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Corporate

# AML / CFT Supervision

## Action Plan for Anti-Money Laundering and Counter Terrorist Finance

**Institute of Financial Accountants**

The Podium, 1 Eversholt Street, Euston, London, NW1 2DN

**T:** +44 (0)20 7554 0730 **F:** +44(0)20 7554 0731 **E:** mail@ifa.org.uk

**[www.ifa.org.uk](http://www.ifa.org.uk)**

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2 June 2016

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

Dear Sir/Madam

**Action Plan for Anti-Money Laundering and Counter Terrorist Finance**  
**Annex C: Call for information – AML Supervisory Regime**

**Introduction**

1. The Institute of Financial Accountants (IFA) welcomes the opportunity to respond to **HM Treasury's Annex C: Call for Information – AML Supervisory Regime**, which is included as part of the government's **Action Plan for anti-money laundering and counter-terrorist finance** issued on 21 April 2016.

**Who we are**

2. The IFA is an internationally recognised professional accountancy membership body whose members work for small and medium-sized enterprises (SMEs) or who run or work in small and medium-sized accounting practices (SMPs) that advise SMEs.
3. The IFA is a full member of the International Federation of Accountants (IFAC), the global body for the accountancy profession. As such, the IFA takes its place alongside the UK and Ireland's six chartered accountancy bodies, as well as 135 national and regional accountancy organisations representing 125 countries and jurisdictions.
4. Founded in 1916, the IFA supports over 10,000 members and students in more than 80 countries with a programme of professional qualifications and education. As well as resources, events, training and seminars. IFA members uphold high standards of conduct, confidentiality and ethics and undertake annual continuing professional development (CPD) activities.
5. The IFA amalgamated with the Institute of Public Accountants (IPA) of Australia on 31 December 2014. The combined bodies have over 35,000 members globally which thus enables a greater focus on the needs of SMEs/SMPs.

6. The IFA's capacity to regulate its members for the purposes of the Money Laundering Regulations 2007 is recognised by HM Treasury and is formally recognised as an awarding organisation by Ofqual, the UK public body responsible for maintaining and monitoring standards for general and vocational qualifications and examinations.
7. The IFA is also a member of the Accountancy Affinity Group (AAG), the Anti-Money Laundering Supervisors Forum (AMLSF) and the Money Laundering Advisory Committee (MLAC).

## Responses to questions

### Identification of risks

8. The IFA reserves its response to questions 1 to 3, pending the outcome of current work being undertaken by the AAG to establish the feasibility of a common approach to risk assessment methodology, and if feasible, the development of such a framework.
1. **Should the government address the issue of non-comparable risk assessment methodologies and if so, how? Should it work with supervisors to develop a single methodology, with appropriate sector-specific modifications?**
2. **How should the government best support supervisors – and supervisors support each other – to link their risk-assessments to monitoring activities and to properly articulate how they do so?**
3. **Should the government monitor the identification and assessment of risks by the supervisors on an ongoing basis? Should the supervisors monitor each other's identification and assessment of risks? How might this work?**
4. **Should smaller supervisors be encouraged to pool AML/CFT resources into a joint risk function and would this lead to efficiencies? If so, how should they be encouraged?**
9. The IFA is a member of the Accountancy Affinity Group (AAG)'s risk working group which has a remit of developing a common approach to risk assessment methodology for the accountancy sector. In so doing, we are addressing some of the concerns raised in the National Risk Assessment. If a common risk methodology for the sector is adopted by all supervisors and if this methodology is reviewed on a regular basis by the AAG and other key stakeholders, there seems to be little benefit of having a joint risk function. However, efficiencies may be gained in other areas by supervisors pooling AML/CFT resources such as representations to policy makers and regulators on behalf of the accountancy profession and sharing approaches and supervisory staff for monitoring compliance with AML/CFT requirements. However, one of the drawbacks of pooling AML/CFT resources together may be reduced flexibility. Both these areas are discussed as part of the regular meetings of the AAG as well as on a supervisor to supervisor basis.

10. This is discussed further in the response to question 29 below.

**5. How should the ability of the supervisors and law enforcement agencies to share information on risks be improved?**

11. Information sharing between law enforcement and supervisors has improved significantly. That being said, there is presently significant variation between different supervisors and law enforcement in terms of information sharing, with some being provided more information than others.

12. Along with other sources, supervisors need law enforcement intelligence to:

a) Alert them to high risk individuals who may not have been picked up through standard monitoring (either because they do not present a prima facie risk, or because they are not for the purposes of supervision presenting as within the regulated sector). This allows for swift intervention, particularly with firms who are identified as “negligent” or “unwitting”, and therefore not subject to criminal prosecution for their role in any crime.

b) Alert them to key law enforcement findings with respect to both effective and emerging typologies. This allows supervisors to determine whether their risk framework continues to be fit for purpose, but also allows supervisors to communicate typologies to firms, so they can be alert to suspicious activity, and increase reporting as they identify it.

c) Measure the impact of supervisory intervention activity, in order to determine whether activities have disrupted known trends, in which case supervisory intervention can be assessed as effective. Effective supervision is critical, but cannot be fully measured in the absence of law enforcement data to determine whether particular interventions and/or outreach have terminated or reduced particular trends identified.

13. The disparity in information sharing between supervisors appears to in part be linked to security clearance. Therefore HM Treasury and the Home Office may wish to consider whether this should be a pre-requisite for supervisors which would address this issue.

**Supervisors Accountability**

**6. To promote discussions between the supervisors, should attendance at the AMLSF and submission of an annual return to the Treasury be made compulsory for supervisors? How could the government ensure that this happened?**

14. The IFA is of the firm belief that both attendance at the AMLSF and the submission of an annual return to HMT should be made compulsory. There are several ways in which this could be achieved such as having a contract or Memorandum of Understanding between HM Treasury and the designated supervisors. However, whatever mechanism is adopted, they all rely on effective oversight which is discussed in other sections of this response.

15. The principle of ensuring attendance is one that the IFA firmly supports as it is indicative of the level of commitment shown by individual supervisors. This could be determined on a contractual basis, with strictly defined minimum terms of service. The AAG has been developing its own Terms of Reference in pursuit of further enhancing attendance and engagement within the affinity group.

**7. Could the Money Laundering Advisory Committee (MLAC) have a greater role in driving improvements in the supervisory regime?**

16. From IFA's perspective there has always been a certain amount of confusion in relation to the actual role of MLAC, although it is understood that when it was set up in 2003 it was set up as a "forum for key private and public sector stakeholders to co-ordinate the AML regime and review its efficiency and effectiveness"<sup>1</sup>. The group's terms of reference are not freely available, nor have its agendas and minutes been made publically available since 2008. It is therefore difficult to comment on what sort of role it should be given as there is little understanding of who are members of the MLAC and its role and purpose.

It is unclear how HM Treasury determines who the key stakeholders are to sit on MLAC, nor how appointments are reviewed to ensure that MLAC continues to meet its intended purpose.

17. If MLAC were to play a part in driving improvements in the supervisory regime HM Treasury would need to:

- establish and make freely available the terms of reference for the Committee, including what types of improvements the Committee would be responsible for;
- establish mechanisms for appointing members to the Committee and managing potential conflicts of interest;
- ensure that the Committee had detailed knowledge and understanding of the AML/CFT regime and obligations as well as an appreciation of the real money laundering and terrorism financing risks faced by reporting entities in different regulated sectors; and
- ensure that the Committee had powers and resources to undertake an effective oversight role.
- Increase the transparency of the activities of MLAC by publicising terms of reference, appointment process, agendas, minutes, consultations and so on.

**8. Should the government instigate a formal mechanism for assessing the effectiveness of all the supervisors AML/CFT activities with the power to compel action to address shortcomings? If so, should this be carried out by the Treasury directly, through another body such as the National Audit Office, or through creating a new body, perhaps along the same lines as the Legal Services Board which oversees legal services supervisors or the Financial Reporting Council which**

**promotes high quality corporate governance and reporting? Are there other ways of ensuring effectiveness that should be considered?**

18. The IFA would cautiously support the creation of an entity to ensure that comparable standards of effectiveness were maintained amongst supervisors, but does not consider it appropriate to suggest who that body might be. With the Money Laundering Regulations 2007 extending to both Scotland and Northern Ireland, this body would need to have powers across the United Kingdom.

19. As a minimum, the IFA considers that an effective oversight body should:

- Set standards;
- Provide guidance;
- Have detailed knowledge and understanding of the AML/CFT regime and obligations, an appreciation of the real money laundering and terrorism financing risks faced by reporting entities in different regulated sectors;
- Allow innovation within the private sector by not being so burdensome that this is stifled; and
- Have the power to hold supervisors to account, including effective sanctions which could ultimately trigger withdrawal of supervisory status.

20. The IFA strongly believes that all supervisors would have to be bound by this new entity, and its *de minimis* requirements regardless of whether they are governmental departments or private sector organisations.

21. In essence, effective oversight provides assurance that supervisory activity is effective, but also holds to account those who are not.

22. The IFA believes that HM Treasury could effectively undertake this function, if appropriately resourced to do so.

23. If, on the basis of evidence, the government decided that a formal mechanism such as a new entity was required to address shortcomings in supervisory activity, the IFA urges the government to consider how this new entity would link to other changes being proposed in Annex C such as the potential role of MLAC in driving improvements in the supervisory regime as well as findings of the Business and Innovations Skills (BIS) Cutting Red Tape review on the current anti-money laundering and terrorist finance regime which have not yet been published.

24. Another possible way of ensuring effectiveness of the supervisors AML/CFT activities is through the collection of quantitative and qualitative data and information which is included in the annual supervisor's report. The submission of this supervisors report to HM Treasury could then be followed up with supplementary meetings as required to clarify any issues, identify shortcomings and recommend and agree an action plan.

25. While there is a strong desire to have and demonstrate that the UK has an effective AML/CTF regime to safeguard the economy, a more 'granular' approach to data collection in the annual supervisor's

report in order to demonstrate effectiveness may result in increased regulatory burden and costs for both supervisors and the reporting entities they supervise in the regulated sectors.

**9. Would an overarching body be able to add value by maintaining a more strategic view of the entire AML/CFT landscape and identifying cross-cutting issues which individual supervisors might struggle to identify? Should such a body have the authority to guide and compel the activities of the supervisors, up to and including the power to revoke approval for bodies to be supervisors?**

26. Whether an overarching body would be able to maintain a strategic view would depend entirely on its composition and ability to compel the provision of information from all stakeholders, including both law enforcement and the private sector in pursuit of its assurance role. If all supervisors were to operate on an equal playing field under this new body then there could be a great deal of value in it. However there is some skepticism as to whether governmental supervisors and private sector supervisors would be treated in the same way, as is discussed above in paragraph 5 in the context of information sharing.

27. The role of HMRC in particular could create challenges. Focusing on the accountancy sector specifically, HMRC currently supervises numerous firms within the accountancy sector that would not be eligible for supervision by other accountancy supervisors. The lack of fit and proper tests, amongst other issues, means that as a supervisor it is functionally different to others within the sector. There has historically been very little transparency about HMRC's role as 'default supervisor' and it would be hard to envisage supervisors being content with a two tier system of standards.

### **Penalties and enforcement**

**10. Should the government seek to harmonise approaches to penalties and powers? For example, should supervisors have access to a certain minimum range of penalties and powers and what should these be? Should there be a common approach for deciding on penalties and calculating fines based on variables such as turnover that are scalable to the size of the business?**

28. Through its bye-laws, regulations and disciplinary process, the IFA has a range of sanctions available to it relating to AML/CFT breaches, including fines, costs, suspension and exclusion. To support the decision making process of the IFA's Investigations, Disciplinary and Appeal Committee, the IFA has sanctions guidance. This guidance aims to provide a framework to the IFA Investigations, Disciplinary and Appeals Committees to make sentencing decisions regarding its members and students. The guidance covers the roles and sanctioning powers of the conduct committees as well as the decision making process on sentencing. This guidance helps to ensure that the IFA's disciplinary process is robust, fair, consistent and proportionate.

29. In principal, the IFA would support a common approach for deciding on penalties and calculating fines relating to AML/CFT breaches. However, if a common approach were to be developed, it would have to take into account a number of variables such as:

- the principles which underpin the sentencing policy. In the case of the accountancy profession, such principles would include the reputation of the profession, correcting and deterring misconduct, upholding standards of the profession and protecting the public;
- range of penalties available;
- any facts which aggravate or mitigate the seriousness of the conduct;
- prior disciplinary records;
- any mitigating factors which are personal to the member.

30. In addition, the government would have to consider whether the development of a common approach would apply to the entire regulated sector or to sub-sectors in the regulated sector.

31. However, in our view, it is unlikely that a common approach to penalties and other sanctions would necessarily increase the appearance of consistency in penalties and sanctions associated with AML/CFT breaches due to the number of variables involved in a disciplinary decision making process.

**11. Should the government seek to establish a single standard for supervisors disciplinary and appeals functions?**

32. The IFA has a well-established disciplinary and appeals function that goes beyond the supervision of AML compliance and works well. It is unclear to the IFA as to what is meant by the establishment of ‘a single standard for supervisors disciplinary and appeals function’ nor whether there is a need to create such a standard.

**12. Does the inability of some supervisors to directly compel attendance of relevant persons to answer questions or to enter premises reduce their ability to effectively supervise, or is liaison with law enforcement agencies an appropriate mechanism? If so, how could the government address this?**

33. Through its bye-laws, regulations and disciplinary process, the IFA has the ability to effectively supervise its members and compel them to co-operate with the AML/CFT monitoring, whether this be in the form of a desk-top review, telephone interview and/or onsite visit. Failure to co-operate with AML/CFT monitoring may lead to disciplinary action on the member. So, it is our belief, the government does not need to address this area for the accountancy sector which is supervised by professional bodies, since all professional bodies will have similar powers via their own regulations. This may not be the case for HMRC, the default supervisor for the accountancy sector.

**Ensuring high standards in supervised populations**

**13. Should all supervisors have powers to compel supervised businesses to submit comprehensive and up-to-date information to aid risk assessment?**

34. Other than HMRC, IFA already have this power under conditions of membership. If a member failed to provide the supervisor with such information they could be disciplined and sanctioned, but could ultimately be excluded from membership. If a member was excluded but continued to practice and be

supervised by another supervisor within the IFA, they would face the same conditions and potentially be disciplined by the new supervisor as a result of the disciplinary action taken by the former supervisor.

35. The only exception to this within the group is those accountancy service providers supervised by HMRC, as default supervisor. In addition, HMRC only conduct fit and proper tests on money service businesses or trust or company service providers but not accountancy service providers who are the sector that AAG supervise.

36. Although the information requested of our members is comprehensive, private sector supervisors do not have access to police databases. However, the IFA and the AAG members, has been working with law enforcement to provide such information. In addition, it is not just information about criminal convictions obtained through declarations by members that are relied on by supervisors within the AAG. We share information and have media sources that provide us with details of criminal convictions and disciplinary action.

**14. Is there a need for supervisors themselves to undergo training and/or continuous professional development? Is so, what form might this take and should it be government-recognised?**

37. Supervisors such as the IFA which is a member of the AAG provide AML training to their members and so would either give that training themselves or are familiar with its content. In addition, the IFA is of the view that if attendance at the AMLSF is made compulsory (see comments above), that should be sufficient evidence of CPD for governments and other key stakeholders.

**15. Is there a need for relevant persons in the supervised populations across all sectors to undergo training and/or continuous professional development to aid their understanding of AML/CFT issues?**

38. This is already a requirement under the MLR. See Regulation 21 which provides that all 'relevant employees' of the relevant person are made aware of the law on money laundering and terrorist financing and regularly given training in how to recognise and deal with the transactions that may be related to money laundering and terrorist financing.

**The role of professional bodies in AML/CFT supervision**

**16. What safeguards should be put in place to ensure that there is sufficient separation between the advocacy and AML/CFT supervisory functions in professional bodies? To what extent are appropriate safeguards already in place?**

39. The wording of this question presumes that there are issues or problems arising from the wide ranging roles of professional bodies which includes member representation as well as monitoring. However, to date, no evidence has been presented in this call for information or elsewhere which demonstrates that there is an issue or problem which needs to be addressed.

40. As well as representing members' interests through their advocacy functions, professional bodies in the accountancy sector seek to further the role of the accountancy profession and to act in the public interest. This is importantly distinct to other professions who exercise sole duties to their clients. Hence, professional bodies in the accountancy sector are accountable not only to members, but also to the accountancy profession and to the public at large.

41. Identifying conflicts of interest arising from advocacy and supervisory functions, either actual or perceived, and implementing safeguards to eliminate or reduce the risk to an acceptable level is familiar territory to professional bodies, their members and the accountancy profession as a whole. This thinking has been enshrined for many years in the Code of Ethics for Professional Accountants and its predecessors.

42. Professional bodies manage the actual or perceived conflicts of interest arising from its advocacy and supervisory and monitoring roles by implementing a number of safeguards such as:

- Safeguards created by the profession, legislation or regulation including demonstrably robust:
  - Professional or regulatory monitoring;
  - Well-publicised complaints process;
  - disciplinary procedures;
  - External reviews of the above procedures and feedback from third parties such as the International Federation of Accountants, Financial Reporting Council, HM Treasury, HMRC, Ofqual, Civil Aviation Authority and other regulators, Insolvency Service.
- Safeguards created by the professional body as an organisation such as:
  - o Separate departments involved with advocacy and supervisory/monitoring functions;
  - Lay representation within regulatory functions;
  - Consulting independent third parties such as independent Committees of the professional body, or implementing regulatory oversight arrangements;
  - Involving other professional bodies and/or regulators as appropriate.

43. In conclusion, given the public interest remit of professional bodies, we are of the view that there are sufficient and proven safeguards in place to mitigate actual or perceived risks associated with potential advocacy and supervisory and monitoring roles of professional bodies.

**17. Should the government mandate the separation of representative and AML/CFT supervisory roles? What impacts might this have on the professional bodies themselves?**

44. We believe this separation already exists within the supervisory bodies. The IFA would not support the prescription of further measures mandatory separation of representative and AML/CFT supervisory roles of professional bodies as discussed in our response to question 16 above.

## 18. How does the UK approach to professional body supervision compare to other countries' regimes?

45. The Financial Actions Taskforce (FATF), the inter-governmental body developing and promoting policies to combat money laundering and terrorist financing, conducts mutual evaluation reviews of countries to measure their effectiveness in implementing the necessary measures to combat money laundering and terrorism.

46. The country mutual evaluation reports identify areas where countries can improve and may provide useful input to comparisons of the UK approach to AML/CTF professional body supervision.

47. While international comparisons may be helpful in providing food for thought for future changes, it should be noted that what works in one country may not necessarily work in another due to different legal, regulatory, economic, social and political considerations.

### Guidance

## 19. How could inconsistencies between the JMLSG guidance and the FCA's Financial Crime Guide best be resolved? Should the two be merged? Or should one be discontinued and if so, which one and why?

48. Intelligence is currently shared between members of the AAG on a bilateral supervisor to supervisor basis when necessary. The type of information that is shared on a member and/or firm includes:

- The confirmation of supervision;
- Potential change in supervision;
- Practice assurance/monitoring findings;
- Disciplinary outcomes in relation to AML related issues;
- Report to HMRC when supervision is withdrawn.

49. Information sharing with law enforcement falls into two categories:

- Law Enforcement sharing information to supervisors via updates at AMLSF and AAG meetings which tend to be a one way distribution of information for supervisors to report back to their professional bodies to be used in training and practice assurance development.
- Law enforcement contacting individual supervisors to discuss individual members and/or firms. This tends to be a one way discussion with law enforcement not always able to share information due to ongoing investigations.

50. Supervisors often experience a lack of knowledge of the supervisory regime on the part of law enforcement when discussing individual cases with law enforcement. More should be done to educate or facilitate sharing information relating to a member or firm when a criminal investigation has concluded as further action could potentially be taken by the supervisor. It is generally the case that after initial contact from law enforcement no further contact is made, and no information shared which can leave the supervisor in a difficult position.

**20. What alternative system for approving guidance should be considered and what should the government's role be? Is it important to maintain the principle of providing legal safe harbour to businesses that follow the guidance?**

51. Some AAG members currently use FIN-NET however the general perception is that the information provided is limited and relies on other users to provide the information. It can only be used to research a single entity so relies on existing suspicions/data and could not be used to produce bulk CDD material.

52. The SIS system shares intelligence within a gateway that provides a sign post to the material rather than the material itself. Currently there are only 25 users with most also being members of FIN-NET.

53. It would be useful to undertake cost benefit analysis of using either system to help persuade supervisors to fully engage and as both systems charge a fee that is irrespective of the potential number of searches or size of the professional body (FIN-Net = £2,200 plus VAT and SIS = £2,000 plus VAT). It is generally felt the fees involved could be a barrier unless a realistic fee scale was introduced. In the alternative, this might see an increase in compliance costs to firms

**21. Should the government produce a single piece of guidance to help regulated businesses understand the intent and meaning of the Money Laundering Regulations, leaving the supervisors and industry bodies to issue specific guidance on how different sectors can comply? If so, would this industry guidance need to be Treasury approved? Should it be made clear that the supervised population is to follow the industry guidance?**

54. Most supervisors maintain some form of register of members which are often public facing which could potentially be adapted to include confirmation of AML supervision in some form, if this information is not already publically available.

55. IFA is open to the development of a single public register of supervised businesses, and happy to provide information on request as is routinely done between supervisors in pursuit of identifying supervisory gaps and overlaps.

56. The IFA considered who the ultimate users of such a register would be, and concluded that it would be HMRC, in its capacity as a default supervisor, and law enforcement in order to identify supervisors where specific issues arise. In both cases, the IFA and other AAG members are a conduit to identification of this information, and has been used successfully in the past.

57. On this basis, the IFA is supportive of the principle of a public register, but would not support funding it since we are of the view that the costs outweigh the benefits. The IFA believes that a public register would have a limited number of users and high administration costs in addition to high one-off capital costs.

Existing gateways to information sharing that exist for both law enforcement and HMRC could be better used than perhaps is currently the case.

## **Transparency**

### **22. Should supervisors be required to publish details of their enforcement actions and enforcement strategy, perhaps as part of the Treasury's annual report on supervisors, or in their own reports? What are the benefits and risks in doing so?**

58. The IFA publishes the outcomes of its disciplinary hearings in the IFA website and IFA magazine, so it is publicly available for all to see. In addition, the enforcement actions taken by supervisors are already requested by Treasury as part of the annual supervisor's report.

59. So, given the above, it is not clear what additional information would be required to be published and why.

### **23. Should the government publish more of the detail gathered by the annual supervisor's report process? For example, sharing good practice or weaknesses across all supervisors?**

60. As a member of the AAG, the IFA shares good practice and weaknesses with other supervisors in a confidential manner. If this type of information was shared publicly, there is a risk that information is shared with individuals and organisations involved in AML/CFT activities. So, the IFA would urge the government to consider this matter carefully in order to avoid unintended consequences.

### **24. Should supervisors be required to undertake thematic reviews of particular activities or sections of their supervised populations, as the FCA currently does? If so, how often should such reviews be undertaken?**

61. It is not clear to the IFA whether the publication of a thematic review by each of the supervisors would enhance the effectiveness of the AML/CFT regime since there are alternative ways of achieving the same goals.

62. The IFA through its various communication channels and events, shares with its members key trends and issues from its AML/CTF supervisory and monitoring activities. IFA supervisory activities, key trends and enforcement actions are also included in the annual supervisor report submitted to HM Treasury and information is shared at the AAG.

63. So, while the IFA does not formally issue a thematic report on a particular activity or section of its membership, the key learnings from its monitoring and supervised activities are shared with its members and other key stakeholders.

## **Information sharing**

### **25. What is the best way to facilitate intelligence sharing among supervisors and between supervisors and law enforcement? What safeguards should be imposed?**

64. Intelligence is currently shared between members of the AAG on a bilateral supervisor to supervisor basis when necessary. The type of information that is shared on a member and/or firm includes:

- The confirmation of supervision;
- Potential change in supervision;
- Practice assurance/monitoring findings;
- Disciplinary outcomes in relation to AML related issues;
- Report to HMRC when supervision is withdrawn.

65. Information sharing with law enforcement falls into two categories:

- Law Enforcement sharing information to supervisors via updates at AMLSF and AAG meetings which tend to be a one way distribution of information for supervisors to report back to their professional bodies to be used in training and practice assurance development.
- Law enforcement contacting individual supervisors to discuss individual members and/or firms. This tends to be a one way discussion with law enforcement not always able to share information due to ongoing investigations.

66. Supervisors often experience a lack of knowledge of the supervisory regime on the part of law enforcement when discussing individual cases with law enforcement. More should be done to educate or facilitate sharing information relating to a member or firm when a criminal investigation has concluded as further action could potentially be taken by the supervisor. It is generally the case that after initial contact from law enforcement no further contact is made, and no information shared which can leave the supervisor in a difficult position.

### **26. As one means of facilitating better sharing of intelligence among supervisors and between supervisors and law enforcement, could the government mandate that all supervisors should fulfil the conditions for, and become members of, a mechanism such as FIN-NET? Are there other suitable mechanisms, such as the Shared Intelligence System (also hosted by the FCA)?**

67. Some AAG members currently use FIN-NET however the general perception is that the information provided is limited and relies on other users to provide the information. It can only be used to research a single entity so relies on existing suspicions/data and could not be used to produce bulk CDD material.

68. The SIS system shares intelligence within a gateway that provides a sign post to the material rather than the material itself. Currently there are only 25 users with most also being members of FIN-NET.

69. It would be useful to undertake cost benefit analysis of using either system to help persuade supervisors to fully engage and as both systems charge a fee that is irrespective of the potential number of searches or size of the professional body (FIN-Net = £2,200 plus VAT and SIS = £2,000 plus VAT). It is generally felt the fees involved could be a barrier unless a realistic fee scale was introduced. In the alternative, this might see an increase in compliance costs to firms.

**27. Should the government require all supervisors to maintain registers of supervised businesses? If so, should these registers cover all registered businesses or just certain sectors? Should such registers be public? What are the likely costs and benefits of doing so?**

70. Most supervisors maintain some form of register of members which are often public facing which could potentially be adapted to include confirmation of AML supervision in some form, if this information is not already publically available.

71. The IFA is open to the development of a single public register of supervised businesses, and happy to provide information on request as is routinely done between supervisors in pursuit of identifying supervisory gaps and overlaps.

72. The IFA considered who the ultimate users of such a register would be, and concluded that it would be HMRC, in its capacity as a default supervisor, and law enforcement in order to identify supervisors where specific issues arise. In both cases, the IFA and the AAG is a conduit to identification of this information, and has been used successfully in the past.

73. On this basis, the IFA is supportive of the principle of a public register, but would not support funding it since we are of the view that the costs outweigh the benefits. The IFA believes that a public register would have a limited number of users and high administration costs in addition to high one-off capital costs. Existing gateways to information sharing that exist for both law enforcement and HMRC could be better used than perhaps is currently the case.

**Ensuring the effectiveness of the FCA**

The IFA has no comments on questions 28 to 30 which relate to the effectiveness of the FCA.

**The number of supervisors**

**31. Is the number of supervisors in itself a barrier to effective and consistent supervision? If so, how should the number be reduced and what number would allow a consistent approach?**

74. The number of supervisors could be seen to be a barrier to effective and consistent supervision – however little evidence has been advanced proving that this is so. The IFA is of the view that the “number of supervisors” is arbitrary to the measure of effectiveness and consistency.

75. The members supervised by each body are in themselves diverse. Each supervisory body seeks to understand its supervised population, the risks they pose and the risks they face. Using a risk based

approach (as required by the MLRs) each body has developed practices, policies and procedures to reflect the specific demographic of their membership, the services provided, the nature of their clients and the geographical reach of their members.

76. Due to the diversity of the supervised population it could be argued that such a number of supervisors is vital to ensure that the different characteristics of each supervised member is fully understood and the specific risks faced by each body identified and minimised.

77. It is not always constructive or relevant to directly compare the approaches of the supervisors. What may be seen as an inconsistency of regulatory approach between the supervisory bodies invariably reflects a consistent approach to very different risk profiles.

78. All supervisory bodies adopt a risk based approach to supervision. All supervisory bodies attend the quarterly meetings of the AMLSF which was set up to encourage the sharing of information and best practice between the supervisors. It is also attended by the Treasury, the Home Office and NCA.

79. There are also three affinity groups; accountancy, legal and public sector. The affinity groups are forums in which the professional bodies can work collaboratively to develop specific supervisory policies which in turn promote consistency in standards and best practice. It is an information forum where knowledge can be shared.

80. The work carried out by the members of the various supervisory bodies is very diverse and there is little duplication of the areas supervised by the various regulatory bodies. The AAG for example, has worked hard to ensure that regulatory overlap is minimised, that a consistent approach to supervision is adopted and that best practice is shared.

81. In summary, the number of supervisory bodies is not relevant to ensuring effective supervision. What is important is the consistency of approach, the adoption of risk based policies and the effective sharing of information.

82. However, one of the barriers to effective supervision is that any unqualified individual can call himself/herself an “accountant” and fail to register with any supervisor for AML/CFT monitoring since they may not be aware of the Money Laundering Regulations 2007 requirements. While professional bodies and HMRC endeavour to encourage registration and compliance with the Money Laundering Regulations, there is no mechanism for capturing “accountants” which are unregulated and operating without supervision.

**32. If this is an issue, are there other ways to address it? For example, would supervisors within a single sector benefit from pooling their AML/CFT resources and establishing a joint supervisory function**

83. With regards to pooling resources and establishing a joint supervisory function; this already happens in practice by the operation of the separate affinity groups; accountancy, legal, public sector, which meet together, in addition to the AMLSF. Key drivers for these meetings are:

- to promote consistency of approach within the various supervisory bodies where there is a commonality of members;
- sharing of best practice amongst members; and
- reducing overlaps where two supervisory bodies may be supervising the same member.

84. Within the AAG there is discussion on the approach taken by individual supervisory bodies to seek to introduce a consistent approach in terms of how the bodies fulfil their supervisory role; frequency of monitoring visits to members, agreement as to what constitutes compliant and non-compliant behaviours, sharing of information re the risks faced by members and how these may be mitigated.

85. Each supervisory body has its own membership rules, powers to discipline members etc. which would make a combined supervisory function difficult to introduce without the need for changing of membership rules etc. That being said, the AAG developed and agreed Compliance Guidelines in order to be able to measure and take consistent action against firms for non-compliance. This guidance is relevant regardless of the approach of a particular body to their enforcement action, and can be used as a means of demonstrating consistency on a sector basis.

