit from malign activities through disguising illicit financial gains. Terrorism financing threatens national security and facilitates atrocities we have suffered here in the UK and across the rest of the world. To protect the integrity of the UK's financial and professional services sectors, we must also do more to address illicit finance linked to corrupt elites – not only from Russia, but from all kleptocratic regimes.

The Economic Crime Plan (2023-2026) is a comprehensive strategy to direct public and private resources in a system-wide response to the threat of economic crime. Reforming the anti-money laundering and counter-terrorism financing (AML/CTF) supervisory regime is a specific action within the Plan that HM Treasury has committed to deliver, and this consultation is the next step. Improved supervision will support businesses across the regulated sector to understand and effectively implement their obligations under the Money Laundering Regulations, and ensure that appropriate action is taken against firms that fail to meet these obligations. It will also reinforce other important reforms elsewhere in the system, such as the transformation of Companies House and wider measures being introduced through the Economic Crime and Corporate Transparency (ECCT) Bill.

In the most recent peer assessment of the UK by the Financial Action Task Force (FATF), the FATF identified inconsistencies and weaknesses in the UK's supervisory system - in particular in the professional services sector - that represent a significant vulnerability.

This consultation sets out our objectives for this reform: to strengthen the effectiveness of the supervisory system, to improve co-ordination across the UK's AML/CTF system, and to ensure the chosen policy is feasible. There are four potential models set out in this document, ranging from new powers which would bolster the existing regime to making a public body responsible for some or all UK AML/CTF supervision. I hope all those in the AML regulated sector contribute to this consultation to enable us to identify and deliver the best route to strengthen our supervision of efforts to prevent money laundering and support the UK's overall fight against Economic Crime.

Baroness Penn – Treasury Lords Minister



Executive Summary

Background:

Anti-Money Laundering/Counter-Terrorism Financing (AML/CTF) supervisors oversee businesses who conduct activity regulated under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs). There are three statutory supervisors: FCA, HMRC, and Gambling Commission (GC), and 22 Professional Body Supervisors (PBSs). PBSs are private bodies who provide supervision for legal and accountancy firms¹.

The UK's first ML/TF National Risk Assessment (NRA) in 2015 identified weaknesses in professional body supervision. Inconsistencies in supervision generally were identified in the latest Mutual Evaluation Report of the UK's AML/CTF regime carried out by the Financial Action Task Force (the international standard-setting body) in 2018. It found, for instance, that there were significant weaknesses in the risk-based approach to supervision among all the UK AML/CTF supervisors, except for the GC.

Following a commitment in the 2016 AML/CTF Action Plan, the government created the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) in 2017, which seeks to ensure robust, consistent supervision across PBSs, as well as good information sharing between supervisors and with law enforcement. OPBAS has delivered substantial improvements in PBS supervision.

However, significant weaknesses remain in the UK's supervision regime. HM Treasury's 2022 review of the UK's AML/CTF regime ("the Review")² concluded that there was rationale for further reform.

The Review also proposed some specific amendments to the MLRs, aimed at supporting regulated firms to apply a more proportionate, risk-based approach. We will begin consultation on these proposed regulatory amendments by Q4 2023.

Objectives:

This consultation offers stakeholders the opportunity to provide their views on which of the four options proposed would most improve the regime. There are three objectives for supervisory reform. These form the criteria against which we will evaluate the evidence we gather.

¹ Please see paragraph 1.28 for what we mean by 'firms'.

² <https://www.gov.uk/government/publications/review-of-the-uks-amlcft-regulatory-and-supervisory-regime>

- 1) **Supervisory effectiveness:** leading to better outcomes in line with the priorities identified in HM Treasury's recent review of the AML/CTF regime³: risk-based supervision that ensures both consistent and proportionate compliance with the regulations across the AML/CTF-regulated population and increased effectiveness of these preventative measures in protecting the UK economy from illicit finance.
- 2) **Improved system coordination:** more effective collaboration and accountability across the AML/CTF regime. This includes information sharing among supervisors, and between supervisors and law enforcement, and coherence with wider regulatory regimes.
- 3) **Feasibility:** ensuring that the chosen model is practically feasible, with suitable funding and governance structures.

Model 1: OPBAS+

The first potential model would involve no structural change to the regime. OPBAS would be given enhanced powers to increase the effectiveness of supervision by the PBSs. This should capitalise on the improvement in standards brought about by OPBAS' activity since its establishment.

Under this option, OPBAS could be given a range of new powers. We believe that any additional powers granted to OPBAS ought to be coupled with additional accountability mechanisms. This model would be the most immediately feasible, requiring no structural changes.

Model 2: PBS Consolidation

Model 2 would likely see either two or six PBSs retain responsibility for AML/CTF supervision. There could be either one accountancy sector supervisor and one legal sector supervisor, both with UK-wide remits, or one accountancy sector supervisor and one legal sector supervisor within each jurisdiction: England and Wales, Scotland, and Northern Ireland. Under either option, there would be a decision required as to whether accountancy firms currently supervised by HMRC should transfer to the consolidated PBS.

This model would retain the current system in which private bodies supervise firms, including representative bodies, but reduce inconsistency and complexity by ensuring only the highest performing supervisors remained.

Model 3: Single Professional Services Supervisor (SPSS)

³ Review of the UK's AML/CTF regulatory and supervisory regime - GOV.UK (www.gov.uk)

The third model would see a single body supervise all legal and accountancy sector firms for AML/CTF. It may also supervise some or all of the wider sectors currently supervised by HMRC.

This body would most likely be a public body, unlike the PBSs. There are possible benefits to this, including that it may be more appropriate for a public body to hold broad enforcement powers, due to oversight of these bodies by Parliament. Furthermore, a public body created for the purpose of supervision may be more able than private bodies to expand its remit should there be later changes to sectors in scope of the MLRs.

The body would be expected to be operationally independent of any ministerial department, but accountable to the Treasury. While the existing professional body supervisors would no longer be responsible for AML/CTF supervision, they could continue to supervise firms for other purposes. It would be important to mitigate the impact of this dual regulation on firms.

Model 4: Single Anti-Money Laundering Supervisor (SAS)

Under this model, all AML/CTF supervision in the UK would be undertaken by a single public body. The major difference between this and previous options is that the FCA and GC would also stop supervising firms for AML/CTF compliance.

Similar points about the potential advantages of a public body carrying out these functions would be applicable. While the existing supervisors would no longer be responsible for AML/CTF supervision, the FCA, GC and PBSs would continue to supervise firms for general regulatory conduct within their respective remits. It would be important to mitigate the impact of this dual regulation on firms. An SAS would likely be operationally independent of any ministerial department, but accountable to the Treasury.

Sanctions Supervision

Sanctions have grown in number and complexity following the Russian invasion of Ukraine in February 2022. Novel trade sanctions often target supervised sectors, such as accountancy. While most supervisors currently have no explicit powers to supervise sanctions compliance and controls for non-CT sanctions regimes, some supervisors already assess sanctions compliance as part of broader AML/CTF supervision.

In light of these increased demands, supervisors could play an important role in communicating sanctions risks to businesses and supporting and overseeing the development of effective sanctions compliance controls. As a result, HM Treasury intends to use this consultation to gather evidence as to whether there is a need for a more formalised system of sanctions supervision, and how this could interact with the four reform models.

Chapter 1: Background

The Money Laundering Regulations and the current supervision framework

1.1 The UK's role as one of the world's leading international financial centres and home to new and innovative technologies, reputation for ease of doing business, openness to overseas investment, and status as a major overseas investor and exporter all create a vulnerability to economic crime.

1.2 The UK has an extensive AML/CTF regime, in line with international standards, which works to protect against these risks. The current regulations are the MLRs. There have been amendments to keep the MLRs up-to-date and HM Treasury published a review of these regulations in 2022.⁴

1.3 Our regime is closely aligned with the 40 recommendations of the Financial Action Task Force (FATF), an intergovernmental body which sets and promotes full implementation of international standards for measures to combat ML, TF, and the financing of the proliferation of weapons of mass destruction (PF).

1.4 The UK is a founding member of the FATF and is fully committed to ongoing implementation of its standards. Every 8-10 years, each jurisdiction around the world is evaluated by expert assessors from other countries and a Mutual Evaluation Report (MER) documenting the result is published by the FATF. The UK's last MER was published in 2018.

1.5 The MLRs establish 25 AML/CTF supervisors to ensure compliance with their requirements. Three of these are statutory supervisors, and 22 are PBSs. HM Treasury is responsible for ensuring the effectiveness of the supervisory regime and engages regularly with the supervisors. HM Treasury publishes an annual report on the performance of all supervisors, with the latest edition released in December 2022.⁵

1.6 "Statutory supervisors" is the term often used, including by the FATF in the UK's last assessment, to refer to the three public sector supervisors. We continue to use this term throughout. The three statutory supervisors are:

- **The Financial Conduct Authority (FCA).** The FCA is the independent conduct regulator of financial services firms and

⁴ https://www.legislation.gov.uk/ukSI/2017/692/pdfs/uksiod_20170692_en.pdf

⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125446/Supervision_report_final_draft_-_signed.pdf

financial markets in the UK.⁶ It supervises approximately 21,500 firms for compliance with the MLRs, as of December 2022.⁷ These are all financial services firms, including banks, electronic money institutions and crypto-asset exchanges and custodian wallet providers. The FCA is responsible for supervising firms in its remit who also provide Money Service Business or Trust and Company Services.

- **The Gambling Commission (GC)** is the statutory AML/CTF supervisory authority for all online (remote) and land-based (non-remote) casinos operating in Great Britain or providing casino facilities to British customers, as well as Money Service Business activities offered by these firms. The GC supervised 265 firms for compliance with the MLRs in December 2022⁸.
- **His Majesty's Revenue and Customs (HMRC)** is the statutory AML/CTF supervisor of several activities regulated under the MLRs. It supervised 36,960 firms in December 2022, of which 9,324 were sole traders⁹. More detail on the sectors HMRC supervises are set out in Annex F.

1.7 These three statutory supervisors sit alongside 22 PBSs. PBSs are private bodies responsible for the AML/CTF supervision of the legal and accountancy sectors in the UK. Many of the PBSs are trade associations and professional membership bodies that perform several roles in relation to their members. There are 9 legal PBSs listed in the MLRs, three of which delegate their responsibilities to the Solicitors Regulation Authority, the Bar Standards Board, and the Chartered Institute of Legal Executive Regulator respectively. The remaining 13 PBSs are accountancy sector bodies, which include not only chartered accountants but also insolvency practitioners, bookkeepers, and taxation technicians.

1.8 In the 2021-2022 reporting period there were 33,911 supervised entities in the accountancy sector and 8,462 in the legal sector. Of the supervised entities in the accountancy sector, 57% were firms and 43% were sole practitioners. Of the supervised entities in the legal sector, 72% were firms and 28% were sole practitioners. Of these, 22,330 firms and sole practitioners acted as Trust and Company Service Providers (TCSPs). PBSs are designated via inclusion in Schedule 1 of the MLRs (see Annex D of this consultation document). The nature and size of

⁶ Our perimeter | FCA

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125446/Supervision_report_final_draft_-_signed.pdf for figures on FCA, HMRC, GC, and the PBSs.

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125446/Supervision_report_final_draft_-_signed.pdf for figures on FCA, HMRC, GC, and the PBSs.

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125446/Supervision_report_final_draft_-_signed.pdf for figures on FCA, HMRC, GC, and the PBSs.

each PBS varies considerably. The size of the supervised population per PBS varies from 0 to 10,476.¹⁰

1.9 In 2017, the government created OPBAS through the OPBAS Regulations 2017 ('the OPBAS Regulations'). OPBAS oversees the work of the PBSs with a view to ensuring a robust and consistently high standard of supervision, and to facilitate information and intelligence sharing between PBSs, statutory supervisors, and law enforcement agencies.

External Oversight of the UK's AML/CTF Supervision Regime

1.10 In 2015, HM Treasury's National Risk Assessment noted concerns about certain aspects of the supervisory system, including inconsistent application of a risk-based approach, and committed to address these issues. This led to the creation of OPBAS. Following this, the UK's last FATF MER was published in 2018. This assessment was positive overall regarding the UK's implementation of the FATF standards but found the UK's supervision regime to be only moderately effective. Specifically, it found significant weaknesses in the risk-based approach to supervision among all the UK AML/CTF supervisors, except for the GC. However, it stated that the statutory supervisors, and the largest legal sector PBSs, had stronger understanding of risks within their sectors than the other PBSs.

1.11 The Treasury Select Committee assessed the government's response to economic crime in 2021-22, looking in detail at AML/CTF supervision.¹¹ Its assessment of the FCA's "assertive" approach was positive, although it recommended that the FCA should increase its focus on ensuring that banks are not unfairly freezing bank accounts and de-risking customers. Meanwhile, though it highlighted increases in HMRC's enforcement action in relation to MSBs, and positive appraisals of its work in this space, it concluded that there were 'signs that HMRC could improve its supervisory performance' related to TCSPs in particular.

1.12 While noting improvements, the Treasury Select Committee report was more critical of supervision among PBSs.

Whilst the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) has made good progress, it is disappointing that nearly four years after it was set up, it is still encountering poor performance from a large proportion of the professional bodies it supervises...we recommend that [HM Treasury's review of the supervisory system] should not shy away from considering radical reforms
Treasury Select Committee, Report on Economic Crime Inquiry, February 2022¹²

¹⁰ Data from HM Treasury's supervision report in December 2022

¹¹ Economic crime (parliament.uk)

¹² Economic crime (parliament.uk).

1.13 HM Treasury's Post-Implementation Review of the MLRs was carried out in 2022 and assessed the extent to which the policy objectives of the MLRs had been met. It found that both HMRC and the FCA had strengthened their risk-based approach in response to the findings of the MER.¹³ However, it noted concerns raised by the International Monetary Fund regarding the number and proportion of desk-based reviews, rather than onsite visits, by the FCA. It also pointed to OPBAS' findings in its first three reports that, while there were improvements in the supervision of PBSs since the 2015 National Risk Assessment, inconsistencies remained.

1.14 The findings of OPBAS' fourth report, published in April 2023, followed this trend. It concluded that while compliance with the technical requirements of the MLRs has significantly improved since OPBAS was established in 2018, the effectiveness of supervisory interventions across PBSs remained inconsistent.

"In the absence of evidence of consistent effectiveness across all PBSs, there is rightly a challenge on the impact of the current framework. This is making a stronger case for more material supervisory system reform" – OPBAS, Report on Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors, April 2023

The 2022 Review of the Money Laundering Regulations

1.15 The Review was informed by a Call for Evidence, which included questions on the effectiveness of the supervision regime.

1.16 The first topic related to supervisory effectiveness was **enforcement**. Whilst respondents generally thought the MLRs provided a sufficient range of enforcement powers, the Review found that these had been applied inconsistently. Some PBSs rarely levied fines or levied only low value fines. Some respondents from the financial services sector remarked that levels of fines relating to financial institutions were significantly higher than in other sectors, which can encourage a risk-averse rather than a risk-based approach. Similarly, it was noted that supervisors do not have the same enforcement powers, for example the FCA has access to a wider range of enforcement powers than most other supervisors due to its powers under the Financial Services and Markets Act 2000 (FSMA). Some responses noted the inability of certain PBSs to issue dissuasive sanctions.

1.17 The second topic considered was **supervisory gaps**, where the main gap noted was the lack of a 'default supervisor' for the legal sector who identified firms who are without supervision. This could in theory lead to some legal firms not being supervised.

¹³ Post Implementation Review (legislation.gov.uk)

1.18 Finally, the call for evidence asked respondents if they believed that the **structure** of the current AML/CTF regime was appropriate. The main benefit of the current regime raised in responses was subject matter expertise. The existence of multiple PBSs allows each to focus on one select group of firms from within a specific sector, allowing the PBS to develop more detailed knowledge of how that sector operates. Respondents did however raise several important issues. There was concern that the high number of supervisors risked inconsistency of supervisory interventions and poor information sharing. Several respondents also raised concerns that PBSs were not fully independent of the sectors they supervised, suggesting that this could potentially impact their development of policies and approach to licensing, compliance and enforcement. These views align with considerations set out in the FATF's guidance on self-regulatory bodies.¹⁴

1.19 On this basis, the Review concluded last year that there was a strong rationale for reform of the AML/CTF supervision regime. It set out **four overarching models for reform**. Diagrams illustrating each of the models are included in Annex E:

- Option 1: enhancing OPBAS, or 'OPBAS+'
- Option 2: reducing the number of AML/CTF PBSs
- Option 3: creating a single AML/CTF supervisor for professional services, replacing the current PBSs
- Option 4: creating a single AML/CTF supervisor for all sectors

1.20 The Review gathered some initial views on these options but committed to consult in more detail to understand the benefits and challenges of the different options. This document delivers on that commitment, also captured in the Economic Crime Plan 2023-26, to publish a formal consultation in Q2 2023¹⁵.

1.21 Despite the strong case for reform, the current system has several positive aspects which we should seek to build on. For example, the UK in 2018 achieved full 'technical compliance' with all of the relevant FATF standards assessing a jurisdiction's financial and non-financial supervision laws, which were deemed to provide a comprehensive legal framework for supervision by both the statutory and professional body supervisors. All supervisors including the PBSs have made improvements to their supervision since the UK's last FATF

¹⁴ 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.

¹⁵ <https://www.gov.uk/government/publications/economic-crime-plan-2023-to-2026>

assessment and continue to work closely with the government and other authorities.

International Comparisons

1.22 AML/CTF supervision is particularly important for the UK given our position as one of the world's largest financial centres and home to a range of world-leading professional services firms. These sectors are central to the UK economy but are also subject to high ML/TF risks. To ensure our reforms address this risk in line with international best practice, we have examined AML/CTF supervision regimes around the world with particular focus on allocation of supervisory responsibilities across the public and private sectors. We focused on comparable economies and, where different, jurisdictions assessed by the FATF as having effective supervision regimes.

1.23 The FATF's general findings in over 140 country assessments of compliance with its standards for AML/CTF supervision are that only 10% of countries have a 'substantially effective' regime, with the most consistent weaknesses present in **non-financial sector supervision** and in the use of **dissuasive enforcement action**. For example, the FATF found that 60% of national financial sector supervisors demonstrated a relatively strong understanding of risks in their sectors compared to 24% amongst non-financial sectors (e.g. legal and accountancy).¹⁶ Regarding governance and allocation of supervisory responsibilities, analysis of all FATF country assessments to date reveal that financial sectors are almost exclusively supervised by a small number of public bodies, while non-financial sector supervision is carried out by a mix of public and non-public bodies, with significant variance in the number of supervisors responsible for these sectors. Many of these findings correspond to the UK's FATF assessment in 2018.

1.24 Amongst the Group of Seven (G7) economies, only Canada was found to have a 'substantially effective' AML/CTF regime (i.e. more effective than the UK's). In Canada, supervision for all regulated firms in both the financial and non-financial sectors is performed by the Financial Transactions and Reports Analysis Centre of Canada, though the prudential regulator, the Office of the Superintendent of Financial Institutions, works with FINTRAC to supervise the major banking sector firms for AML/CTF. Saudi Arabia is the only other G20 economy, alongside Canada, to have achieved a "substantially effective" rating. In Saudi Arabia, the central bank supervises the majority of the financial sectors while two government departments supervise non-financial sectors. Hong Kong and Singapore, two international financial centres with similarities in ML/TF risks to the UK, achieved the same FATF assessment rating as the UK. In both jurisdictions, financial sector supervision, led by the public sector, was found to be more effective

¹⁶ <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Effectiveness-compliance-standards.html>

than non-financial supervision, led by a range of public and non-public bodies.

1.25 Other jurisdictions that have achieved ‘substantially effective’ regimes according to the FATF generally allocate responsibility for supervision of riskier sectors to public bodies. Spain’s Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences has overall responsibility for all AML/CTF supervision in collaboration with sectoral supervisors. SEPBLAC also oversees implementation of targeted financial sanctions. In other jurisdictions such as Bermuda and Malaysia, responsibility for supervision of many sectors in the financial and non-financial sectors is consolidated within either a conduct supervisor (Bermuda) or the central bank (Malaysia). In summary, the FATF has found that countries with more effective supervisory regimes tend to consolidate supervision responsibilities for both financial and non-financial sectors within a small number of public sector bodies. However, the overall weak level of supervisory effectiveness amongst all jurisdictions assessed by the FATF to date, each with differing systems, implies that no one model is definitively superior to others.

1.26 We also considered other relevant international efforts, including the European Union (EU)’s intention to create an EU-level AML/CTF supervisor to address inconsistent supervision and insufficient coordination between supervisors, to be known as the Authority for Anti-Money Laundering and Countering the Financing of Terrorism.¹⁷ This Authority is proposed to coordinate and oversee all national supervisors for the financial and non-financial sectors (i.e. indirect supervision), and have direct supervisory powers over at least certain financial sector obliged entities, though details regarding its remit and authorities are still the subject of deliberation between relevant parties authorities. The objective of the proposal is, arguably, similar to that behind the UK’s creation of OPBAS, which aimed at addressing inconsistent supervision of non-financial sectors by creating additional oversight responsibilities within the public sector.

Structure of the consultation document

1.27 This document begins by setting out the objectives of the consultation, illustrating these with reference to the main issues identified with the current system. It then discusses the details of the four options, asking key questions about the design, benefits, and risks of each option. These four chapters constitute the main part of this document. This is followed by a chapter discussing sanctions supervision, which is also under consideration as part of this consultation. It ends with a thematic comparison of the four options

¹⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0421>

against the overarching objectives. A full list of questions, and a 'next steps' chapter, can be found at the end of this document.

1.28 Throughout this document we use the term 'firm' to refer to businesses and individuals who carry out regulated activity and are supervised for this activity by one of the AML/CTF supervisors. We sometimes also use the term 'member' to refer to businesses and individual supervised by a PBS. We are aware that not all regulated entities are firms, some are individual practitioners (e.g. barristers), and that not all PBSs have 'members' – some are not representative bodies, in particular in the legal sector. We use the terms 'firm' and 'member' for brevity only, and where relevant are referring to individuals and regulated entities who are not a member of a PBS.

1.29 Different considerations will apply across the AML/CTF-regulated sectors, including the legal and accountancy sectors, and we encourage respondents to this consultation to indicate which sectors any evidence they provide is primarily relevant to.

Chapter 2: Objectives

2.1 The overall purpose of this consultation is to gather evidence on the basis of which HM Treasury can reach a policy decision, no later than the end of Q1 2024, on the best overall model to pursue for AML/CTF supervisory reform.

2.2 Below we list the three objectives for supervisory reform - the criteria against which we will analyse the evidence gathered through this consultation. The rest of this chapter sets out in more detail what is meant by each objective - the key elements of the outcomes we want to achieve through a reformed supervision regime - and provides a framework within which to analyse the policy options. Increased supervisory effectiveness is the primary objective and overall aim of this reform. Objectives two and three are secondary objectives, which are necessary but not sufficient conditions to deliver greater supervisory effectiveness.

1. **Increased supervisory effectiveness:** leading to better outcomes across the regime in line with the priorities identified in HM Treasury's recent review of the AML/CTF regime¹⁸: risk-based supervision that ensures both consistent and proportionate compliance with the regulations across the AML/CTF-regulated population and increased effectiveness of these preventative measures in protecting the UK economy from illicit finance.
2. **Improved system co-ordination:** leading to more effective collaboration and accountability across the AML/CTF regime, including between supervisors and with law enforcement agencies, and taking crossovers with wider regulatory regimes and policies into account (e.g. the financial sanctions regime, and transformation of the role of Companies House).
3. **Feasibility:** ensuring the chosen model is practically feasible with suitable funding and governance structures and realistic timelines that allow for timely implementation (with a view to demonstrating improved effectiveness ahead of the next assessment of the UK's AML/CTF regime by the FATF, beginning in 2026).

2.3 Through the Economic Crime Plan 2023-26, HMT and OPBAS have committed to work with supervisors to ensure that shorter-term improvements to effectiveness are still achieved while longer-term reform options are developed. This will be assisted by a greater focus on

¹⁸ [Review of the UK's AML/CTF regulatory and supervisory regime - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118111/aml-ctf-review-report.pdf)

the effectiveness of the supervision regime, including through the creation of the new performance framework recommended by the 2022 review, and the updated OPBAS sourcebook which focuses on driving improvements in effectiveness across the PBSs.

Supervisory effectiveness

2.4 Supervisors should take a **risk-based and data-led approach to AML/CTF supervision**, developing an in-depth and up-to-date knowledge of the risks in the sectors they oversee, and allocating their resources accordingly¹⁹. This should lead to greater **proportionality in supervision**, with supervisors allocating more resources to higher risk firms and fewer resources to lower risk firms on the basis of a sound and up-to-date understanding of risk within supervised sectors. However, currently, there is inconsistency in supervisors' approach to risk-based supervision²⁰. Our objective is that all supervisors have an accurate and dynamic understanding of the AML/CTF risks in their supervised sectors, aligned with relevant sources of risk information such as National Risk Assessments and National Crime Agency (NCA) threat assessments²¹. They should have the data systems, governance, and strategy in place to allocate resources primarily to higher-risk firms but ensuring that all firms, including in lower-risk sectors, face the possibility of supervisory intervention. This should be underpinned by robust data management and analysis systems that provide a clear and sufficiently granular picture of the risk-profile of the supervised population, both between and within sectors.

2.5 An effective supervision regime will include **effective gatekeeping** to the regulated sector under the MLRs. 'Gatekeeping' is a key function of supervisors, ensuring that firms who they supervise for AML/CTF compliance meet the minimum necessary standards. It involves ensuring that positions of significant influence over regulated businesses are not held by those who cannot demonstrate integrity and competence and also that the firms in question have the necessary systems in place to identify and prevent illicit financial flows. All firms intending to carry out regulated activity should be subject to effective gatekeeping assessments, designed to be proportionate and not overly burdensome of legitimate business.

2.6 An effective supervisory regime will also require supervisors to **police the regulatory perimeter**, proactively identifying and taking

¹⁹ This is aligned with FATF guidance, <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Guidance-rba-supervision.html>

²⁰ Paragraph 2.7, <https://www.fca.org.uk/publication/opbas/opbas-report-progress-themes-supervisory-work-2022-23.pdf>

²¹ HM Treasury has published the NRA of Money Laundering and Terrorist financing, 2020 (<https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2020>) and Proliferation Financing 2021 (<https://www.gov.uk/government/publications/national-risk-assessment-of-proliferation-financing>)

action against unsupervised firms. This is difficult to do under the current system due to the complexity of the supervision regime and the lack of a single register of supervised firms. Whilst, for instance, HMRC does ‘police the perimeter’ for its supervised sectors, there is no single authority responsible for doing this for legal firms. In theory, this could lead to firms within scope of the MLRs avoiding supervision. An effective regime would be a system which eliminates any supervisory gaps and places supervisors in a better position to be able to identify firms who should be supervised.

2.7 Supervisors need a **broad toolkit to be able to tailor and target their supervisory interventions, including guidance**, to drive more consistent outcomes within and between supervised populations. Supervisors need appropriate powers to set out their expectations in a consistent way, access and monitor data from firms (including through surveys, reviews, and access to Suspicious Activity Reports (SARs)), and address both non-compliance and ineffectiveness. They also need suitable information technology (IT) systems, and staff with sufficient capacity and specialist expertise.²² Currently there is significant inconsistency in the nature and severity of supervisory interventions. More effective supervision should ultimately support improvements in supervised firms’ understanding of risks and implementation of proportionate controls. Supervision should also tackle ‘over compliance’ by firms, which can lead to non-risk-based decisions to deny or withdraw services from individual customers or whole groups of customers (known as ‘de-risking’). This will rely on supervisors’ own risk-based approach to **targeting activity at the firms most in need of support** to manage their risk, but also on supervisors **communicating effectively with firms**, including through published guidance and training to reduce misinterpretation of obligations.

2.8 Finally, effective supervision will require **dissuasive but proportionate enforcement**, including where wider supervisory tools fail to achieve desired outcomes. The need for supervisors to apply remedial actions and/or effective, proportionate, and dissuasive sanctions is an integral element of the FATF Methodology for an effective AML/CTF regime.²³ An effective supervisor should have sufficient enforcement powers, resource, and staff capability to identify serious breaches and take robust enforcement action, especially if earlier remedial actions are not completed in a timely way or are proved ineffective. Sanctions should be dissuasive, meaning they discourage similar behaviour in future and are not merely seen as a ‘cost-of-

²² Paragraph 3.1 to 3.6 of the 2022 HM Treasury AML Supervision Report sets out in more detail the activities supervisors carry out to succeed in this area:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125446/Supervision_report_final_draft_-_signed.pdf

²³ Core Issue 3.4, Immediate Outcome 3, FATF Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CTF systems

business', but also proportionate, meaning that they do not encourage firms to become overly risk-averse to the detriment of legitimate customers. The result should be effective, risk-based measures which demonstrably prevent and disrupt illicit finance, not merely tick-box compliance.

System co-ordination

2.9 For the AML/CTF regime to be effective at detecting and disrupting illicit finance, **supervisors need to be able to share information with and receive information from each other and other bodies** to help build an effective and dynamic system-wide risk picture. To achieve maximum effectiveness in this area, supervisors should have effective tools to analyse and use information received to inform their supervisory work, including information received from law enforcement. Information barriers should be minimised and existing information gateways should be fully exploited.

2.10 An effective supervision system would also increase the usefulness of the intelligence available to combat economic crime by ensuring that firms and supervisors supply **high-quality Suspicious Activity Reports (SARs)** to law enforcement, that supervisors work to improve SARs filed by the supervised population, and that supervisors are able to use SARs, alongside other data, proactively to guide their supervisory work. An effective system should involve working closely with the UK's Financial Intelligence Unit (UKFIU) to facilitate two-way feedback to drive continuous improvement of the SARs reporting process, and to ensure updated threat assessments and updates to SARs glossary codes are regularly and clearly communicated. It should also improve the efficacy of the National Crime Agency's Defence Against TF/ML SAR system and lead to a more effective use of the consent system.

2.11 The reformed supervision system needs to be **flexible** such that if new sectors are brought into scope of the MLRs following future National Risk Assessments, these sectors can be easily and effectively brought under supervision. The removal of any sectors should be similarly straightforward.

2.12 Finally, any reform of the supervisory regime needs to **align with wider government priorities**. This includes other regulatory reforms that affect similar sectors, financial sanctions policy, and other anti-economic crime policies. One example of this would be interactions between reform of Companies House and the work of AML/CTF supervisors. In addition, the reformed system needs to align with the government's focus on policies which stimulate economic growth and

ensure regulation is proportionate, such as the Department of Business and Trade's (DBT) recent regulatory policy announcement.²⁴

Feasibility

2.13 The new supervisory system must be **appropriately funded**. This includes not only a funding structure to support supervisors on an ongoing basis, but also includes appropriate transition funding to finance any structural changes. Supervisors are currently funded by fees charged to the supervised population, and so should provide demonstrable value for money for the supervised population and for consumers using these services.²⁵ The underlying principles would be that any new fee structures should:

- Enable delivery of enhancements to supervisory effectiveness. For example, they should allow new bodies, or bodies taking on an enhanced remit, to develop new IT systems to leverage data effectively.
- Be proportionate, take firm size (under an appropriate measure) into account, and not place undue burdens on firms. This particularly applies to small firms and businesses.
- Be as consistent as practicable for firms providing the same regulated activities.
- Be transparent, simple to understand and predictable.

2.14 Supervisors also need to **have sufficient staff and the right levels of expertise**, which might include either AML/CTF experience or knowledge of specific supervised sectors.

2.15 Supervisors need to have **appropriate governance arrangements** to facilitate the objectives set out in this chapter. The nature of these arrangements will be dependent upon the type of supervisor (public or private, the range of powers available, etc.) It will also be important to capture robust data throughout to inform further policy detail and analyse the success of reform.

2.16 Transition risks need to be manageable while any new structure is implemented. This includes appropriate steps to protect the success of live investigations as well as an effective and proportionate plan for transferring supervision of firms to a new supervisor if applicable.

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<https://www.gov.uk/government/news/smarter-regulation-unveiled-to-cut-red-tape-and-grow-the-economy>

²⁵ Funding is a key element of any successful supervisory system. In general, supervision is funded by fees paid by the supervised firms. In the current system PBSs for the legal and accountancy sector recover the cost of AML/CTF supervision through fees charged to their members. Additionally, PBSs contribute to the OPBAS Levy, according to the number of Beneficial Owners, Officers and Managers (BOOMs) each body supervises. All three statutory supervisors employ a full cost-recovery model for its AML/CTF supervision, meaning that fees charged to its supervised population are designed to offset the total cost of AML/CTF supervision.

2.17 In addition, it needs to be plausible that **any structural reform can be implemented in a timely way**, as the focus on improving supervisory effectiveness is not only important, but also urgent due to the scale and immediacy of the ML/TF risk facing the UK. HM Treasury assumes that all the four options in this document will require legislative change of some kind, the timeline for which will necessarily be influenced by overall Parliamentary priorities.

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

Chapter 3: OPBAS+

Overview of structural changes

3.1 OPBAS was established in 2017 to oversee the AML/CTF supervision of the accountancy and legal sector PBSs. The June 2022 Post-Implementation Review of the OPBAS Regulations found that while there is more work to do OPBAS has made significant progress against its objectives, with PBSs' technical compliance against the MLRs being much improved.²⁶

3.2 The OPBAS+ model would enhance OPBAS' ability to perform its current role, without changing the number or type of supervisors:

- OPBAS' powers would be strengthened, with the ambition of driving further improvements in the effectiveness of PBS supervision.
- The 22 PBSs would continue to supervise legal and accountancy sector firms for AML/CTF purposes. There would be no change to the remit of the existing statutory supervisors – the FCA, the GC, and HMRC.

Please see Annex E for a visual illustration of OPBAS+ and the other potential reform models.

Mechanisms to enable OPBAS to increase the effectiveness of supervision in the legal and accountancy sectors

3.3 HM Treasury believes that the priority for any enhancements to OPBAS' powers should reflect OPBAS' increasing focus on improving the effectiveness of PBSs' supervision.

3.4 **The power to make rules:** OPBAS indicated in its response to HM Treasury's 2022 call for evidence that a general rule-making power similar to the FCA's would assist OPBAS in improving the effectiveness of PBS supervision. The FCA has a general rule-making power under section 137A FSMA through which it may regulate the activities of authorised persons (as defined in section 31 FSMA) for the purpose of advancing its operational objectives.²⁷ OPBAS states that it could use a similar power to, for example, create rules following consultation which set clear expectations relating to the effectiveness of PBS supervision, in addition to the legal requirements set out in the MLRs. This would improve OPBAS's ability to ensure PBSs are not simply complying with the MLRs but carrying out their duties effectively. We will examine the

²⁶ [Post Implementation Review \(legislation.gov.uk\)](#), p.2.

²⁷ [Financial Services and Markets Act 2000 \(legislation.gov.uk\)](#).

FCA's prior use of its rule-making powers to understand how such a power might be used by OPBAS.

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

3.5 In addition, OPBAS currently has two enforcement powers – the ability to criticise a PBS publicly for failure to comply with the MLRs, and recommending to HM Treasury that a PBS should be no longer be an AML/CTF PBS.²⁸ This is a narrow toolkit which limits the scope to impose sanctions proportionate to the seriousness of a breach. This may in part explain OPBAS's limited use of these powers to date. Additional powers that might allow for more gradation of response could include:

- 1. Publicisation of supervisory interventions:** OPBAS could, where appropriate, publicise details (in part or in full) of supervisory interventions it takes against PBSs following use of any new or existing enforcement or intervention powers. Currently, details of directions issued against PBSs or PBS findings letters are not made publicly available. Publicising details of failings may incentivise improved performance by both the subject of the public disclosure and all other PBSs.
- 2. Graduation of sanctions:** OPBAS could consider in its enforcement decisions whether prior failings justify use of more dissuasive measures and provide rationale for its decision to use more dissuasive sanctions (or not). This may involve OPBAS considering recommending removal of a PBS from Schedule 1 where it deems appropriate following, for example, two-three or more directions issued to a PBS in a certain time period (e.g. 2-5 years) following poor compliance. If new powers are granted to OPBAS e.g. fining powers, these would allow for greater gradation of response. While OPBAS would retain ultimate responsibility for its enforcement decisions, the need to demonstrate consideration of proportionality in enforcement decisions could ensure greater and more consistent use of new and existing sanctions where appropriate.
- 3. Restrict or reduce supervisory population:** similar to a supervisor's powers to restrict business activities and permissions, OPBAS could be granted the power to prevent one or more of the PBSs (supervising sectors where multiple supervisors are theoretically available to an individual firm) from

²⁸ Regulations 16 and 17, [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(legislation.gov.uk\)](#).

increasing the size of its supervised population. This could include preventing it from supervising new firms for a set period of time or permanently. OPBAS could also be given the power to require a PBS to reduce the size or make-up of its supervisory population (e.g. requiring it to 'offload' a certain number of firms or certain types of firms according to revenue or activity). This option risks disrupting supervision and may incur costs but may create an incentive to improve effectiveness. This power is only relevant to sectors where firms are eligible for supervision by multiple supervisors.

4. **Fining power:** providing OPBAS with the power to fine PBSs for supervisory failings could be a useful tool for incentivising improved supervision. The reputational impact of a fine would also incentivise reform. Fines may lead to costs being passed on to supervised firms rather than changing behaviour, though pass-through may incentivise firms to change to a more effective PBS (if this is possible, depending on the sector). The reputational impact of a fine may also destabilise a PBS' credibility in carrying out its supervision, though this risk should be weighed against the risks created by failing to react to poor supervision.

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

3.6 Any additional powers should be coupled with additional accountability mechanisms to ensure OPBAS continues to exercise transparency, consistency and proportionality in enforcement decisions. These could include publication of the rationale for supervisory interventions (contemporaneously and in the OPBAS annual report) similar to the detail provided within decision notices and final notices produced by existing supervisors. PBSs could be given a clear 'right of reply' in response to any use of new or existing powers building on the existing procedures in Part 4 of the OPBAS Regulations. Greater transparency around OPBAS' enforcement decisions would also guide the performance of other PBSs. OPBAS could be required to provide greater explanation of use of its powers as part of its reporting to HM Treasury on supervision and publish greater detail about its compliance and enforcement principles and the rights of PBSs to appeal.

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

Supervisory Effectiveness

Risk-based and data-led supervision

3.7 As the least disruptive option, OPBAS+ would capitalise on the stronger features of the existing system including the high levels of understanding amongst each PBS of business practices, products and services offered by the firms each PBS supervises. The OPBAS+ model would likely have no direct impact on the effectiveness of the existing public supervisors (the FCA, HMRC, the GC), though they may benefit indirectly in relation to supervision of their own populations due to higher compliance across and within other sectors.

3.8 In recent years, OPBAS has taken steps to encourage PBSs to use effective risk-based approaches. However, in its fourth report, issued in April 2023, OPBAS described the risk-based approach of supervisors it assessed in that period as a 'significant area of concern'.²⁹ Under this model, OPBAS would continue to drive improvements in the risk-based approach and use of data by PBSs. However, given the significant efforts of OPBAS in previous years, and the incremental pace of progress to date, it is possible that this model would not bring about a step-change in the risk-based approach of PBSs. As 22 PBSs would continue to carry out AML/CTF supervisory functions, this option arguably has less potential to improve consistency of supervision given the large number of different supervisors and the differing practices and staff across each organisation. The fragmented nature of the regime could inhibit attempts to analyse data from across the legal and accountancy sectors to develop a stronger understanding of risk.

Gatekeeping and policing the perimeter

3.9 Under an OPBAS+ model, there would be no major changes to the gatekeeping system, though neither the Review nor FATF's 2018 MER highlighted the gatekeeping regime as an area of significant concern.³⁰ While OPBAS could attempt to increase the consistency of gatekeeping through existing and any new powers, there would remain the possibility of malign actors taking advantage of PBSs with weaker gatekeeping tests to enter the regulated sector and carry out supervised activity. Whilst the creation of a register of all regulated firms is outside the scope of this consultation, it is worth noting the lack of structural change under this option means that it may not become easier to achieve should the government decide to pursue this option.

3.10 In this model, HMRC, the GC and the FCA would continue to monitor and identify businesses carrying out regulated activity without supervision; and act as the 'default supervisor' in their respective sectors (e.g. HMRC supervises any TCSP not already supervised by a PBS). However, while HMRC would continue to carry out these activities for the accountancy and TCSP sectors in its role as the default supervisor for these sectors, this may remain challenging due the complexity of a

²⁹ [opbas-report-progress-themes-supervisory-work-2022-23.pdf \(fca.org.uk\)](#), p.13.

³⁰ See gatekeeping sections in [MLRs_Review_Report_-_2.5_for_publication.pdf \(publishing.service.gov.uk\)](#), and [The United Kingdom's measures to combat money laundering and terrorist financing \(fatf-gafi.org\)](#).

system with many supervisors and the lack of a single register of supervised firms.

3.11 There is no single authority responsible for detecting unsupervised firms in the legal sector. Whilst the SRA, for instance, identified 'bogus' solicitors who call themselves solicitors whilst not being on the roll of solicitors, no authority is responsible for identifying legal firms carrying out activity in scope of the MLRs without supervision. A legal PBS could be given this responsibility, albeit it would represent a significant change in the scope of its activities. It may require amongst other things the creation of a new intelligence function to detect firms carrying out activity in scope of the MLRs without supervision, and potentially legislation to allow the PBS to take action against firms they do not supervise for AML/CTF purposes. Some respondents to HM Treasury's Call for Evidence on the MLRs indicated they believed there may be a general issue with unsupervised legal firms, with specific mentions of unsupervised barristers. There was discussion of a 'default legal supervisor', which would be an authority tasked with identifying unsupervised firms within scope of the MLRs and taking action to remedy this.

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

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

Enforcement

3.12 Under the OPBAS+ model, there would be no structural change to the regime. This means issues arising through the current dispersed and at times inconsistent supervisory approach would remain, including in relation to the timely and consistent use of enforcement powers. Any new powers given to OPBAS may support it to address such issues, though its annual reports highlight the scale of progress necessary.

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

System co-ordination

3.13 While OPBAS would continue to focus on improving information sharing, change would likely be incremental. The large number of legal and accountancy sector supervisors could remain a barrier to improving information sharing - one of the objectives driving potential reforms. We do not believe that additional information sharing provisions are required to enable the level and quality of information sharing (between PBSs and with the public sector) necessary to support improved supervision, and would instead maintain existing efforts to encourage greater information sharing.

3.14 A specific consideration under systems coordination is how to ensure the MLRs support wider economic crime legislation. For instance, in September 2022, the government introduced the Economic Crime and Corporate Transparency Bill ('the Bill'). This Bill will enable persons who are supervised for anti-money laundering purposes to register as 'authorised corporate service providers' (ACSPs) with Companies House. This will allow them to verify the identity of certain individuals associated with a UK-registered legal person including its directors and persons with significant control as an alternative to verifying their identity directly with Companies House. An ACSP may be a UK-based person subject to the MLRs and supervised by a UK authority.³¹ Improving supervision of the legal, accountancy and TCSP sectors will therefore support improved compliance by ACSPs with the MLRs and the objective of the Bill to reduce abuse of UK companies by providing accurate information on the directors, beneficial owners and other persons exercising significant control of UK-registered companies.

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

Feasibility

3.15 Additional powers would be granted to OPBAS using legislation. OPBAS would need to make appropriate corporate changes to ensure it is operationally ready to use the new powers effectively.

3.16 As this option does not involve structural change to the current system, it does not face the transitional risks which are relevant for models 2-4, such as the possibility of a temporary disruption of supervision in any sectors. The more limited changes to the system under the OPBAS + model might also involve a shorter timeframe for implementation, albeit this would depend on the type and extent of changes made. However, the reforms under this model may have less potential to deliver fundamental changes to supervisory effectiveness and systems coordination in the middle-to-long term due to their more limited nature.

Funding

3.17 As the OPBAS+ model would not make structural change to the existing supervisory system, there would be no requirement to make significant changes to the existing funding and fees system. In the legal and accountancy sectors, PBSs would continue to charge fees to their respective supervisory populations for AML/CTF supervision, and HMRC would continue to offer AML/CTF supervision as the default supervisor for the accountancy sector.

³¹ Clause 64 in current draft of Economic Crime and Corporate Transparency Bill, [newbook.book \(parliament.uk\)](https://www.newbook.book.parliament.uk).

3.18 The OPBAS Levy funds OPBAS' work. It is charged to the PBSs, some of which pass it through to their supervised firms. Given the potential cost increase and potential impact on PBSs' underlying firms, changes to the existing OPBAS Levy may be necessary. In the current system, the majority of costs fall upon the largest three PBSs. In 2022, all PBSs paid a basic rate of £5,000, with those who supervise more than 6,000 individuals paying additional amounts for each Beneficial Owner, Officer, and Manager (BOOM).³² One option is for all PBSs to pay a basic rate, on top of which all PBSs pay per BOOM starting at one BOOM. Additionally, it is possible that the cost of the OPBAS Levy would increase under this model, as it may be necessary for OPBAS to hire new staff in order to carry out its expanded function effectively.

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

³² [Post Implementation Review \(legislation.gov.uk\)](#), p.3

Chapter 4: PBS Consolidation

Overview of structural changes

4.1 The major structural changes to the existing system that would take place under the PBS Consolidation model are as follows:

- There would be between two and six professional body supervisors with responsibility for AML/CTF supervision in the legal and accountancy sectors. The other professional body supervisors would be removed from Schedule 1 of the MLRs, and no longer obliged to carry out AML/CTF supervision.
- Firms regulated by professional bodies removed from Schedule 1 would transfer to the relevant consolidated PBS for the purposes of AML/CTF supervision.

4.2 There are two primary options concerning the number of PBSs that would retain their AML/CTF functions:

- 1) **Two PBSs:** There would be one PBS in the legal sector and one PBS in the accountancy sector with responsibility for AML/CTF supervision. Both of these organisations would have a UK-wide remit. However, they could have specialist divisions to account for differences in regime in Northern Ireland and Scotland as necessary.
- 2) **Six PBSs:** There would be one PBS with responsibility for AML/CTF supervision for each of the accountancy and legal sectors in each of three jurisdictions:
 - England and Wales.
 - Scotland.
 - Northern Ireland.

4.3 Irrespective of the number of consolidated PBSs, there are two further variants under this model. Under the first, HMRC would cease to supervise Accountancy Service Providers (ASPs) and TCSPs, with these populations being transferred to the consolidated PBSs. In the second, HMRC would continue to supervise some firms in these sectors, and offer an alternative to the consolidated accountancy sector supervisor(s) for ASPs. Both these variants are illustrated in diagrams in Annex E.

4.4 There would be no direct impact on the two remaining statutory supervisors - the GC and the FCA.

4.5 It is possible that the number of PBSs which retain their AML/CTF functions may differ in the legal and accountancy sectors. There may be advantages in a single PBS carrying out AML/CTF supervision of the accountancy sector across the UK. But jurisdictional differences in law

in the Devolved Administrations may mean that specialised legal sector consolidated PBSs would be needed in Scotland and Northern Ireland. The new system may therefore involve one PBS in the accountancy sector with a UK-wide remit, and three for the legal sector.

Consolidated PBSs and Devolved Administrations

4.6 Consolidating PBSs into two organisations with a UK-wide remit would be expected to improve supervisory effectiveness and system coordination. UK-wide supervisors would be able to make a risk-based resource prioritisation across a larger population, and work effectively with firms that have operations in multiple parts of the UK. A UK-wide approach would enable risk and capital flows to be better tracked across the UK's borders and improve system coordination through reducing barriers to information-sharing.

4.7 However, a UK-wide remit would increase the possibility of low-risk firms outside economic centres receiving inadequate supervisory attention. If this model was selected, this could be mitigated through the use of dip-sampling and the monitoring of annual returns throughout the country, to ensure supervisory standards remain high across the UK's regulated sector.

4.8 A further advantage relates to **efficiency**. Larger organisations would have lower overhead costs than multiple smaller organisations and therefore would be able to achieve more with similar levels of fee income. On the other hand, this would involve transferring a greater number of supervised firms to a new supervisor and more operational change at the consolidated PBSs, which would make implementation more challenging and time-consuming.

4.9 The major benefit of selecting six PBSs relates to expertise. Scotland and Northern Ireland both have distinct regulatory and legal systems. Supervisors for Scotland and Northern Ireland would need to understand the relevant legal and regulatory system that applies within the jurisdiction. This understanding would be key to **supervisory effectiveness**. The possible reduction in expertise as a result of the potential centralisation of AML/CTF supervision into bodies with national remits could be mitigated by these bodies having specialised divisions to deal with Northern Irish and Scottish firms, made up of those with local expertise.

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

Selection of the consolidated PBSs

4.10 If HM Treasury selects this option post-consultation, it will be necessary to identify which PBSs will become the consolidated PBSs. We are beginning to consider what the selection process may look like

and will be engaging with interested stakeholders concerning this. PBSs selected for consolidation would be obliged to take on the relevant populations of deselected PBSs, and potentially those of HMRC. PBSs would likely be encouraged to submit evidence of both past supervisory effectiveness, as well as a plan for moving towards full effectiveness as per the OPBAS sourcebook³³. This would require a consideration of the demands of scaling up to adapt to an increased population size.

Oversight of Consolidated PBSs

4.11 The increased scope of the consolidated PBSs would make effective oversight even more important. This may require the retention of OPBAS, at least in the short term. If this were the case, it may be necessary to provide OPBAS with enhanced powers such as those described under the OPBAS+ model and to establish new or enhanced accountability mechanisms. Due to the reduction in the number of PBSs, OPBAS' role would need to be reviewed periodically, taking into consideration the need for ongoing effective oversight of the consolidated PBSs.

11) How could HM Treasury and/or OPBAS ensure effective oversight of consolidated PBSs under this model? Would it be appropriate to provide OPBAS with enhanced powers, such as those described in the OPBAS+ model description?

The role of HMRC and default supervisors in the accountancy sector

4.12 Currently, HMRC is the default supervisor for the accountancy sector, and supervises 17,656 accountancy service providers (ASPs) and 1,724 Trust and Company Service Providers (TCSPs), which are not supervised by professional bodies, as of 2021-2.³⁴ As part of this role, HMRC carries out activity to detect firms or individuals who carry out accountancy sector activities in scope of the MLRs without supervision and maintains a register of TCSPs.

4.13 There are variations of this option depending on whether HMRC continue to supervise ASPs and TCSPs. If HMRC does not, its population of ASPs and TCSPs would be transferred to the relevant consolidated PBSs. Under this option, consolidated PBS(s) in the accountancy sector would supervise all accountancy sector firms and become default supervisors.

4.14 There are benefits to HMRC ceasing to supervise ASPs and TCSPs. There would be one supervisor for the accountancy sector in any one jurisdiction. This would improve consistency of approach to supervision,

³³ <https://www.fca.org.uk/publications/finalised-guidance/fg23-1-opbas-sourcebook-update>

³⁴ HMRC economic crime supervision annual assessment report: 1 April 2021 to 31 March 2022 - GOV.UK (www.gov.uk).

and to guidance and its application across the accountancy and legal sectors.

4.15 However, this would require consolidated PBSs to detect firms carrying out activity in scope of the MLRs without AML/CTF supervision in the accountancy and TCSP sectors. This would be a significant expansion in the scope of a PBS' activities and would require consolidated PBSs to develop an investigatory function in order to monitor the regulatory perimeter. Given the extent of the changes required to carry out these duties, combined with how developed HMRC's investigatory and intelligence functions are, a PBS may not be able to carry out these duties with the same effectiveness as HMRC does currently. This could lead to a reduction in supervisory effectiveness and might have the potential to undermine other government reforms, such as Companies House reforms, through failing to ensure that all firms carrying out activity in scope of the MLRs are supervised under the MLRs.

4.16 Furthermore, holding the power to investigate firms they do not currently supervise and impose penalties for carrying out activities in scope of the MLRs without supervision may be viewed as an inappropriate role for a private body. The responsibility to supervise all legal and accountancy sector firms within a jurisdiction as well as to investigate and sanction non-members carrying out activity in scope of the MLRs without supervision is substantial, and a significant change in the scope of a private body. This would include the power to compel non-members to provide information and take enforcement activity against them. These powers would be central to the successful functioning of a consolidated PBS, and would require increased transparency and oversight in accordance with this expanded scope. It may be that this function is so significant, and in the public interest, that it ought to be carried out by a public body. This would undermine the feasibility of this option.

4.17 Additionally, many PBSs, particularly in the accountancy sector, have requirements according to which their members must have certain accreditations or qualifications. As a result, becoming a default supervisor would have significant implications for consolidated PBSs with membership requirements, as they would have to supervise firms or individuals without accreditation.

4.18 This could be mitigated through PBSs with membership requirements offering non-membership AML/CTF supervision to unaccredited firms and practitioners, or offering AML/CTF only membership, which did not include accreditation. If consolidated PBSs in the accountancy sector were not willing, or viewed it as unfeasible, to offer supervision to firms and individuals without accreditation, this would support the argument for HMRC to continue to supervise ASPs and TCSPs as the default supervisor.

4.19 As a result of the factors detailed above, it may be beneficial for HMRC to remain as the default supervisor of the accountancy and TCSP sectors.

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

Default supervisors in the legal sector

4.20 Currently there is no 'default supervisor' for the legal sector performing the function HMRC does for ASPs and TCSPs, proactively seeking out individuals or businesses carrying out legal activity in scope of the MLRs without supervision.³⁵ This would be easier under a consolidated PBS system. With between one and three organisations responsible for supervising legal firms for AML/CTF purposes it would be clearer who was responsible for establishing whether firms and individuals were operating without supervision, and easier to establish a single register of supervised firms. If given this responsibility, consolidated PBSs would need the requisite powers to carry it out.

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

Supervisory Effectiveness

Risk-based and data-led supervision

4.21 Consolidation of PBSs is expected to lead to improvements in the risk-based approach of supervisors. As part of demonstrating a path towards full effectiveness, the ability of a PBS to pursue an effective risk-based approach would be a key criterion upon which they would be selected. The small number of consolidated PBSs would allow easier oversight and ensure that the consolidated PBSs continue to improve their risk-based approach and respond quickly to new risks. Consolidation may also lead to improved and more consistent feedback to firms within the same sectors, supporting firms to better implement their obligations proportionately.

4.22 Under PBS consolidation, there would be a single legal sector supervisor in each region. In the accountancy sector, there will be a maximum of two possible supervisors in any jurisdiction - HMRC and the consolidated supervisor. While strong information-sharing channels would need to be developed between HMRC and the consolidated PBS(s) in the accountancy sectors if HMRC continued to supervise ASPs and TCSPs, this reduction in the number of supervisors would be expected to increase consistency and reduce the complexity of information-sharing between law enforcement and the AML/CTF supervisors.

4.23 Consolidated PBSs would have larger populations. This is expected to lead to economies of scale, allowing resources to be allocated in line with risk on a much larger scale than is possible in the

³⁵ 4.19, [MLRs_Review_Report_-_2.5_for_publication.pdf](#) (publishing.service.gov.uk).

legal and accountancy sectors currently. Furthermore, large population sizes would provide consolidated PBSs with greater incentives to invest in new IT systems and data analysis tools which could improve risk understanding. Meanwhile, consolidated PBSs would have a fuller picture of risk and compliance within their sector, allowing them to leverage data from across the sector, and better create benchmarks and compare the risk assessments of different firms within the sector. Nevertheless, these benefits are not inevitable - it would require will and investment on behalf of the consolidated PBSs and effective oversight by OPBAS or HM Treasury to ensure that these opportunities are capitalised upon.

4.24 The expertise of PBSs in understanding their sectors' practices, products and service would be retained in this model. However, firms supervised for AML/CTF purposes in the legal and accountancy sector are diverse. A consolidated PBS would not be a specialist in each sub-sector it supervises, potentially leading to a reduction in sub-sector specific risk. This could potentially be mitigated through hiring experts in relevant sub-sectors.

14) Under the PBS consolidation model, what would be the advantages and disadvantages of a consolidated accountancy or legal sector body supervising a range of different specialisms/professions for AML/CTF purposes?

4.25 There is a risk that consolidation of AML/CTF supervision means that fewer resources are directed to the supervision of small firms, or low-risk firms. Dip-sampling would be required to ensure that on-site visits and supervisory activity were still exercised for small and low-risk firms.

4.26 Given the findings of OPBAS' report on supervision of TCSPs, consolidating the supervision of TCSPs would be expected to have significant benefits for supervisory effectiveness. There would be greater consistency in the determination of risk indicators for TCSPs. Meanwhile, concentration of expertise would allow for a better understanding of risk.

Gatekeeping

4.27 There would be relatively limited changes to gatekeeping under the consolidated PBS model. The FCA and GC's gatekeeping roles would remain unchanged, as would that of HMRC over the sectors it continued to supervise. Legislative changes may be necessary to provide consolidated PBSs with the power to carry out gatekeeping tests on non-members, particularly if they became default supervisors in their sectors.

4.28 If HMRC were to cease its supervision of TCSPs, this population would then be transferred to the consolidated PBSs in the legal and accountancy sector. HMRC's Fit & Proper testing for TCSPs draws on information unavailable to other supervisors, such as checks for relevant criminal offences overseas. Transferring responsibility for this

to another supervisor could lead to a potential reduction in the robustness of gatekeeping tests for the TCSP sector.

4.29 Under this model, some firms would continue to receive supervision for general conduct and other regulatory functions from a PBS which loses its AML/CTF function, and then simultaneously be supervised by a consolidated supervisor for AML/CTF purposes. In these cases, there is the possibility of individuals and firms having to undergo two sets of gatekeeping tests, with associated costs. In order to mitigate this, consolidated PBSs may be able to accept certificates of good standing from bodies with sufficiently robust gatekeeping tests, to avoid duplication of checks. This would have administrative costs. However, it would reduce burdens on businesses, without leading to a reduction in supervisory effectiveness.

Powers

4.30 It may be appropriate under this model to give the consolidated AML/CTF PBSs, amongst others, the civil powers available to the FCA and HMRC under Chapter 2 of Part 9 of the MLRs. The consolidated PBSs could also be granted powers available to the FCA under FSMA including the power to require a report by a skilled person, the power to make product intervention rules to advance market integrity, competition or consumer protection, and to set rules that shape firm behaviour. Alternatively, and to avoid granting non-public bodies broad powers, OPBAS, HM Treasury, or another body could be granted the power to set rules for the populations overseen by the consolidated PBSs and be responsible for issuing rules in consultation with the consolidated PBSs. This may increase the consistency of enforcement action.

4.31 It may also be helpful to ensure that all statutory supervisors have broadly consistent powers.

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

Supervision of non-members

4.32 Many accountancy sector PBSs' powers are rooted in their by-laws and charters, and can be used against members only. In these scenarios, provisions would need to be put in place to allow consolidated PBSs to take action against all firms who fall under their AML/CTF supervision for AML/CTF purposes but are members of other professional bodies. To address this issue, we are considering the following two options, which are not mutually exclusive:

- Provide the consolidated PBSs with the responsibilities and powers to supervise firms according to type/activity: Similar to the statutory supervisors, HM Treasury could give the remaining AML/CTF PBSs responsibility for supervising relevant firms according to type of firm and/or business activities, and the powers necessary to achieve this responsibility (as opposed to

the existing responsibility under the MLRs to supervise members).

- Compel firms to register with the relevant remaining PBS for AML/CTF supervision: Alternatively, HM Treasury could require firms to be supervised by the relevant consolidated PBS for AML/CTF purposes regardless of their membership of another professional body for other purposes. This would avoid having to grant the remaining PBSs the ability to supervise non-members. However, this option may have material impacts on the organisations losing AML/CTF supervision status and may lead to unintended consequences.

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

Enforcement actions

4.33 It is important that the timing of any reform of the regime does not prevent supervisors from issuing proportionate penalties following breaches of the MLRs. We believe at this stage there are two, more feasible options for handling ongoing enforcement actions by the professional bodies losing their AML/CTF supervision status. The first involves giving professional bodies losing their supervision status time-limited powers, where necessary, to continue material enforcement cases against their current members beyond the point at which they are removed from Schedule 1 of the MLRs. A variant of this option includes these professional bodies being required to 'transfer' ongoing supervision of their firms to the relevant consolidated PBS while continuing ongoing enforcement cases against firms that would technically no longer be their members, with no specific deadline set by which they must complete outstanding enforcement cases. OPBAS could remain responsible for overseeing performance of this function.

4.34 Alternatively, for simplicity and to avoid inconsistent supervision in the transition period, all enforcement cases regarding AML/CTF obligations could be transferred to the relevant consolidated PBS as soon as possible.

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

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

System Coordination

4.35 Under the consolidated PBS model, there is the potential for improvements in information and intelligence sharing. A reduced

number of PBSs would mean that there would be fewer bodies for the statutory supervisors and law enforcement to share information with. PBSs selected for consolidation would be expected to demonstrate effective use of existing information-channels and active participation in information-sharing forums.

4.36 OPBAS' fourth report stated that the assessed PBSs often did not share information regarding active investigations, and that it was not standard practice to ensure that firms subject to sanction by one PBS are unable to move to another PBS without this information being shared.³⁶ This structural weakness, which could lead to inaccurate risk assessments, could be eliminated under this option.

4.37 Additionally, the reduced number of supervisors is anticipated to aid communication and coordination with law enforcement agencies. Reducing the number of supervisors would allow the NCA to engage more closely with the remaining supervisors to provide feedback on issues surrounding SARs submission, allowing supervisors to better understand and communicate with firms regarding best practices in this area.

4.38 Under this model, a system would exist where some professional services firms would be regulated by a consolidated supervisor for AML/CTF purposes, and a separate body for their conduct more generally. This raises a new challenge for information-sharing, as there is often cross-over between breaches of general conduct regulations and the MLRs. Consideration would therefore need to be given to putting in place appropriate information sharing mechanisms to enable disciplinary action to be taken by both bodies where appropriate.

4.39 Some firms in both the estate agency sector and the financial services sectors are already dual-regulated, and information-sharing agreements successfully form the basis of cooperation between different regulators. Therefore, this barrier is not anticipated to be so significant as to mitigate the advantages concerning information-sharing with law enforcement agencies.

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

Feasibility

4.40 The primary challenge of this model is the transfer of tens of thousands of firms to a new supervisor. It would not be possible to say exactly how many firms will be involved until a consolidated PBS had been appointed. This would not in the short-term involve these firms changing their actual AML/CTF systems. However, there are likely to be steps some firms must take to adapt to this change.

³⁶ 3.31-4, [opbas-report-progress-themes-supervisory-work-2022-23.pdf](#) (fca.org.uk).

4.41 The consolidated PBSs themselves would have to increase their capacity commensurate to the new firms joining their population. It would be necessary for PBSs to increase their staffing levels and be able to hire staff with the right technical expertise. It may also require changes to technical systems and new types of expertise. For example, expertise in Scottish and Northern Irish law would be required, if the consolidated PBSs were to have a UK-wide remit. Their ability to do so is an important feasibility consideration.

4.42 The magnitude of disruption in the transition period in the accountancy sector would be significantly affected by whether HMRC retains its ASP and TCSP supervised populations. As HMRC currently supervises around 20,000 of these firms, their transfer to the consolidated supervisors would significantly increase the number of firms that a new supervisor would be required to onboard.³⁷ A key mitigation here would be a staggered transition, whereby firms were transferred on a rolling basis, with firms being transferred from the worst-performing PBSs, as identified by OPBAS, initially. To reduce disruption, HMRC's ASP and TCSP populations could be among the last firms to be transferred to the new supervisor.

4.43 There is a risk that during the transitional period de-selected PBSs' performance declines. This could be due to a lack of necessary investment or staff retention issues. OPBAS intervention is the primary mitigation for this, alongside planning to ensure implementation is swift and the transition is carefully managed. For example, if granted rule-making powers, OPBAS could set a rule regarding minimum thresholds of supervisory effectiveness. In spite of this, there is the possibility of reduced supervisory effectiveness during the transition period.

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

4.44 There is also a risk that the consolidated supervisors may not be able to perform to their full potential immediately. Consolidated PBSs would have to rely on risk assessments from de-selected PBSs during the transition period. As OPBAS' reports show, the approaches to and effectiveness of risk assessments by PBSs differ, meaning that consolidated supervisors would face challenges in standardising risk assessments to ensure resources are effectively allocated towards risk.³⁸ As most PBSs carry out new risk assessments in cycles of one-to-two years, this issue would be relatively short-term. Additionally, the transfer of data from PBSs who are ceasing to carry out AML/CTF supervision functions to consolidated PBSs would be time-consuming and costly

³⁷ HMRC self-assessment for period 2021-22, [HMRC economic crime supervision annual assessment report: 1 April 2021 to 31 March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/104444/HMRC-economic-crime-supervision-annual-assessment-report-1-April-2021-to-31-March-2022-GOV.UK.pdf)

³⁸ 3.12-3.20, [opbas-report-progress-themes-supervisory-work-2022-23.pdf \(fca.org.uk\)](https://www.fca.org.uk/publications/consultations/3.12-3.20-opbas-report-progress-themes-supervisory-work-2022-23.pdf).

for both consolidated PBSs and PBSs losing their AML/CTF functions. A lack of actionable data would undermine the ability of consolidated PBSs to accurately assess risk.

Fees and Funding

4.45 Selection of the consolidated PBS model would lead to substantial changes to the fees and funding models of PBSs, and to HMRC if it stopped supervising ASPs and TCSPs. There would be no changes to the funding and fee models of the other statutory supervisors- the GC and the FCA.

4.46 There are three main ways in which supervisory fees could be collected in the legal and accountancy sector under this model. Firstly, firms supervised by professional bodies who no longer hold AML/CTF supervision functions for general regulatory purposes could be required to be supervised by a consolidated PBS for AML/CTF supervision. For firms not regulated by consolidated PBSs for general regulatory purposes, this would require paying fees to two different bodies.

4.47 Secondly, deselected PBSs could collect fees on behalf of their members for AML/CTF purposes, and transfer them to the PBSs who retain their AML/CTF functions. This would reduce the burden on underlying firms, but lead to administrative costs for deselected PBSs. However, this would mitigate any risk of firms choosing to move their supervision for all purposes to consolidated PBSs to avoid having to pay fees to two bodies.

4.48 Thirdly, a third party could collect fees from accountancy and legal sector firms, and transfer them to a consolidated supervisor.

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

4.49 The selection of a consolidated PBS model would have significant funding implications for the current AML/CTF supervisors. PBSs who cease to carry out AML/CTF supervision may lose a source of income, which would require changes to their financial models. There would be considerable transition costs for consolidated PBSs, as well as those losing their supervisory responsibilities for AML/CTF, including administration and HR costs, updating of IT systems, changes to physical offices, training staff and the cost of data transfer.

4.50 Meanwhile consolidated PBSs would receive greater fee income. However, the expansion in their scope would be expected to encourage them to invest in new IT systems, staffs and perhaps physical locations. Again, this would require new financial models which take into account this enhanced role. This is particularly the case if consolidated PBSs were to have responsibility for monitoring firms carrying out regulated activity without supervision. However, following this possible investment, greater economies of scale should allow consolidated PBSs to achieve greater supervisory effectiveness with similar levels of fees.

4.51 For as long as OPBAS continued to function, there would also be changes to the OPBAS Levy. There would be a smaller set of supervisors

paying this Levy. These costs would need to be passed on equitably to all AML/CTF supervised firms. Due to the reduced number of supervisors, it is possible that OPBAS would need less resource to effectively carry out its role, potentially requiring changes to the OPBAS levy.

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

Chapter 5: Single Professional Services Supervisor

Overview of structural changes

5.1 The major structural changes currently envisaged under this model are:

- In the legal and accountancy sectors, all professional body supervisors would no longer be AML/CTF supervisors. One organisation (existing or new) would take responsibility for the AML/CTF supervision of all legal and accountancy sector firms. If this role is performed by a public body, all supervision would be carried out by public bodies, which is the primary distinction between models 2 and 3.
- In addition to legal and accountancy sector firms, this organisation could supervise TCSPs, and potentially Estate Agency Businesses and Letting Agency Businesses. Either HMRC could continue to supervise the remaining sectors it currently does, or these could also transfer to the SPSS.
- There would be no change to the supervised populations of the FCA and the GC.

Annex E includes a diagram representing this model.

Public body supervision

5.2 The major difference between model 2 and model 3 in this consultation is that under this model, we currently envisage the SPSS to be a public function either within an existing organisation or as a new public body. Theoretically it would be possible for a single private organisation to supervise all accountancy and legal firms – or all firms regulated under the MLRs as an SAS, in fact. However, there is no specific body that appears to be appropriate for this role with all PBSs specialised to either legal or accountancy (and often to a specific sub-sector) and this approach would involve transferring firms currently supervised by a public body to supervision by a private body. This would also be out of keeping with the approach taken by countries around the world assessed by the FATF as having more effective supervision regimes. If this option were chosen, it may therefore be appropriate for a new SPSS to be a public body. This could be relevant to a few areas.

- An effective supervisor would require a broad set of intervention powers (see chapter 2). It may be considered more appropriate for a public body, accountable to Parliament, to hold these powers than it would for a private organisation to hold such.

- A public body can receive a specific public policy remit through legislation, annual remit letters from government ministers, or other mechanisms for accountability and objective settings.
- Competent authorities including law enforcement may be more comfortable sharing certain types of information with a public body where, for instance, all staff hold sufficient security clearance and are subject to similar information security protocols. This could expedite information sharing, including law enforcement sharing intelligence with supervisors.
- As set out in chapter 2 under 'feasibility', the reformed supervision system needs to be flexible such that if new sectors were to be brought into scope of the MLRs following future National Risk Assessments, these sectors could be easily and effectively brought into the supervision system. Similarly, the system must be able to react to changing thresholds that bring more activities from within a sector in scope of regulation. An SPSS might be better placed to take on supervision of new sectors outside legal and accountancy in future as necessary.
- There are downsides to this option, some of which are related to its status as a public body. For instance, there are number of supervisors in the legal and accountancy sectors already, including the PBSs, the Legal Services Board, the Insolvency Service, and others. Adding another supervisor could increase information sharing barriers and regulatory burdens. Furthermore, there is a risk that supervisors are less effective if they have lower sector-specific expertise than that held by the highly specialised PBSs. This could be mitigated through hiring individuals with the right expertise, though public sector pay restraints may hinder recruitment and retention. However, it may also be more complex to create and resource a new public body, than it would be to expand the work of a PBS (as under model 2).

5.3 These potential benefits and disadvantages are covered throughout this chapter as we assess this option against our criteria. Please bear in mind the distinction between public and private supervision while considering individual aspects of a potential SPSS' work, and whilst answering our questions in chapter 8.

5.4 Under this model, it would be important to ensure that unnecessary burdens are not placed on business as a result of being subject to multiple supervisors. Consideration would need to be given to how the SPSS and other regulatory bodies could share information, including registration details and evidence used for gatekeeping tests. In the current system, there are already examples of dual regulation enabling effective supervision and limiting burdens for businesses, such as the relationships between the FCA and the PRA, and HMRC and RICS. This suggests that dual regulation can achieve high levels of supervisory effectiveness without excessive implications for businesses and practitioners. If this model is selected, it would be important to take

lessons from these successful examples of dual regulation to inform the new system.

Key issues for consideration in the creation of an SPSS

5.5 Important features which would need to be determined in relation to a new public body supervisor include the following:

- What would be the body's relationship to existing government departments? Could the body be housed in any existing public organisation? Should any sections of existing public organisations be merged into the new body?
- What would its governance structure be? The new body would be expected to be operationally independent of any ministerial department. However, it may be beneficial for ministers to have some role in governance, such as appointing the chair.
- How would it be funded? An SPSS, if a public body (discrete or within an existing organisation), would likely follow the model of the current statutory supervisors i.e. a non-profit organisation funded by the supervised population.

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

Scope of an SPSS

5.6 An SPSS would take over supervision of legal and accountancy firms from the current PBSs. HMRC currently also supervises a large number of accountants. These would transfer to the new SPSS. Most TCSPs similarly are currently supervised by either HMRC or a PBS, due to the overlap that TCSP activity has with legal and accountancy activity. HM Treasury considers that it would be appropriate for TCSPs also to be supervised by an SPSS.³⁹

5.7 Beyond this, HM Treasury believes there are two appropriate models for SPSS, which the table below summarises.

- a) Under the first, the SPSS would take on supervision of all sectors currently supervised by HMRC. The expected benefits set out throughout this chapter which are driven by the large size of a potential SPSS (consistency, efficiencies of scale, risk-based supervision of a larger population) may be more pronounced with a larger population, and there could be resource savings to be made by reducing the number of remaining supervisors to

³⁹ There is further reasoning for this in Annex G

three. All non-financial sector firms other than casinos would be supervised by one body.

- b) Alternatively, HMRC could retain responsibility for supervising just those sectors it currently supervises which involve the handling of cash and physical goods. HMRC have expertise and data sets relevant to these sectors due to their separate revenue and customs work, which can be used to inform AML/CTF supervision. These sectors would be money services businesses, art market participants, high value dealers, bill payment service providers, and telecommunication, digital and IT payment service providers. Annex G sets out more detailed analysis of which sectors would be most appropriate to include under this option.

Supervisor for PBS and HMRC supervised sectors: currently and under each approach to SPSS

Sector⁴⁰	Current supervisor	Included in SPSS under (a)	Included in SPSS under (b)	Population supervised by HMRC, 2021-22⁴¹	Population supervised by PBS, 2021-22⁴²
Legal sector	PBSs	Yes	Yes	0	8,462
Accountancy sector	PBSs/ HMRC	Yes	Yes	17,656	33,911
Trust and Company Service Providers (TCSPs)	HMRC (where not supervised by a PBS, FCA or HMRC (as an ASP))	Yes	Yes	1,724	n/a
Estate Agency Businesses (EABs)	HMRC	Yes	Yes	15,764	n/a
Letting Agency Businesses (LABs)	HMRC	Yes	Yes	1,687	n/a

⁴⁰ Some businesses, fall into multiple regulated sectors, e.g. financial institutions undertaking TCSP activity or casinos undertaking MSB activity. Regulation 7 allows supervisors of such businesses to agree that one will supervise the business for all regulated activity. Companies which are supervised by PBSs often carry out TCSP-activity alongside other legal and accountancy services. Therefore, PBS-supervised firms (and some HMRC-supervised ASPs) carrying out TCSP-activity in this table will be counted already within the legal and accountancy sector lines.

⁴¹ Figures from HMRC self-assessment for period 2021-22, [HMRC economic crime supervision annual assessment report: 1 April 2021 to 31 March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/107112/hmrc-economic-crime-supervision-annual-assessment-report-1-april-2021-to-31-march-2022-gov.uk).

⁴² Figures from 3.49, [Supervision_report_final_draft_-_signed.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/107112/supervision-report-final-draft--signed.pdf).

Money Service Businesses (MSBs)	HMRC (where not supervised by FCA or GC)	No	Yes	1,284	n/a
Art market participants (AMPs)	HMRC	No	Yes	986	n/a
High Value Dealers (HVDs)	HMRC	No	Yes	430	n/a
Bill Payment Service Providers/Telecommunication, Digital and IT Payment Service Providers	HMRC (where not supervised by FCA)	No	Yes	425	n/a

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

Supervisory Effectiveness

Risk-based and data-led supervisory work

5.8 There would be no expected major changes to the effectiveness of the FCA and GC, as none of the populations they supervise would fall under the scope of an SPSS, with the exception of a small number of TCSPs supervised by the FCA.

5.9 The creation of an SPSS would be expected to address the lack of consistency in the risk-based approaches to supervision of legal and accountancy firms which currently exists⁴³. An SPSS would be expected to act in a way that was consistent and transparent to firms, and consistent across the sectors it supervised. More generally, the reduced number of supervisors could reduce the possibility of gaps and improve consistency in the supervisory system brought about by differences in supervisory approach and effectiveness.

5.10 An SPSS would be expected to supervise over 60,000 legal and accountancy firms and TCSPs, and potentially more than 17,000 estate agency and letting agency businesses.⁴⁴ This is a much larger population than any supervisor under the OPBAS+ or Consolidated PBS model. This should allow it to unlock efficiencies and improve effectiveness through allocating resources in line with risk across the entire professional services sector, though would be a considerable

⁴³ 3.13-3.201, [opbas-report-progress-themes-supervisory-work-2022-23.pdf \(fca.org.uk\)](#), and 2.10; 3.11-2.16, [OPBAS: Progress and themes from our 2020/21 supervisory assessments \(fca.org.uk\)](#).

⁴⁴ Please see table under paragraph 5.7.

undertaking for a new function and may mean that some firms receive less oversight than at present as a result of being of lower priority within a much larger supervisory population (in line with the risk based approach). This might be mitigated through regular 'dip sampling' of firms viewed as lower risk within the SPSS's supervisory remit. An SPSS might also be able to leverage data yielded from the entirety of each of the sectors it supervised. This would be expected to provide it with better identification of risk and suspicious patterns of activity, as well as systems-wide trends. Furthermore, economies of scale may encourage the uptake of technologies which increase efficiency and supervisory effectiveness.

5.11 However, it is worth noting that HMRC would lose some benefits of economies of scale regarding their supervisory populations, which could have an impact on HMRC's supervisory effectiveness, or fee levels for the rest of its population.

5.12 Furthermore, the major benefit of professional body supervision is that supervisors have a strong understanding of the sectors that they supervise, and the firms within them. Some stakeholders have expressed concern that a public sector supervisor for the legal, accountancy and TCSP sectors could have weaker risk understanding for these sectors than PBSs.

5.13 PBSs have data on firms' activity from their non-AML/CTF supervision which currently can be used for analysing ML/TF risks as well. Retaining access to this information would require new information sharing systems and gateways between PBSs and a new SPSS.

5.14 Additionally, there is potential for a reduction in understanding of the interconnectedness of risk related to different forms of financial crime under an SPSS. Currently supervisors draw on understanding of other risk streams, such as fraud, when making risk assessments, or carrying out investigations for AML/CTF purposes. Therefore, understanding of the interconnectedness of AML/CTF and other financial crimes could be reduced under an SPSS.

Gatekeeping and policing the perimeter

5.15 Supervisory effectiveness could be increased through increased consistency in gatekeeping tests in each of the legal, accountancy and TCSP sectors.

5.16 An SPSS would be expected to take on responsibility for gatekeeping and policing the perimeter for the sectors it supervised. The development of a large investigative function to police the perimeter in all professional services sectors would be expected to lead to economies of scale. In addition, a number of public and private sector stakeholders have suggested to HM Treasury that a single register of all firms regulated under the MLRs would enhance the effectiveness of the AML/CTF supervisory system. The creation of this register is out of scope of this consultation, but we consider that it would likely be easier to

implement if an SPSS was supervising the entire professional services sector.

5.17 However, this model would lead to dual-regulation, where some firms were subject to gatekeeping and registration checks by both professional bodies and the SPSS. This may represent an increased regulatory burden. It may be that this could be mitigated by for example an SPSS accepting a certificate of good standing from professional bodies with robust gatekeeping tests, rather than carrying out additional checks.

Enforcement and powers

5.18 The SPSS would likely require broadly the same powers as those held by the statutory supervisors under the MLRs, including the powers to impose financial penalties, publicly censure, impose prohibitions on management and apply for court injunctions.

5.19 It may be desirable and proportionate to provide the SPSS with powers similar to those held by the FCA under FSMA, including the ability to make rules, issue directions and require a skilled person to write a report. It would be important to provide the SPSS with similar enforcement powers that allow it to take a range of measures even if in practice the SPSS's use of such powers could differ to the FCA's, possibly as a result of differences in the nature of firms it would supervise. The SPSS would be accountable to HM Treasury and ultimately Parliament for how it achieved its mandate, including its use (or not) of its powers.

5.20 The SPSS would likely need to develop an intelligence function to support monitoring of compliance amongst supervised firms, and to detect activity within the scope of the MLRs carried out without supervision ('policing the perimeter'), in cooperation with other functions within the SPSS, other supervisors, and the private sector.

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

5.21 Similar to model 2, 'PBS consolidation', the SPSS would likely need to be able to receive from PBSs existing information and records (to a point) pertaining to AML/CTF supervision to mitigate disruption to effective supervision caused by loss of 'corporate memory' and sectoral knowledge. This could include ongoing supervision and enforcement activity, including inflight investigations. All ongoing cases (potentially limited to those concerning material breaches likely to result in an enforcement action against the firm(s) in question) could be transferred to the SPSS on a set date, or the relevant PBSs could be allowed to complete ongoing cases in a phased approach to transferring enforcement responsibilities. We recognise both options bear risk – transferring ongoing cases may jeopardise their outcomes, while a phased approach may create confusion.

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

5.22 Relating to accountability, we consider it would be appropriate for the SPSS to be subject to similar levels of scrutiny as the existing statutory supervisors, and to be responsible to HM Treasury and to Parliament for meeting its obligations. It could be appropriate for the SPSS to appear before Parliament once every one to two years if the SPSS were an independent body.

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

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

Systems coordination

Information sharing

5.23 Creating a new supervisor for the professional services sector would be expected to bring about an increase in the effectiveness of information and intelligence sharing. An SPSS would be able to share information across its different departments and with statutory supervisors effectively, allowing a better understanding of systems-wide trends and therefore a better focus on the highest risk areas.

5.24 However, the professional bodies, continuing to supervise members for non-AML/CTF conduct matters, may have relevant information which could be used to improve AML/CTF supervision (and vice versa). This information would be proportionately more difficult to access. Under this model we would work to prevent firms having to provide the same information multiple times. It may be possible to mitigate this through information sharing gateways between professional bodies and the SPSS.

Law enforcement

5.25 Information sharing with law enforcement agencies would also be expected to be improved by the creation of an SPSS. Law enforcement agencies would know that the SPSS was the AML/CTF supervisor for all professional services firms, saving them from spending time trying to ascertain which PBS supervises each firm, an issue raised frequently by law enforcement and supervisors. Furthermore, an SPSS could leverage information from across the professional services sector to identify changing dynamics, such as reduced SARs submission in certain sectors, and potentially communicate more easily with the UKFIU regarding common issues which limit the utility of SARs.

5.26 However, HMRC's current supervision of TCSPs and ASPs is informed by information gathered during its other functions. To date, most of its criminal investigation and intelligence work on TCSPs has stemmed from teams other than its supervisory team identifying irregularities. HMRC would not necessarily be able to share all of this useful information with another supervisor, meaning that some insights gleaned from HMRC's other activities could be lost to an SPSS. It may be possible to create a relevant legal gateway, though information

sharing beyond HMRC is likely to be more difficult than sharing it internally.

Dual regulation

5.27 There are further potential challenges concerning information-sharing under an SPSS model. First, an SPSS would lead to a separation of professional body supervision regarding general conduct and AML/CTF. It would be necessary to ensure an SPSS knew if a firm or practitioner was supervised by a professional body, and work with that professional body where breaches of general conduct requirements and AML/CTF obligations cross-over. In certain incidences, professional bodies may be required to inform the SPSS when a regulatory breach they have identified includes a breach of the MLRs (and vice versa with wider conduct issues), and it could necessitate coordination on investigations.

5.28 Under this option, it would also be important to ensure that unnecessary burdens are not placed on business as a result of this dual regulation. This could be somewhat mitigated by appropriate information sharing mechanisms being put in place between the SPSS and other regulators. As noted earlier, in the current system, there are examples of dual regulation which enables effective supervision and limits burdens for businesses, such as the relationships between the FCA and Prudential Regulation Authority (PRA), and HMRC and Royal Institution of Chartered Surveyors (RICS), and other bodies.

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

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

Feasibility

5.29 Creating a new supervisor, capable of supervising such a large number of firms, is a substantial process that would take several years, with the transition period dependent on the timing of legislation. Legislation would likely be needed to establish the body, including its powers. An SPSS' governance structure would need to give it a clear public service remit and follow the organisational principles discussed earlier in this paper.

5.30 It would be essential that the supervisor had staff with the necessary technical expertise in areas such as AML/CTF compliance and enforcement. There would need to be significant sectoral expertise for each sector it covered, as well as understanding of the different jurisdictions. This would require an SPSS to attract and retain the correct staff. This may be hindered by the constraints of public sector pay compared to what a PBS as a private organisation is able to pay staff, were the SPSS to be a public body.

5.31 There would be two major challenges posed by the transition: the performance of the new SPSS and the work of the PBSs during the transition.

5.32 A new supervisor would rely on risk assessments and data provided by previous supervisors initially, so it would not be able to consistently assess risk across its population until it carried out its own risk assessments, which would likely take one-to-two years. It would also take time to develop all its capabilities and upskill staff to take on new roles.

5.33 Therefore, an SPSS would be unlikely to achieve full supervisory effectiveness immediately and would be expected to improve gradually over several years. To mitigate these transitional difficulties, it may be useful to stagger the transition of different populations of supervised firms. This staggered implementation plan may reduce the disruption caused by the creation of the SPSS and the impact on supervision.

5.34 The second transitional difficulty concerns PBSs' performance. If this option were chosen, PBSs would continue to supervise their populations during the implementation period. However, PBSs may see little incentive to maintain and improve systems given the imminent transfer of these functions to the SPSS. Additionally, there could be challenges for PBSs in retaining staff during the transition period. Finally, the establishment of the SPSS would itself require input from staff at the PBSs, in so far as they are working with the new SPSS to prepare for data transfers, system transfers, preparing communications to supervised firms, etc. This work would likely compete for limited resource with business-as-usual supervision work.

5.35 This risk would be difficult to fully mitigate. HM Treasury, with OPBAS, would work closely with PBSs to put them in the strongest position to continue their work during transition, if this model was selected. In addition, HM Treasury would work with OPBAS to consider what role they could play in a transition to uphold or increase supervisory standards. Clear processes would need to be set out to manage transition risks. These could include transferring staff from existing supervisors to the new supervisor to ensure continuity of expertise. Providing early clarity on this would reduce the risk of disengagement, or experts moving away from AML/CTF supervision due to lack of certainty.

Fees and Funding

5.36 The new AML/CTF supervisor would operate a full cost-recovery model, charging firms an annual fee to offset the cost of its supervisory activities. Setting-up an effective new public body would require considerable investment - a physical location to house the body, new IT systems, the hiring and training of staff and outreach activities to ensure all relevant stakeholders understood the role of the new supervisor.

5.37 It would be necessary to determine a tariff according to which the total cost of an SPSS' supervisory activities were recovered through

fees. Firms would be expected to pay different amounts based on both the nature of the business they carry out, and their size.

5.38 Once again, the tariff could be based upon a firm's income, the number of BOOMs, practitioners, premises, or other equivalents. As some supervised persons are individuals, rather than businesses, it may be necessary to offer reduced fees to individuals or businesses who have low incomes from regulated activity.

5.39 Under this model, it would be hoped that in the long-term, economies of scale would allow an SPSS greater efficiency in its supervision than that achieved by PBSs in the legal and accountancy sectors currently. In the short term, we expect that transitional costs would be higher as the body is established.

5.40 Under this model, all PBSs would lose their AML/CTF functions. This would require changes to their financial models as a result of a reduction in their income streams. The extent of the impact of an SPSS on HMRC would depend on the scope of an SPSS. However, the loss of a number of its supervised sectors would reduce economies of scale, and impact upon the cost of supervising the rest of its population. There would be no direct impact on the other statutory supervisors - the GC and the FCA.

5.41 Following the transition period, OPBAS would be wound up. This would mean that the costs of the OPBAS Levy would no longer be passed on to firms currently supervised by professional bodies for AML/CTF purposes.

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

Chapter 6: Single Anti-Money Laundering Supervisor

Overview of structural changes

6.1 The proposed structural changes brought about by this model are as follows. An illustrated description of this model is included in Annex E.

- All AML/CTF supervision would be done by one body, including the work currently done by the FCA, the GC, and HMRC, and the PBSs. There would be no other AML/CTF supervisors.
- The FCA and the GC would continue to regulate financial services firms and casinos respectively, but not for AML/CTF rules.
- OPBAS would be wound up. All PBSs would be removed from Schedule 1 of the MLRs and would no longer supervise firms for AML/CTF purposes. They would retain their other existing roles including e.g. conduct supervision where applicable.

6.2 The creation of a Single Anti-Money Laundering/Counter Terrorism Financing Supervisor (SAS) would mean that all firms designated under the MLRs but also supervised for other matters, such as general conduct, would have multiple regulators. This includes the entire financial sector, some of whom would be regulated by the Prudential Regulation Authority (PRA), the FCA, and the SAS.

6.3 Considerations about regulatory burdens and information sharing, covered in paragraph 5.4 for SPSS, would be similar for an SAS, but more pronounced due to the inclusion of financial services and gambling. We anticipate that all important design features of a public body SAS would be similar to those of the SPSS. To that end, please note the discussion of the benefits and disbenefits of public body supervision at the beginning of chapter 5; and please note the key considerations for creation of an SPSS at 5.4.

6.4 We are aware that the creation of an SAS would have significant implications for PBSs and the existing statutory supervisors. We will continue to engage with PBSs and the existing statutory supervisors to understand the potential impacts of this model on them.

Supervisory effectiveness

Risk-based and data-led supervision

6.5 The creation of a single AML/CTF authority would be expected to have many of the same benefits as the creation of an SPSS. It would

address the lack of consistency in risk-based supervision in the legal and accountancy sector and bring about a common, transparent, and predictable approach across the entire regulated sector.

6.6 Similarly to an SPSS, the increased population size would be expected to allow the pooling of data and information across the SAS. By allocating resources using a risk-based approach across the entire MLR-regulated population, more resources could be focused on areas of highest risk. Linkages between different parts of the supervised population would be expected to improve, allowing better monitoring of threats and suspicious activity across the regime, and enhancing risk understanding. This would be expected to be more pronounced than under the SPSS model, in proportion to the additional sectors brought under a single supervisor.

6.7 However, a lack of expertise on sector-related areas could be a concern under an SAS. As well as impacting the accountancy and legal sectors, the FCA and GC's sectoral expertise would not be available to the new SAS. The creation of an SAS could also risk creating silos of knowledge. AML/CTF risks are very interconnected with other risk channels and financial crimes, such as fraud, market abuse and tax matters. Currently, supervisors use their understanding of interrelations in these areas to assess risk. Therefore, creating a new body which carries out only AML/CTF functions could lead to a reduction in understanding of cross-cutting aspects of financial crime, and the insights this provides. This would also be a concern in professional services sectors under SPSS but would be extended to the financial services sector in this model, much of which the NRA classified as high-risk.⁴⁵ It may be possible to use high-quality information sharing channels and Memorandums of Understanding to mitigate this in part.

6.8 Furthermore, under an SAS, there would be the potential for a short-term weakening of the risk-based approach, particularly due to the challenges with utilising the data and risk assessments in the legal and accountancy sectors. As risk assessments will have been made by many bodies using different risk indicators, an SAS would likely not be able to weigh assessments made by different bodies accurately until it had carried out its own assessments. There would not be inconsistencies among risk assessments within other sectors (e.g. financial institutions, casinos, art market participants) as there is a single supervisor for each of these sectors. It would be for the SAS to weigh risk across sectors to ensure that it simultaneously deployed an effective risk-based approach, while ensuring that low-risk sectors and businesses were also adequately supervised.

6.9 Taking a risk-based approach across a wider population could risk certain low-risk sectors or businesses receiving less supervisory attention. Alternatively, less direct supervisory oversight could be

⁴⁵ [NRA_2020_v1.2_FOR_PUBLICATION.pdf \(publishing.service.gov.uk\)](#), p.54.

applied to jurisdictions where businesses and practices are generally smaller and carry out low-risk activity.

Gatekeeping and policing the perimeter

6.10 The SAS would take responsibility for gatekeeping all AML/CTF-regulated firms. As under the SPSS, it would also be responsible for policing the perimeter of all sectors, identifying any firms carrying out unsupervised activity. As noted previously, stakeholders have highlighted the benefits of a complete register of supervised firms for this work. While this is beyond the scope of the consultation, we consider that it would be easier to achieve under this model.

6.11 One potential limitation under an SAS would be that many businesses would be regulated by multiple supervisors. This would be the case for most legal and accountancy firms, as well as financial services and casino sector firms. The new supervisor would need to minimise the impact of this on businesses where possible. For example, it may be possible for one body to carry out a fit & proper test for a financial services firm, which is then authorised and accepted by other bodies such as the new AML/CTF supervisor or the FCA, in order to avoid the duplication of activity. Nevertheless, this dual regulation and the associated information sharing implications may reduce the reliability of gatekeeping assessments – for instance, where the FCA or HMRC use wider datasets to inform their assessment, the SAS would have more difficulty using this data.

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

Powers

6.12 The creation of a single supervisor for the entirety of the regulated sector ought to increase consistency of enforcement actions across the regime. The SAS would likely require the powers granted under Chapter 2 of Part 9 of the MLRs, which include the powers to impose financial penalties, publicly censure, impose prohibitions on management and apply for court injunctions. The SAS could also be given the ability to cooperate with and where necessary compel information relating to AML/CTF supervision from non-public sector bodies that supervise AML/CTF regulated firms for non-AML/CTF purposes.

6.13 The general powers granted to the FCA under FSMA mentioned earlier (e.g. the power to make rules), and the GC under the Gambling Act, while not provided for under the MLRs are an important part of their respective abilities to effectively supervise their sectors for AML/CTF. The SAS may benefit from similar powers, both for the financial services and gambling sectors, but also potentially to other sectors that would be under the remit of the SAS.

Accountability

6.14 The SAS would be accountable to HM Treasury and to Parliament. Given the scope and extent of the SAS's work and the absence of any other supervisors, HM Treasury's current practice of assessing each supervisor's performance in its annual supervision report may not be fit for purpose and could be amended.

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

System co-ordination

6.15 Many of the benefits of an SAS in terms of information-sharing would be similar to those of an SPSS. Information-sharing with law enforcement agencies would be expected to improve significantly in the legal, accountancy and TCSP sectors. There would also be the potential for improvements in sectors currently supervised by the statutory supervisors. Communication with law enforcement and international partners would be streamlined through the creation of a single AML/CTF supervisor. Law enforcement may be more comfortable sharing information regarding the legal and accountancy sectors with a public body staffed by vetted employees. An SAS would be able to draw on information from across the entire regulated sector, with the potential for efficient information-sharing across teams. This would provide insight into activities carried out across different sectors and allow complementary investigations into actors in different sectors involved in the same breaches.

6.16 Consideration would need to be given as to how the SAS could cooperate and share information with other bodies that supervise firms for other purposes. This would not only be needed for the legal and accountancy sectors, but also for the other statutory supervisors. As existing supervisors often carry forward enforcement activity based on breaches of the MLRs in conjunction with breaches of other regulations, it would be important to ensure active cooperation to avoid duplication of efforts. This could add complexity to investigations, weakening systems coordination.

6.17 However, it is notable that dual regulation already exists in the financial services sector, casino sector, and to a number of firms supervised by HMRC. Strong working relationships are needed to enable effective joint investigations. If an SAS were to be selected, lessons would be taken from these existing relationships to better understand how the SAS should work with other regulators across the regulated sector.

6.18 There would be an increased challenge for systems-coordination in the legal and accountancy sectors based on the requirement for an SAS to coordinate with the large number of PBSs. However, evidence of successful cooperation by dual-regulated firms in the existing system suggests that this barrier could be successfully overcome.

34) Does the separation of AML/CTF supervision from general regulatory activity present a major issue for those firms currently

supervised by the statutory supervisors? Please explain your reasoning.

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

Feasibility

6.19 Implementation considerations and risks for SAS would be similar to those for SPSS, with key concerns being the work of the supervisors during the transition period and ensuring the new supervisor had sufficient technical and sector-specific expertise. The significantly larger number of firms transferring to an SAS would increase implementation difficulties and costs. Please refer to the section beginning at 5.40 for further discussion.

6.20 The transitional risk of this option would be heightened compared to an SPSS by the inclusion of the financial services sector, casinos, and MSBs supervised by HMRC within the scope of an SAS. Therefore, the risk of supervisory effectiveness falling during the transition would be higher for SAS than for any other option and implementation costs are also likely to be more significant.

6.21 Similarly to an SPSS, an SAS would be unlikely to reach full effectiveness as a supervisor immediately. Therefore, a staggered approach might also be useful under an SAS to limit the short-term reduction in supervisory effectiveness. For example, the SAS could begin by taking over legal and accountancy firms from smaller supervisors, then larger supervisors. Due to the associated risk of the sector, high-risk sectors, such as financial institutions, MSBs and large legal and accountancy firms could be transferred last, once an SAS was capable of effectively supervising these sectors.

Fees and Funding

6.22 The main fees and funding considerations would be similar to those for an SPSS, please refer to paragraphs 5.36 to 5.41.

6.23 Due to increased economies of scale, it is expected that an SAS would be able to bring about a step-change in the effectiveness of supervision without a substantial increase in fees. Proportionality would be central to a fee structure for an SAS, to ensure that fees would not fall excessively on small businesses or sole practitioners.

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

Chapter 7: Sanctions Supervision

Background: existing sanctions supervision systems

7.1 The 2018 FATF Mutual Evaluation Report (MER) recommended the UK review and formalise supervisors' powers to monitor sanctions compliance systems and controls. While all relevant firms under the MLRs must comply with UK sanctions, the MLRs do not give supervisors explicit powers to supervise sanctions systems and controls for non-counter-terrorism (CT) sanctions regimes. Engagement with the supervisors has found that some supervisors do already review sanctions systems and controls as part of broader supervision of AML/CTF controls but far fewer issue guidance on compliance with financial sanctions. Following the MER, a review led by HM Treasury concluded that new powers were unnecessary at that time, but further technical engagement on sanctions awareness and implementation could be useful in delivering more consistent supervision. However, four years on this picture has changed.

7.2 Following Russia's illegal invasion of Ukraine in February 2022, the application of UK sanctions has increased, both in number and complexity. The introduction of new novel trade sanctions particularly targeting sectors supervised by the PBSs and statutory supervisors, including the accountancy sector, have expanded the need for robust internal compliance frameworks within supervised members' businesses. The private sector is often the first line of defence against sanctions non-implementation and evasion. The efficacy of sanctions regimes in achieving their purposes is dependent on the strength of their implementation and the ability of industry to identify risks of non-compliance. Indeed, private sector operations are most efficient when they are able to detect, monitor and prevent violations of sanctions rather than reacting to possible breaches after they have occurred. As such, supervisors have the potential to play a crucial role in developing the capabilities of sanctions compliance controls and ensuring businesses understand the risks facing them and how these can be mitigated.

Current picture and future of sanctions supervision

7.3 UK sanctions regulations apply to UK persons⁴⁶ in relation to their conduct anywhere in the world, as well as to non-UK persons in relation to their conduct in the UK. The Office of Financial Sanctions Implementation (OFSI) is the UK authority responsible for raising understanding of, implementing and enforcing financial sanctions.

7.4 Regulation 19 of the MLRs specifies that relevant persons should have policies, controls and procedures in place to mitigate and manage effectively the risk of money laundering and terrorism financing, which is defined to include the asset freeze provisions under the three UK CT sanctions regimes. However, this provision under the MLRs does not include other types of financial sanctions, or other types of sanctions, for example, trade sanctions. Consequently, the MLRs do not explicitly require firms to have in place sufficient systems and controls to safeguard against breaching non-CT and non-(proliferation financing) PF sanctions, though sanctions screening is a recommended fundamental part of risk assessment. Therefore, AML/CTF supervisors do not all have legislative powers to review all sanctions systems and controls of their supervised populations, and they do not all have enforcement powers to act where these are found deficient.

7.5 In 2019, HM Treasury contacted supervisors to gain an understanding of current approaches to supervising sanctions systems and controls, where these existed (given no explicit legislative requirement), how these fit into wider AML/CTF supervision, and their preference for possible future sanctions supervisory tools. The majority of supervisors responded to say that they did raise awareness of sanctions and consider them as part of wider AML/CTF supervision, despite no statutory requirement to do so for non-CT sanctions.

7.6 Given the change in the sanctions context in the UK following Russia's invasion of Ukraine, and the significant growth in the number and complexity of UK sanctions, as well as the global focus on preventing routes for sanctions evasion and non-compliance, it may be that a more formalised system of sanctions supervision is now required. While PBSs have undertaken targeted sanctions work, thematic projects and data collection, and issued guidance and information to their supervised populations, there may be scope for further improvements.

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In this context, person includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons.

Interactions of sanctions supervision with supervisory reform

7.7 If **OPBAS+** was selected post-consultation, it may be worth considering whether specific sanctions supervision powers are needed as part of OPBAS' new powers; or whether OPBAS' general expanded powers would be suitable.

7.8 Under **PBS Consolidation**, capacity building for sanctions supervision may still be necessary to ensure supervisors are taking a consistent approach, but delivery of capacity building could be easier given there are fewer supervisors. It would be worth considering whether a consolidated PBS would have the necessary enforcement powers, as per discussion beginning at 4.34.

7.9 **SPSS** and **SAS** face similar up- and down-sides as for general AML/CTF supervision.

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

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

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

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

Chapter 8: Overview

8.1 This chapter raises a small number of relevant themes which cut across all four options. It then asks respondents to compare the considerations made throughout this document against our objectives.

Other relevant considerations

8.2 A major difference between the models in terms of supervisory effectiveness is expected to stem from new opportunities created by increasing the size of the mandate of supervisors. As the number of supervisors decreases, it would be possible to leverage enlarged sets of data to take a risk-based approach across a greater population size. This may increase incentives to invest in new technologies which allow more sophisticated data-analysis. The inclusion of a larger number of sectors within a supervisor's remit, as in an SPSS, and to an even greater extent, an SAS, could support a more system-wide understanding of relative risk.

8.3 It is worth bearing in mind the ability of the regime under each option to adapt to new risks and technologies. Both the ML/CT threat to the UK and the nature of the sectors being supervised evolve rapidly. An agile, evolving understanding and response to emerging economic crime risks is supported by the development and effective deployment of new technologies, including Supervisory Technologies (SupTech) and Regulatory Technologies (RegTech). The potential applications of new technologies in the economic crime space are far reaching. As well as reducing compliance burdens for the regulated sector and supervisors, new technologies are having a consequential impact on supervisory effectiveness and how the government, supervisors and the regulated sector confront economic crime.

8.4 There are potential implications for guidance under each of the models. If OPBAS+ was selected, or PBS Consolidation with OPBAS continuing to play a role, OPBAS could potentially approve guidance rather than HM Treasury. If an SPSS or SAS was created, either sectoral experts within the new body could draft guidance, or this could be done by an industry body, similar to the role of the Joint Money Laundering Steering Group in the financial service sector.

8.5 Under the Public Interest Disclosure Act 1998, whistleblowers are protected against detriment or dismissal from their employer when they make a protected disclosure. To qualify for the protections, a worker must generally make their disclosure either to their employer, a legal adviser, Minister of the Crown, or the relevant prescribed person, as listed in the Prescribed Persons Order. Currently, the FCA and the NCA are the only prescribed persons for breaches of the MLRs or money-laundering. It may be beneficial, post-reform, to consider expanding the list of bodies prescribed for AML/CTF purposes.

8.6 Different considerations will apply to the legal and accountancy sectors, and we encourage respondents to indicate which sectors any evidence they provide is primarily relevant to.

8.7 Losing responsibility for AML/CTF supervision would have significant implications for PBSs, and is likely to require changes to their financial models, including the fees they charge to their supervised population. We are keen to understand this impact.

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

Options Comparison

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

Public Sector Equality Duty

8.8 HM Treasury will be paying due regard to the equalities implications of the relevant options as part of the process of making a policy decision. To this end, if you have any evidence as to how the options set out in this document would help or harm individuals or households with protected characteristics, we would be grateful if you could provide this.

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

Chapter 9: Next steps

9.1 The government welcomes your views in response to the questions posed. The government encourages stakeholders to provide as much evidence as possible to help inform the government's response to these questions. This will help ensure evidence-based policy decisions.

9.2 The government will be running a series of events during the consultation period where stakeholders will be given the opportunity to take part in interactive discussions about the proposals and issues in this consultation document.

9.3 Our preferred format in which to receive responses is via HM Treasury's online Smart Survey form, which can be found here:
<https://www.smartsurvey.co.uk/s/S2S001/>

9.4 Email responses should be sent to:

Anti-MoneyLaunderingBranch@hmtreasury.gov.uk

9.5 Questions or enquiries in relation to this consultation should also be sent to the above email address. Please include the words 'Supervisory Reform' or 'Consultation' in your email subject. Whilst it is preferable to send responses electronically, if needed responses can be sent by post to:

AML/CTF Supervisory Reform
Sanctions and Illicit Finance Team (2/27)
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ
London

9.6 The closing date for comments to be submitted is September 30th 2023.

9.7 We will make a policy decision on the model for reform after this consultation and publish a response document detailing this decision and the key implementation considerations by Q2 2024.

Annex A: HM Treasury consultations – processing of personal data

A.1 This section sets out how we will use your personal data and explains your relevant rights under the UK General Data Protection Regulation (UK GDPR). For the purposes of the UK GDPR, HM Treasury is the data controller for any personal data you provide in response to this consultation.

Data subjects

A.2 The personal data we will collect relates to individuals responding to this consultation. These responses will come from a wide group of stakeholders with knowledge of a particular issue.

The personal data we collect

A.3 The personal data will be collected through submissions, by email, in writing, and through an online form. They are likely to include respondents' names, email addresses, their job titles, and employers as well as their opinions.

How we will use the personal data

A.4 This personal data will only be processed for the purpose of obtaining opinions about government policies, proposals, or an issue of public interest.

A.5 Processing of this personal data is necessary to help us understand who has responded to this consultation and, in some cases, contact certain respondents to discuss their response.

A.6 HM Treasury will not include any personal data when publishing its response to this consultation.

Lawful basis for processing the personal data

A.7 The lawful basis we are relying on to process the personal data is Article 6(1)(e) of the UK GDPR; the processing is necessary for the performance of a task we are carrying out in the public interest. This task is consulting on the development of departmental policies or proposals to help us to develop good effective policies.

Who will have access to the personal data

A.8 The personal data will only be made available to those with a legitimate need to see it as part of consultation process.

A.9 We sometimes conduct consultations in partnership with other agencies and government departments and, when we do this, it will be apparent from the consultation itself. For joint consultations, personal data received in responses are shared with these partner organisations in order for them to also understand who responded to the consultation.

A.10 As the personal data is stored on our IT infrastructure, it will be accessible to our IT service providers. They will only process this personal data for our purposes and in fulfilment with the contractual obligations they have with us.

How long we hold the personal data for

A.11 We will retain the personal data until the consultation process has been completed and the policy is implemented. After this, we will only retain personal data if it is embedded in a response, but we will not use it for any unrelated purposes.

Your data protection rights

A.12 You have the right to:

- request information about how we process your personal data and request a copy of it
- object to the processing of your personal data
- request that any inaccuracies in your personal data are rectified without delay
- request that your personal data are erased if there is no longer a justification for them to be processed
- complain to the Information Commissioner's Office if you are unhappy with the way in which we have processed your personal data

How to submit a data subject access request (DSAR)

A.13 To request access to your personal data that HM Treasury holds, contact:

The Information Rights Unit

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

dsar@hmtreasury.gov.uk

Complaints

A.14 If you have concerns about our use of your personal data, please contact the Treasury's Data Protection Officer (DPO) in the first instance at privacy@hmtreasury.gov.uk

A.15 If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner at casework@ico.org.uk or via this website: <https://ico.org.uk/make-a-complaint>.

Annex B: Question list

Objectives

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

OPBAS+

2. What would the impact be of OPBAS having the FCA's rule-making power? What rules might OPBAS create with a new rule-making power that would support its aim to improve PBS supervision?
3. Which, if any, of these powers should OPBAS be granted under this model? Are there any other powers that OPBAS could be granted under this model to aid OPBAS in increasing the effectiveness and consistency of PBS supervision?
4. What new accountability mechanisms would be appropriate in order to ensure proportionate and effective use by OPBAS of any new powers?
5. Do you have evidence of any specific types of regulated activity which are at high risk of being illegally carried out without supervision?
6. Do you think a "default" legal sector supervisor is necessary? If so, do you think a PBS could be designated as default legal sector supervisor under the OPBAS+ option?
7. Overall, what impact do you think the OPBAS+ model would have on supervisory effectiveness? Please explain your reasoning.
8. Overall, what impact do you think the OPBAS+ model would have on system coordination? Please explain your reasoning.
9. Overall, how significant do you think feasibility constraints would be for the OPBAS+ model? Please explain your reasoning.

PBS Consolidation

10. Were we to proceed with the PBS consolidation model, what would the relative advantages be of (a) a UK-wide remit, (b) retaining separate PBSs in the Devolved Administrations? Which would best achieve the consultation objectives? Please answer with explicit reference to either the legal sector, the accountancy sector, or both.
11. How could HM Treasury and/or OPBAS ensure effective oversight of consolidated PBSs under this model? Would it be appropriate

to provide OPBAS with enhanced powers, such as those described in the OPBAS+ model description?

12. Under the PBS consolidation model, do you think that HMRC should retain supervision of ASPs and TCSPs which are not currently supervised by PBSs? Why/why not?
13. What would the impact be of consolidated PBSs having a more formal role in identifying firms carrying out unsupervised activity in scope of the MLRs? What powers would they need to do this?
14. Under the PBS consolidation model, what would the advantages and disadvantages be of a consolidated accountancy or legal sector body supervising a range of different specialisms/professions for AML/CTF purposes?
15. What steps, if any, could HM Treasury take under this model to address any inconsistencies in the enforcement powers available to supervisors?
16. Which option, to the extent they are different, would be preferable for providing for supervision of non-members under the PBS consolidation model? Are there alternatives we should consider?
17. What powers, if any, might be required to minimise disruption to ongoing enforcement action and to support cooperation between the PBSs retaining their AML/CTF supervisory role and the PBSs which are not?
18. Overall, what impact do you think the PBS consolidation model would have on supervisory effectiveness? Please explain your reasoning.
19. Overall, what impact do you think the PBS consolidation model would have on system coordination? Please explain your reasoning.
20. What additional powers or tools, if any, could enable OPBAS to ensure the transition to a new model is smooth and supervision standards do not fall in the interim?
21. How do you believe fees should be collected under the PBS consolidation model?
22. Overall, how significant do you think feasibility constraints would be for the PBS consolidation model? Please explain your reasoning.

SPSS

23. Do you agree these would be the key structural design features to consider if creating a new public body (whether it was an SPSS or an SAS)? Should anything be added or amended?
24. If an SPSS were to be created, which sectors do you think it should supervise?

25. Were an SPSS to be created, what powers should it have?
26. How should enforcement responsibility be transferred should an SPSS be created?
27. What powers should HM Treasury have to oversee an SPSS?
28. Overall, what impact do you think the SPSS model would have on supervisory effectiveness? Please explain your reasoning.
29. How significant would the impact be on firms of splitting AML/CTF supervision from wider regulatory supervision in the sectors to be supervised by the SPSS?
30. Overall, what impact do you think the SPSS model would have on supervisory effectiveness? Please explain your reasoning.
31. Overall, how significant do you think feasibility constraints would be for the SPSS? Please explain your reasoning.

SAS

32. Do you foresee any major challenges for effective gatekeeping, under either the SPSS or SAS model? If so, please explain what they are, and how you propose we could mitigate them?
33. Overall, what impact do you think the SAS model would have on supervisory effectiveness? Please explain your reasoning.
34. Does the separation of AML/CTF supervision from general regulatory activity present a major issue for those firms currently supervised by the statutory supervisors? Please explain your reasoning.
35. Overall, what impact do you think the SAS model would have on system coordination? Please explain your reasoning.
36. Overall, how significant do you think feasibility constraints would be for the SAS? Please explain your reasoning.

Sanctions

37. Given the change in the sanctions context in the UK since Russia's invasion of Ukraine, have supervisors changed their approach to oversight of sanctions systems and controls amongst regulated populations? If so, what activity has this entailed?
38. Do supervisors need additional powers to monitor sanctions systems and controls effectively, or can this be done under existing powers? What would any new powers need to consist of?

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

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

Options Comparison

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

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

Public Sector Equality Duty

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

Annex C: Glossary

ACSP – Authorised Corporate Service Provider

AML/CTF - Anti-Money Laundering and Counter Terrorism Financing

AMP - Art Market Participants

ASP - Accountancy Service Providers

BOOM – Beneficial Owners, Operators and Managers

BPSP - Bill Payment Service Providers

CTF – Counter-terrorism financing

EAB - Estate Agency Businesses

ECCT Bill - Economic Crime and Corporate Transparency Bill

EU – European Union

FATF – Financial Action Task Force

FCA – Financial Conduct Authority

Firm – used in this document, for brevity, to refer to any entity carrying out activities regulated under the MLRs. This can include individuals, such as barristers.

FSMA – Financial Services and Markets Act 2000

GC - Gambling Commission

HMRC – His Majesty’s Revenue and Customs

HVDs - High-Value Dealers

IT – Information Technology

JMLSG – Joint Money Laundering Steering Group

OPBAS – Office for Professional Body Anti-Money Laundering and Counter Terrorism Financing Supervision

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

LAB – Letting Agency Businesses

Member – used in this document, for brevity, to refer to firms and individuals supervised by a PBS. Not all PBSs are representative bodies, such as the SRA, Bar Standards Board, and Chartered Legal Executives Regulation. These PBS do not therefore have members, however for brevity we use ‘members’ to indicate the firms a PBS supervises.

MER – Mutual Evaluation Report

ML – Money Laundering

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

MoU – Memorandum of Understanding

MSB – Money Service Business

NCA – National Crime Agency

NRA – National Risk Assessment of Money Laundering and Terrorist Financing

PBS – Professional Body Supervisor

PB – Professional Body

PF – Proliferation Financing (of Weapons of Mass Destruction)

PRA – Prudential Regulation Authority

The Review – The 2022 HM Treasury Review of the UK’s AML/CTF regulatory and supervisory Regime

RICS – Royal Institution of Chartered Surveyors

SAR – Suspicious Activity Report

SAS – Single AML/CTF Supervisor

SPSS – Single Professional Services Supervisor

Statutory Supervisors – A term usually used to refer to HMRC, the FCA, and the Gambling Commission

TCSP – Trust and Company Service Provider

TDITPSP - Telecommunications, Digital, and IT Payment Service Providers

TF – Terrorism Financing

UKFIU – UK Financial Intelligence Unit

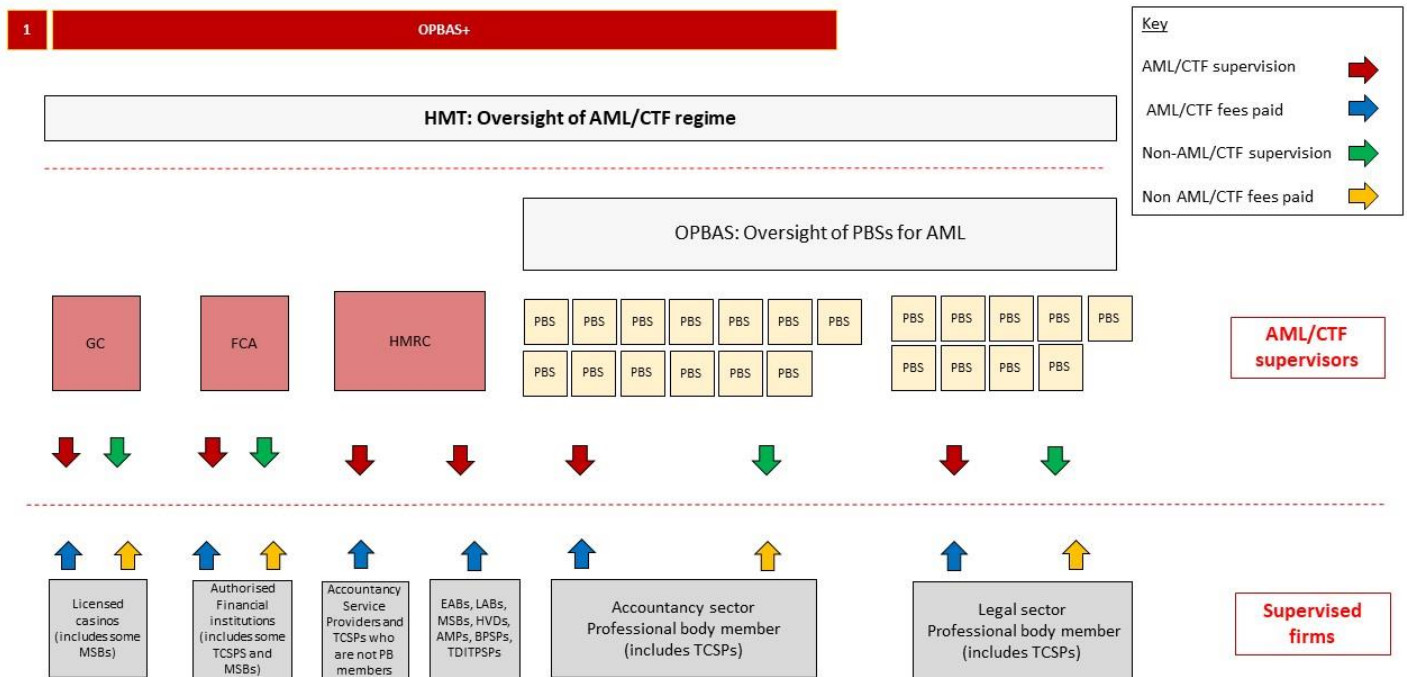
Annex D: Professional Body Supervisors

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

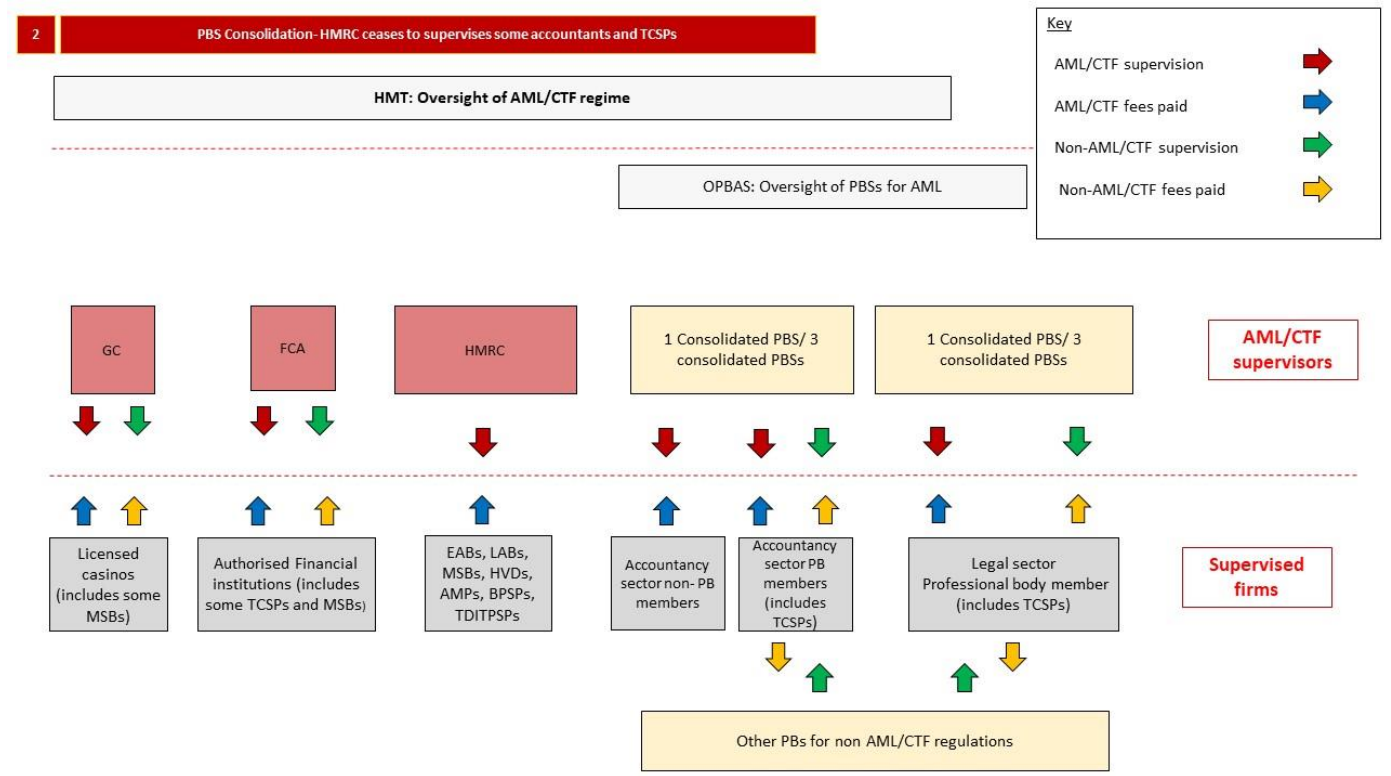
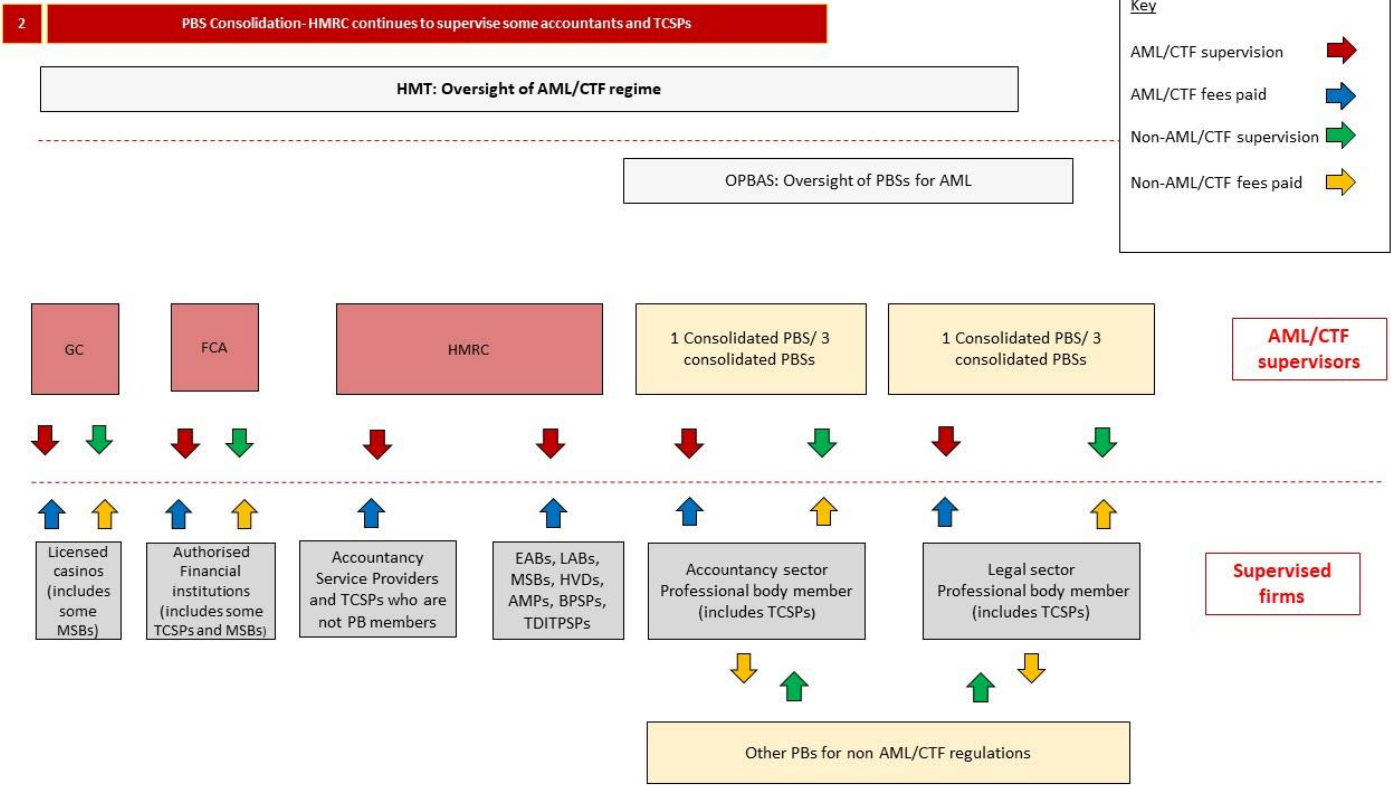
Source: Schedule 1, The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

Annex E: Model Diagrams

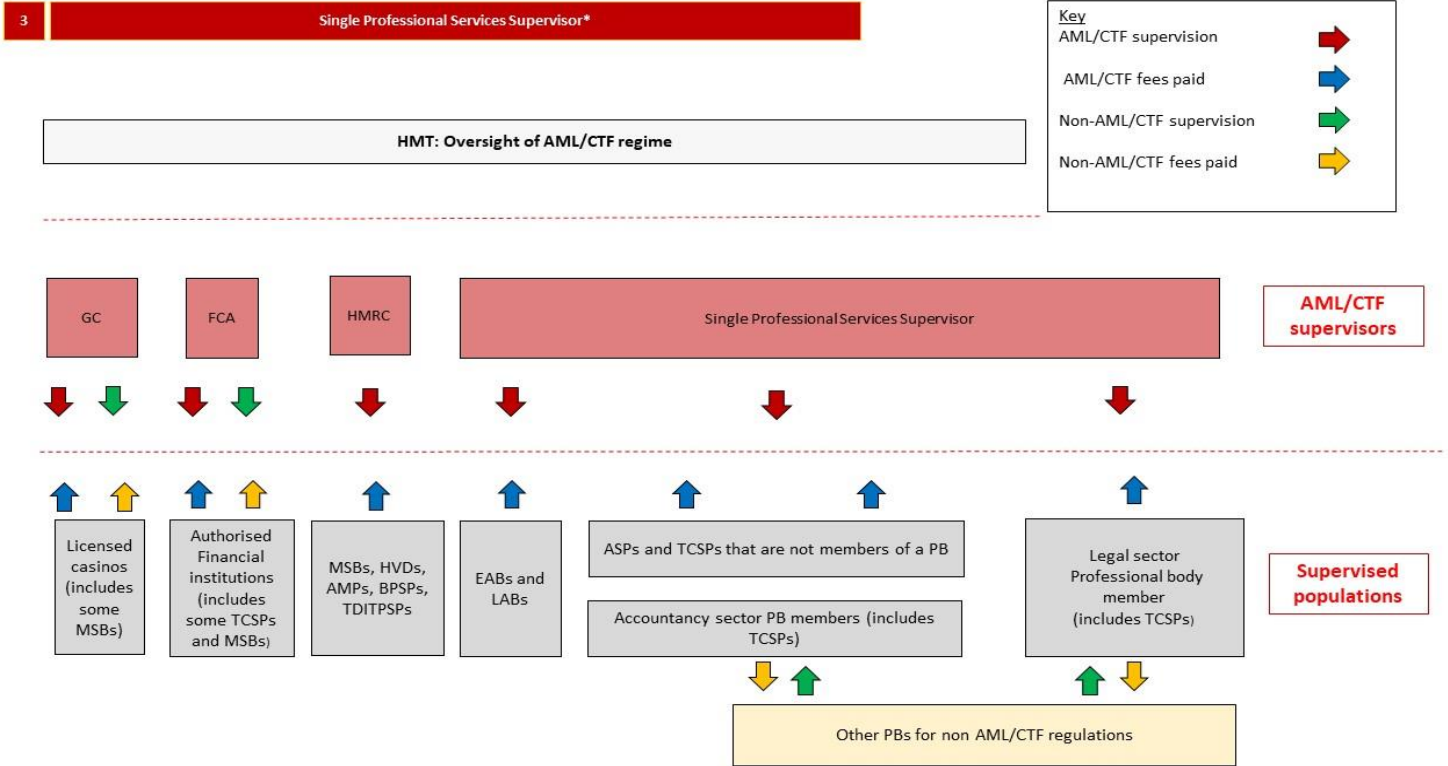
OPBAS+



PBS Consolidation



Single Professional Services Supervisor*



*This scope is provisional, please see 5.6-5.7 and Annex G.

Single AML Supervisor

4 Single Anti Money Laundering and Counter Terrorist Financing Supervisor

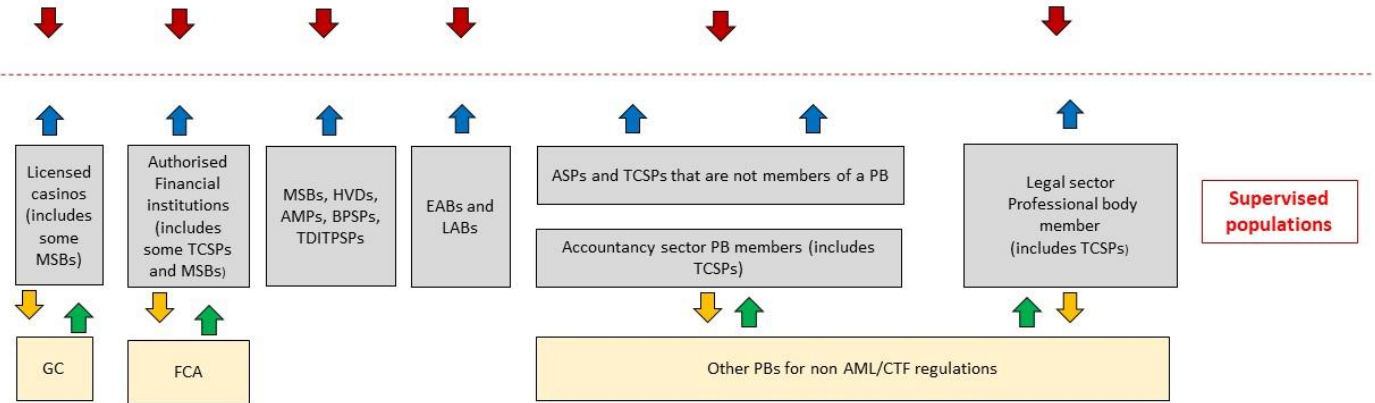
Key

- AML/CTF supervision ➔
- AML/CTF fees paid ➔
- Non-AML/CTF supervision ➔
- Non-AML/CTF fees paid ➔

HMT: Oversight of AML/CTF regime

Single Anti Money Laundering and Counter Terrorist Financing Supervisor

AML/CTF supervisors



Annex F: Sectors supervised by HMRC

F.1 Money Service Businesses (MSBs) not supervised by the FCA or the GC. The regulated activities carried out by these businesses are defined under the MLRs and include, for instance, bureaux de change and remittance services.

F.2 High Value Dealers. An HVD is any business or sole trader that accepts or makes cash payments of 10,000 EUR⁴⁷ or more (or equivalent in any currency, including GBP) in exchange for goods.

F.3 Trust or Company Service Providers (TCSPs), where these providers are not supervised by the FCA or a PBS.

F.4 Accountancy Service Providers (ASPs), where these providers are not supervised by a PBS. This could include accountants, insolvency practitioners, tax advisers, etc.

F.5 Estate Agency Businesses (EABs), carrying out work defined under the Estate Agents Act 1979.

F.6 Letting Agency Businesses (LABs), carrying out work for prospective landlords or tenants where agreements for the letting of land have a term of a month or more and a rent which (during at least part of the term) is or is equivalent to 10,000 EUR or more per month.

F.7 Bill Payment Service Providers (BPSPs) and **Telecommunications, Digital, and IT Payment Service Providers** (TDITPSPs), where these providers are not supervised by the FCA. These businesses act as a payment intermediary for utilities and household bills, making payments to service providers on customers' behalf.

F.8 Art Market Participants (AMPs) who trade or store art with a value of 10,000 EUR or more.

⁴⁷ HM Treasury will consider changing Euro thresholds in the Money Laundering Regulations to Pounds Sterling, as part of consideration of wider amendments proposed in the 2022 Review of the UK's AML/CTF regulatory and supervisory regime. Action 6 of Economic Crime Plan 2023-26 sets out that consultation on these amendments will begin by Q4 2023.

Annex G: Scope of an SPSS

G.1 This annex sets out detailed considerations for which sectors may be in or out of scope of the second approach to an SPSS, in which HMRC would continue to supervise some sectors.

Trust and Company Services Providers (TCSPs)

G.2 OPBAS, the Treasury Select Committee, and some civil society organisations have raised concerns over weaknesses and inconsistencies in the supervision of TCSPs in the existing regime.⁴⁸ The inclusion of TCSPs within an SPSS could increase supervisory effectiveness by ensuring consistent supervision of TCSPs.

G.3 An SPSS monitoring all TCSPs would be expected to have significant benefits for system coordination. As the majority of TCSPs are also either accountants or lawyers, there is significant overlap between legal and accountancy sector supervision and supervision of TCSPs. Information flows between law enforcement and supervisors would be expected to be streamlined by the reduction in the number of supervisors, which has the potential to lead to faster and more efficient information-sharing. Appropriate gateways for this information-sharing could be set up from the outset.

G.4 A single body supervising TCSPs would be expected to bring about improvements in supervisory effectiveness in this area. Currently, there is no single body driving efforts to improve supervision of TCSPs. The creation of a single public body supervisor would clearly delineate responsibility for supervision in this sector. Forming a single body to supervise the sector would create a streamlined system in which TCSPs could more easily access information and guidance regarding their responsibilities and understand best practices in SARs submission more easily.

G.5 Bringing about a change in the supervision of TCSPs would be consistent with the aims of wider government reforms. Most notably, consolidated supervision of TCSPs will support Companies House reforms currently included in the Economic Crime and Corporate Transparency (ECCT) Bill. These reforms would support the Companies

⁴⁸ See [OPBAS Multi-PBS project on TCSP risk \(fca.org.uk\)](https://www.fca.org.uk), and paragraphs 161-8 of the Treasury Select Committee's Economic Crime Report, 2021-22, [Economic crime \(parliament.uk\)](https://www.parliament.uk).

Registrar to become a more active gatekeeper over company creation and custodian of more reliable company data.

Recommended for inclusion: Estate Agency and Letting Agency Businesses (EABs and LABs)

G.6 The Russian invasion of Ukraine has shone a spotlight on the extent of Russian illicit finance previously channelled into real estate in the UK, demonstrating the need to prevent the exploitation of EABs and LABs for money-laundering purposes. In recent years, HMRC has issued large fines on major businesses in the real estate sector.⁴⁹ Furthermore, the number of financial penalties issued by HMRC on EABs rose from 20 in 2020-1 to 132 in 2021-2.⁵⁰ This use of dissuasive sanctions is expected to have increased businesses' awareness of their obligations.

G.7 The inclusion of EABs and LABs in the scope of an SPSS could lead to increased supervisory effectiveness, particularly through improving system coordination. Currently, conveyancing professionals are supervised by legal PBSs for AML/CTF purposes and would fall within the remit of an SPSS. There could be opportunities for improvements in understanding of risk in the real estate sector through placing conveyancing professionals, EABs and LABs under a single supervisor. This should allow a better appreciation of trends and risks in the property market, and improved identification of breaches of the MLRs. Furthermore, though risks are not identical for EABs and LABs, significant commonalities between the two sectors mean that retaining both under the same supervisor is provisionally recommended.

Recommended for exclusion: Money Service Businesses (MSBs), as well as Bill Payment Service Providers/Telecommunication, Digital and IT Payment Service Providers

G.8 MSBs were categorised as high-risk for both ML and TF in the 2020 AML/ CTF National Risk Assessment due to their role moving funds in and out of the UK.⁵¹ HMRC has used dissuasive sanctions, levying financial penalties of over £4 million between 2020 and 2022 on MSBs. Both the FATF's MER and HM Treasury's Supervision Reports for 2020-22 cited positive case studies concerning supervision of MSBs.⁵²

⁴⁹ <https://www.gov.uk/government/news/hmrc-cracks-down-on-unlawful-estate-agents>

⁵⁰ Annex, HMRC economic crime supervision annual assessment report: 1 April 2021 to 31 March 2022 - GOV.UK (www.gov.uk).

⁵¹ <https://www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2020>

⁵² <https://www.gov.uk/government/publications/anti-money-laundering-and-counteracting-the-financing-of-terrorism-supervision-report-2020-22>; Box 7, page 63, Box 8, page 66, and Box 11, page 70, [The United Kingdom's measures to combat money laundering and terrorist financing \(fatf-gafi.org\)](https://www.fatf-gafi.org).

HMRC also carries out policing of the perimeter activities to identify MSBs which ought to be supervised and aims to identify emerging risks. Given HMRC's activities in this area, there are concerns that moving supervision of MSBs to an SPSS would not lead to an overall more effective supervision regime and would increase implementation complexity.

G.9 There are also systems coordination risks surrounding the exclusion of MSBs from HMRC's supervision. There are cases of HMRC using information gathered as part of its revenue functions to take action against MSBs suspected of ML for tax evasion.⁵³ HMRC does not as a matter of general practice share tax information with other governmental bodies such as the SPSS for reasons of data privacy, meaning that the use of tax information to take forward cases in which there is a suspicion of ML would be more difficult, although it may be possible to mitigate this with the creation of an information sharing gateway.

Bill Payment Service Providers/Telecommunication, Digital and IT Payment Service Providers

G.10 Similarly, we recommend excluding Bill Payment Service Providers/Telecommunication, Digital and IT Payment Service Providers from a potential SPSS along with MSBs. This is a small sector and considered low-risk.

Recommended for exclusion: Art Market Participants (AMPs) and High Value-Dealers (HVDs)

G.11 As HMRC deals with the transfer of goods, including art, across the UK's borders, it is well-placed to use information relating to the moving of high-value artworks and goods across borders between teams and detect suspicious activity. Moving the supervision of the art market sector and HVDs would remove the possibility of insights from cross-HMRC information sharing, though as above an information sharing gateway could mitigate this loss. Therefore, transferring AMPs and HVDs from HMRC to an SPSS risks weakening system coordination. Therefore, it is recommended that, at least initially, these sectors remain under HMRC's supervision.

⁵³ See Box 11, p.70, The United Kingdom's measures to combat money laundering and terrorist financing (fatf-gafi.org).

HM Treasury contacts

This document can be downloaded from www.gov.uk

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