



HM TREASURY

# Anti-Money Laundering and Counter Terrorist Finance Report 2011-12

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# Executive summary

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The effectiveness of supervision to prevent money laundering and terrorist financing has never been so important. The range of threats the UK and other countries face continues to grow. These are driven by the use of new technologies designed for illicit purposes and a range of actors who engage in illicit activity, including money laundering, terrorist financing, circumvention of sanctions and tax evasion.

Many countries, including the UK, now have a high level of technical compliance with the global standards, set by the Financial Action Task Force (FATF). The focus now needs to shift to ensuring the investment made by governments, supervisors and businesses is used effectively to prevent, detect and disrupt these threats. Supervisors and businesses must work together to ensure resources are focused on the small percentage of transactions that present the highest risk and not on the majority of transactions, which are likely to be quite legitimate. This risk-based approach has now been further embedded by the FATF into the revised and strengthened global standards.

Businesses should feel confident to use their risk analysis skills to make informed judgments about where risks lie and what action they should take to mitigate them. Supervisors should support businesses in this.

Equally, businesses should expect robust supervision and severe penalties, where appropriate, from law enforcement agencies if found to have failed to consider and act on the risks they face in business. The consequences of such failures have included the significant reputational damage rightly suffered by firms as a result of enforcement action. Not only do such failures impact upon those firms, they reflect badly on the reputation of London as a financial centre. The impact on the City and the UK from such failures, in addition to other recent scandals, should not be underestimated. It is vital that supervisors and businesses work together to protect the reputation, integrity and competitiveness of the UK.

HM Treasury will maintain a focus on the effectiveness of supervision, in particular, for improving transparency and accountability. We will do this by continuing to work closely with the full range of supervisors, including Government departments and professional bodies.

We welcome feedback from all interested parties on this report and on the effectiveness and enforcement of supervision more generally. Comments should be sent by email to [aml@hmtreasury.gsi.gov.uk](mailto:aml@hmtreasury.gsi.gov.uk) or by post to the Sanctions & Illicit Finance Team, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ.

Finally, HM Treasury would like to thank the supervisors for their ongoing support for this voluntary initiative to work collectively, in order to maximise the effectiveness of their supervisory activities; and for their efforts to ensure compliance in the sectors they supervise. This is a difficult and challenging task, as it is for businesses and this report contains some good examples of how UK supervision can provide leadership at an international level.





# 1

## Introduction

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### Background

**1.1** There are a number of businesses, identified by global standards, which are at high risk of abuse by money launderers and those facilitating the movement of terrorist finance.<sup>1</sup> EU Member States are required to regulate these businesses under the EU Third Money Laundering Directive. In the UK, these businesses are subject to the Money Laundering Regulations 2007 (the Regulations) and required under the Regulations to do adequate due diligence and ongoing monitoring on their customers and business relationships.

**1.2** HM Treasury is responsible for appointing supervisors<sup>2</sup> and for setting the Regulations which set out the role of the supervisors<sup>3</sup> and gives powers to monitor effectively those businesses in the respective sectors. In order to illustrate the transparency and accountability of supervision and to encourage good practice, HM Treasury has worked with supervisors to produce this second annual report, which covers supervisory activities from April 2011 to March 2012.

### Methodology

**1.3** HM Treasury has followed a similar reporting framework to the first annual report published in November 2011, covering a range of topics, including: education and raising awareness; resources and training of staff employed by supervisors; the number of compliance visits carried out; enforcement activities; risk assessments of supervisors' sectors and their strategies for developing and implementing a risk based approach to supervision, which the Government believes contributes to effective supervision.

**1.4** In assessing the information provided by supervisors, HM Treasury used its criteria for effective supervision as a minimum benchmark to assess whether there were deficiencies in supervision and identify examples of good practice.

**1.5** HM Treasury's criteria take into account the provisions of the Regulators Compliance Code and are used to assess applications from professional bodies that wish to become supervisors of the Regulations. The principles of the criteria are:

- **experience of standard setting:** bodies should have experience of setting standards or rules for their members; standards should include those concerning confidentiality;
- **compliance:** bodies should preferably have experience of monitoring compliance with standards;
- **disciplinary structures and sanctions:** bodies should have established disciplinary procedures and have effective sanctions available to them;

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<sup>1</sup> For the full list of 'relevant persons' subject to the Money Laundering Regulations 2007, see Regulation 3 <http://www.legislation.gov.uk/ukSI/2007/2157/regulation/3/made>

<sup>2</sup> The designation of supervisors is subject to Parliamentary approval.

<sup>3</sup> The duties of the supervisors are set out in Regulation 24. <http://www.legislation.gov.uk/ukSI/2007/2157/regulation/24/made>

- **public interest:** bodies should have strong public interest objectives, such as bodies incorporated by Royal Charter or those that have charitable status;
- **qualifications/education:** there is a presumption towards organisations preferring members to possess specific qualifications or equivalent rather than just experience;
- **reach:** bodies should be of significant size and membership; their 'status' in the industry will also be considered;
- **capability/resourcing:** bodies should be able to demonstrate existing capabilities to be of an appropriate level to take on sufficient supervision;
- **collaborative working:** bodies should have good, professional relations with other supervisors and relevant public sector bodies;
- **effectiveness:** bodies should have a good understanding of what it means to have a risk-based approach; and
- **Financial Action Task Force (FATF) Recommendations:** bodies should be aware of, and meet the requirements of, the global standards relating to supervisors.

**1.6** Discussions were held with supervisors and their affinity leads.<sup>4</sup> These discussions provided an opportunity to clarify how supervisors were meeting requirements for effective supervision and consider any action points to address areas of potential improvement and future focus.

**1.7** This approach was adopted with the support of the Anti-Money Laundering Supervisors' Forum, recognising the diversity of supervised populations and the need for different approaches for different members/firms with different risk profiles. Clearly, with supervised groups as diverse as banks, solicitors, accountants and casinos and ranging in size from micro entities to international organisations, there are variations in methods and policies. Each supervisor is expected to design a risk-based approach that is relevant and effective according to its circumstances.

## Future developments

**1.8** The supervisory activities covered by this report pre-date a number of changes in the anti-money laundering and counter terrorist finance landscape, which will affect the supervisory response in future periods. A number of changes that took place after the reporting period<sup>5</sup> are highlighted below.

**1.9** Revised global standards were agreed in February 2012 by the FATF in order to strengthen controls and procedures in place to counter the risks of money laundering, terrorist financing and, for the first time, the proliferation of weapons of mass destruction. The revised FATF recommendations strengthen the risk-based approach and have introduced an explicit recommendation focused on countries' obligations to identify, understand and assess their risks.<sup>6</sup> The requirements relating to foreign Politically Exposed Persons (PEPs) have been extended to domestic PEPs on a risk-based approach<sup>7</sup> and the FATF has agreed new recommendations intended to reduce the abuse of corporate vehicles through actions by competent authorities and firms to identify beneficial ownership.<sup>8</sup> The UK remains fully committed to implementing

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<sup>4</sup> The AML Supervisors Forum has three affinity groups: accountancy, legal and public sector for effective exchange of sector relevant material

<sup>5</sup> The reporting period was from December 2010 – December 2011

<sup>6</sup> FATF Recommendation 1, [Revised FATF recommendations](#) Page 11

<sup>7</sup> FATF Recommendation 12, [Revised FATF recommendations](#) Page 16

<sup>8</sup> FATF Recommendations 24 and 25, [Revised FATF recommendations](#) Page 22

these standards, with effective supervision of all the regulated sectors. The UK will be working with the European Commission and other international partners to encourage full and consistent adoption of these standards by all countries. The EU Money Laundering Directive is being revised following the adoption of the new FATF standards and will be agreed by Member States in 2013.

**1.10** The new FATF Recommendation 1 requires that countries “should identify, assess, and understand the money laundering and terrorist financing risks for the country, and should take action, including designating an authority or mechanism to coordinate action to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively”. The assessment of risk by supervisors and the action taken by supervisors to mitigate these risks will be an important part of this overall requirement.

**1.11** In July 2012, the Government published its response to the 2011 consultation, undertaken as part of its review of the implementation of the Regulations. Following this thorough review and consultation, the Government identified proposals for improvements to the regime and the Government’s response document sets out the revised measures that come into force on 1 October 2012 as the Money Laundering (Amendment) Regulations 2012.<sup>9</sup> The amendments reduce regulatory burden where possible, and make the overall supervisory regime more robust, effective and focused on areas of highest risk.

**1.12** The amendments include improvements to the fit and proper test by HM Revenue & Customs (HMRC), which will support a step change in its supervision of the Money Service Business sector (MSBs) and a new information sharing gateway for all supervisors. Furthermore, the previous distinction between supervisors (in Schedule 3 of the Regulations) has been removed in order to extend simplification provisions to all businesses and reduce the need for duplicative customer due diligence. The Government consulted on removing criminal penalties but, on the basis of the responses received, it decided to retain these within the Regulations. Criminal penalties are a powerful deterrent against money laundering and terrorist financing and should be a useful tool for supervisors in tackling the worst offenders. The Government expects supervisors to use these penalties for the most egregious and serious and/or persistent non-compliance with the Regulations.

## Framework of the report

**1.13** The next chapter summarises the analysis of the information provided by supervisors. Where relevant, individual supervisors are named in this report. However, in order to avoid inappropriate comparisons, the report tends to reference supervisory activities more generally. The following areas are covered:

- how supervisors adopt a risk-based approach;
- compliance visits;
- enforcement action;
- advice and outreach; and
- information sharing.

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<sup>9</sup> The Money Laundering (Amendment) Regulations 2012 are available on:  
<http://www.legislation.gov.uk/2007-2012?title=money%20lauding>



# 2

## Analysis

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### How supervisors adopt a risk-based approach

#### Context

**2.1** In accordance with the FATF recommendations, the Government expects supervisors to adopt a risk-based approach to their activities and to advocate adoption of a risk-based approach by the businesses they supervise.

#### Analysis

**2.2** All supervisors have demonstrated an understanding of the risk-based approach, both for implementation by their supervised population and to inform their own supervisory activities. The risk-based approach to supervision is reflected through the range of tools and methods that supervisors adopt to identify areas of high, medium and low risk, to facilitate effective resource allocation. This is supported by sector level risk assessments, systematic analysis of the firms supervised and Treasury-approved industry guidance.<sup>1</sup> Most accountancy, legal and public sector supervisors evaluate common risk factors on an annual basis, which informs the extent and nature of further investigation, including inspection visits, where required. These factors include the outcomes of previous visits, the nature of work that the firm does, intelligence and complaints from external sources, past non-compliance and red flags from desk based analysis.

**2.3** The practical implementation of a risk-based approach to supervision varies depending on the nature and scale of the risks in each sector and this is reflected in the resources invested in supervision and by the specific measures taken to assess compliance. For example, in the legal sector, risks vary based on the work undertaken by different legal professionals. Most of the work undertaken by barristers may fall outside of the regulated sector. As a result, the level of resource applied to supervision of barristers (in terms of education, monitoring and investigation) is less than the resource allocated for the supervision of solicitors and licensed conveyancers who regularly hold and transfer client money and assist clients to enter into arrangements.

**2.4** Another example of the application of a risk-based approach is demonstrated by HMRC. HMRC is the default supervisor and, therefore, does not have specialist knowledge in all the sectors it supervises. However, it is proactively engaging with law enforcement agencies and other supervisors, such as the Financial Services Authority (FSA), to develop its understanding of the risks. As a result, HMRC is currently strengthening supervision through targeted campaigns within specific sectors, including MSBs.

**2.5** Most supervisors assess risk across a range of criteria, which will often take into account operational, quality and financial risks as well as money laundering and terrorist finance risks.

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<sup>1</sup> See section Advice and Outreach

**2.6** Across the different sectors and varied populations of supervised businesses, there appears to be a proportionate and sensible approach which recognises and addresses risk. Bearing in mind the nature and scale across the different groups – from very small businesses to major international corporations, it would not be appropriate to apply a ‘one size fits all’ approach.

**2.7** Some supervisors reported that they do not conduct specific money laundering and terrorist finance risk assessments but use other mechanisms and procedures for identifying and assessing risk. The data informing these methods is regularly updated. Some use a risk scoring system to rank the risks to their sectors, which assesses the risk of a firm after every monitoring visit they undertake through a range of sources, either given by the firm or other agencies. The majority of accountancy sector bodies use pre-review work, which consists of gathering sources of intelligence, complaints, questionnaires, previous visit history and annual returns which can represent risk triggers. This risk profile is updated after every monitoring review and determines the interval between the next inspection visits. Some supervisors, such as the Association of Taxation Technicians (ATT), use a set of standard indicators to assess risk which helps them keep a consistent approach when analysing firms’ annual returns. Others, such as the Insolvency Practitioners Association (IPA), consider whether a firm has a poor record of compliance with other general legislation which could indicate similar non-compliance with money laundering legislation. This helps to determine the risk of that firm.

#### **Box 2.A: Application of a risk-based approach**

The Association of Accounting Technicians (AAT) has introduced a ‘registered’ status for new applicants, before issuing a full licence, so that they can be satisfied that new members are competent and aware of their duties and obligations under related anti-money laundering and counter terrorist financing legislation on both a practical as well as theoretical level.

This involves ‘registering’ new applicants and requiring them to pass a diagnostic test on anti-money laundering compliance and professional ethics before they are issued with a full practicing licence. This method ensures that:

- AAT members have sufficient understanding of their duties under the Regulations;
- AAT are able to determine the level of technical competence of their members; and
- the risk of non-compliance is reduced.

AAT consider this approach to be risk-based and an advantage, as it controls the risk that new members could claim to be unaware of their obligations, or undermine the importance of the requirements in the context of their perception of providing accountancy services. The diagnostic test is supported by the provision of an anti-money laundering toolkit which guides members through what they need to do to ensure that their firm is fully compliant. It also assists the supervisor when it comes to taking enforcement action, as members will be well aware of their obligations and any shortcomings would amount to misconduct with little or no defence.

**2.8** When developing a risk-based approach to supervision, it is important that supervisors are able to identify and understand morphing and emerging threats and that supervisors make businesses aware of these threats so that they can be mitigated. Most supervisors demonstrated that they were able to identify and understand emerging threats. Those that did not identify emerging threats or demonstrate a sufficient understanding of emerging threats have committed to assessing this more carefully in the future.

### **Box 2.B: The benefits of a risk-based approach**

The Institute of Certified Bookkeepers (ICB) considers its application of a risk-based approach to have led to the reduction in the number of its supervised practices judged to have failed properly to assess risk: down from 60 per cent in 2008 to 40 per cent in 2009, 20 per cent in 2010 and less than 8 per cent in 2011.

In 2008, the ICB carried out a campaign to raise awareness of the need for firms properly to assess the risks of their business activities. The ICB introduced a requirement for member firms to submit information annually. This included listing its clients, the nature of its clients' businesses and what level of risk the member firm rated each client as having.

All forms were submitted to the ICB's Director of Compliance to identify any anomalies. This information was used to help decide whether an inspection visit was necessary.

The ICB created a software package enabling member firms to complete their forms online and to which an automated risk-based calculation informs the level of due diligence that is appropriate to be carried out. If the member firms object to the suggested level, they are able to change it, provided they submit a reasonable explanation as to why they should conduct a different level of due diligence.

This enables the ICB to have direct access to every risk assessment and view the level of due diligence that is being carried out by its members firms.

## **Compliance visits**

### **Context**

**2.9** It is important that supervisors understand the businesses they supervise. Regular compliance visits are a common way for supervisors to check that their members are complying with the Regulations. They allow supervisors to understand the complexities of different businesses and the challenges faced in applying the Regulations in practice.

**2.10** In accordance with the Regulators Compliance Code, supervisors should not assume that all businesses require regular on-site inspections. The majority of on-site visits are risk-driven. Some supervisors review firms on a cyclical basis ranging between three and eight years, with the capacity to undertake further reviews where there is evidence of poor compliance. As supervisors share methodologies and experience across sectors and develop a better understanding of risk, further analysis and assessment of the suitability and effectiveness of policies and procedures will be possible.

### **Analysis**

**2.11** The frequency with which supervisors choose to visit their member firms depends on a number of factors: the number of members it supervises; the nature and scale of risks of the sector; the type of business being supervised; and a targeted allocation of supervisory resources. The majority of supervisors carry out regular compliance visits, either on all firms or on a selection of firms they supervise, depending on the size of their member population. Some supervisors do not visit firms on a regular basis. Instead, they continually assess the risks of firms through desk based analysis and, through this, determine when an on-site visit is warranted. Factors which may trigger an inspection visit include: high-risk scores; changes in the annual return information; non compliance; delayed compliance after instructed; and failure to react to recommendations, intelligence received and incomplete registration forms.

**2.12** Supervisors use a combination of a risk-based, cyclical and random approach in selecting those businesses to visit. Although they may conduct regular inspection visits as described above, supervisors will also conduct random additional visits. The frequency of visits depends on a number of factors, including whether or not non-compliance has been identified on previous inspections, the need to inspect businesses for other reasons (e.g. to assess professional standards) and the overall level of risk associated with the sector. The Council of Licensed Conveyancers (CLC) reported that the percentage of randomised visits increased from 10 per cent to 20 per cent. This increase was primarily made to validate their risk profiling of licensed practices. For example, it was used to check that those practices with a low risk rating had correctly been given that rating and also to increase the reliability of any conclusions through randomised visits of a larger sample.

**2.13** Supervisors do not rely on inspection visits alone to ensure compliance. In addition to visiting their members, supervisors employ a range of techniques to ensure their members are complying with the Regulations. These include:

- the submission of annual returns, which may be followed up with telephone calls or email enquiries for further information;
- compliance telephone interviews or desk top monitoring; and
- warning letters or requests for information on specific issues.

**2.14** Such methods are less resource intensive, while being proportionate and more effective for the supervisor. For example, some supervisors report that direct correspondence to compliant firms, issuing recommendations for corrective action, allows those firms to take remedial action and demonstrate that they are compliant with money laundering legislation.

## **Enforcement action**

### **Context**

**2.15** Supervisors have a variety of enforcement powers which include civil and criminal sanctions. Supervisors can refer non-compliant businesses to the relevant authorities for criminal investigation and prosecution. Some supervisors can enforce criminal sanctions themselves. The FSA, HMRC, the Office of Fair Trading (OFT) and the Department of Enterprise Trade and Investment (DETI Northern Ireland) have powers under the Regulations to obtain information, enter and inspect premises and administer monetary civil penalties on their supervised populations. Professional bodies have sanctions specific to their supervisory population, such as the ability to expel businesses from membership. The threat of removing professional accreditation can be particularly effective in motivating compliance.

**2.16** Upon appointment as a supervisor under the Regulations, HM Treasury has to be satisfied that the supervisor is able to enforce the requirements through effective, proportionate and dissuasive penalties, or refer non-compliance to a law enforcement body that can. Enforcement methods include criminal sanctions, restrictions on practice, financial penalties and a range of other disciplinary sanctions.

**2.17** Supervisors report that they feel their enforcement and compliance regimes are proportionate and targeted.

**2.18** Supervisors seek to promote compliant behaviour, which generally means that members who are found to be non-compliant are given an opportunity to correct their behaviour before sanctions are imposed. Businesses are given guidance and support to enable them to correct



processes that fail to meet the requirements. This has an impact on the number of serious sanctions imposed, which in the most part, are rare.

### **Box 2.C: A thematic approach to supervision**

The FSA uses thematic reviews as part of its oversight of regulated firms' financial crime controls. These reviews focus on a particular industry or product. They explore firms' understanding of financial crime risks and offer insights into the adequacy of firms' measures.

In 2011-12, the FSA published three thematic reviews:

- 1 *Banks' management of high money laundering risk situations* (June 2011);
- 2 *Mortgage fraud against lenders* (June 2011); and
- 3 *Anti-bribery and corruptions systems and controls in investment banks* (March 2012).

Some of these thematic reports, along with others that the FSA has undertaken since 2007, were brought together in to a single non-binding publication, *Financial Crime: A Guide for Firms*, published in June 2011. The publication contains self assessment questions, good and poor practice and summaries of Financial Crime thematic reviews.

The OFT will use a thematic approach to supervision in 2013.

### **Box 2.D: Enforcement action**

Supervisors use a range of enforcement measures to promote effective compliance:

- the FSA has issued financial penalties, of which the highest has been £8.75 million;
- the OFT revoked the consumer credit licence of, and issued a fine of over £500,000 to an online payday lender which was found to have contravened the Money Laundering Regulations 2007<sup>a</sup>. In addition, the OFT has issued financial penalties amounting to £13,000 for non-compliance;
- HMRC has issued financial penalties in the reporting year of up to £125,000 for non-compliant behaviour; and
- over 150 members have been removed from membership of professional bodies due to lack of compliance with the Money Laundering Regulations 2007.

<sup>a</sup> The company involved is now in the process of appealing the action taken against them by the OFT.

**2.19** In addition to determining that enforcement action is appropriate, supervisors may give businesses the opportunity to remedy inadequacies in their policies and procedures through various methods. For example, the CLC reported that, depending on the nature of the issue, its approach may be, in the first instance, to seek an informal resolution. This approach includes engagement with the business or individual concerned and encouragement of good practice through advice, guidance and support. If this approach is unsuccessful or inappropriate due to the nature of the issues, then regulatory action is initiated. This can include providing a written or verbal report to the supervisor explaining how they will resolve the issues identified and

prevent recurrence. When regulatory action is unsuccessful or inappropriate due to the nature of the issues, disciplinary action will be initiated.

**2.20** Supervisors provided HM Treasury with the number of cases of disciplinary action taken over the reporting period. Disciplinary action may involve internal investigations, reprimands and warnings, or disciplinary enforcement. Disciplinary enforcement involves presentation of investigation reports to internal and external disciplinary or investigative committees. Such disciplinary enforcement action may result in the issuing of financial penalties or the removal of the right to practice or the revocation of licences.<sup>2</sup>

**2.21** In situations where businesses are given specific instructions about the required remedial actions, supervisors ensure businesses are complying with the instructions effectively and in a timely manner. Supervisors report that, if a member fails to adhere to the requirements set out to them to rectify their failings, they are referred to a committee. This is often referred to as an Investigations or Disciplinary Committee. These committees have the power to impose fines, suspend practising certificates and increase desk-top monitoring. They also refer the member for criminal investigation, where appropriate.

**2.22** HMRC has reported that, where sanctions applied to Trust and Company Service Providers and Money Service Businesses are not effective, it revoked the Fit and Proper Person status, resulting in the business being removed from the register. During the reporting period, the Fit and Proper Person status was withdrawn from 11 individuals.

**2.23** For many of the professional bodies, the enforcement regime for non-compliance is part of the process for dealing with non-compliance with industry rules and codes of practice more generally. In these circumstances, supervisors have a number of sanctions at their disposal. For example, the ultimate disciplinary sanction available to many professional bodies for members' non-compliance is exclusion from membership and withdrawal of supervision. Supervisors report that there are also a number of other actions they take. These include using external bodies to audit certain areas of a member's work and imposing conditions on the member, such as limiting the on-boarding of new clients in a particular discipline, imposing conditions on the manner of practise, or suspending the member's practicing certificate.

## Advice and outreach

### Context

**2.24** Supervisors are not required, by the Regulations, to offer formal advice to the businesses they supervise. However, it is accepted good practice (recognised by the Regulators' Compliance Code) to have appropriate arrangements in place to offer both general and targeted information and practical advice in a range of formats. There are two forms of guidance and advice. The first is informal advice, such as circulating newsletters, e-magazines and law enforcement alerts. The second more formal guidance, written by industry and supervisors to help businesses understand the best way to implement the Regulations in practice. This guidance may be approved by HM Treasury. When making a decision in relation to suspected money laundering, courts must take into account whether an individual followed approved guidance notes. The guidance is generally updated in light of developments in money laundering and terrorist financing threats and amendments to the Regulations. The guidance should help businesses to

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<sup>2</sup> Some supervisors did not report the issuance of a warning letter as disciplinary actions, so in HM Treasury's analysis these are not included as forms of disciplinary actions.

understand what is expected of them, particularly in relation to taking a risk based approach. A full list of approved guidance is published on the HM Treasury website.<sup>3</sup>

## Analysis

**2.25** It is evident that significant time and effort is spent by all supervisors, on producing and updating specific guidance for supervised businesses. Many accountancy supervisors (and a Government supervisor) refer members to guidance produced by the Consultative Committee of Accountancy Bodies (CCAB) which has produced unified guidance for the accountancy profession in the UK. It is notable that professional bodies, not currently appointed as supervisors under the regime, have also worked together to produce single industry guidance for the property sector, which HM Treasury has approved.

**2.26** Methods for engaging with firms vary and many supervisors are clearly embracing new technology. Some supervisors are choosing to use e-magazines, e-forums, e-updates, online seminars and training, podcasts and webinars. The use of more traditional non face-to-face communication methods remains widespread, such as factsheets, magazines and FAQ pages on supervisors' websites. Supervisors also use more interactive methods to provide information and support to their members and staff. These include workshops, road shows, training sessions, telephone and email help-lines, annual conferences and presentations.

**2.27** One supervisor, the OFT, piloted a workshop to enhance understanding and compliance with the Regulations, targeted at estate agents. The workshop will be extended to small businesses in 2013.

**2.28** One large legal supervisor reported that it closely monitors engagement with those it supervises. It monitors subscription levels to e-alerts, attendance rates at training events and satisfaction ratings from attendees. The supervisor reports that there is greater engagement from legal practices now that it has extended its outreach and educational activities. There have been 6000 new subscribers to the supervisor's e-alert, 53 more solicitors have registered to use the e-forum and 1,765 solicitors have attended the supervisor's money laundering officer (MLRO) networking events.

**2.29** One legal supervisor reported that its Monitoring Officers are constantly updated and advised on new trends and areas of non-compliance and that they make use of the Financial Crime Information Network (FIN-NET) alerts. FIN-NET encourages the exchange of information between members on actual or suspected criminal activity. It can also be used to alert members about new techniques or emerging trends in financial crime.

**2.30** The wide range of methods used to interact with the supervised population is effective. It means that businesses have an increased understanding of their obligations under the Regulations and a range of options available to them to seek help and guidance. This enables businesses to apply the Regulations in a more effective way.

## Information sharing

### Context

**2.31** Supervisors view information exchange as an important tool, particularly when a business or individual may seek to switch between supervisors, which would result in overlapping responsibilities. During the reporting period, supervisors were able to share information through various forums, including the Anti-Money Laundering Supervisors Forum (AMLSF), which the

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<sup>3</sup> [http://www.hm-treasury.gov.uk/anti\\_laundering\\_counter\\_terrorism\\_policy.htm](http://www.hm-treasury.gov.uk/anti_laundering_counter_terrorism_policy.htm)

Serious Organised Crime Agency (SOCA) and HM Treasury attend. The forum is used to discuss a range of issues and to inform policy development. It enables supervisors to share best practice, discuss commonly faced issues and ensure that a consistent approach is taken to supervision across the sectors. Supervisors are also able to share information through their respective affinity groups. A number of supervisors make specific reference to the use of these groups, which are organised by the supervisors and meet according to need. There are three groups: one consists of all Government supervisors; a second includes all supervisors who oversee legal professionals; and a third oversees the accountancy, taxation, bookkeeping and insolvency professions.

**2.32** In addition, the Money Laundering Advisory Committee (MLAC), jointly chaired by HM Treasury and the Home Office, provides a forum for representatives from industry, law enforcement and the Government to oversee the regime and advise on improving its operational effectiveness. It is also used to inform evidence based policy making, to review industry guidance and to inform the development and implementation of global standards.

## **Analysis**

**2.33** Supervisors interact with their counterparts and the Government through meetings of the AMLSF, MLAC and affinity groups and through more ad hoc informal contact as the need arises. There is a general consensus that these meetings are necessary to share best practice and ensure the consistency of the supervisory approach taken. They also facilitate exchange of information and ideas with law enforcement and other Government agencies.

### **Box 2.E: Sharing information; the launch of the OFT's public register**

During 2011-12, the OFT undertook a public register project. A public register, containing details of businesses supervised by the OFT was launched on OFT's website, in April 2012. The register contains the name of the business, any name under which it trades and the addresses at which the estate agency work or consumer credit lending is carried out, as supplied by the business at the point of registration. The information is updated daily.

The list has made OFT's list of supervised businesses searchable by the public, industry and other supervisors. It also means the OFT can be notified if businesses are not registered when they should be.

**2.34** Since September 2010, the Institute of Chartered Accountants in England and Wales (ICAEW) and the Association of Accounting Technicians (AAT) have jointly led an initiative among members of the AMLSF's Accountancy Affinity Group (AAG) to share information on enforcement and sanctions policies and practices. The work continues and has assisted in encouraging greater consistency among supervisors.

### **Box 2.F: Joint working: the FSA and HMRC**

Under the Regulations, HMRC is responsible for the registration and supervision of Money Service Businesses, including Money Transmitters. Under the Payment Services Regulations 2009 (PSR), the FSA is responsible for the authorisation, registration and supervision of people who provide payment services, including Money Remitters for consumer protection purposes.

The FSA and HMRC now have in place a Memorandum of Understanding (MoU), underpinned by legislation, for the exchange of information and for conducting joint visits under the Regulations and PSR. The aim is to coordinate FSA's and HMRC's work more effectively. A number of joint visits have taken place on a case specific basis and this way of working will continue.

**2.35** The UK Financial Intelligence Unit has implemented a "New Model of Engagement" to improve the Suspicious Activity Reporting (SARs) Regime. The aims of the new model are to:

- ensure appropriate SARs are submitted by the full range of reporting sectors;
- improve the quality and relevancy of SARs;
- encourage new reporters into the SARs Regime; and
- better demonstrate to reporters the value (derived by end users and across HMG of the SARs they make).

**2.36** SOCA is developing mechanisms to improve information sharing with supervisors. The aim of this is to encourage greater collaboration between SOCA and supervisors and enable more effective dissemination of UKFIU messages.

**2.37** HM Treasury is grateful to the supervisory community for the time and effort which has gone into providing information about its activities. The information shows that supervisors are generally discharging all of their responsibilities and there are many examples of good practice. There are also further opportunities for supervisors to learn from each other and strengthen their approach.



# 3

## Conclusion

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### How supervisors adopt a risk-based approach

**3.1** Supervisors' ability to identify the level of money laundering and terrorist financing risk posed to their supervised population enables them to direct their resources proportionately in order to tackle areas of highest risk effectively. This is primarily what is meant by the risk-based approach to supervision. It is also important that supervisors can rank the risks to their sectors and feed these into their supervision properly, to ensure businesses are aware of the risks and are making efforts to combat them. Naturally, there will be differences in the risk-based approach that supervisors take and there is no universally accepted methodology which prescribes the nature of using a risk-based approach.

**3.2** All supervisors demonstrate that they are implementing policies and measures which are in line with a risk-based approach. The majority of supervisors reported a good understanding of the nature of risks their sectors face and reported that they regularly review their assessments of these risks. The supervisors also collectively agreed that, with the development of the HM Treasury-led national risk assessment programme, there will be an opportunity to develop a shared understanding, language and measurement of risk, as well as modified strategies to combat risk across the sectors more effectively.

**3.3** It was also apparent in the supervisor reports that the approach to supervision may be governed by other legislation. For example, in addition to compliance with money laundering legislation, legal sector supervisors in England and Wales are required to comply with measures set out by the Legal Services Board (LSB). The LSB acts to ensure that authorised legal supervisors are achieving a number of regulatory objectives, some of which are of particular relevance to the area of financial crime prevention.<sup>1</sup> This increases the overall scrutiny of legal sector supervisors' approaches. The result of this is that those supervisors have a robust, risk-based and appropriate supervision framework in place. The LSB has the ability to deal with deficiencies in supervision.

**3.4** It was noted from the annual returns that some supervisors did not identify, or were not aware of, emerging threats in their sector. Effective supervision involves applying a well articulated risk-based approach which includes consideration of emerging threats, such as new payment methods. **HM Treasury will work with supervisors to update the criteria for effective supervision to ensure both new and existing supervisors exhibit the highest level of compliance with the Regulations and are applying a risk-based approach effectively.**

**3.5** HM Treasury queried whether risk assessments were shared between supervisors and their regulated sectors and whether there was merit in such a sharing. Although supervisors agree on the merits of sharing high level risk indicators, the variance of supervised populations means that detailed risk matrixes will not necessarily be relevant or appropriate for other supervisors. **Supervisors say they will share risk indicators through meetings with their respective sectors and**

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<sup>1</sup> The Legal Services Board acts to ensure that each of those authorised legal regulators are achieving a number of regulatory objectives, some of which are of particular relevance to the area of financial crime prevention such as maintaining adherence to the professional principles of independence and integrity; a duty to report to the court; have compliance and enforcement processes that deter and punish appropriately.

HM Treasury will continue to work with supervisors on the creation of a national AML/CTF framework.

**3.6** It is clear that some, but not all, supervisors conduct inspection visits based on an assessment of risk of that firm or sector. **HM Treasury expects that, in future reporting rounds, supervisors will explain and justify their approach to risk in the context of the national risk assessment framework.**

## **Compliance visits**

**3.7** HM Treasury recognises that compliance visits are one key way in which supervisors satisfy themselves of compliance by their supervised populations. While there is a diverse approach to compliance visits between supervisors, HM Treasury is satisfied that this reflects the variance of supervised populations and associated risks with those populations. **Supervisors should seek to identify opportunities to save time and resources by working collaboratively with others who visit the businesses they supervise. They should also continually assess the effectiveness of the mechanisms they have in place, learning from others where appropriate.**

**3.8** While it is understood that not all compliance officers are able to have in-depth knowledge and experience of the businesses they are visiting, officers conducting visits should have previous experience of monitoring and have the capacity to understand and extend visits if file reviews are not adequate. **Supervisors should aim to make the most of powers which enable them to request information ahead of visits, where appropriate.**

## **Enforcement action**

**3.9** The enforcement approach in the UK during the reporting period focused on proportionate sanctioning, enhancing future compliance and engaging with senior management on underlying issues. This approach is thought to prevent firms taking a mechanical ‘tickbox’ approach to compliance through fear of incurring disproportionate reputational damage from a severe fine. Instead, it seeks to promote firms’ understanding of how to deter more effectively the threat of criminal exploitation. **As the requirements of the Regulations are embedded further in the everyday practice of the regulated sector, HM Treasury expects supervisors to take robust action against those who demonstrate persistent or material breaches of the Regulations; and collaborate with law enforcement, where relevant. Supervisors are also be expected to understand the extent to which enforcement action they are taking is reducing the prevalence of money laundering and terrorist financing activity in their sectors.**

## **Advice and outreach**

**3.10** A variety of engagement and communication methods are being used by the supervisors. This remains an essential part of effective supervision. Information is disseminated to businesses through a wide range of communication channels, which increases awareness and understanding of the Regulations by businesses’ members and staff. **Almost all supervisors disseminate information manually and through e-based sources. This allows awareness to be raised more widely and allows training to be conducted through a variety of means.**

**3.11** It is important to have a targeted approach to outreach, to ensure that those who are difficult to reach, new to the sector, or are most likely to be non-compliant, are made aware of their obligations. **A more targeted approach should be taken to outreach and guidance, where resources allow.**



**3.12** Many supervisors actively seek feedback from their members on the advice they provide to ensure that it is relevant and useful. **Active engagement and full consideration of views and comments from businesses when designing guidance and advice is encouraged.**

## **Information sharing**

**3.13** HM Treasury notes that supervisors have and use a range of information sharing mechanisms effectively. However, in some individual cases, challenges to information sharing have been identified. **HM Treasury hopes the use of the information sharing gateway will allow supervisors to share information to reduce the risk of regulatory arbitrage.**

**3.14** Although supervisors do not share detailed risk assessments, they note that the development of a national risk assessment provides an opportunity to share information on high level risks across sectors.

**3.15** Participants of the SARs regime continue to work collaboratively to improve the quality of SARs intelligence.



# A

## List of supervisors

<b>Professional Bodies, Part 1</b>	
Association of Chartered Certified Accountants	<a href="http://www.accaglobal.com/">http://www.accaglobal.com/</a>
Council for Licensed Conveyancers	<a href="http://www.conveyancer.org.uk/">http://www.conveyancer.org.uk/</a>
Faculty of Advocates	<a href="http://www.advocates.org.uk">http://www.advocates.org.uk</a>
General Council of the Bar	<a href="http://www.barcouncil.org.uk/">http://www.barcouncil.org.uk/</a>
General Council of the Bar of Northern Ireland	<a href="http://www.barlibrary.com/about-us/the-general-council-of-the-bar-of-northern-ireland/">http://www.barlibrary.com/about-us/the-general-council-of-the-bar-of-northern-ireland/</a>
Institute of Chartered Accountants in England and Wales	<a href="http://www.icaew.com/">http://www.icaew.com/</a>
Institute of Chartered Accountants in Ireland	<a href="http://www.charteredaccountants.ie/">http://www.charteredaccountants.ie/</a>
Institute of Chartered Accountants of Scotland	<a href="http://www.icas.org.uk/icas/">http://www.icas.org.uk/icas/</a>
Law Society	<a href="http://www.lawsociety.org.uk/home.law">http://www.lawsociety.org.uk/home.law</a>
Law Society of Scotland	<a href="http://www.lawscot.org.uk/">http://www.lawscot.org.uk/</a>
Law Society of Northern Ireland	<a href="http://www.lawsoc-ni.org/">http://www.lawsoc-ni.org/</a>
<b>Professional Bodies, Part 2</b>	
Association of Accounting Technicians	<a href="http://www.aat.org.uk/">http://www.aat.org.uk/</a>
Association of International Accountants	<a href="http://www.aiaworldwide.com/">http://www.aiaworldwide.com/</a>
Association of Taxation Technicians	<a href="http://www.att.org.uk/">http://www.att.org.uk/</a>
Chartered Institute of Management Accountants	<a href="http://www.cimaglobal.com/">http://www.cimaglobal.com/</a>
Chartered Institute of Public Finance and Accountancy	<a href="http://www.cipfa.org.uk/">http://www.cipfa.org.uk/</a>
Chartered Institute of Taxation	<a href="http://www.tax.org.uk/">http://www.tax.org.uk/</a>
Faculty Office of the Archbishop of Canterbury	<a href="http://www.facultyoffice.org.uk/">http://www.facultyoffice.org.uk/</a>
Insolvency Practitioners Association	<a href="http://www.insolvency-practitioners.org.uk/">http://www.insolvency-practitioners.org.uk/</a>
Institute of Certified Bookkeepers	<a href="http://www.bookkeepers.org.uk/Homepage">http://www.bookkeepers.org.uk/Homepage</a>
Institute of Financial Accountants	<a href="http://www.ifa.org.uk/home">http://www.ifa.org.uk/home</a>
International Association of Book-keepers	<a href="http://www.iab.org.uk/index.asp">http://www.iab.org.uk/index.asp</a>
<b>Others (Public sector bodies)</b>	
Department of Enterprise, Trade, and Investment Northern Ireland	<a href="http://www.detini.gov.uk/">http://www.detini.gov.uk/</a>
Financial Services Authority	<a href="http://www.fsa.gov.uk/">http://www.fsa.gov.uk/</a>
Gambling Commission	<a href="http://www.gamblingcommission.gov.uk/">http://www.gamblingcommission.gov.uk/</a>
HM Revenue & Customs	<a href="http://www.hmrc.gov.uk/index.htm">http://www.hmrc.gov.uk/index.htm</a>
Insolvency Service	<a href="http://www.bis.gov.uk/insolvency">http://www.bis.gov.uk/insolvency</a>
Office of Fair Trading	<a href="http://www.offt.gov.uk/">http://www.offt.gov.uk/</a>



### **HM Treasury contacts**

This document can be found in full on our website: <http://www.hm-treasury.gov.uk>

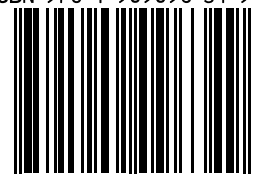
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