

# Office for Professional Body Anti-Money Laundering Supervision: Sourcebook update

A consultation issued by the Office for Professional Body AML Supervision (**OPBAS**)

Comments from ACCA

29 September 2022

Ref: TECH-CDR-2020

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## GENERAL COMMENTS

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ACCA is a Professional Body Supervisor (**PBS**) for anti-money laundering (**AML**) in the UK. We welcome the opportunity to provide views on the update to the OPBAS sourcebook that was first issued in January 2018.

The sourcebook is OPBAS's main channel for providing PBSs with guidance on their expectations on how to effectively comply. We welcome the updated sourcebook as it provides further clarity and detail on OPBAS's expectations.

We are supportive of the proposals to expand guidance providing examples of the outcomes which can demonstrate effective supervision, as well as the inclusion of examples of practice that OPBAS deems as more or less effective.

However, we have identified some areas of concern in respect of the content in 'Chapter 6 – Information and Intelligence Sharing'. These areas reflect the issues that were previously raised by the Accountancy AML Supervisors Group (**AASG**) in February 2022 with OPBAS following the draft publication of the 'Intelligence and Information Sharing – Good Practice' note that was developed after the workshops held in November 2021 and December 2021. These concerns are highlighted in our responses to the question raised where appropriate.

As a general comment across the sourcebook, ACCA is of the view that references to 'members' throughout would be more consistent with terminology used by the PBSs and it would be more appropriate if the terms 'supervised firms' or 'supervised population' were adopted.



## AREAS FOR SPECIFIC COMMENT

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**Q1. Do you agree that we should add the new chapters we have proposed to the OPBAS sourcebook? If not, please explain why. Is there different content you think we should include?**

ACCA supports the inclusion of the new chapters (chapter 2 and chapter 11) proposed in the sourcebook.

In chapter 2, we welcome the clarity provided in the 4-point scale on the assessment of effectiveness. In addition, we welcome the recognition that building consistency is not about all PBSs doing the same things, but it is about the standard and level of effectiveness achieved.

Whilst chapter 2 provides guidance on OPBAS's role in ensuring a high standard of supervision, ACCA believes that it would benefit from the inclusion of a section that provides detail on OPBAS's second key objective on facilitating collaboration and intelligence sharing, as this is not included in the draft.

We welcome the formalisation of the previous guidance on reporting requirements into chapter 11.

**Q2. Do you agree that we have identified appropriate outcomes for chapters 3 to 11 of the sourcebook? If not, what outcomes do you think we should include?**

ACCA welcomes the inclusion of outcomes indicating more effective practice.

As a general comment across the outcomes for all chapters, ACCA is of the view that references to 'members' throughout would be more consistent with terminology used by the PBSs and it would be more appropriate if the terms 'supervised firms' or 'supervised population' were adopted.

ACCA has no further specific comments in relation to the outcomes for chapters 3, 4, 5, 7, 8, 10 or 11.

In respect of chapter 6 – Information and Intelligence Sharing, AASG feedback was provided in February 2022 on the proposed content of the update note produced by OPBAS following workshops held. We note that the content of the note appears to have been transferred into the



sourcebook update without many of the areas raised being addressed. For example, there is a reference to uploading Suspicious Activity Reports (**SARs**) filed with the National Crime Agency (**NCA**) to SIS, but this was not something that was agreed at the workshop. All in attendance expressed concerns over this requirement and feedback was provided. The understanding was that OPBAS would seek further engagement with the NCA on this issue around concerns expressed such as tipping off risks and the potential additional reporting requirement in addition to the SAR that this created. ACCA would welcome further engagement on the content of this chapter.

In respect of chapter 9 – Enforcement, ACCA suggests that another factor that could be considered as further evidence of a PBS being more effective would be agreed and published disciplinary sanctions guidance for AML breaches/non-compliance.

**Q3. Do you have any comments on our proposed changes to the existing chapters of sourcebook? If so, what do you think we should change in:**

**a. Chapter 3 (Governance)?**

ACCA acknowledges the proposed inclusion of text in respect of a Single Point of Contact (**SPOC**) being appointed to maintain oversight of supervisory activities and we agree with this proposal. However, we are of the opinion that the text in paragraph 3.11 stating that the SPOC should be ‘preferably at board level or equivalent’ is not a proportionate requirement.

ACCA believes that it has robust oversight arrangements through its specific AML Supervisory Team where the role of SPOC is held by the Head of the team who is not a member of a board. This allows the SPOC to have specific AML knowledge and understanding to be able to discharge the role effectively whilst maintaining a level of seniority. The role has a direct reporting line into the Director of Practice Regulation (and in turn to the Executive Director – Strategy and Governance) so has further direct senior management oversight and engagement. The Director of Practice Regulation and Head of AML attend the quarterly update engagement calls with OPBAS. In addition, the AML Supervisory Team is subject to oversight of its performance by ACCA’s independent Regulatory Board. The Regulatory Board is tasked with providing oversight over ACCA’s regulatory arrangements and plays a critical role in safeguarding the public interest and in delivering public value. This in turn contributes to ACCA’s purpose to be a force for public good. The Regulatory Board takes very seriously its role in overseeing ACCA’s regulatory activities, including ACCA’s responsibility as an AML supervisor in the UK, and safeguarding the public interest.



**b. Chapter 4 (A risk-based approach)?**

ACCA has no further specific comments.

**c. Chapter 5 (Supervision)?**

ACCA has no further specific comments.

**d. Chapter 6 (Information and intelligence sharing)?**

ACCA believes that the issues and feedback that were previously raised and documented by the AASG in February 2022 to OPBAS following the draft publication of the 'Intelligence and Information Sharing – Good Practice' note have not been incorporated into chapter 6.

ACCA has the following specific comments but would welcome further engagement and discuss in relation to this chapter.

- Paragraph 6.1: ACCA is concerned that, following the workshop held in November 2021 (SIS) and December 2021 (FIN-NET), PBSs are still awaiting further clarity from OPBAS with consistent guidance on the thresholds that should be incorporated into our internal policies and procedures. The basis of the workshops was to provide PBSs with this clear guidance. Although feedback was provided by the AASG, this was not included in the subsequent update note of February 2022, nor has it been included within the updated chapter 6 of the sourcebook.
- Paragraph 6.3: ACCA believes that the reference used for 'misconduct investigations' being shared is not correct. At the workshops the action that all PBSs agreed should be included was *'Share information on all concluded AML/CTF related cases with disciplinary sanctions via SIS, FIN-NET or other effective mechanism following all relevant appeal processes.'*

ACCA also believes that somewhere within the sourcebook there should be a recognition that PBSs are hampered by their inability to engage proactively with law enforcement. PBSs engage proactively through mechanisms such as the forums we attend. However, receiving reciprocal engagement back from law enforcement is challenging and inconsistent. This is not something PBSs (despite our best endeavours and engagement over the years) can resolve unilaterally and we require OPBAS to take ownership and facilitate this. Similarly, there are other areas, such as Companies House, where intelligence sharing from them to PBSs will add value and help in the identification of those that may be facilitating financial crime, however currently this does not happen. Further to our comments in respect of



adding content in chapter 2 on OPBAS's key objective of facilitating collaboration and intelligence sharing, we believe that may be the most appropriate section to address this issue.

- Paragraph 6.6: ACCA believes that the sourcebook should describe what SIS and FIN-NET are. The sourcebook must be clear for those that are not familiar with the platforms that SIS is a database holding flags for potentially thousands of pieces of intelligence, and that only supervisors have access (not law enforcement or HMRC) and it will therefore not improve or facilitate information/intelligence sharing with law enforcement. FIN-NET is an exercise where you cascade information out to FIN-NET members about specific cases to seek any information and intelligence they may hold to help assist in your own investigation.

ACCA believes that the sourcebook should also reference that both SIS and FIN-NET are subscription/membership services that are owned/facilitated by FCA, with an indication of the costs involved for the PBSs that subscribe. It should also clarify that FIN-NET membership is dependent on an application process and other members accepting the application.

- Paragraphs 6.7 and 6.8: ACCA would welcome further discussion on the requirements included in these paragraphs for using SIS and FIN-NET. A number of the actions detailed represent requirements that were not agreed at the workshops in November and December 2021 and on which the AASG provided feedback in February 2022. For example, following the workshops it was agreed that uploads of concluded investigations would only be those relevant to AML/CTF risk issues, however the sourcebook just mentions 'concluded investigations' which represents a much wider requirement. In addition, the sourcebook makes reference to searching during a membership application on SIS. However, it was agreed at the SIS workshop in November 2021 that this is not a practical requirement. We do not believe that SIS could manage the volume of requests this requirement would generate and it is not a proportionate requirement. It was agreed at the workshop that SIS would be used for searches during our supervisory activities, such as on a firm subject to an AML compliance review.

ACCA also notes that not all bodies are members of SIS and/or FIN-NET and there is no clarity on expectations of how those bodies will make use of other systems or meet the requirements outlined in the sourcebook for SIS and FIN-NET.

- Examples of more effective practice: ACCA believes that the example *'Builds and utilises contacts available through membership of sharing platforms, including SIS or FIN-NET, leading to effective intelligence and information sharing in the legal and accountancy*



sectors' should also include other forums. For example, forums such as the AASG, ISEWG or the PPTGs that PBSs attend are a key part of network building and should be reflected here. ACCA would also note that the onus should not be placed solely on PBSs. As highlighted earlier, our experience is that we engage and are willing to share intelligence, but it remains challenging to get law enforcement to engage reciprocally with PBSs.

- Examples of less effective practice: ACCA believes that the example '*Information is only shared about completed investigations, thereby failing to contain the risk of different organisations' active investigations conflicting and preventing timely action.*' contradicts what was agreed as good practice at the workshop in November 2021 and was initially in the OPBAS update note of February 2022.

ACCA would welcome further engagement on the content of this chapter.

#### **e. Chapter 7 (Information and guidance for members)?**

ACCA has no further specific comments.

#### **f. Chapter 8 (Staff competence and training)?**

ACCA has no further specific comments.

#### **g. Chapter 9 (Enforcement)?**

ACCA has no further specific comments in addition to the suggestion in Q2 above.

#### **h. Chapter 10 (Record keeping and quality assurance)?**

ACCA has no further specific comments.

#### **i. All Chapters**

As a general comment across the sourcebook, ACCA is of the view that references to 'members' throughout would be more consistent with terminology used by the PBSs and it would be more appropriate if the terms 'supervised firms' or 'supervised population' were adopted.





**Q4. Do you agree with our analysis of costs in Annex 2 of this consultation? If not, please explain why, providing evidence of costs where possible.**

ACCA notes the estimated resource figures in Annex 2.

The estimated cost of additional staff quoted of £60,000 per individual does not include additional costs of staff members such as pension contributions, relevant IT equipment etc. The cost of additional staff is also dependent on the market at the time recruitment is conducted. The salary will vary dependent on the role being filled and the skill set required to ensure that it complements the existing skills across the team and effectively fills any resource gaps.

Whilst we have no objection to the costs used in Annex 2 as a broad figure, depending on the role ACCA is filling, it is likely that the actual costs will vary and may be higher than projected. More generally, any change, however small, will have cost implications for policies, procedures and staff training, and so should only be made if it is necessary and proportionate to do so.

Our salaries are subject to regular benchmarking exercises to ensure we remain competitive and salaries reflect the appropriate market rates.

