

Recovering the costs of the Office for Professional Body Anti-Money-laundering Supervision (OPBAS):

further consultation on fees structure

Consultation Paper

CP19/13**

March 2019

How to respond

We are asking for comments on this Consultation Paper (CP) by **26 April 2019**.

You can send them to us using the form on our website at: www.fca.org.uk/cp19-13-response-form

Or in writing to:

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Financial Conduct Authority
12 Endeavour Square London E20 1JN

Telephone:

0207 066 5406

Email:

cp19-13@fca.org.uk

Contents

1	Summary	3
2	Feedback on consultation	5
3	Consultation on removing the minimum fee threshold	10
4	Next steps	11
Annex 1		
	Questions in this paper	12
Annex 2		
	Non-confidential respondents	13
Annex 3		
	Compatibility statement	14
Annex 4		
	Abbreviations used in this paper	16
Appendix 1		
	Made rules (legal instrument)	
Appendix 2		
	Draft Handbook text	

1 Summary

Why we are consulting

- 1.1** We are feeding back on the outcome of the consultation we conducted in October 2018 on the variable fee we will charge for 2018/19 and consulting on removing the minimum threshold from our fees model. These fees recover the costs of establishing and running the Office for Professional Body Anti-Money Laundering Supervision (OPBAS). OPBAS is housed within the FCA.

Who does this affect?

- 1.2** This consultation paper (CP) will be relevant to:
- Professional body supervisors (PBSs) listed in Schedule 1 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the MLRs).
 - Any professional bodies considering applying to be listed.
- 1.3** It may also be of interest to designated professional bodies.
- 1.4** It contains no material directly relevant to retail financial services consumers.

Context

- 1.5** The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2018 (the OPBAS Regulations) give us the power to recover the costs of OPBAS's supervisory activities from PBSs. We are funded entirely by the fees and levies recovered from the bodies we regulate and do not receive any funding from other sources. As a result, our costs for setting up and operating OPBAS must be recovered from its PBSs.
- 1.6** We consulted on the framework for OPBAS fees in October 2017. In our policy statement (PS) published in April 2018, we confirmed that we would base the fees of PBSs on the number of individuals they supervise under the MLRs. We finalised the definition as the number of beneficial owners, officers and managers (BOOMs) of the firms PBSs supervised plus the number of supervised sole practitioners.
- 1.7** We proposed in the PS that all PBSs would pay £5,000 plus a variable fee on the number of individuals they supervise above the threshold of 6,000. We could not confirm the minimum fee, the minimum fee threshold or the variable fee-rate because we did not have data under the new definition. PBSs submitted their data to us over the summer.

- 1.8** A further CP on the fee-rate was published in October 2018. We confirmed that the minimum fee would be £5,000 and the threshold 6,000 supervised individuals. We also consulted on the variable fee-rate and the timetable for reporting data to us in the future.
- 1.9** Eighteen of the 22 PBSs responded to our consultation, along with 3 other stakeholders. Many of the respondents presented strong arguments for and against maintaining the minimum fee structure. In the light of the arguments on both sides, we carried out an internal review of our consultations since 2017, including the suitability of supervised individuals as the tariff measure from which to calculate fees. We concluded:
- While recognising its limitations, we are not aware of any tariff measure which would be more suitable than supervised individuals.
 - We believe 6,000 individuals is a reasonable point at which to set the minimum fee threshold.
 - We do not have sufficient evidence to assess the impact that removing the threshold would have on PBSs and the individuals they supervise. We should therefore ask PBSs for evidence.

Summary of proposals

- 1.10** Chapter 2 summarises the consultation responses we received and presents our feedback.
- 1.11** Chapter 3 presents our question for consultation. We ask whether we should amend the FEES handbook to remove the minimum fee threshold. For 2018/19, this would generate a fee per person of £20.59, subject to a minimum charge of £5,000.

Equality and diversity considerations

- 1.12** We do not think that the proposal in this CP adversely impacts any of the groups with protected characteristics under the Equality Act 2010. However, we will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.
- 1.13** In the meantime, we welcome your comments on any equality and diversity considerations you believe may arise.

Next steps

- 1.14** Please consider our proposal and send us your comments on the questions in this CP by 26 April 2019. Use the online response form on our website or write to us at the address on page 3 of this document.
- 1.15** We will consider your comments and publish our feedback, along with our rules and the fee-rate under whichever model we select, in July 2019.

2 Feedback on consultation

(Instrument in Appendix 1)

2.1 In this chapter, we summarise the consultation and present our feedback.

Summary of the consultation

2.2 Fee-payers are grouped into fee-blocks. Each fee-block collates businesses with similar activities, reducing the risk of cross-subsidy. PBSs are in a single fee-block, D2. Some of them are also in fee-block D1 as Designated Professional Bodies (DPBs). The costs and cost-recovery of fee-blocks D1 and D2 are ring-fenced, so there is no cross-subsidy.

2.3 Each fee-block uses a metric, known as a tariff measure, to distribute cost recovery between the fee-payers. We engaged with PBSs during 2017 and consulted in October 2017 on the structure of OPBAS fees. We also invited all PBSs to a roundtable discussion on fees in December 2017, while the consultation was still open.

2.4 Having reviewed a wide range of alternatives, including income and professional membership, a count of individuals supervised under the MLRs emerged as the best available option. Several PBSs advocated 'beneficial owners, officers and managers' (BOOMs) as a statutorily defined measure which was already being used by many of them. We incorporated this into our definition of supervised individuals for fee-block D2 in FEES Appendix 2 Annex 2 Part 1:

- beneficial owners, officers and managers; plus
- sole practitioners who are relevant persons under the MLRs

Both categories are as defined at regulation 3 of the MLRs.

2.5 From the outset, some PBSs warned that any definition of supervised individuals might weight cost recovery against smaller PBSs supervising sole practitioners. Sole practitioners are generally accountable only for their own activity but many BOOMs are employed in firms. This means they may be accountable for the activities of large numbers of other staff who would not be included in the tariff measure.

2.6 We reviewed options for weighting the figures to take account of these disparities, for example by factoring in the turnover of the supervised businesses. These proved too complicated or impractical. As a result, we settled on supervised individuals (ie BOOMs plus sole practitioners) as the best available measure. To counter the risk that our metric could weight cost recovery against the smaller PBSs, we proposed a minimum fee structure. All PBSs would pay £5,000 and the variable fee would apply above a threshold of 6,000 individuals. Based on data given to us by the Treasury, this threshold applied the minimum fee to 75% of PBSs who supervised 11% of the population.

2.7 We suspected that the figures we were working with were overstated. We believed several PBSs had been reporting their total professional membership to the Treasury

rather than the individuals they supervised under the MLRs. So, when we published our [final rules](#) in April 2018, we were not able to confirm the minimum fee or minimum fee threshold, or set a variable fee-rate. We asked the PBSs to submit fresh data to us, using our definition, over the summer.

2.8 As we suspected, when the count was restricted to supervised individuals, the population fell – by 63%, from 217,884 reported to the Treasury to 79,731 reported to us. This left all but 3 of the PBSs below the threshold, paying minimum fees only. The 3 largest PBSs accounted for 94% of cost recovery but there was a large gap between the smallest of them and the largest of the minimum fee-payers. If we reduced the threshold, there could be concerns about the viability of some of the smaller PBSs brought into variable fees. We concluded that 6,000 remained a reasonable point to draw the line and confirmed the minimum fee structure. We consulted on:

- the variable fee-rate
- the timetable for submission of tariff data in the future

Outcome of the consultation and feedback

2.9 Our first consultation question was:

Q1: *Do you have any comments on our proposed variable fee of £45.49 per supervised individual?*

Revised data subsequently reduced the rate to £41.03. Further submissions from PBSs have moved it to £41.65.

2.10 We received 21 responses, including 18 of the 22 PBSs. Most of the respondents pointed out that the fee-rate was a product of the costs to be recovered and the minimum fee structure, so focused their comments on those 2 issues.

Cost of OPBAS: responses received

2.11 All the respondents who commented on costs said that they could not take a view on whether the amount we were trying to recover was reasonable. This was because we had provided insufficient clarity over how the costs had been derived.

2.12 One respondent complained that our proposed fee-rate was considerably higher than the indicative range we had quoted in CP17/35 of £15-£25.

Our feedback

2.13 OPBAS has been established as a cost centre within the FCA. Our annual report and accounts do not detail individual cost centres. However, we highlighted OPBAS in our [2018/19 business plan](#). This was because of its unique status and the degree of external interest in its activity.

2.14 The business plan anticipated running costs of £2m in 2018/19, but this was a high-level estimate prepared before the start of the financial year. As we explained in CP18/32, after taking account of actual expenditure on OPBAS over its first 6 months, we have revised our estimate down to £1.4m. The bulk of the running costs are employment costs, together with an appropriate share of our overheads such as accommodation, IT and common services.

- 2.15** This means that the overall costs of OPBAS are lower than they would have been if it had been established as an independent legal entity. The OPBAS set-up costs of £0.5m also comprise employment costs and an appropriate share of our overheads such as accommodation, IT and common services.
- 2.16** We agreed in 2018 to spread recovery of the set-up costs over 2 years. So, we are recovering £0.25m for 2018/19, making a total of £1.65m altogether to be recovered through fees in the first year.
- 2.17** When we quoted the indicative fee-rate of £15-£25 in CP17/35, we stressed that several PBSs had in the past overstated the number of supervised individuals. We highlighted in paragraph 2.45 that the rate might go above £40 if the total reduction was 50%. In the event, as explained in paragraph 2.8 above, the reduction was 63%.

Minimum fee structure: responses received

- 2.18** Most of the responses gave arguments for and against maintaining our minimum fee structure. The main arguments against the minimum fee structure were:
- The 3 PBSs which supervise 69% of the individuals pay 94% of the costs. They considered this unfair and an unreasonable distribution of cost recovery.
 - The minimum fee threshold is 'a fundamental flaw' in our model. It produces an inequitable variance in the fee per supervised individual, from £1.22 to £31.67 (leaving aside 2 outliers supervising very few individuals). This might prompt some members to move their membership to a PBS with lower fees.
 - Reducing the threshold to zero or close to zero would create a more equitable distribution of around £20 per head (excluding outliers). This would make the fee of each PBS directly proportionate to its market share.
 - It is counter-intuitive to adopt supervised individuals as a measure of market share to protect smaller PBSs from disproportionate fees, but then cap their fees.
 - It did not reflect the risks since the biggest PBSs have the most developed compliance systems.
 - The model favours the PBSs closest to the threshold. A PBS with 20 individuals pays £250 per individual and one with 25,000 £31.38, whereas a PBS supervising 6,000 individuals pays only £0.83 per head.
 - We had claimed in CP18/32 that there was 'broad, though not universal' support for the principle of a minimum fee. It would be more accurate to say that, while supported by the majority of PBSs who would directly benefit financially from it, the minimum fee was opposed by the PBSs supervising the majority of professionals.
 - When we discussed where to set the threshold in CP18/32, we had been too concerned with which PBSs would benefit or be disadvantaged by moving it and less concerned about the overall fairness or proportionality of the methodology.
- 2.19** The main arguments for the minimum fee structure were:
- The threshold 'should not be regarded as an anomalous inconvenience' for the largest PBSs. Our metric understates the impact of BOOMs employed in firms who are accountable for the MLR work of many other employees. Their impact may be underweighted by 90%. Without the minimum fee to protect them, cost recovery would be weighted against the smaller PBSs who supervise more sole practitioners.
 - There is no automatic relationship between our charge per supervised individual and the charges PBSs pass back to their professional members. Each firm is supervised by only 1 PBS under the MLRs, though some of the firm's BOOMs may

be members of other bodies. Two PBSs said they supervise only about 10% of their members. The rest of their members work in firms supervised by other PBSs, or are sole practitioners with several memberships who choose to be supervised under the MLRs by other PBSs. Their directly supervised BOOMs tend to operate on low margins so cannot afford higher fees, and it is not feasible to pass MLR costs onto the wider body of members who are aware that the PBS has no MLR role in relation to them.

- Small accountancy bodies which are less able to absorb their costs might lose their members to other supervisors if the fees become too high.

2.20 Several PBSs also made the general criticism that our consultation had lacked transparency. Specifically, we should have published the data we were working with so that there was a clear picture of cost recovery across the population of fee-payers. To overcome this, many of the PBSs shared their data, enabling them to reconstruct our fees model. This meant that one of the PBSs arguing for the removal of the minimum fee threshold was aware that the consequence would be to increase its own fee by 70%.

Our feedback

2.21 We recognise that the reconstructed fees model enabled some respondents to provide more detailed responses than they might otherwise have been able to do. PBSs may of course share their own data with whomever they wish. However, not all PBSs were happy to share their data. It is an important point of principle for us that any of our fee-payers should be able to provide information to us about fees in confidence. We never share their data with any external organisation without their explicit permission.

2.22 In the light of the strong arguments put forward by so many PBSs about the minimum fee threshold, we have reviewed our consultations on OPBAS fees from 2017 onwards. Our conclusions are:

- The metric of supervised individuals will not have the same advantages and disadvantages for all, but no fairer alternative has been put to us. We agree that it tends to overstate the impact of sole practitioners and understate the impact of BOOMs within firms. On balance, we believe it a fair indicator of the scale of regulatory activity of PBSs and of their potential impact in the event of regulatory failure.
- We remain satisfied that 6,000 individuals is a reasonable demarcation point. This is because it falls midway between the smallest of the large PBSs (8,241 individuals) and the largest of the small PBSs (4,155 individuals). This alleviates any concern that it favours PBSs who are close to the threshold. We have considered alternative thresholds. Half of the PBSs supervise less than 1,000 individuals. If the threshold is reduced to 3,000 individuals, the 3 current fee-payers still pay 94% of the costs. Only a fall to 1,000 individuals makes a significant reduction in their share (77%). At this level, we have concerns about the viability of some of the smaller PBSs brought into the payment of variable fees.
- We agree that the argument for relating the fee directly to market share is attractive. However, several PBSs argued it could cause them financial damage. We are seeking further evidence so we can assess that risk. Chapter 3 sets out our proposed consultation.

Timetable for reporting fees data

2.23 Our second consultation question was:

Q2: *Do you agree that for fees purposes professional body supervisors should report the most recent count of supervised individuals in the 12 months ending 5 April each year and submit the figure to us by 31 October of the year preceding the relevant fee-year?*

2.24 We intended to align the reporting of FCA fees data with regulatory reporting to the Treasury, to avoid a separate data collection exercise. We recognised that it was already too late for us to ask PBSs to give us their 2019/20 figures by 31 October. We included a transitional provision to give an extension to 28 February 2019.

Responses received

2.25 All but 2 of the PBSs supported the timetable or welcomed the avoidance of separate reporting. Two said we should set a fixed reporting date. The main comments were:

- We should set a fixed date, such as 5 April, for the count of supervised individuals. A few PBSs expressed surprise at our comment that some PBSs carry out annual surveys of their members. In their view, all PBSs should be able to report on their membership at any given point in time.
- The Treasury should give us the data directly.
- Several asked not to have to resubmit data for 2019/20.
- Some raised technical questions about the interpretation of our definition and data consistency.

Our feedback

2.26 Our proposal reflects the Treasury's current instruction to report the number of individuals supervised in the year ending 5 April. We want to avoid setting a date that might require some PBSs to undertake an additional exercise for FCA fees. Most PBSs carry out annual surveys of their members over a period of months. However, only a small number appear to keep a running total or to relate their surveys to any particular date.

2.27 Future Treasury annual data reporting arrangements will be kept under review. We will continue to have discussions with Treasury to determine the most appropriate method for sharing PBS data with OPBAS.

2.28 We agree that PBSs should not carry out another reporting exercise for 2019/20. So, we will re-use the 2018/19 data for 2019/20. We will continue to engage with the PBSs to refine further our approach to data reporting.

2.29 We have made the rules on data reporting as consulted on and we have amended the transitional provision to allow us to use the data PBSs have already submitted to us for their 2019/20 fees. The instrument is in Appendix 1.

3 Consultation on removing the minimum fee threshold

(Draft instrument in Appendix 2)

- 3.1** As explained in Chapter 2, we have decided to consult on the specific question of removing the minimum fee and minimum fee threshold.
- 3.2** To avoid further delay in setting the fee-rate, we are reducing the consultation period to 6 weeks instead of the usual 2 months for fees.
- 3.3** Removing the threshold sets the fee-rate at £20.59 per individual. This would leave 3 PBSs paying less than £5,000 so we propose that no PBS will pay below that, regardless of the number of individuals supervised.
- 3.4** We are not re-consulting on the level of the threshold. This is already set in our FEES manual at 6,000 supervised individuals. Feedback received for this CP will determine whether we:
- Maintain the current rule, which sets a minimum fee for all PBSs of £5,000 plus a variable fee on individuals supervised above 6,000. This gives a variable fee-rate for 2018/19 of £41.65.
- or
- Replace the current rule with the rule set out in Appendix 1, which gives a fee-rate of £20.59, subject to a minimum charge of £5,000.
- 3.5** We plan to go to our Board in July and ask them to set the fee-rate appropriate to the model chosen.
- 3.6** We intend to consult on the rate for 2019/20 in July or August, and invoices will be issued in December or January.
- 3.7** The draft rules are in Appendix 2.

Q3: Do you agree that we should remove the minimum fee structure and charge all PBSs a flat rate of £20.59 per supervised individual, subject to a minimum charge of £5,000? Please support your view with evidence demonstrating the impact on the viability of professional body supervisors and on the individuals they supervise.

4 Next steps

4.1 The next steps are:

- This consultation closes on 26 April 2019
- We will make the decision on the fees structure and set the final fee-rate at the July 2019 Board
- We will give feedback in July 2019 on the consultation responses and consult on a fee-rate for 2019/20
- We will issue invoices for 2018/19 from August 2019 onwards
- We will set the fee-rate for 2019/20 in November or December 2019 and issue invoices in December 2019 or January 2020

Annex 1

Questions in this paper

- Q1:** Do you agree that we should remove the minimum fee structure and charge all PBSs a flat rate of £20.59 per supervised individual, subject to a minimum charge of £5,000? Please support your view with evidence demonstrating the impact on the viability of professional body supervisors and on the individuals they supervise.

Annex 2

Non-confidential respondents

Association of Chartered Certified Accountants

Association of International Accountants

Association of Taxation Technicians

Bar of Northern Ireland

Bar Standards Board

Chartered Accountants Ireland

Chartered Institute of Legal Executives

Chartered Institute of Management Accountants

Chartered Institute of Taxation

CILEx Regulation

Council for Licensed Conveyancers

General Council of the Bar of England and Wales

Institute of Chartered Accountants of England and Wales

Institute of Chartered Accountants of Scotland

Institute of Financial Accountants

Law Society of England and Wales

Law Society of Scotland

NAEA Propertymark

Solicitors Regulation Authority

Annex 3

Compatibility statement

Compliance with legal requirements

1. Although OPBAS fees will not be charged under the FSMA regime, we have to make sure our proposals are compatible with the FCA's wider statutory duties, so this annex explains our reasons for concluding that they are compatible with relevant requirements under the Financial Services and Markets Act 2000 (FSMA). A cost benefit analysis of OPBAS was conducted in Guidance consultation GC17/7, 'Office for Professional Body Anti-Money Laundering Supervision: a sourcebook for professional body supervisors', published in July 2017.
2. When consulting on new rules, we are required by section 138I(2)(d) of FSMA to explain why we believe they are compatible with our strategic objective, advances 1 or more of our operational objectives, and has regard to the regulatory principles in s.3B of FSMA. We are also required by s.138K(2) of FSMA to state our opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This annex sets out our view of how the proposed rules are compatible with our duty to discharge our general functions (which include rule-making) in a way that promotes effective competition in the interests of consumers (s.1B(4)). This duty applies where promoting competition is compatible with advancing our consumer protection and integrity objectives.
4. It also includes our assessment of the equality and diversity implications of these proposals.

Our objectives and regulatory principles

5. The fees structure and fee-rate we are proposing in this consultation is not intended to advance our operational objectives. However, the fees collected will enable us to fund our activities. The proposal will indirectly advance our operational objectives of:
 - delivering consumer protection - securing an appropriate degree of protection for consumers
 - enhancing market integrity - protecting and enhancing the integrity of the UK financial system
 - building competitive markets - promoting effective competition in the interests of consumers
6. We also think that the proposal is indirectly compatible with our strategic objective to ensure the relevant markets function well. For the purposes of our strategic objective, 'relevant markets' are defined by s.1F of FSMA. In the rest of this annex, reference to objectives means both our strategic objective and operational objectives.

7. In preparing the proposal set out in this consultation, we have had regard to the regulatory principles set out in s. 3B of FSMA. The most relevant regulatory principles are considered below.

The need to use our resources in the most efficient and economic way

8. We have tried to keep the fees structure as simple as possible to avoid unnecessary administrative costs. The fee we are consulting on will enable us to recover our costs.

The principle that a burden or restriction should be proportionate to the benefits

9. The structure we are consulting is intended to distribute cost recovery between the relevant fee-payers as fairly as possible.

The principle that we should exercise our functions as transparently as possible

10. In Chapter 2 we explained the thinking behind our consultation.

11. In formulating these proposals, we have had regard to the importance of minimising the extent to which it is possible for a business carried on (i) by an authorised person or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) of FSMA). The levy we propose will assure the operation of OPBAS, whose remit is to make sure the MLRs are effectively implemented.

Expected effect on mutual societies

12. We do not believe any of our consultation proposals will have a direct impact on mutual societies.

Compatibility with the duty to promote effective competition in the interests of consumers

13. Our fees enable us to fund our activities, including our duty to promote effective competition in the interests of consumers. We have tried to minimise distortion to competition by basing the fees on the number of persons supervised under the MLRs. We can then spread cost recovery as fairly as possible across all fee-payers and charge lower fees to the smaller PBSs which supervise fewer persons.

Equality and diversity

14. We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. We believe the policy proposals in this CP do not raise equality or diversity questions but we welcome comments on any equality and diversity issues you believe may arise.

Annex 4

Abbreviations used in this paper

AFR	Annual funding requirement
AML	Anti-money laundering
BOOMs	Beneficial owners, officers and managers, as defined at Regulation 3 of the MLRs
CP	Consultation Paper
DPB	Designated Professional Body (designated by order under s 326(1) of FSMA)
FCA	Financial Conduct Authority
FEES	FEES Manual
FSMA	Financial Services and Markets Act 2000
MLRs	Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (these replace the Money Laundering Regulations 2007)
OPBAS	Office for Professional Body Anti-Money Laundering Supervision
OPBAS Regulations	Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017
PS	Policy statement

We have developed the policy in this Consultation Paper in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 7948 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 12 Endeavour Square, London E20 1JN

Appendix 1

Made rules (legal instrument)

**FEES (OFFICE FOR PROFESSIONAL BODY ANTI-MONEY LAUNDERING
SUPERVISION) INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the power under regulation 27 (costs of supervision) of the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017;
 - (2) the power under regulation 102 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017; and
 - (3) the power in section 139A of the Financial Services and Markets Act 2000.

Commencement

- B. This instrument comes into force on 14 March 2019.

Amendments to the Handbook

- C. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Notes

- D. In the Annex to this instrument, a note (indicated by “**Note:**”) after a provision indicates, for the convenience of readers, that it is a provision made pursuant to:
- (1) regulation 27 of the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Regulations 2017; or
 - (2) regulation 102 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

Citation

- E. This instrument may be cited as the Fees (Office for Professional Body Anti-Money Laundering Supervision) Instrument 2019.

By order of the Board
28 February 2019

Annex

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

App 2 ~~Office for professional body anti-money laundering supervision~~
Professional Body Anti-money laundering Supervision fees

App 2.1 **Introduction**

...

Glossary of definitions

App 2.1.6 In this Appendix and in FEES TP 19A, an expression in bold (other than in headings and titles) has the meaning given in FEES Appendix 2 Annex 3G.

...

App 2.3 **Periodic fees imposed under Regulation 27 of the OPBAS Regulations**

...

Information on which fees are calculated

App 2.3.8 A **professional body supervisor** must send to the **FCA** the information required under Part 1 of FEES Appendix 2 Annex 2, ~~(as at the date specified in Part 2 of FEES Appendix 2 Annex 2)~~ on which the periodic fee payable by the **professional body supervisor** is to be calculated.

[Note: Regulation 27 of the **OPBAS Regulations**]

App 2.3.9 A **professional body supervisor** must send to the **FCA** in writing the information required under FEES App 2.3.8 ~~as soon as reasonably practicable after the date specified as the review date in FEES Appendix 2 Annex 2, and in any event within two months of that date~~ on or before 31 October preceding the relevant fee year.

[Note: Regulation 27 of the **OPBAS Regulations**]

App 2.3.10 If a **professional body supervisor** fails to send to the **FCA** the information required under *FEES* App 2.3.8 ~~within two months of the review date specified in *FEES* Appendix 2 Annex 2~~ by the date specified in *FEES* Appendix 2.3.9, the **FCA** may use the information provided by the **professional body supervisor** under Regulation 51 and Schedule 4 to the **MLR** or Regulation 7 27 of the **OPBAS Regulations** as the basis for calculating fees payable by the **professional body supervisor**.

[Note: Regulation 27 of the **OPBAS Regulations**]

...

App 2 **Periodic fees imposed under Regulation 27 of the OPBAS Regulations for**
Annex 2 **the period 1 April 2019 to 31 March 2020 : tariff base, review date, tariff rates**

...

Part 2

This table sets out the review date for a professional body supervisor's fees. A professional body supervisor is required to send to the FCA the information in Part 1 of this Annex as at the review date set out below, as soon as reasonably practicable, and in any event within two months of by the date shown in this table <i>FEES</i> App 2.3.9 and/or any relevant transitional provision.	
D.2 Professional body supervisors	The <u>most recent</u> number of supervised individuals (calculated in accordance with Part 1) as at [tbc] <u>during the twelve months ending 5 April</u> before the relevant fee year .

Part 3

This table sets out the tariff rates applicable to **professional body supervisors**.

Fee payable in relation to 2018/2019	Amount payable (£)
Minimum fee, payable by all professional body supervisors subject to the OPBAS Regulations .	£5,000
Variable fee, payable by professional body	£[tbc] multiplied by the total number of supervised individuals in excess of the threshold of 6,000.

supervisors where the number of supervised individuals is 6,000 or more.	[See Note]
[Note: references <u>reference</u> to “the number of supervised individuals” is to those supervised individuals calculated in accordance with Part 1.]	

After FEES TP 19 (Transitional provisions relating to statements provided by participant firms before 1 April 2019 with respect to the FSCS 2019/20 financial year) insert the following new TP 19A. The text is not underlined.

TP 19A Transitional provisions relating to the payment of fees in 2019/20, taking effect on 14 March 2019

These transitional provisions will apply to **professional body supervisors** only for the 2019/2020 **fee year**.

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
19A.1	<i>FEES</i> App 2.3.9	R	The fees payable for the 2019/2020 fee year, will be calculated based on the data submitted by a professional body supervisor for the 2018/2019 fee year.	From 14 March 2019	14 March 2019

Appendix 2

Draft Handbook text

**FEES (OFFICE FOR PROFESSIONAL BODY ANTI-MONEY LAUNDERING
SUPERVISION) (No [2]) INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the power under Regulation 27 (costs of supervision) of the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017;
 - (2) the power under Regulation 102 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017; and
 - (3) the power in section 139A of the Financial Services and Markets Act 2000.

Commencement

- B. This instrument comes into force on *[date]*.

Amendments to the Handbook

- C. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Notes

- D. In the Annex to this instrument, the “note” (indicated by “**Note:**”) is for the convenience of the reader and does not form part of the legislative text.

Citation

- E. This instrument may be cited as the Fees (Office for Professional Body Anti-Money Laundering Supervision) (No [2]) Instrument 2019.

By order of the Board
[date]

Annex

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

App 2 Periodic fees imposed under Regulation 27 of the OPBAS Regulations:
Annex 2 tariff base, review date, tariff rates

...

Part 3

This table sets out the tariff rates applicable to **professional body supervisors**.

Fee payable in relation to 2018/2019	Amount payable (£)
Minimum fee, payable by all professional body supervisors subject to the OPBAS Regulations.	£5,000
Variable fee, payable by professional body supervisors where the number of supervised individuals is 6,000 or more.	£[tbc] multiplied by the total number of supervised individuals in excess of the threshold of 6,000 , <u>subject to a minimum payment of £5,000.</u> [See Note]
[Note: reference to “the number of supervised individuals” is to those supervised individuals calculated in accordance with Part 1.]	

