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Dear Professional Body Supervisor,

Office for Professional Body Anti-Money Laundering Supervision

The Government published draft regulations on 20 July 2017 that will give powers and responsibilities to a new Office for Professional Body Anti-Money Laundering Supervision ("OPBAS") hosted by the Financial Conduct Authority ("FCA"). OPBAS will oversee the adequacy of the anti-money laundering supervisory arrangements of 22 professional bodies.

Separately, the FCA has today published a guidance consultation (GC17/7, available at <https://www.fca.org.uk/publications/guidance-consultations/gc17-7-sourcebook-professional-body-supervisors-anti-money-laundering>) setting out a draft sourcebook containing guidance about how professional body supervisors can meet their obligations in relation to anti-money laundering supervision. This is open to consultation for three months and we are inviting views to be submitted by 23 October 2017.

I have attached, as an annex to this letter, a description of the supervisory approach we intend OPBAS to adopt once it is operational. The annex (also available at the link above) discusses how OPBAS will use the tools at its disposal and how it will aim to foster further information sharing.

We want to hear what you think about the sourcebook consultation, as well as your views on any other aspect of this letter, and would be happy to meet you to discuss this during the consultation period. Please contact Stefanie Thorns on 020 7066 1332 or e-mail OPBAS.setup@fca.org.uk to arrange a meeting or if you have any other questions.

Yours sincerely,

Rob Gruppetta

Head of Financial Crime.

Annex 1

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

An approach to supervision

The Government proposes, under the draft Oversight of Professional Body Anti-Money Laundering Supervision Regulations 2017 ("draft OPBAS Regulations"), to give OPBAS duties and powers to take steps to ensure professional body supervisors meet the standard expected of them. In doing so, OPBAS will seek to:

- **develop a sound understanding of the workings of the different organisations** and sectors it will scrutinise, and for this understanding to foster a cooperative and open dialogue with those it oversees;
- **adopt a 'risk-based' approach to supervision** that concentrates its supervisory resources where the risk is greatest. OPBAS's judgements about the risks posed by each professional body will be influenced by its supervisory findings and other information sources such as the UK National Risk Assessment and liaison with law enforcement agencies, complainants, members of the professions, and whistle-blowers;
- **liaise with other bodies** with oversight roles for the professions (such as the Legal Services Board, Insolvency Service, and Financial Reporting Council) to share good practice and avoid supervisory conflicts.

Formal supervisory powers

Under the draft OPBAS Regulations, the Government proposes that OPBAS will have the following formal supervisory powers at its disposal:

- **information gathering powers** (see regulation 7 of the draft OPBAS Regulations).
- **powers to commission a skilled person** to produce an independent report (see regulation 13 of the draft OPBAS Regulations). This allows OPBAS to require a professional body supervisor to commission a third party to produce a report on a specific topic (e.g. whether a body's risk assessment methodology is in line with supervisory good-practice), with the professional body bearing the cost. It also allows OPBAS to appoint a third party directly to produce such reports.
- **direction issuing powers** (see regulation 14 of the draft OPBAS Regulations). OPBAS may give directions in writing to professional body supervisors for the purpose of ensuring compliance with, or, remedying a failure to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the Money Laundering Regulations 2017" or "MLRs").

Interaction with supervisory staff

OPBAS may undertake desk-based reviews of professional body supervisors based on information the body has provided. OPBAS may also visit a professional body supervisor to inspect its activities. During a visit, the steps OPBAS may take include the following:

- interviewing relevant staff members of a professional body supervisor;

- reviewing relevant documents about a professional body supervisor's operations (such as reports of supervisory visits, records of how internal suspicious activity reports were handled, staff training records, risk assessments);
- studying the effectiveness of intelligence sharing arrangements; and,
- attend a professional body supervisor's visit to a member, as an observer.

After a supervisory visit, OPBAS will write to a professional body supervisor stating its findings. It will make clear those findings that call into question whether the professional body supervisor meets the standards set out in the MLRs. These will be distinguished from other, less significant, findings. Any action plan following a visit will similarly distinguish steps that are required to be taken to ensure the professional body supervisor meets the supervisory expectations set out in the law, and other recommendations.

Another supervisory tool available to OPBAS will be thematic reviews, through which a particular topic of concern will be examined across a sample of professional body supervisors.

Annual questionnaire

At present, each anti-money laundering supervisor prepares a questionnaire response annually for the Treasury. The MLRs instead require professional body supervisors to gather certain information and submit it to the Treasury on demand. Once OPBAS becomes operational, it will collect this information from professional body supervisors on behalf of the Treasury. OPBAS will prepare and publish an anonymised summary digest of the responses, as well as providing specific feedback to each body about how its approach compares to that of its peers.

New professional body supervisors

It is possible a professional body that currently does not have supervisory responsibilities under the MLRs will seek to apply to be given this role. One of OPBAS's roles will be to consider whether an applicant body meets the standards expected of supervisors set out in the MLRs, and recommend to the Treasury whether the legislation should be amended to give the body the formal role. We expect to consult on application charges to recover the costs of handling applications in the consultation paper on fees policy proposals that we will publish in the autumn of 2017.

Taking action when standards fall short

If OPBAS believes a professional body supervisor is not meeting the standards set out in the MLRs, it will have a range of tools available to address these concerns. Where failure to meet standards is serious or persistent, tools proposed in the draft regulations for OPBAS will include:

- giving a direction to a supervisor to address any failures;
- to censure a professional body supervisor publicly. This censure would take the form of a notice on OPBAS's webpages stating the nature of the concerns and the evidence on which these concerns were based. The professional body supervisor will be given an opportunity to make representations before OPBAS makes its decision to issue censure;
- recommending that a professional body supervisor be removed from its supervisory role. OPBAS would do this by writing to HM Treasury, setting out evidence for why the

professional body supervisor failed to meet the expectations set out in the Money Laundering Regulations; the Treasury would then decide what action to take.

Information sharing

An important role performed by OPBAS will be to facilitate collaboration between professional body anti-money laundering supervisors, other statutory supervisors, and law enforcement agencies. It will seek to do so where possible by using existing information-sharing mechanisms.

The sharing of good practice between anti-money laundering supervisors already takes place within the Anti-Money Laundering Supervisors' Forum ("AMLSF"), a standing committee that has met regularly since March 2007. This Forum has sub-groups representing the accountancy and legal sector. OPBAS will seek to engage constructively with AMLSF's membership to spread good practice.

Two mechanisms for sharing information about investigations are the Financial Crime Information Network ("FIN-NET")¹ and the Shared Intelligence Service ("SIS")²; both set out membership criteria that must be met before a body can join. Some professional body supervisors are already members of FIN-NET and SIS. The new Office will look to professional body supervisors who are not members to work to join one or both of these organisations. This may mean a professional body supervisor will need to take steps to meet the membership criteria, if it does not do so already. It will also need to pay the membership costs.

Fees

The FCA is entirely funded by those it regulates, so our fees have to recover all of our costs. Firms carrying out similar activities are grouped into 'fee-blocks' to minimise the risk of cross-subsidy. Professional body supervisors contributing towards the costs of the Office will be grouped into a single fee-block, and the FCA will recover the costs of running the Office from them. The supervisors will pay an annual fee to the FCA, with the first invoice arriving in autumn 2018³.

Some of the Professional Bodies already pay a fee to the FCA because of their status as Designated Professional Bodies (DPBs). The fees related to OPBAS will be separate from the existing fee-block for DPBs, maintaining a clear distinction between the costs and cost recovery of the two functions. A body that is both a DPB and is subject to OPBAS's supervision will see two separate lines on its invoices for the two fees. Professional body supervisors will want to know the size of the fee they will be charged at the earliest opportunity. We are not able at present to say how much OPBAS will cost to run because we have not yet finalised its

¹ Established in 1992, FIN-NET has more than a hundred members including government departments, police forces and regulatory bodies. It acts as a clearing house for investigators to share information about cases relating to financial crime.

² SIS is an intelligence-flagging database launched in 1993 that allows organisations with access to pool intelligence; they can use name searches to aid their investigations.

³ After that, bodies paying £50,000 or more in annual fees will receive two invoices. In April, they will be billed for half of the previous year's fee, while in September they will be billed for the balance of the current year's fee. Bodies paying less than £50,000 will receive a single invoice in July-September. With the first payment expected to be in September 2018, the April pre-payment will not be available until 2019.

resourcing model. Set-up costs incurred prior to the FCA receiving formal fee-raising powers will be charged back over the first few years of operation. We propose to consult on the structure of annual fees as part of the annual consultation paper on fees policy proposals that we will publish in the autumn of 2017. We will be able to consult on the rates in the spring or summer of 2018.