

OPBAS Report on Deficiencies in Anti-Money Laundering Supervision

The Office for Professional Body AML (anti-money laundering) Supervision or **OPBAS** for short, issued its first report on money laundering supervisors in the legal and accountancy sectors at the start of March 2019. The report, in the main, only identifies areas of shortcoming, but unfortunately there appear to be many of these in a sector with 22 different professional body supervisors (PBSs) including ICAEW, ACCA, AAT etc.

Whilst the messages in the report are aimed squarely at the supervisors themselves, it would be naïve to assume that the points will not have an impact on the supervised. Firms of accountants and lawyers will do well to understand the key issues of concern and ensure that their current AML procedures fully comply with the law and regulations. If they do not it will be much more likely in the future that disciplinary action and sanctions will be applied to any shortcomings found and that the supervisors will be more likely to find such shortcomings.

To give you a feel as to the sort of things that might change, it is worth having a look at the key findings of the report. Note that the findings were made by comparing what OPBAS found in their visits to supervisors with their **Sourcebook** (the book of rules that apply to the PBSs). These rules can be summarised as follows and they derive from the **money laundering regulations**:

- Governance
- A risk-based approach
- Supervision
- Intelligence and information sharing
- Information and guidance for members
- Staff training and competence
- Enforcement
- Record keeping and quality assurance

Governance

OPBAS found that 80% of PBSs lacked the necessary governance with respect to the AML supervisory requirements. This means

that senior management was not sufficiently involved; there was insufficient separation of this regulatory task from members' interest or advocacy tasks and there was a lack of appropriate escalation of issues.

Risk-based approach

The entire anti-money laundering regime is a risk-based one and the same should apply to supervisors. More effort should be put into the oversight of higher risk firms than lower risk ones. Unfortunately, OPBAS found some severe shortcomings here with 91% of PBSs not fully complying with these requirements. This means that just 2 out of the 22 PBSs were managing to meet this standard. One of those which did comply had advanced data





analytics and artificial intelligence assisting them, to ensure that activities focussed on the riskier firms under their supervision.

Supervisors will need to act swiftly to ensure that they have the information available to categorise the risk of those that they supervise. As a firm of accountants, you might therefore find that you are being asked all sorts of questions about the AML risk profile of your clients. This will mean you may have to do (if it is not already available) detailed analyses of the risk classification of your clients and probably also the reason for that classification. Questions may be asked about how many clients you have with interests or business in high risk countries, how many are cash businesses, how many are high-net worth individuals and so on. If you currently have no way to collate data on your overall risks then now might be a good time to start considering how you can record this, as it takes some time to put in place new systems such as these.

Supervision

23% of the PBSs undertook no supervision at all. Some of you will therefore have been receiving the ultimate in light-touch supervision for AML. However, this will not continue, as OPBAS's task is to ensure that all supervisors do their job properly. Whilst other supervisors were undertaking their role as such 46% of them linked their activity to their normal practice assurance or other statutory monitoring work. This is not what the legislation requires, which is an AML risk-based approach. You may find in future, that although you are not high risk for audit or practice assurance or the equivalent, you are for AML and you receive more regulatory attention in terms of desk-top and on site reviews of your procedures and their application.

Intelligence sharing

This area is likely to have less direct impact on those that are supervised as it is about the PBSs ensuring they are fully aware of the current risks and issues in money laundering and terrorist financing. They are being encouraged to use available financial crime networks such as Shared Intelligence Service (SIS) and the Financial Crime Information Network (FIN-NET).

Information and guidance for members

Most of the PBSs provided a reasonable range of information for members about their obligations. If you are not yet aware of what is available from your AML supervisor then now would be a good time to look at their website and ensure that you have taken advantage of relevant resources, such as factsheets or webinars.

Staff competence and training

PBSs, as well as those that they supervise, are required to ensure that staff are trained and therefore competent in being able to deal with AML issues. You may be surprised to discover that 80% of PBSs lacked appropriate training and competence programmes. These PBSs will have to work hard and swiftly to ensure that the necessary competences are in place quickly. This may have little initial effect on supervised firms, unless you have currently been finding your PBS unable to answer questions or regulate you in an appropriate manner due to poor training of staff.

Enforcement

OPBAS found that whilst (in most cases) enforcement action could be taken, 86% of PBSs preferred to offer help and guidance rather than enforcement. Given the report overall only focuses on a lack of compliance with the sourcebook we can safely conclude that OPBAS want more enforcement action to be taken. The sourcebook sets out various standards with regard to enforcement including:

“Enforcement action should seek to remove the benefits of non-compliance and deter future non-compliance, but may also be remedial and preventive.”

Complying with the AML regulations can, as we all know, be costly and time-consuming. If any fines or other sanctions are minor in nature it may encourage those supervised to continue with non-compliance on the basis that the cost of this is lower than the

cost of compliance. It is clear to me that OPBAS will not accept a continuance of the current climate and are likely to be expecting more financial penalties, or withdrawals of registration, for those not complying with the rules. At present we do not know exactly how, or how quickly, this may impact firms and of course it will only be relevant for those not complying. However, given the complexities in the regulations, if you have not recently carried out a full review of your procedures and their effectiveness then this might be a good time to start.

Record keeping and quality assurance

OPBAS found that 36% of PBSs had inadequate record keeping procedures and 48% lacked appropriate quality control procedures. Again, this is an area which will be important to address for the PBSs but may have limited impact upon their supervised firms. The requirements within the money laundering regulations also require firms, as well as their supervisors, to have appropriate record-keeping and quality control procedures in place, so don't forget to look at this element when considering your overall AML compliance.

Conclusions

Despite the concern of many that the creation of OPBAS added another, unnecessary layer of regulation (and cost) on the professional sector, the results of the reviews carried out of PBSs does suggest that further oversight is necessary. Of course, what we cannot see from the report is which regulator is doing, or not doing, what, but you will probably have an idea from your own experience of the regulatory activity you see being applied. The message to all accountancy (and legal firms) is that if you have not already ensured full compliance with the **money laundering regulations 2017**, then time is running out before you start encountering tougher action from your supervisor.

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