

# OPBAS

OFFICE FOR PROFESSIONAL BODY AML SUPERVISION  
FINANCIAL CONDUCT AUTHORITY



## **Anti-Money Laundering Supervision by the Legal and Accountancy Professional Body Supervisors:**

Progress and themes from 2019

March 2020

# Contents

<b>1</b>	Introduction	3
<b>2</b>	Executive summary	5
<b>3</b>	Key themes	7
<b>4</b>	Intelligence and information sharing	19
<b>5</b>	Next steps	24
<b>Annex</b>		25

## How to navigate this document onscreen



returns you to the contents list

# 1 Introduction

- 1.1** The human cost of financial crime is profound. Illicit finance enables serious organised crime. The tragic deaths of Vietnamese nationals in Essex, East of England last year provided a stark reminder of the true victims of money laundering. The harm associated with turning a blind eye is evident and clear.
- 1.2** Criminals generally cannot obscure the source of their funds alone. Lawyers and accountants are at high risk of enabling money laundering through the UK's financial system. The National Risk Assessment 2017 (NRA) identified (at paragraphs 6.3 and 7.3) that accounting and legal professionals are particularly vulnerable to enabling money laundering and terrorist financing by serious organised crime and other criminals. The NRA explains this is 'due to the credibility and respectability they can convey, helping to distance funds from their illicit source' and 'gain legitimacy'.
- 1.3** The 22 Professional Body Supervisors (PBSs) responsible for anti-money laundering (AML) supervision for the accounting and legal sectors are the first-line supervisory defence against this threat. They are named in Schedule 1 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs). They cover a range of services including accountancy, audit, bookkeeping, legal and notarial. They vary in size, scale and resource. We provide a full list in the Annex.
- 1.4** In 2018, the Government created the Office for Professional Body Anti-Money Laundering Supervision (OPBAS). OPBAS has two key objectives: first, to ensure a consistently high standard of AML supervision by the PBSs; and second, to facilitate information and intelligence sharing amongst the PBSs, statutory supervisors (including HM Revenue & Customs (HMRC), the Financial Conduct Authority (FCA) and the Gambling Commission), the National Economic Crime Centre (NECC), National Crime agency (NCA) and law enforcement agencies. OPBAS does not directly supervise accountancy or legal firms.
- 1.5** In 2019, we published a report setting out our supervisory findings from our first year of operation (the 2019 Report). This year, we publish an update on the progress of PBSs since 2019 (the 2020 Report) on the 8 key areas set out in the OPBAS Sourcebook for professional body anti-money laundering supervisors (the Sourcebook). We also set out advances by the PBSs in information and intelligence sharing.
- 1.6** Our 2020 Report is based on our ongoing supervision of the PBSs. It highlights how AML supervision evolved in 2019 relative to 2018 and is transparent about how we are delivering our objectives. We have also drawn on data provided by the PBSs to Her Majesty's Treasury (the Treasury) in the AML supervisors' returns (with a reporting period of May 2018 to April 2019).

- 1.7** PBSs have responded differently to the challenges they face. Some have responded positively and implemented changes quickly. Others have been less proactive in their approach. We have delivered tough messages and used our regulatory powers where necessary. Against 14% of PBSs, we made use of our powers of direction under regulation 14 of the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 (OPBAS regulations). These range from requests for deadlines against promised actions to more directive/restrictive measures.
- 1.8** We also held supervisory workshops to share best practice and help drive up standards of AML supervision. These included regional workshops in Edinburgh and Belfast to acknowledge specific money laundering risks in those locations.
- 1.9** Where PBSs have achieved positive results, this has been through the effective and efficient implementation of AML strategies devised in response to our initial findings (see the Annex). However, we will further assess the effectiveness of their implementation and test these AML strategies as part of our risk-based supervision going forward.

## 2 Executive summary

- 2.1** The purpose of this report is to provide an overview of AML supervision by the PBSs at the end of 2019. There has been strong improvement across both the legal and accountancy sectors in AML supervision. However, the full impact of changes introduced by PBSs has yet to be tested and assessed. The statistics also show some PBSs are still lagging behind their peers and must raise their standards further.
- 2.2** We observed a notable increase in appropriate **governance** arrangements for AML supervision. At the end of 2018, 44% of PBSs lacked clear accountability for supervisory activity. By the end of 2019, this was reduced to zero. All PBSs have now set out their internal accountability for AML. All PBSs have now updated their policies and procedures in accordance with MLRs. Only one PBS does not have a consolidated AML policy.
- 2.3** We observed improvement in the application of a **risk-based approach**. At the end of 2018, 91% of relevant PBSs (those who have regulatory functions and are assessed on all aspects of our Sourcebook) were not fully applying a risk-based approach to their AML supervision. By the end of 2019, this figure had reduced to 14%. A key challenge for OPBAS in 2020 will be to assess the effectiveness of how these risk-based approaches are embedded and applied in practice.
- 2.4** More PBSs are conducting AML **supervision**. At the end of 2018, 18% of relevant PBSs had not identified their supervised populations that are subject to the MLRs. Now, all relevant PBSs have identified and verified their supervised population under the MLRs. All but 3 relevant PBSs utilised on-site visits as a supervisory tool in 2019 (one relevant PBS had no members falling within scope of the MLRs). We have seen a notable increase in proactive supervision across both sectors. At the end of 2018, 10% of relevant PBSs were undertaking proactive supervision. At the end of 2019, this figure was 81%.
- 2.5** Some PBSs are now outliers compared to their peers, particularly when it comes to **intelligence and information sharing**. Appropriate intelligence infrastructures increase the level and quality of intelligence received and disseminated within the PBSs themselves. However, 16% of PBSs continue to question the value of intelligence-sharing systems. At the end of 2018, 92% of PBSs lacked adequate measures to encourage individuals in their sector to report breaches of the MLRs, including whistleblowing arrangements. At the end of 2019, 16% of PBSs either continue to lack a whistleblowing policy or their current whistleblowing policy does not provide adequate protection for anonymity.
- 2.6** We also see a split in the sectors when it comes to intelligence sharing and supervisory collaboration between the PBSs, law enforcement and other statutory supervisors. OPBAS has driven improvement through the Intelligence Sharing Expert Working Groups (ISEWGs) established by OPBAS and the NECC. Since the establishment of the ISEWGs, 32 detailed information requests (made under section 7 of the Crime and Courts Act 2013) have passed between the accountancy PBSs and the NECC.

- 2.7** All relevant PBSs have a range of **enforcement** tools. However, in the reporting period May to April 2018/19 41% of relevant PBSs did not take any kind of enforcement action for AML non-compliance. The legal sector has issued notably fewer numbers of fines than the accountancy sector (11 versus 226), and only 9 memberships were cancelled and 1 suspended.
- 2.8** At the end of 2019, 88% of PBSs had published AML **guidance** for their members, representing no change from last year. At the end of 2019, 96% of PBSs updated their members through external communications, up from 84% last year.
- 2.9** 8% of PBSs continue to lack structured **internal staff training** for AML or have few training policies or records. 56% of PBSs have now produced an AML compliance staff handbook detailing the PBS's policies and procedures to meet its AML obligations.
- 2.10** There have been some improvements in **record keeping**. At the end of 2018, we found that 36% of PBSs lacked sufficient record keeping policies and procedures. At the end of 2019, this figure was 8%. At the end of 2018, 48% of PBSs lacked formal **quality assurance** procedures for AML decision-making (including sufficient oversight). At the end of 2019, 32% of PBSs did not have formal quality assurance procedures in place for their supervisory decision-making.
- 2.11** Overall, we have observed strong improvement by PBSs, but with some notable outliers. However, the full impact of changes in AML supervision by the PBSs has yet to be tested and assessed, and this will be a focus of OPBAS in 2020.

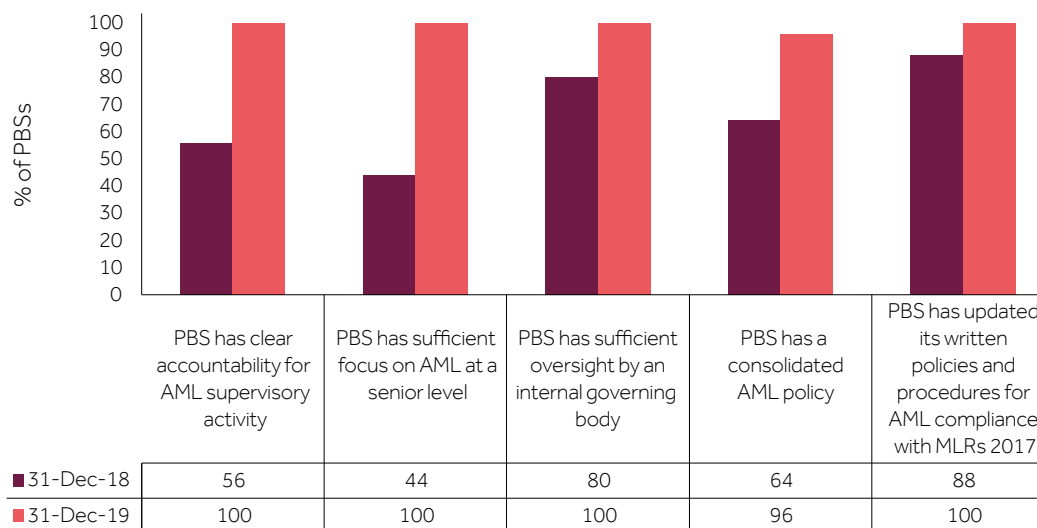
## 3 Key themes

### Governance

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- 3.1** Regulation 49 of the MLRs requires a PBS to make arrangements to ensure their supervisory functions are exercised independently of any of their other functions and to provide adequate resources to carry out the supervisory functions. Section 3 of the Sourcebook states that PBSs should:
- clearly allocate responsibility for managing their AML supervisory activity
  - be able to evidence that senior management is actively engaged with their approach to AML supervision (including awareness of money laundering risk and being privy to key AML decision making)
  - have appropriate reporting and escalation arrangements promoting effective decision making
  - keep their advocacy and regulatory functions separate and ensure they manage conflicts of interest
- 3.2** We have observed a significant improvement in the suitability, in principle, of governance arrangements for AML supervision. However, we will test the arrangements during our 2020 supervision. Governance was a key focus of our supervisory workshops held in June and July 2019.
- 3.3** At the end of 2018, 44% of PBSs lacked clear accountability for AML supervisory activity. By the end of 2019, all PBSs had clear accountability and oversight for AML supervision at a senior level. At the end of 2018, we found that 20% of PBSs had insufficient oversight by an internal governing body. At the end of 2019, all PBSs had oversight by an internal governing body with a specific remit for AML. All PBSs now have a stronger focus on AML at a senior level and an increase in the resources dedicated to AML, in terms of both personnel and expenditure. 32% of PBSs have created new positions internally for AML supervision or information and intelligence sharing.
- 3.4** At the end of 2018, 12% of PBSs had not updated their written policies and procedures for AML compliance with the MLRs. By the end of 2019, all PBSs had updated their policies and procedures in accordance with the MLRs. At the end of 2018, we found that 36% of PBSs did not have a consolidated AML policy. At the end of 2019, only one PBS lacked a consolidated AML policy.
- 3.5** The accountancy sector has seen significant improvement identifying and recording conflicts of interest. At the end of 2018, 77% of accountancy PBSs did not have adequate conflict of interest policies in place. By the end of 2019, all accountancy PBSs had adequate conflict of interest policies in place.

**3.6** Figure A below illustrates improvements observed in governance arrangements by PBSs for both sectors



### Risk-based approach

**3.7** PBSs are required to undertake an informed risk assessment under Regulation 17 of the MLRs, covering the international and domestic risks of money laundering and terrorist financing in their sector. Section 4 of the Sourcebook states that PBSs should:

- adopt a risk-based approach, focussing efforts and resources on the highest risks
- ensure measures to reduce money laundering are proportionate to the risks
- regularly review the risks to their sector
- support their members adoption of a risk-based approach

**3.8** The risk-based approach was also a key focus of our supervisory workshops held in June and July 2019, and in January 2020. At the end of 2018, we found that 91% of relevant PBSs were not fully applying a risk-based approach. By the end of 2019, 14% of relevant PBSs were not yet driving supervisory activity by AML risk. Of this 14%, all have plans to implement risk-based supervision in early 2020, although in some cases this has required us to issue directions under the OPBAS regulations to achieve this.

**3.9** Where appropriate risk-based approaches are in place, they have not yet been subject to robust effectiveness testing, either by the PBS or OPBAS, to determine if resourcing remains appropriate or if desired outcomes are being achieved. This will be a focus of our supervision in 2020.


**3.10** PBSs have progressed in terms of identifying and understanding the risks inherent to their supervised populations. At the end of 2018, we found that 91% of relevant PBSs had not fully collected the information they need to implement a risk-based approach. At the end of 2019, that figure was 5%.

**3.11** At the end of 2018, we found that 32% of relevant PBSs had a dedicated AML data collection return. We hosted a workshop for PBSs highlighting the use of collecting



good quality data to inform PBSs' risk-based approach. We discussed the potential benefits of dedicated AML data returns which could facilitate more pertinent and accurate data collection, subject to appropriate quality assurance oversight. By the end of 2019, 41% relevant PBSs had a dedicated AML data collection return.

**3.12** At the end of 2018, 68% of relevant PBSs had completed a written risk assessment of their supervised populations. At the end of 2019, this figure was 86%. At the end of 2018, only 40% of PBSs had completed risk profiling their members. By the end of 2019, this figure was 81%. However, risk-based supervision has yet to be embedded and tested for many PBSs and this will be a focus of our risk-based supervision in 2020.



### **Case study: devising and implementing a risk-based approach to supervision**

The PBS collected a wide range of AML specific data from its supervised population. Considerable work was undertaken to identify and verify those firms offering legal services within scope of the MLRs, reducing the supervised population by 29%.

The data collected were analysed and modelled to identify primary and secondary risk factors. The presence of a single primary risk factor resulted in a risk assessment of 'high'. The remaining firms were assessed as 'medium' or 'low' risk according to a risk methodology.

During this process, the PBS applied 3 levels of quality control; cross referencing existing knowledge and compliance history to identify errors in data provided, a review of random firms' websites to verify services offered and additional scrutiny for firms assessed as 'high risk' within the supervised population.

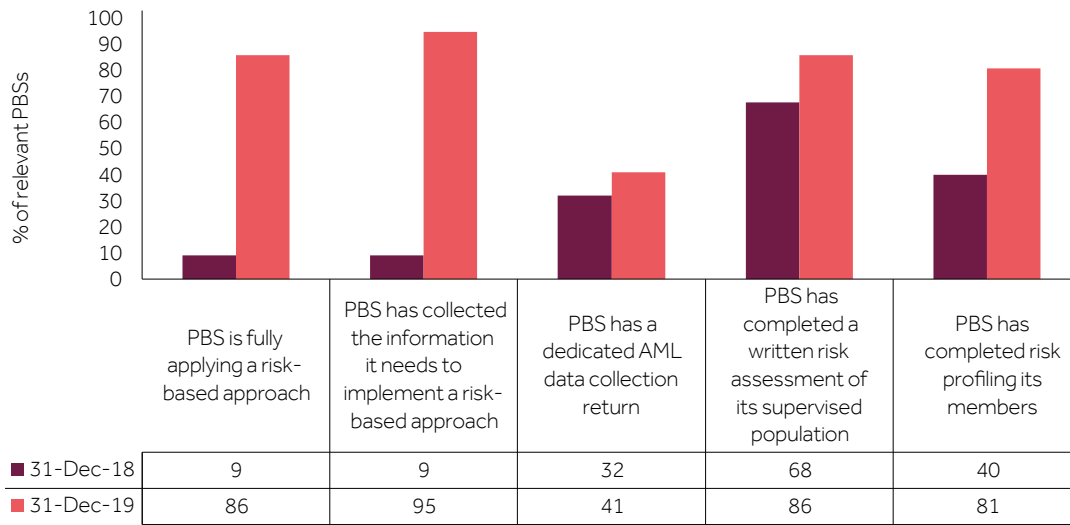
A qualitative override was used for a handful of firms as a result of information received from law enforcement.

The PBS previously conducted inspections on a cyclical basis. Following the data collection and analysis, the PBS has made changes to their inspection regime. High risk firms will now be prioritised and subject to enhanced AML-only inspections. 'Medium' risk firms will now receive cyclical AML visits in conjunction with professional standards inspections. 'Low' risk firms will receive a lighter touch AML inspection on a longer periodic cycle.

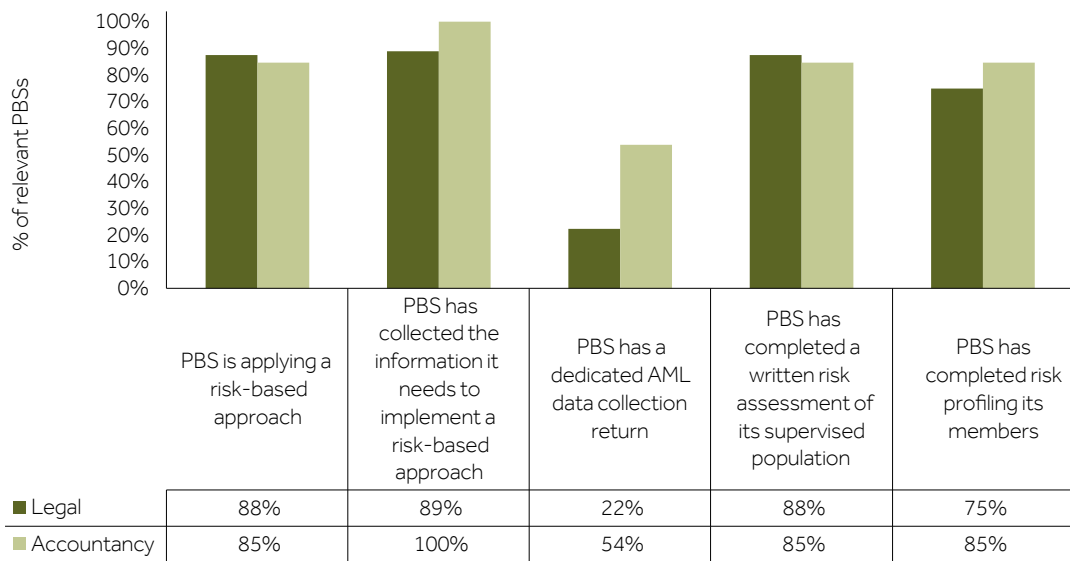
Staff have received training and education to ensure they are adequately equipped to undertake enhanced AML inspections.

The PBS will continue to collect AML data periodically, altering the questions in line with established and emerging trends as well as the quality of data received. This has enabled the PBS to identify a true picture of the AML risk within their supervised population for the first time and therefore structure supervisory resource to address this.

**3.13** **Figure B** below illustrates changes observed relating to the risk-based approach by PBSs for both sectors



**3.14** **Figure C** below illustrates changes observed relating to the risk-based approach by PBSs per sector

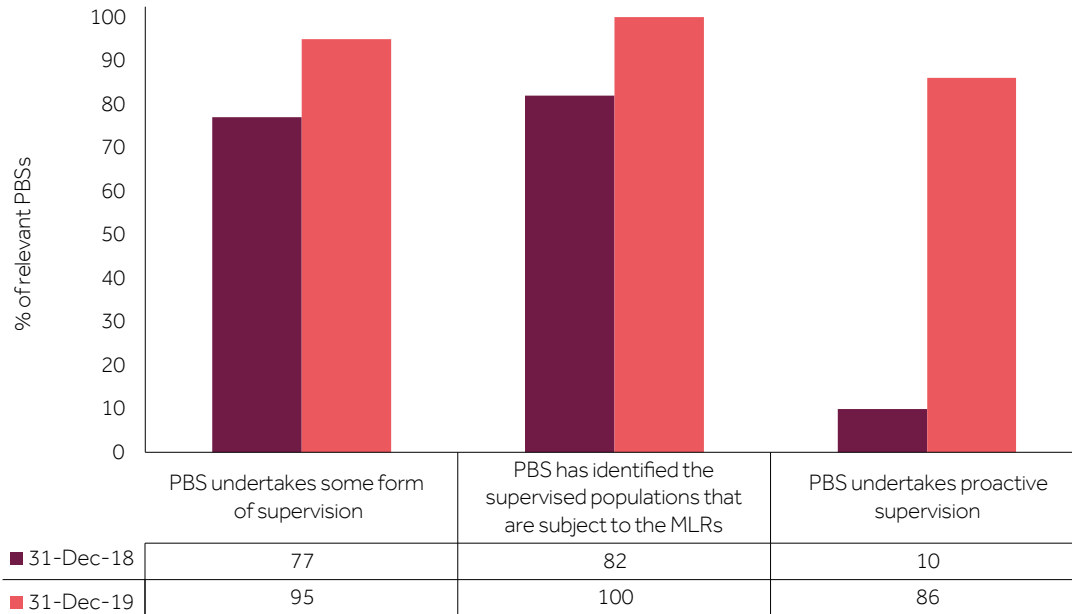


## Supervision

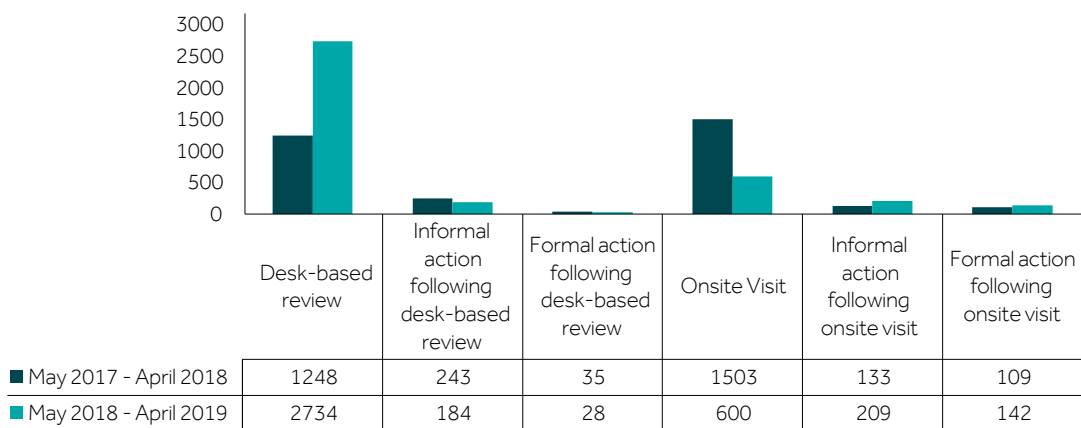
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- 3.15** Regulation 46 of the MLRs requires PBSs to effectively monitor their own sector and use the risk profiles they prepare under Regulation 17 to decide the frequency and intensity of on-site and off-site supervision. Section 5 of the Sourcebook states that:
- PBSs can select members based on risk to target those who pose the greatest risks
  - PBSs should have a number of tools to use when monitoring how adequate members' AML defences are
  - these tools should enable PBSs to compare a member with its peers
  - PBSs should adopt a gatekeeper role when considering whether a member meets the ongoing requirements for continued participation in the profession
- 3.16** PBS supervisory approaches were a key focus of the OPBAS supervisory workshops in June and July 2019. At the end of 2018, 18% of relevant PBSs had still not identified their supervised population. By the end of 2019, all PBSs had identified and verified their supervised population under the MLRs for the relevant period (although we note that one PBS has no members conducting regulated activity and therefore does not undertake any form of supervision). PBSs should continue to identify and verify their members on a periodic basis due to fluctuations in supervised populations.
- 3.17** There has been an increase in the use of all supervisory tools by relevant PBSs, indicating a move away from cyclical supervision to a more proactive approach. At the end of 2018, of the PBSs conducting supervision, 80% of legal PBSs and 75% of accountancy PBSs conducted on-site supervisory visits. This supervision was predominantly cyclical or reactive. At the end of 2019, 100% of relevant PBSs conducting supervision utilised on-site visits as a supervisory tool.
- 3.18** In 2018, we observed that PBSs were achieving inconsistent outcomes when utilising a desk-based review. In 2019, we reached consensus on the purpose and outcomes of a desk-based review and, for many PBSs, this made desk-based reviews a more resource-intensive tool.
- 3.19** In 2018, only one PBS conducted an AML thematic review. During 2019, 13% of PBSs have undertaken, or have initiated plans to undertake, an AML thematic review targeting areas of high AML risk.
- 3.20** In 2018, 10% of relevant PBSs (with a population conducting regulated activity) undertook AML supervisory assessments on a proactive basis. In 2019, this was 86%. Supervisory assessments are being undertaken on an increasingly proactive basis, influenced by AML risk. However, the amount of overall supervisory activity could be increased; particularly for PBSs with a larger supervised population.
- 3.21** In 2018, 23% of relevant PBSs outsourced their AML compliance assessments to another PBS or an external third party. The number of PBSs outsourcing AML compliance assessments has seen no change. However, 18% of relevant PBSs have renegotiated contracts with their service providers to gain greater oversight of their outsourced activities.

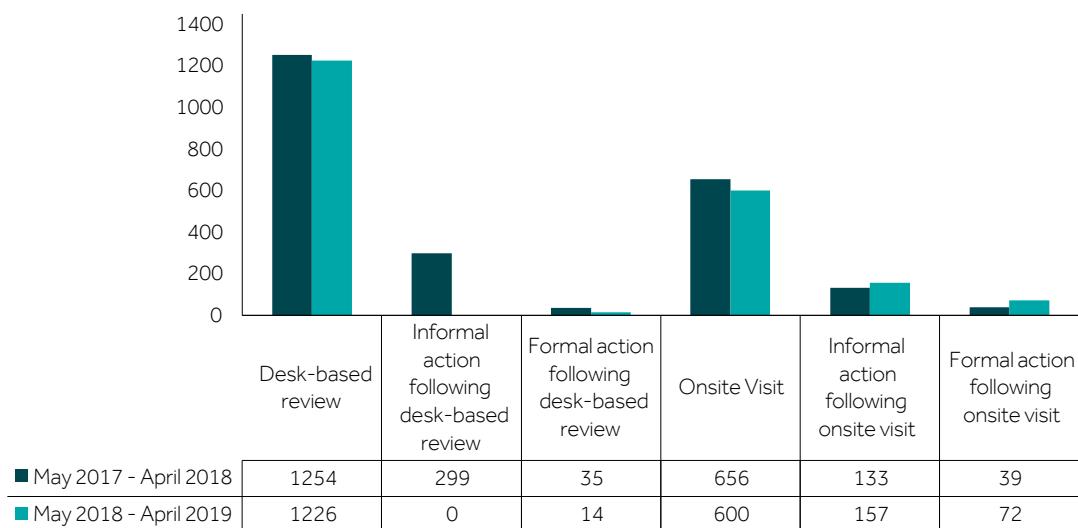
**3.22** **Figure D** below illustrates changes observed in supervision undertaken by relevant PBSs



**3.23** **Figure E** below illustrates changes reported (by PBSs to the Treasury) in supervision undertaken by the accountancy PBSs



**3.24** **Figure F** below illustrates changes reported (by PBSs to the Treasury) in supervision undertaken by relevant PBSs in the legal sector



### Information sharing between supervisors and public authorities

**3.25** Regulation 50 of the MLRs requires PBSs to co-operate and co-ordinate activities with other supervisors and law enforcement to counter money laundering and terrorist financing. Regulation 46 of the MLRs also require PBSs to report knowledge or suspicion of money laundering or terrorist financing to the NCA and to encourage their sectors to report breaches of the regulations to it. Section 6 of the Sourcebook also outlines that PBSs should:

- take part in existing information sharing arrangements
- actively share intelligence with other supervisors and law enforcement about active misconduct investigations
- participate in inter-organisational sharing arrangements such as SIS (Shared Intelligence Service) and FIN-NET (Financial Crime Information Network)
- nominate a single point of contact (SPOC) to manage their obligations
- appoint a nominated officer to report suspicions to the NCA
- have arrangements to handle disclosures from whistleblowers

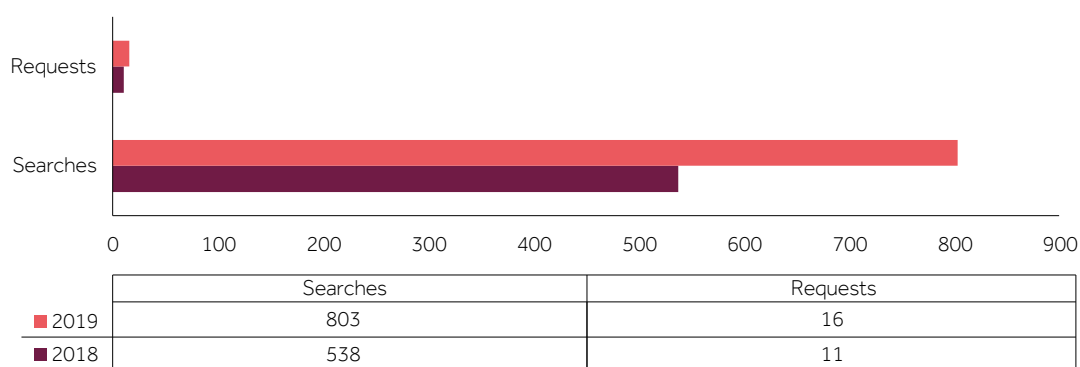
**3.26** At the end of 2018, 28% of PBSs lacked a secure system on which to keep intelligence. At the end of 2019, 28% of PBSs continued to lack a secure system on which to keep intelligence.

**3.27** 16% of PBSs continue to question the value of intelligence-sharing systems. At the end of 2018, 48% of PBSs were members of SIS and/or FIN-NET with 2 PBSs on a trial. By the end of 2019, 60% of PBSs were members of SIS and/or FIN-NET with a further 3 PBSs on a trial. Since 2018, PBS searches on SIS have increased by 49%, SIS requests for intelligence have increased by 47% and we have seen a general increase in PBSs raising intelligence flags.

**3.28** After 92% of PBSs received a whistleblowing finding in 2018, we have seen improvement across both sectors. Some PBSs have reported receiving important intelligence as a result of their implemented changes. There has been an increased understanding for the requirement to protect the anonymity of whistleblowers. However, 16% of PBSs either continue to lack a whistleblowing policy or their current whistleblowing policy does not provide adequate protection for anonymity.

**3.29** At the end of 2018, we found that 42% of legal and 70% of accountancy PBSs lacked an intelligence handling policy. At the end of 2019, 17% of legal and 31% of accountancy PBSs continued to lack an intelligence handling policy.

**3.30** **Figure G** below illustrates the average monthly changes in PBS SIS use between 2018 and 2019



## Enforcement

**3.31** Regulation 49 of the MLRs requires a PBS to make arrangements to ensure that members are liable to effective, proportionate and dissuasive disciplinary action. Section 9 of the Sourcebook further states that PBSs should:

- be ready and able to take appropriate action where members have failed to meet their obligations
- have sufficient information gathering and investigative powers to effectively monitor and assess compliance
- seek to remove the benefits of non-compliance and deter future non-compliance
- make enforcement action related to AML non-compliance public

**3.32** All relevant PBSs have a range of enforcement tools available to them. We have seen an increase in AML enforcement activity as a direct result of increased supervisory activity. There is a substantial difference in the nature of enforcement activity between the two sectors, although we note that only relevant PBSs would be able to take enforcement action. We have begun to see a move away from the developmental approach we identified from our 2018 supervisory assessments.

**3.33** The total number of fines issued by relevant PBSs for contraventions of the MLRs has increased by 150% from the reporting period May to April 2017/18 and May to April 2018/19. However, there remains a stark contrast in the total number of fines

issued in each sector. The relevant legal PBSs issued a total of 11 fines in 2018/19 for such contraventions, an increase from 9 in 2017/18. By comparison, accountancy PBSs issued a total of 226 fines in 2018/19 for such contraventions, an increase from 85 in 2017/18. However, for the legal sector this amounted to an average of £31,954 per fine (May to April 2018/19), whereas for the accountancy sector this was a much lower average of £652 per fine. All the fines in the legal sector came only from 2 PBSs whereas there was a far more even spread in the accountancy sector with 54% issuing fines.

**3.34** The total sum of fines issued for contraventions of the MLRs by accountancy sector PBSs has increased by 24% (£119,209 in 2017/18 to £147,549 in 2018/19). The total sum of fines issued for such contraventions by the legal sector PBSs has increased by 366% (£75,300 in 2017/18 to £351,502). Only 2 legal PBSs issued any fines for AML in 2018/19. By comparison, 77% of the accountancy PBSs issued fines for AML in 2018/19.

**3.35** Between May to April 2018/19, 41% of relevant PBSs did not take any kind of enforcement action for AML. This indicates that inconsistencies of approach remain in this area. 9% of relevant PBSs remain reluctant to publish enforcement outcomes and only 14% of relevant PBSs have a publicly available AML report.



### **Case study: Accountancy PBS enforcement framework**

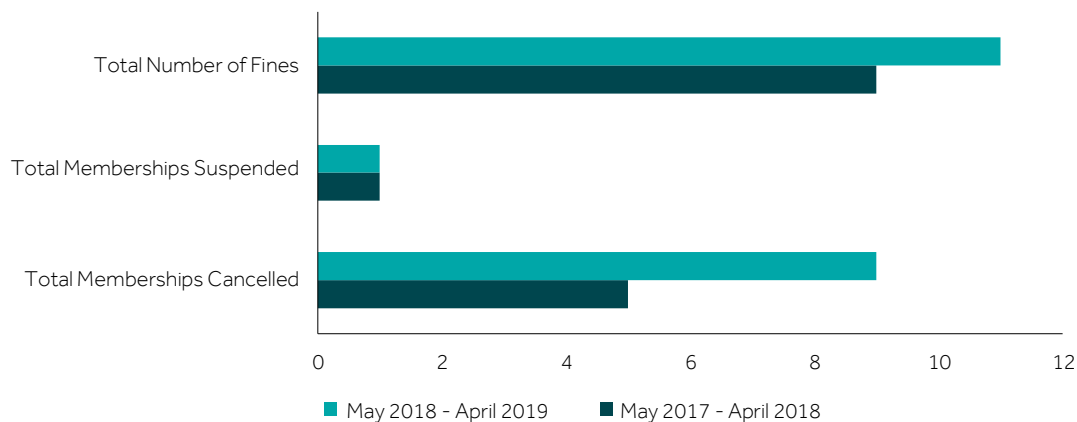
A PBS accepted that its existing enforcement tools were closely linked to the its disciplinary policies and procedures. They required an element of misconduct to be investigated and proven in order to impose any sanction. Taking a more effective approach, the PBS moved to implemented a pass or fail system for assessing AML compliance.

The identification of AML non-compliance now results in an immediate fixed financial penalty for the member and a short time period in which to remedy the identified non-compliance.

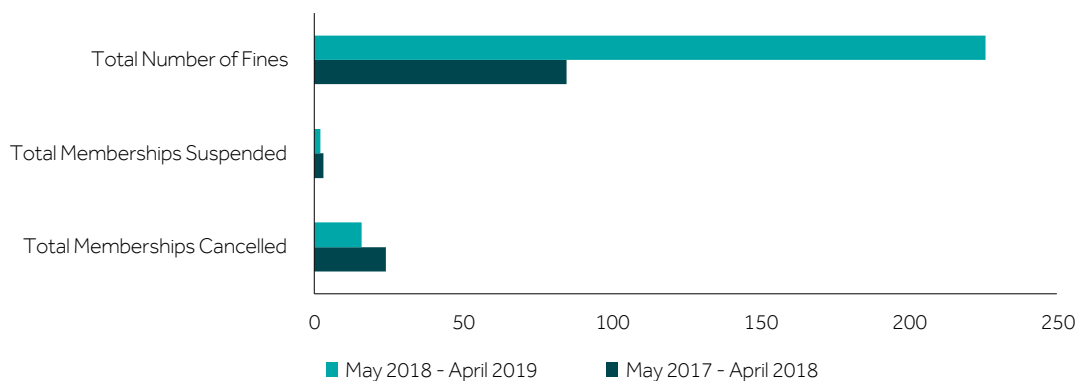
Where the member remains non-compliant at the end of the remedial period, the member will have their licence to practice removed for a specified period.

Reinstatement after this period will be dependent on evidence of AML compliance.

**3.36** **Figure H** below illustrates AML enforcement activity reported to the Treasury by relevant PBSs in the legal sector



**3.37** **Figure I** below illustrates AML enforcement activity reported (by PBSs to the Treasury) for the accountancy sector



### Information and guidance for members

**3.38** Regulation 47 of the MLRs requires PBSs to make up to date information on money laundering and terrorist financing available to members in any way they decide is appropriate. PBSs are also required to include information from sources considered relevant to their sector. Section 7 of the Sourcebook states that PBSs should:

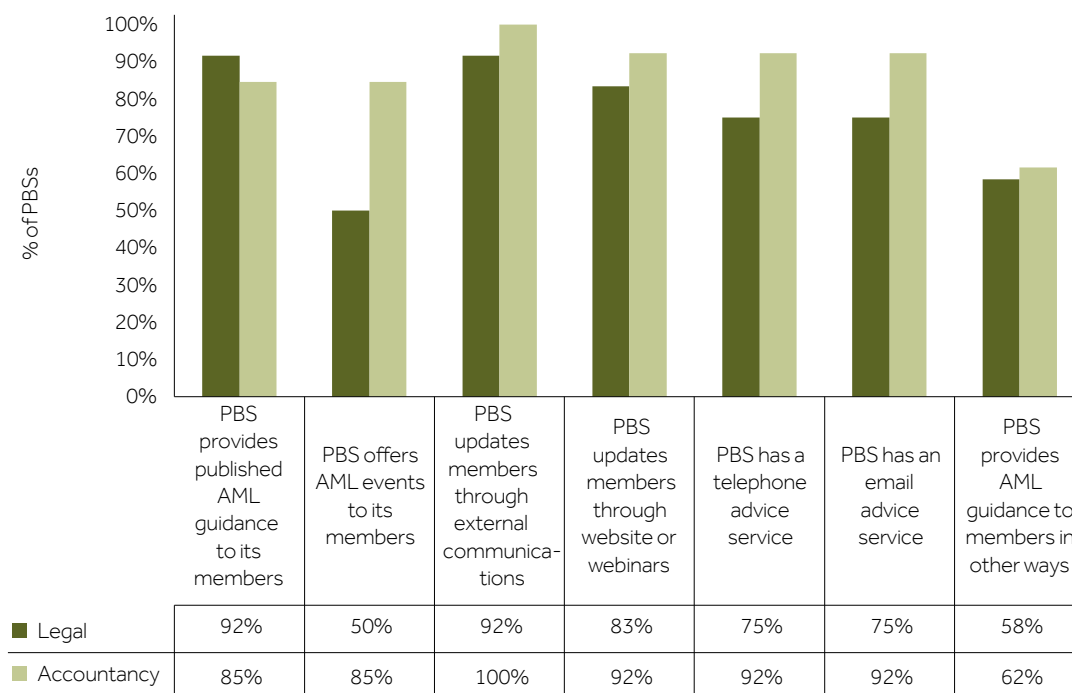
- provide information to members about the money laundering risks faced by their membership, to consider how best to pass this information on, and how to balance giving practical assistance to members with the need to protect sensitive information and intelligence
- give guidance to their members on how to meet their high level legal obligations in AML

**3.39** At the end of 2018, we found that 88% of PBSs provided published AML guidance for their members. As at the end of 2019, this figure has remained the same. At the end of 2018, we found that 84% of PBSs updated their members through external communications. As at the end of 2019, all but one of the PBSs updates their members through external communications.



**3.40** The larger legal PBSs have held dedicated AML conferences and 92% of PBSs provided roadshows, online material, annual conferences, newsletters and practice notes. The various channels used for providing information and guidance to members has remained consistent. However, the quality and accuracy of the information and guidance varies widely among PBSs. This will be a key focus of our supervision in 2020.

**3.41** **Figure J** below illustrates the types of AML guidance offered by PBSs to their firms and/or members in practice at the end of 2019



### Staff competence and training

**3.42** Regulation 49 of the MLRs requires a PBS to employ people with appropriate qualifications, integrity and professional skills to carry out the supervised functions. Section 8 of the Sourcebook states that PBSs should:

- take steps to ensure their staff are equipped to take decisions on whether members' policies, controls and procedures are appropriate
- judge each case on its merits
- provide ongoing professional development and consider if formal AML qualifications are appropriate

**3.43** Two PBSs continue to lack structured internal AML training or have few training policies or records. 56% of PBSs have now produced an AML compliance staff handbook detailing the PBS's policies and procedures to meet its AML obligations.

**3.44** 32% of PBSs have created new roles internally for staff dedicated to AML supervision or information and intelligence sharing.

## Record keeping and quality assurance

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- 3.45** Regulation 46 of the MLRs requires PBSs to keep written records of the actions they have taken in their AML supervision, including decisions where it has not acted. Section 10 of the Sourcebook outlines that PBSs will:
- maintain records of significant decisions related to their AML supervision, documenting the reasons for action. The documentation should be sufficiently thorough to allow ex-post (after the event) understanding of justification behind the decision
  - document their supervisory action to ensure an adequate record is maintained
  - should subject supervisory work and decision-making to quality assurance testing in addition to managerial oversight
  - subject any internal audit function to periodic review (if one exists) and will submit an annual questionnaire
- 3.46** At the end of 2018, 36% of PBSs lacked sufficient record keeping policies and procedures. By the end of 2019, only two PBSs lacked sufficient record keeping policies. At the end of 2018, 48% of PBSs did not have formal quality assurance procedures in place for their supervisory decision-making. By the end of 2019, this figure had reduced to 32%.
- 3.47** At the end of 2018, 24% of PBSs maintained insufficient records. At the end of 2019, 12% of PBSs continued to maintain insufficient records despite an increase in the use of AML data and overall supervisory activity.

## 4 Intelligence and information sharing

- 4.1 PBSs have responded to our specific findings on intelligence leading to the improved systems and controls described in Chapter 3 above. However, some PBSs are still lagging behind their peers, and 16% of PBSs continue to question the value of intelligence-sharing systems.
- 4.2 On a broader level, all PBSs have engaged with intelligence and information sharing through the ISEWGs established by OPBAS and the NECC.

### Intelligence Sharing Expert Working Groups

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- 4.3 The ISEWGs were established by OPBAS and the NECC to facilitate intelligence sharing between the PBSs, statutory AML supervisors and law enforcement.
- 4.4 In September 2018, we held the first ISEWG for the accountancy sector. We perceived the gap in intelligence and information sharing was larger between these PBSs and law enforcement. The legal sector, predominantly those PBSs regulating solicitors, already shared intelligence with the NCA/NECC and regional law enforcement agencies through bi-lateral arrangements.
- 4.5 Seven volunteer accountancy PBSs (including nearly all the largest bodies) attended the first accountancy ISEWG in September 2018, alongside the NECC, HMRC, OPBAS and FCA Intelligence. In August 2019, we decided that this working group would be beneficial to all 13 accountancy PBSs, all of which now regularly attend the ISEWG meetings.
- 4.6 In May 2019, we established an ISEWG for the legal sector to encompass the PBSs regulating non-solicitors. OPBAS held a scoping ISEWG for the legal sector in May 2019 and it was agreed an ISEWG would be beneficial. All 12 legal PBSs (including the 3 bodies that have been delegated regulatory functions) attend the ISEWG meetings.
- 4.7 As of March 2020, OPBAS has held and chaired 5 accountancy ISEWGs and 2 legal ISEWGs. Terms of Reference have been published for both the accountancy and the legal sectors. OPBAS is the current chair of both ISEWGs but in April 2020, a new chairperson will be elected under the Terms of Reference.
- 4.8 The ISEWGs report into the NECC's Joint Money Laundering Intelligence Task Force (JMLIT) steering group, which measures impact. The ISEWGs also link directly into the NECC's Enablers Practitioners' Group (EPG). The EPG was established by the NECC in 2019 to discuss active cases involving enablers from law enforcement agencies around the UK, the FCA and HMRC. The same NECC representatives sit on the ISEWGs and chair the EPG. Information flows from the EPG into the ISEWGs via various legal referral mechanisms and vice versa.

## Impact of the ISEWGs

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- 4.9** We have seen a direct impact from the ISEWGs on the PBSs' AML systems and controls in the following ways:
- PBSs must have secure emails to participate in the ISEWGs
  - PBS must have security cleared employees to participate in the sessions
  - PBSs must have safe and secure methods for storing and handling intelligence received via the ISEWGs
  - PBSs are now receiving and disseminating JMLIT alerts
  - PBSs are increasing their understanding of inherent risk which will help them apply a more effective risk-based approach to AML supervision
  - PBSs are receiving first hand detailed intelligence about enablers, helping reduce the perception that there are no risks in their sectors
- 4.10** Although we are encouraged that participation by the PBSs has driven more sophisticated internal controls such as secure email systems, security vetted staff and secure storage of intelligence, it is questionable why these basic requirements for intelligence sharing were not already in place, particularly given the size of some of the bodies lacking these safeguards.
- 4.11** The ISEWGs have also led to demonstrable outcomes since June 2019, including (as at the end of 2019):
- 32 requests for information (made under section 7 of the Crime and Courts Act 2013) have been sent to the PBSs by the NECC with a 100% response rate. The requests have been in-depth and provide context to the PBSs which they would not have previously received without the work of the ISEWGs
  - Requests have been made on behalf of both NCA teams and partner agencies and the responses have informed the tactical decision making of investigation teams whilst improving the overall strategic picture
  - 5 tactical sessions have been held between PBSs, other statutory supervisors and law enforcement on live cases since the ISEWGs inception. One case in particular has directly led to the arrest of additional suspects in an active investigation by another government agency

## Engagement by the PBSs with the ISEWGs


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- 4.12** There are stark differences in how the PBSs have engaged with OPBAS and the ISEWGs.
- 4.13** We have generally seen significant, open and constructive engagement by the accountancy sector with the ISEWGs from PBSs, regardless of size. PBSs are using better internal controls to identify risk, employing appropriate staff to assess risk, and

engaging appropriately with the secure forum of the ISEWGs. As a result, we have seen an exponential increase in referrals to and from the NECC to the accountancy bodies about potential enablers. We commend the accountancy PBSs for their co-operation and engagement with the ISEWGs. However, it should be noted this was from a very low base level of intelligence sharing and the momentum must continue.

**4.14** In the legal sector, there is more varied levels of engagement with the ISEWG. Some PBSs are cautious about sharing anonymised intelligence even where there are Terms of Reference about how that information will be treated and disseminated. However, we note the legal ISEWGs are at an earlier stage than the accountancy ISEWGs and we hope to see the same trajectory over time.

**4.15** Two cases studies below demonstrate the level of intelligence sharing through the ISEWGs and its impact.



### **Case study: small accountancy PBS (intelligence led supervision)**

A small accountancy PBS brought an example of intelligence led supervision to an ISEWG meeting for discussion with the members.

The PBS operates a risk assessment system as part of their supervisory process, a function of which shows risk flags. One of the PBS's members was flagged as having a disproportionate number of clients in relation to their practice size. The PBS further identified that the member had not received a supervisory visit in a while and, through open source intelligence research, uncovered potentially worrying links to criminality through family connections.

The PBS accelerated the member's supervision and went onsite to probe further. The PBS confirmed that the member was a sole practitioner with a large number of clients and whose practice was predominately providing TCSP services, including services to high-risk companies such as haulage firms. The PBS identified significant failures in the members AML systems and controls, including a lack of understanding of AML risk and outdated policies and procedures. They also found that client due diligence was outsourced to a third-party company run by a relative. The PBS found no links from the member to the criminality found using the open source research but commented on the usefulness of intelligence when assessing their member's risk profile.

The PBS referred the member to their disciplinary function due to the serious AML compliance failings found during the supervision visit. The disciplinary process is still on-going.



## Case study: large accountancy PBS (ISEWG intelligence)

A large accountancy PBS received intelligence about a member via a ISEWG bi-lateral with a third-party government agency. The intelligence related to a live investigation by the agency into 'ghost employees' which involved the PBS's member. The agency sought the supervisory records of the member and any additional intelligence the PBS held that might assist their case.

The member was employed at a company and operated their payroll service. The agency was investigating their suspicion that non-existent employees were being 'ghosted' onto the payroll system alongside genuine staff. These 'employees' subsequently claimed benefits. The agency believed that the PBS member was complicit in the activity due to their position in the company. The PBS was able to provide the agency with new intelligence that led to an additional suspect being investigated and ultimately the arrest of the PBS's member.

The exchange of intelligence between the PBS and the agency was two-way as the member also had a separate accountancy practice supervised by the PBS. The agency provided the PBS with intelligence that the member was performing TCSP services which the member had not previously declared through their AML annual return. This led to the member being given a lower risk rating and not being registered on HMRC's TCSP register. The PBS acted on the intelligence provided, increased the member's risk profile, and are working collaboratively with the agency to take appropriate action.

### Broader intelligence and information sharing

- 4.16** We have made a series of commitments under the [Economic Crime Plan](#) (EPC) relating to information and intelligence sharing. We report regularly to the Treasury and the Home Office on progress.
- 4.17** We also made an important contribution to the Government's understanding of inherent financial crime risk. In January 2020, OPBAS held 2 special ISEWGs for the legal and accountancy sectors to obtain consensus on the money laundering and counter terrorism risks for the next National Risk Assessment, due to be published in July 2020.
- 4.18** We have worked collaboratively with the PBSs to help improve standards of AML supervision. We have driven changes to the AML returns required by the Treasury to provide better and more accurate data, taking into account feedback from the PBSs. We held 4 supervisory workshops for the PBSs to agree consensus about good practice. This included workshops in Scotland and Northern Ireland, acknowledging the unique inherent money laundering risks in those regions.

- 4.19** We continue our close relationship with the NECC. We meet regularly with HMRC to discuss consistent standards in AML supervision. HMRC also sits on the ISEWGs and the EPG.
- 4.20** We also meet regularly with other stakeholders including the Royal United Services Institute and Transparency International to leverage from their thought leadership on the reduction of financial crime.
- 4.21** Finally, we participate in the Anti-Money Laundering Supervisors' Forum and the Public Sector Affinity Group and have regular close contact with the FCA (of whom we are part), HMRC, the Gambling Commission, the Insolvency Service, the Legal Services Board, the Financial Reporting Council, the Department for Business Energy Industrial Strategy and all other relevant government departments.

## 5 Next steps

- 5.1** Although the progress by PBSs over 2019 has been encouraging, there is significant work to be done in relation to implementation and testing of the PBSs' risk-based processes and the data analysis that sits behind them. Where PBSs are not meeting the expected standards we continue to take robust action.
- 5.2** In 2020, we move into a risk-based approach to supervision, applying our resources where the risks are greatest. Our approach will take into account:
- inherent risks in the PBSs and the sectors they oversee
  - weaknesses in anti-money laundering/counter-terrorist financing (AML/CTF) supervision that we found in each PBS
  - AML strategies prepared in response to those findings (which have impacted our initial risk assessment of the PBSs)
- 5.3** We intend to update our risk assessment of each PBS quarterly, based on their progress in implementing the remedial actions in their strategies and following any further supervisory assessment.
- 5.4** We will also be considering our own performance indicators.



## Annex

1. OPBAS oversees 22 PBSs (25 including those with delegated regulatory functions, CILEx Regulation, Bar Standards Board and Solicitors Regulation Authority). They cover a wide range of professions across the accounting and legal sectors:
  - Association of Accounting Technicians
  - Association of Chartered Certified Accountants
  - Association of International Accountants
  - Association of Taxation Technicians
  - Chartered Institute of Legal Executives/ CILEx Regulation
  - Chartered Institute of Management Accountants
  - Chartered Institute of Taxation
  - Council for Licensed Conveyancers
  - Faculty of Advocates
  - Faculty Office of the Archbishop of Canterbury
  - General Council of the Bar / Bar Standards Board
  - General Council of the Bar of Northern Ireland
  - Insolvency Practitioners Association
  - Institute of Certified Bookkeepers
  - Institute of Chartered Accountants in England and Wales
  - Institute of Chartered Accountants in Ireland
  - Institute of Chartered Accountants of Scotland
  - Institute of Financial Accountants
  - International Association of Bookkeepers
  - Law Society / Solicitors Regulation Authority
  - Law Society of Northern Ireland
  - Law Society of Scotland

2. Following our supervisory assessments in 2018, we issued each PBS a letter summarising our findings. We asked PBSs to address the findings by producing and submitting an AML strategy plan. This included accountabilities for the proposed actions and deadlines.
3. We then assessed the suitability of each AML strategy plan and found a number of AML strategies to be inadequate. In such instances, we communicated our concerns to PBSs and they were asked to send through a second iteration of their strategy plan.
4. We presented the AML strategies to an internal panel. The panel acted to govern and test our decision-making process and allowed us to make a fair assessment of the effectiveness of the PBSs' AML strategy plans. The panel provided guidance and challenge to ensure consistency of approach.
5. We then wrote to PBSs stating that we had no further comments on the content of their AML strategy. This initiated a periodic review process. We meet with PBSs at periodic intervals to ensure that proposed actions are being implemented as described.
6. There was a stark contrast in PBS engagement with AML strategies. Those who responded positively implemented robust change in a timely manner. At the end of 2019, 9% PBSs had yet to produce a sufficient AML strategy and further action has been taken where appropriate and proportionate.

