

Economic crime levy: Funding new government action to tackle money laundering

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Foreword

The UK's business friendly environment, openness to overseas investment, reputation for the rule of law, and world class financial and professional services industries all contribute to the UK being one of the world's major global financial centres. However, as well as making the UK an attractive place to do business, these features also make it an appealing destination for perpetrators of economic crime.

This government is clear economic crime represents a significant and ever-changing threat to the UK that has a harmful impact on our economy, competitiveness, citizens, and institutions. These crimes, which include fraud, money laundering, terrorist financing and bribery and corruption, not only result in financial gain for their perpetrators, but also leave a trail of victims, causing much harm to individuals and communities, and damage to legitimate business and the UK's reputation. Serious and Organised Crime, much of which is driven by economic crime, is estimated to cost the UK £37 billion a year.

The government is proud of the significant progress that has been made in the UK's response to economic crime. We have introduced world-leading reforms including: the creation of the National Economic Crime Centre; establishing the Office for Professional Body Anti-Money Laundering Supervision; the introduction of new powers such as Unexplained Wealth Orders and Account Freezing Orders; and the launch of dedicated public-private initiatives such as the Joint Money Laundering Intelligence Taskforce. Since its commencement, over £1.8 billion has been taken off criminals using the powers in the Proceeds of Crime Act 2002, and billions more has been recovered using deferred prosecution agreements and HM Revenue and Customs' tax powers. Even more importantly, over £293 million has been returned to victims.

Nonetheless, the threat to the UK remains high and is constantly evolving. We therefore need to both embed the reforms we have already delivered and go further still. This was reflected in the Financial Action Task Force's evaluation of the UK's Anti-Money Laundering regime in 2018. Last July, the government and private sector jointly published a landmark Economic Crime Plan. This government has reconfirmed its commitment to delivery of the Plan in partnership with the private sector.

The Plan's vision sets out that successfully combating economic crime can only be achieved by a public-private partnership. The private sector is the first line of defence and spends substantial sums to prevent economic crime. By preventing this illicit activity from occurring in the first place, we can have a more efficient and effective response to economic crime. The private sector, particularly major financial institutions, holds significant amounts of information and data that enables law enforcement to pursue economic crime. By continuing to harness and co-ordinate the capabilities, expertise and information of both the public and private sectors, the UK will strengthen its position as a world-leader in the global fight against economic crime.

To realise this level of ambition, the Economic Crime Plan acknowledges the need for a long-term and sustainable resourcing model to transform the UK's response to economic crime. As outlined in the Plan, the government believes that this resourcing model should comprise contributions from both the public and private sectors that participate in, and benefit from, the agenda to reduce economic crime. The government also believes it is right that those who contribute towards the risks within the UK economy should pay towards the costs of addressing those risks.

Money laundering is one of the key economic crime risks the Plan seeks to address. Money laundering is at the heart of all economic crime with ultimately the proceeds of all such crimes needing to be laundered for their benefits to be realised. Businesses, such as banks, law firms, and casinos, are already required to take steps to address the risk that they are used by criminals to launder money¹. They work alongside the public sector to tackle money laundering. But, through the actions in the Plan, both public and private sectors have committed to go further. To help sustainably fund those actions, and wider new government action to tackle money laundering, the government will introduce a levy upon the AML-regulated sector². The government is of the view that a levy would provide the fairest and most simple method for the AML-regulated sector to contribute further. This levy will form one part of the sustainable resourcing model to tackle economic crime. Other components of the model will include additional public sector funding (to be finalised at the upcoming Spending Review), updating the Asset Recovery Incentivisation Scheme, and exploring whether suspended funds can be unlocked to pay for economic crime reform.

This consultation invites your views on the design principles of the levy, and how this levy could operate in practice, to ensure that it is proportionate and effective.

¹ Requirements under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs)

² For this consultation, the AML-regulated sector consists of businesses (including sole practitioners) defined in Schedule 9, Part 1 of the Proceeds of Crime Act 2002 (POCA), and the equivalent in the Terrorism Act 2000. These businesses are 'relevant persons' under the MLRs.

Chapter 1

Introduction

Background

1.1 The Economic Crime Plan is highly ambitious and represents a step-change in the government's response to economic crime, leading our future approach to the threat. To ensure delivery, the Plan commits to developing a long-term and sustainable resourcing model, to transform and grow the economic crime response. The Plan committed to exploring sources of funding from both public and private sectors.

1.2 The March 2020 Budget confirmed the government's intention that part of the funding model take the form of a levy paid for by the AML-regulated sector, which will fund anti-money laundering capabilities. The levy will complement other funding sources of the sustainable resourcing model, including a continuing public sector contribution. The public sector contribution will be finalised through the upcoming Spending Review and will take account of the conclusions from the Home Office's review of the Asset Recovery Incentivisation Scheme and the recommendations from the Independent Review of Serious and Organised Crime led by Sir Craig Mackey.

1.3 The government views the economic crime levy as a big step forward, and a major component of the sustainable resourcing model, however, it recognises that an economic crime levy on the AML-regulated sector can only partially address the requirement to develop a truly all-encompassing sustainable resourcing model.

1.4 The government remains committed to taking a more substantial response to tackling fraud and placing the funding of this on a more sustainable footing. The government will continue work to determine how the response to fraud can be more fully incorporated into the sustainable resourcing model, including whether and how a broader range of private sector actors – beyond the AML-regulated sector – should contribute further. To aid this, towards the end of this consultation (Chapter 7) there is a mini call for evidence seeking views on options for funding the fraud response.

Why should the AML-regulated sector contribute?

1.5 The government believes that the costs of further action to tackle money laundering should not be borne solely by the general taxpayer. The joint public-private partnership, embodied in joint governance and the Economic Crime Plan, recognises that the responsibility lies upon both public and private sectors to tackle the problem.

1.6 The government believes it is fair that those whose business activities are exposed to money laundering risk pay towards the costs associated with responding to and mitigating those risks. We recognise that firms already contribute through their compliance with the requirements in the Money Laundering Regulations (MLRs) that aim to deter, detect and prevent money laundering, and through meeting their reporting obligations under the Proceeds of Crime Act 2002. However, compliance and regulatory activity can never eliminate the risk created. Law enforcement find that in nearly all money laundering cases, criminal money passes through the AML-regulated sector at some point to obtain legitimacy. The Economic Crime Plan recognises that further action is required to enhance both the law enforcement response to economic crime and the effectiveness of the preventative measures that businesses deploy.

1.7 An effective anti-money laundering regime benefits all participants, both public and private. Strong confidence that the UK is a safe and transparent place to conduct business helps facilitate further commercial activity.

1.8 The AML-regulated sector also stands to benefit directly from certain specific improvements set out in the Economic Crime Plan. For example:

- **the Suspicious Activity Reports (SARs) Reform Programme**, which supports the Plan in its ambition to increase disruption, prevention and seizure activity. It intends to strengthen the SARs regime through delivering new IT, increasing staffing and creating new analytical capability in the UK Financial Intelligence Unit, and improving guidance, feedback and collaboration across the regime. SARs reform will allow regulated entities to meet their reporting obligations and manage their economic crime risks more efficiently, as well as leading to enhanced law enforcement outcomes through improved intelligence. The AML-regulated sector has been involved in designing the target operating model for a future SARs regime, ensuring that their requirements, as users of the regime, are met.
- **an expanded and enhanced UK Financial Intelligence Unit (UKFIU)**. Since the Financial Action Task Force's (FATF) 2018 Mutual Evaluation Report the National Crime Agency (NCA) has improved the FIU significantly, increasing its operational resources by nearly 50%; boosting its international footprint and activity; and improving it as a place to work for its staff. This has led to improvements for the regulated sector including more efficient processing of cases and better engagement. However, more is required.
- **expanding and enhancing the Joint Money Laundering Intelligence Taskforce (JMLIT)** will continue to improve information sharing across sectors and between firms in the private sector. This will enable the private sector to better target their prevention and response efforts.
- **improving education** about money laundering threats will reduce the likelihood that threats develop which the AML-regulated sector would otherwise have to respond to.

- **Companies House reform** will help the AML-regulated sector carry out their obligations by providing more robust data on corporate entities.

Why a levy?

1.9 The government has explored whether obtaining contributions from the AML-regulated sector can be done on a voluntary basis. £6.5 million of the FY19/20 costs of the SARs reform programme were funded by a grant from six major financial institutions. The government is grateful for those organisations for their co-operation and generosity. However, there is a shared view in both public and private sectors that this is not a sustainable, efficient or equitable option in the longer-term.

1.10 The AML-regulated sector consists of around 90,000 entities. In order to obtain a contribution from an appropriate cross-section of these firms, it has become clear the only mechanism available is a mandatory levy.

1.11 This solution will also help address the private sector's request for the government's funding asks of the private sector to be joined up as far as is possible.

1.12 The levy will increase capacity to tackle money laundering and support delivery of the Economic Crime Plan with an additional £100 million a year. The government will continue to meet its existing commitments and will also invest in new capabilities.

Purpose of the consultation

1.13 The consultation seeks views on:

- the levy principles
- what the levy will pay for
- how government can ensure there is transparency over levy spending
- how levy liability will be calculated, and which businesses should be paying the levy
- how the levy will be collected and enforced

1.14 The consultation will be open until 13 October 2020.

Next steps

1.15 The government will analyse responses to this consultation and respond in due course. The government intends for the first set of levy payments to be made in the Financial Year 2022/23. However, this timeline is subject to the findings of this policy consultation and the time needed to develop the necessary collection infrastructure and go through the legislative process.

Chapter 2

Levy principles

Design principles

2.1 Any levy must operate in accordance with the guidance and principles set out in Managing Public Money (MPM). The government proposes the levy is designed along the following principles:

2.2 Proportionality and affordability – Businesses should pay, if possible, in proportion to the amount of activity they undertake which gives rise to the risk of money laundering, and to the impact of this risk on the UK’s prosperity and security. A business’s levy liability should also be broadly consistent with their ability to pay.

2.3 Solidarity – The burden of the levy should fall fairly across the AML-regulated sector, with as many parts of the AML-regulated sector contributing as possible. Factors used to determine how much businesses pay should also be as consistent as possible between businesses and across sectors.

2.4 Simplicity and transparency – The levy should, as far as possible, be simple to understand and calculate by firms, and the calculation method should be transparent and robust. This will also make it easier for the organisation(s) collecting the levy to accurately verify levy liability. There should be transparency over how the levy proceeds are spent.

2.5 Predictability – The levy should be as predictable as possible for businesses, to reduce the risk that the cost comes in at a level significantly higher than expected. It should be based on factors that the business can readily predict. Factors should be relatively stable in nature and generally not prone to great variability.

2.6 Cost effectiveness of levy collection – The structure of the levy should take account of the likely collection cost relative to the amount being collected. The levy should be designed so it is as cost-efficient as possible.

2.7 Avoiding unintended consequences – The design of the levy should consider possible unintended consequences, including where the levy might impact on the behaviour of businesses.

Box 2.A: Levy principles

Question 1: Do you agree with the design principles as set out above? Should the government consider any further criteria?

Chapter 3

Spending the levy funds

What will the levy pay for?

3.1 The proceeds from the levy will pay for enhanced government action to tackle money laundering. As a starting point, this will consist of the new and recently introduced reforms and capabilities jointly committed to by public and private sectors in the Economic Crime Plan, such as the National Economic Crime Centre and SARs reform. It will also pay for an uplift in current functions – mainly more human resources in the UK Financial Intelligence Unit and more financial investigators.

3.2 The capabilities that are initially intended to receive funding through the levy include:

3.3 SARs Reform Programme: The SARs Reform Programme has been set up to deliver: more efficient and flexible IT portals for law enforcement and reporters to improve operational effectiveness; a comprehensive regime-wide approach to feedback and guidance to improve SARs quality; improved SARs analysis and intelligence; training, outreach and awareness within law enforcement to boost exploitation of SARs intelligence; and other improvements to regime processes.

3.4 UK Financial Intelligence Unit (UKFIU) uplift: The number of full-time employees (FTEs) in the UKFIU has already been increased by the NCA from 80 in 2018 to 127 today and under the SARs reform programme is due to be increased further to 180 FTE, with the precise number subject to ongoing design work.

3.5 National Economic Crime Centre (NECC) costs: The newly formed NECC is the national authority for the UK's operational response to economic crime. It brings together law enforcement and justice agencies, government departments, regulatory bodies and the private sector with a shared objective of driving down serious and organised economic crime, protecting the public, and safeguarding the prosperity and reputation of the UK as a financial centre. The NECC leads the tasking and coordination of economic crime and includes the well-established JMLIT which is a partnership between law enforcement and the financial sector to exchange and analyse information relating to money laundering and wider economic crime threats. In addition, the proceeds of the levy could be used to fund the new 'Fusion Centre' capability, which will allow greater data sharing and strengthen our anti-money laundering capability.

3.6 National Assessments Centre (NAC) and National Data Exploitation Centre (NDEC) costs: The NAC is a multi-agency national assessment capability, responsible

for producing enhanced assessments and a single understanding of current and future serious and organised crime threats. This will deliver better informed strategic, tactical and operational decision-making and shape national intelligence requirements. The NDEC is a national central capability which will proactively use the latest data science to process and exploit data, identifying patterns and links between different entities. It will improve the efficiency, productivity and information richness for the law enforcement intelligence function and support an improved law enforcement response to serious and organised crime. The NDEC and NAC are key in our response to tackling illicit finance. They will contribute to an improved intelligence pipeline to support law enforcement agencies investigating and preventing money laundering.

3.7 Financial Investigator (FI) uplift: An uplift in the number of FIs across law enforcement is crucial to support a reformed SARs system and to tackle money laundering more effectively. FIs, accredited and trained by the NCA Proceeds of Crime Centre or Police Scotland, can exercise powers including search, seizure and application for restraint. They are vital to the effective work of proceeds of crime units across law enforcement agencies and enable those agencies to act upon valuable SARs intelligence.

3.8 Awareness raising campaigns: The Economic Crime Plan committed to the development of an enhanced approach to education and awareness-raising of economic crime threats. This approach will consider lessons learned from the *Flag it Up* and *Take Five* campaigns.

3.9 Companies House reform: the Department for Business, Energy & Industrial Strategy's (BEIS) proposals, which are currently undergoing consultation, to reform Companies House will ensure that it is equipped with greater legal powers to check, query and seek corroboration on information submitted to it, including information on the beneficial owners of overseas entities owning property. To leverage the benefits, BEIS intend these reforms be supported by increased analytical and enforcement functions at Companies House and the Insolvency Service.

3.10 The levy will also recover costs associated with administering and collecting the levy.

Box 3.A: What will the levy pay for?

Question 2: What do you believe the levy should fund? Are there any other activities the levy should fund in its first five years?

Transparency and review

3.11 The government envisages the levy will be an enduring and long-term measure to fund enhanced government action on money laundering, providing a key part of the sustainable resourcing model.

3.12 All levy funds will be available for new government action to tackle money laundering and will not be diverted to other issues. The government will explore the most effective way to plan and deliver this portfolio of activity, so funds can be reprioritised if under or overspends are identified. If there is a risk that the funds are under-spent in one year, the government is of the view that funds should be spent on government action tackling money laundering which is not necessarily new. However, this should be a last resort to ensure funds are spent, rather than diverted into general spending.

3.13 The money laundering threat is continuously changing, and we need to be flexible in our response. The government therefore does not intend to outline what the levy will pay for in legislation.

3.14 To ensure the levy is used for its designated purpose of tackling money laundering, and to provide transparency and confidence in the administration of the levy, the government proposes that a report on the use of the levy should be published annually. To increase confidence in the process of administering the levy, the government welcomes views on how best we can engage regulated businesses and ensure their input in a way that is practical and efficient.

3.15 We also propose to review the levy five years after it first comes into effect. This review will consider how the levy is calculated, how it operates, and whether the levy should continue. We welcome views on what this review should entail.

Box 3.B: Transparency and review

Question 3: Do you agree with the government's approach to publish a report on an annual basis? What do you think this report should cover other than how the levy has been spent?

Question 4: What are your views on what the proposed levy review should consider and when it should take place?

Chapter 4

Levy calculation

4.1 The government has explored several different options for how the levy could be calculated and distributed across the AML-regulated sector in accordance with the design principles set out in Chapter 2. To inform this analysis, the government has considered the structures AML-supervisors use to charge their fees, international comparisons (such as the Australian Transaction Reports and Analysis Centre (AUSTRAC) contribution levy³), as well as other existing taxes and levies.

4.2 Overall, it is envisaged the levy calculation could consist of three separate elements: (1) a levy base; (2) a small business exemption; and (3) if possible, a money laundering risk weighting. Table 4.A sets out the assessment of the merits and disadvantages of potential levy bases.

Table 4.A: Assessment of potential levy bases

Potential Levy Base	Advantages	Disadvantages
1. Charging the levy through existing supervisor levy structures, where each supervisor would be asked to raise their AML-supervision fees by a fixed percentage increase	<ul style="list-style-type: none"> • utilises existing infrastructure • simple to calculate and predictable • no further data required (calculation would be based on current AML-supervision fees) • AML-supervision fees should already be roughly proportionate to risk 	<ul style="list-style-type: none"> • inconsistent levy base for different types of entity (supervisors use differing metrics to calculate fees) • some supervisors, including the Financial Conduct Authority (FCA), recover AML-supervision costs as part of wider regulatory fees, making it difficult to isolate their current AML-supervision fee
2. A fixed charge per business, at the same level for all applicable	<ul style="list-style-type: none"> • simple to calculate and predictable • no further data required 	<ul style="list-style-type: none"> • not proportionate

³ AUSTRAC Industry contribution levy: <https://www.austrac.gov.au/business/how-comply-and-report-guidance-and-resources/industry-contribution-levy>

businesses within the AML-regulated sector	<ul style="list-style-type: none"> • all sectors would contribute 	<ul style="list-style-type: none"> • higher collection costs as all businesses liable to pay the levy • may not be affordable for some entities
3. A fixed charge per business, at different levels based on size of business as prescribed in the Companies Act 2006 (micro, small, medium, and large)	<ul style="list-style-type: none"> • same benefits as option 2 • more proportionate and better aligned with ability to pay 	<ul style="list-style-type: none"> • high collection costs • not as proportionate as other options
4. A levy proportionate to the number of SARs submitted	<ul style="list-style-type: none"> • clear calculation as data available • simple and transparent • could be regarded as proportionate to risk 	<ul style="list-style-type: none"> • potentially incentivises non-reporting and entrenches poor reporting behaviour • long-term uncertainty due to fluctuating SAR reporting
5. A levy proportionate to the number of employees	<ul style="list-style-type: none"> • levy should be broadly consistent with ability to pay 	<ul style="list-style-type: none"> • difficult to verify • unlikely to be closely correlated to risk • may incentivise entities to change practices to reduce staff numbers (e.g. through outsourcing)
6. A levy proportionate to the number of BOOMs (beneficial owners, officers, and managers)	<ul style="list-style-type: none"> • likely to be stable and predictable • potentially proportionate to risk levels (at least within a sector) 	<ul style="list-style-type: none"> • number of BOOMs may not correlate with the size of the business and therefore not be a proportionate measure
7. A levy proportionate to UK revenue	<ul style="list-style-type: none"> • aids proportionality as it reflects volumes of business • ensures most parts of the AML-regulated sector will contribute 	<ul style="list-style-type: none"> • not always consistent with risk levels • definitional challenges in certain sectors • could fluctuate from year to year

	<ul style="list-style-type: none"> • broadly (but not entirely) consistent with ability to pay • relatively simple and transparent enabling a clear calculation • unlikely to alter incentives significantly 	<ul style="list-style-type: none"> • potential affordability risk for businesses with low profit margins
8. A levy proportionate to the entity's profitability	<ul style="list-style-type: none"> • data already available through Corporation Tax and Income Tax returns • simple to calculate and applicable across all entities • ensures affordability 	<ul style="list-style-type: none"> • can be highly variable and difficult to predict • some entities may create lots of risk but not be profitable

4.3 This assessment demonstrates the tension between designing the levy, so it is proportionate and reflective of risk while also ensuring it is simple to calculate, predictable, and cost effective to collect and administer.

UK revenue

4.4 No one metric can satisfy all the levy principles. It is therefore a case of evaluating which metric can best meet the principles while resulting in the fewest drawbacks. Against these criteria, the government currently assesses revenue as the most desirable levy base. Revenue provides proportionality as it relates to the scale of the activity undertaken and is broadly (although not entirely) approximate to a business' ability to pay. It is a metric business can readily report (for the purposes of calculating the levy), is simple and transparent, and is familiar to nearly all businesses. Using revenue would also lead to fewer unintended consequences than the other options considered, as it should not incentivise businesses to change their behaviours.

4.5 The government therefore proposes revenue from UK business should form the basis for the levy calculation. Using revenue, however, does present several challenges that will need to be addressed.

4.6 First, while revenue is a commonly used metric which can reflect volumes of business which may facilitate money laundering, it does not reflect the controls which businesses may have in place for the varying levels of risk presented by the activity generating the revenue. The money laundering risk section below seeks views on how risk could be further incorporated into the calculation.

4.7 Second, some revenue data will likely be available and easy to verify. For instance, certain regulated businesses are large companies who are required to

report the data to Companies House as part of their annual statements³. Separately, some AML-supervisors already use revenue as a basis to calculate their fees. However, the concept and relevance of using revenue varies across different parts of the AML-regulated sector. In order to ensure fairness of treatment between sectors, slightly adjusted definitions of revenue may have to be used for different types of business. Notably, deposit-taking institutions have unique business models that may need to be accounted for. Chapter 5 outlines in more detail the government's proposals for defining revenue.

4.8 Third, while revenue can be more predictable than other financial metrics (e.g. profit), it is still subject to fluctuation. Such fluctuation will be a key consideration when determining how the levy operates, in particular the frequency with which the levy calculation is adjusted.

Approach to utilising revenue as a metric

4.9 There are broadly two options for how revenue could be utilised to determine a business's levy liability:

4.10 Single fixed percentage: This would support the principle of proportionality and affordability. It would be simple to calculate and could be predictable for businesses.

4.11 Fixed amounts based on revenue bands: Businesses could pay fixed amounts depending on their range of revenue. This would make the levy payment more predictable. However, it could make the levy less proportionate, and could be unfair on businesses at the bottom end of ranges.

Box 4.A: UK revenue

Question 5: Do you agree with our proposal that revenue from UK business should form the basis of the levy calculation? Please explain your reasoning.

Question 6: Are there any sectors that would be disproportionately impacted if revenue is used as a metric, or where revenue would be disproportionate to level of risk?

Question 7: Do you believe other levy bases would provide a better basis for the levy calculation? These could be the ones outlined in Table 4.A or those not considered in the consultation document.

Question 8: Should a fixed percentage or banded approach be taken to utilising revenue as a metric? Please explain your reasoning.

⁴ Company accounts guidance: <https://www.gov.uk/government/publications/life-of-a-company-annual-requirements/life-of-a-company-part-1-accounts#small-companies>

Exempting small businesses and minimum payments

4.12 In total, there are around 90,000 businesses in the AML-regulated sector, ranging from sole traders to some of the largest institutions in the UK. The government proposes a threshold should be designed so that **smaller businesses are exempt from paying the levy.**

4.13 This will have three primary benefits. First, exempting these businesses from paying the levy will reduce the costs of administering, collecting, and enforcing the levy. The government intends for the levy to raise c.£100 million per year. While this will provide a significant volume of funding for economic crime reform activity, distributing this amount proportionately across 90,000 businesses would inevitably result in many of these businesses being required to pay minimal levy contributions. In many cases, the cost of collecting a business's levy contribution could be higher than the contribution itself. As such, having all businesses pay may be inefficient and not meet the cost effectiveness principle.

4.14 Second, as with collection costs, it is likely that if all businesses were captured, the costs for smaller businesses of calculating the levy could be higher than the amount they contribute. Exempting these businesses would remove this inefficiency and reduce the overall compliance burden of the levy on the AML-regulated sector at large.

4.15 Third, a small business exemption will ensure that those businesses who cannot afford an additional cost are not liable to pay the levy.

4.16 The government has considered three potential thresholds: £1 million; £5 million; and £10.2 million (this is aligned with the small company threshold in the Companies Act 2006). Initial analysis suggests that a £10.2 million revenue threshold would exempt over 95% of regulated businesses from paying the levy, but still include around 3,500 businesses from across the different sectors. A £5 million revenue threshold would require 1,800 further businesses to pay the levy. A £1 million threshold would extend the levy to a significant further number of businesses, although still exclude around 85% of businesses.

4.17 Table 4.B provides estimates of the number of businesses, excluding those added to the AML-regulated sector on the 10th January 2020, that would pay the levy depending on different thresholds.

Table 4.B: Number of estimated businesses liable to pay the levy under different thresholds

Threshold	Estimated approximate number of businesses that would pay the levy
£1 million	13,700
£5 million	5,390
£10.2 million (small business threshold under the Companies Act)	3,520

Source: Supervisors, HMRC: based on 2017/18 and 2018/19 data

4.18 Exempting small businesses, however, may reduce the levy's proportionality to money laundering risk, as some businesses exempted through the threshold are likely to still pose a money laundering risk (and in some cases could be high risk). While this may ultimately be a necessary consequence of ensuring the levy is a viable and sustainable mechanism for raising funds in a cost-effective manner, the government is interested in alternatives to a threshold exempting small businesses (as long as these broadly do not negate the benefits of a small business threshold). One option could be a small flat fee for all those businesses under the threshold. This would ensure there is solidarity of payment across the AML-regulated sector. Although the cost effectiveness of this option would need to be considered in light of decisions on the collection model for the levy.

4.19 While the proposal is for the small business exemption to be determined by reference to revenue alone, the Companies Act 2006 includes two further criteria to be considered for determining whether a company or LLP is small⁴. These are if a business':

- balance sheet totals not more than £5.1 million
- number of employees are not more than 50

4.20 We would welcome views on whether the small business exemption should instead be determined by reference to all three of the criteria used in the Companies Act. For example, a business could be exempt from paying the levy if it meets two of the three Companies Act criteria.

4.21 The government has also considered whether the first £10.2 million (or equivalent amount in other threshold options) every business makes should not be charged. This would avoid a 'cliff-edge' where a small jump in revenue would lead to a large jump in levy liability. However, such an allowance would still result in a number of businesses with revenue just above the threshold paying a minimal contribution.

4.22 An alternative approach that could reduce such a 'cliff-edge' effect would be for businesses not exempt by the small business threshold to pay a fixed amount for their first £10.2 million of revenue and then a rate on revenue above the threshold. The fixed amount would be lower than what these businesses would pay if their first £10.2 million was subject to the main rate. If there is a small flat fee for businesses under the threshold (see 4.18), this fixed amount could align with such a flat fee. `

Box 4.B: Small business exemption and minimum payments

Question 9: What are your views on the principle of exempting small businesses from paying the levy, and on the level of a potential threshold?

⁵ Company accounts guidance Section 10: Small Companies: <https://www.gov.uk/government/publications/life-of-a-company-annual-requirements/life-of-a-company-part-1-accounts#small-companies>

Question 10: What are your views on having businesses below the threshold subject to a small flat fee?

Question 11: Do you believe the small business threshold should be determined by reference to revenue alone or to all three of the Companies Act 2006 criteria? Please explain your reasoning.

Question 12: For businesses not exempted by a threshold, how should their revenue below the level the threshold is set at be treated – as an allowance, levied at the same level as the main levy rate, or levied through a fixed amount?

Money laundering risk

4.23 Part of the rationale for the levy is that those firms that bring economic crime risk into the UK's financial system should make an additional contribution to tackling those negative externalities. Information on businesses' money laundering risk exposure and the impact of that risk should therefore, if possible, be used to determine the amount businesses pay.

4.24 Identifying a suitable metric that reflects money laundering risk and can be easily used for the purposes of this levy, however, has proven challenging. Currently, there are no assessments which consistently assess the money laundering risks at a granular enough level to apply to different firms, sub-sectors, or products and services. Where risk assessments at this level exist, methodologies differ and can be sensitive. Likewise, these assessments often rely on information provided by businesses to government, law enforcement and supervisors. Businesses may be deterred from providing information to the public sector if it could negatively impact the amount they will have to pay as a result. Risk can also be unpredictable and require constant reassessment.

4.25 The government, however, has considered possible metrics that could be used to reflect money laundering risk:

- **number of SARs:** Regulated businesses are required to submit a report when they suspect money laundering or terrorist financing activity. This could be a good indicator of money laundering risk, as, all things being equal, more SARs should represent more money laundering or terrorist financing risk. However, the number of SARs can be reflective of the strength of a business' financial crime controls and their approach to compliance, rather than one undertaking high volumes of high-risk activity. As such, using it as a metric could penalise good corporate behaviour and incentivise poor behaviour. The government recognises existing concerns regarding under-reporting of SARs within certain

sectors, which using SARs for the purposes of the levy could be seen to reward⁵.

- **National Risk Assessment (NRA) ranking:** Every few years government publishes an assessment which considers levels of money laundering and terrorist financing risk in different business sectors. These assessments allocate risk scores at a sector level. Such scores could form the basis of a risk weighting for the levy calculation. However, the NRA relies heavily on information from regulated businesses. They may be deterred from providing the data if that could affect the amount of levy they pay. Further, there is often a variety of risk within a sector which using the NRA would not capture. The NRA, for example, does not go into the specifics of assessing risk levels presented by individual products. There would also be challenge accounting for businesses who operate across sectors.
- **supervisor risk assessments:** The MLRs require supervisors to develop a risk profile for every business, or cluster of businesses within sectors, they supervise under the MLRs. These risk assessments could form the basis of a risk weighting. Using the assessments for purposes of the levy, however, will make their conclusions apparent to affected businesses thereby undermining their confidentiality. Supervisors may also take differing approaches to developing these risk assessments meaning using such a metric could lead to an inconsistent levy calculation (which would impede the principle of solidarity).

4.26 Of the options considered, the government assesses both risk assessment-related options would entail a substantial reconfiguration of current processes and neither at present would provide an appropriate level of detail to be used for the purpose of this levy.

4.27 Separately, there is a concern that using SARs as a metric would potentially disincentivise businesses to submit SARs and penalise those businesses with strong financial crime controls. In principle, the former should not occur as businesses have a legal obligation to file a SAR in the circumstances outlined in Part 7 of the Proceeds of Crime Act 2002. As such, these legal obligations should always outweigh commercial considerations for businesses. However, the government's intention is not for the levy to alter behaviour in relation to SAR reporting, and the government would like to hear views on how using the number of SARs as a metric would manifest itself in practice.

4.28 The government has considered how SAR numbers could be used as a metric in a way that minimises any unintended consequences. One option is for a banded approach to be applied with businesses' levy liability (as determined by revenue) subject to a multiplier determined by the average annual number of SARs submitted

⁶ This concern is shared by the Financial Action Task Force who in their evaluation of the UK's AML/CTF response commented on the low level of SAR reporting in some sectors: <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-Kingdom-2018.pdf> (p48)

by that business over the two previous years. Table 4.A below sets out the proposed bands and multipliers.

4.29 Under this model, businesses who have submitted over 10,000 SARs on average over the past two years would have their levy liability (as determined by revenue) multiplied by 1.1. This threshold has been chosen so that only the most consistent high-volume reporters are affected by the risk weighting. Analysis demonstrates that most reporters would fall very clearly above the threshold or below it, helping ensure there will be few businesses for whom there is a meaningful incentive to not file a SAR for fear of triggering the multiplier. However, having the multiplier set at this threshold may reduce the impact of such a risk weighting.

Table 4.C: Risk multiplier

SARs submitted on average over last two years	Multiplier
0 - 10,000	1
10,000<	1.1

4.30 While the government's preference is for money laundering risk to be incorporated into the levy calculation as much as possible, the benefits of using any metric to achieve this must outweigh any negative consequences. If through the consultation and other engagement it becomes clear that no money laundering risk metric is currently suitable, the levy calculation may have to initially be based solely on revenue. A more refined money laundering risk metric can then be developed in advance of any levy review.

4.31 We are also interested in whether there are potential metrics that reflect money laundering risk that are not referenced in this consultation.

Box 4.C: Money laundering risk

Question 13: How do you think money laundering risk should be accounted for in the levy calculation?

Question 14: Do you believe using number of SARs reported as a metric through a banded approach would be an appropriate means of achieving this objective? Please explain your reasoning.

Chapter 5

Applying the levy calculation

Levy modelling & analysis

5.1 Along with analysis on how many businesses would be in scope of the levy depending on where the small business threshold was set (see Table 4.B), we have also looked at what the potential levy rate may be under the following revenue thresholds: £1 million, £5 million, and £10.2 million. This analysis excludes data on those sectors that joined the AML-regulated sector on 10th January 2020 and does not incorporate the impact of a potential money laundering risk metric. The analysis is based on businesses' total UK revenue data, as opposed to revenue generated from AML-regulated activity only. While this analysis focuses on a potential levy rate, a banded approach may also be taken to using revenue as a metric.

5.2 With a £10.2 million small business threshold in place, our initial analysis suggests a levy rate of between £100 and £200 per £1 million of revenue for affected businesses would achieve the target of raising £100 million / year. This is based on the latest available data from HMRC and other supervisors. It would give a minimum levy payment of around £1,000 to £2,000. The uncertainty around the rate range is due to incomplete data on revenue. The above figures also make no allowance for changes in revenue since 2018/19. Additionally, no adjustment has been made for potential behavioural effects or non-compliance. For these reasons, the suggested rate range should be viewed as illustrative.

5.3 We estimate that lowering the threshold to £5 million or even to £1 million would have a negligible impact on the levy rate. This is because the aggregate revenue of businesses with individual revenues between £1 million and £10.2 million is very small when compared to the aggregate revenue of businesses with individual revenues over £10.2 million. This would make the main consequence of a lower threshold the additional number of businesses liable to pay the levy.

5.4 Creating an allowance for non-exempt businesses in relation to their first £10.2 million of revenue (see 4.21) or having this revenue subject to a minimum payment (see 4.22) similarly makes little difference to the levy rate. Although it would slightly shift the levy liability more towards the largest businesses.

Frequency of levy adjustment

5.5 The economic crime levy is intended to raise a set amount each year. To raise the intended £100 million a year, there are two options regarding how frequently the levy rate is set.

5.6 The levy could be set at a fixed rate that analysis of historic revenue data suggests would raise approximately £100 million a year. This fixed rate could then be reviewed periodically after a set number of years. The benefits of this approach would be the predictability it offers to levy payers and the minimal burden it would entail for the collector(s) and levy payers alike. However, with businesses' revenue fluctuating year on year (and sometimes by large margins) there is a high risk under this approach that the levy raises too much or too little by a significant margin. This risk is particularly acute due to the relatively low amount the levy is looking to raise (in comparison to most taxes).

5.7 Alternatively, the levy rate could be adjusted annually. In scope businesses could be required to submit updated revenue data to the collector each year and the collector could then adjust the levy rate based on this data. This would result in a more accurate levy rate ensuring the levy collected is the same, or very close to, the target amount. The AUSTRAC levy operates in line with such an annual process.

5.8 While adjusting the levy rate annually would lead to additional burdens, once the process is established these should be reduced. The administration of the AUSTRAC levy, for instance, is estimated to cost \$0.250 million (AUD) each year and is operated by 1.1 FTE⁶.

Box 5.A: Frequency of levy adjustment

Question 15: Do you believe there should be a periodic or annual process for setting the levy rate? If periodic, what would an appropriate period be?

Regulated versus unregulated activity

5.9 The government is interested in views on whether businesses should pay based on revenue made from their total UK business activity, or only from their AML-regulated activity.

5.10 The former option would help ensure that the levy is simple and robust to calculate, using more readily available data. It could also be more cost effective. In some cases, the total cost of businesses calculating how much money they make from regulated business could outweigh the amount they contribute to the levy. AUSTRAC takes this approach to their industry contribution levy.

5.11 However, this approach could make the levy less proportionate to money laundering risk and could create unintended consequences. For example, businesses might restructure to avoid unregulated activity being levied.

5.12 An alternative is for businesses to estimate the proportion of their total business activity which is AML-regulated UK business. The FCA allows a similar

⁷ Review of the AUSTRAC Industry Contribution Levy Arrangements (pp 13-14) <https://www.austrac.gov.au/sites/default/files/2019-07/Review%20of%20the%20AUSTRAC%20industry%20contribution%20levy%20arrangements.pdf>

approach for the purpose of calculating their fees, provided businesses can clearly express their rationale, where their methods are objective, auditable and periodically reviewed⁷.

5.13 For some businesses disaggregating AML-regulated and unregulated revenue may be straightforward. For example, casinos already separate their income from gambling activity (i.e. their gross gambling yield) from their income from selling food and drink. Yet for others this is likely to be challenging and may only be possible through using crude, unreliable methods open to manipulation. Further, a levy based on revenue from AML-regulated activity could be more difficult for the organisation(s) collecting the levy to verify and ensure compliance.

Box 5.B: Regulated versus unregulated activity

Question 16: Would you prefer to calculate the levy based on total revenue or revenue from AML-regulated activity only? Please explain why.

Question 17: If applicable, what is your initial estimate of the proportion of your UK business which is AML-regulated (in revenue terms)? How many labour hours would initially be required to enable your business to robustly calculate the proportion of regulated business on an ongoing basis?

Defining revenue

5.14 The government is interested in views on what would be an appropriate definition of revenue for the purposes of the levy. Options include:

- defining revenue as ‘the gross inflow of economic benefits during the period arising in the course of the ordinary activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants’. This follows the UK Financial Reporting Standards definition and is similar to the definition used by the FCA. We propose these benefits be in relation to UK business only.
- using the following definition of turnover – a term often used interchangeably with revenue – from the Companies Act 2006: ‘the amounts derived from the provision of goods and services, after deduction of (a) trade discounts, (b) value added tax, and (c) any other taxes based on the amounts so derived’.

5.15 Our initial proposition is to base the levy on UK revenue only (as opposed to a business’s global revenue). We are interested in whether businesses will find it easy to split out their UK revenue from their total revenue.

⁸ FEES 4 Annex 13 Guidance on the calculation of tariffs set out in FEES 4 Annex 1AR Part 3:
<https://www.handbook.fca.org.uk/handbook/FEES/4/Annex13.html>

Deposit-taking institutions

5.16 Financial statements for deposit-taking institutions are prepared differently to that of most businesses. We believe the most analogous metric to revenue for these institutions to be either total income or net operating income (i.e. total income minus credit impairment charges). We would be keen for views on which metric should be used to calculate these institutions' levy liability.

Box 5.C: Defining revenue

Question 18: Which is your preferred option for defining revenue?

Question 19: Do you agree the levy should be based on UK revenue only? How easy would it be to split out your UK revenue from your total global revenue?

Question 20: Do you agree it would more appropriate to use total income or net operating income as a metric for calculating levy liability for deposit-taking institutions, and if so, which metric would be the most appropriate?

Reference period

5.17 The government proposes the levy liability is calculated using financial data reported by businesses in their accounting periods. Using accounting periods will make the levy simpler to calculate for businesses and more cost effective.

Box 5.D: Reference period

Question 21: Do you agree that the reference period for the levy calculation should be a business's accounting period? Please explain your reasoning.

Newly regulated sectors & fluctuation within the AML-regulated sector

5.18 Currently, financial and credit institutions, legal services providers, accountants, trust or company service providers, money services businesses, estate agents, letting agents, casinos, dealers of high value goods, art market participants, and crypto asset providers are among those businesses in the AML-regulated sector. This is because these sectors are deemed as at risk of facilitating money laundering and terrorist financing.

5.19 If the government assesses that other business activities also present risk, it could decide to legislate to bring businesses that conduct such activity into scope of the MLRs. In that case, we propose that the levy would apply to activity carried out from the date from which the activity is regulated, not the date from which the

business registers with a supervisor. Conversely, if the government decides for certain businesses activities to be taken out of scope of the MLRs then the levy would apply until the date the activity in question is no longer regulated.

5.20 In addition to newly regulated sectors, individual businesses are often joining and leaving the AML-regulated sector. The government proposes that all newly regulated entities are liable for the levy from their first full accounting period they are regulated, onwards. Any deregulated entity is liable for all of the accounting period during which it is deregulated.

Box 5.E: Newly regulated sectors & fluctuation within the AML-regulated sector

Question 22: Do you agree that the levy should apply to activity carried out from the date from which the activity is regulated? Please explain your reasoning.

Group calculations

5.21 Some groups will carry out business activity across a number of regulated and unregulated entities. Our initial proposal is for levy liability to be calculated separately for each leviable regulated entity in such groups, and for the collector to issue a separate invoice to each leviable regulated entity. However, we are interested in views on whether regulated entities within a group should be considered collectively with the levy calculation and invoicing taking place at group level.

5.22 The government is conscious it is possible that groups may arrange for their revenue to be allocated across regulated entities so that they maximise any benefit from any allowances or deductions provided for revenue made below a de minimis threshold (see paragraphs 4.12 – 4.22). The government is keen for views on how it can ensure such behaviours are prevented.

5.23 Similarly, any risk weighting determined by number of SARs submitted by entities should not be undermined through groups distributing the reporting of SARs across the different regulated entities within the group. The government is interested in views on how a risk weighting could be applied at group level.

Box 5.F: Group calculations

Question 23: Do you believe levy liability should be calculated and invoiced at entity or group level? Please explain your reasoning.

Partnerships

5.24 We are aware that some regulated businesses are partnerships, sole traders, or are otherwise not incorporated businesses. For partnerships, it is not intended for individual or corporate partners to pay the levy on their shares of the income as they

generally do for Income Tax or Corporation Tax purposes respectively. Instead, the government intends for the levy to be charged only once, at the partnership level.

Box 5.G: Partnerships

Question 24: Do you agree limited partnerships should pay the levy at partnership level? Do you have any other views on how partnerships should be treated for the purposes of the economic crime levy?

Chapter 6

Collecting the levy

6.1 The government considers that the process used to collect and enforce the levy should be simple for both industry and whoever is responsible for collection. The government is considering two possible models to carry out this process: a single agency model or a supervisor model. We invite your views on which would be most practical, cost effective and best limit unintended consequences. We also invite views on how businesses should report and pay the levy in each model.

6.2 In both models, the supervisors as listed in the MLRs will play an integral role. There are currently three statutory supervisors (FCA, HMRC, and the Gambling Commission) and 22 Professional Body Supervisors⁸. While some of the smaller supervisors may supervise no businesses in scope of the levy – due to the small business threshold – it is likely all will need to develop processes to input into the levy administration.

6.3 Table 6.B outlines the comparative merits of the two models. The final decision on how the levy is collected will depend on the responses to this consultation and the envisaged capacity of prospective collection agencies.

Option 1: Single agency model

6.4 One government agency could collect and enforce the levy. Such a model would ensure clear accountability and consistency of collection and enforcement. It is also likely be more cost effective in the longer-term once the initial collection infrastructure has been built. The agency's responsibilities would include:

- annual collection of levy data from regulated businesses (and potentially the UKFIU if SARs are used as a metric)
- annual invoicing and collection of levy payments
- enforcing compliance of reporting and payment
- *[if the levy rate is adjusted annually]*: Annual setting of the levy rate (including supporting any legal obligations in regard to this e.g. legislative changes)

⁹ As outlined under Schedule 1 of the MLRs

Registration

6.5 To enable the government agency to encourage, check, and enforce compliance, the agency should know the population of regulated businesses and the businesses contact details. We propose that:

- supervisors provide the agency with the names of which businesses they supervise and their contact details
- supervisors provide the agency with periodic updates regarding any changes to their supervised population

6.6 We also propose that regulated businesses potentially in scope of the levy (i.e. those businesses either around or above the small business threshold) should notify the agency of a change in contact details.

6.7 The above requirements should result in the agency having a register of the contact details for all regulated businesses.

Notice to file and reporting

6.8 We propose the agency then utilises this register to issue a notice to file to all regulated businesses requesting their UK revenue data for the relevant period. Although this will encourage compliance, it could also increase costs, which will be paid for with funds raised from the levy. An alternative option would be for regulated business to be required to pay proactively, by referring to details online.

6.9 To limit the total costs for regulated businesses who would be exempt by a small business threshold, there are two further options:

- these businesses could report a declaration to that effect.
- these businesses could be not required to report any data.

6.10 However, both options – to varying extents – will make it more challenging to ensure compliance.

Box 6.A: Registration, notice to file, and reporting in a single agency model

Question 25: Do you think the agency should issue a notice to file or that businesses should be required to submit a return proactively? Please explain your reasoning.

Question 26: Do you think all businesses should report their levy liability to the agency? If not, do you think small businesses should report a nil declaration or nothing at all?

Table 6.A: Costs of reporting

Submission	One off staff hours	Ongoing staff hours	One-off IT costs	On-going IT costs
Self-assessment				
Nil return				

Rate calculation, invoicing, and payment

6.11 If the levy is adjusted annually, once businesses have submitted their UK revenue data (or equivalent) the agency will then calculate a levy rate based on this data plus any data being used as part of a risk weighting (e.g. number of SARs). Once this rate has been set and finalised, the agency would send invoices to the regulated businesses. Regulated businesses would then be given a set period to pay the amount due.

6.12 If the levy rate is not adjusted annually, once businesses have submitted their UK revenue data (or equivalent), the agency could proceed immediately to sending invoices to the regulated businesses

6.13 As set out in Chapter 5, levy liability could be invoiced at a group level. We propose that one regulated business can pay liability on behalf of the group, to reduce compliance burden.

Box 6.B: Rate calculation, invoicing, and payment

Question 27: Do you agree with the proposed approach for calculating the levy rate, invoicing, and payment of the levy? If not, please explain why.

Non-compliance

6.14 Late payment will generate penalty charges which will be set out in legislation. This will be recoverable as a civil debt.

6.15 Any unpaid levy amount should be recoverable as a civil debt, which will accrue interest at a rate set out in legislation. Responsibility for collecting this debt will lie with the agency.

Box 6.C: Non-compliance in a single agency model

Question 28: What are your views on the proposed compliance framework in a single agency model?

Option 2: Supervisor model

6.16 Alternatively, supervisors could collect and enforce the levy payment from those businesses which they supervise under the MLRs. In broad terms, supervisors would carry out the following for each business they supervise:

- annual collection of required data [and dissemination of this data to a central body if the levy rate is adjusted annually]
- invoicing and collection of levy payments
- transfer of payments to government
- enforcing compliance of reporting and payment

6.17 This could be simple for businesses, who are already familiar with how to report data to, and pay fees to, their supervisor. Compliance activity may also be cost-effective for supervisors, who will have an understanding of business' activities to inform their compliance risk assessments and could build any compliance activity into their existing activity for collecting their current fees.

6.18 However, it could prove inefficient for 25 separate bodies to carry out the activities separately. Collecting government debt would also represent a new responsibility for many supervisors.

6.19 Further, another body will also still be needed to monitor supervisor compliance to ensure they pay collected funds into the Consolidated Fund. Moreover, if the levy rate is adjusted annually then this central body will also need to: (1) set the annual levy rate (using data provided to them by supervisors); and (2) support any legal obligations relating to the annual adjustment of the levy rate (i.e. legislative changes).

Registration

6.20 Supervisors should already know which businesses they supervise under the MLRs and their relevant contact details. Each supervisor will therefore have sufficient information in order to create an internal register of businesses who may be liable to pay the levy and carry out their own collection and enforcement activity against that. Supervisors already require businesses to keep their contact details up to date, so there will not be a new obligation upon businesses in this respect.

6.21 Regulation 7(2) of the MLRs specifies that where an entity could be regulated by two or more supervisors, those supervisors may agree for one of them to be the supervisor for that entity for the purposes of the MLRs. In this scenario, the supervisor agreed to will also be the body responsible for collection of the levy.

Notice to file and reporting

6.22 The notice to file and reporting elements of a supervisor collection model would operate almost identically to that in a single agency model. The main

difference would be that each supervisor would only issue a notice to file to, and receive UK revenue (or equivalent) data from, its own supervised population.

6.23 If a supervisor already collects UK revenue (or equivalent) data from its supervised population, that supervisor could consider whether this data is appropriate for the purposes of the levy (for example by ascertaining whether the data relates to the appropriate reference period). If the supervisor determines this data is appropriate, it does not need to issue a separate notice to file.

Rate calculation, invoicing, and payment

6.24 If the levy rate is adjusted annually, supervisors would then be required to submit the UK revenue data they receive to a central agency/department. This central body would then set the levy rate. Once the rate has been finalised, supervisors may submit invoices to the relevant businesses. This could be separate to or in conjunction with their existing fee charging processes. Supervisors will be liable to transfer payment of the total amount levy received from their supervised businesses to the Consolidated Fund.

6.25 If the levy rate is not adjusted annually, once businesses have submitted their UK revenue data (or equivalent), the supervisors could proceed immediately to sending invoices to their regulated businesses.

6.26 As with a single agency model, levy liability could be invoiced at a group level with one regulated entity entrusted with payment on behalf of a group. If a group includes entities regulated by different supervisors for anti-money laundering purposes, it is likely to be time consuming and complicated to agree to a single invoice. As such, the government proposes any group invoicing in a supervisor model is confined to when all the group's relevant entities are regulated by the same supervisor.

Box 6.D: Payment in a supervisor model

Question 29: Do you agree that supervisors should be able to determine the frequency of reporting and payment, provided they transfer levy payments to the government a maximum of a year after the end of a business' accounting period?

Non-compliance

6.27 Late submission of the return or declaration will generate penalty charges which will be set out in legislation. This will be recoverable as a civil debt.

6.28 Any unpaid levy amount should be recoverable as a civil debt, which will accrue interest at a rate set out in legislation. Responsibility for collecting the debt will lie with the supervisor. Provision for supervisors to be able to undertake this activity would be made in legislation.

Box 6.E: Non-compliance in a supervisor model

6.29 **Question 30:** What are your views on the supervisor carrying out compliance activity as set out above?

Single agency or supervisor model?

6.30 In light of the different arrangements outlined above, we welcome views on which model should be taken forward. Table 6.B outlines the government's views of the respective advantages and disadvantages of the two models.

Table 6.B: Comparative merits of potential collection models

Model	Advantages	Disadvantages
Single Agency	<ul style="list-style-type: none">• cost-efficient in the long-term• consistent application of the levy• simpler and more streamlined• clear accountability	<ul style="list-style-type: none">• wouldn't utilise existing structures• could be a new organisation for businesses to interact with
Supervisor	<ul style="list-style-type: none">• could leverage existing structures• supervisors will have closer relationships with businesses allowing them to potentially better ensure compliance	<ul style="list-style-type: none">• fragmented• overarching body still needed• could be inconsistent levels of compliance activity• more difficult to administer

Box 6.F: Single agency or supervisor model?

6.31 **Question 31:** Which model do you prefer? Please explain why. Do you have suggestions on any other models that may be used?

6.32 **Question 32:** If you are a supervisor, what do you estimate your costs would be in each model?

Chapter 7

Funding for fraud

Background

7.1 Fraud is the most common crime in England and Wales, with an estimated 3.7 million incidents in the year to December 2019⁹.

7.2 Both the Economic Crime Plan and the Serious and Organised Crime Strategy recognise the harm caused by fraud and have set out commitments to urgently tackle this threat. Working with partners, the government has undertaken a series of actions, including work to “design out” system vulnerabilities to prevent fraud, better support victims (including the most vulnerable), and improve the law enforcement response to fraud.

7.3 Industry has also played a substantial role in trying to tackle fraud – with notable interventions including the Banking Protocol and Contingent Reimbursement Voluntary Code. While these are all positive steps, despite the devastating financial and emotional impacts for victims and as a society (particularly the most vulnerable), fraud is still too often viewed as simply a “cost of doing business” and an unavoidable risk.

7.4 Industry and government need to do more, not just for the public’s sake – but because, left unchecked, this problem will continue to corrode everyone’s bottom line. For example, in the latest year, UK Finance reported 2.8 million cases of unauthorised frauds involving UK-issued payment cards. Whilst this type of fraud has minimal financial impacts on individuals (who are refunded in 98% of cases) the banking industry and retailers are losing a significant amount (with over £620.6 million lost in 2019 on UK-issued cards)¹⁰.

7.5 The cost of fraud is not just borne by the financial sector. Many sectors experience fraudulent behaviour. For example, in “Understanding Organised Crime” (2015/2016), the Home Office estimated that the cost of insurance fraud was £550 million. This figure is almost certainly a partial estimate, given the assessment only considered organised fraud¹¹. Other sectors like the legal sector suffer substantial losses through crimes like invoicing and mandate scams. Many different sectors suffer – either because they are the direct victim of fraudulent behaviour or because

¹⁰ Crime Survey for England and Wales, year ending December 2019 (ONS)

¹¹ UK Finance, Fraud the Facts, March 2020

¹² In 2018, the Association of British Insurers (ABI) estimated that there was £1.2 billion in detected dishonest insurance claims, related to 98,000 fraudulent claims. (<https://www.abi.org.uk/news/news-articles/2019/08/detected-insurance-frauds-in-2018/>)

their customers have been defrauded and they are under reputational pressure to provide compensation.

Call for Evidence

7.6 Prior to the launch of this consultation, a number of stakeholders highlighted their concerns that if fraud were not included, the levy would only serve to partially address the problem of economic crime – leaving one of the largest threats unaddressed.

7.7 The pursuit of money is the end goal of most, if not all, frauds. There is a large overlap between those organisations that form part of the “fraud journey” and those within the regulated sector (who are within scope of the levy, and have a vested interest in fraud outcomes). But, other sectors may form part of the “fraud journey” – for example, retailers who may decrease fraud controls during periods of a high transactions levels, telecommunications providers and their steps to mitigate the risk of smishing and social media companies addressing fraudulent profiles on their platforms.

7.8 It is in everyone’s interest to ensure that the amount of fraud decreases. Industry has been clear that it views the existing law enforcement response to pursue frauds as inadequate – and want to see it improved. The government agrees that urgent improvement is needed but want to explore industry’s views on how they might best provide support for those improvements.

7.9 Moving forwards, we are keen to understand the existing baseline of how much industry currently spends on countering fraud. We recognise that industry already invests substantial amounts in this activity independently, and are keen to understand what existing expenditure rates entail – recognising that we do not want to promote a “zero sum game” system, where money is diverted from existing corporate projects towards centralised activity.

7.10 Beyond the existing contributions made by the sector, we want to explore what additional financial support sectors could offer, and which sectors would be best placed to contribute. We are collecting evidence on an exploratory basis – and will use this evidence as the basis for further discussion.

7.11 In undertaking this call for evidence, we are particularly interested in industry’s views about which sectors should be providing financial support to tackle this risk. We are also interested in whether contributions should be based on the “risk” which that sector brings into the system as a whole, or which sectors stand the most to gain from greater law enforcement activity (i.e. the sectors who are currently losing most to fraudsters). The benefit from additional law enforcement resources is more likely to be felt by those who are currently losing considerable amounts to fraud, and therefore the rationale for them bearing the brunt of contributions is more obvious. However, we recognise that many of those who are losing considerable amount to fraudsters are doing so as the result of upstream risks which are not within their control. As there are arguments in favour of either approach – we wanted to test the balance of opinion openly.

7.12 We also wanted to explore through this call for evidence different ways for funding to be gathered – options could include an expanded levy or an additional levy just for fraud, but we would be open to alternative suggestions.

Box 7.A: Funding for fraud

Question 33: How much did your organisation spend on countering fraud in 2019? What are these funds spent on, in high level terms?

Question 34: What additional financial contribution should the private sector contribute towards improving fraud outcomes?

Question 35: Which sectors do you think should be involved in countering the system-wide fraud risk? Please explain your rationale – for example whether you believe that those included should be included based on benefit, or risk?

Question 36: What mechanism would you recommend in order to collect additional funding?

Chapter 8

Next steps

Responding to the consultation

The government recognises that the economic crime levy is novel, both in approach and motivation, and is therefore committed to working with stakeholders to ensure it operates as intended.

The government would welcome comments on this consultation by 13 October 2020. However, we encourage responses before this date where possible.

The best way to respond to this consultation is to complete the response template that can be found at the following GOV.UK page:
<https://www.gov.uk/government/collections/economic-crime>

These responses should be sent by email to: ECLevyconsultation@hmtreasury.gov.uk

As the team is currently working from home due to the Covid-19 pandemic, we would request – where possible – responses are sent electronically. However, if needed, responses can be sent by post to:

EC Levy Consultation

Sanctions & Illicit Finance Team

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

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Data protection notice

HMT consultations – processing of personal data

This notice sets out how we will use your personal data, and your rights under the Data Protection Act 2018 (DPA).

Your data (Data Subject Categories)

The personal information relates to members of the public, parliamentarians, and representatives of organisations or companies.

The data we collect (Data Categories)

Information may include the name, address, email address, job title, and employer of the correspondent, as well as their opinions.

It is possible that respondents will volunteer additional identifying information about themselves or third parties.

Purpose

The personal information is processed for the purpose of obtaining the opinions of members of the public and representatives of organisations and companies, about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest.

Legal basis of processing

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the HM Treasury. The task is consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good effective policies.

Who we share your responses with (Recipients)

Information provided in response to a consultation may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.

Where someone submits special category personal data or personal data about third parties, we will endeavour to delete that data before publication takes place.

Responses may be shared with officials within other public bodies involved in this consultation process to assist us in developing the policies to which it relates.

As the personal information is stored on our IT infrastructure, it will be accessible to our IT contractor NTT. NTT will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

How long we will hold your data (Retention)

Personal information in responses to consultations will generally be published and therefore retained indefinitely as a historic record under the Public Records Act 1958.

Personal information in responses that is not published will be retained for three calendar years after the consultation has concluded.

Special data categories

Any of the categories of special category data may be processed if such data is volunteered by the respondent.

Basis for processing special category data

Where special category data is volunteered by you (the data subject), the legal basis relied upon for processing it is: The processing is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department. This function is consulting on departmental policies or proposals, or obtaining opinion data, to develop good effective policies.

Your rights

- you have the right to request information about how your personal data are processed, and to request a copy of that personal data
- you have the right to request that any inaccuracies in your personal data are rectified without delay
- you have the right to request that your personal data are erased if there is no longer a justification for them to be processed
- you have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted
- you have the right to object to the processing of your personal data where it is processed for direct marketing purposes

Complaints

If you have any concerns about the use of your personal data, please contact us via this mailbox: privacy@hmtreasury.gov.uk

If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

0303 123 1113

casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller for your personal data is HM Treasury. The contact details for the data controller are:

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

020 7270 5000

public.enquiries@hmtreasury.gov.uk

The contact details for the data controller's Data Protection Officer (DPO) are:

DPO

1 Horse Guards Road

London

SW1A 2HQ

London

privacy@hmtreasury.gov.uk

Consultation principles

This consultation is being run in accordance with the government's consultation principles. The government will be consulting for approximately 12 weeks.

Annex A

Consultation questions

Levy Principles

Question 1: Do you agree with the design principles as set out above? Should the government consider any further criteria?

Spending the levy funds

Question 2: What do you believe the levy should fund? Are there any other activities the levy should fund in its first five years?

Question 3: Do you agree with the government's approach to publish a report on an annual basis? What do you think this report should cover other than how the levy has been spent?

Question 4: What are your views on what the proposed levy review should consider and when it should take place?

Levy calculation

Question 5: Do you agree with our proposal that revenue from UK business should form the basis of the levy calculation? Please explain your reasoning.

Question 6: Are there any sectors that would be disproportionately impacted if revenue is used as a metric, or where revenue would be disproportionate to level of risk?

Question 7: Do you believe other levy bases would provide a better basis for the levy calculation? These could be the ones outlined in Table 4.A or those not considered in the consultation document.

Question 8: Should a fixed percentage or banded approach be taken to utilising revenue as a metric? Please explain your reasoning.

Question 9: What are your views on the principle of exempting small businesses from paying the levy, and on the level of a potential threshold?

Question 10: What are your views on having businesses below the threshold subject to a small flat fee?

Question 11: Do you believe the small business threshold should be determined by reference to revenue alone or to all three of the Companies Act 2006 criteria? Please explain your reasoning.

Question 12: For businesses not exempted by a threshold, how should their revenue below the level the threshold is set at be treated – as an allowance, levied at the same level as the main levy rate, or levied through a fixed amount?

Question 13: How do you think money laundering risk should be accounted for in the levy calculation?

Question 14: Do you believe using number of SARs reported as a metric through a banded approach would be an appropriate means of achieving this objective? Please explain your reasoning.

Applying the levy calculation

Question 15: Do you believe there should be a periodic or annual process for setting the levy rate? If periodic, what would an appropriate period be?

Question 16: Would you prefer to calculate the levy based on total revenue or revenue from AML-regulated activity only? Please explain why.

Question 17: If applicable, what is your initial estimate of the proportion of your UK business which is AML-regulated (in revenue terms)? How many labour hours would initially be required to enable your business to robustly calculate the proportion of regulated business on an ongoing basis?

Question 18: Which is your preferred option for defining revenue?

Question 19: Do you agree the levy should be based on UK revenue only? How easy would it be to split out your UK revenue from your total global revenue?

Question 20: Do you think it would more appropriate to use total income or net operating income as a metric for calculating levy liability for deposit-taking institutions, and if so, which metric would be the most appropriate?

Question 21: Do you agree that the reference period for the levy calculation should be a business's accounting period? Please explain your reasoning.

Question 22: Do you agree that the levy should apply to activity carried out from the date from which the activity is regulated? Please explain your reasoning.

Question 23: Do you believe levy liability should be calculated and invoiced at entity or group level? Please explain your reasoning.

Question 24: Do you agree limited partnerships should pay the levy at partnership level? Do you have any other views on how partnerships should be treated for the purposes of the economic crime levy?

Collecting the levy

Question 25: Do you think the agency should issue a notice to file or that businesses should be required to submit a return proactively? Please explain your reasoning.

Question 26: Do you think all businesses should report their levy liability to the agency? If not, do you think small businesses should report a nil declaration or nothing at all?

Question 27: Do you agree with the proposed approach for calculating the levy rate, invoicing, and payment of the levy? If not, please explain why.

Question 28: What are your views on the proposed compliance framework in a single agency model?

Question 29: Do you agree that supervisors should be able to determine the frequency of reporting and payment, provided they transfer levy payments to the government a maximum of a year after the end of a business' accounting period?

Question 30: What are your views on the supervisor carrying out compliance activity as set out above?

Question 31: Which model do you prefer? Please explain why. Do you have suggestions for any other models that could be used?

Question 32: If you are a supervisor, what do you estimate your costs would be in each model?

Funding for fraud

Question 33: How much did your organisation spend on countering fraud in 2019? What are these funds spent on, in high level terms?

Question 34: What additional financial contribution should the private sector contribute towards improving fraud outcomes?

Question 35: Which sectors do you think should be involved in countering the system-wide fraud risk? Please explain your rationale – for example whether you believe that those included should be included based on benefit, or risk?

Question 36: What mechanism would you recommend in order to collect additional funding?

HM Treasury contacts

This document can be downloaded from
www.gov.uk

If you require this information in an alternative format or have
general enquiries about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gov.uk