

## **Legal Sector Intelligence Sharing Expert Working Group**

### **Terms of Reference**

#### **1. Purpose and scope**

- 1.1 The purpose of the Legal Intelligence Sharing Expert Working Group (Legal ISEWG) is to advance and improve intelligence and intelligence-related information sharing between legal sector professional body supervisors (PBSs), anti-money laundering (AML) statutory supervisors and law enforcement agencies.
- 1.2 The Legal ISEWG plays a vital role in helping to detect, disrupt and prevent money laundering (ML) and terrorist financing (TF). The Legal ISEWG exists to collectively promote and facilitate a strong working relationship between Legal PBSs and law enforcement agencies through the Joint Money Laundering Task Force (JMLIT), improving trust, knowledge of how each organisation operates and establishing a greater common understanding of ML/TF threats in the legal sector.
- 1.3 The Legal ISEWG has **2** distinct elements and purposes, which are set out below.

#### **Strategic Intelligence Sharing**

- 1.4 The strategic intelligence sharing element is the core of the Legal ISEWG. It will be responsible for:
  - Using intelligence to develop a common understanding of emerging and existing ML/TF threats and risks in the legal sector and the associated systems & controls required to mitigate them.
  - Supporting the delivery of the outcomes relevant to the legal sector defined in the UK Economic Crime Plan and National Risk Assessment.
  - Developing education and awareness products that help identify behaviours and typologies for use by legal PBSs, their regulated persons and law enforcement (for example, developing alerts from risks identified during the tactical intelligence sharing sessions and redrafting JMLIT alerts to be more relevant to the legal sector).
  - Providing intelligence themed information and products which can be cascaded to relevant people within the main and associate member organisations of the Legal ISEWG (see section 2 for membership).
  - Identifying and promoting best practice to counter the threats of ML and/or TF identified through collective knowledge sharing and expertise.
  - Recommending enhancements to existing PBS and law enforcement intelligence related processes, practices, systems and controls.

#### **Tactical Intelligence Sharing**

- 1.5 The tactical intelligence sharing element of the Legal ISEWG is intended to:

- Support and develop high quality live intelligence sharing between law enforcement, the legal PBSs, and other statutory AML supervisors. A tactical intelligence sharing session may also include a relevant third-party organisation.
  - Tactical intelligence sharing sessions will be held outside of the main strategic session and enable participating parties to share intelligence relating to an ongoing investigation in a confidential and secure manner. If the intelligence is related to more than one legal PBS or statutory AML supervisor, then the session should include all relevant parties.
- 1.6 Tactical intelligence sharing sessions may follow the strategic session of the Legal ISEWG. However, tactical sessions may also be convened at any time where there is a wish to share live intelligence. While these are not a requirement, members of the Legal ISEWG should work together to deliver and promote the benefits of live intelligence sharing.
  - 1.7 A tactical intelligence sharing session might be any combination of law enforcement, Legal PBS(s), a statutory AML supervisor and/or a relevant third-party organisation as appropriate. Tactical intelligence sharing sessions can be held via any appropriate legislative intelligence sharing gateway. Members of the Legal ISEWG are responsible for satisfying themselves regarding the suitability of any legislative sharing gateway.
  - 1.8 Members of the Legal ISEWG are responsible for determining, on a case by case basis, what intelligence and/or intelligence-related information they can exchange or disclose to other members, in accordance with the work and role of the Legal ISEWG.
  - 1.9 Following a tactical intelligence sharing session, participants will feedback to the rest of the Legal ISEWG members on an anonymised basis at the next strategic intelligence sharing session so that lessons can be learnt, risks can be identified and the process of sharing information can be improved.
  - 1.10 PBS members participating in a tactical session agree not to take any internal action on the intelligence shared with them unless there is a regulatory risk to the public. If a member determines that a risk has arisen, a discussion must be had between the relevant member parties to agree next steps and further actions. Matters discussed relating to a member's confidential information will be held in confidence and will not be discussed or disclosed to third parties without the express agreement of the relevant ISEWG member.
  - 1.11 Intelligence shared with the National Economic Crime Centre (NECC) and/or HM Revenue and Customs (HMRC) during a tactical session may be used in the discharge of their statutory functions. The NECC and/or HMRC agree that the source of intelligence will be kept confidential and that should a prosecuting authority require the intelligence as evidential information the proper legal disclosure requests will be made.

#### Intelligence sharing outside of the Legal ISEWG

- 1.12 Should relevant tactical intelligence be shared outside of the Legal ISWEG, members should have regard to the aims and the outputs of the Legal ISEWG and consider paragraphs 1.10 and 1.11.

## 2. **Inputs and Outputs**

- 2.1 Agenda items for a strategic session of the Legal ISEWG will be collated and agreed by the Chairperson and will be circulated to members in advance of the meeting.
- 2.2 Standing agenda items should include:
  - An update on minutes and actions from previous strategic session.
  - Discussion on emerging threats or themes members are seeing in their AML supervisory work.
  - Anonymised discussion on relevant referrals to the NECC or law enforcement related to the legal sector.
  - Feedback of previous tactical intelligence sharing sessions and resulting actions.
- 2.3 All members wishing to raise an agenda item are requested to submit a summary of what they wish to raise at the strategic intelligence sharing session to the Chairperson, no later than 2 weeks before the date of the next Legal ISEWG.
- 2.4 Additional papers may be circulated with the agenda for the strategic session of the Legal ISEWG, dependent on the agenda.
- 2.5 These Terms of Reference should be reviewed by the members at the end of every financial year (April – March).

## 3. **Membership and Chair**

- 3.1 There are two membership categories for the Legal ISEWG: Main and Associate.

### Main members

- 3.2 Main members of the Legal ISEWG will be made up of:
  - Nominated representatives from the supervisory legal PBSs;
  - Representatives from the NECC;
  - Representatives from Office for Professional Body Anti-Money Laundering Supervision (OPBAS);
  - Representatives from the Financial Conduct Authority (FCA) intelligence department; and
  - Representatives from HMRC.
- 3.3 Main members are responsible for determining when it will be beneficial for their organisation to attend strategic meetings of the Legal ISEWG. Non-attendees will be able to access information which is agreed to be cascaded back through the Legal Sector Affinity Group (LSAG). Larger PBS's should aim to be represented at all meetings of the Legal ISEWG.
- 3.4 Alternative delegates attending a strategic session of the Legal ISEWG on behalf of a standing representative member must have the authority to make decisions on their behalf if required.
- 3.5 The Chairperson of the Legal ISEWG will monitor attendance levels at the strategic meetings. Where the Chairperson notes regular non-attendance by a PBS, and feels

that this is detrimental to the successful delivery of the purposes of the Legal ISEWG, the Chairperson is responsible for discussing this matter with the relevant PBS. In exceptional circumstances, the Chairperson can ask the membership to vote on removing the organisation from the Legal ISEWG.

#### Associate members

3.6 Associate members are:

- Nominated representatives from the Law Society, Bar Council of England and Wales and Chartered Institute of Legal Executives.
- Legal supervisory PBSs that choose to not be main member

3.7 Associate members of the Legal ISEWG are not required to attend a strategic intelligence sharing session. However, they may wish to or may be asked by the Chairperson to attend. Associate members will be entitled to receive minutes and outputs of the matters discussed at the strategic intelligence sharing sessions, including the anonymised feedback from a tactical session.

3.8 They are also able to request agenda items if they consider the Legal ISEWG an appropriate forum to discuss their item. Supervisory associate members will be required to attend a tactical intelligence sharing session if the intelligence is related to their organisation.

3.9 All members must commit to actively and positively contributing to the Legal ISEWG's purpose, objectives and outputs where appropriate.

3.10 The nominated representative(s) that attend a Legal ISEWG meeting must be appropriately skilled and experienced employees of the organisation they are representing. To support building broader knowledge and expertise across the legal sector, the nominated representative(s) should have ability to disseminate knowledge and outputs generated by the Legal ISEWG within their respective organisations.

3.11 All members of the Legal ISEWG (including the Chairperson) will remain employees of their own organisation and be subject to their organisation's policies and processes.

#### New Members

3.12 Expressions of interest to become a new member of the Legal ISEWG should be submitted to the Chairperson of the Legal ISEWG and will be considered and voted on by all members, using the process set out in Section 5.

#### Third party attendees

3.13 Third party representatives from relevant organisations such as: UK Law Enforcement units, HM Treasury, Government departments, other non-legal supervisors and oversight bodies, such as the Insolvency Service, may also attend a strategic session of the Legal ISEWG on an ad hoc basis, upon invitation by the Chairperson.

3.14 Relevant third-party representatives may also attend a tactical intelligence sharing session with the consent of the participating members. A third-party attendee in a

tactical intelligence sharing session will be subject to the confidentiality requirements in these terms of reference and may wish to attend the relevant feedback section of a strategic intelligence sharing session following a tactical session.

#### Election of Chairperson and deputy

- 3.15 In year 1, to support the establishment and development of the Legal ISEWG, the Chairperson and deputy will be a representative from OPBAS. For year 2 and onwards, the Chairperson of the Legal ISEWG will be elected (for a period to be agreed/reviewed annually by the Legal ISEWG) by the members, based on voting using the process outlined below. For the purposes of clarity, an ordinary year term for the Chairperson and deputy is based on the financial year starting in April.
- 3.16 Due to Covid-19 and the UK lockdown, the handover of the chairmanship for year 2 was delayed. Effective immediately from 1 August 2020, the Chairperson and deputy of the Legal ISEWG will be representatives from the Law Society of Scotland. Their term will run until April 2021 when the members will elect a new Chairperson in line with paragraph 3.15 above.
- 3.17 Potential candidates for Chairperson must be a main member of the Legal ISEWG. In the event of more than 1 person being proposed, all members will decide between the nominees by casting a vote, as set out in Section 5.
- 3.18 If the Chairperson leaves their organisation, or otherwise resigns the position, the deputy will take over the role of Chairperson. They will remain in place until the Legal ISEWG chair position is due to be re-opened. In these circumstances, the temporary Chairperson can appoint a deputy, if appropriate.

#### Vetting and secure information transfer

- 3.19 All members of the Legal ISEWG must meet the minimum-security vetting and information security requirements of the NECC. This will be set out by the NECC in a separate document. As a minimum each member, main or associate, is required to have at least 2 employees obtain and maintain the relevant security clearance. This allows for delegate cover for annual leave etc.

#### Confidentiality

- 3.20 All members participating in either the strategic and/or the tactical sessions of the Legal ISEWG, agree that matters discussed relating to a member's confidential information will be held in confidence and will not be discussed or disclosed to third parties without the express agreement of the relevant ISEWG member.
- 3.21 All members undertake to disclose any breaches of confidentiality relating to the Legal ISEWG to the Chairperson as soon as possible.
- 3.22 Participants in a tactical session further agree that any electronic intelligence and related correspondence will be held safely and securely, with appropriate protective markings. It should only be shared wider within a member's organisation where relevant and appropriate to do so.

#### Conflicts of interest

3.23 All members of the Legal ISEWG are responsible for raising any conflicts of interest they may have in relation to matters to be discussed at a strategic or tactical session. The conflict will be recorded in the minutes and the relevant member will take such actions as deemed appropriate by the Chairperson, including excusing themselves from participation in a discussion and/or meeting.

#### **4. Meetings**

4.1 The strategic intelligence sharing session of the Legal ISEWG will aim to meet quarterly with at least 4 meetings annually. In the event of an emerging threat, risk or issue that requires immediate action, an additional strategic session of the Legal ISEWG can be convened on an ad-hoc basis.

4.2 The Chairperson of the Legal ISEWG is responsible for organising the strategic meetings, sourcing a suitable location for the meetings, seeking input into the agenda, cascading the agenda and chairing the strategic intelligence sharing meeting.

4.3 OPBAS are responsible for coordinating any tactical sessions between members of the Legal ISEWG. However, they are not required to attend the session unless invited by the relevant participants.

4.4 A main member may be delegated by the Chairperson to take responsibility for accurately drafting and cascading the minutes and actions points from a strategic intelligence sharing session of the Legal ISEWG.

4.5 The Chairperson is responsible for circulating the draft minutes of the strategic intelligence sharing session to attending members for comment within 10 working days of a meeting. Attending members will have a further 10 working days to provide any comments which will be incorporated by the Chairperson.

4.6 The Chairperson will be responsible for circulating the finalised minutes of the strategic intelligence sharing session to all members of the Legal ISEWG.

#### **5. Voting and decision making**

5.1 Voting may be necessary on administrative matters such as Chairing, Chair appointment periods, admission of members, amendments to the Terms of Reference, etc.

5.2 The Legal ISEWG has no budget and cannot commit expenditure on behalf of members.

5.3 The Legal ISEWG cannot take decisions on actions to be taken by the PBSs due to strategic or tactical intelligence received and cannot require any PBS to change its AML/Financial Crime strategy, supervisory approach, policies, procedures or control environment. These matters remain the responsibility of individual PBS's who are subject to supervision by OPBAS.

5.4 Quorum for the strategic intelligence sharing session of the Legal ISEWG is achieved where at least 8 members are in attendance.

- 5.5 This is to include representatives or proxies from at least six Legal PBSs, a representative from the NECC and a representative from OPBAS. The Chairperson is responsible for obtaining proxy votes.
- 5.6 The meeting cannot proceed without the Chairperson or appropriate delegate.
- 5.7 Voting on any matter is decided with one vote per member organisation. Decisions will be decided by a majority vote where full agreement is not possible. Voting may be conducted by email.

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