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OFFICE FOR PROFESSIONAL BODY AML SUPERVISION
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Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors:
Themes from the 2018 OPBAS anti-money laundering supervisory assessments

March 2019

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1   Introduction

1.1   The accountancy and legal sectors play a pivotal role in delivering and improving professional services to markets and customers. Office of National Statistics data show that in 2018 they contributed over £51 billion to the UK economy, representing 2.5% of the UK's GDP and 2.2% of jobs.

1.2   However, lawyers and accountants are also at high risk of enabling money laundering through the UK's financial system. The National Risk Assessment 2017 (NRA) identified (at paragraphs 6.2 and 7.2) that accounting and legal professionals are particularly vulnerable to enabling money laundering and terrorist financing by serious organised crime and other criminals. The NRA explains this is 'due to the credibility and respectability they can convey, helping to distance funds from their illicit source' and 'gain legitimacy'.

1.3   The 22 Professional Body Supervisors (PBSs) responsible for anti-money laundering (AML) supervision for the accounting and legal sectors are the first-line supervisory defence against this threat. They are named in Schedule 1 of the Money Laundering, Terrorist Financing and Transfer of Funds (information on the Payer) Regulations 2017 (MLRs). They cover a range of services including accountancy, audit, bookkeeping, legal and notarial. They vary in size, scale and resource. We provide a full list at Annex 1.

1.4   In December 2018, the mutual evaluation of the UK's AML and counter terrorist financing (CTF) measures by the Financial Action Taskforce (FATF) (the MER Report) identified significant inconsistencies between the PBSs and their standards of AML supervision. It highlighted (at paragraph 25) that 'while larger legal, accountancy and TCSP [trust or company service provider] firms understand their money laundering risks and have the resources to mitigate them, the understanding is uneven in these sectors. The multiplicity of supervisors in these sectors does not aid a consistent approach'.

1.5   The Government created the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) as part of a wider package of government reforms to strengthen the UK's AML and CTF regime. We are housed within the Financial Conduct Authority (FCA) and became operational on 1 February 2018.

1.6   We aim to ensure there is a consistent standard of AML/CTF supervision by PBSs. We also enable PBSs, statutory supervisors (including HM Revenue & Customs and the FCA) and law enforcement agencies to collaborate and share information and intelligence. We do not directly supervise accountancy or legal firms. One of our priorities, following the MER Report, is to continue our efforts 'to address the significant weaknesses in supervision by the 22 legal and accountancy sector supervisors'.

1.7   During 2018, we conducted supervisory assessments of each of the 22 PBSs listed in Schedule 1 of the MLRs. We also visited the additional 3 regulatory PBSs with delegated responsibilities for AML supervision to assess how they supervise their members in line with the requirements set out in the MLRs for preventing money laundering and terrorist financing.

1.8 The Law Society, the General Council of the Bar and the Chartered Institute of Legal Executives were not assessed on risk-based approach, supervision or enforcement, as they have delegated their AML responsibilities to the Solicitors Regulation Authority, Bar Standards Board and CILEx Regulation respectively.

1.9 Our assessments looked at the 8 key areas set out in the OPBAS Sourcebook for professional body anti-money laundering supervisors (the Sourcebook): Governance, Risk-Based Approach, Supervision, Information Sharing between Supervisors and Public Authorities, Information and Guidance for Members, Staff Competence and Training, Enforcement and Record keeping and Quality Assurance. These are based on the requirements in the MLRs.

1.10 This report highlights the key themes from our supervisory assessments of the PBSs alongside data provided by the Treasury.

1.11 We prepared this report following our supervisory assessments of all PBSs and it reflects our findings at the time of our visit. We know that PBSs are preparing AML strategies in response to our findings and some have already begun to implement remedial measures. We also recognise strong commitment to improve.

2 Executive summary

2.1 This is the first time we have independently assessed how PBSs carry out their AML/CTF supervisory responsibilities. We have found a variable quality of AML/CTF supervision across the PBSs. The purpose of this report is to provide insight into the key themes from our supervisory assessments of the PBSs and drive improved standards. This executive summary provides an overview of our findings.

2.2 Primarily, where PBSs have stated they do not consider there are risks in their sector, they have focussed less on their role and responsibilities as an AML supervisor, and more on their other functions.

2.3 We found that 80% of PBSs lacked appropriate **governance** arrangements, just under half lacking clear accountability and oversight for AML supervision at a senior level. They also had underdeveloped, or neglected, procedures for reporting and escalating potential AML issues. Responsibilities for AML supervision were not always sufficiently independent of the functions that promote membership and advocate for members' interests.

2.4 We found that 91% of relevant PBSs were not fully applying a **risk-based approach** to supervising members with the highest inherent profile of being exposed to money laundering (ML) and terrorist financing (TF) risks through their services, delivery channels, client base or jurisdictional reach. They had varying levels of understanding of ML and TF risks in their sectors. 91% of relevant PBSs had yet to start or were still in the process of collecting all the information they needed to carry out ML/ TF risk profiling of their members. Only one PBS had a well-advanced risk-based approach and could evidence their use of artificial intelligence and data analytics.

2.5 We found that 23% of relevant PBSs undertook no form of AML **supervision**. 18% of relevant PBSs had not fully identified their supervised populations. Where PBSs had identified ML risks, it was not always clear how they used this to direct their supervisory activity. For example, 46% of relevant PBSs linked AML supervision to their practice assurance and/or statutory monitoring programmes. 23% of accountancy PBSs outsourced AML compliance assessments of their members to another PBS or an external third party.

2.6 We found that PBSs had inconsistent approaches to **intelligence and information sharing**. 48% of PBSs were members of one or both of the accepted intelligence platforms – Shared Intelligence Service (SIS) and the Financial Crime Information Network (FIN-NET) – but used them rarely. 9% of relevant PBSs failed to identify and report suspicious activity through supervision. 92% of PBSs lacked adequate measures to encourage individuals in their sectors to report breaches of the MLRs, including whistleblowing arrangements. 28% of PBSs did not have resource and/or systems that were secure enough to handle and store sensitive information.

2.7 PBSs had a range of **enforcement** tools they could use, but we found that 86% of relevant PBSs preferred to offer support and guidance to members to improve their AML compliance over an extended period rather than issue penalties. One PBS had statutory restrictions on their fining power for AML breaches. 92% of accountancy PBSs expressed concerns about taking robust action if this would damage their ability

to attract or retain members. Two PBSs produce a publicly available AML annual report setting out their AML supervisory and enforcement activity.

2.8   With one exception, we found that PBSs provided **information and guidance for members** through a combination of conferences, roadshows, online material and newsletters etc.

2.9   We found that 80% of PBSs lacked appropriate **staff competence and training**. Employees in 40% of PBSs were unclear of their internal reporting obligations for suspicious activity, although some PBSs had produced an AML compliance staff handbook as a guide.

2.10   We also found that 36% of PBSs lacked sufficient **record keeping** policies and procedures, which meant they did not always record their rationale for decisions. 48% of PBSs lacked formal internal audit or **quality assurance** procedures.

3 Key themes

Governance

3.1 Regulation 49 of the MLRs requires a PBS to make arrangements to ensure their supervisory functions are exercised independently of any of their other functions and to provide adequate resources to carry out the supervisory functions. Section 3 of the Sourcebook states that PBSs should:

- clearly allocate responsibility for managing their AML supervisory activity

- be able to evidence that senior management is actively engaged with their approach to AML supervision

- have appropriate reporting and escalation arrangements promoting effective decision-making

- keep their advocacy and regulatory functions separate and ensure they manage conflicts of interest

3.2 We found that 80% of PBSs did not have suitable governance arrangements for AML supervision. 44% of PBSs lacked clear accountability for AML supervisory activity and 56% lacked sufficient focus on AML at a senior level. While most had reporting and escalation procedures, these were not always effective or well embedded. For example, 20% of PBSs had insufficient oversight by an internal governing body, resulting in a general lack of awareness of their AML responsibilities, low escalation of AML matters and a cultural lack of focus on the MLRs' requirements. They also lacked clear reporting lines and had overly informal decision-making processes.

3.3 Supervisory work and decision-making was not always quality assured and only a few of the PBSs could demonstrate having an internal audit function. 36% of PBSs did not have a consolidated AML policy. 12% of PBSs had not updated their written policies and procedures for AML/CTF compliance following the MLRs 2017. Policies and procedures that had been updated were not always approved through robust governance arrangements.

3.4 While PBSs recognised conflict of interests, they did not always address or record them in enough detail to be able to evidence the rationale behind decision-making. Following the Clementi Review of the legal sector in England & Wales, 3 legal PBSs separated their membership and regulatory functions, leading to greater independence between them. However, some legal PBSs did not have appropriate conflict of interest policies and lacked lay representation on internal committees.

3.5 62% of accountancy PBSs had some overlap between their advocacy and regulatory functions and we observed several instances where member interests had competing priority with the PBSs' role as an AML supervisor.

3.6   **Figure A** below illustrates our governance findings for both sectors (see also Annex 2 – Glossary).
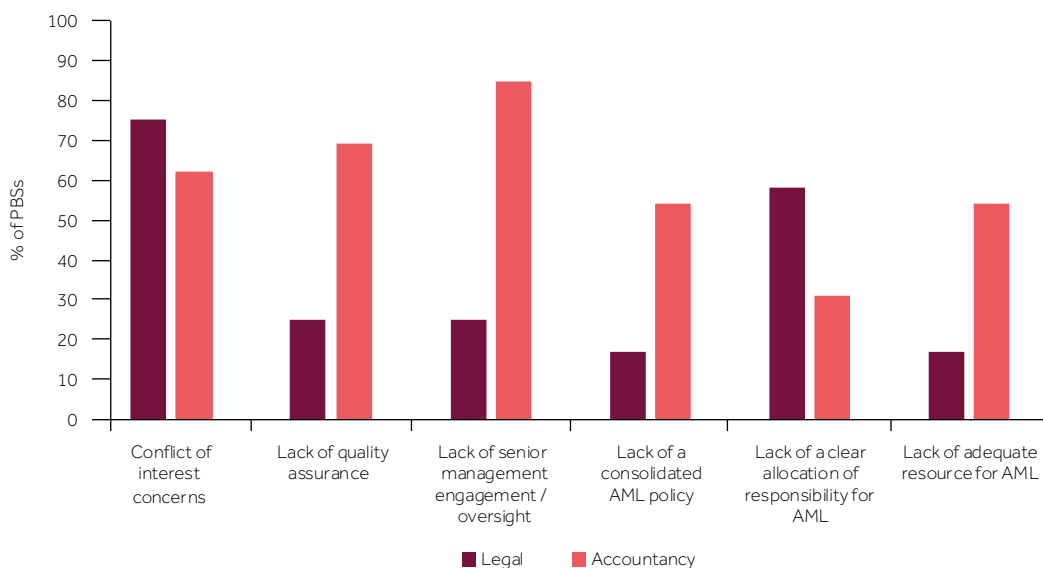
Risk-based approach

3.7   PBSs are required to undertake an informed risk assessment under Regulation 17 of the MLRs, covering the international and domestic risks of money laundering and terrorist financing in their sector. Section 4 of the Sourcebook states that PBSs should:

- adopt a risk-based approach, focussing efforts and resources on the highest risks

- ensure measures to reduce money laundering are proportionate to the risks

- regularly review the risks to their sector

- support their members adoption of a risk-based approach

3.8   We made findings about the risk-based approach for 95% of relevant PBSs. 91% of relevant PBSs were not fully applying a risk-based approach (as required under the MLRs since 2007). Some equated size/turnover with money laundering risk, with large firms automatically considered higher risk and small firms low risk. 46% of relevant PBSs linked AML to their cycle of practice assurance and/or statutory monitoring, which was not based on inherent money laundering risks, and 32% of relevant PBSs chose visits partly on the basis of geographic convenience.

3.9   There was a significant lack of data on the money laundering risks their members are exposed to, such as high-risk jurisdictions, cash based or high-value transactions and acting for politically exposed persons. 91% of relevant PBSs had not fully collected the information they needed to implement a risk-based approach. Since our assessment, 32% of relevant PBSs have introduced a dedicated AML data collection return. One large legal sector supervisor had also adopted data analytics and artificial intelligence to process these data to assess risk with a well-advanced risk-based approach. Remaining PBSs are now working on collating these data. Only 68% of relevant PBSs had completed a written risk assessment of their supervised population and only 40% of relevant PBSs had completed risk profiling their members.

3.10 PBSs applied clustering inconsistently, for example, by dividing populations into generic categories such as 'firms subject to the MLRs' and did not always use common characteristics and risk factors.

3.11 The accountancy PBSs had been piloting the Accountancy Affinity Group (AAG) common risk assessment methodology which provides a numerical score for a risk-based approach. However, the PBSs have had to make changes to the methodology to suit their individual populations.

3.12 **Figure B** below illustrates our risk-based approach findings for both sectors.
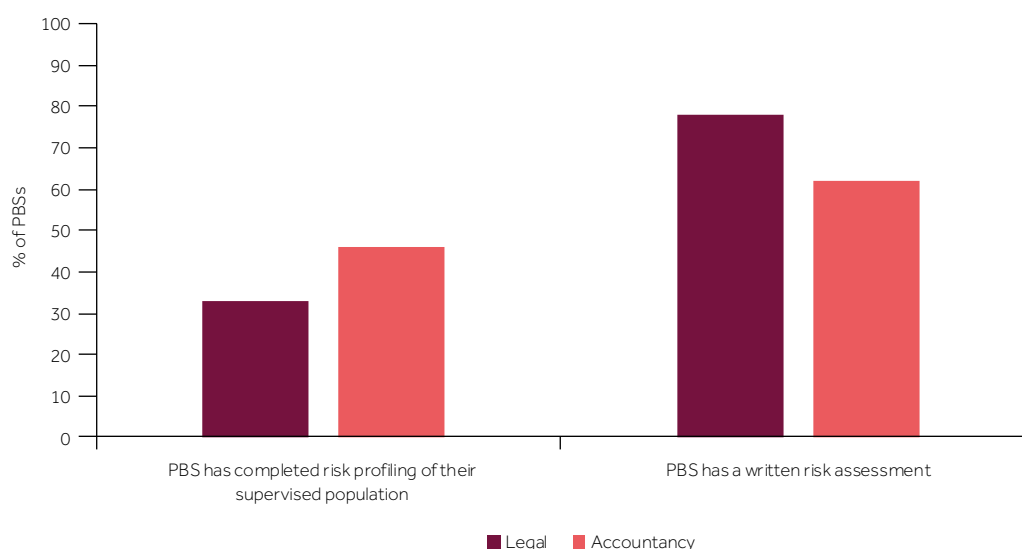
Supervision

3.13 Regulation 46 of the MLRs requires a PBS to effectively monitor their own sector and use the risk profiles they prepare under Regulation 17 to decide the frequency and intensity of on-site and off-site supervision. Section 5 of the Sourcebook states that:

- PBSs can select members based on risk to target those who pose the greatest risks

- PBSs should have a number of tools to use when monitoring how adequate members' AML defences are

- these tools should enable PBSs to compare a member with its peers

- PBSs should adopt a gatekeeper role when considering whether a member meets the ongoing requirements for continued participation in the profession

3.14 We made findings in relation to supervision for 95% of relevant PBSs. 23% of relevant PBSs did not undertake any form of supervision. 18% of relevant PBSs had not yet identified the supervised populations that came under the MLRs.

3.15 10% of relevant PBSs undertook proactive supervision. 46% of accountancy PBSs and 44% of relevant legal PBSs integrated AML/CTF assessments into their professional conduct monitoring and/or other statutory monitoring programmes. This was not based on which members posed the highest inherent money laundering risks.

3.16 Of the PBSs conducting supervision, most undertook a combination of desk-based reviews and on-site visits but many had difficulty evidencing how their assessment translated into specific and targeted AML supervisory and monitoring activities. We noted a 'tick box' approach to AML assessments and inconsistent approaches to reporting findings.

3.17 23% of accountancy PBSs outsourced AML compliance assessments of their members to another PBS or an external third party and had limited oversight of the provider's activities and quality.

3.18 54% of accountancy PBSs and 44% of relevant legal PBSs did not have sufficient supervisory activity, either through lack of resources, structure or focus at senior levels.

3.19 **Figure C** below illustrates the types of supervision undertaken by relevant PBSs within the last 12 months.
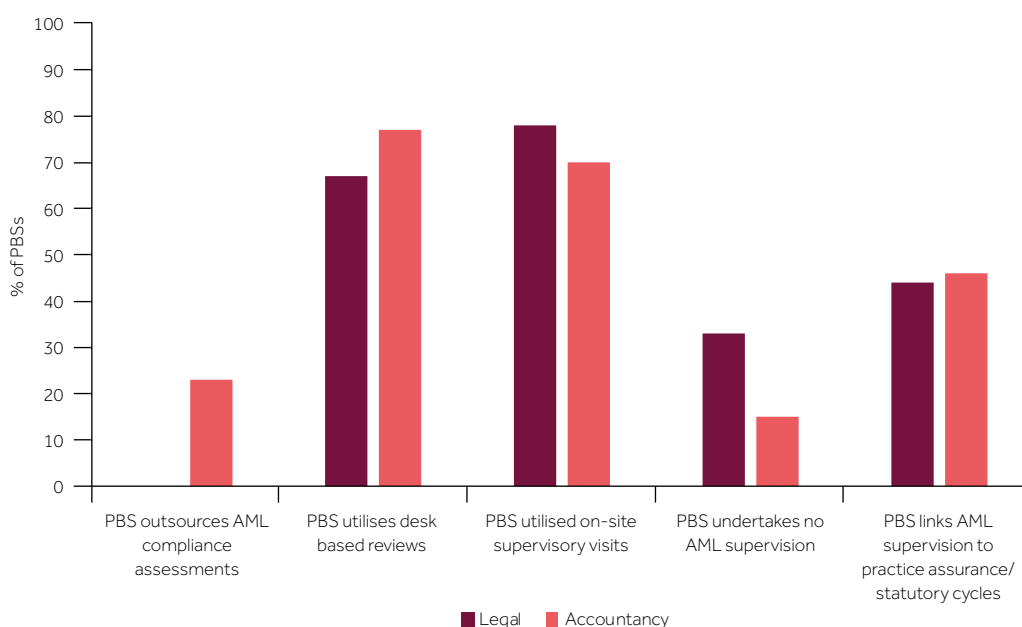
Information sharing between supervisors and public authorities

3.20 Regulation 46 of the MLRs requires PBSs to report knowledge or suspicion of money laundering or terrorist financing to the National Crime Agency (NCA). PBSs must also encourage their sector to report breaches of the regulations to it and appoint a person to monitor and manage their compliance with the MLRs. Section 6 of the Sourcebook also outlines that PBSs should:

- take part in existing information sharing arrangements

- actively share intelligence with other supervisors and law enforcement about active misconduct investigations

- participate in inter-organisational sharing arrangements such as SIS and FIN-NET

- nominate a single point of contact (SPOC) to manage their obligations

- appoint a nominated officer to report suspicions to the NCA

- have arrangements to handle disclosures from whistleblowers

3.21 We made findings relating to the information and intelligence-sharing systems for 96% of PBSs. Except for the largest legal supervisors, PBSs generally lacked appropriate resource to deal with intelligence. 9% of relevant PBSs failed to identify and report suspicious activity through supervision. 28% of PBSs lacked secure systems on which to keep intelligence.

3.22 PBSs have also questioned the value of intelligence-sharing systems. Many of them were not using appropriate platforms to enable sensitive information to be pooled and accessed. As at February 2018, 40% of PBSs were members of SIS and/or FIN–NET, rising to 48% over the course of 2018. Two PBSs are now trialling SIS, with more interested. Since 2017, PBSs' searches on SIS have increased by 7% over a comparable period.

3.23 We are working closely with stakeholders and the PBSs to improve their intelligence-sharing capabilities. The accountancy sector had less proactive engagement with the NCA and other law enforcement agencies than the legal sector. Since September 2018, selected accountancy PBSs have been part of the intelligence Expert Working Group, established by OPBAS and the NCA, to discuss real-life intelligence on an anonymous basis and develop typologies for the sector.

3.24 We made findings specific to whistleblowing procedures for 92% of PBSs. Of the 92%, we found that 36% of PBSs had policies with inadequate protection for anonymity and 56% of PBSs had no whistleblowing policy at the time of our assessment. We noted a fundamental lack of understanding of the requirement to protect the anonymity of whistleblowers. There was also little appreciation for the need to encourage external parties to whistle blow. There was a greater awareness of the need to encourage staff to report to their firms, and for PBSs' own staff to report.

3.25 **Figure D** below illustrates our intelligence and information sharing findings for both sectors (see also Annex 2 – Glossary).
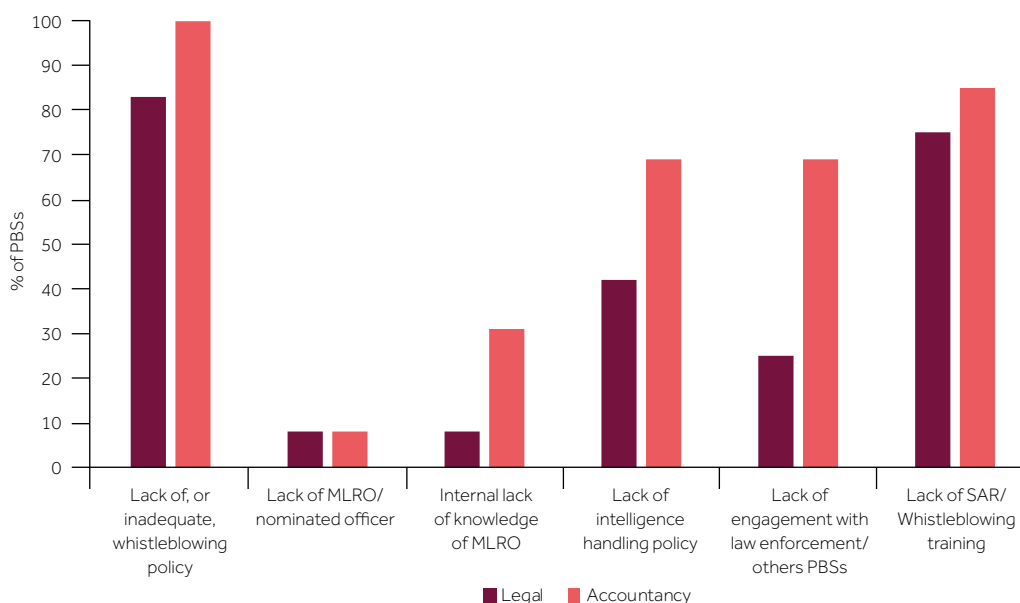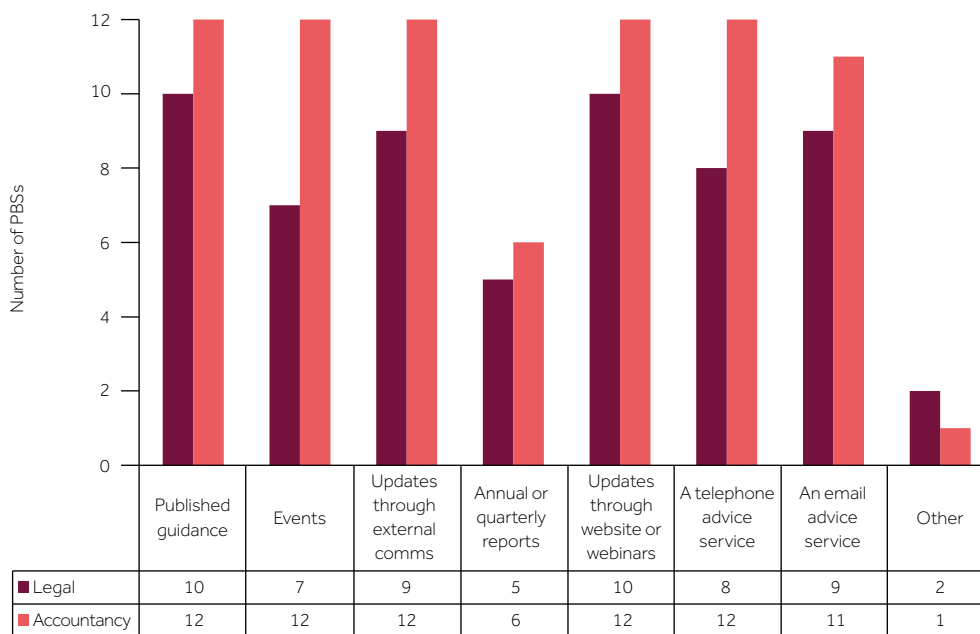
Enforcement

3.26 Regulation 49 of the MLRs requires a PBS to make arrangements to ensure that members are liable to effective, proportionate and dissuasive disciplinary action. Section 9 of the Sourcebook further states that PBSs should:

- be ready and able to take appropriate action where members have failed to meet their obligations

- have sufficient information gathering and investigative powers to effectively monitor and assess compliance

- seek to remove the benefits of non-compliance and deter future non-compliance

- make enforcement action related to AML non-compliance public

3.27 We made findings relating to enforcement for 82% of relevant PBSs. All but one of the relevant PBSs had a range of enforcement tools, but only 50% of relevant PBSs had issued AML specific fines in 2017-18. 86% of relevant PBSs expressed that they would rather offer support and guidance to members to improve their AML compliance over an extended period rather than issue penalties.

3.28 92% of accountancy PBSs expressed concern about losing members to other bodies or the unregulated sector if they are robust in their enforcement.

3.29 Two legal sector PBSs effectively intervene to close-down firms where there is the risk of harm to consumers, but may not always publish the reasons. More generally, PBSs are reluctant to publish enforcement outcomes.

3.30 Two PBSs had produced a publicly available AML report for their boards, setting out their AML supervisory activity, key performance indicators, specific risks in their sector and actions taken.

Information and guidance for members

3.31 Regulation 47 of the MLRs requires PBSs to make up to date information on money laundering and terrorist financing available to members in any way they decide is appropriate. PBSs are also required to include information from sources considered relevant to their sector. Section 7 of the Sourcebook states that PBSs should:

- provide information to members about the money laundering risks faced by their membership, to consider how best to pass this information on, and how to balance giving practical assistance to members with the need to protect sensitive information and intelligence

- give guidance to their members on how to meet their high level legal obligations in AML

3.32 We made findings relating to AML guidance for members in 16% of PBSs. All but one of the PBSs directly provided AML guidance to their members. The larger legal PBSs held dedicated AML conferences and generally most PBSs provided roadshows, online material, annual conferences, newsletters and practice notes.

3.33   **Figure E** below illustrates the types of AML guidance offered by PBSs to their firms and/or members in 2017/2018.

	Published guidance	Events	Updates through external comms	Annual or quarterly reports	Updates through website or webinars	A telephone advice service	An email advice service	Other
■ Legal	10	7	9	5	10	8	9	2
■ Accountancy	12	12	12	6	12	12	11	1

Staff competence and training

3.34   Regulation 49 of the MLRs requires a PBS to employ people with appropriate qualifications, integrity and professional skills to carry out the supervised functions. Section 8 of the Sourcebook states that PBSs should:

- take steps to ensure their staff are equipped to take decisions on whether members' policies, controls and procedures are appropriate

- judge each case on its merits

- provide ongoing professional development and consider if formal AML qualifications are appropriate

3.35   We made findings relating to staff competence and training for 80% of PBSs where there was no ongoing and/or mandatory staff training on AML and/or whistleblowing.

3.36   We noted a general lack of structured AML internal training and few training policies and records, particularly for suspicious activity reporting and handling whistleblowing intelligence. We also found that staff in 40% of PBSs were unclear about internal reporting obligations for suspicious activity.

3.37   Some PBSs had produced an AML compliance staff handbook which gave details of the organisation's policies and procedures to meet its AML supervisory obligations.

Record keeping and quality assurance

3.38 Regulation 46 of the MLRs requires PBSs to keep written records of the actions it has taken in its AML supervision, including decisions where it has not acted. Section 10 of the Sourcebook outlines that PBSs will:

- maintain records of significant decisions related to its AML supervision, documenting the reasons for action. The documentation should be sufficiently thorough to allow ex-post (after the event) understanding of justification behind the decision

- document their supervisory action to ensure an adequate record is maintained

- should subject supervisory work and decision-making to quality assurance testing in addition to managerial oversight

- subject any internal audit function to periodic review (if one exists) and will submit an annual questionnaire.

3.39 We made findings relating to record keeping for 72% of PBSs. 36% of PBSs lacked sufficient record keeping policies and procedures. 12% of PBSs either lacked or had not updated their written policies and procedures for AML compliance, or the updates had not been approved through robust governance arrangements.

3.40 We found that AML supervisory work and related decision-making was not always subject to independent quality assurance. 40% of PBSs could evidence an internal audit function. 48% of PBSs lacked formal quality assurance procedures and 24% maintained insufficient records. This meant the rationale for decisions around AML supervision were not properly recorded.

3.41 8% of PBSs have been slow to adopt technology, which raises concerns about the security of information. Others had insufficient business continuity and succession planning.

4 Next steps

4.1 We have asked all PBSs to develop a suitable strategy to address our findings through individual plans. We will be monitoring how these strategies are implemented over the coming months. We will formally contact PBSs on a regular basis to ensure they meet the deadlines and follow up with them to ensure they are suitably addressing ongoing actions.

4.2 The information presented in this report supports our ongoing assessment of PBSs and how effectively they are supervising their members' compliance with AML and CTF measures. We are considering key areas that we have identified in our supervisory plans for 2019.

Annex 1

1. During 2018, OPBAS assessed 22 PBS (25 including those with delegated regulatory functions, CILEx Regulation, Bar Standards Board and Solicitors Regulation Authority). They cover a wide range of professions across the accounting and legal sectors:

   - Association of Accounting Technicians

   - Association of Chartered Certified Accountants

   - Association of International Accountants

   - Association of Taxation Technicians

   - Chartered Institute of Legal Executives/ CILEx Regulation

   - Chartered Institute of Management Accountants

   - Chartered Institute of Taxation

   - Council for Licensed Conveyancers

   - Faculty of Advocates

   - Faculty Office of the Archbishop of Canterbury

   - General Council of the Bar / Bar Standards Board

   - General Council of the Bar of Northern Ireland

   - Insolvency Practitioners Association

   - Institute of Certified Bookkeepers

   - Institute of Chartered Accountants in England and Wales

   - Institute of Chartered Accountants in Ireland

   - Institute of Chartered Accountants of Scotland

   - Institute of Financial Accountants

   - International Association of Bookkeepers

   - Law Society / Solicitors Regulation Authority

   - Law Society of Northern Ireland

   - Law Society of Scotland

2.   Before each supervisory visit, we asked each PBS to respond to an information request. The information they provided gave us a better understanding of the PBS, its structure, the sectors it supervises and the risks associated with it. We used this information to tailor and inform our approach for each on-site visit to ensure this time was used effectively.

3.   Our on-site assessments generally consisted of interviews, system walkthroughs and file reviews.

4.   We used interviews to ask both general and tailored questions about what AML policies, systems and controls the PBS had in place.

5.   We asked PBSs to make staff working in their AML supervisory framework available for these interviews. This included both senior and more junior staff, and those from different departments. This gave us a range of different perspectives and painted a fuller picture of the PBS's AML supervision.

6.   System walkthroughs and assessing PBSs' supervisory records helped us understand how systems and controls operated in practice. We supplemented these with reviews of real-life cases where they had been implemented. This allowed us to make a fair assessment of the effectiveness of the PBSs' AML supervisory approach.

Annex 2
Glossary

Conflict of interest concerns	refers to instances where conflicts of interest had not been adequately identified and/or there was a lack of conflict of interest policies and procedures and/or a lack of lay representation on relevant committees
Lack of adequate resource for AML	refers to instances where a PBS did not have adequate resource to undertake supervisory functions to the standard required by the MLRs
Lack of a clear allocation of responsibility for AML	refers to instances where there was confusion within a PBS as to who was responsible for the exercise of that function
Lack of a consolidated AML policy	refers to instances where AML supervisory policy was not codified and recorded appropriately
Lack of engagement	is where there was lack of engagement with law enforcement including local police and the National Crime Agency
Lack of knowledge of MLRO	is where staff were unaware of the nominated officer in their body to whom they should report suspicious activity
Lack of MLRO/nominated officer	is where there was no nominated officer or that there was a lack of understanding about what the role entailed
Lack of intelligence policy	is where PBSs lacked internal policies on the handling of intelligence which could discourage other bodies to share intelligence with them
Lack of quality assurance	is where there was a lack of sufficient oversight or quality assurance relating to AML decision-making
Lack of senior management engagement	refers to identified instances of senior management not being aware of the ML risk of their supervised population and not being privy to key AML decisions being made
Relevant PBSs	means the PBSs who have regulatory functions and were assessed on all aspects of our Sourcebook
SAR/whistleblowing training	is where operational staff were unaware or unsure of how they should report suspicious activity and/or of how to handle disclosures from whistleblowers seeking anonymity
Whistleblowing policies	is where there was a lack of internal and external whistleblowing policies

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