Institute of Financial Accountants
Member of the IPA Group

IFA Evidence Submission to HM Treasury and Home Office for the second National Risk Assessment of Money Laundering and Terrorist Financing (NRA)

Response to Consultation

(requested: 23 March 2017)

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Member of the IPA Group

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Introduction

1. The Institute of Financial Accountants (IFA) welcomes the opportunity to provide initial evidence to HM Treasury and the Home Office for the second National Risk Assessment of Money Laundering and Terrorist Financing (NRA). This submission of initial evidence is for the sole purpose of providing information for the NRA. This submission should not be disclosed or transferred to any other third parties without the express permission from IFA.

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

3. Information about the IFA is given below.

Who we are

4. Established in 1916, the Institute of Financial Accountants (IFA) is an internationally recognised professional accountancy membership body. Our members work within micro and small- to medium-sized enterprises or in micro and small- to medium-sized accounting practices advising micro and SME clients.

5. The FTA is the Tax Faculty of the IFA and is the modern membership body for agents who provide tax compliance and planning expertise to SMEs and entrepreneurs. It is the tax representative for IFA and FTA members.

6. The IFA is part of the Institute of Public Accountants (IPA) of Australia Group, the world's largest SME-focused accountancy group, with 35,000 members and students in 80 countries.

7. We are proud of our unique relationship with our members, who predominantly come from a SME/SMP background. As a professional accountancy body, we aim to provide the very best support and guidance to our members who operate within this arena, frequently tailoring policies and recommendations to meet the unique challenges and trading relationships associated with smaller business.

8. We offer a programme of professional qualifications and education as well as resources, events, training and seminars. IFA members uphold high standards of conduct, confidentiality and ethics and undertake annual continuing professional development (CPD) activities.

9. The IFA is a full member of the International Federation of Accountants (IFAC), the global body for the accountancy profession and is formally recognised as an awarding organisation by Ofqual, the public body responsible for monitoring standards, exams and qualifications (other than degrees) in England, underlining the quality of the IFA's work and the integrity of its qualifications. It is also authorised by HM Treasury and the Financial Services Authority in the Isle of Man as a supervisor to monitor its members for compliance with the Anti-Money Laundering regulations in the UK and the Isle of Man. General Comments

General comments

10. The IFA would like to draw HM Treasury's and Home Office's attention to the extremely tight timescales in which supervisors and accountancy firms have been asked to submit initial evidence for the second National Risk Assessment, at a time when other

significant requests for feedback and information are being made from supervisors and firms.

11. Having participated in the FATF Secretariat country training in January 2017, we understand that the process of developing, drafting and finalising the NRA may take some time and intended to be complete in November 2017. Therefore, we would welcome further opportunity to engage on this matter, including reviewing draft versions of the NRA prior to publication.From a supervisory perspective, it is crucial that HM Treasury and the Home Office continues to engage with the Accountancy Affinity Group and the AML Supervisors' Forum to ensure that risks of ML/TF, both actual and perceived, are identified and managed appropriately.

12. As part of the process of evidence gathering for the NRA, I would strongly recommend that HM Treasury and the Home Office discuss with the NCA, HMRC and other relevant authorities how the accountancy sector prevents risks of ML/TF in areas which go beyond technical compliance with MLR 2007. In particular, I would like to draw your attention to the following:

    a) participation of the IFA, its members and other supervisors in the Home Office's prevent campaign under the theme of 'Flag it up.'
    b) the role of professional accountants in preventing tax evasion and also encouraging taxpayers to regularize their tax affairs and making appropriate disclosures to HMRC.
    c) submissions by professional accountants of Suspicious Activity Reports to the NCA and co- operation with police enforcement and other authorities as appropriate.

Comments on specific questions

1. Please provide a description of the nature and size of entities you supervise and the services and/or products which they offer.

13. IFA supervises approximately 2000 firms in public practice. About 50 % of our firms are sole practitioners, 15 % partnerships and the remainder corporates practices. IFA member firms are 99% wholly UK based, with the exception of a minority of members in the Isle of Man and in the Channel Islands. The majority of firms have one office in the UK and the remainder two offices.

14. The majority of firms we supervise have client fee income below £300,000. The majority of our firms provide bookkeeping, accounts preparation, tax compliance, tax advice, and assurance services.

15. Our member firms also provide trust or company services as part of the general provision of accountancy services to their clients i.e. ancillary to the provision of accountancy services. Member firms that provide trust or company services which are not ancillary to the provision of accountancy services must be registered and supervised by HMRC.

16. Our member firms are not involved in audit services, insolvency, regulated investment business and probate.

17. Further guidance on the types of services IFA member firms are able to provide to the public is available on our website.

Responses to the following questions will enable us to gain a detailed understanding of the different ML and TF risks firms face and allow us to analyse risks posed by different services, products, transactions and business and customer relationships in order to assess the vulnerability of the sector:

2. In your view, to what extent would it be possible to use the products or services offered by entities you supervise to mask the source or ownership of funds or assets?

18. This question is difficult to answer since it focuses on "possibilities" rather than risk which is at the heart of the AML/CFT regime. For an individual to commit criminal activities of money laundering and terrorist financing, they need to have motivation and opportunity to exploit vulnerabilities. Our member firms, professional bodies and the accountancy sector have limited influence on an individual's motivations but we can reduce the possibility or risk of money launderers or terrorist financiers using accountants or tax advisers services to legitimise their financial arrangements.

19. Money launderers and terrorist financiers may attempt to use the services of an accountant or tax advisor to provide an additional layer of legitimacy to their financial arrangements, especially where the sums involved may be larger or revenue more frequent. Criminals may use accountants or tax advisers to launder money or finance terrorist activities by false accounting, tax evasion and setting up legal structures to conceal the proceeds of crime.

20. However, it is our view, that the activities performed by the firms we supervise are less susceptible to money laundering and terrorism financing risks for the following reasons:

    a) approximately 50 % of our member firms provide trust and company formation services which is ancillary to the provision of accountancy services;
    b) approximately 25% of our member firms have client accounts. Firms are required to keep client monies in separate client accounts which are reconciled on a regular basis. Therefore, our firms are unlikely to carry out transactions on behalf of clients such as depositing/withdrawing cash or issuing/cashing cheques.
    c) Approximately 10% of the firms we supervise have clients overseas. These clients are mainly based in the developed world and not in high risk jurisdictions.
    d) Our member firms are not regulated to provide audit services, insolvency, regulated investment business and probate.

21. In addition, to date, we have not seen any evidence that the firms we supervise have been used by criminals to mask the source or ownership of funds or assets.

22. In addition, our AML/CTF monitoring activities as a supervisor aims to ensure that firms are technically compliant with their AML/CTF obligations, which itself minimises the risks being addressed in this question. Further information on our risks in the sector and our supervisory activities is available from our annual supervisors' report 2015/16.

3. **In your view, to what extent would it be possible to use the products or services offered the entities you supervise to mask the destination or purpose of funds or assets?**

    23. Focusing on risks of AML/CTF rather than possibilities, the IFA is of the view that there is low risk of our firms' services being used to mask the destination or purpose of funds or assets for the reasons referred to in question 2 above.

    24. Again, further information on our risks in the sector and our supervisory activities is available from our annual supervisors' report 2015/16.

4. **What is the level of complexity of the services or products offered by entities you supervise? (i.e. what range of products or services are offered, what range of products or services does the typical customer use, and to what extent is there interplay between these products or services?)**

    25. The firms we supervise are not involved in complex services or products such as marketing tax avoidance schemes. Member firms have to adhere to the guidance of Professional Conduct in Relation to Taxation (PCRT), which makes it very clear what their obligations are regarding tax planning, tax avoidance and tax evasion. The latest guidance has been worked with in conjunction with HMRC.

5. **What is the level of exposure of entities you supervise high risk jurisdictions, persons, business relationships or products? In particular, which categories of jurisdiction, person, business relationship or product do you consider pose the greatest level of ML and TF risk for your firm?**

    26. As highlighted in our annual supervision report 2015/16, our higher risk firms are those that are not-compliant with their AML/CFT obligations. These firms tend to be sole practitioners who have acted for their clients for many years, usually 20+, who do not undertake any AML verification as they "have known the client for many years". We also have sole practitioners who have been in practice for many years and have been "relying on their own judgement" with no formal procedures.

    27. However, as you see from our annual supervisors report for 2015/16, the IFA has undertaken various initiatives i which include education and support to ensure that these firms become compliant with MLR 2017 obligations, thereby reducing the vulnerabilities of the accountancy sector to AML/CTF.

6. **To what extent do the products or services offered by entities you supervise facilitate transactions or transfers of funds or assets between persons, locations and product types?**

    28. This question is not applicable to the firms we supervise.

        a) If entities you supervise offer these products or services, how quickly can the transactions or transfers involved be completed?
        b) If entities you supervise offer these products or services, what levels of volume and frequency characterise transactions facilitated by the products or services offered?

Responses to the following questions will enable us to understand the likelihood that these vulnerabilities will be exploited and that threats will materialise in the sector:

7. **How accessible are the products or service offered by entities you supervise, both for providers and consumers? (I.e. to what extent are there barriers to becoming a business or customer?)**

29. For the accountancy sector in general, there are very low barriers for clients or potential clients for accountancy services since the title of “accountant” is not a legally protected term. Therefore, the provision of accountancy services to the public is open to individual who are not qualified or subject to professional standards or any form of quality monitoring, other than AML/CTF supervised by HMRC.

30. As far as we are aware, regarding the firms we supervise, there are no barriers for clients or potential clients for their accountancy services. Undertaking client due diligence, risk assessments and other procedures to prevent the risk of AML/CTF has not created barriers to accountancy services for clients or potential clients.

31. However, it is important to note that firms have a right to choose their clients or potential clients. Failure to meet the firms AML/CTF due diligence procedures, failure to take into account a firm’s advice regarding accounting and tax matters, is likely to result in a firm ceasing to act for a client or refusing to act for a potential client, the firm submitting a Suspicious Activity Report (SAR), thereby reducing the risk of AML/CTF. This guidance is embedded in our Code of Ethics, Anti-Money Laundering guidance for the sector and the Professional Conduct in Relation to Taxation.

8. **To what extent is suspicious activity involving the products or services offered by entities your supervise likely to be reported to law enforcement?**

32. The IFA educates the firms we supervise on the need to make Suspicious Activity Reports (SAR) to the National Crime Agency (NCA) when they have knowledge or suspicions of AML/CTF activities by their clients. We also support them on this matter if they have any queries.

33. However, we understand that feedback to our members from the NCA has been limited. In addition, feedback to the IFA when making suspicious activity reports has also been limited. The NCA issues publications and guidance on the SAR regime and also how to improve SAR reporting but feedback on specific reports is scarce.

9. **What is your existing knowledge of the extent of ML and TF through the products or services offered by entities you supervise?**

34. We have good knowledge of the services that our firms provide for the following reasons:

    a) Member firms have to complete annual practice returns which provides information regarding their services, clients, jurisdictions as well as technical compliance with AML/CTF obligations;
    b) Desktop/telephone-based and AML/CTF monitoring visits provide an opportunity to confirm technical compliance and also make suggestions for improvements as well as clarity in respect of any other issues;

c) Events, particularly dedicated workshops provide an opportunity for members to engage directly with the IFA and also AML/CTF reviewers to answer queries/ obtain advice.
d) Information sharing between our partners and the IFA regarding AML/CTF matters.

Responses to the following questions will enable us to assess the extent to which the inherent risks within the sector are mitigated by AML/CTF activity:

10. In your view, to what extent does law enforcement have the capacity and capability to mitigate the ML and TF risks in the accountancy services sector?

35. Evidence from law enforcement would suggest that there appears to be a lack of capacity to mitigate ML and TF risks since law enforcement receives a significant number of suspicious activity reports from all of the regulated sectors that are within scope of AML/CTF regulations, yet feedback from law enforcement regarding these reports is limited.

36. Speaking to law enforcement directly anecdotal evidence suggests that resources are limited and they cannot review all reports that are submitted. Law enforcement prioritises the reports based on intelligence, risks and also likelihood of a successful investigation, prosecution and recovery of assets.

11. In your view, to what extent do supervisors have the capacity and capability to mitigate the ML and TF risks in the accountancy services sector?

37. As a professional body supervisor we have insight into our supervised population, the risks they pose, the risks they face and take a proportionate 'risk-based approach' to supervision. Therefore, we currently have the capacity and capability to mitigate ML/TF risks for the firms we supervise.

38. This opinion is further substantiated by the following:

a) we now have an agreed sector risk-based AML/CTF monitoring framework which has been developed by the Accountancy Affinity Group and tested with the NCA;
b) access to member firm information and strong engagement. Our strong engagement with our firms was highlighted by the Home Office's recent and ongoing flag it up campaign to help prevent AML/CTF;
c) high professional standards which includes a Code of Ethics which goes beyond regulatory compliance requirements of AML/CTF;
d) robust disciplinary processes including fines, costs, reprimands, directions, suspension and expulsion.

39. We are extremely concerned that that the creation of the Office for Professional Body AML Supervision (OPBAS) may inadvertently affect the future capacity and capability of the IFA and other professional body supervisors since financial and people resources will have to be used to help set up OPBAS and ensure that they have knowledge of the sector.

40. From our initial meeting with OPBAS it was clear that they have very limited (at best) knowledge of the accountancy sector, both in terms of the services provided by

accountancy firms but also the existing regulatory and supervisory framework and related guidance that is available to our members and member firms.

41. In addition, as referred to in 13 below, OPBAS will not be supervising HMRC which supervises individuals and firms who are not members of a professional body. In our opinion, this will create a two tier regime in the accountancy sector and will not address the issues of risk nor inconsistencies which were referred to in the first NRA.

12. In your view, to what extent do firms within the sector have the capacity and capability to mitigate their ML and TF risks?

42. The smaller member firms with limited resources may have capacity and capability issues to mitigate their ML and TF risks. This is not specific to our member firms; it is part and parcel of smaller firms' regulatory compliance burden being higher than larger firms due to their limited resources.

43. To help and assist our member firms and mitigate the risk that may arise as a result, we offer all our AML supervised firms an AML/CTF compliance tool which is part of their supervision fee. It is hoped that by doing this, the burden on smaller firms will be mitigated and so will the risk of ML and TF.

Finally:

13. **Please provide your assessment of any further factors contributing to the vulnerability of the sector, the likelihood of threats materialising in the sector or anything mitigating the risk within the sector**.

44. The creation and set up of OPBAS may increase vulnerabilities in the sector for the following reasons:

a) OPBAS has no previous knowledge or experience of supervising the sector and will take some time to reach the appropriate standard;
b) Professional bodies may stop being supervisors for AML/CTF and refer member firms to HMRC, as they are outside the scope of OPBAS. This may result in less information being shared across the sector since there is no requirement or legal gateway to share information on AML/CTF with others if the body is not a supervisor.
c) OPBAS will not be supervising HMRC which supervises individuals and firms who are not members of a professional body, are unqualified, do not follow professional standards and are not subject to disciplinary processes. As well as being a high risk area for the reasons outlined, inconsistencies across the sector will remain since HMRC will not be subject to the same guidance and monitoring as professional bodies. Therefore, creating a two-tier system that would cause further confusion and irritation from supervisors bound by OPBAS and the member firms they supervise.