

SRA BOARD

24 October 2018

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This paper will be published

**Office for Professional Body anti-money laundering (AML)
Supervision (OPBAS) findings and next steps**

Purpose

- 1 This paper updates the Board on the findings from the first regulatory visit by the SRA's new oversight supervisor, the Office of Professional Body AML Supervision (OPBAS) and sets out the adjustments we will make to our AML supervision programme as a result.

Recommendations

- 2 The Board is asked to:
- (a) note the findings of the onsite regulatory visit by OPBAS
 - (b) agree the proposed adjustments to our AML supervision programme.

If you have any questions about this paper please contact Crispin Passmore, Executive Director, Supervision and Education on crispin.passmore@sra.org.uk or 0121 329 6687.

Equality, Diversity and Inclusion considerations

Consideration	Paragraph nos
<p>Through the mainstreaming of EDI we continue to take account of diversity and inclusion in our planning, governance, decision making, policy and processes.</p> <p>Although there are no specific EDI implications relating to the issues addressed in this paper, EDI implications will be considered within each AML workstream through reports to the AML Programme Board as proposals are developed.</p>	

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Office for Professional Body anti-money laundering (AML) Supervision (OPBAS) findings and next steps

Background

- 3 Anti-money laundering remains a high profile issue both for the UK Government and the SRA. We are six months in to a new more proactive and focused approach to AML supervision. The Board received an update on developments in March 2018 and an update on the first supervisory visit by OPBAS in July and September 2018.

OPBAS

- 4 OPBAS is still relatively new, having been created early in 2018 and is still focusing on gathering information about the professional bodies it supervises. To this end, it is undertaking its first round of regulatory visits with the legal and accountancy supervisors they oversee. We understand that these visits will be completed by the end of the year and all supervisors will have been provided with initial findings letters. We anticipate future visits being less wide-ranging, but more focused on file reviews and a deep dives on a sample of AML-related cases.
- 5 The Law Society of England & Wales is the AML supervisor named in the legislation. While regulatory matters are delegated by Council to the SRA, the Law Society professional body (TLS) retains a role in providing support and guidance to its members. Therefore, OPBAS visited both TLS and the SRA as part of its programme of visits. The SRA's first regulatory visit by OPBAS took place during the week of 18 June 2018 in the Cube:
 - We provided over 1,000 pages of documents
 - 39 people were interviewed
 - Over 32 hours of interviews
 - Eight OPBAS assessors.
- 6 On 8th August 2018, we received findings from the visit. Feedback from the OPBAS visit concentrates solely on areas of concern, or needing improvement and does not include recognition of strengths or good practice. The feedback from OPBAS is attached at annex 1, but in summary, it found very little room for improvement. OPBAS identified three areas for change:
 - that the methodology we use to risk assess firms for AML should measure the likelihood of a firm being used for money laundering, rather than the proxy of the likelihood of us receiving an AML-related report about the firm that we currently use, and that the methodology should take into account firms' mitigation of AML;

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- that our supervisory regime should include an examination and assessment of firms' AML risk mitigation; and
 - that there is the potential for conflicting advice being given by the SRA and TLS helplines on AML, and we should agree who has responsibility for these types of calls.
- 7 We are publishing the findings letter from OPBAS in order to be transparent about our work to prevent money laundering and terrorist financing. We do not know whether other organisations visited by OPBAS intend to publish their own findings letters. We expect that OPBAS will produce a sector-wide report that sets out areas of good and poor practice by supervisors and so the individual findings letters to supervisors focus solely on areas that could be improved, without providing any commentary on existing areas of strength.

Recommendation: the Board is asked to note the findings of the onsite regulatory visit from OPBAS

Proposed action plan

- 8 We recognise that some of the points that OPBAS makes are on areas in which we can make improvements and we formed small working groups to look at options and implement the changes.
- 9 OPBAS recognises that we are applying a risk based approach to AML supervision, but that we need to make adjustments to how we risk assess firms. Our existing approach to risk rating firms for AML uses an artificial intelligence model, and the risk we have asked the model to identify is the risk that a firm will have an AML-related issue reported to us. We intend to combine the existing risk methodology with some new tools, so that from next year we will use:
- The current artificial intelligence-based model, which will continue to learn from new information we feed into it
 - A more traditional model based on human intelligence that takes account of our likely risk based on factors we will feed in from the SRA sectoral risk assessment¹ and the government national risk assessment²
 - An assessment of how well the firm is mitigating money laundering risk, where we have this information available.
- 10 We will implement this new approach from 1 January 2019. We will continue to analyse how well each of the tools predict AML risk and use this information to refine our risk-based approach to AML supervision.

¹ www.sra.org.uk/sra/how-we-work/reports/aml-risk-assessment.page

² www.gov.uk/government/publications/national-risk-assessment-of-money-laundering-and-terrorist-financing-2017

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- 11 OPBAS considers that we could be doing more to examine and assess firms' AML controls and how well they are mitigating money laundering risks. Our AML supervision programme does include some assessment of firms' policies, procedures and controls, but we do not currently make a formal assessment of their effectiveness or feed this information back into the firm's risk rating. We have looked at options for collecting information about what structures firms have in place to mitigate AML risk.
- 12 We will introduce a rating system that will allow us to formally assess a firm's systems and controls, which can be fed into the firm's AML risk assessment. The form we use when we undertake face to face visits to a firm already contains an assessment of the essential AML-relate systems and controls that we would expect a firm to have in place, however we will add further questions on screening employees and whether those deemed significant persons under the Money Laundering Regulations have been approved by the SRA. Each of the systems and categories will be rated and the firm will receive an overall AML mitigation rating of compliant, partially compliant or non-compliant. As described above, the mitigation rating will then feed into that firm's AML risk rating.
- 13 We will implement this approach from 1 January 2019.
- 14 As expected, during the visit OPBAS expressed a lot of interest in the SRA/TLS relationship. In our findings letter, OPBAS expressed concern about us operating a separate phone line to TLS providing advice on AML issues. OPBAS suggest that there needs to be a protocol in place which is clear and workable to decide which organisation provides advice on AML. The Board considered this issue at its September meeting.
- 15 If callers are seeking to rely on advice, it is crucial that it is correct and in line with our supervisory approach, particularly if we subsequently decide to pursue disciplinary action against the individual or firm. We are in discussion with TLS on this point.
- 16 We plan to review how well the changes we make as a result of the OPBAS findings are working after 12 months, in January 2020. We are also planning a full review of our AML programme in June 2019, two years on from the implementation of the most recent money laundering regulations.

Recommendation: the Board is asked to agree the proposed adjustments to our AML supervision programme.

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Supporting information

Links to the Strategic Plan and / or Business Plan

- 17 The Strategic Plan notes that government is challenging the outcomes and impact of regulatory activity in identifying and tackling financial crime and money laundering across all relevant professional services sectors. The Plan notes the impact of OPBAS on our approach to regulation. We have a plan in place to liaise with OPBAS, and to implement the recommendations from their regulatory review.

How the issues support the regulatory objectives and best regulatory practice

- 18 The proposals strive to improve our regulatory approach so that it is more proportionate and targeted, works better for consumers and those we regulate in the increasingly diverse legal services market and which imposes a reduced burden on those we regulate.

Public/Consumer impact

- 19 Efficient AML supervision reduces the risk of terrorist financing and money laundering. An impact assessment formed part of the Treasury consultations into the implementation of the third money laundering directive and the creation of OPBAS. The fees charged by OPBAS will place a financial burden on solicitors through the practicing certificate fee, and these higher costs may be passed on to consumers. Poorly implemented AML regulation has the potential to place burdens on consumers wishing to access legal services, for example through overly prescriptive ID checks.

What engagement approach has been used to inform the work and what further communication and engagement is needed

- 20 There are several stakeholder groups that are affected by the issues within this paper. We work closely with Treasury, the Home Office, the National Crime Agency, the Financial Conduct Authority and other legal services supervisors. The Law Society is another important stakeholder, as it is named in the money laundering regulations as supervisor for solicitors. It is particularly important that we engage with firms offering services that fall within the scope of the regulations. We have in place an overarching communications plan on AML.

What equality and diversity considerations relate to this issue

- 21 There are no specific EDI implications relating to the issues addressed in this paper. EDI implications will be considered within each AML workstream through reports to the AML Programme Board as proposals are developed.

How the work will be evaluated

- 22 OPBAS will continue to monitor our efficiency as an AML supervisor, and may choose to make public any areas in which supervisors are not performing

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effectively. OPBAS can also make a recommendation to Treasury that a professional body should no longer be permitted to be an AML supervisor. We plan to review how well the changes we made as a result of the OPBAS findings are working after 12 months, in January 2020. We are also planning a full review of our AML programme in June 2019, two years on from the implementation of the most recent money laundering regulations.

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Annexes	
Annex 1	OPBAS Findings Letter