

Summary of feedback received

January 2018

<p>Consultation title</p>	<p>Office for Professional Body Anti-Money Laundering Supervision: a sourcebook for professional body supervisors (GC17/7)</p>
<p>Date of consultation</p>	<p>24 July 2017 to 23 October 2017</p>
<p>Summary of feedback received</p>	<p>We consulted on a draft sourcebook of guidance for the professional body supervisors that will be overseen by the new Office for Professional Body Anti-Money Laundering Supervision (OPBAS). We received 32 responses, including two confidential replies, and are grateful to everyone who took the time to contact us.</p> <p>Most respondents were content with the principles-based nature of the proposed sourcebook. Only one asked for a more prescriptive approach. Some respondents sought more material tailored to specific sectors, rather than a “one-size-fits-all” sourcebook. Several suggested the creation of the sourcebook was premature because OPBAS is not yet operational, and so had not yet developed sufficient knowledge of the sectors.</p> <p>Respondents asked for clarity on specific points, or made specific suggestions, which we discuss below.</p> <p>We also received comments unrelated to the content of the sourcebook:</p> <ul style="list-style-type: none"> • several respondents disagreed with the creation of OPBAS • many respondents were concerned the running costs of OPBAS were excessive • there was a widespread view that information sharing between professional body supervisors and the authorities would be aided by greater intelligence contributions from law enforcement agencies. Some felt OPBAS had an important role coordinating and facilitating this • some respondents suggested OPBAS should provide training, intelligence, and risk analysis to professional body supervisors

- many respondents were unhappy that OPBAS will have no formal oversight of the adequacy of HM Revenue and Custom's (HMRC) anti-money laundering supervision

Many respondents commented on the **cost-benefit analysis** in the consultation. More than half of the respondents said they felt the FCA's analysis failed to demonstrate that the costs of OPBAS were outweighed by its benefits. Fifteen people said we provided insufficient detail to allow informed comment. Several suggested that specific unintended negative consequences of the creation of OPBAS had not been costed (e.g. the possible withdrawal of people from professions). One respondent said an unacknowledged benefit was the reassurance OPBAS might provide banks that offer facilities to professionals on the adequacy of these customers' anti-money laundering controls.

Response to feedback received

We will maintain the principles-based drafting approach to the sourcebook because this was broadly welcomed. We will maintain a focus on a risk-based approach within that document. For brevity we will not add an introductory chapter on the background to the government's decision to create OPBAS and its role. We believe that the contextual information in the public domain (in our guidance consultation and elsewhere) is sufficient. However, for the sake of convenience, we will publish relevant links on the OPBAS webpage.

Some respondents suggested the guidance is premature. We believe it is important to publish guidance, drawing on the FCA's experience as a supervisor and a member of the Anti-Money Laundering Supervisors Forum. We feel we do not know enough about the different sectors to put tailored material in the sourcebook for each sector at this stage. We may revisit this in future once OPBAS has been operational long enough to have developed a fuller picture. We believe that the risk-based principles outlined in our sourcebook will contribute to OPBAS's objectives of raising standards and driving greater consistency in the application of AML supervision.

We have made a number of changes to the sourcebook where respondents asked for clarity on specific points, or made specific suggestions. These are listed in the section below.

We received some comments and suggestions we do not intend to take forward, namely:

- a) Putting material in the sourcebook about how OPBAS will supervise. This information is important, and was set out in our open letter to supervisors¹. However we do not think the sourcebook is the correct place for such material. OPBAS will maintain updated text on its webpage covering, for example, the withdrawal and

¹ See: <https://www.fca.org.uk/publication/correspondence/letter-professional-bodies-opbas-supervision.pdf>

application process for professional body supervisors.

- b) Explaining which sectors OPBAS regards to pose a lower risk. We do not think the sourcebook is the correct place for this.
- c) Explain which qualifications for anti-money laundering are endorsed by OPBAS: we do not intend to endorse particular training providers or qualifications.
- d) Set out 'sentencing guidelines' for professional bodies to follow when, for example, levying enforcement fines. We do not yet know enough about different bodies' approaches to consider whether this is appropriate.
- e) Explain how data protection rules should be applied. It is predominately the role of the Information Commissioner's Office (ICO) to provide guidance on its rules and for professional body supervisors to liaise with the ICO on obligations.

Some matters raised by respondents, such as the nature of OPBAS's role in relation to HMRC, are outside of the FCA's control.

Our cost-benefit analysis included an estimate of the costs of running OPBAS. The final running costs may differ from this estimate, which was based on a provisional modelling exercise. The ability of OPBAS to operate within the costs estimate and achieve the benefits will be to some degree influenced by the extent to which it can work collaboratively. It must work with professional body supervisors, law enforcement agencies, and others to foster cooperation, information exchange and the sharing of good practice. This will require constructive engagement from everyone involved. We believe our running costs are appropriate and reflect a supervisory model that is proportionate and appropriate to the scale of the task OPBAS has been charged with performing.

Changes made to the guidance as a result of feedback received

A revised sourcebook including amendments to address points raised by respondents can be found [here](#).

We will delay the date from which the sourcebook takes effect to 1 February 2018. This is because the legislation to give OPBAS its powers was not ready by 1 January. In addition, the revised text is less prescriptive about whether professional body supervisors need to join existing information sharing arrangements. They are however still expected to share information.

We agree with many of the suggestions made by respondents and have made the following changes. We feel these make the document clearer and add depth where respondents have asked for it, namely:

- clarifying glossary definitions (e.g. of 'member' and 'senior

management')

- adding discussion about conflicts of interest arising from governance. This includes how responsibilities are allocated to the advocacy and regulatory functions of a professional body
- clarifying what the limits are to the application of a risk-based approach
- providing further detail on how professional bodies play the gatekeeper role
- clarifying the description of relationship-building meetings
- adding desk-based reviews as a supervisory tool
- discussing sampling methods for supervisory visits
- clarifying whether the Money Laundering Reporting Officer needs to also be the single point of contact
- clarifying the distinction between where the text refers to misconduct investigations and where it discusses supervisory inspections
- stating that professional body supervisors should cooperate to identify gaps and overlaps in supervision
- clarifying when information sharing is necessary within legal constraints and system protocols
- adding more examples of information-sharing tools
- expanding material on training to cover staff competence more generally, and mention continuous professional development (CPD) and qualifications
- stating that professional body supervisors should publicise enforcement actions
- adding good practice examples related to enforcement
- clarifying that the annual questionnaire prepared by professional body supervisors is the same as the one currently submitted to HM Treasury, and not a separate document
- making the section on quality assurance more flexible to accommodate professional bodies that operate at a range of scales

You can access the full text of the guidance consulted on <https://www.fca.org.uk/publication/guidance-consultation/gc17-07.pdf>
