

## 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 25<sup>1</sup> 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).

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. In this update, 'we' refers to HMT and OPBAS.

#### 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 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 attendees confirmed would be beneficial to include; and (2) suggested inclusions, on which there was no consensus but which we consider it would be useful for PBSs to consider including where appropriate. The examples given are non-exhaustive.

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 should coincide with the financial year, which also aligns with the reporting period for the HMT Annual AML Questionnaires. This means the reporting period for the first annual report will be **6 April 2020 – 5 April 2021**.

We expect all PBSs to publish their annual reports on their websites, and to send a link to both OPBAS and HMT, no later than **1<sup>st</sup> November 2021**.

While we accept that PBSs have a broader remit than anti-money laundering (AML) and counter terrorist financing (CTF), we expect the annual report to 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 the first annual reports, OPBAS and HMT will review the reports and consider their effectiveness and consistency in light of this update. We will then consider whether formal guidance is appropriate.

If you have any questions regarding this update please do not hesitate to contact us at [OPBAS.info@fca.org.uk](mailto:OPBAS.info@fca.org.uk).

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<sup>1</sup> 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	Suggested Inclusions
<ul style="list-style-type: none"> <li>• Include a foreword from your Council or relevant oversight committee</li> </ul>	<ul style="list-style-type: none"> <li>• Use graphs or visual aids to illustrate your supervision, enforcement and regulatory action statistics where appropriate</li> </ul>
<ul style="list-style-type: none"> <li>• Describe your remit and role in the AML/CTF supervisory landscape</li> </ul>	<ul style="list-style-type: none"> <li>• Provide case studies to contextualise the supervision, enforcement and regulatory action statistics if appropriate</li> </ul>
<ul style="list-style-type: none"> <li>• Outline the demographic of your supervised population (for example, the number of sole practitioners, firms and beneficial owners, officers or managers (BOOMs))</li> </ul>	<ul style="list-style-type: none"> <li>• Provide an overview of the risk profiles of your supervised population (for example, the proportion that you consider high, medium and low risk)</li> </ul>
<ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>○ reporting actual or suspected breaches of the MLRs;</li> <li>○ customer due diligence (CDD);</li> <li>○ reporting suspicions (SARs);</li> <li>○ record keeping; and</li> <li>○ policies and controls</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 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)</li> </ul>
<ul style="list-style-type: none"> <li>• Outline the key themes you identified from your supervision during the reporting period (for example, highlighting common weaknesses among your population)</li> </ul>	<ul style="list-style-type: none"> <li>• Outline actions you have taken in response to inadequacies or quality concerns identified in the SARs submitted by your supervised population</li> </ul>
<ul style="list-style-type: none"> <li>• Give an overview of compliance levels with statistics describing the type and number of measures you've taken, for example: <ul style="list-style-type: none"> <li>○ Supervision, such as number of visits and desk-based reviews and their outcomes;</li> <li>○ Enforcement, such as fines or licence restrictions imposed; and</li> <li>○ 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</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 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)</li> </ul>
<ul style="list-style-type: none"> <li>• 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</li> </ul>	
<ul style="list-style-type: none"> <li>• Link to relevant supervisory resources (for example, the UK National Risk Assessments, approved sector guidance and guidance from other relevant sources, such as the National Crime Agency (NCA))</li> </ul>	
<ul style="list-style-type: none"> <li>• Include your assessment of emerging money laundering or terrorist financing threats and trends in your sector over the reporting period</li> </ul>	
<ul style="list-style-type: none"> <li>• Look ahead to the next supervision year and your areas of focus (for example, how you will consider lessons learnt and implement changes and/or improvements in your supervision strategy)</li> </ul>	