IFA REPRESENTATION 09/21

The IFA welcomes the opportunity to provide feedback to the Amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 Statutory Instrument 2022 published by HM Treasury on 22 July 2021.

We would be happy to discuss any aspect of our comments and to take part in all further consultations in this area.

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The IFA is a full member of the International Federation of Accountants (IFAC) the global accounting standard-setter and regulator. We are also recognised by HM Treasury and the Financial Services Authority in the Isle of Man to regulate our members for the purposes of compliance with the Money Laundering Regulations.

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General comments

1. We welcome HM Treasury's consultation on amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 for time sensitive focused items.

2. We would like to draw your attention to a matter that has not been considered in this consultation but we think it should.

3. The duties of supervisors are very clear in the Money Laundering Regulations and so should the duties of relevant persons be clear. There is an explicit requirement that each of the professional bodies listed in Schedule 1 is the supervisory authority for relevant persons who are members of it, or regulated or supervised by it (regulation 7 (1 (b)). However, there is no requirement for those within the scope of the Money Laundering Regulations to register for supervision with their professional body or HMRC. Without this explicit provision for registration, failure to register for supervision for relevant persons in scope of the Money Laundering Regulations is difficult to enforce from a disciplinary perspective.

4. We strongly urge HM Treasury to consider such an amendment in the regulations as part of the SI 2022, and not the call for evidence. It is crucial that relevant persons, supervisors and other key stakeholders playing a part in the overall money laundering and terrorist financing framework are clear about their duties within these regulations.

5. One of the key principles for regulations or changes to the regulations is ensuring accountability. As currently drafted, relevant persons are not accountable for failing to register with a relevant supervisor. This issue is not a supervisory gap issue – it is an issue about the intent behind the regulations, clarity of responsibilities and transparency.

6. We are of view the AML/TF regime could be strengthened by a minor drafting amendment clarifying the requirement that relevant persons within the scope of the Money Laundering Regulations register for supervision with a supervisor listed in schedule 1 of the Money Laundering Regulations 2017. This draft amendment could be included in the application section of the Money Laundering Regulations.

Detailed response

SARs

Q13. In your view, is access by AML/CTF supervisors to the content of the SARs of their supervised population necessary for the performance of their supervisory functions? If so, which functions and why?

7. The question asks if access to the content of SARs for our supervised population is necessary for the performance of our supervisory function. Current supervisor duties can be met and are being met without looking at SARs submitted to the NCA, so it is not necessary for supervisory duties but desirable as discussed below.

8. We think supervisors should have the legal right to access the SARs of their supervisory population on request and that the MLRs should make this clear. Access to SARs of our supervised population will allow us to access how quickly the MLRO submits a SAR to the NCA after an internal report and also consider whether the SAR is in line with the UKFIU's guidance on good quality SARs.

9. Information on the quality of SARs against UK FIU guidance can be feedback into supervisors' risk assessment and educational support provided by supervisors. However, disciplining members and firms for submitting poor quality SARs would not be possible since the SARs themselves cannot be used as evidence in our disciplinary processes.

10. Supervisors will also have greater visibility over the type of issues that are being reported and potentially helps identify emerging risks that can be shared more widely with other supervisors and law enforcement through the information sharing channels such as ISEWG.

11. It has already been stated by HMT, Home Office, UK Financial Intelligence Unit (UKFIU) and the Office of Professional Body Anti-Money Laundering Supervision (OPBAS) that supervisors should be looking at SARs as part of their assessments, but each supervisor should have discretion on how to incorporate the permission into their supervisory approach e.g., as part of AML reviews for high-risk firms, as part of a thematic review on SARs etc.

12. It would also be helpful if UK FIU could also share overarching themes and supervisor specific issues with the supervisor to better inform the supervisor's activities in this area on a regular basis. This process needs to be embedded in regulator activity, both of UKFIU and supervisors to ensure that future supervisory work and the SAR reform programme is delivering benefits and having an impact.

Q14. In your view, is Regulation 66 sufficient to allow supervisors to access the contents of SARs to the extent they find useful for the performance of their functions?

13. We believe that regulation 66 should be updated to refer to SARs. This will ensure clarification and alleviate such concerns promoting a consistent approach by all supervisors and also any concerns by our supervised population. It should be noted that regulation 66 refers to information not intelligence. There is a fine line between what is classed at information and intelligence and this may also need to be clarified, since a SAR could be interpreted as intelligence not information.

14. As part of this review, Data Protection (regulation 41) should also be reviewed to make it explicit that providing information to supervisors under regulation 66/ legal gateway for SARs as part of their supervisory functions, does not breach Data Protection laws. Currently, regulation 41 focuses on relevant persons and processing of data not supervisors and processing data. It is our understanding that giving access to information and SARs to supervisors, makes them a processor of data.

15. Processing covers a wide range of operations performed on personal data, including by manual or automated means. It includes the collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of personal data.

Q15. In your view, would allowing AML/CTF supervisors access to the content of SARs help support their supervisory functions? If so, which functions and why?

16. Yes, we would agree that given supervisors access to the content of the SARs to support their supervisory functions would be desirable. As stated in Q13, looking at SARs submitted will enable us to assess members understanding of suspicion, risk and AML knowledge and see that their internal policies on reporting are affective. By reviewing our members SARs, we can contribute improvements in the quality of SARs, through awareness raising and education.

17. As stated in Q13, supervisor reviews of the SARs of their population should be incorporated into the supervisors' existing approach to assessments and supervisors should use published guidance, particularly guidance issued by the UKFIU, to help assess the quality of the SARs. Supervisors should then provide feedback to firm/individual, as appropriate, as well as signposting them to existing guidance.

18. However, the expectation should not be that supervisors will review every SAR for all of their supervised population. Reviews of SARs should be undertaken on a risk-based approach. To inform our risk-based approach, regular, ongoing and supervisor specific feedback from the UK FIU is paramount since the SAR reporting system should provide trends, detailed information of the PBs population and what can be improved.

Q16. Do you agree with the proposed approach of introducing an explicit legal requirement in the MLRs to allow supervisors to access and view the content of the SARs submitted by their supervised population where it supports the performance of their supervisory functions under the MLRs?

19. Yes, we agree with the proposal, since it would further enhance the performance of our supervisory functions. However, any such change should not impose an additional expectation or obligation that would require supervisors to check SARs on every AML review – supervisors should have discretion on how to incorporate the right to access into their supervisory approach.

20. While we are supportive of this proposal, the IFA would not be supportive of this proposal being interpreted or drafted in such a way that it imposes a wholesale obligation on supervisors to look at every SAR for our supervised population. Access to SARs should be based on a risk-based approach, like everything else in the MLRs.

21. Furthermore, the proposal should make it clear that SARs are confidential and sensitive and therefore cannot be used as evidence to support supervisory body disciplinary action as detailed in the Home Office Circular 004/2021: money laundering: the confidentiality and sensitivity of suspicious activity reports (SARs) in the context of disclosure in private civil litigation

Q17. In your view, what impacts would the proposed change present for both supervisors and their supervised populations, in terms of costs and wider impacts? Please provide evidence where possible.

22. It is too early to tell what the resource impact will be since there are too many unknown factors, including how SARs will be accessed by supervisors, the outcome of the SAR Reform programme, frequency of information that will be available via

UKFIU, security and data protection IT considerations and whether the expectation is that all SARs should be looked at for all of the PBs supervised population. Therefore, there are too many unknowns to make an educated guess at resource implications of supervisors and our supervised population.

23. Supervisors' risk assessments and AML reviews would have to be updated to incorporate these proposals and there may be resource implications relating to education and support as well. Should the additional scrutiny result in additional statistical analysis and reporting to HMT/OPBAS then this may create additional resourcing requirements. It is not clear from the consultation whether this would be the case, however.

24. Regarding access to SARs by supervisors, at minimum, the draft Anti-Money Laundering Guidance for the Accountancy Sector (which has yet to be approved by HM Treasury for the changes in the MLRs effective on 1 January 2019) should be updated to make it clear that supervised population should retain hard copies of SARs they submit securely.

25. There may be additional vetting costs for supervisors for AML reviewers to be given access to SARs. For example, will all AML reviewers need to be NCA vetted to have access to SARs? NCA vetting is time consuming and take months. If NCA vetting is required, a transition period for implementing this new requirement will need to be considered as part of the amendments in the SI 2022.

26. In addition, the SAR Reform programme should consider developing temporary view only access to supervisors to minimise security and data protection breaches. This would minimise cost implications to PB's and provide confidence to our supervised population the SARs are confidential and protected.

Q18. Are there any concerns you have regarding AML/CTF supervisors accessing and viewing the content of their supervised populations SARs? If so, what mitigations can be put in place to address these? Please provide suggestions of potential mitigations if applicable.

27. Without appropriate mitigations, supervised firms may have concerns in respect of confidentiality and the risk of tipping off. It is important that these concerns are addressed through appropriate mechanisms to protect confidentiality so that, for example, it is not possible to identify the reporter or subject of the SAR from documents retained by the supervisor. Protections should be set for supervisors against subject access requests under data protection legislation as well as maintaining the client's privilege (where appropriate).

28. The review should not extend to an assessment of whether there is a 'suspicion' or not, as suspicion is subjective.

29. Any explicit legal requirement should also be accompanied by the provision that SARs reviewed for this purpose would not result in the supervisor re-reporting that same suspicion to the NCA.

30. It is also important to recognise that there is no legal requirement to use glossary codes or fill out SARs templates in a certain way. As such, supervisors will not discipline a firm for a 'poor' quality SAR unless the information omitted was fundamental to the suspicion

or if the firm has deliberately omitted information to conceal the identity of the subject. Creating a gateway to view the SARs does not confer an obligation to monitor/supervise/discipline the quality of the SARs beyond making best-practice recommendations to the firm and requiring (or offering) targeted training. It will not be possible to use the SAR in disciplinary processes and therefore taking disciplinary action against firms for poor quality SARs will be challenging.

31. Consideration needs to be made of whether any further guidance and training is needed to ensure that supervisors have a consistent approach to what they are checking and any findings and actions taken. The current materials available do not provide a level of detail that lets us understand the parameters the UKFIU use to judge quality. UK FIU also has a role to play in establishing effective, relevant, timely feedback to supervisors on SARs.

32. The proposals should also explicitly incorporate the role of UK FIU in sharing of information and intelligence relating to SARs with supervisors.

Proliferation Financing Risk Assessment

Q25. Do you agree with the proposal to use the FATF definition of proliferation financing as the basis for the definition in the MLRs?

33. It would seem sensible to follow the FATF definition of proliferation financing since there are no other agreed international definitions of proliferation financing.

Q26. In your view, what impacts would the requirement to consider PF risks have on relevant persons, both in terms of costs and wider impacts? Please provide evidence where possible.

34. As stated in the consultation, supervisors for Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) monitor sanctions compliance to some degree, including PF compliance, as part of their risk-based inspections, desk-based reviews, and other monitoring of their regulated sector, and will expect to see firms considering this as part of their own risk assessments.

35. HM Treasury has recently issued a Proliferation Financing National Risk Assessment. Once we have had time to consider the impact of this guidance and an opportunity to further discuss the matter with OFSI, we will be able to make an informed decision on potential costs and impact.

36. From an IFA perspective, our view is that the majority of our members wouldn't be exposed to PF risks and wouldn't incur any associated costs. However, we would welcome further outreach engagement by HM Treasury, OFSI and other relevant authorities to discuss PF risks further, particularly PF risks for the accountancy sector. Proliferation financing transactions look like normal commercial activity, structured to hide source of funds and therefore are difficult to risk assess and detect.

Q27. Do relevant persons already consider PF risks when conducting ML and TF risk assessments?

37. PF risks are not considered when conducting ML and TF risk assessments since this is not a requirement of the MLRs nor has a national risk assessment on proliferation financing risks been available until September 2021.

38. If a PF risk assessment is required of relevant persons in addition to ML and TF risk assessments, more outreach work and effective communication needs to be undertaken by the relevant authorities covering the following areas: country programmes, financing of proliferation and circumvention of sanctions as well as case studies.

39. In addition, it would be helpful to have indicators of financing of proliferation (FoP), categorised into potentially highly indicative, moderately indicative and potentially poorly indicative in order to assess PF Risk. Proliferation financing transactions look like normal commercial activity, structured to hide source of funds and therefore are difficult to risk assess and detect. Without this type of information being available to relevant persons, PF risk assessments would have minimal impact to combat FoP.

Q28. In your view, what impact would this requirement have on the CDD obligations of relevant persons? Would relevant persons consider CDD to be covered by the obligation to understand and take effective action to mitigate PF risks.

40. Due to the nature of IFA members and their clients, we don't believe they would consider themselves at risk from PF. We believe that relevant persons would consider CDD to cover PF risks.

41. As noted in Q 27, further outreach and effective communication on PF risks and mitigation is needed by the relevant authorities to make an informed decision and respond to this question.

Q29. In your view, what would be the role of supervisory authorities in ensuring that relevant persons are assessing PF risks and taking effective mitigating action? Would new powers be required?

42. Taking a RBA to supervision, the risk of IFA members being involved in PF is minimal. We do not believe new powers would be required to mitigate such risks and police such mitigation.

Q30. In your view, does the proposed drafting for this amendment in Annex D adequately cover the intention of this change as set out? Please explain your reasons.

43. Yes.

Formation of Limited Partnerships

44. Extension of the application of the term TCSP to cover all forms of business arrangement (that are registered with Companies House)

Q31. Do you agree that Regulation 12(2)(a) should be amended to include all forms of business arrangement which are required to register with Companies House, including LPs which are registered in England and Wales or Northern Ireland?

45. Yes we agree.

Q32. Do you consider there to be any unintended consequences of making this change in the way described? Please explain your reasons

46. The IFA has not identified any immediate unintended consequences.

Q33. In your view, what impact would this amendment have on TCSPs, both in terms of costs and wider impacts? Please provide evidence where possible.

47. We do not anticipate any impact in terms of cost nor wider impacts, since all TCSP activity is included as part of our compliance and AML supervisory functions already.

Q34. In your view, what impact would this amendment have on business arrangements, including LPs which are registered in England and Wales or Northern Ireland, both in terms of costs and wider impacts? Please provide evidence where possible.

48. The IFA believes that the impact of this amendment on our supervised population would be minimal, since systems, controls, policies and procedures should already be in place for all other business entities dealt with by our supervised population.

Extension of the term "business relationship" for services provided by TCSPs

Q35. Do you agree that Regulation 4(2) should be amended so that the term "business relationship" includes a relationship where a TCSP is asked to form any form of business arrangement which is required to register with Companies House?

49. We agree.

Q36. Do you agree that Regulation 4(2) should be amended so that the term "business relationship" includes a relationship where a TCSP is acting or arranging for another person to act as those listed in Regulation 12(2)(b) and (d)?

50. We agree.

Q37. Do you agree that the one-off appointment of a limited partner should not constitute a business relationship?

51. We don't agree with this proposal. If that one-off appointment is conducted as a business relationship for reward, then to promote consistency and transparency of approach within the AML/CFT framework, then those one-off appointments of limited partners, should still constitute a business relationship for the purposes of the MLRs. If

that one-off appointment of a limited partner was for criminal purposes, it could go unnoticed if not scrutinised and allowed to go undetected.

Q38. Do you consider there to be any unintended consequences of making these changes? Please explain your reasons.

52. We have not identified any immediate unintended consequences of making these changes.

Q39. In your view, what impact would this amendment have on TCSPs, both in terms of costs and wider impacts? Please provide evidence where possible.

53. For our supervised population, our initial view is that this amendment is unlikely to impact at all, as the systems and procedures for AML compliance should already be in place for all other business entities dealt with.

Q40. In your view, what impact would this amendment have on business arrangements, including LPs which are registered in England and Wales or Northern Ireland, both in terms of costs and wider impacts? Please provide evidence where possible

54. We can't see any impact that this amendment would have on business relationships.

Reporting of Discrepancies

Q41. Do you agree that the obligation to report discrepancies in beneficial ownership should be ongoing, so that there is a duty to report any discrepancy of which the relevant person becomes aware, or should reasonably have become aware of? Please provide views and reasons for your answer.

55. In principle, we agree with the ongoing obligation to report discrepancies but further discussion is necessary and we question the timing of this amendment given limited progress to date on Companies House Reforms.

56. The IFA agrees that there are benefits in creating an ongoing duty to report discrepancies as an important prerequisite for detecting inaccurate information. Additionally, an ongoing duty to report would create greater assurance of the Companies House register, enhanced transparency and good governance. Professional accountants carrying out CDD and ongoing monitoring of their clients are well placed to identify and report discrepancies.

57. While the proposal helps Companies House with data integrity issues, the regulated sector's role is to focus on AML compliance and AML supervision to prevent ML/TF and reduce associated risks. Therefore, further discussion is needed on this to see how it fits in to current regulated sector and PBs activities, given delays in Companies House reforms relating to accounts, powers and transparency which closed in February 2021.

58. We also have a number of concerns:

- clarity: any changes to the reporting discrepancies approach should be clearly defined to avoid unintended consequences. Further clarity is needed on what is meant by ongoing. For example, is it periodically, when there are changes in circumstances or events, during the business relationship, part of a risk-based approach. There should also be clarity on timelines for reporting and, if the client should fix themselves in a certain timeframe, a report might not be required.

- administrative burden and costs: This requirement could lead to a significant burden for our supervised population for limited benefit, for example, where clients have been slow to update records. It might be worth granting some form of grace period between the accountant identifying the issue and allowing the client time to rectify the situation. Where the situation is not rectified, with a defined period of time (say, 30, 45 or 60 days) then at that point a report might be considered necessary. It is also not clear if penalties will be issued by 'late' reporters and who will impose these penalties.

- impact: It is unclear what the outcomes and impact on ML/TF risks are of making such reports. Therefore, a first step would be to look at the current provisions and what the outcomes and the impact has been so far. We also noted that the consultation states 1/3 of the 35,000 reports proved not to be valid. This is a large number that takes resource to work through (both for the person that is the submitter and Companies House who have to review). It would be helpful if feedback can be provided to the submitted to ensure that invalid reports are not submitted in the future.

- timing: Companies House has limited powers, resources and IT to deal with discrepancy reporting. Companies House is working on a new web service to report discrepancy that will help reduce a high volume of invalid reports. However, the timescales for implementing this service are not certain. Until a digital solution to reduce current invalid reports is implemented, it is unlikely that Companies House will be able to cope with the number of reports that could be submitted.

59. We would strongly recommend for the Companies House reforms to be implemented before this amendment is implemented in the MLRs.

Q42. Do you consider there to be any unintended consequences of making this change? Please explain your reasons.

60. The proposals could create increased volumes of work and additional costs for both Companies House and firms alike. For firms it will increase the administrative burden especially where clients may have been slow to update records. Consideration needs to be given to when the additional checks should be done and clarity around that to prevent inconsistencies from arising, for example, what will be the requirements regarding when firms should undertake "ongoing" PSC discrepancy reporting.

61. Any changes to requirements should also be accompanied by a simplified reporting mechanism and clarity of what is required, in particular how the firm integrates PSC

reporting in the firm's risk-based approach of the client and the overall firm-wide risk assessment.

62. A significant increase in reports could create a logjam for both Companies House and firms alike. It has been noted in the consultation that 1/3 of the 35,000 reports proved not to be valid. This is a large number that takes resource to work through which may bring little or no benefit. Education again is key and reporters should be provided with feedback on invalid reports to ensure they do not report again. In cases where a genuine mistake has been made it might be worth granting a grace period between the accountant identifying the issue and allowing the client to rectify the situation. Where the situation is not rectified, within a defined period of time (say, 30, 45 or 60 days) then at that point a report might be considered necessary.

63. Any additional reporting requirements will lead to an increase in required resources at Companies House. Has consideration been given to how this will be funded? Currently Companies House has limited powers, resources and IT to deal with discrepancy reporting. We are aware that Companies House is working on a new web service to report discrepancy that will help reduce a high volume of invalid reports. However, the timescales for implementing this service are not certain. Even with a digital solution to reduce current invalid reports, it is unlikely that Companies House will be able to cope with the number of reports that could be submitted.

64. Supervisory duties and expectations regarding PSC reporting also need to be clarified. For example, should disciplinary action be taken if the requirement is put into the legislation even though it is not clear how PSC reporting minimises the ML/TF risks without the Companies House reforms being implemented. We are still waiting for the outcomes of the Companies House reform consultations which closed in February 2020

65. We would welcome cross-government agencies communication in this area to communicate the importance of keeping information on PSC up-to-date. For example, reminders to PSC's could be sent by HMRC to individuals when submitting their self-assessments or corporation tax returns, the Charity Commission could also send reminders to trustees of charitable incorporated companies and so on.

66. In summary, there are a significant number of unintended consequences that need to be addressed, including an assessment of the impact on ML/TF risk of implementing these proposals without the implementation of Companies House reforms.

Q43. Do you have any other suggestions for how such discrepancies can otherwise be identified and resolved?

67. As suggested at Q.41, cross-government agencies collaboration and communication to improve the data integrity to clearly communicate to individuals and firms the need to ensure PSC information is up-to-date would be beneficial and would help reduce discrepancy reporting. Clearly articulating and increasing awareness of this requirement to individuals and firms at different business touch-points would contribute to PSC information at Companies House being accurate and minimise the need for PSC discrepancy reporting. As always, preventative measures need to be explored rather than increasing reporting requirements, which would create an administrative burden to the regulated sector.

68. Across government and government related agencies, there should be consideration of what data is held where and whether this data can be shared by government agencies to improve Companies House data via l legal gateways.

69. Further discussion should be held to understand what the current impact has been of the reports made so far and what the impact of increasing the scope within the context of ML/TF risks and preventing criminal activity. For example, what is the impact from the severity of the discrepancies identified and the outcomes from those reports.

Q44. In your view, given this change would affect all relevant persons under the MLRs, what impact would this change have, both in terms of costs and benefits to businesses and wider impacts?

70. It is difficult to assess the additional time and costs impact of this proposed change as we do not have statistical information that would help us determine the extent to which clients have incorrect data held on Companies House. We note that 35,000 have been submitted but (other than 1/3 not being valid) there is no detail on the impact of these reports and what action the reports lead to. Therefore, it is currently not clear on what the benefits are and what increasing the scope will lead to.

71. Applying CDD is an integral part of AML compliance and any changes to the reporting discrepancies requirements should not adversely impact the supervised population who is dependent upon a clear, workable CDD process.

72. There is a risk that the administrative burden is onerous and the costs of which are again placed on the supervised population who cannot recoup the lost time from clients.

Disclosure and Sharing

Q45. Would it be appropriate to add BEIS to the list of relevant authorities for the purposes of Regulation 52?

73. While we would support the addition of BEIS to the list of relevant authorities, it would be significantly more beneficial and clear to include the details of which agencies within BEIS should be included in regulation 52, for example, Companies House and Insolvency Service.

74. Some professional bodies also have MOUs with departments within BEIS, for example, recognised professional bodies will have an MOU with the Insolvency Service. Further clarify is needed about how an amendment to regulation 52 will impact existing MOUs.

Q46. Are there any other authorities which would benefit from the information sharing gateway provided by Regulation 52? Please explain your reasons.

75. Intelligence sharing gateways should be in place with all authorities who have and can provide and share intelligence in relation to our supervised population and ML/TF risks. The interplay between existing legislation and regulation 52 needs to be reviewed and discussed further, for example, HMRC can only make a formal disclosure to the IFA

under sections 18, 19, and 20 in the Commissioners for Revenue and Customs Act 2005. If the criterion for disclosure is not met, then HMRC cannot disclose information to the supervisory authority, even though the information and intelligence may relate to misconduct in relation to tax which might be relevant to ML/TF risks.

76. Other areas that come to mind where there are legal gateway limitations is information and intelligence regarding an individual's tax agent code which may help a supervisor to police the perimeter.

77. So, while the authorities included in regulation 52, the inter-connections between legal gateways and interactions between existing legislation need to be identified, reviewed and changed to ensure that supervisors maximise the benefit provided by regulation 52 to help reduce ML/TF risks and minimise criminal activity.

Q47. In your view, should the Regulation 52 gateway be expanded to allow for reciprocal protected sharing from other relevant authorities to supervisors, where it supports their functions under the MLRs?

78. Yes, we would support the expansion of the regulation 52 gateway to allow for reciprocal protected sharing of information from other relevant authorities to supervisors, for the purposes of supervisory functions and duties in accordance with MLRs. We have identified some areas in Q46 that may help with this process.

79. All accountancy supervisory bodies have individuals that have been fully vetted by the NCA and we have secure channels for sharing information and intelligence, so there should be no barrier to sharing information and intelligence to supervisors.

Q48. In your view, what (if any) impact would the expansion of Regulation 52 have on relevant persons, both in terms of costs and wider impacts? Please provide evidence where possible.

80. There should not be an impact on relevant persons. By having access to enhanced information and intelligence under regulation 52, ML/TF risks should, in theory, reduce.

Q49. In your view, what (if any) impact would the expansion of Regulation 52 have on supervisors, both in terms of the costs and wider impacts of widening their supervisory powers? Please provide evidence where possible.

81. Improved information and intelligence sharing from a wider community should further enhance the effectiveness of our supervisory duties, including our risk-based approach to supervision.

Q50. Is the sharing power under regulation 52A(6) currently used and for what purpose? Is it felt to be helpful or necessary for the purpose of fulfilling functions under the MLRs or otherwise and why?

82. Yes, the IFA uses regulation 52A(6) to inform our AML risk-based approach, membership on-boarding process and policing the perimeter. However, there are limits in the information that can be shared due the limited legal gateways.

83. We would like to use information and intelligence under S348 of the FSMA to inform our risk-based supervision of our supervised population as well as membership on-boarding. Currently, FCA cannot share information and intelligence that could be relevant to the IFA because the IFA is not a not a recognised body under the FSMA Act. Therefore, we would welcome clarity on this matter, relating to all sections of the FSMA which are deemed to be relevant for our supervisory duties, be it S348 and/or S349.

84. Sharing information about a member's HMRC tax agent code, will help police the AML supervision perimeter and ensure that members meet other obligations such as having a practising certificate, PII, CPD that is required by a PBs. Regulation 52 needs to be clear that information can be sharing for policing the perimeter. I don't think it is clear enough in this regard (IFA). Implications of this potential change may have to be discussed with HMRC.

Contact details
Should you wish to discuss our responses further, please contact Anne Davis, Director of Professional Standards, by email at anned@ifa.org.uk