



HM Treasury

# **Anti-money laundering and counter terrorist finance supervision report 2014-15**

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May 2016





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The UK's anti-money laundering and counter financing of terrorism regime has a clear aim: to ensure that the UK financial system is a hostile environment for illicit finances, while minimising the burden on legitimate businesses and reducing the overall burden of regulation.

The government is firmly committed to tackling the scourge of money laundering and terrorist financing, which undermine the integrity of our financial institutions and markets, and enable serious and organised crime, grand corruption, and terrorism. As we prepare for the UK's mutual evaluation by the Financial Action Task Force (FATF) in 2017/2018 it is important that we ensure our anti-money laundering supervisors are as effective as possible and that we can demonstrate this effectiveness. By June 2017, the government will enact the revised global FATF standards through transposition of the Fourth Anti-Money Laundering Directive. This will provide a strong basis for ensuring that our regime is robust, proportionate and responsive to emerging threats.

This year will also see a comprehensive review of the supervisory regime. While the National Risk Assessment found that the UK's response is well-developed, there is still more work to be done to ensure that our financial system is properly protected from illicit finance. That is why the government has published an Action Plan to address the findings of the National Risk Assessment. The Action Plan announced a Treasury-led review of the supervisory regime and included a call for information to gather views from stakeholders that will help inform our thinking about reforms. This work is key to fulfilling our commitment to an effective supervisory regime that takes a truly risk-based approach and does not impose unnecessary burdens on business. This will build on the evidence submitted to the Better Regulation Executive's "Cutting Red Tape" Review, which has sought views from the private sector on areas of the regime that it finds unnecessarily burdensome.

The government is clear that money laundering obligations should be carried out in an intelligent way that ensures that businesses can grow and are not weighed down by red tape. We are committed to securing the hard-won growth in our economy. This requires a business environment that fosters innovation and investment and that is supported, not hindered, by regulation. Our aim is a regime hostile to illicit finance and to terrorists, but which allows ordinary law-abiding citizens to freely access financial services.

The risk-based approach, to which the government is firmly committed, means not targeting an entire class of customer in a blanket manner. This includes proportionately applying anti-money laundering measures when dealing with domestic politically exposed persons. Supervisors and businesses must effectively and proportionately target their resources at the risks, to ensure that law-abiding customers are not prevented from obtaining services.

I would like to thank the supervisors for their contribution to this annual report, which is now in its fifth year. The Treasury is committed to working in partnership with the supervisors as we lead the global fight against illicit financial flows.



Harriett Baldwin MP  
Economic Secretary to the Treasury



# Statement from the Chair of the Anti-Money Laundering Supervisors Forum

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Effectiveness, Effectiveness, Effectiveness!

Our mantra and our challenge for 2014, 2015 and 2016...

But our goal of effectiveness is not just about impressing the FATF inspectors in 2017, or enhancing our reputations as supervisors – our primary objective is to attack the cancer that is serious organised crime and terrorism. It is damaging our communities, our societies and our economies as well as threatening our way of life.

What is clear to many of us is that to be as effective as we could and should be – supervisors, regulators, government, law-enforcement and the people and businesses we regulate must all work together much more *effectively*. This means banning ‘silos’ between and within these groups; willingly sharing intelligence, skills, knowledge and experience; and seeing well-designed projects and initiatives through to successful completion.

And we must optimise the use of our scarce resources. We spend too much time rebutting challenges, defending what we do and agreeing what isn’t working well – and not enough time collecting critical intelligence, building greater understanding and skills and finding creative ways to work together. Collaboration between private and public sectors, between representational and supervisory teams and between the regulated and the regulators is essential if we are to match the speed, innovation and cunning of the crooks in our midst.

If we need FATF and the Fourth Money Laundering Directive to show us how to do our jobs better; and the imminent Mutual Evaluation Review to inspire us to raise our game; so be it. But let’s not forget why we’re doing this – to make our communities across the world safer and better places for us all and for generations to come.

Paul Simkins



# 3 Executive Summary

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This is the Treasury's fifth annual report on anti-money laundering and countering the financing of terrorism (AML/CFT), and covers activity undertaken in 2014 to 2015. This was the second year under revised international standards set by the Financial Action Task Force (FATF) in February 2013.

The FATF methodology is used to assess countries' AML/CFT regimes, and the 2013 standards require countries to demonstrate not only that they have the required AML/CFT systems and controls in place, but that these systems and controls are being effectively implemented and achieving results at all levels across the AML/CFT regime. In 2014 FATF conducted the first of its fourth round of Mutual Evaluations focusing on technical compliance and effectiveness. The reports can be found on [FATF's website](#).

In 2014 the Treasury met all supervisors to discuss the new FATF methodology and, through 2014 and 2015, supervisors have been developing action plans setting out how they will ensure that they meet the expectations of the methodology, especially immediate outcome 3, which focuses on the effectiveness of supervision.

2015 saw developments in the UK's AML/CFT regime. Two major milestones were the adoption of the Fourth Money Laundering Directive (4MLD) in June 2015, and the publication of the UK's first National Risk Assessment of Money Laundering and Terrorist Financing in October 2015.

2016 will build on this progress, with the government publishing a consultation on the transposition of 4MLD later in the year. In April, the Home Office and the Treasury jointly published the AML/CFT Action Plan, which addresses the findings of the National Risk Assessment. As part of the Action Plan, the Treasury has launched a review of the UK's supervisory regime, to address the National Risk Assessment's finding that the effectiveness of supervision is inconsistent. This review includes a Call for Information which was launched on 21 April and is open for 6 weeks.

The 2014 to 2015 AML/CFT supervision report sets out the different aspects of the regime, and provides analysis along with quantitative and qualitative data. This report, following last year's example, includes number of case studies of good practice by individual supervisors, which demonstrate approaches that effectively and efficiently manage risk.

In the future, supervisors should ensure that they can capture data that demonstrates the effectiveness of supervisory activity on an ongoing basis, as well as more examples of good practice. This will better illustrate how supervisory activity leads to trends in compliance.

The Treasury will continue to work in close partnership with supervisors and other interested parties to enhance the proportionality and effectiveness of the AML/CFT regime.

The Call for Information will be open for comments until 2 June 2016. Responses should be sent by email to: [aml@hmtreasury.gsi.gov.uk](mailto:aml@hmtreasury.gsi.gov.uk). Please include the words CONSULTATION VIEWS or CONSULTATION ENQUIRY (as appropriate) in your email title. If you do not wish your views to

be published alongside the government response to this consultation, please clearly specify this in your email.

Alternatively, submissions can be sent by post to:

Review of AML/CFT supervision  
Sanctions and Illicit Finance Team  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

# 4 Introduction

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## 4.1 Background

The international standards on combatting money laundering and the financing of terrorism are set by the 37 members of FATF. These standards form the basis of EU legislation (Money Laundering Directives). The Third Money Laundering Directive is incorporated into various pieces of UK law, predominantly the Money Laundering Regulations 2007 (the Regulations) and the Proceeds of Crime Act 2002 (POCA).

The Regulations place requirements on regulated persons to know their customers, and POCA criminalises money laundering and addresses the production of reports to law enforcement concerning money laundering activity.

The risk-based approach is the cornerstone of an effective AML/CFT regime. It means that relevant persons must identify and assess their money laundering and terrorist financing risks, and put in place systems and controls to manage and mitigate them.

## 4.2 Supervision in the UK

The Treasury is responsible for appointing AML/CFT supervisors and for the Regulations which set out the role of the supervisors and gives them powers to effectively monitor their respective sectors.

There are 27 supervisors which oversee a range of firms including financial institutions, credit institutions, law firms, accountancy firms and casinos. The supervisors are a diverse group including large global professional bodies, smaller professional bodies, and a number of public sector organisations.

Most supervisors attend the Anti-Money Laundering Supervisors Forum which meets 3 times a year. The Forum was established to encourage the sharing of information and best practice between supervisors, and meetings of the Forum are also attended by the Treasury, the Home Office and the National Crime Agency (NCA). It is currently chaired by Paul Simkins, the Director of Quality Assurance at the Institute of Chartered Accountants in England and Wales.

Supervisors also meet periodically in smaller affinity groups based on the industry sector they supervise (accountancy, legal or public sector), to encourage the exchange of best practice and sector-specific material, and promote consistency of approach in AML/CFT supervision.

The government recognises that a transparent and accountable AML/CFT regime is more likely to maintain public confidence in the UK's approach to tackling the scourge of money laundering and terrorist financing.

In order to improve the transparency of the UK's approach to supervision and to encourage good practice, the Treasury has worked with supervisors to produce this fifth annual report, which covers supervisory activities in 2014 to 2015. We received responses from 23 of the 27

supervisors; 14 covering the period January 2014 to December 2014; 7 covering the period April 2014 to March 2015; and two covering the period May 2014 to April 2015.

Four supervisory bodies did not respond to the Treasury's request for information on their supervisory activity. The bodies who did not participate in the annual report are the Department of Enterprise, Trade and Investment Northern Ireland; the Faculty of Advocates; the Faculty Office of the Archbishop of Canterbury; and the General Council of the Bar of Northern Ireland.

### **4.3 Changes to the supervisory regime in the reporting period**

Two changes to the UK regime took place during the reporting period, as was noted in last year's supervision report. April 2014 saw the closing of the Office of Fair Trading, with the Financial Conduct Authority taking on supervision of consumer credit financial institutions, and HM Revenue and Customs becoming the supervisor of estate agents.

Further changes to the supervisory regime took place in February 2015, when amendments to the Regulations came into effect. The Chartered Institute of Legal Executives (CILEx), was appointed as a supervisor under the Regulations. CILEx became the supervisor of legal executives who provide services independently, rather than working in the employment of other lawyers. In addition, the Chartered Institute of Public Finance and Accountancy was omitted from the Regulations as a result of their independent decision to withdraw from this role. The businesses supervised by CIPFA were then transferred to HMRC supervision.

### **4.4 Current and future developments**

Three major developments in the UK's AML/CFT regime have taken place since the end of the reporting period: the adoption of the EU's Fourth Anti-Money Laundering Directive in June 2015, the publication of the UK's National Risk Assessment of Money Laundering and Terrorist Financing in October 2015, and the release of the Action Plan which addresses the findings of the National Risk Assessment.

The Directive provides a common European basis for the implementation of FATF's revised standards. Adopted in June 2015, the Directive will be transposed into UK legislation by June 2017, and new Regulations will replace the Money Laundering Regulations 2007.

The government will issue a consultation on the transposition of the Directive later in 2016. The consultation will primarily focus on areas where the Directive provides Member States flexibility in transposing its requirements, and the government encourages interested parties to respond to the questions posed. Once the consultation closes, the government will publish a response. The new Regulations will be in place by June 2017.

Under the FATF standards, countries are expected to identify, assess and understand their money laundering and terrorist financing risks and to coordinate activity to effectively mitigate those risks. During 2014 and 2015, the Treasury and the Home Office undertook the UK's first National Risk Assessment of Money Laundering and Terrorist Financing.

The National Risk Assessment had the clear objective of enabling a better understanding of the UK's money laundering and terrorist financing risks, informing the efficient allocation of

resources and mitigating money laundering and terrorist financing risks. As the UK works to improve its shared understanding of risk, the National Risk Assessment will inform improvement to the domestic regime from a legislative, law enforcement and supervisory perspective.

In April 2016, the Home Office and HM Treasury published an AML/CFT Action Plan which will address the findings of the National Risk Assessment. Integral to the Action Plan is a Treasury-led review of the UK's AML/CFT supervisory regime, which will address the finding that the effectiveness of the UK's supervisory regime is inconsistent. The call for information on the supervisory regime will be open for 6 weeks, and closes on 2 June 2016.

An effective AML/CFT regime is one that focuses resources proportionately on the risks, and reduces unnecessary burdens on business that do not effectively prevent money laundering and terrorist financing. With this in mind, the government launched a review of the impact on business of the current AML/CFT supervisory regime as part of the Cutting Red Tape review programme in August 2015. The call for evidence closed in November 2015 and a report is expected later in 2016. The Review has specifically sought evidence on the role of supervisors in the regime, identifying aspects of the supervisory regime that appear to be unclear, inefficient or unnecessarily cumbersome. The clear aim of the Cutting Red Tape review is to identify scope for better regulation that makes the regime more effective and less onerous where there is unnecessary red tape, in order to more effectively manage financial crime. The findings of the review will inform the government's work addressing the National Risk Assessment's findings on supervision.

## 4.5 Methodology

The 2014 to 2015 AML/CFT report follows a similar framework to the 2013 to 2014 report, and once again the Treasury has used a detailed return to gather information and data from supervisors in a consistent manner.

In a move to improve transparency of the UK's AML/CFT regime, the public sector affinity group have agreed that their activity will be reported on an individual basis. This report outlines supervisory activity carried out by the accountancy sector affinity group, the legal sector affinity group, the Financial Conduct Authority (FCA), the Gambling Commission and Her Majesty's Revenue and Customs (HMRC).

Due to the diversity of the supervised population, it is not always appropriate to directly compare quantitative data by supervisor. Nor would it be appropriate to draw conclusions around the effectiveness of supervision merely based on quantitative data.

Assessment of the supervisors' returns focuses on the FATF recommendations and effectiveness methodology as a minimum benchmark to assess whether there are deficiencies in supervision and identify good practice.

A key requirement of effective supervision is a robust methodology for the identification and assessment of risk. How supervisors mitigate risk may require differing approaches depending on the characteristics of the sector, but a fundamental component of a robust regime is that supervisors can demonstrate a consistent level of effectiveness.

## 4.6 Framework of the report

The next chapter sets out the Treasury's analysis of the information provided by supervisors under a number of subject headings, which are discussed in turn, highlighting areas of good practice which may be of relevance to all supervisors:

- how supervisors adopt a risk-based approach
- monitoring activity
- enforcement action and deterrence
- advice and outreach
- information sharing

The final chapter sets out the conclusions of the report.

# 5 Analysis

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## 5.1 How supervisors adopt a risk-based approach

### Context

A risk-based approach to AML/CFT requires supervisors to identify, assess and understand the AML/CTF risks to which they and their supervised businesses are exposed and take measures proportionate to those risks, in order to mitigate them effectively and efficiently.

In practice, this means that supervisors should pursue a risk-based approach in carrying out their own supervisory activities and likewise ensure that the members they supervise have systems in place to assess and respond to the relative risk of their clients, products and services.

In order to take a risk-based approach to supervising businesses for AML/CFT compliance, it is essential to have a robust methodology for identifying and assessing risk. Properly used, a risk assessment will aid supervisors in allocating resources in proportion to the threats and vulnerabilities of money laundering and terrorist financing. An up-to-date risk assessment should also drive the outreach and educational activity that supervisors provide to businesses.

While supervisors should ensure that their supervision takes a risk-based approach, equally supervisors should expect that the businesses they supervise understand and mitigate risk in an effective and proportionate manner. Businesses should not exit whole classes of customer on the basis of ML/TF risk without due regard to the specific risk of money laundering/terrorist financing presented by each customer. The Treasury is aware of a perception that the AML/CFT regime is on a “zero failure” basis; this is not a reality of supervision under the Regulations in the UK. The FATF has an equally clear expectation that businesses should take commensurate measures in order to mitigate risks and notes that this does not imply a “zero failure” approach.

## 5.2 Analysis

### ML/TF risk

While supervisors continue to demonstrate a high level of awareness of the importance of taking a risk-based approach to AML/CFT supervision, there is still progress to be made in implementing a fully risk-based approach. An area of inconsistency between supervisors is in the identification and assessment of risk, and the level of sophistication of risk-modelling by supervisors varies significantly. While some supervisors have devoted significant resource to developing robust methodologies to identify and assess risks, others have yet to complete or commence the development of a risk assessment methodology. Such a methodology is essential to countering money laundering and terrorist financing through a risk-based approach.

Key to an effective risk-based approach to supervision is having a methodology that is dynamic and responsive to emerging threats. Supervisors can identify and maintain an understanding of the ML/TF risks facing their sector through engaging with the AML Supervisors Forum, affinity groups, FATF reports, and through noting issues that come to their attention when monitoring businesses.

Whilst many supervisors demonstrated a good understanding of the ML/TF risks facing their sector, only 14 supervisors could explain how their assessment of risk determines the monitoring actions that they took during the year. To be effective and to avoid unnecessary burdens on

business, supervisors should maintain updated risk assessments. This will allow them to target their resources to the areas that pose the highest ML/TF risk.

Supervisors were asked to report if the ML/TF risks varied across the firms that they supervise. Almost universally, supervisors noted that the risks of money laundering and terrorist financing varied within their sector. This shows an improvement in the articulation of supervisors' understanding of risk. Broad themes were around the types of clients that a firm engages with, the products that a firm offers its clients, the jurisdictions in which clients operate, as well as the specific client and firm profile.

### **Case study – Managing high risk in small banks**

In September 2014, the FCA enhanced its proactive supervision of higher risk smaller firms by introducing an inspection programme. Operating on a two year cycle and covering 75 firms, each firm review consists of desk-based preparation, a two-to-four day on-site visit and post-visit evaluation, analysis and follow-up, where necessary. As with the Systematic Anti-Money Laundering Programme (which focuses on major banks), the FCA undertakes detailed testing and interviews key staff responsible for the bank's business and for implementing AML processes and controls. Since the programme's introduction in 2014 and up until December 2015, the FCA has completed 16 inspections of firms and has taken early enforcement action in relation to two of these firms, and 6 firms are undertaking remediation in response to the FCA's findings. In addition to this rolling programme, the FCA undertakes case work for smaller firms where it has assessed a higher risk of money laundering or terrorist financing. This work may involve inspection of the firm or desk based reviews.

### **Case study – FCA publishes follow up thematic work**

Recognising the importance of checking how firms respond to findings of thematic reviews, the FCA undertook a follow up piece of work to look at how small banks manage money laundering and sanctions risk and how commercial insurance brokers manage bribery and corruption risk. This followed up on work that the former Financial Services Authority had done in 2010 and 2011.

- The FCA found that some retail, wholesale, and private banks had implemented effective AML/sanctions controls, with private banks generally operating to higher standard. This shows it is possible and achievable for small banks to manage their business in line with legal and regulatory AML requirements. However, the FCA were disappointed to find continuing weaknesses in most small banks' AML systems and controls.
- Overall, most intermediaries in the FCA's sample did not yet adequately manage the risk that they might become involved in bribery or corruption. But while further improvement is required, there were some areas in which considerable progress had been made. The FCA consulted on changes to its financial crime guide based on these reports including how firms' assess risk. Following feedback from industry these changes were made and published in April 2015.

## 5.3 Monitoring activity

### Context

A supervisor must effectively monitor its supervised businesses and take necessary measures in order to ensure that businesses comply with the Regulations. A monitoring regime that efficiently and effectively focuses on the risks is key to combatting ML/TF in an agile and dynamic way and avoiding unnecessary burdens on business. For some supervisors with a broader supervisory or regulatory remit, verifying AML/CFT compliance represents one aspect of an integrated monitoring regime. Other supervisors undertake AML/CFT supervision as a discrete function.

Supervisory bodies should ensure that they have a sufficient range of monitoring techniques, so that they can verify how businesses are managing their exposure to the risk of money laundering and terrorist financing. Means of assessing AML/CFT compliance include annual returns, visits, desk-based monitoring and telephone interviews. Where appropriate, off-site methods may be a more efficient use of resources for the supervisor and firms, allowing a more proportionate approach to assessing the management of money laundering and terrorist financing risk. Several supervisors have however noted that businesses often report that they find visits helpful, as they can provide support and reassurance to the business that it has appropriate AML/CFT systems and controls in place.

## 5.4 Analysis

Supervisors were asked to report in detail how they monitor the AML/CFT compliance of their supervised businesses, including through both compliance visits and off-site monitoring activity. For the purposes of this report, both visits and desk-based reviews are classified as inspections.

There was a significant increase in the number of inspections carried out by supervisory bodies in 2014–2015 compared to the previous reporting period. Supervisors report carrying out 15,836 inspections during the reporting period, whereas 11,489 were reported in 2013 to 2014. In particular, there was a marked increase in the number of inspections undertaken by legal sector supervisors, with 4,424 reported in 2014 to 2015, compared to 974 during the previous year. Accountancy sector and public sector supervisors also reported an increase in inspection activity compared to 2013 to 2014.

	Number of inspections 2011 to 2012	Number of inspections 2012 to 2013	Number of inspections 2013 to 2014	Number of inspections 2014 to 2015
Accountancy sector	–	7,718	6,485	7,944
Legal sector	–	1,615	974	4,424
<i>Public sector</i>	–	2,611	4,030	<sup>a</sup>
FCA	–	<sup>a</sup>	<sup>a</sup>	109
Gambling Commission	–	<sup>a</sup>	<sup>a</sup>	91
HM Revenue and Customs	–	<sup>a</sup>	<sup>a</sup>	3,268
Total	13,571	11,944	11,489	15,836

<sup>a</sup> In 2012 to 2013 and 2013 to 2014, public sector supervisors reported as the public sector affinity group. In 2012 to 2013 and 2013 to 2014, the Insolvency Service reported as part of the public sector affinity group, while in 2014 to 2015 the Insolvency Service's figures are reported as part of the accountancy sector affinity group. The figures for 2012 to 2013 and 2013 to 2014 include inspections carried out by the Office of Fair Trading (OFT), which supervised estate agency businesses (EABs) until April 2014. HMRC replaced the OFT as the supervisor of EABs in April 2014.

It should be emphasised that the number of inspections undertaken is not a reliable indicator of the effectiveness of supervision. The frequency, intensity and scope of monitoring programmes should be set by supervisors according to the risk profile of supervised firms. This will ensure that supervisors can devote their resources in proportion to where the ML/TF threats and vulnerabilities lie, and will allow supervisors to demonstrate the effectiveness of their supervision. Supervisory approaches will vary as well depending on the depth and duration of the visits. For example, the FCA's inspections as part of its Systematic Anti-Money Laundering Programme (SAML) involve extensive inspections of large global banks lasting up to 6 months each, with inspections for smaller banks taking at least two days of onsite inspection work to complete.

## 5.5 Annual returns

Supervisors can use annual returns as an effective method of keeping informed of the activities of supervised businesses. This can aid supervisors to maintain an updated understanding of the ML/TF risks that supervised businesses face. Of the 27 supervisors, 19 bodies report using an annual return compared to 18 in the previous reporting period.

Not all supervisors currently compel an annual return from supervised businesses. Where there is no alternative approach in place (such as systems enabling more up-to-date or real-time snapshots), supervisors should consider whether annual returns would assist in developing their risk assessment, and aid effective and proportionate supervision.

## 5.6 Desk-based reviews

Desk-based reviews (DBRs) vary in sophistication and structure depending on the supervisor. The spectrum of DBRs ranges from the completion of AML questionnaires, to telephone reviews, to a compliance assessment conducted remotely. Supervisors are increasingly using DBRs as a tool to monitor compliance, with 20 supervisors carrying out DBRs in 2014 to 2015 compared to 17 in the previous reporting year.

DBRs can provide more flexibility for businesses as the process can be less resource-intensive than a compliance visit. Supervisors should be able to articulate clearly, on the basis of their risk assessment, whether desk-based reviews are an appropriate method of verifying compliance.

Supervisors were asked to report on the outcomes of their DBRs. However, not all supervisors currently record the result with a compliance rating. Where the outcome of the DBR has been reported, it is broken down by affinity group in the table below:

	Accountancy sector <sup>a</sup>	Legal sector <sup>b</sup>	FCA <sup>c</sup>	Gambling Commission <sup>d</sup>	HMRC <sup>e</sup>
<b>Total number of DBRs undertaken</b>	6,408	3,305	56	1	891
<b>Number of DBRs where business assessed as "compliant"</b>	5,074	129	19	–	–
<b>Number of DBRs where business assessed as "generally compliant"</b>	1,267	365	9	–	–
<b>Number of DBRs where business assessed as "non-compliant"</b>	53	20	15	–	–
<b>Number of DBRs where no assessment of result is available</b>	14	2,791	13	–	–

<sup>a</sup> The Department of Enterprise, Trade and Investment, Northern Ireland did not provide a return. Neither the Insolvency Practitioners Association nor the Insolvency Practitioners Service carried out desk-based reviews during the reporting period. The Institute of Chartered Accountants Ireland (Chartered Accountants Regulatory Board) did carry out desk-based reviews, but was unable to provide a breakdown of the outcome of these. CARB plan to implement a new practice monitoring regime in 2016.

<sup>b</sup> No return was provided by the Faculty Office of the Archbishop of Canterbury, the Faculty of Advocates, or the General Council of the Bar of Northern Ireland. The General Council of the Bar England and Wales (Bar Standards Board), the Law Society of Scotland, and the Law Society of England and Wales (Solicitors Regulation Authority) were unable to provide a breakdown of the outcomes of their desk-based reviews. The Council for Licensed Conveyancers did not carry out desk-based reviews during the reporting period.

<sup>c</sup> The FCA have noted that the 13 DBRs where no assessment of the result is available are ongoing. These figures do not include desk-based reviews carried out by the FCA as part of its thematic or Systematic Anti-Money Laundering Programme work (SAMLPL). In 2014 to 2015 the FCA carried out 5 SAMLPL desk-based reviews and 20 thematic desk-based reviews.

<sup>d</sup> The Gambling Commission outcomes were provided for a different set of compliance indicators which is why their results were not included in the breakdown of DBRs in terms of firms assessed as 'compliant', 'generally compliant', 'non-compliant.' The Gambling Commission's outcomes are explained in the "Compliance visits" table below.

<sup>e</sup> The outcomes of HMRC's desk-based reviews are also excluded from the breakdown of DBRs in terms of firms assessed as 'compliant', 'generally compliant', 'non-compliant'. Desk-based interventions by HMRC are part of a range of compliance interventions available to HMRC, such as visits, and do not constitute a full compliance assessment. HMRC has indicated the final outcome of the complete assessment in the "Compliance visits" table below.

There was a significant increase in the number of DBRs carried out by both accountancy sector and legal sector supervisors compared to 2013 to 2014. Conversely, there was in a decline in the number of DBRs carried out by the public sector supervisors compared to the previous reporting period, with compliance activity focusing on visits. Of note is that the results of DBRs undertaken by accountancy sector supervisors shows an increase in the rate of compliance of supervised businesses compared to the previous reporting period.

Not all supervisors were able to provide a breakdown of the outcomes of the DBRs that they carried out. This may be because, as part of a risk-based approach, several interventions take place to monitor the compliance of one registered business, which is assigned as a single compliance outcome. For example, visits and DBRs might cover a number of agents as well as the registered principal business, or might be targeted on a single business.

Where the mismatch between totals of interventions and outcomes does not result from this sort of risk-based approach, HM Treasury will, in future, seek to include the outcome of DBRs in subsequent reports. This is because the ability of supervisors to isolate and use the results of DBRs is an important step in demonstrating the effectiveness and proportionality of supervisory work undertaken.

If an inspection is carried out using a DBR approach and there is no recorded outcome, there is also a risk of imposing unnecessary burdens on business, although this would not be the case where it forms part of a wider compliance approach in response to a risk assessment.

Given that there is also a wide variation in what constitutes a DBR depending on the supervisor, future supervision reports will seek to break down DBR statistics in more detail to allow a more consistent reporting of data.

## **5.7 Compliance visits**

Supervisors carry out on-site compliance visits to check if supervised businesses are meeting their AML/CFT obligations. Through visits, supervisors can maintain an understanding of how well businesses have implemented controls to counter money laundering and terrorist financing. A comprehensive visit regime will also allow supervisors to be aware of developments in ML/TF risks in the sectors that they supervise.

Compliance visits may seek solely to assess how businesses are complying with their AML/CFT obligations. For other supervisors who have a broader regulatory or supervisory remit, AML/CFT may be one element of a wider compliance inspection.

Visit programmes set by supervisors vary, and can be risk-driven, cyclical or both. A risk-driven regime will consider various factors when selecting a business for a monitoring visit, such as the overall risk associated with the sector, and the level of compliance that the supervisor has previously identified. Some supervisors use a hybrid system which combines risk-driven and cyclical visits. Such a regime can provide a proportionate level of monitoring to businesses who face the highest risks, while ensuring that all businesses undergo a baseline of monitoring.

The structure of visits vary, but commonly supervisors will issue a pre-visit questionnaire to inform their preliminary view of a business, to allow the supervisor to tailor the visit appropriately. During the visit, supervisors will usually seek to interview senior management including the nominated officer to assess how well the business has embedded a risk-based approach.

This includes assessing the nominated officer's understanding of the role's duties, and the extent to which he/she is supported in carrying out AML/CFT responsibilities under the Money Laundering Regulations, the Proceeds of Crime Act, and Terrorism Act. Supervisors will also review the training of staff and management in AML/CFT, and assess how the business applies customer due diligence, including the use of ongoing monitoring and enhanced due diligence.

Supervisors were asked to report on the outcome of their compliance visits. 22 supervisors reported carrying out on-site visits during 2014 to 2015. There are fewer reported outcomes than the

number of visits (or desk-based reviews) undertaken. In some cases, this is because more than one intervention supports a single compliance score, e.g. visiting a number of agents as well as the principal supervised entity. Where, however, a supervisor has not recorded the final outcome of visits or has not provided an assessment of AML/CFT compliance specifically, future supervision reports will seek to include this information. This is because the ability to capture outcomes is key to demonstrating the effectiveness and proportionality of supervisory work undertaken. Recording the outcome of visits will assist supervisors in developing systems to prompt future monitoring activity, and so mitigate the risk of imposing unnecessary burdens on business.

Where supervisors have provided the results of compliance visits, these have been split by affinity group. Public sector supervisors have reported their on-site activity on an individual basis.

	Accountancy sector <sup>a</sup>	Legal sector <sup>b</sup>	FCA	Gambling Commission <sup>c</sup>	HMRC <sup>d</sup>
<b>Total number of visits undertaken</b>	1,536	1,119	53	90	2,377
<b>Number of visits where business assessed as "compliant"</b>	729	398	11	–	101
<b>Number of visits where business assessed as "generally compliant"</b>	645	215	30	–	254
<b>Number of visits where business assessed as "non-compliant"</b>	148	18	12	–	248
<b>Number of visits where no assessment of result is available</b>	14	488	0	–	–

*Source:*

<sup>a</sup> The Department of Enterprise, Trade and Investment, Northern Ireland did not provide a return. The Chartered Institute of Management Accountants does not carry out visits. The Insolvency Practitioners Service was unable to provide a breakdown of the results of its visits.

<sup>b</sup> No return was provided by the Department of Enterprise, Trade and Investment Northern Ireland, the Faculty Office of the Archbishop of Canterbury, the General Council of the Bar of Northern Ireland or the Faculty of Advocates. Neither the General Council of the Bar England and Wales (Bar Standards Board) nor The Law Society of England and Wales (Solicitors Regulation Authority), nor The Law Society of Scotland could provide a breakdown of the outcome of visits.

<sup>c</sup> The Gambling Commission report on outcomes using a different set of compliance indicators (good, adequate, just adequate, inadequate) and consolidate the reporting of DBR and visit outcomes. The Commission carried out a total of 91 inspections during the reporting period. These inspections included two AML-specific components. Of these, there were 54 "good", 25 "adequate", 6 "just adequate" and 4 "inadequate" outcomes relating to the first AML component. The second AML-specific component saw 38 "good", 4 "adequate" and 3 "just adequate" outcomes.

<sup>d</sup> In some cases, HMRC visits a number of agents as well as the registered principal business, or carries out more than one visit/desk based review of the same business as part of a single assessment. Only one compliance score is given.

The outcomes provided by supervisors show that the majority of businesses are compliant or generally compliant with their AML/CFT obligations, although it is clear there is room for improvement. Compared to the previous reporting year, there is a slight trend towards compliance in the accountancy sector. Another observable trend is that there has been a significant increase in visits carried out by legal sector supervisors.

The data provided shows that there is a lower rate of compliance in businesses that have been visited, as opposed to businesses that have been subject to a desk-based review. This may indicate that onsite monitoring is reserved for those firms which pose the highest risk, either by way of the threats that the particular business faces or its vulnerabilities.

It should be noted that there appears to be a decrease in the number of inspections undertaken by public sector supervisors compared to the previous year's report: this is explained by the Gambling Commission refining how it reports data. Whereas in previous reporting periods the Gambling Commission data covered all inspections of gambling operators, the Commission have been able to extract figures relating specifically to casinos for this report. While all gambling operators must fulfil their obligations under the Proceeds of Crime Act, casinos are the sole sector of the gambling industry within the scope of the Money Laundering Regulations. The data provided by the Gambling Commission therefore provides a better reflection of how supervised businesses are complying with their obligations under the Regulations.

Given that the variation in the depth, duration and characteristics of visits will depend on the sector and the specific risk profile of a business, future supervision reports will seek to provide more context to allow more effective reporting of the outcomes of visits.

## **5.8 Enforcement action and deterrence**

### **Context**

Supervisors have access to a variety of tools in order to motivate compliance, including the ability to take enforcement actions. Professional bodies have sanctions specific to their supervisory population, for example, the ability to expel firms from membership. The removal of professional accreditation in this way can incentivise compliance. HMRC and the FCA have powers under the Regulations to require information, enter and inspect premises and administer monetary civil penalties to their supervised population. HMRC may also instigate criminal proceedings for breaches of the Regulations, and these would be prosecuted by the Crown Prosecution Service. Other supervisors may refer non-compliant members to relevant authorities for criminal investigation and prosecution on an ad hoc basis.

### **Analysis**

The FATF effectiveness methodology requires supervisors to demonstrate that remedial action and/or effective, proportionate and dissuasive sanctions are being applied, and to demonstrate that these actions have an effect on firms' compliance.

It is important to emphasise that enforcement action is not always the most appropriate tool for improving AML compliance, as education and support plays an important role in promoting compliance by supervised businesses. It should also be noted that an increase or decrease in enforcement actions does not by itself prove the effectiveness of supervision. What is key is that supervisors can demonstrate that enforcement actions are used in a way that motivates the mitigation of ML/TF.

Supervisors should also ensure that their use of enforcement tools does not create perverse incentives, such as disproportionate compliance in some areas. This is likely to lead to insufficient resource being applied in other areas, and has the potential to contribute to a less effective regime. An effective regime is one that targets resources in proportion to the risks, reducing burdens on businesses in lower risk areas.

Expulsion or withdrawal of membership/licensing is an important tool that supervisors use in order to prevent criminals or their associates from being professionally accredited or holding a management function in a supervised business.

However, the statistics provided below do not include cases where a supervisor refuses membership or a licence to practice, or where a supervisor queries the application and the prospective member withdraws the application before it is approved. Refusal of licensing can be a crucial barrier in stopping criminals from acting as professional enablers of money laundering and terrorist financing.

Future supervision reports will record this information by affinity group, in order to further demonstrate how supervisors are preventing infiltration by criminal elements. It should be noted that not all supervisors are able to take into account spent convictions, and to extend this power would require legislative change.

**Enforcement action taken in 2014 to 2015 compared to 2012 to 2013 and 2013 to 2014**

<b>Enforcement action</b>	<b>Number of actions taken 2012 to 2013</b>	<b>Number of actions taken 2013 to 2014</b>	<b>Number of actions taken 2014 to 2015</b>
<b>Fit and proper rejection<sup>a</sup></b>	86	64	42
<b>Suspension</b>	5	29	2
<b>Fine</b>	181	529	724
<b>Reprimand</b>	27	70	57
<b>Undertaking/condition</b>	52	129	72
<b>Warning</b>	481	409	498
<b>Action plan</b>	252	440	999

<sup>a</sup> HMRC carries out statutory fit and proper tests on prospective Money Service Businesses (MSBs) and Trust and Company Service Providers (TCSPs) applying for supervision. These tests help to prevent unsuitable people from running these businesses. A person’s fit and proper status can be withdrawn where they no longer meet the criteria under the Money Laundering Regulations, and the businesses deregistered.

This is the third year that the Treasury has asked supervisors to provide a breakdown of their enforcement activity in this way. On the whole, the data shows an observable increase in enforcement actions compared to the previous reporting period. In 2014 to 2015, supervisors increased their use of warnings and action plans to drive improvements in compliance.

An action plan is a communication seeking improvements which is considered as part of the general capacity development and monitoring programme, rather than part of a formal disciplinary programme. A warning is a communication with a firm cautioning against specific conduct. It can serve as an effective method of corrective action for minor infringements that were made in good faith, where it would be disproportionate to apply punitive measures.

Below, the enforcement action taken by professional body supervisors in 2014 to 2015 is reported by affinity group, while enforcement action by public sector supervisors is reported individually:

#### Enforcement action by accountancy sector supervisors

Enforcement action	Number of actions taken
Expulsion/withdrawal of membership	13
Suspension	1
Fine	33
Reprimand	51
Undertaking/condition	44
Warning	298
Action plan	483

In the accountancy sector, there was an increase in the use of enforcement actions compared to the previous reporting period. There was a decrease in the use of punitive tools such as expulsions or fines, while there was a significant increase in the use of warnings, from 220 in 2013 to 2014 to 298 in 2014 to 2015. Most strikingly, 483 action plans were issued in 2014 to 2015 compared to 272 in 2013 to 2014.

#### Enforcement action by legal sector supervisors

Enforcement action	Number of actions taken
Expulsion/withdrawal of membership	32
Suspension	1
Fine	12
Undertaking/condition	27
Reprimand	6

There is an observable decline in punitive actions taken by legal sector supervisors during the 2014/2015 reporting period compared to 2013/2014. The use of undertakings/conditions and reprimands is broadly flat in comparison to the previous year.

#### Enforcement action by the Financial Conduct Authority

Enforcement action	Number of actions taken
Expulsion/withdrawal of membership	1
Action plan	23
Early interventions	11
Section 166 reports	6

The FCA has a number of key tools to address AML/CFT deficiencies in firms. In particular, the FCA uses early informal intervention techniques, such as seeking attestations from firms or accepting undertakings to cease certain types of business. The FCA can also issue Section 166 reports, a supervisory tool granted to the FCA under the Financial Services and Markets Act 2000, as amended by the 2012 Act. The FCA uses the powers of Section 166 to obtain a Skilled

Person Review, which is an independent view of aspects of a firm's activities that cause concern or where further analysis is required. Where a Skilled Person Review identifies areas for remediation, a firm will need to take appropriate steps and provide attestation when that work is complete.

**Enforcement action by the Gambling Commission**

<b>Enforcement action</b>	<b>Number of actions taken</b>
<b>Withdrawal of licence</b>	2
<b>Voluntary settlement</b>	2
<b>Undertaking/condition</b>	1
<b>Warning/condition</b>	1
<b>Advice to conduct</b>	1

The Gambling Commission has access to a number of regulatory and supervisory tools to compel gambling operators to improve their AML/CFT controls. These includes attaching conditions to a licence, issuing an “advice to conduct” (action plan), or agreeing a voluntary settlement. The Gambling Commission may agree to a voluntary settlement where a licensee is prepared to volunteer a payment in lieu of the financial penalty the Commission might otherwise impose for breach of a licence condition, provided the licensee fulfils certain conditions. An “advice to conduct” is an auditable process by which the Gambling Commission advises the licensee of its concerns. It should be noted that the enforcement figures provided are for all major regulatory cases by the Gambling Commission, including those with an anti-money laundering element.

**Enforcement action by HMRC**

<b>Enforcement action</b>	<b>Number of actions taken</b>
<b>Deregistration<sup>a</sup></b>	3031
<b>Fit and proper rejection<sup>b</sup></b>	42
<b>Fine</b>	677
<b>Warning</b>	199
<b>Action plan</b>	492

<sup>a</sup> Deregistrations may or may not reflect enforcement action. This is explained below.  
<sup>b</sup> Money Service Businesses (MSBs) and Trust and Company Service providers supervised by HMRC undergo fit and proper testing.

HMRC increased its use of enforcement actions in 2014 to 2015 compared to the previous reporting period. Of note is a significant increase in the issuing of action plans to compel supervised businesses to address compliance failures. HMRC also increased its use of fines compared to 2013 to 2014. This was significant – 63% up from the previous year.

HMRC does not have members so cannot carry out expulsions or withdraw membership. There is a wide variety of reasons for deregistration of businesses. Some deregistrations reflect enforcement action, e.g. withdrawal of ‘fit and proper’ status of key personnel. Where no other ‘fit and proper’ persons are able to take over these key roles, the business has to stop carrying out the supervised activity, which can mean closing down. Other deregistrations are for administrative reasons, e.g. if it emerges that the business is not carrying out activity covered by the Money Laundering Regulations and registered in error, or the proprietor retires or changes

their business activities. In 2014/15 there were 3,031 deregistrations, of which 1,234 were compulsory deregistrations.

#### **Case study – HMRC intervention leads to jailing of money transfer boss**

The owner of a money services bureau in Dudley has been jailed for 12 months for failing to comply with regulations to help combat money laundering.

Paramjit Singh Sangha, who runs PS Gold Exchange, failed to carry out the legal checks required under the Money Laundering Regulations (MLRs) before transferring up to £400,000 of his clients' money to India. Despite being reminded of his obligations during visits from HM Revenue and Customs (HMRC), he did not verify the identity of all his customers, failed to keep supporting documentation and neglected to train his staff to spot suspicious activity.

Colin Booker, Assistant Director, Criminal Investigation, HMRC, said: "MLRs exist to prevent businesses being used for money laundering purposes by criminals. People who run money services bureaux are required to take extra care when transferring larger sums of money, to help prevent criminally obtained cash from being laundered outside the UK. HMRC officers visited Sangha on several occasions and advised him that he needed to take more care. He chose to ignore us, which is why he found himself in court."

Sangha was arrested by HMRC officers in October 2013. At a hearing in September 2014 he pleaded guilty to 4 charges of failing to comply with the MLRs. He returned to Wolverhampton Crown Court on 14 November, where he was jailed for 12 months.

### **Case study – ICAS engagement improves practitioner’s compliance**

The principal (a long established sole practitioner) was carrying out basic checks on new clients, but was not meeting his AML/CFT obligations in full. He was on a shortened visit cycle and had not dealt with the previous visit recommendations that he must:

- document a policy for the firm
- ensure that the principal could demonstrate that long-standing clients of the firm (many of whom had been taken on prior to the onset of AML regulation) had been subject to Customer Due Diligence procedures
- establish ongoing monitoring procedures
- formally record AML risk assessments for each client
- ensure that appropriate Know Your Client documentation was put on file

The Monitoring Reviewer provided recommendations and advice and directed the practitioner to the contents of the procedures manual and conducted follow-up checks in this specific area within a few months of the original visit. He was also put in contact with our Practice Support team for help in the interim.

The next visit, a few months later, showed some progress, but not enough to clear the case. The monitoring reviewer and Practice Support team kept in regular contact with the practitioner and provided support. By the second follow up check a few months later, the principal had successfully cleared all outstanding matters.

A combination of help and access to ICAS’ procedures ensured the practitioner made significant compliance improvements. He will be visited again within the next two years to ensure that his improvements are maintained.

## **5.9 Advice and outreach**

### **Context**

Supervisors have a responsibility to aid supervised businesses in achieving high standards in AML/CFT compliance. FATF expects supervisors to provide both general and targeted information and practical advice in a range of formats to the members they supervise. FATF also expects supervisors to provide members with adequate feedback on compliance with assessors looking at the level of interaction with the members they supervise through guidance and training.

### **Analysis**

Guidance plays a key role in the UK’s risk-based approach, allowing firms to take a targeted and proportionate approach. The international AML/CFT standards set by the FATF require supervisors to provide their supervised population with a clear understanding of their AML/CFT obligations and ML/TF risks. Formal guidance, written by supervisors or industry bodies, and approved by the Treasury, provides businesses with detailed assistance on how the Regulations apply in practice in a particular sector.

Guidance is used by supervisors to provide their supervised population with a clear understanding of ML/TF risks, and is generally updated in light of developments in money

laundering or terrorist financing threats, or changes in the law. Guidance will need to be updated when the Fourth Anti-Money Laundering Directive is transposed into UK law.

Guidance provides a degree of legal protection for supervised individuals or businesses in the event of a prosecution for money laundering or terrorist financing, as well as in the case of a supervisor wishing to impose a civil penalty for ML/TF breaches. When deciding whether a person has failed to comply with certain requirements under the Regulations, or has committed certain offences, courts and designated authorities must consider whether the person followed Treasury-approved guidance.

The future of the guidance regime will be considered in the AML/CFT Action Plan's review of supervision. Concerns have been raised that the volume of Treasury-approved guidance leads to confusion for businesses, some of whom feel that they need to familiarise themselves with multiple sets of guidance, some of which is lengthy and is written in technical language. This could lead to businesses being unsure of the correct approach to take, and has the potential to contribute to disproportionate compliance and a less effective regime.

Guidance is one tool that supervisors use to help businesses manage the risk of money laundering and terrorist financing, but it is not the only method of aiding businesses in countering ML/TF. Supervisors report that they use a variety of means to ensure that businesses are aware of developments in the AML/CFT sphere. These include engaging businesses through training events/webinars (20 supervisors) and answering queries through an e-mail or telephone advice service (10 supervisors).

Supervisors have noted other ways that they have helped businesses improve their understanding of AML/CFT issues and aid their implementation of appropriate controls, including advice through websites, email updates or software.

Professional body supervisors have also indicated that they offer AML/CFT continuous professional development (CPD) to their supervised businesses. This CPD may be voluntary, or may be compulsory in order to retain accreditation. Future supervision reports will explore how supervisors use CPD to ensure high standards in supervised businesses.

Key to demonstrating the effectiveness of supervision is showing how engagement and outreach leads to positive outcomes. With that in mind, supervisors should consider how best to capture the effect of their engagement on compliance.

### **Case study – HMRC digital engagement with estate agency businesses**

When HMRC took over as supervisor for estate agency businesses (EABs) from the Office of Fair Trading, it initially focused on enhancing its understanding of the sector, concentrating specifically on those most vulnerable to exploitation for diverting proceeds of crime. Businesses identified as high risk were those with multiple outlets or high value property sales. The Anti-Money Laundering Supervision (AMLS) team held meetings with the head offices of these businesses to establish their understanding of the Money Laundering Regulations. This understanding was then tested at branch level, where significant differences were identified between policy and practice. To address this HMRC is working to improve compliance by educating businesses to ensure they understand what is needed to comply with the Regulations. This approach continues – and is showing differences in application of the regulations.

AMLS has successfully used targeted emails and webinars to communicate with EABs, as part of its 'Promote' work to encourage good practice:

- HMRC held 3 live webinars for EABs in June and September 2014 and January 2015. With over 1,300 EABs taking part during the session and a further 500 so far accessing the recording online – the take-up and feedback from the industry and registered businesses has been extremely positive. As such, AMLS is continuing to run webinars for EABs and other sectors in 2016 and the recordings are already being used as part of AMLS officer training.
- Customer feedback and questions from the webinars highlighted a desire to learn about HMRC good practice for customer due diligence. AMLS responded with a third targeted webinar on customer due diligence – taking place in January 2016. There are also plans to hold webinars for other sectors, with the next one for Accountancy Service Providers in early 2016.

The webinars helped AMLS to highlight particular risks and helped educate businesses about compliance. AMLS is confident that these webinars have contributed to a significant net increase in the number of EAB registrations.

### **Case study – The FCA reaches out in new ways to deliver key AML messages**

In January 2015 the FCA hosted two webinars covering management of money laundering and sanctions risks and bribery and corruption risks. This allowed the FCA to reach out to over 900 people in a new and innovative way and feedback from attendees was very positive. The FCA will be looking at how it can use this and other new technologies to get broader coverage of its expectations in relation to AML obligations, and examples of good and poor practice in meeting those obligations.

## **5.10 Information sharing**

### **Context**

A key component of an effective AML/CFT regime is the sharing of information between supervisors and law enforcement agencies, and among supervisors. The National Risk

Assessment noted the need to share more information in order to properly mitigate the risks, and stated that “cooperation and outreach between law enforcement agencies and the supervisors generally is improving, with more needed”. For a supervisor to act effectively it must have information-sharing gateways and appropriate mechanisms that allow it and law enforcement to share information to counter money laundering and terrorist financing. The ability to share skills, knowledge and experiences can also add to the overall effectiveness of supervision.

The 2012 amendments to the Regulations provide a legal gateway for supervisors to disclose information to other UK supervisors relevant to their functions. This enables supervisors to inform each other of firms or individuals they have de-registered or have particular concerns about, in order to help prevent regulatory arbitrage and non-compliant firms from evading proper controls.

## **Analysis**

Supervisors were asked to provide feedback on how they share information with other supervisors, the NCA, and other appropriate domestic and foreign organisations. There are a number of forums which facilitate information sharing amongst supervisors, including the Anti-Money Laundering Supervisors’ Forum (AMLSF), which the Treasury, Home Office and NCA attend. The forum enables supervisors to share best practice, raise common issues and ensure that a consistent approach is taken by all supervisors.

Many supervisors also share information through affinity groups which meet periodically: the Accountancy Affinity Group, the Legal Affinity Group, and the Public Sector Affinity Group.

There is also a supervisory representative on the Money Laundering Advisory Committee (MLAC). The MLAC is jointly chaired by the Treasury and the Home Office, and provides a forum for representatives from industry, law enforcement, and government to oversee and advise on the operation of an effective and proportionate AML/CFT regime in the UK. The Committee reviews industry guidance, informs evidence-based policy making and informs the development of global standards through the UK delegation to FATF.

A third of supervisors have reported their membership of FIN-NET, an organisation that facilitates the sharing of financial crime related information between regulators, government departments and law enforcement. More common is membership of the Shared Intelligence System, a mechanism which is also hosted by the FCA, and allows regulators and supervisors to collect and share information. Membership of either mechanism requires the payment of an annual fee to contribute to the running costs.

Supervisors also report their development of memoranda of understanding (MoU) in order to better facilitate information sharing. MoUs aim to provide a framework for an ongoing working relationship between supervisors, or between supervisors and law enforcement agencies. Supervisors who rely on ad-hoc information sharing, and who do not participate in formal mechanisms, may wish to consider how a formal arrangement could improve the effectiveness of their supervisory outcomes. Accountancy supervisors have noted that mechanisms are in place to improve the flow of information between law enforcement and supervisors through the work of the accountancy affinity group in liaising with specific contacts in law enforcement.

Some supervisors have raised concerns about a lack of proactive information-sharing from law enforcement to inform their risk based approach. In order to address these challenges, the AML/CFT Action Plan proposes a more effective public-private partnership to tackle illicit

finances, and will explore how to achieve more cooperation between law enforcement agencies, supervisors and businesses in targeting resources at the highest money laundering and terrorist financing risks.

Six supervisors have noted that they have cooperated with overseas counterparts and law enforcement. Those supervisors that have not reported engagement with foreign supervisors or overseas law enforcement have noted that their supervised population is UK-based and has a predominantly domestic client base.

#### **Case study – The FCA and the establishment of the Joint Money Laundering Intelligence Taskforce (JMLIT)**

Since April 2014 the FCA has played a key role in helping to establish a mechanism for improved information-sharing between financial institutions and law enforcement organisations.

Working in collaboration with the Home Office and the Bank of England, plus a range of banks and other organisations, the FCA helped to develop the JMLIT, a new 5-month pilot project. Its aim is to improve intelligence-sharing arrangements to help fight money laundering and financial crime. The JMLIT consists of 3 tiers – an operational group, a strategic group and a financial crime alerts service. The FCA attends the management board and strategic group and engage with the Financial Sector Forum, the group that drives this initiative.

Although the emphasis of the group is on making the UK a more difficult place to launder the proceeds of crime, discussions have also focused on improved information sharing covering terrorist financing. Following the steer of the JMLIT Management Board, the FCA has presented to overseas regulators on the JMLIT's purpose, briefing key economic crime overseas partners: particularly Italian, US and Hong Kong authorities.

The FCA has also hosted a JMLIT briefing for small banks and building societies with the aim of encouraging participation from a broader range of institutions in the regulated sector.

### **Case study – Greater collaboration across HMRC improves supervisory coverage**

Greater collaboration between HMRC's Anti Money Laundering Supervision team (AMLS) and other key teams has led to an increase in the number of businesses registering with HMRC for anti-money laundering supervision.

A project started in 2014 started to further enhance the AMLS position within HMRC. Not only did the project generate greater awareness of the purpose of AMLS in HMRC, but it now features in tax evasion training, forms part of HMRC's strategic approach to tax agents and is actively involved in current HMRC campaigns and task forces to tackle particular risk areas.

Recently, one of the AMLS awareness presentations to groups of officers in different parts of HMRC resulted in some excellent information-sharing. Whilst undertaking their normal activities, one of the officers noticed large sums of cash going through the books of a small business. The officer reported this to the AMLS team and the business is now registered as a High Value Dealer with HMRC.

HMRC continues its drive to improve information-sharing between AMLS and other parts of HMRC, adding value to risking and improving compliance.

# 6 Conclusions

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The findings of this report show that there has been increased engagement between supervisors and supervised businesses during 2014 to 2015. Of note, supervisors have reported an increase in the number of action plans they have issued to supervised businesses, suggesting an increased emphasis on educating businesses on how to meet their AML/CFT obligations. There are also some signs of progress in the adoption of a risk-based approach since the previous reporting period, with some supervisors refining their monitoring approaches. This report has demonstrated examples of good practice as well as room for improvement.

## 6.1 The risk-based approach

Supervisors are aware of the necessity of taking a risk-based approach to AML/CFT supervision. However, there is still progress to be made in implementing a fully risk-based approach across the board. An area of inconsistency between supervisors is in the identification and assessment of risk, and the level of sophistication of risk-modelling by supervisors varies significantly. Given the diversity of the regulated sector, the supervisory approach will differ between supervisors. Nevertheless, a robust methodology which allows supervisors to identify and assess risks is essential to countering money laundering and terrorist financing through a risk-based approach. As part of the review of the supervisory regime, the government will examine how the issue of non-comparable risk assessment methodologies could be addressed.

While a majority of supervisors had difficulty articulating how their assessment of risk translated into their monitoring approach in the previous reporting period, in 2014 to 2015 a small majority were able to demonstrate this vital aspect of an effective supervisory regime. If supervisory resource is not appropriately allocated with respect to the risks, there is a possibility of encouraging over-compliance in certain areas, while potentially leading to insufficient resource being deployed in areas of risk.

## 6.2 Monitoring activity

There is an observable increase in the number of desk-based reviews and visits undertaken in 2014 to 2015 compared to the previous reporting period.

The breakdowns of inspection outcomes provided by supervisors indicate that businesses are broadly compliant with the requirements to manage the risk of money laundering and terrorist financing. Some supervisors were, however, unable to report on the outcomes of their inspections. When supervisors encounter non-compliance by businesses during DBRs and visits, this should inform risk assessments, future monitoring and outreach activity. Supervisors must ensure that they can develop systems that record outcomes, and that these drive future monitoring activity. A truly risk-based approach to supervision will ensure that threats and vulnerabilities are effectively and efficiently mitigated, while avoiding placing unnecessary burdens on business.

In order to provide a more consistent approach to understanding compliance within the sector, the accountancy sector affinity group has agreed common definitions of “compliant”, “generally compliant” and “non-compliant”.

## 6.3 Enforcement action

Supervisors have a number of tools that they can use in order to incentivise compliance, including enforcement tools where necessary. Supervisors have access to a variety of sanctions that they can apply to non-compliant businesses, including fines, warnings and revoking authorisation. The data provided by supervisors suggests that there has been a general increase in enforcement activity undertaken by supervisors in 2014 to 2015, compared to the previous year.

In the accountancy sector, there was a significant increase in the number of warnings and action plans issued in 2014 to 2015 compared to the previous year. This was accompanied by a decrease in fines and expulsions. In the legal sector, there was a general decrease in the use of enforcement tools compared to the previous reporting period. In the public sector, there was an increase in the use of some enforcement tools compared to the previous reporting period. Of note was the increase in the use of fines and action plans.

## 6.4 Advice/outreach

Supervisors have a duty to take necessary measures to ensure that businesses comply with their AML/CFT obligations. Essential to achieving this outcome is providing information and advice to the businesses that they supervise. This can include formal Treasury-approved guidance which is written by supervisors and industry bodies, and which provides detailed assistance on the practical application of the Regulations. But it is not the only tool to help businesses manage the risk of money laundering and terrorist financing. Supervisors have reported proactively reaching out to businesses through training events, conferences, advice services, and in some cases the provision of software. All supervisors should ensure that they are supporting supervised businesses through a variety of means, as this outreach is essential to ensuring effective supervision.

## 6.5 Information sharing

Sharing information is a key component of an effective AML/CFT regime, both among supervisors and between supervisors and law enforcement. While supervisors share information through AMLSF and through sectoral affinity groups, the National Risk Assessment found that there is a need to improve information-sharing. To this end, it is encouraging to note that some supervisors are engaging with formal information-sharing mechanisms such as FIN-NET and SIS, as well as foreign law enforcement and supervisors. Supervisors should consider how they can best engage to improve their supervisory outcomes and the effectiveness of the regime.

The Treasury welcomes feedback on this report. Comments should be sent by email to: [aml@hmtreasury.gsi.gov.uk](mailto:aml@hmtreasury.gsi.gov.uk). Please include the words ANNUAL SUPERVISION REPORT VIEWS in your email title. Comments may also be sent by post to:

Sanctions and Illicit Finance Team  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

# Annex A: Anti-money laundering/countering the financing of terrorism

## 7 supervisors

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### Accountancy sector

Association of Accounting Technicians (AAT)  
Association of Chartered Certified Accountants (ACCA)  
Association of International Accountants (AIA)  
Association of Taxation Technicians (ATT)  
Chartered Institute of Management Accountants (CIMA)  
Chartered Institute of Taxation (CIOT)  
Department of Enterprise, Trade, and Investment Northern Ireland (DETI)  
Insolvency Practitioners Association (IPA)  
Insolvency Service (SoS)  
Institute of Certified Bookkeepers (ICB)  
Institute of Chartered Accountants in England and Wales (ICAEW)  
Institute of Chartered Accountants in Ireland (ICAI)  
Institute of Chartered Accountants of Scotland (ICAS)  
Institute of Financial Accountants (IFA)  
International Association of Book-keepers (IAB)

### Legal sector

Chartered Institute of Legal Executives (CILEX)  
Council for Licensed Conveyancers (CLC)  
Faculty of Advocates (Scottish Bar Association)  
Faculty Office of the Archbishop of Canterbury (AoC)  
General Council of the Bar (England and Wales) (GCBEW)  
General Council of the Bar of Northern Ireland (GCBNI)  
Law Society of England and Wales (LSEW)  
Law Society of Northern Ireland (LSNI)  
Law Society of Scotland (LSS)

## Public sector

Financial Conduct Authority (FCA)

Gambling Commission (GC)

Her Majesty's Revenue and Customs (HMRC)<sup>1</sup>

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<sup>1</sup> HMRC supervises estate agents; high value dealers; money service businesses that are not supervised by the FCA; accountants that are not supervised by a professional body; and trust or company service providers that are not supervised by a professional body.

# Annex B: FATF Immediate

## 8 Outcome 3

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Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks.

### 8.1 Characteristics of an effective system

Supervision and monitoring address and mitigate the money laundering and terrorist financing risks in the financial and other relevant sectors by:

- preventing criminals and their associates from holding, or being the beneficial owner of, a significant or controlling interest or a management function in financial institutions or DNFBPs; and
- promptly identifying, remedying, and sanctioning, where appropriate, violations of AML/CFT requirements or failings in money laundering and terrorist financing risk management

Supervisors provide financial institutions and DNFBPs with adequate feedback and guidance on compliance with AML/CFT requirements. Over time, supervision and monitoring improve the level of AML/CFT compliance, and discourage attempts by criminals to abuse the financial and DNFBP sectors, particularly in the sectors most exposed to money laundering and terrorist financing risks.

This outcome relates primarily to Recommendations 14, 26 to 28, 34 and 35, and also elements of Recommendations 1 and 40.

### 8.2 Core issues to be considered in determining if the outcome is being achieved

How well does licensing, registration or other controls implemented by supervisors or other authorities prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in financial institutions or DNFBPs? How well are breaches of such licensing or registration requirements detected?

How well do the supervisors identify and maintain an understanding of the ML/TF risks in the financial and other sectors as a whole, between different sectors and types of institution, and of individual institutions?

With a view to mitigating the risks, how well do supervisors, on a risk-sensitive basis, supervise or monitor the extent to which financial institutions and DNFBPs are complying with their AML/CFT requirements?

To what extent are remedial actions and/or effective, proportionate and dissuasive sanctions applied in practice?

To what extent are supervisors able to demonstrate that their actions have an effect on compliance by financial institutions and DNFBPs?

How well do the supervisors promote a clear understanding by financial institutions and DNFBPs of their AML/CFT obligations and ML/TF risks?

**(a) Examples of information that could support the conclusions on core issues**

- 1 Contextual factors regarding the size, composition, and structure of the financial and DNFBP sectors and informal or unregulated sector (e.g., number and types of financial institutions (including MVTs) and DNFBPs licensed or registered in each category; types of financial (including cross-border) activities; relative size, importance and materiality of sectors).
- 2 Supervisors' risk models, manuals and guidance on AML/CFT (e.g., operations manuals for supervisory staff; publications outlining AML/CFT supervisory / monitoring approach; supervisory circulars, good and poor practises, thematic studies; annual reports).
- 3 Information on supervisory engagement with the industry, the FIU and other competent authorities on AML/CFT issues (e.g., providing guidance and training, organising meetings or promoting interactions with financial institutions and DNFBPs).
- 4 Information on supervision (e.g., frequency, scope and nature of monitoring and inspections (onsite and off-site); nature of breaches identified; sanctions and other remedial actions (e.g., corrective actions, reprimands, fines) applied, examples of cases where sanctions and other remedial actions have improved AML/CFT compliance).

**(b) Examples of specific factors that could support the conclusions on core issues**

- 1 What are the measures implemented to prevent the establishment or continued operation of shell banks in the country?
- 2 To what extent are "fit and proper" tests or other similar measures used with regard to persons holding senior management functions, holding a significant or controlling interest, or professionally accredited in financial institutions and DNFBPs?
- 3 What measures do supervisors employ in order to assess the ML/TF risks of the sectors and entities they supervise/monitor? How often are the risk profiles reviewed, and what are the trigger events (e.g., changes in management or business activities)?
- 4 What measures and supervisory tools are employed to ensure that financial institutions (including financial groups) and DNFBPs are regulated and comply with their AML/CFT obligations (including those which relate to targeted financial sanctions on terrorism, and to counter measures called for by the FATF)? To what extent has this promoted the use of the formal financial system?
- 5 To what extent do the frequency, intensity and scope of on-site and off-site inspections relate to the risk profile of the financial institutions (including financial group) and DNFBPs?
- 6 What is the level of co-operation between supervisors and other competent authorities in relation to AML/CFT (including financial group ML/TF risk management) issues? What are the circumstances where supervisors share or seek

information from other competent authorities with regard to AML/CFT issues (including market entry)?

- 7 What measures are taken to identify, license or register, monitor and sanction as appropriate, persons who carry out MVTs?
- 8 Do supervisors have adequate resources to conduct supervision or monitoring for AML/CFT purposes, taking into account the size, complexity and risk profiles of the sector supervised or monitored?
- 9 What are the measures implemented to ensure that financial supervisors have operational independence so that they are not subject to undue influence on AML/CFT matters?



# Annex C: UK annual return for supervisors

## 9

Information current as at:

Reporting period used:

Supervisor name:

Date appointed supervisor:

Sectors supervised:

If more than one sector – repeat this table for each sector

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Number of Firms									
No of individuals									
Firm demographic information	<p>Where the size or turnover of firms in your sector varies or is otherwise relevant to risk assessments – provide a breakdown of the sector by the most relevant feature to help provide context.</p> <p>Also outline the proportion of which firms are solely UK based or part of an international group (i.e. have branches / subsidiaries / parents in other jurisdiction)</p>								
Services provided by supervised population									
Authority to supervise and governance and operational structure	<p>In addition to the MLR - what legislation, charter, code of conduct provides the supervisor with authority over their supervised population or note that powers are solely based on the MLR.</p> <p>Resources applied to AML/CFT compliance (including FTE and spend)</p> <p>Is this function AML specific or integrated – if it is integrated, explain how this integration works.</p> <p>What is the governance structure for the supervisory role</p> <p>Outline briefly any 'action plans' etc in place to change or improve approach to or resources for supervision (attach annex where relevant)</p>								
AML/CFT threats to and vulnerabilities of the sector	<p>Outline what you see as the key reasons / products / services that make your sector attractive to money laundering and terrorist financing including any UK or regional specific factors. [Please also note any nuclear proliferation financing threats or vulnerabilities]</p>								

	<p>Outline any aspects of your sector that you consider to be low risk.</p> <p>If risks vary across your sector – outline the key variables.</p> <p>Outline how you identify and maintain your understanding of these threats and vulnerabilities</p> <p>Outline how you record and update this assessment and how it informs your supervision approach. Annex your risk assessment</p>
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Registration / membership / approval process	<p>Outline the requirements for registration / membership / approval</p> <p>Outline what checks are undertaken to prevent criminals from gaining membership, management control or ownership (beneficial or legal)</p> <p>Outline the grounds and processes by registration / membership / approval can be revoked</p> <p>Are there any limits on your ability to undertake checks or to refuse or revoke registration / membership or approval</p> <p>Where relevant – outline how you prevent the registration of shell banks</p>
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	2007	2008	2009	2010	2011	2012	2013	2014	2015
Number refused in total									
Number refused for AML/CFT reasons*									

\* Annex case studies or brief descriptions (can be anonymous) for each case or class of cases

Powers to monitor	<p>Outline all your powers to monitor your supervised population, including reference to the law, code, or other provision.</p> <p>Include reference to annual returns / registration process; desk based reviews; general monitoring visits; investigations; powers to demand documents; powers to demand entry; what you can do if the person refuses.</p>
Applying a risk based approach to use of these powers	<p>If you have a risk scoring process by which you determine which firms you will monitor – please explain it briefly here and annex the relevant documents.</p> <p>Outline the factors that you take into account in determining how you set your monitoring programme each year.</p>

	<p>Outline any other threats and vulnerabilities that you monitor for non AML/CFT reasons that you see as relevant indicators of potential vulnerability for either poor compliance or criminal corruptibility which are taken into account in determining your general monitoring approach.</p> <p>Outline the triggers or process by which a firm not on the monitoring programme could be included on the programme during the year or could be subject to an investigation.</p> <p>Outline how you monitor and deal with repeat failings on the same issue or on different AML/CFT issues.</p>
<p>Practical delivery of monitoring</p>	<p>Briefly outline what is included in an annual return / registration renewal and annex relevant documents</p> <p>Briefly outline how you conduct a desk based review and the issues covered and annex relevant documents</p> <p>Briefly outline how you conduct a monitoring visit and the issues covered</p> <p>Briefly outline how you conduct an investigation</p> <p>If you have any other monitoring techniques – such as a thematic review – Briefly outline how you conduct those.</p> <p>Where relevant – outline how you monitor group compliance.</p>
<p>Powers to improve compliance and enforce</p>	<p>Outline all the actions you <u>can</u> take to deal with poor or non-compliance up to and including criminal prosecution and/or referrals for prosecution. Include reference to the law, code or other provision where relevant. (see final page for list of categories so that we can be using comparable terminology)</p> <p>Outline the basis on which you would make a SAR against a member of your supervised population or other person.</p> <p>Briefly outline your enforcement strategy (either general or AML/CFT specific) and annex the relevant document (this should be publicly available to your members)</p> <p>Briefly outline how you ensure that your action is proportionate and takes into account your supervised population’s discretion under the risk based approach.</p> <p>Briefly outline how you follow up after taking action to ensure that compliance has improved.</p>
<p>How do you rate compliance?</p>	<p>What do you consider non-compliance?</p> <p>What do you consider general compliance?</p>



No of conditions or undertakings*									
No of action plans									
No of warnings									

# If you do annual returns for general supervision, rather than just AML, please can you give total numbers and indicate that it is for all. If you only do annual returns for AML – please indicate this.

## If you do annual returns for general supervision, can you indicate % in total which would prompt closer monitoring for any supervisory reason and separately for AML supervision (if possible) and indicate clearly which percentage relates to which.

~ For desk based reviews, visits and investigations – please include the total number which have any AML/CFT angle

\*Annex brief case studies or link to the published outcomes for each case

Promoting compliance	<p>Outline the methods you used during this reporting period to communicate obligations and provide assistance on compliance to your supervised population.</p> <p>For each item – annex or provide link to the communication or the schedule of events; outline the frequency with which it is provided, the channels used for communication, the potential audience and where monitored – the actual uptake.</p> <p>Do you have a section of your supervised population that are either disengaged or hard to engage? What strategies are you using to reach them?</p>
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Measuring improvement	<p>Outline the main areas of non-compliance identified in the current reporting period and how you are seeking to address these.</p> <p>Outline the key areas of improvement identified in the current reporting period.</p> <p>Outline the key areas of good practice identified in the current reporting period.</p> <p>Outline any trends seen as a result of enforcement or education actions you have taken in this reporting period.</p> <p>Note - if you have case studies or reports – annex these</p>
Working in partnership	<p>Outline your engagement/ joint working in this reporting period with any other domestic AML/CFT supervisor.</p> <p>Outline your engagement / joint working in this reporting period with any foreign AML/CFT supervisor.</p> <p>Outline your engagement / joint working in this reporting period with the UK FIU (the NCA)</p>

	<p>Outline your engagement / joint working in this reporting period with any foreign FIUs</p> <p>Outline your engagement /joint working in this reporting period with domestic law enforcement</p> <p>Outline your engagement / joint working in this reporting period with any foreign law enforcement</p> <p>If you have had no engagement with one or more of the above – why is this?</p>
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Any other information	Taking into account the FATF effectiveness methodology – especially Immediate Outcome 3, is there anything else that you want to tell HMT or FATF about?
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Self-assessment	<p>In five sentences or less, explain:</p> <ul style="list-style-type: none"> <li>• Why you deserve a rating of largely effective OR</li> <li>• What you are doing to improve your performance so that you can achieve a rating of largely effective</li> </ul>
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### List your annexes or links

#### Terminology

Expulsion: means any power to remove membership, authorisation, fit and proper status, and/or registration.

Intervention: means any power to take over the running of a business

Suspension: means any power to suspend membership, authorisation, fit and proper status and/or registration

Fine: means any power to levy a financial penalty

Reprimand: means any type of formal written warning issued by a tribunal / committee / or organisation and which may be published

Undertaking or condition: means any formal and publishable requirement to implement remediation or restriction on ability to carry on business or offer specific services

Action plan: Any communication seeking improvements which is considered as part of the general capacity development and monitoring programme, rather than part of a formal disciplinary programme.

Warning: Any communication with a firm cautioning against specific conduct.



### **HM Treasury contacts**

This document can be downloaded from  
[www.gov.uk](http://www.gov.uk)

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