

OPBAS Update

Regulation 46A (Publication of Annual Reports)

Background and Context

In January 2021, OPBAS and HM Treasury (HMT) held a virtual workshop with all 25¹ Professional Body Supervisors (PBSs) to discuss PBSs' obligation to produce an annual report in accordance with Regulation 46A of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the MLRs). This update supersedes the April 2021 update to reflect subsequent discussions with PBSs.

The annual reports provide a valuable opportunity for PBSs to provide narrative and context to their role in the supervisory landscape, as well as offering a chance to demonstrate their effectiveness and enhance the transparency and understanding of their supervisory roles. The purpose of the workshop was to agree good practice and appropriate, effective content for the reports.

Purpose of this update

This update does not impose requirements but is intended to aid the PBSs in drafting their annual reports, required by Regulation 46A, by summarising the examples of possible content that were discussed at the workshop. These fall into two broad categories which support the requirements of Regulation 46A: (1) agreed good practice, which all attendees confirmed would be beneficial to include; and (2) practice which OPBAS and HMT consider can increase the effectiveness of the reports. The examples given are not mandatory and are non-exhaustive. PBSs' annual reports are more likely to be considered effective by including these and other supervisory points they consider useful and relevant.

It was also agreed at the workshop that PBSs should exercise caution when drafting their annual reports to ensure that the level of detail is appropriate for their supervised population and is balanced against the risk of exposing weaknesses and/or opportunities for exploitation to criminals.

Reporting Period and publication date

OPBAS and HMT agree that the reporting period for the annual reports will coincide with the UK financial year, which also aligns with the reporting period for the HMT Annual AML Questionnaires. This means the reporting period for each annual report will be **6 April – 5 April**. We expect PBSs to publish their annual reports on their websites, and to send a link to both OPBAS and HMT, by **1 November** of the year the reporting period ends.

While we accept that PBSs have a broader remit than anti-money laundering (AML) and counter terrorist financing (CTF), the annual report should focus solely on their AML and CTF supervisory activity. If preferred, it may be appropriate for the 3 legal representative PBSs in England and Wales to collaborate with their regulatory counterparts in producing a joint report.

Next Steps

Following publication of each set of annual reports, OPBAS and HMT will review the reports and consider their effectiveness and consistency in light of this update and will evaluate any improvements or if formal guidance is required. If you have any questions regarding this update, please do not hesitate to contact us at OPBAS.info@fca.org.uk.

¹ 22 listed on Schedule 1 of the MLRs and a further 3 legal sector PBSs in England and Wales who hold delegated regulatory functions from their representative counterparts.

Agreed Good Practice	Practice which increases effectiveness
Include a foreword from your Council or relevant oversight committee.	Provide a gap analysis and reflections on your performance as an AML/CTF supervisor and areas for improvement.
Describe your remit and role in the AML/CTF supervisory landscape.	Provide an analysis of the impact of external changes on your approach to supervision, for example, the National Risk Assessments, changes to legislation or the establishment and work of OPBAS.
Outline the demographic of your supervised population (for example, the size of your population, including the number of sole practitioners, firms and BOOMs).	Provide an overview of the risk profiles of your supervised population, for example, the proportion that you consider high, medium and low risk.
<p>Describe the type and number of measures you've taken to monitor and enforce compliance in your supervised population with requirements relating to, for example:</p> <ul style="list-style-type: none"> reporting actual or suspected breaches of MLRs customer due diligence (CDD) reporting suspicions (SARs) record keeping policies and controls 	Use graphs or visual aids to illustrate your supervision, enforcement and regulatory action statistics where appropriate.
Outline the key themes you identified from your supervision during the reporting period (for example, highlighting common weaknesses among your population).	Provide case studies to contextualise the supervision, enforcement and regulatory action statistics if appropriate.
<p>Give an overview of compliance levels with statistics describing the type and number of measures you've taken, for example:</p> <ul style="list-style-type: none"> Supervision, such as number of visits 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 your supervised population in relation to reporting breaches, CDD, SARs, record keeping or policies and controls 	Outline additional actions you have taken in response to common weaknesses that have been identified, for example, issuing guidance, arranging specific training or supervisory events.
Provide analysis of the reasons for failures and deficiencies you identified (for example, low levels of SAR submissions), including reflective commentary identifying possible improvement areas or strengths of your supervisory approach.	Outline actions you have taken in response to inadequacies or quality concerns identified in the SARs submitted by your supervised population.
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 your assessment of emerging money laundering or terrorist financing threats and trends in your sector over the reporting period.	
Look ahead to the next supervision year and your areas of focus. For example, how you will consider the lessons learnt during the relevant period and how you will implement changes and/or improvements in your supervision strategy.	