

OPBAS

OFFICE FOR PROFESSIONAL BODY AML SUPERVISION
FINANCIAL CONDUCT AUTHORITY



Office for Professional Body Anti-Money Laundering Supervision (OPBAS)

Sourcebook for professional body
anti-money laundering supervisors

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1 Introduction

What is the sourcebook?

- 1.1** The sourcebook provides information for professional body supervisors on how to comply effectively with their obligations under the Money Laundering Regulations 2017.
- 1.2** Chapter 2 sets out OPBAS's approach to supervision and enforcement, including how we assess professional body supervisors' effectiveness.
- 1.3** Chapters 3 to 11 cover key elements of the AML supervisory approach and explain the standards OPBAS uses to assess professional body supervisors in relation to their AML supervisory obligations, outlining how they can demonstrate continuous improvement and effectiveness.
- 1.4** The sourcebook does not contain rules and is not binding on professional body supervisors. It sets out OPBAS's expectations, including examples of the outcomes we expect professional bodies to achieve, as well as good and poor practice, and case studies from our supervisory assessments which support these outcomes. These examples show what more and less effective supervision can look like.
- 1.5** The lists of examples are not exhaustive: there will be other ways professional body supervisors can be effective. Not all the examples provided will be relevant to all professional body supervisors. Professional body supervisors should use judgement and take a risk-based, proportionate approach to applying the sourcebook guidance to their obligations under the Money Laundering Regulations 2017, including taking into account factors such as the size and complexity of their supervised population and sectoral money laundering risks.
- 1.6** The sourcebook uses:
- 'must' where provisions are mandatory because they are required by legislation
 - 'should' to describe how we would normally expect a professional body supervisor to meet its obligations under Money Laundering Regulations 2017 while acknowledging that professional body supervisors may be able to meet their obligations in other ways, and
 - 'may' to describe an option that goes beyond meeting our expectations under the Money Laundering Regulations 2017.

Application

- 1.7** Each of the professional bodies listed in Schedule 1 of the Money Laundering Regulations 2017 is the supervisory authority for the relevant persons it regulates. This sourcebook applies to all these bodies. It also applies to supervisors exercising delegated functions from a professional body listed in Schedule 1.
- 1.8** This sourcebook takes effect on 10 January 2023.

2 OPBAS approach to supervision

- 2.1** The UK government established OPBAS in 2018 with 2 key objectives: to ensure a robust and consistently high standard of supervision by the professional body supervisors, and to facilitate collaboration and information and intelligence sharing between professional body supervisors, statutory supervisors and law enforcement agencies.
- 2.2** OPBAS is housed within the FCA and, through the FCA, is accountable to HM Treasury and Parliament.
- 2.3** OPBAS applies a risk-based approach to achieving its objectives. We assess the risk of harm from money laundering within our supervisory remit and target more of our resources where that risk is greatest, taking actions that can be most effective in reducing and preventing financial crime and improving the resilience of the UK legal and accountancy sectors to money laundering. When assessing risk of harm, we consider its probability, severity and scale, taking a range of factors into account. We draw on a number of sources, including UK national risk assessments and information and intelligence shared by professional bodies and their supervised populations, other regulatory organisations, law enforcement, whistleblowers and the public. We consider previous supervisory findings for each professional body supervisor along with other indicators such as the size of its supervised population and the services they provide.
- 2.4** We use a range of supervisory tools and methods to assess the compliance and effectiveness of professional body supervisors' approaches to AML supervision, based on our assessment of risk and using evidence to support our judgement. For example:
- Assessments: we carry out periodic supervisory assessments of all professional body supervisors. Our assessments focus on how professional bodies meet their obligations under the Money Laundering Regulations 2017 and on the effectiveness of their supervisory approach, which we measure against the Regulations and this sourcebook. Our risk assessments of each professional body supervisor inform our decisions about the frequency and intensity of assessments. For example, a professional body on which OPBAS has imposed directions because of supervisory failings will be subject to more intensive supervision.
 - Ongoing proactive engagement: we will engage regularly with professional bodies outside of formal assessments. This allows us to discuss, assess and actively challenge, to ensure professional bodies are progressing assessment findings or any action plans. Regular, meaningful and focused discussion is also intended to help professional bodies understand OPBAS's views and expectations between formal assessments. That is supplemented by OPBAS feedback from multi-PBS project work or other reviews. We also engage on a responsive basis, where material matters arise, to ensure AML risks are managed. This enables us to maintain an up-to-date view of money laundering risks and helps keep professional body supervisors focused on continuous improvement in the effectiveness of their approach to supervision.
 - Multi-professional body supervisor work: work on cross-cutting risks or themes can provide an effective way of building understanding of, and addressing,

common issues, risks or concerns. It enables us to improve effectiveness and the understanding of, for example, how different professional bodies approach a key sector risk or against a priority supervisory theme to share best practice and improve the consistency and standard of supervision.

Assessing compliance and effectiveness

2.5 Our approach involves assessing whether professional body supervisors are complying with the requirements of the Money Laundering Regulations 2017 and whether, in complying, their anti-money laundering supervision is effective. By 'effective' we mean the extent to which professional body supervision is consistent with the objectives of the Money Laundering Regulations 2017, reduces the risk of money laundering and contributes to making the UK financial system a hostile environment for illicit finance. We do this because it is important not only that the framework of AML supervision meets legal requirements, but that it does so in an effective, outcomes-focused way.

2.6 To support this approach, each chapter of this sourcebook identifies outcomes which evidence a more effective approach to supervision. As with other guidance in this sourcebook, these examples are not mandatory or exhaustive. We expect all professional body supervisors to have a clear understanding of the outcomes they are seeking to achieve and to link those outcomes to their supervisory approach, for example in the tools and interventions they deploy. Professional bodies should be able to evidence to us how they measure the extent to which their supervision achieves those outcomes.

2.7 Our focus on effectiveness is consistent with the FATF's approach to assessing members' technical compliance with, and effective implementation of, the FATF Recommendations.

2.8 We assess effectiveness using a 4-point scale:

Effective:	The professional body can evidence that it is consistently achieving the outcome	No/minor improvements needed
Largely effective:	The professional body can demonstrate that it is achieving the outcome frequently/to large degree	Moderate improvements needed
Partially effective:	The professional body can demonstrate that it is achieving the outcome occasionally/to a limited degree	Major improvements needed
Ineffective:	The professional body cannot demonstrate that it is achieving the outcome, or there is evidence that it does not	Fundamental improvements needed

- 2.9** In assessing effectiveness, we consider the materiality of each of the areas assessed. We also look at how these work together to achieve outcomes in the context of the money laundering risks to which the professional body supervisor and its supervised population are exposed. For example, where we assess a professional body supervisor as having an ineffective risk-based approach, this could negatively impact the outcomes achieved in supervision and enforcement. There is an element of interconnectedness to consider, but this may not be linear. Each case will be viewed on the specifics and the evidence available.
- 2.10** Assessments are proportionate and take account of the differences in risk to which professional bodies and their supervised populations are exposed. This means we do not expect all professional bodies to put the same measures in place to address a specific risk or achieve an identified outcome. This also means that what we assess as effective will vary based on the specific circumstances. For example, how we assess the effectiveness of the number, frequency and intensity of a professional body's onsite supervisory visits will depend on a range of factors including the number and risk profiles of its supervised population. We therefore describe the examples we give as 'more' and 'less' effective, rather than according to our 4-point assessment scale. Building consistency is not about all professional bodies doing the same things but is about the standard and level of effectiveness they achieve.
- 2.11** The consistency and proportionality of our evidence-based supervisory judgement is important and we maintain robust quality assurance and governance to deliver this.

OPBAS powers

- 2.12** OPBAS has a range of powers to support the discharge of its functions. It can:
- require information (Regulation 7 of the OPBAS Regulations)
 - appoint a skilled person or require a professional body to do so (Regulation 13 of the OPBAS Regulations)
 - issue directions requiring or prohibiting the taking of a specified action (Regulation 14 of the OPBAS Regulations)
 - issue a public censure (Regulation 16 of the OPBAS Regulations)
 - recommend a professional body supervisor's removal from Schedule 1 of the Money Laundering Regulations 2017 (Regulation 17 of the OPBAS Regulations)
- 2.13** OPBAS considers multiple factors when deciding which of its powers and tools are most appropriate for a specific situation. This includes tools that support consistency and agreeing and sharing good practice, like workshops, individual feedback and published reports.
- 2.14** Where we are concerned that a professional body is failing to meet requirements or where we consider it can do so more effectively, we will take a range of factors into account when deciding appropriate action. This includes assessing the risk of harm and ensuring a proportionate response.

- 2.15** Much risk of harm can be addressed through engagement with professional body supervisors. For example, in cases where we share findings on areas of concern or where we see room for improvement, we will ask the professional body to develop and implement steps within a prescribed timeframe to address them. We will engage with professional bodies to understand their plans, including where they disagree with our findings or have alternative suggestions to address the issues we identify.
- 2.16** We are more likely to use our powers to appoint a skilled person or to issue directions if we identify a failure where the harm or risk of harm is more serious or where we have concerns about a professional body's willingness, capability or capacity to address it. Whichever powers or tools we use, we will engage with the professional body to monitor outcomes and ensure it takes appropriate and timely action to address our concerns and reduce the risk of harm.

Approach to enforcement

- 2.17** OPBAS may censure a professional body supervisor or recommend its removal from Schedule 1 of the Money Laundering Regulations 2017 if the professional body has failed to comply with a relevant requirement or direction, or if it provides us with false or misleading information.
- 2.18** The FCA's approach to Enforcement recognises that not all breaches of its rules or requirements warrant disciplinary action. This is also the case with potential failures by professional body supervisors. We expect many to be remedied by other means. Where we have reason to believe that a serious failure may have occurred, we will start an investigation to fully understand the facts so that we can make a decision about whether further, formal action is necessary. Examples of failures which we are more likely to consider serious, with reference to the considerations which are part of the FCA's enforcement approach, include:
- The nature and severity of the actual or potential harm arising from the failure. For example, a failure in relation to a professional body's risk-based approach can materially impact its ability to meet its obligations under the Money Laundering Regulations 2017 and we are therefore more likely to regard this as serious. Similarly, where a professional body fails to detect and remedy possible breaches over an extended period, or where it fails to remedy breaches that have previously been identified, this has a greater potential for harm and we are more likely to regard it as more serious.
 - Whether the failure has potentially wider or broader implications. For example, we are more likely to regard a failure as serious where we find that it may have enabled or failed to prevent identified money laundering.
 - Whether it appears that an individual may lack fitness or propriety. For example, where we have evidence suggesting that a professional body supervisor's staff may have knowingly acted in a way that led to suspected breach of the Money Laundering Regulations 2017, we would consider this serious misconduct.
 - The public interest in investigating the matter.

- 2.19** Where we decide to investigate a professional body supervisor, we will send them a notice of investigation stating what the investigation is about and why we are investigating (unless we are concerned that giving notice may prejudice the investigation). We will give the professional body supervisor regular updates including the next steps in the investigation, and the professional body will have an opportunity to make representations and review the investigation's findings or to resolve the case by agreement.
- 2.20** The procedure for taking disciplinary measures is set out in Regulation 19 of the OPBAS Regulations. If OPBAS proposes to publish a censure or recommend removal from Schedule 1 of the Money Laundering Regulations 2017, we must give the professional body supervisor a warning notice. OPBAS must give the professional body a decision notice if it decides to publish a censure or recommend removal. Section 387 FSMA (Warning Notices) and section 388 FSMA (Decision Notices) apply to warning notices and decision notices given by OPBAS. Further detail on the decision-making procedure for giving OPBAS warning notices and decision notices is set out in the FCA's Decision Procedure and Penalties Manual, with relevant decision makers identified in [DEPP 2 Annex 1](#).
- 2.21** Regulation 22 of the OPBAS Regulations confirms that a professional body supervisor may appeal a decision to issue a public censure to the Upper Tribunal. The provisions of Part 9 FSMA, as modified by Regulation 22, apply to these appeals.

OPBAS role in facilitating collaboration and information sharing

- 2.22** Information and intelligence sharing is critical in reducing money laundering and money laundering risk. It is one of the areas in which inconsistencies in standards and approach can have an amplificatory effect.
- 2.23** As part of our intelligence and information sharing objective, OPBAS facilitates collaboration and information and intelligence-sharing among the professional body supervisors, law enforcement agencies (including the NCA and the NECC) and the statutory supervisors (HMRC, the FCA and the Gambling Commission).
- 2.24** We work collaboratively with professional body supervisors and other stakeholders so that flows of intelligence and information are joined up and effective, including through forums like the legal, accountancy and devolved nations ISEWGs, which we established with the NECC for this purpose. ISEWGs allow tactical and strategic intelligence sharing; terms of reference are available on our website.
- 2.25** We also engage in policy development related to improving intelligence and information sharing.

3 Governance

Regulation 49 of the Money Laundering Regulations 2017 requires a professional body supervisor, among other things, to:

- Make arrangements to ensure their supervisory functions are exercised independently of any of their other functions which do not relate to disciplinary matters (Regulation 49(1)(a)).
- Provide adequate resources to carry out the supervisory functions (Regulation 49(2)(a)).
- Appoint a person to monitor and manage the organisation's compliance with its duties under these Regulations (Regulation 49 (2)(b)). Under Regulation 49(3), that person is responsible for liaison with other supervisory authorities, law enforcement authorities or overseas authorities, and for ensuring that the professional body supervisor responds fully and rapidly to requests for information about any person it supervises.

Separation of advocacy and regulatory functions and mitigating conflicts

- 3.1** Strong governance is an important enabler for effective AML supervision and helps ensure that a professional body has effective management policies, controls and procedures, and culture to effectively identify and mitigate the money laundering risks within its supervised population on an ongoing basis.
- 3.2** A professional body supervisor should keep its inspection and investigatory functions separate from the advocacy functions it performs (those that promote the interests of its members). Consideration should be given to the appropriate division between the advocacy and regulatory functions of a professional body supervisor in relation to all matters discussed in this sourcebook, including consideration of how reporting and escalation arrangements apply. Professional bodies should also actively consider and mitigate all other potential conflicts of interests in how they perform their roles.
- 3.3** Where a professional body supervisor has a governing council that includes members of the supervised population, it should maintain a recorded procedure for handling any conflicts of interest that arise as a consequence (e.g. a conflicted person withdraws from discussions).
- 3.4** A professional body supervisor should have clear, accessible and formalised policies and procedures for separating functions and be able to evidence that its policies and procedures are followed.

Oversight and engagement

- 3.5** A professional body supervisor should clearly allocate and document the responsibility for managing its anti-money laundering supervisory activity and obligations under the Money Laundering Regulations 2017. This should include an appropriate reporting and escalation process. Processes should support timely escalation of the information to the appropriate level of senior management.
- 3.6** The organisational structure of a professional body supervisor should promote coordination, internal information sharing, and effective decision making through delegation of powers to staff. Responsibility should be held by an individual(s) with appropriate seniority and expertise.
- 3.7** The governing body should have clearly defined measurable outcomes and a comprehensive strategy to deliver those outcomes. This should be underpinned by instilling the appropriate values, behaviours and culture in the organisation to support effective anti-money laundering supervision. An effective governing body should, for example, be able to explain the main trends and factors affecting the long-term success of its anti-money laundering supervision and demonstrate an ability to mitigate and address the key risks identified.
- 3.8** Senior management should be actively engaged with the professional body supervisor's approach to complying with the anti-money laundering obligations. For example, this should include approving and periodically reviewing the strategies, policies and procedures in place and attendance at relevant forums and showing evidence of adequate knowledge about the changing nature and scale of money laundering risks in the supervised population.
- 3.9** A professional body supervisor can improve the effectiveness of senior management engagement by, for example, providing a timely flow of accurate, high-quality and sufficiently detailed management information that enables senior management to engage meaningfully with AML supervision and the wider AML landscape. Management information should include the appropriate measures to control and monitor performance against clearly set outcomes. This will support well-informed and high-quality decision-making.
- 3.10** A professional body supervisor should periodically review the effectiveness of its decision-making process. This should include the methodology used to arrive at significant decisions. This can provide a powerful and valuable feedback tool to improve effectiveness. This can be done, for example, through an objective and rigorous performance evaluation process.

A Single Point of Contact (SPOC)

- 3.11** A professional body supervisor must appoint a SPOC to maintain oversight of their supervisory activities and should also maintain appropriate cover arrangements, such as appointing a deputy. A professional body supervisor should ensure that staff know who the SPOC and deputy are, and this should be documented in relevant policies and procedures.

- 3.12** The SPOC should be appropriately senior within the professional body supervisor. They should be fully empowered, and have the knowledge, experience and understanding of their role, to discharge it effectively. The role and responsibilities for a SPOC should include:
- a.** expressly confirming the appropriate delegation of anti-money laundering functions;
 - b.** being accountable to the professional body board, or equivalent, to ensure adequate oversight and knowledge of the professional body's supervisory activities including policies, procedures and controls; and,
 - c.** oversight and accountability for staff training and cascading regulatory updates, for example legislative changes.

Adequate resources

- 3.13** A professional body supervisor should have an appropriate number of adequately trained staff to enable it to effectively carry out its anti-money laundering supervisory role. This includes providing an appropriate level of support for the individual(s) responsible for oversight of its anti-money laundering supervisory activity. For example, an effective workforce will have sufficient time allocation to fulfil the relevant function(s) and a robust framework in place to identify and promptly address gaps in knowledge through training.
- 3.14** A professional body supervisor should identify, manage and mitigate the risk of overreliance on one individual to perform key functions. This should form part of a documented and periodically reviewed succession plan. Effective succession planning should include, for example, contingencies for sudden or unforeseen departures and longer-term planning to meet future requirements. A professional body supervisor should evidence it has adequately trained and resourced deputies in place.

Outcomes

- 3.15** Outcomes which indicate more effective governance include:
- A clear, unambiguous separation of regulatory and representative functions ensures robust and objective anti-money laundering supervision of the supervised population.
 - Senior management drives a culture which supports the implementation of a comprehensive framework that effectively identifies and addresses money laundering/terrorist financing risks and meets regulatory objectives.
 - The professional body supervisor has the policies, controls and procedures in place to ensure effective and timely decisions are made about its anti-money laundering supervision.
 - The professional body supervisor proactively builds capabilities and has enough appropriately skilled staff to conduct effective anti-money laundering supervision.

- The professional body supervisor uses a timely flow of high-quality data to measure and assess the extent to which it is achieving the outcomes it has identified and adapts or changes its supervisory approach where it is not.

Examples of more effective practice

- Senior governance/Board-level committee has overall responsibility for ensuring that the professional body supervisor meets its obligations under the Money Laundering Regulations 2017. This is supported by a committee specifically focused on regulatory oversight.
- Committee meetings regularly taking place with built-in flexibility for ad hoc meetings where appropriate.
- Independent members are included on the oversight forums and within responsible functions to support autonomous decision-making. Such separation, and the responsibilities for different areas, are clearly detailed in formalised policies.
- High quality regular reporting (with sufficient granularity) of management information is provided to senior management and committees. There is documented evidence that this is received and acted upon and that the management information supports good decision-making and regulatory outcomes. For example, detailed updates on sectoral money laundering issues and emerging themes and risks from assessments ensure resources are appropriately directed.
- A coherent anti-money laundering supervision policies and procedures manual documents of the professional body supervisor's anti-money laundering supervision responsibilities.
- There is a material and proportionate level of resource invested in the professional body supervisor's anti-money laundering supervision as well as continuous documented discussions on succession planning.
- There is evidence that procedures to effectively manage conflicts of interests are followed in committee meetings.

Examples of less effective practice

- Judgements overly rely on the commercial or advocacy functions of the professional body supervisor rather than on the judgements of anti-money laundering supervisors.
- Lack of senior management engagement in anti-money laundering supervision including, for example, anti-money laundering is not included as a recurring agenda item at senior oversight forums, there is limited focus on anti-money laundering supervision performance when discussed or discussion is not clearly and consistently recorded.
- A 'tick-box' compliance mindset by senior management with matters discussed in governance forums for sign-off rather than debated, a failure to treat risk as part of the decision-making process and a failure to listen to and act upon risks identified within a reasonable timeframe.
- Significant key person risk, with no evidence of succession planning, resulting in material operational exposure.



Case study: Limited information leads to poor outcomes

A professional body supervisor's governance structure included a board with an oversight role to ensure the professional body supervisor was meeting its objectives and adhering to its anti-money laundering strategy. The reporting mechanisms were in place making the professional body supervisor appear technically compliant, but the board was not receiving enough information to enable it to be effective in its oversight role. The board did not receive adequate information about anti-money laundering supervision, such as updates on the professional body's supervised population and emerging risks. This limited its ability to assess the adequacy of the professional body supervisor's approach to anti-money laundering supervision.

4 A risk-based approach

Regulation 46(2)(a) of the Money Laundering Regulations 2017 requires a professional body supervisor to adopt a risk-based approach to the exercise of its supervisory functions, informed by the risk assessments carried out under Regulation 17.

Regulation 17(1) of the Money Laundering Regulations 2017 requires a professional body supervisor to carry out a risk assessment identifying and assessing the international and domestic risks of money laundering and terrorist financing to their sector. In doing so, it must, under Regulation 17(2), take into account:

- the report prepared by the Treasury and the Home Office under Regulation 16(6)
- information made available by the Treasury and the Home Office under Regulation 16(8)

Regulation 17(4) requires a professional body supervisor to develop, and record in writing, risk profiles for each relevant person in its own sector. Regulation 17(5) says this may be a single risk profile for a cluster of its supervised population, although, if so, Regulation 17(6) requires the appropriateness of that clustering to be kept under review. When preparing risk profiles, a professional body supervisor is required to:

- take account of the risks that relevant persons will not take appropriate action to identify, understand and mitigate the risks (Regulation 17(7))
- review the risk profiles developed at regular intervals and following any significant event or developments which might affect the risks (Regulation 17(8), where examples are listed)

Features of a risk-based approach to anti-money laundering supervision

- 4.1** An effective risk-based approach underpins all aspects of anti-money laundering supervision. An effective risk-based supervisory framework enables a professional body to identify, assess and understand the money laundering risks within its sector and supervised population and mitigate them on an ongoing basis.
- 4.2** A risk-based approach means focusing efforts where the risks are highest and considering the likelihood of unwanted outcomes. This helps to identify situations where additional measures and controls may be appropriate. A professional body should ensure that the measures it takes to reduce money laundering are proportionate to the risks identified. It should have a clear methodology which evidences the appropriateness of the risk-based approach.
- 4.3** A professional body supervisor should continuously evolve its risk-based approach as its understanding of risk changes. This includes, for example, proactively engaging with stakeholders in its sector to continually develop and build on its understanding of the risks present in its sector. This will ensure the approach remains up to date and relevant.

Allocation of supervisory resources

- 4.4** Adopting a risk-based approach to supervision allows the professional body supervisor to shift resources to areas with a higher money-laundering risk. This means professional body supervisors can use their resources more effectively. For example, ensuring adequate allocation of resource to enable in-depth assessments of higher risk members of its supervised population.
- 4.5** An effective risk-based approach to anti-money laundering will require a regular appraisal and review of the risks. This will be provided by an assessment of where the money-laundering risks are greatest. Using a range of quality information sources to consider a broad range of risks will improve the effectiveness of a professional body's risk assessment. The risk assessment must consider a number of things, including:
- a.** the UK's National Risk Assessment (produced under Regulation 16 of the Money Laundering Regulations 2017)
 - b.** material published by bodies such as the UK government, the Financial Conduct Authority (FCA), and OPBAS.

The risk assessment should also consider additional relevant input such as:

- c.** adverse media coverage
 - d.** sector guidance and alerts
 - e.** the professional body supervisor's own judgments about the risks posed by a member, or clusters, of the supervised population, or sector
 - f.** information sharing and liaison with the industry and with other supervisors (including through the Anti-Money Laundering Supervisors' Forum and its affinity groups)
 - g.** intelligence sharing by law enforcement, including the NCA
 - h.** additional relevant material, such as FATF guidance on the risk-based approach, group-wide policies or other relevant areas
- 4.6** A professional body supervisor should ensure that its resourcing model and approach reflect changes in its understanding of risk.

A supervisory approach that supports supervised populations' adoption of a risk-based approach

- 4.7** A professional body supervisor should use its powers in a way that supports the adoption of a risk-based approach by its supervised population. The following features facilitate the adoption of a risk-based approach to anti-money laundering:
- a.** A supervisory approach that encourages the supervised population to aim for achieving positive outcomes related to reducing money laundering, rather than exclusively concentrating on compliance with prescriptive and detailed rules.

Principles can be more adaptable to different circumstances than detailed rules and are more likely to foster innovation and imaginative approaches in industry.

- b.** An acceptance that, as a result of the adoption of a risk-based approach, the professional body's supervised population may have anti-money laundering policies, controls and procedures that differ from those of comparable businesses. The risk-based approach to anti-money laundering means that there will be more than one 'right' answer to the same problem.
- c.** Acceptance that money laundering can never be entirely eliminated. Criminals will always try to make use of the proceeds of crime. Members of a professional body's supervised population will not always be able to prevent this. There should therefore be reasonable supervisory expectations about what a firm with sound controls aimed at preventing money laundering is able to achieve. To attempt to design a zero-failure regime would be damaging and counterproductive. It would place excessive burdens on professional body supervisors and their supervised populations and act against the interests of the general public.

Designing and implementing a risk-based approach to anti-money laundering supervision

- 4.8** There is a range of issues a professional body supervisor will need to consider when designing and implementing an effective risk-based approach to supervision. This relies on a sound understanding of the nature of the risks, which a regular risk assessment will support. The professional body supervisor can then judge which supervisory tools work for the risks it has identified.
- 4.9** Effective supervision depends on the timely identification and prioritisation of areas requiring greater supervisory attention. A professional body should tailor its strategies to address the risks identified across sectors and its supervised population. The intensity of the strategies employed for different members or clusters of members within its supervised population should be commensurate to the risks identified.

Methods for assessing risk

- 4.10** Professional body supervisors should develop a means of identifying which members or clusters of its supervised population are at the greatest risk of being used by criminals to launder proceeds from crime. The following factors may be relevant when undertaking a risk assessment:
- a. Probability:** the likelihood of money laundering taking place because of the activity undertaken by a member or cluster of its supervised population or the environment they operate in. This risk can increase or decrease depending on other indicators:
 - product and service risk (the likelihood that products or services on offer can be used for laundering money)
 - client risk (the likelihood that customers' funds may have criminal origins)

- the nature of transactions (e.g. frequency, volume, counterparties)
 - delivery channel risk (the way in which services are delivered can increase risk)
 - geographical risk (does the member, its clients or agents trade in riskier locations)
 - other indicators of risk are based on a combination of objective factors and experience. These can be drawn from various sources, including:
 - a supervisor's wider work with a member
 - a member's compliance history, complaints about a member or about the quality of a member's internal controls
 - intelligence from other supervisory authorities and law enforcement agencies, and from other sources (e.g. consumers, whistleblowers)
- b. Impact:** the potential harm caused if money laundering is facilitated by the member, cluster or sector. This can, among others, depend on:
- a member's size (turnover, number and type of customers, number of premises, value of transactions etc.)
 - links with other businesses (susceptibility to being involved in 'layering' activity)

4.11 An effective professional body supervisor will be able to demonstrate an ability to identify emerging risks and trends and then revise its risk assessment on an ongoing basis.

Clustering

4.12 The Money Laundering Regulations 2017 do not require the risks posed by each member of the supervised population to be individually assessed by the professional body supervisor. The Regulations say clustering is appropriate if members share similar characteristics, and the risks of money laundering and terrorist financing affecting those relevant persons do not differ significantly.

4.13 A cluster could contain a large number of the supervised population. Illustrative examples of clusters may include:

- a.** solicitors specialising in commercial property law
- b.** sole trader bookkeepers catering to small businesses in East Anglia

4.14 Where a professional body supervisor uses clusters in its risk assessment, we expect it to be able to demonstrate how it uses clusters to inform a risk-based approach to supervision. We also expect the professional body to evidence that it keeps under review whether any member of the cluster should be subject to an individual risk profile in accordance with Regulation 17(6) of the Money Laundering Regulations 2017.

The limits of a risk-based approach

- 4.15** There are circumstances in which a risk-based approach cannot be applied, or the scope for its application may be limited. This may be the result of legal or regulatory requirements that mandate certain actions to be taken. For example, the Money Laundering Regulations 2017 require a relevant person to take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which its business is subject; the person cannot take a risk-based decision to not comply with this requirement.

Outcomes

- 4.16** Outcomes which indicate a more effective risk-based approach include:
- A professional body supervisor's capture and assessment of current and emerging risks drive targeted supervisory action and mitigating measures which are commensurate with, and reduce, the level of risk.
 - Resources are allocated efficiently enabling the professional body supervisor to focus on areas with a higher money-laundering risk whilst also ensuring appropriate coverage of lower-risk supervised population.
 - Actions by the professional body supervisor result in improvements to its supervised population's risk-based approach.

Examples of more effective practice

- Ongoing monitoring of an evolving risk environment enables agile identification of and prompt response to emerging risks.
- The selection process for assessing members of the supervised population targets finite resource according to the assessment of money laundering risk. The process is agile rather than fixed so that it can be flexed, including at short notice, in response to circumstances or events e.g. after receiving intelligence from a third party.
- Using a variety of communication channels, such as publishing guidance and doing outreach work, helps the supervised population better understand, identify and manage money laundering risks.
- A professional body supervisor's activity aligns with common priorities for example as identified in the national Economic Crime Plan and the National Risk Assessment.

Examples of less effective practice

- There is no, or insufficient, assessment of members of the supervised population categorised as low risk. The supervised population is placed onto an extended supervisory cycle without adequate touchpoints, preventing a regular review of the risks.
- Sampling of risk assessments is not representative of the relevant supervised population, preventing the professional body supervisor from testing the accuracy of its risk calculations.
- There is over-reliance on a narrow set of risk indicators when categorising risk, preventing an effective assessment of risk.



Case study: An effective risk assessment uses a wide range of data

A professional body supervisor uses 2 models to risk rate the firms it supervises: an artificial neural network model¹ and a traditional model. There are advantages and disadvantages to both models, but the professional body supervisor uses them in tandem to identify the highest areas of money laundering risk within its supervised population. The professional body supervisor has also incorporated intelligence trends and firm compliance history into its risk modelling. The professional body supervisor uses a combination of onsite visits and desk-based reviews in its anti-money laundering supervision, according to the risks posed by the supervised firms. The professional body supervisor refreshes and refines its risk-based approach, using random sampling from each risk category to test its risk profiling.

¹ Artificial neural network model in AML supervision is based on the use of artificial intelligence and machine learning to detect the probability of money laundering. The neural networks (algorithms inspired by the human brain) are capable of analysing large amounts of data in highly autonomous ways and solving complex problems without human intervention.

5 Supervision

Regulation 46(1) of the Money Laundering Regulation 2017 requires a professional body supervisor to effectively monitor its own sector and take necessary measures for the purpose of securing compliance with the requirements of the Regulations.

Regulation 46(2)(c) requires a professional body supervisor to base the frequency and intensity of its on-site and off-site supervision on the risk profiles prepared under Regulation 17(4).

Regulation 46(3) requires a professional body supervisor determining its approach to the exercise of its supervisory functions to take account of:

- the degree of discretion permitted to relevant persons in taking measures to counter money laundering and terrorist financing

Regulation 46(4) requires a professional body supervisor, in accordance with its risk-based approach, to take appropriate measures to review:

- the risk assessments carried out by relevant persons
- the adequacy of relevant persons' policies, controls and procedures, and way they have been implemented

Regulation 49(1)(b) of the Money Laundering Regulations 2017 requires a professional body supervisor to make arrangements to ensure sensitive information relating to the supervisory functions is appropriately handled within the organisation.

Designing a supervisory approach

5.1 A professional body supervisor should set clear objectives for its anti-money laundering supervision when devising its supervisory strategy based on risks identified and emerging risks. An effective strategy will ensure the appropriate focus and intensity of supervision for all the different categories of a professional body's supervisory population from low to high risk.

5.2 When developing an effective supervisory strategy, a professional body supervisor should build in contingencies for emerging risks which may require it to take prompt action.

Supervisory tools

5.3 Professional body supervisors will consider using a range of tools when monitoring the adequacy of their supervised populations' anti-money laundering defences. These tools allow the professional body to make sure its supervised population is complying with anti-money laundering legislation and has policies, controls and procedures in

place that are being effectively applied and subject to appropriate quality assurance testing; this includes procedures to make suspicious activity reports to authorities. Some tools will be used as remedial or punitive measures where irregularities have been uncovered. Generally, systemic breakdowns, or evidence that controls have proved to be inadequate over a period of time, will result in the most severe supervisory response.

- 5.4** The use of these tools should enable professional body supervisors to compare the anti-money laundering arrangements of members of its supervised population, with a view to informing its judgment of the quality of the member's controls. However, it is important to consider that under the risk-based approach, there will often be valid reasons why controls differ. The choice of supervisory tool, and how it is applied, will change depending on the professional body supervisor, the type of member, cluster or sector supervised, and the specific situation. Some will be used only rarely.
- 5.5** A professional body supervisor should be able to evidence how the tools it chooses contribute to its supervisory outcomes rather than focusing primarily on the form or quantity of its interventions. In choosing the appropriate tools, a professional body supervisor should consider all the tools available. The tools it uses should enable it to respond to risks in a timely and agile way. An effective professional body supervisor ensures that the application of its tools directly links to the level and nature of the risk identified. For example, it is unlikely to be adequate to assess a high-risk member of the supervised population based only on its policies and procedures without also taking the implementation and effectiveness of those policies and procedures into account.
- 5.6** Examples of some, but not all, of the tools professional bodies can use include:
- **Meeting the supervised population:** supervisory staff may visit a business or use telephone interviews or teleconferencing. This may be an update dialogue as part of ongoing management of the relationship, or part of a formal review. The depth and frequency of visits will reflect the risk posed.
 - **Desk-based reviews:** supervisors may consider information about a business (see below) without conducting an onsite visit. A desk-based review should make use of supervisory tools to achieve the same outcome as an onsite supervisory visit.
 - **Questionnaires:** requesting information from a member about its anti-money laundering arrangements.
 - **Periodic information returns:** the supervised population can be required to regularly submit information that the professional body considers necessary to aid the performance of its supervisory functions.
 - **Ad hoc information requests:** the supervised population might be asked to submit internal documents for review by the supervisor. Examples may include some of the following, particularly in the case of larger organisations:
 - organisation chart
 - legal entity chart
 - job descriptions of senior management
 - composition of committees
 - documents setting out internal procedures and controls
 - internal audits of compliance with internal procedures and controls or other independent reviews

- external auditor's reports
- compliance reports
- data on suspicious activity reports and other engagement with law enforcement agencies
- breach logs
- records related to training or continuing professional development

The professional body can also review information from other sources, such as information and alerts from law enforcement, other supervisors, employees, other businesses or the public.

- **Review of case files:** (covering customer due diligence checks or decisions related to the submission of suspicious activity reports) this can allow analysis of past decisions made while implementing anti-money laundering controls.
- **Thematic work:** a professional body supervisor might look to involve a number of its supervised population in a project to consider a specific aspect of anti-money laundering arrangements. This could use a number of the tools listed here.
- **Outreach work:** engagement with Money Laundering Reporting Officers' membership groups to discuss findings, concerns and challenges in the sector.
- **Dip sampling:** a professional body supervisor can use dip sampling in various ways including, for example, to validate whether its risk assessment is reasonable or requires further refinement.
- **Guidance and communications:** there are a range of steps a professional body can take to make expectations clear to the supervised population. These are explored in Chapter 7.

5.7 A professional body supervisor should consider whether technology (with appropriate safeguards) can support effective, risk-based implementation of its supervisory approach. Such safeguards would include strong cybersecurity and adherence to relevant legislation (e.g. relating to privacy and data protection).

On-site and virtual assessments

5.8 A professional body supervisor should consider the effectiveness of on-site and virtual assessments when determining which tool is appropriate and proportionate to the risk identified. A professional body should consider whether an on-site assessment would be more effective when supervising members of the supervised population that are categorised as high risk and in circumstances where it should be looking to develop a deep understanding of the member's approach and overall systems and controls framework.

Gatekeeper role

5.9 A professional body supervisor should consider whether a member meets the ongoing requirements for continued participation in the profession. As well as assessments of

competence and of fitness and propriety, this will include whether the member meets expectations related to anti-money laundering compliance. This will take place both when a member joins the profession, and on an ongoing basis thereafter.

Regulation 26(7) of the Money Laundering Regulations 2017 requires that an application for approval:

- be made in such manner as a professional body supervisor may direct
- include sufficient information to enable a professional body supervisor to determine whether the person concerned has been convicted of a relevant offence
- include such other information as a professional body supervisor may reasonably require

Regulation 46(1) of the Money Laundering Regulations 2017 requires a professional body supervisor to take necessary measures for the purpose of:

- securing compliance by its own sector with the Money Laundering Regulations 2017
- securing that an application for which a professional body supervisor grants approval meets the requirements of Regulation 26(7)

5.10 Regulation 26 of the Money Laundering Regulations 2017 is a provision designed to prevent criminals convicted in specified areas from operating in key roles in legal and accountancy businesses. This section provides guidance for professional body supervisors about meeting the requirements for prohibitions and approvals of applications by members of the supervised population to be a beneficial owner, officer or manager of a firm (BOOM), or a relevant sole practitioner.

5.11 A professional body supervisor must grant such an application unless the applicant has been convicted of an offence listed in Schedule 3 of the Money Laundering Regulations 2017. Applications must include sufficient information to enable a professional body supervisor to determine this. Regulation 26 applies to those who were working as BOOMs or sole practitioners prior to the provision coming into force, as well as to new entrants. A professional body supervisor should factor into its supervision the possibility that a BOOM may be operating 'under the radar' in a seemingly more junior role.

Sufficient information

5.12 Professional body supervisors should require, as a minimum, a criminal record check by the Disclosure and Barring Service, Disclosure Scotland, or Access Northern Ireland. A member's self-declaration alone, that they have no relevant convictions, should not be considered sufficient information.

5.13 A professional body supervisor should satisfy itself that a disclosure agency check from the UK (as opposed to a different country) is appropriate, including by considering the applicant's residential history. A professional body supervisor may, for example, consider existing information it holds on a member.

- 5.14** Where it is relevant to an application that a conviction is considered 'spent' at different times in different jurisdictions, the applicable criminal law regime is the one within the jurisdiction where the regulated services are to be provided.
- 5.15** A professional body supervisor may, for a current application, accept a criminality check that was submitted to a different professional body supervisor in relation to a previous application. However, it may do so only if the check was obtained from the disclosure agency appropriate for the current application.

Overseas applicants and information

- 5.16** Obtaining access to overseas criminal record data may present a challenge.
- 5.17** Where an applicant has been resident overseas during the past 5 years, a professional body supervisor should consider what information it requires to be regarded as sufficient. A professional body supervisor should require a member to obtain an equivalent disclosure agency check. In exceptional circumstances where a professional body supervisor is satisfied this cannot be obtained, sufficient information may be in the form of professional references that are independently verified.
- 5.18** A professional body supervisor should consider offences that took place outside of the UK in line with paragraph 35 of Schedule 3 to the Money Laundering Regulations 2017. In doing so, it should have particular regard to any offence which has deception or dishonesty as one of its components.

Obtaining and monitoring criminality checks

- 5.19** Criminality checks may be obtained by an applicant or, with the applicant's permission, by the firm, professional body supervisor, or Inn of Court. A professional body supervisor may oversee the process of obtaining and monitoring valid criminality checks through the application process. Alternatively, it may, for example, permit firms to oversee the process.
- 5.20** Whichever approach the professional body supervisor takes, we expect it, as a minimum, to apply a risk-based approach to the sample checking of criminality checks.
- 5.21** We also consider it good practice for a professional body supervisor to consider approaches to facilitate its awareness of whether a member has been convicted of a relevant offence following approval as a BOOM or SP.

Remedial action

- 5.22** Where a professional body supervisor identifies deficiencies, it should make sure its supervised population takes proper and timely action to correct these. Throughout the process, a professional body supervisor should maintain an open and cooperative dialogue with those it supervises.

- 5.23** The remedial measures imposed must be proportionate to the severity of the deficiency identified. Communication should include documented action plans and timelines, and supervisory follow-up to ensure that the required measures are verified and effectively implemented and maintained. A professional body supervisor should apply consistent policies for remedial actions, while considering the specific characteristics of the member and the deficiency. A professional body supervisor should apply comparable, proportionate actions to similar issues/cases. This should be supported through appropriate guidance and training. More effective professional body supervisors ensure that the findings and themes of assessments and remedial action are shared promptly with staff to support consistency and understanding. An effective professional body supervisor will consider using communication channels with its supervised population to feed back relevant learnings in an appropriate form.

Outcomes

- 5.24** Outcomes which indicate a more effective approach to supervising include:

- Risk-based supervisory strategy and use of a broad range of gatekeeper, oversight and enforcement tools:
 - deny membership to bad actors and
 - identify and correct those with weaker policies, controls and procedures

leading to lasting improvement in the supervised population's risk management and compliance.

Examples of more effective practice

- Use of a case management system to efficiently review, log and record data leads to good co-ordination of supervisory actions which supports better long-term effectiveness.
- Desk-based reviews consider a range of information (such as annual returns, a sample of client files, client due diligence and websites) which enables an accurate assessment of each member of the supervised population's level of risk by building a holistic view of the effectiveness of their controls.
- Undertaking thematic reviews to develop a better understanding of key or priority areas/sectors of risk and acting promptly to share related findings or guidance and address identified compliance failures or knowledge gaps resulting in a meaningful reduction in AML.
- Verification of risk categorisation is undertaken using dip sampling of a statistically significant sample of the supervised population to ensure risk categorisation remains appropriate.
- Keeps fit and proper requirements under review through ongoing monitoring ensures members continue to meet the ongoing requirements for continued participation.

Examples of less effective practice

- Risk assessments are not reviewed regularly, meaning the resource applied and tool selection are inherently limited, resulting in a failure to identify firms with weak AML controls.
- Putting an onus on those in the supervised population to self-declare that they are carrying out regulated activities without undertaking work to verify the accuracy of self-declarations, preventing an accurate understanding of risk exposure.
- The risk categorisation of the supervised population does not influence the scrutiny applied during an assessment, with the tools used not proportionate to the risk identified. This restricts the opportunity to flex approach to apply greater scrutiny to those within the supervised population assessed as high risk and effectively address risks.
- Members of the supervised population are given inconsistent compliance ratings despite similar gaps in their money laundering procedures, without guidance or explanation about why.
- Giving the supervised population repeated, lengthy chances to remediate non-compliance without evidence of consideration about whether this is appropriate given, for example, the severity of the issues identified.
- Overreliance on using one tool – for example, action plans – with no tailoring to the issues identified and the circumstances of different members of the supervised population.
- Lack of oversight of those within the supervised population categorised as low-risk. For example, no random statistically significant sampling takes place to verify the risk categorisation, leading to a risk that those that are higher-risk are wrongly categorised or are not identified.



Case study: An effective supervisory approach to Reg 18 of the Money Laundering Regulations 2017

A professional body supervisor reviewed a large number of its supervised population's anti-money laundering risk assessments. It considered a sizeable minority to be non-compliant with Regulation 18 of the Money Laundering Regulations 2017, which sets out the relevant requirements. This was either because the document submitted wasn't a risk assessment (e.g. it was a training manual) or because one or more of the criteria in Regulation 18 were not met. Over a third of the risk assessments it received were overdue. The professional body supervisor published these findings, provided guidance on the issues, issued a warning notice and wrote to its supervised population asking them to confirm they had a risk assessment in place by a set date. The professional body supervisor continued to work with those that did not have a compliant risk assessment in place and later published details of fines levied against relevant firms that remained non-compliant. These steps demonstrated the professional body supervisor's use of its powers to support the adoption of a risk-based approach by its supervised population.

6 Information and intelligence sharing

Regulation 50(1) of the Money Laundering Regulations 2017 requires a professional body supervisor to take such steps as it considers appropriate to:

- co-operate with other supervisory authorities, the Treasury and law enforcement authorities in relation to the development and implementation of policies to counter money laundering and terrorist financing
- co-ordinate activities to counter money laundering and terrorist financing with other supervisory authorities and law enforcement authorities

Regulation 50(3) says such co-operation may include the sharing of information which the supervisory authority is not prevented from disclosing.

Policies and procedures for information and intelligence sharing

6.1 A professional body supervisor should design, implement and maintain organisation-wide policies and procedures that set out its approach to sharing both information and intelligence. These should include:

- a. conditions for sharing intelligence and information with internal and external stakeholders, including the use of inter-organisational sharing platforms such as SIS and/or FIN-NET and the use of available gateways and Memorandums of Understanding (MoU)
- b. detailing how intelligence and information will be received, handled, protected and acted upon in line with existing data privacy and protection legislation
- c. the application of intelligence and information sharing protocols, such as the National Intelligence Model (NIM), and compliance with requirements to protect sensitive material
- d. a rolling programme of staff training and knowledge testing to ensure all relevant staff understand and can implement the approach to intelligence and information sharing

Information sharing

6.2 A professional body supervisor should attend and actively participate in information sharing arrangements or forums, such as the Anti-Money Laundering Supervisors' Forum (AMLSF) and its sectoral affinity groups. Effective sharing could include, for example, good practice, methodologies and processes to improve anti-money laundering supervision. A professional body supervisor should identify and engage in other information sharing forums relevant to their remit.

Intelligence sharing

- 6.3** A professional body supervisor should actively share intelligence with other supervisors, law enforcement agencies and other relevant bodies. To minimise the risk of misconduct investigations clashing (e.g. through tipping off), intelligence should be shared about active misconduct investigations, not just completed cases, where the law does not prevent this. When sharing information, a professional body supervisor should observe the protocols and safeguards maintained by the information sharing mechanisms designed to protect sensitive information.
- 6.4** A professional body supervisor receiving intelligence from external stakeholders should cooperate with requesting stakeholders and make every effort to respond to all relevant inquiries in a timely manner where the professional body supervisor is satisfied sharing intelligence is lawful.
- 6.5** A professional body supervisor should attend and actively participate in its sector Intelligence Sharing Expert Working Group (ISEWG) and evidence commitment to meeting the ISEWG membership requirements and the strategic and tactical objectives of the ISEWGs. A professional body supervisor should also identify other relevant intelligence sharing forums to attend and actively contribute to these where possible. For example, sharing emerging themes and trends within the Public Private Threat Groups (PPTGs).

Use of intelligence and information sharing platforms

- 6.6** A professional body supervisor should participate in existing intelligence and information inter-organisational sharing arrangements. Two existing information sharing arrangements are the FIN-NET and the SIS. If a professional body supervisor does not consider FIN-NET and/or SIS are appropriate platforms, then we expect it to demonstrate to our satisfaction that it can, and is, effectively sharing intelligence and information with other supervisors and law enforcement agencies via alternative mechanisms.
- 6.7** When using SIS, a professional body supervisor should:
- a.** perform relevant searches, for example, on membership applications, during active investigations or in anticipation of supervisory action
 - b.** upload relevant intelligence flags, for example: live investigations, supervisory intelligence (e.g. from monitoring activities), disciplinary action, SAR submissions or other intelligence leads
 - c.** actively monitor intelligence flags and remove if no longer relevant
 - d.** upload all information flags such as concluded investigations as soon as possible following due process
 - e.** manage intelligence and information flags in accordance with its data retention policies
 - f.** make appropriate requests if intelligence or information flags are identified
 - g.** respond to requests in a timely and co-operative manner

- 6.8** When using FIN-NET, a professional body supervisor should:
- a.** consider submitting referrals during live investigations, for example, to seek intelligence and/or information from other members linked to the investigation
 - b.** make referrals to other members when taking disciplinary action to avoid unintended disruption of other live investigations
 - c.** consider asking FIN-NET for a trace request to identify whether a firm or individual which has come under suspicion has come to FIN-NET's attention previously
 - d.** consider asking FIN-NET to assist in organising a coordinating group meeting if the results of a FIN-NET referral suggest there is multi-agency interest in the firm or individual
 - e.** respond to referrals from other members in a timely and co-operative manner
- 6.9** A professional body supervisor should use the intelligence and information gathered from SIS and FIN-NET to inform its risk assessment, risk profiles and risk-based approach to supervision.

Suspicious Activity Reports (SARs) and Reporting Obligations

Regulation 46(5) of the Money Laundering Regulations 2017 requires a professional body supervisor which, in the course of carrying out any of its supervisory functions or otherwise, knows or suspects, or has reasonable grounds for knowing or suspecting, that a person is or has engaged in money laundering or terrorist financing, must as soon as practicable inform the NCA.

Regulation 46(6) says such a disclosure is not to be taken to breach any restriction, however imposed, on the disclosure of information.

Regulation 46(7) says, where such a disclosure is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by whom, or on whose behalf, it is made.

Reporting Obligations

- 6.10** An effective professional body supervisor will appoint a nominated officer to report knowledge or suspicion of money laundering and/or terrorist financing to the NCA. A professional body supervisor should appoint an appropriate deputy for the nominated officer who will perform their functions if they are unable to. The appointed nominated officer and deputy should have appropriate knowledge, experience and understanding of their role and its requirements to fulfil their duties effectively. Relevant, timely training should be provided, and any applicable qualifications kept up to date and valid.

- 6.11** The role and responsibilities of a nominated officer should include:
- a.** ensuring that the professional body supervisor maintains active access to the NCA SAR reporting portal
 - b.** ensuring high quality SARs are reported to the NCA, in line with the UKFIU's SAR quality indicators and guidance
 - c.** maintaining regular and accurate internal records on SAR decision making, for example, when a decision is made to submit or not submit internal reports as SARs to the NCA
- 6.12** The nominated officer could be the same person as the professional body supervisor's SPOC (discussed in section 3.10), although other arrangements may be appropriate where the professional body can demonstrate a sound rationale. A professional body supervisor should ensure that staff know who the nominated officer and deputy are, and this should be appropriately documented in relevant policies and procedures.

SARs and improving SAR quality

Regulation 66(1A) and Schedule 4 (15A) of the Money Laundering Regulations 2017 provide a professional body supervisor with the power to require its sector to supply it with a copy of any suspicious activity reports (SAR) submitted to the NCA as part of their supervisory assessments.

- 6.13** A professional body supervisor should assess the quality of the content of SARs submitted by its supervised population as part of its risk-based approach to AML supervision and in order to improve SARs' effectiveness and use for UKFIU.
- 6.14** A professional body supervisor should consider how best to provide training and/or guidance to their supervised population on the importance of reporting obligations, their responsibilities and improvements on SAR quality.
- 6.15** A professional body supervisor should engage with relevant training and update programmes, to improve the quality of the SARs that it and its supervised population submit.

Disclosures

Regulation 46(2)(e) of the Money Laundering Regulations 2017 requires a professional body supervisor to take effective measures to encourage its own sector to report actual or potential breaches of the provisions of the Regulations to it.

- 6.16** A professional body supervisor should have clear, accessible and publicly available policies, procedure and controls in place to encourage disclosures of suspected or actual breaches of the Money Laundering Regulations 2017 to it, by its supervised population and the general public. Policies should clearly set out how to make a disclosure and how the confidentiality of such a disclosure and anonymity is protected.
- 6.17** A professional body supervisor should clearly differentiate their disclosure process from their complaints process, providing independent report channels. A professional body supervisor should provide training and guidance to staff on how to identify, handle and record any disclosures received and maintain regular refresher courses.

Gateways

Regulation 52 of the Money Laundering Regulations 2017 permits disclosures both from and to supervisory authorities for purposes connected with the discharge of their supervisory functions. Disclosure may be made to/by listed authorities including law enforcement, certain government agencies and other supervisors.

- 6.18** Professional body supervisors should consider the appropriate use of gateways, when obtaining and sharing information and intelligence. For example, Regulation 52 allows for reciprocal sharing between relevant authorities (including law enforcement, Companies House and HM Treasury) and supervisory authorities (which includes statutory and professional body supervisors). Sharing information and intelligence, particularly between the public and private sectors, supports a whole system approach to preventing and pursuing persons seeking to exploit the UK for criminal purposes.

Outcomes

- 6.19** Outcomes which indicate a more effective approach to intelligence and information sharing include:
- Staff clearly understand and use information and intelligence policies, procedures and systems, leading to timely and routine proactive and reactive sharing of relevant information and intelligence.
 - Sharing information and intelligence, including through the submission of high-quality SARs from professional body supervisors and their supervised populations, increase law enforcement outcomes and improve capabilities to identify and reduce financial crime.
 - Widespread and consistent use of shared platforms such as SIS and FIN-NET build strong information and intelligence hubs, and enhance collective capabilities to prepare, prevent, protect and pursue.

Examples of more effective practice

- Changes to sectoral or overarching reporting guidance are promptly cascaded to staff.
- Detailed records are kept on disclosures received and action taken, with MI periodically provided to senior management leading to informed decision making.
- Quality assurance reviews by independent senior management on disclosure activity and responses are periodically undertaken to ensure effectiveness. There are internal sharing mechanisms between those receiving disclosures and those undertaking supervisory activities to share high level actions and lessons learnt.
- Builds and utilises contacts available through membership of sharing platforms, including SIS or FIN-NET, leading to effective intelligence and information sharing in the legal and accountancy sectors.
- Proportionate intelligence and information sharing checks undertaken on a risk-based approach, enabling timely action to address identified risk: at membership renewal stage; in relation to a relevant person and/or firm transferring membership between supervisors; when a relevant person has been selected for a monitoring review/assessment; and at appropriate times during the stages of a relevant person's/firm's disciplinary investigation, particularly where the investigation is directly related to AML/CTF supervision.
- Intelligence sharing externally (e.g. with law enforcement) is considered at an early stage resulting in an opportunity to further wider economic crime prevention commitments.
- Evidence of operational channels implemented for individuals wanting to disclose information confidentially, supported by guidance on the professional body supervisor's website, which supports individuals coming forward leading to risks being promptly identified and addressed.

Examples of less effective practice

- Information is only shared about completed investigations, thereby failing to contain the risk of different organisations' active investigations conflicting and preventing timely action.
- Staff have a limited awareness of legal gateways which prevents potentially actionable intelligence being disclosed to stakeholders such as other supervisors, government agencies and law enforcement and could result in money laundering activity continuing or criminals not being pursued.
- Limited engagement with members of relevant intelligence and information sharing groups. Attendance is ad hoc and reactive updates provided with limited follow-up which reduces capabilities in identifying and reducing financial crime.
- For SIS members, having no appropriately documented SIS policy in place. Limited evidence of the use of SIS, despite having membership. For example, SARs have been reported but not flagged on SIS and SIS is not used for the purposes of inspection planning or membership approvals preventing the dissemination of key intelligence that may have informed its own and other SIS members' activities.
- Colleagues are not aware of the identities of nominated officers or their deputies, or how to submit SARs when nominated officers are unavailable.



Case study: Effective use of ISEWG intelligence

A professional body supervisor received intelligence about a member of its supervised population via an ISEWG meeting with a government agency. The intelligence related to a live investigation into 'ghost employees' which involved a member of the professional body. The agency sought the supervisory records of the member and any additional intelligence held that might assist their case.

The professional body supervisor was able to provide the agency with new intelligence that led to an additional suspect being investigated and the arrest of the member.

The exchange of intelligence was two-way as the member also had a separate practice supervised by the professional body supervisor. The agency provided the professional body supervisor with intelligence that the member was performing TCSP services which it had not previously declared through its AML annual return. Because of the member's non-declaration, the professional body supervisor had given it a lower risk rating and it had not been registered on HMRC's TCSP register. The professional body supervisor acted on the intelligence provided, increased the member's risk profile, and worked collaboratively with the agency to take appropriate action.

7 Information and guidance for the supervised population

Regulation 17 of the Money Laundering Regulations 2017 says that, if information from the risk assessment performed under Regulation 17(1), or provided by the Treasury or Home Office under Regulation 16(8), would assist relevant persons in carrying out their own money laundering and terrorist financing risk assessment, a professional body supervisor must, where appropriate, make that information available to those persons, unless to do so would not be compatible with restrictions on sharing information imposed by or under the Data Protection Act 1998(a) or any other enactment.

Regulation 47(1) of the Money Laundering Regulations 2017 requires a professional body supervisor to, in any way it considers appropriate, to make up-to-date information on money laundering and terrorist financing available to its own sector. Regulation 47(2) says this information must include:

- information on the money laundering and terrorist financing practices considered by the supervisory authority to apply to its own sector
- a description of indications which may suggest that a transfer of criminal funds is taking place in its own sector
- a description of the circumstances in which the supervisory authority considers that there is a high risk of money laundering or terrorist financing

Regulation 47(3) must also include information from the following sources which a professional body supervisor considers is relevant to its own sector:

- the report prepared by the Treasury and the Home Office under Regulation 16(6)
- any relevant information made available by the Treasury and the Home Office under Regulation 16(8)
- any relevant information published by the Director General of the NCA under Section 4(9) (operations) or 6 (duty to publish information) of the Crime and Courts Act 2013

Information for the supervised population

- 7.1** The Money Laundering Regulations 2017 require a professional body supervisor to provide information to its supervised population about the money laundering risks they face. This may take the form of a digest of information that the professional body supervisor receives from public bodies, as well as the professional body supervisor's own judgments about the risks its supervised population faces. This might include risks from different products, crime typologies, geographical locations, customers, distribution channels, and how these risks affect different sectors and clusters.

7.2 A professional body supervisor will need to consider how best to pass this information on. Professional body supervisors may use a range of methods to enable more effective targeting of information. Communication methods may be identified, for example, through feedback or through measuring responses (e.g. hits on a webpage).

Methods might include:

- a. sectoral guidance material
- b. newsletters, web-based information, webcasts, webinars
- c. oral updates during supervisory visits
- d. member group meetings and training events
- e. an annual report covering anti-money laundering issues

7.3 Professional body supervisors should give careful consideration to how to balance giving practical assistance to their supervised population, with the need to protect sensitive information and intelligence.

7.4 We expect professional body supervisors to demonstrate that they are taking practical and appropriate steps to circulate information that can assist their members' own understanding of risk.

7.5 Weaknesses identified in supervisory interventions should inform a professional body supervisor's information and guidance for its supervised population.

Guidance for supervised population

7.6 Guidance to professional bodies' supervised populations on how to meet their high-level legal obligations in the area of anti-money laundering forms an important part of the risk-based anti-money laundering regime. Guidance offered by professional body supervisors should help their supervised populations understand their responsibilities and supervisory expectations.

7.7 A professional body supervisor should flex the form of its guidance to ensure guidance is delivered effectively to its supervised population. These methods can include:

- **general guidance:** professional body supervisors can provide, or support guidance addressed to their membership
- **industry training:** professional body supervisors can provide training to their membership that supplements or contextualises guidance
- **communication:** professional body supervisors can engage in a dialogue with membership, send messages to the supervised population via mailings, the trade press, discussion with trade bodies, etc

- **individual guidance:** professional body supervisors can offer membership guidance about their individual queries and concerns. This may be by correspondence, a helpline, webinars or meetings

7.8 Effective professional body supervisors will ensure their supervised populations' views on the money laundering risks are collected and embedded into guidance to provide them with the information and guidance needed to improve their approach to anti-money laundering compliance. Professional body supervisors should consider how to communicate transparent messages to their supervised population in a timely way.

7.9 The government has made clear it expects the number of different sets of guidance to be minimised. Only one set of guidance (including sub-sector specific annexes) for each of the accountancy and legal sectors will be approved by HM Treasury. Courts must take account of the guidance when determining whether a person subject to the requirements of the Money Laundering Regulations 2017 has complied with their obligations. More specific, targeted individual guidance such as that listed in paragraph 7.7 can still be issued by professional body supervisors.

7.10 Professional body supervisors should liaise with other relevant supervisory authorities to ensure a coherent interpretation of the legal obligations, and to minimise inconsistencies. It is important that guidance is regularly reviewed and updated when appropriate to ensure that it keeps pace with change and remains relevant.

Outcomes

7.11 Outcomes which indicate a more effective approach to providing information and guidance to supervised populations include:

- Supervised populations have access to, and use, the information which professional body supervisors provide to identify and manage their money laundering risk and meet their anti-money laundering obligations.

Examples of more effective practice

- Careful consideration of how to share intelligence about money laundering threats in a manner that protects sensitive aspects of the information. For example, through anonymised case studies enabling the supervised population to accurately assess and mitigate money laundering risks.
- A range of outreach methods are used which actively consider how the supervised population engages with the materials resulting in more effective targeting to ensure that the messages are understood, and learnings are appropriately applied to strengthen anti-money laundering controls. For example, from utilising feedback.
- Proactive engagement and co-operation with other stakeholders, such as other supervisory authorities, ensures that guidance is joined up and inconsistencies minimised.

Examples of less effective practice

- Guidance is prescriptive and inflexible, and fails to adapt to changes in industry practices, technology, regulations, etc., limiting the supervised population's understanding of risk and weakening anti-money laundering controls.
- The supervised population is not provided with timely insights into a professional body supervisor's view of money laundering risk reducing their awareness of, and ability to address, actionable risk.
- Member views are not collected and appropriately embedded into guidance limiting the quality of the information provided.
- Information and guidance contained in a communication channel is difficult to navigate with information not presented in an accessible manner preventing the supervised population from engaging with the material.



Case study: Effective approach to providing information and guidance to the supervised population

A professional body supervisor has a dedicated anti-money laundering webpage to provide information and guidance to its supervised population. The professional body supervisor has carefully considered how best to inform its supervised population about anti-money laundering and uses various methods including roadshows, webinars, training events, newsletters and podcasts. Using different methods to communicate has enabled the professional body supervisor to reach a wide audience. Content is refreshed regularly to ensure it remains relevant to the supervised population and incorporates emerging risks. The professional body supervisor records some of its training events to maximise access. Training events include discussion of practical case studies to support learning. The professional body supervisor is proactive in evolving its approach and undertakes an annual survey of its supervised population to better understand how effective the information is that it provides. This shapes future approaches and is in addition to a feedback survey that its supervised population completes following training events. This approach ensures that the supervised population has the information required to support them in meeting their anti-money laundering obligations.

8 Staff competence and training

Regulation 49(1)(c) of the Money Laundering Regulations 2017 requires a professional body supervisor to make arrangements to ensure they employ only persons with appropriate qualifications, integrity and professional skills to carry out the supervisory functions.

Regulation 46(2)(b) requires a professional body supervisor to ensure its employees and officers have access, both at its offices and elsewhere, to relevant information on the domestic and international risks of money laundering and terrorist financing which affect its own sector.

- 8.1** Professional body supervisors should encourage their supervised populations' adoption of a risk-based approach to anti-money laundering supervision. Professional body supervisors should take steps to help ensure their staff are equipped to take decisions on whether the policies, controls and procedures of their supervised populations are appropriate in view of the risks identified.
- 8.2** It is not possible for a professional body supervisor to specify measures that its supervised population must take to meet their obligations in all circumstances. Supervisory staff should therefore judge each case on its merits, considering, for example the risks faced and good practice found elsewhere in the industry. The aim is to make sure supervisory actions are appropriate, predictable and proportionate.
- 8.3** This will be aided by the recruitment and retention of staff with relevant experience and through the ongoing professional development of supervisory staff (including by providing training, on-the-job experience and supervision manuals and other guidance). Formal qualifications related to anti-money laundering may also be appropriate. OPBAS does not endorse particular qualifications.

Training

- 8.4** An effective professional body supervisor will have a flexible, tailored training plan to meet staff needs and will consider these needs when determining content and how the training is delivered. Staff should have adequate support and time to undertake the training. Training can cover topics like the role of audit, compliance and risk management functions, the risks facing the supervised population, changes in the anti-money laundering landscape and what good practice looks like. All staff should have appropriate general anti-money laundering training. Specialist training should be provided where appropriate and relevant to an individual's role. For example, tailored training for the nominated officer may support the submission of quality SARs.
- 8.5** A professional body supervisor should document, periodically review, and measure the continued effectiveness and adequacy of its anti-money laundering training. This includes assessing the skills, expertise, technical knowledge and behaviour of staff in practice. Identified gaps should be promptly addressed. Feedback from staff can also be used to ensure staff views are reflected in future training.

Guidance for staff

- 8.6** Staff should be supported in the decision-making process by appropriate accompanying guidance. The guidance should be regularly reviewed to ensure it remains up to date, considers emerging risks and is tailored to the professional body supervisor's sector risks. Professional body supervisors should test, and be able to evidence, staff compliance with policies and procedures.

Outcomes

- 8.7** Outcomes which indicate a more effective approach to staff competence and training include:
- Where relevant, all staff understand and consistently and effectively perform the elements of their role relating to anti-money laundering. They can identify and tailor their responses to new threats.
 - Where relevant, all staff are equipped to take appropriate, predictable and proportionate decisions, leading to robust and consistent oversight.

Examples of more effective practice

- Relevant and appropriate training is given both to wider staff who may need to understand how to identify AML issues and to specialist AML staff.
- Training has a strong practical dimension (e.g. case studies) so that staff can understand and apply learnings.
- Regular follow-up testing of staff understanding from training to verify the effectiveness of training and keep staff up to date.
- Ongoing professional development related to anti-money laundering is relevant to the person's role and promptly addresses any identified gaps in staff skills or technical knowledge.
- Staff are kept updated on risks facing the supervised population and changes in the anti-money laundering landscape so that they can react promptly to emerging risks. For example, sharing trends/risks identified internally through supervisory assessments and external updates such as the latest National Risk Assessment and any updated Financial Action Task Force guidance.
- Knowledge, experience and lessons learned sessions are built into relevant team meetings to maintain staff engagement and understanding.
- Using specialist advisers and trainers, when required, to ensure that staff receive specialised role-appropriate training.
- Anti-money laundering training is supported by training records and relevant follow-up materials to support continuing development.
- Evidence of staff participation in wider anti-money laundering training such as NCA/UKFIU led projects.

Examples of less effective practice

- Appropriate policies and procedures are in place, but some staff are unaware of their existence or haven't received adequate training on changes leading to inconsistent outcomes.
- Training dwells unduly on legislation and regulations rather than practical examples or is not tailored to the professional body supervisors' sectors and risks making it harder for staff to apply their learning in-role.
- No feedback sought or received from staff on the training and guidance received, leading to training and guidance that doesn't meet the needs of staff.
- Training given once, e.g. on first arrival in the role and then not repeated or kept up to date.



Case study: Not effectively ensuring internal guidance is fit for purpose

A professional body supervisor had a series of anti-money laundering guides to support staff decision-making. The guides, while helpful in providing general anti-money laundering information to staff, were not tailored to the professional body supervisor's sector risks or its approach to anti-money laundering supervision. This limited the effectiveness of the guides. This was demonstrated when staff were unable to adequately describe the money laundering or terrorist financing risks posed by their supervised population.

9 Enforcement

Regulation 49(1)(d) of the Money Laundering Regulations 2017 requires a professional body supervisor to make arrangements to ensure that contravention of a relevant requirement by a member of their supervised population renders that member liable to effective, proportionate and dissuasive disciplinary measures under the professional body's rules.

- 9.1** Enforcement plays a key role in correcting weaknesses in processes, procedures, systems or controls and in influencing and fostering a culture that contributes to effective risk management and compliance. Enforcement must be supported by an effective risk-based approach and effective supervision. The most advanced enforcement frameworks won't be effective if compliance issues are not detected and if there is an overreliance on supporting the supervised population rather than taking robust enforcement action.
- 9.2** Professional body supervisors should take appropriate action against relevant persons where they have failed to meet their anti-money laundering obligations. Enforcement action should be effective, proportionate and dissuasive, and applied in a fair and consistent manner.
- 9.3** Professional body supervisors should have sufficient information gathering and investigative powers to effectively monitor and assess compliance with applicable anti-money laundering standards and to take appropriate action for non-compliance. Regulation 66 of the Money Laundering Regulations 2017 gives all supervisory authorities powers to require the production of documents or the provision of information, and to interview their supervised population.
- 9.4** Enforcement action should seek to remove the benefits of non-compliance and deter future non-compliance but may also be remedial and preventive. Professional body supervisors should therefore have a broad range of enforcement tools at their disposal and should use these tools in appropriate cases. Enforcement powers could range from administrative sanctions, including censures and financial penalties, to suspension, restriction or withdrawal of membership and the ability to direct those in the supervised population to take action to remedy non-compliance and promote future compliance.
- 9.5** Effective professional body supervisors will have clear policies and procedures covering when it will take enforcement action and with what tools. This could include mitigating and aggravating factors, to support staff judgements. Appropriate staff discussions of cases, quality assurance and comprehensive training and documentation will support consistent application.
- 9.6** It is for the professional body supervisor to satisfy itself, and OPBAS, that its powers are adequate and that they are used in appropriate cases to advance its functions as an anti-money laundering supervisor. A professional body supervisor should demonstrate to OPBAS that, where enforcement action is appropriate, the action it takes to address

identified failings is timely and robust. This includes verifying that those subject to action have completed necessary follow-up.

- 9.7** Professional body supervisors should maintain records of enforcement action. These should be sufficient to allow retrospective understanding of the action taken and its reasons, for the purpose of quality assurance testing by, for example, senior management, internal auditors or OPBAS.
- 9.8** Professional body supervisors should make accessible to the public, as appropriate, enforcement activity related to anti-money laundering. Publishing enforcement action is important in delivering strong deterrence and messaging about standards to other regulated entities and the public and can contribute to greater transparency around the enforcement process.

Outcomes

9.9 Outcomes which indicate a more effective approach to enforcement include:

- Enforcement action delivers clear and consistent messages, holding the supervised population accountable for their actions.
- Enforcement action changes behaviour by improving compliance and robustly deterring misconduct, helping to maintain confidence in the accountancy and legal sectors.
- Policies, controls and procedures are applied in a way that ensures objective, consistent and timely enforcement decisions.

Examples of more effective practice

- Enforcement powers, and their use, incentivise compliant behaviour.
- Enforcement outcomes are, unless there are good reasons for not doing so, publicised to inform and dissuade across appropriate communication channels. Published statements are accessible and written in plain language.
- Procedures for hearing cases are fair and consistently applied and allow member representation and appeals.
- Clear nexus between the enforcement tools used, comprehensive guidance and staff training in place and achieving a robust enforcement outcome.
- Proactive follow up ensures effective remedial action is taken and compliance maintained.
- Active consideration is given to whether cases should be referred to the Crown Prosecution Service.

Examples of less effective practice

- Enforcement process is unclear and difficult for the supervised population to understand.
- Giving the supervised population repeated opportunities, or excessive time, to address non-compliance before a professional body commences enforcement action.
- Inconsistent application of the full range of enforcement tools leading to inconsistent outcomes.
- Disproportionate focus on educating and supporting the supervised population when serious failings are identified, instead of taking dissuasive enforcement action.
- Level of fines issued are not proportionate to the seriousness of the issues identified, resulting in the fine not acting as a robust deterrent to money laundering.
- Staff have inadequate guidance on the approach to enforcement, particularly around deciding when and how to act, leading to the risk that application of enforcement action, and therefore outcomes, are inconsistent.
- Narrow focus on the number of enforcement actions taken rather than assessing the quality and timeliness of actions and their impact, which limits an effective assessment of enforcement outcomes.
- Lack of documentation resulting in difficulty in understanding the reasons for previous enforcement actions and difficulty in identifying trends and emerging issues.



Case study: An effective enforcement regime

A professional body supervisor has an effective disciplinary process which is supported by published disciplinary regulations. The process is clear and detailed. For example, it covers the roles of the case managers and committees and the sanctions that can be applied. The professional body supervisor has established an independent regulatory committee specifically to deal with regulatory breaches that do not involve a third party, allowing greater focus on anti-money laundering non-compliance. The committee considers whether disciplinary action is appropriate using investigative powers found in the professional body supervisor's by-laws, compliance with which is a condition of membership. The professional body supervisor publishes details of public hearings and committee decisions on its website to act as a credible deterrent against money laundering.

10 Record keeping and quality assurance

Regulation 46(2)(d) of the Money Laundering Regulations 2017 requires a professional body supervisor to keep a record in writing of the actions it has taken in the course of its supervision, and of its reasons for deciding not to act in a particular case.

Regulation 17(3) requires a professional body supervisor to keep an up-to-date record in writing of all the steps it has taken to identify and assess the money laundering risks to which its supervised population is subject under Regulation 17(1). Regulation 17(4) requires a professional body supervisor to record its risk profiles in writing.

- 10.1** Maintaining accurate records is important to show how and why decisions have been made. They help maintain a 'corporate memory' that is important for future decision-making and for identifying who was involved in the decision-making process.
- 10.2** A professional body supervisor will maintain records of significant decisions related to its anti-money laundering supervision, documenting the reasons for action. The documentation should be sufficiently thorough to allow retrospective understanding of the justifications behind the decision to be taken as part of quality assurance testing by, for example, OPBAS or internal auditors.
- 10.3** Moreover, professional body supervisors will document their supervisory action (e.g. notes for record of meetings, file review logs) to ensure an adequate record is maintained. Records are secured, with appropriate storage and access protections.

Quality assurance testing

- 10.4** Professional body supervisors should subject supervisory work and decision-making to quality assurance testing to ensure judgments and the standard of scrutiny are appropriate, consistent and proportionate. This is in addition to standard managerial oversight. A professional body supervisor should evidence a clear methodology for its quality assurance selection process, the level of scrutiny applied and the frequency of the reviews.
- 10.5** Different approaches will be suitable for different professional body supervisors depending on, for example, the scale of their supervisory operations. Checks would differ between those looking at routine supervisory work and scrutiny of decision-making related to, for example, enforcement action. Some checks would be on a retrospective sample basis.
- 10.6** Methods might include:
- a.** subjecting the results of file reviews or recommendation letters to the supervised population to internal cross-checks by internal independent persons (for example, by staff from separate inspection teams or independent managers)

- b. review by independent assessors
- c. scrutiny by decision-making committees and councils
- d. internal audit review (see below)

10.7 Quality assurance testing should be appropriately documented.

Internal audit

10.8 Where an internal audit function exists, the quality of anti-money laundering supervision should be subject to periodic review.

Outcomes

10.9 Outcomes which indicate a more effective approach to record keeping and quality assurance include:

- Accurate, up-to-date and comprehensive records and robust quality assurance provide evidence of verifiably appropriate, consistent and proportionate decision-making and standards.
- Records are used to support learning and continuous improvement.

Examples of more effective practice

- Quality assurance checks on anti-money laundering supervision activity are risk-sensitive in nature.
- Discussions and decisions are captured consistently and stored in an appropriate form to support continuous development.
- Robust documentation of who makes which decisions when, resulting in clear accountability.
- Records are protected and can only be accessed by the relevant team, preventing wrongful access.

Examples of less effective practice

- Inconsistent level of detail provided on member files preventing an accurate assessment of the decision-making process and leading to a perception of poor supervisory approach and an inadequate approach to addressing risks.
- Quality assurance takes place, but the outcome and accompanying rationale is not recorded, preventing any lessons being learned.
- No formal selection process for the quality assurance process means some staff members are not subject to timely quality assurance, reducing the ability to identify where improvements may be needed to avoid harm.
- Over reliance on short term quality assurance consultants with no long-term sustainable solution to embed into forward activity.
- No evidence of any internal audit on the quality of anti-money laundering supervision, despite internal audit function existing, limiting continuous development and improvement.



Case study: Using standards and technology effectively to support quality assurance

A professional body supervisor ensures all enforcement outcome reports are uploaded to its Case Management System and are then locked down to the relevant regulatory team. The justification for decisions is clearly outlined in the report, which helps retain corporate memory. The professional body supervisor also uses ISO 9001 (an international standard for quality management systems) to quality assure its department's operational procedures and processes. This helps to identify any deficiencies and inconsistencies in the quality of the professional body supervisor's procedures and processes.

11 Reporting

Annual questionnaire submission

Regulation 51(1) of the Money Laundering Regulations 2017 requires a professional body supervisor to collect such information as it considers necessary for the purpose of performing its supervisory functions, including the information specified in Schedule 4 of the Regulations. Regulation 51(2) requires a professional body supervisor to provide this information to the Treasury on request. Regulation 51(4) says such disclosure is not to be taken to breach any restriction, however imposed, on the disclosure of information. Regulation 51(5) says, where such a disclosure is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by whom, or on whose behalf, it is made.

- 11.1** Professional body supervisors will submit an annual questionnaire response to HM Treasury, providing a copy to OPBAS. The timetable and process for the submission will be set by HM Treasury.

Professional body supervisor annual reports

Regulation 46A of the Money Laundering Regulations 2017 requires a professional body supervisor to publish an annual report containing prescribed information and data about its AML supervisory activities.

- 11.2** Professional body supervisors are required to submit a standalone annual report on their anti-money laundering supervisory activities to HMT and OPBAS. The reporting period for each annual report is **6 April – 5 April**. Reports should be published and publicly available on the professional body's website by **1 November** each year.
- 11.3** An effective professional body supervisor will use the published Regulation 46A reports as an opportunity to highlight its role and remit within the AML/CTF supervisory landscape and draw out the progress and outcomes delivered by its supervisory approach and overall effectiveness.
- 11.4** Regulation 46A of the Money Laundering Regulations 2017 provides that professional body supervisors' annual reports must include certain information, such as:
- A description of the type and number of measures taken to monitor and enforce compliance in the supervised population with requirements relating to, for example:
 - reporting actual or suspected breaches of the MLRs

- customer due diligence (CDD)
- reporting suspicions (SARs)
- record keeping
- policies and controls

11.5 A professional body supervisor should also include the following:

- a foreword from its Council or relevant oversight committee
- a description of its remit and role in the AML/CTF supervisory landscape.
- an outline of the demographic of its supervised population (for example, the size of its population, including the number of sole practitioners, firms and BOOMs)
- an outline of the key themes identified from supervision during the reporting period (for example, highlighting common weaknesses among its population)
- an overview of compliance levels with statistics describing the type and number of measures taken, for example:
 - supervision, such as the number of on-site and desk-based reviews and their outcomes
 - enforcement, such as fines or licence restrictions imposed
 - regulatory action, such as follow up assessments or action plans, in response to failings or deficiencies by the supervised population in relation to reporting breaches, CDD, SARs, record keeping or policies and controls
- provide analysis of the reasons for failures and deficiencies identified (for example, low levels of SAR submissions), including reflective commentary identifying possible improvement areas or strengths of the supervisory approach
- link to relevant supervisory resources, for example, the UK National Risk Assessments, approved sector guidance and guidance from other relevant sources, such as the NCA
- include the assessment of emerging money laundering or terrorist financing threats and trends in the relevant sector over the reporting period
- look ahead to the next supervision year and outline the areas of focus. For example, how lessons learned will be considered during the relevant period and the approach to implementing any changes and/or improvements in the supervision strategy

11.6 The examples in paragraph 11.5 are not mandatory and are non-exhaustive. Given that reports are published, caution should be exercised when drafting to ensure that the level of detail is appropriate for the supervised population and is balanced against the risk of exposing weaknesses and/or opportunities for exploitation for criminals.

Outcomes

11.7 Outcomes which indicate a more effective approach to reporting include:

- Annual reports set out, in an accessible manner, the professional body supervisor's AML/CFT supervisory activity and its analysis of money laundering risks enabling its supervised population, stakeholders and the wider public to productively engage with and benefit from the reports.

Examples of more effective practice

- Provides a gap analysis and reflections on performance as an AML/CTF supervisor and areas for improvement, ensuring the accessibility of the document for stakeholders.
- Analysis included of the impact of external changes on the approach to supervision, for example, the National Risk Assessments and changes to legislation leading to stakeholder understanding of current and emerging risks and trends.
- Provides an overview of the risk profiles of the supervised population, for example, the proportion that the professional body considered to be of higher and lower risk.
- Uses graphs or visual aids to illustrate the supervision, enforcement and regulatory action statistics where appropriate, resulting in increased stakeholder engagement.
- Provides case studies to contextualise the supervision, enforcement and regulatory action statistics if appropriate, enabling stakeholders to engage productively with the reports.
- Outlines additional actions taken in response to common weaknesses that have been identified, for example, issuing guidance, arranging specific training or supervisory events leading to stakeholder confidence in the professional body's approach.
- Outlines actions taken in response to failures and deficiencies identified in the SARs submitted by the supervised population which demonstrates to stakeholders a timely, coherent and robust approach to reinforcing use of SARs.

Examples of less effective practice

- Relevant links provided but the links are not easily accessible preventing stakeholder engagement.
- Some statistics are provided without accompanying context or guidance limiting stakeholder understanding.
- Limited information provided on SARs submitted by supervised population, reducing stakeholder confidence in the approach to SARs.



Case study: An effective Reg 46A report

A professional body supervisor used its Reg 46A report as an opportunity to demonstrate its understanding of, and approach to, AML/CFT sectoral risks. This included setting out the forward-looking approach to mitigating current and emerging risks which incorporated the lessons learned from the previous year. A range of visual aids with clear accompanying guidance was provided to illustrate the supervision, enforcement and regulation action undertaken. In some instances, appropriate contextual case studies were provided, e.g. illustrating a supervisory action and the outcome. The report used plain language, with any technical language clearly explained, ensuring that the report was accessible to the reader.

Annex 1

Definitions and abbreviations

A glossary of common abbreviations and terms used in this sourcebook:

AML	Anti-money laundering. Anti-money laundering measures include those to counter the financing of terrorism
AMLSF	Anti-Money Laundering Supervisors' Forum
BOOM	Beneficial Owner, Officer or Manager
cluster	Two or more relevant persons in a sector that have similar characteristics
CTF	Counter-Terrorist Financing
DEPP	Decision Procedure and Penalties Manual of the FCA Handbook
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
FIN-NET	Financial Crime Information Network
FSMA	Financial Services and Markets Act 2000
HMRC	HM Revenue & Customs
ISWEGs	Intelligence Sharing Expert Working Groups
'Money Laundering Regulations 2017' or 'the Regulations'	The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
NCA	National Crime Agency
NECC	National Economic Crime Centre
OPBAS	Office for Professional Body Anti-Money Laundering Supervision
OPBAS Regulations	The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017
Professional body supervisor, professional body or PBS	This has the same meaning as a self-regulatory organisation as set out at Regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, i.e. each of the professional bodies listed at Schedule 1 of the Regulations

relevant persons	This is meant in the sense defined in Regulation 3 of the Money Laundering Regulations 2017
sector	The relevant persons for which a professional body supervisor has oversight
senior management	An officer or employee of a professional body supervisor with sufficient knowledge of the body's supervisory functions under the Money Laundering Regulations 2017, and with sufficient authority to take decisions affecting those functions
SIS	Shared Intelligence Service
SP	Sole practitioner
SPOC	Single point of contact
supervised population	A relevant person (whether an individual or a firm as defined in Regulation 3 of the Money Laundering Regulations 2017) that a Professional Body Supervisor oversees.

