

Summary of feedback received

January 2023

<p>Consultation title</p>	<p>Office for Professional Body Anti-Money Laundering Supervision: Sourcebook Update (CP22/16)</p>
<p>Date of consultation</p>	<p>11 August 2022 to 29 September 2022</p>
<p>Summary of feedback received</p>	<p>We consulted on updating the OPBAS sourcebook for professional body anti-money laundering supervisors (PBSs) to drive improvements in how PBSs reduce money laundering in the sectors they oversee. Our sourcebook review sits in the context of wider Government reforms to strengthen the UK anti-money laundering regime, such as the upcoming update to the national Economic Crime Plan and the Economic Crime and Corporate Transparency Bill.</p> <p>We received 25 responses and are grateful to everyone who took the time to respond.</p> <p>Key proposals included a new chapter outlining OPBAS’s approach to supervision and to expand existing guidance including by providing examples of the outcomes which can demonstrate effective supervision and more examples of good and poor practice.</p> <p>Respondents were broadly supportive of the proposals, especially the new chapter on OPBAS’s approach to supervision and the inclusion of more examples of ‘more’ or ‘less’ effective practice. Most respondents agreed that the outcomes we identified would assist PBSs in their supervisory work.</p> <p>Responses were split on the degree of flexibility and judgment we encouraged in applying a risk-based supervisory approach. Many welcomed our emphasis that the onus should be on supervisors to decide on the approaches that are most effective for them, but others asked us to provide more detail around our expectations to ensure they reflect more fully the range of PBSs. Some asked for clarification of how the 4-point effectiveness scale would be applied to ensure the outcomes are achievable for smaller PBSs.</p>

One non-PBS respondent urged for cross system prioritisation of PBSs' supervisory responses to be closely aligned with the second Economic Crime Plan, the National Risk Assessment and the work of law enforcement agencies.

Many respondents commented on our proposals to enhance the effectiveness of information and intelligence sharing, which is a priority area for OPBAS in the light of the findings of OPBAS's third report. While there was support for improving the effectiveness of information and intelligence sharing, many PBSs were concerned that OPBAS's expectations regarding the use of the Financial Intelligence Network (FIN-NET) and the Shared Intelligence System (SIS) were too prescriptive, and some disagreed with the inclusion of the National Intelligence Model protocol. However, some respondents were supportive of the measures and two PBSs advocated for the universal use of one of the networks (FIN-NET/SIS) to make the information and intelligence system work.

Some PBSs did not agree that they should assess the quality of Suspicious Activity Reports (SARs) submitted by their supervised population. Some PBSs raised concerns about the expectation that the Single Point Contact (SPOC) should be preferably at board level, arguing that a well-resourced figure with senior authority below board-level would be more appropriate and effective to ensure executive accountability. A handful disagreed with OPBAS's approach to supervision which considers that a PBS's enforcement policy is unlikely to be effective if its supervisory function is ineffective. A small number asked us to clarify that references to membership approvals, live investigations and Disclosure and Barring Service should be limited to anti-money laundering matters.

Respondents asked for clarity on specific points, or made specific suggestions, which we discuss below.

Many respondents commented on the cost-benefit analysis in the consultation, with some concerned that the costs are underestimated, do not fully reflect employment and overhead costs, or are not proportionate to the risk level. However, there was no material evidence in the responses that our proposals would impose disproportionate costs.

One respondent thought the proposed changes outweighed the benefit OPBAS is seeking to achieve and called for a clearer articulation of expected outcomes.

One non-PBS respondent wanted OPBAS to take a more proactive role in identifying failing PBSs by publishing more disaggregated sectoral information and PBS league tables.

Response to feedback received

Respondents endorsed many of our key proposals, which we have adopted accordingly:

- We have introduced a new chapter on OPBAS's approach to supervision (Chapter 2). The 4-point scale of effectiveness will aid PBSs' understanding of how we define and assess effectiveness. It should also improve transparency about the level of PBS progress as we intend to feed the data into our annual reports.
- We have maintained our focus on encouraging PBS flexibility to use their discretion in taking the most effective and proportionate approach to the level of risk of their supervised population. We expect PBSs to be comfortable making judgements about how to supervise.
- For this reason, we made it clear that the lists of indicative behaviours are not exhaustive and that there will be other ways PBSs can demonstrate effectiveness. Given feedback that sourcebook users approve the current length and level of detail of guidance, we have not materially expanded the number of examples on which we consulted.
- We have replaced the term 'whistleblowing' with the term 'disclosures' to broaden the scope of our guidance and mirror the terminology used in the Money Laundering Regulations 2017.

We have made a number of changes to our proposals in response to feedback. These are listed in the section 'Changes made to the proposals as a result of feedback received'.

We also received some comments and suggestions we do not intend to take forward:

- Use of FIN-NET and SIS networks. Improving the effectiveness of information and intelligence sharing is a key priority for OPBAS. As such, we have maintained our expectation about the use of FIN-NET and SIS networks, along with our confirmation that PBSs can meet this expectation using alternative mechanisms. OPBAS will continue to engage with PBSs about improving the effectiveness of intelligence and information sharing systems.
- Assessing quality of SARs. We have maintained our expectations on PBSs' assessing the quality of SARs because it can help PBSs to identify and improve the quality of reporting from supervised populations.
- Membership approvals and live investigations in Chapter 6. We have kept the wording in references to membership approvals and live investigations and expect PBSs to use their judgment to decide what is relevant.

- Financial penalties guidelines. Given the diversity of supervised populations, it would not be appropriate for us to set any specific level of fine for PBSs to follow.
- Disclosure and Barring Service (DBS). We have not made changes to our guidance on carrying out DBS checks. DBS was subject to a separate [consultation](#), and we consider the current wording remains valid and appropriate.
- List of Reg 46A reporting obligations. We have included the list of reporting obligations as guidance to aid PBS submission of Reg 46A reports.
- Publishing disaggregated sectoral data and PBS performance league tables. We are committed to publishing information on the effectiveness of the PBSs' anti-money laundering supervision to allow wider public scrutiny and we will reflect on how transparency of data can be enhanced.

While we note some respondents have stated the costs are underestimated in respect of their experience (though not arguing they are disproportionate to the benefit), we believe the costs are reasonable and proportionate to the benefits. PBSs should maintain arrangements proportionate to their legislative responsibilities. That includes allocating appropriate resource to their anti-money laundering supervision. We believe the sourcebook provides guidance that will assist PBSs in meeting those responsibilities and is proportionate to the benefits.

Some matters raised by respondents are outside the scope of the consultation and beyond our regulatory role. This includes the proposal to strengthen OPBAS's remit and oversight activities and work with HM Treasury on how consolidation in the sectors would work best. We continue to work with HM Treasury and others to improve the current anti-money laundering supervisory landscape.

Changes made to the guidance as a result of feedback received

The revised sourcebook can be found [here](#). The sourcebook will take effect from 10 January 2023. We will begin to assess PBSs against the revised OPBAS Sourcebook after publication of the OPBAS 4th report, and not before April 2023.

We have taken on board a number of the comments and suggestions made by respondents:

- Amending Chapter 2 to explain how OPBAS is held accountable in discharging its anti-money laundering obligations, how it ensures the consistency of its assessments, and its role in facilitating collaboration and information and intelligence sharing.
- Increasing flexibility about where a SPOC should sit within the organisational structure, but making it clear

we expect a SPOC to be an appropriately resourced figure with senior authority.

- Removing the reference to the SARs reform programme, to ensure the sourcebook's content remains relevant when the reform ends.
- Replacing the term 'members' with 'supervised population' to reinforce the separation of regulatory and representative functions.
- Clarifying the 'artificial neural network model' in Chapter 4.
- Adding paragraphs on the importance of governance and risk-based approach in anti-money laundering supervision in Chapters 3 and 4.
- Clarifying OPBAS expectations and definitions of desk-based reviews in Chapter 5.
- Providing examples of the information sharing gateways under Reg 52 MLR in Chapter 6.
- Clarifying that only one set of guidance for each sector will be approved by the Government in Chapter 7.
- Including a recommendation about PBSs' information and guidance for supervised population to address areas of weakness identified in supervisory interventions in Chapter 7.
- Expanding or clarifying in places expected outcomes and examples of more and less effective practices.
- Clarifying use of the terms 'supervised population', 'must', 'should' and 'may'.

You can access the full text of the guidance consulted on here
<https://www.fca.org.uk/publication/consultation/cp22-16.pdf>
