

Recovering the costs of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS): further consultation on fees structure

Consultation paper CP19/13 Published by the Financial Conduct Authority (FCA)

Comments from ACCA
April 2019
Ref: TECH-CDR-1819

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Tech-CDR-1819

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GENERAL COMMENTS

1. ACCA welcomes the opportunity to respond to this consultation. We are grateful that the FCA has recognised many of ACCA's views in paragraph 2.18 of the consultation paper. We believe that the arguments retained in favour of the 'minimum fee structure' have been overplayed, and there is no reasonable and fair justification for capping the OPBAS fees for all those Professional Body Supervisors (PBSs) with fewer than 6,000 beneficial owners, officers and managers (BOOMs).
2. We note that the FCA remains of the view that '6,000 individuals is a reasonable point at which to set the minimum fee threshold'¹ if such a threshold were to be implemented. We strongly disagree with this, and it is clear from the consultation paper that the only reason for such a high threshold would be for the larger PBSs to subsidise the smaller ones. For example:
*'If we reduced the threshold, there could be concerns about the viability of some of the smaller PBSs brought into variable fees. We concluded that 6,000 remained a reasonable point to draw the line and confirmed the minimum fee structure.'*²
3. Within the consultation paper, there remains a strong focus on which PBSs will be better off or worse off under each model. This is despite an acknowledgement that:
*'When [the FCA] discussed where to set the threshold in CP18/32, [it] had been too concerned with which PBSs would benefit or be disadvantaged by moving it and less concerned about the overall fairness or proportionality of the methodology.'*³
4. Paragraph 2.2 of the consultation paper gives the impression that it is important to the FCA that there is no cross-subsidy between fee blocks. It specifically states that 'The costs and cost-recovery of fee-blocks D1 and D2 are ring-fenced, so there is no cross-subsidy.'⁴ Therefore, there can be no justification for the subsidy of some PBSs by others, and OPBAS's costs must be recovered, as far as practicable, from those PBSs in respect of which those costs are incurred.
5. We note the FCA's conclusion that 'We do not have sufficient evidence to assess the impact that removing the threshold would have on PBSs and the individuals

¹ CP19/13, page 4

² CP19/13, page 6

³ CP19/13, page 7

⁴ CP19/13, page 5



they supervise' and that the consultation paper is seeking such evidence.⁵ We presented a number of different scenarios in our response to consultation paper CP18/32 (available [here](#)), published by the FCA in October 2018, and we have adopted a similar approach in responding to the current consultation.

6. There remains confusion around the terms 'minimum fee' and 'minimum fee threshold', and the proposal to 'remove the minimum fee structure'. Clearly, the proposal is to retain a minimum fee of £5,000, but remove the maximum fee cap (also £5,000) that would otherwise apply to the vast majority of PBSs. We are in favour of removing this cap, and remain firmly of the view that there is no logical rationale for such a cap other than to require the larger PBSs to subsidise the smaller ones. This is contrary to the principle of fairness (often acknowledged by the FCA), especially in light of the fact that the fees of each PBS must be passed on to their supervised population.
7. The calculation of £20.59 per person is not explained, although paragraph 3.3 states 'Removing the threshold sets the fee-rate at £20.59 per individual'.⁶ If the total funding requirement is £1,650,000, this suggests a supervised population of 80,136. Appendix 1 illustrates how the funding requirement would be met, and it would appear that there would be a surplus recovered of £11,805.
8. While we strongly support the model now being proposed, ACCA has always maintained that a fairer distribution of costs would entail the allocation of fixed and variable costs. If it is accepted that the minimum fee should be £5,000 then, presumably, this must equate to the fixed cost of PBS oversight. Each individual supervised by a PBS potentially increases the cost of OPBAS oversight (although it might be assumed that there are also economies of scale). Appendix 2 illustrates the allocation of the funding of OPBAS when the fixed costs of OPBAS oversight are acknowledged, leaving a variable cost per individual of £19.22.

⁵ CP19/13, page 4

⁶ CP19/13, page 10



AREAS FOR SPECIFIC COMMENT

In this section, we respond to the specific question asked by the FCA in Annex 1 to the consultation paper.

Do you agree that we should remove the minimum fee structure and charge all PBSs a flat rate of £20.59 per supervised individual, subject to a minimum charge of £5,000? Please support your view with evidence demonstrating the impact on the viability of professional body supervisors and on the individuals they supervise.

9. We strongly agree that the threshold of 6,000 BOOMs should be removed. However, we would prefer the £5,000 minimum charge to be treated as recognition that there is a fixed cost of OPBAS's oversight of a PBS. We have always asserted that the allocation of OPBAS's costs must be based on the costs of oversight of each professional body. In order to achieve this, it must be acknowledged that there is a fixed cost of overseeing a PBS, regardless of the number of BOOMs within the supervised population. In addition, there will be costs that vary according to the number of BOOMs. These costs do not increase linearly with the increase in BOOMs. Instead, the costs relate to the assessed risks relating to each PBS, and the larger PBSs are likely to have more established procedures and economies of scale.
10. The impact of the proposed flat rate of £20.59 per BOOM is set out in Appendix 1. The impact of ACCA's preferred model, whereby the minimum fee of £5,000 is recognised as a fixed cost of OPBAS oversight, is set out in Appendix 2.
11. Paragraph 1.13 of the consultation paper states that the FCA welcomes comments on equality and diversity considerations, although Annex 1 does not include a specific question in this respect. We should like to highlight the fact that a fee basis that is not based on the costs incurred in overseeing the AML supervisory activities of each PBS will not be regarded as treating all relevant persons within those PBSs equally or fairly.



CONCLUSION

12. We are pleased to see the FCA proposing a move away from the 6,000 threshold, as this figure is arbitrary, and would deliver unfair outcomes. We do not accept the explanation given in the second bullet point of paragraph 2.22 of the consultation paper, which only focuses on how costs can be moved away from the smaller PBSs to the three largest.⁷
13. The fairest allocation of OPBAS's costs would be to allocate the fixed costs (say, £110,000) equally between the 22 PBSs, and then charge a variable amount per BOOM. Although this would not recognise the benefits of scale and experience of the larger PBS's, we believe this would be the best model, as it would be an approximation to the oversight costs incurred by OPBAS, and would not be unduly complicated to implement.

⁷ This paragraph claims that the level of the threshold would be reasonable 'because it falls midway between the smallest of the large PBSs (8,241 individuals) and the largest of the small PBSs (4,155 individuals). ... We have considered alternative thresholds. If the threshold is reduced to 3,000 individuals, the 3 current fee-payers still pay 94% of the costs. Only a fall to 1,000 individuals makes a significant reduction in their share (77%). At this level, we have concerns about the viability of some of the smaller PBSs brought into the payment of variable fees.'



APPENDIX 1

The following table illustrates how OPBAS costs would be recovered from each of the PBSs, based on the proposals within the consultation paper.

Professional Body	Supervised individuals	£ total	£ per head
Association of Accounting Technicians (latest estimate)	4,100	84,419	£20.59
Association of Chartered Certified Accountants	8,803	181,254	£20.59
Association of International Accountants	366	7,536	£20.59
Chartered Institute of Legal Executives/ CILEx Regulation	19	5,000	£263.16
Chartered Institute of Management Accountants (latest estimate)	2,000	41,180	£20.59
Council for Licensed Conveyancers	494	10,171	£20.59
Faculty of Advocates	431	8,874	£20.59
Faculty Office of the Archbishop of Canterbury	212	5,000	£23.58
General Council of the Bar of Northern Ireland	1	5,000	£5000.00
Insolvency Practitioners Association	166	5,000	£30.12
Institute of Certified Bookkeepers	3,377	69,532	£20.59
Institute of Chartered Accountants in England and Wales	20,959	431,546	£20.59
Institute of Chartered Accountants in Ireland	798	16,431	£20.59
Institute of Financial Accountants (latest estimate)	2,561	52,731	£20.59
International Association of Bookkeepers	763	15,710	£20.59
Law Society / Solicitors Regulation Authority	25,771	530,625	£20.59
Law Society of Northern Ireland	1,075	22,134	£20.59
Law Society of Scotland	2,583	53,184	£20.59
	74,479	£1,545,327	
Unaccounted for (4 PBSs)	<u>5,657</u>	<u>£116,478</u>	£20.59
Totals	<u>80,136</u>	<u>£1,661,805</u>	



APPENDIX 2

The following table illustrates how OPBAS costs would be recovered from each of the PBSs if the fixed costs of OPBAS oversight were paid by every PBS in addition to a variable cost of £19.22 per supervised individual.

Professional Body	Supervised individuals	£ total	£ per head
Association of Accounting Technicians (latest estimate)	4,100	83,802	£20.44
Association of Chartered Certified Accountants	8,803	174,194	£19.79
Association of International Accountants	366	12,035	£32.88
Chartered Institute of Legal Executives/ CILEx Regulation	19	5,365	£282.38
Chartered Institute of Management Accountants (latest estimate)	2,000	43,440	£21.72
Council for Licensed Conveyancers	494	14,495	£29.34
Faculty of Advocates	431	13,284	£30.82
Faculty Office of the Archbishop of Canterbury	212	9,075	£42.80
General Council of the Bar of Northern Ireland	1	5,019	£5,019.22
Insolvency Practitioners Association	166	8,191	£49.34
Institute of Certified Bookkeepers	3,377	69,906	£20.70
Institute of Chartered Accountants in England and Wales	20,959	407,832	£19.46
Institute of Chartered Accountants in Ireland	798	20,338	£25.49
Institute of Financial Accountants (latest estimate)	2,561	54,222	£21.17
International Association of Bookkeepers	763	19,665	£25.77
Law Society / Solicitors Regulation Authority	25,771	500,319	£19.41
Law Society of Northern Ireland	1,075	25,662	£23.87
Law Society of Scotland	2,583	54,645	£21.16
	74,479	£1,521,489	
Unaccounted for (4 PBSs)	5,657	£128,728	£22.76
Totals	80,136	£1,650,217	

On this basis, all PBSs would pay a fixed amount as well as a variable amount per BOOM. The PBS with the greatest number of BOOMs (more than 25,000) pays an average amount of £19.41, and a PBS with only 2,000 BOOMs would pay an average of only £21.72 per BOOM.



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