

Association of Accounting Technicians response to HM Treasury's call for evidence: 2017 National Risk Assessment of Money Laundering and Terrorist Financing

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1. Introduction

- 1.1. The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to the call for evidence to inform the 2017 National Risk Assessment of Money Laundering and Terrorist Financing.
- 1.2. AAT is submitting this response on behalf of our membership and for the wider public benefit of achieving sound and effective administration of taxes.
- 1.3. AAT has added comment in order to add value or highlight aspects that need to be considered further.

2. Executive summary

- 2.1. AAT strongly supports the UK's drive to combat money laundering and terrorist financing and is committed to support and contribute to the development of the National Risk Assessment (NRA) to achieve this.
- 2.2. AAT (via the AAG) responded to the 2015 NRA, pointing out that it was uncertain how the report had concluded that accountancy service providers are viewed as high risk and surprising that all 'accountants' have been combined in one grouping – whether registered, regulated or not.
- 2.3. AAT would like to ensure that for the second NRA a clear understanding of the scoring system underpinning the risk ratings is communicated. It is also important to recognised that there is a need for a clear distinction between those who are professionally qualified and regulated and those who are not (i.e.: those supervised by HMRC), as they are not subject to conform to the same technical, ethical, reporting or general practice standards.
- 2.4. AAT is concerned that this issue has not been properly addressed, which is apparent from the oversight body proposal, as HMRC will not fall within its scope. This will result in further inconsistency within the sector, thus failing to address the rationale for establishing such a function in the first place.

3. AAT response to the consultation paper

- 3.1. The following paragraphs outline AAT's response to the proposals outlined in the request for evidence.
- 3.2. Name of supervisor/regulator: Association of Accounting Technicians (AAT)
- 3.3. Sector AAT supervise: Accountancy
- 3.4. Total number of firms (multiple members) AAT supervise: 123
- 3.5. No of individuals (sole traders): 2,925

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

3.6. Number of members:

- Domestic: AAT has 4,295 licensed members; of which AAT supervises 3,778 members for money laundering purposes as both firms and sole traders.
- Overseas: AAT does not licence members to operate overseas.

3.7. Nature and size of the entities:

Services provided by supervised entities:

- Limited Assurance Engagements
- Independent Examination
- Internal Audit
- Forensic Accounting
- Company Secretarial Services
- Personal Income Tax
- Business Income Tax
- Corporation Tax
- Capital Gains Tax
- Inheritance Tax
- Budgeting and forecasting
- Financial accounting and accounts preparation of full and abbreviated accounts required for statutory purposes by the prevailing Companies Act
- Management accounting
- Payroll
- Bookkeeping
- Financial Accounting and Accounts Preparation for sole traders and partnerships
- Computerised Accountancy Systems
- Value Added Tax

AAT is the Supervisor for 88% of its licensed members. Of those, AAT supervises:

- 54% sole traders
- 42% limited companies
- 3% partnerships
- 1% limited liability partnerships

Out of these firms:

- 32% do not employ any staff
- 29% employ staff on a part-time basis
- 28% employ staff on a full-time basis
- 11% use sub-contractors

On average, an AAT licensed member has:

- An annual income of £45,734
- 93 clients

A breakdown of our supervised practices by income is as follows:

- 54% small [under £25,000]
- 36% medium [between £25,000 and £100,000]
- 10% large [over £100,000]

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?

- 3.8. AAT views the accountancy sector as being attractive to criminals and terrorists to launder the proceeds of crime and/or fund terrorism as accountants are in a position to legitimise transactions through accounting practises, in particular via corporate structures.
- 3.9. In terms of services provided by AAT members, the following key services offered by the supervised population are considered as being most attractive to criminals to launder the proceeds of crime:
- Limited Assurance Engagements- when members provide assurances to third parties about the veracity of accounts information
 - Company secretarial services, and
 - All taxation services, where if members are not scrupulous in understanding the affairs of their client, their services are vulnerable to exploitation to evade tax.
- 3.10. In respect of terrorist financing specifically, AAT considers the risk to primarily relate to accounts preparation for charities, and in particular independent examination, which is similar in nature to a limited assurance engagement- i.e. assurances are provided to third parties.
- 3.11. In terms of utilising these services to mask the source of ownership of funds and assets the main threat is through the use of Trust or Company Service Providers to create shell companies, trusts and, in particular, offshore structures. This also extends to the setting up and creation of charities to launder funds and mask ownership.

45% of members are licensed to deliver “Company Secretarial Services”. AAT’s definition is narrower than that of the MLRs, so the extent of this service is defined as:

- Forming companies
- Acting or arranging for another person to act:
 - As a director or secretary of a company ○ As a partner of a partnership;
 - or
 - In a similar position in relation to other legal persons;
- Providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- Acting or arranging for another person to act as:
 - A trustee of an express trust or similar legal arrangement; or
 - A nominee shareholder for a person other than a company whose securities are listed on a regulated market

AAT also ensures that if the provision of providing company secretarial services goes beyond being incidental to the provision of accountancy services then members must be supervised by HMRC for the purposes of Anti Money Laundering compliance in accordance with paragraph 26 of the Money Laundering Regulations 2007.

- 3.12. Other vulnerabilities could include criminals misusing clients’ monies accounts for deposits or international wire transfers to avoid detection. Clients’ money comes under specific regulatory scrutiny for AAT supervised members and furthermore, the need for AAT members to utilise these types of accounts is diminishing.
- 3.13. Providing false accounts and the preparation of business accounts can also be a means by which the source of ownership of funds and assets can be masked and legitimised through the use of accountants.

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

3.14. The examples detailed above are also relevant in masking the destination or purpose of funds and assets and are the main services which could be exploited by criminal to launder money.

**What is the level of complexity of the services or products offered by entities you supervise?
What range of products or services are offered:**

3.15. AAT members can provide the following services:

- Limited Assurance Engagements
- Independent Examination
- Internal Audit
- Forensic Accounting
- Company Secretarial Services
- Personal Income Tax
- Business Income Tax
- Corporation Tax
- Capital Gains Tax
- Inheritance Tax
- Budgeting and forecasting
- Financial accounting and accounts preparation of full and abbreviated accounts required for statutory purposes by the prevailing Companies Act
- Management accounting
- Payroll
- Bookkeeping
- Financial Accounting and Accounts Preparation for sole traders and partnerships
- Computerised Accountancy Systems
- Value Added Tax

What range of products or services does the typical customer use?

3.16. AAT members mostly provide the following services and this represents the typical usage levels of services by their clients:

- Bookkeeping – 99%
- Value Added Tax – 96%
- Financial accounting and accounts preparation for sole traders and partnerships – 91%
- Financial accounting and accounts preparation for statutory purposes – 91%
- Payroll – 90%
- Personal Tax – 85%
- Business Tax – 71%
- Corporation Tax – 70%
- Management Accounting – 70%

What extent is there interplay between these products or services?

3.17. Typically AAT will see members offer combinations of services as detailed in our licencing tiers, which demonstrates the interplay between the services. However, it is difficult to assess the interplay between these services as it is dependent on the client need.

3.18. However, generally services will be offered by members in the following groups:

- Bookkeeping
- Financial accounting and accounts preparation for sole traders and partnerships
- Value Added Tax
- Computerised Accountancy Systems

- Payroll
- Financial Accounting and accounts preparation for statutory purposes
- Budgeting and forecasting
- Management accounting
- Personal Income Tax
- Business Income Tax
- Corporation Tax
- Company Secretarial Services

N.B. Generally the preparation of accounts and the calculation of tax liability will also go hand in hand.

- Inheritance Tax
- Capital Gains Tax
- Limited assurance engagement
- Independent Examination
- Internal audit
- Forensic accounting

N.B. These services are quite niche and there is normally little interplay with other services.

What is the level of exposure of entities you supervise to high risk jurisdictions, persons, business relationships or products?

- 3.19. The majority of AAT firms are considered to be small [54% have an annual income on the basis of their work as a licensed accountant of under £25,000, with the average annual income amongst AAT's licensed accountants being £45,734 and the average number of clients being 93] and many are geographically located in rural areas. It is rare that our supervised population would deal with high risk jurisdictions.
- 3.20. Only 165 (4%) of AAT's supervised population reported dealing with high risk clients in the last reporting period.

In particular, which categories of jurisdiction, person, business relationship or product do you consider pose the greatest level of ML and TF risk for entities you supervise?

- 3.21. AAT considers the following matters as high risk in terms of ML and TF risks:
- Jurisdiction: Transactions/clients with connections to Crown dependencies or jurisdictions listed on sanctions lists (FATF and Transparency International).
 - Person/business relationship (clients): High Net Worth individuals, Uncooperative clients, connections to high risk countries (see previous bullet point), High risk business activities (cash business, HVDs, arms), Criminal/terrorist, PEP's, non faceto-face clients.
 - Services: TCSP, Tax schemes and payroll

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?

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?*

- 3.22. Entities supervised by AAT generally do not facilitate transactions or transfers of funds and assets. The only transactions that supervised entities would be involved with would be in respects of paying and receiving tax/rebates. This would be dealt with via a client's monies account, something which is highly regulated. Only 20 (0.5%) of our supervised population declared operating a clients' monies account in the last reporting period.
- 3.23. AAT members who perform financial transactions on behalf of a client, for example, retail foreign exchange operations, issuing and cashing cheques, purchase and sale of stock, sending and receiving international funds transfers etc. are generally supervised by the FCA or SRA.

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?)

- 3.24. The term "accountant" and "tax adviser" including the functions undertaken by those referring to themselves as accountants, tax advisers and to some extent bookkeepers are not subject to statutory protection of title. Therefore currently there are no barriers to providing these services. However, to be able to provide these services as an AAT licensed accountant requires the demonstration of competence through gaining a qualification at Level 4 or equivalent and to have demonstrated the application of that competence in a professional capacity in the areas that a licence is being applied for – as further detailed below. Currently the Money Laundering Regulations 2007 require that all individuals providing accountancy services on a self-employed basis are subject to the requirements for supervision and systems and controls and 'Agents' who are Money Service Businesses or a Trust or Company Service Provider with HMRC are now subject to a "fit and proper" test when registering for supervision.
- 3.25. The AAT's supervised population are subject to the following requirements to provide services:
- Provision of a qualification to determine initial professional development requirements;
 - Requirements for continuing professional development
 - Demonstration of "fit and proper" status commensurate to membership status
 - Parameters around operational practice, including client monies, client engagement and disengagement, professional indemnity insurance, data handling and quality control, as set out in legislation.
- 3.26. Members must also ensure that they abide by the requirements set out in AAT's Code of Professional Ethics, which requires professional accountants to comply with the fundamental principles of: integrity; objectivity; professional competence and due care; confidentiality and professional behaviour. Those providing tax advice are also subject to the principles set out in 'Professional conduct in relation to taxation' provision.
- 3.27. In addition to setting standards of expected behaviour in the delivery of their professional services, professional bodies also monitor compliance with those standards within member firms. This monitoring activity assures the body that the member and firm as applicable is compliant with the professional standards to which they are expected to work.
- 3.28. Those providing accountancy services not regulated by professional bodies as listed in MLR 2007, such as those supervised by HMRC, are not subject to the same level of professional scrutiny, regulation or monitoring, which creates a significant vulnerability within the sector. If there was a requirement that those providing accountancy services must hold relevant qualifications and professional membership commensurate to the services they provide, this risk would be significantly mitigated.

- 3.29. Those seeking to access accounting services can do so relatively easily as a result of the matters discussed above. Due to the number of individuals offering accounting services, costs are competitive, with those who are regulated generally charging more. These services can be engaged online, over the phone or in person.
- 3.30. Individuals utilising accounting services should be vetted by accountants using the measures as set out in MLR 2007 (e.g. CDD). If there are ML or TF risks identified, this could result in enhanced checks to verify information provided, filing of a suspicious activity report or in some circumstances refusal to provide services. In the case of those regulated by professional bodies, other factors would also be considered before on-boarding clients, such as professional clearance and the requirement to ensure that accepting a client does not compromise any obligations as set out in the Code of Professional Ethics (e.g. conflict of interest).

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

- 3.31. Any suspicious activity that warrants reporting under MLR 2007 would be done so by AAT supervised entities. The most common issues reported upon include the following:
- Tax evasion
 - False accounting/errors/non-disclosure
 - Difficulty establishing beneficial owners (where clients are identifying unnecessarily complex structures without legitimate reasons) • Tax avoidance schemes
 - Front businesses – client doesn't have a good understanding of the business etc.

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

Service	ML/TF risk
Company services provision	Because it is quasi-regulated, with individuals able to set up company services without the use of an agent, or any due diligence requirements. This means that limited companies can be exploited, and members used to legitimise layering transactions.
Taxation (all services)	With an all crimes approach, this is an area of significant risk to accountancy service providers given the volume of customer interactions undertaken in relation to taxation.
Advances in technology	Criminal's use of technology develops at a greater pace than that of professionals. Therefore their lack of understanding of technological advances (for example MPESA/Bitcoin) can lead to exploitation of vulnerability.
High volume cash business clients	Given the nature of the work undertaken by AAT licensed members, they do have engagements with high volume cash transaction businesses. There is a risk that these businesses front organised crime, or that they evade tax.

Exploitation of the client account	<p>Pooled client accounts potentially afford criminals to operate below the radar with their funds being masked in the context of other clients' funds, resulting in a challenge to banks to potentially identify criminal proceeds. The same could apply to terrorist financing.</p> <p>Accountancy service providers can also hold pooled client accounts, although in practice this is a rare occurrence, and considered increasingly unnecessary.</p> <p>Any professional operating a pooled client account should do so in accordance with the requirements of their profession. Those requirements are in place to prevent abuse of the pooled account by both clients and professional service providers, mitigating against the risk of abuse.</p>
Customer- charities all services	<p>AAT perceives entities set up as charities as high risk to the accountancy sector in respect of terrorist financing, because there have been numerous examples of terrorist groups using charities as a conduit for sourcing funds.</p>

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

- 3.32. Law enforcement has the ability to detect illegal activities through FIU reporting and assess organised crime threat. Such reporting can be utilised by law enforcement to identify common vulnerabilities and inform where resources should be focussed to mitigate against risks.
- 3.33. Law enforcement has the ability to share and gather intelligence with supervisors for the purposes of investigation or when criminal prosecution may fail due to a lack of evidence, there may be scope for professional bodies such as AAT to commence disciplinary action for misconduct and mitigate risks.
- 3.34. At present AAT is concerned that law enforcement is overwhelmed with SAR reporting and this resource issue needs to be addressed to ensure effective law enforcement.

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

- 3.35. The role of the supervisor is critical, as each supervisor takes care to understand its supervised population, the risks they pose and the risks they face. Inevitably, through adopting the sensible and proportionate 'risk-based approach' required by the regime, each supervisor has designed its policies and procedures to reflect the specific demographics of their respective firms/members, the services they provide, the nature of their clients and the geographic reach of their member firms. All of this varies greatly across the accountancy sector. What may be seen by some as inconsistency of regulatory approach invariably reflects a consistent response to very different risk profiles.
- 3.36. The supervisor's role is to explain and educate their supervised population of the ML and TF risks within the sector so that they can mitigate these effectively. Supervisors should also be capable to proactively monitor their populations to ensure that they are compliant with their legal obligations. However, not all supervisors have the capacity to do so and most notably HMRC's monitoring ability is hindered due to a lack of resource, resulting in this activity currently being delivered on a reactive basis.

- 3.37. Supervisors should also be responsible in controlling who is permitted to provide such services to the public and need to ensure that they are conducting appropriate checks and measures so that criminals and those unfit to practice are restricted from providing these services. Equally, this should also extend to informing the public of those who are reputable and authorised (by holding a register for example).
- 3.38. Supervisors should also ensure that those found non-compliant with AML/CTF obligations are dealt with appropriately in order to either bring them in to compliance or sanction them (fine) in order to deter others and notify the public.
- 3.39. Supervisors are in a unique position to identify common themes within their supervised population, so as to assist law enforcement with intelligence and assessing serious and/or organised crime threat, thus ultimately mitigating the overall ML/TF risks.
- 3.40. As proposed, the oversight function (OPBAS) is unworkable, and could hinder the capability of supervisors by creating a two tiered system. Having a disproportionate cost for those professionally supervised as opposed to those registered with HMRC, could also mean that some supervisors are driven out as a result.

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

- 3.41. Firms are the front line in combatting ML/TF risks and are the most capable group to mitigate against these risks and the ability to identify red flags/high risk situations to detect criminal behaviour is key in doing so. The use of internal controls and measures ensures that services/products are not being used unwittingly – i.e. application of CDD/EDD. By applying a risk based approach firms can identify high risk clients /clients and take appropriate action to mitigate risks.
- 3.42. If an accountant is aware of ML/TF risks but does not conduct sufficient CDD, the accountant will not be able to meaningfully identify these indicators or conduct an appropriate assessment of the extent to which the client exposes the business or practice to ML/TF risk.
- 3.43. Firms within the sector must ensure that where suspicion is aroused this is reported, so that such matters can be investigated. Intelligence of this type is invaluable in mitigating against ML/TF risks. In certain circumstances, where suspicion is knowledge, firms within the sector should also refuse to act in order to stop criminals from accessing these services.

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.

- 3.44. AAT's key issue in regards to ML/TF risk in the sector is in relation to those not professionally qualified. These individuals are currently supervised by HMRC and it is AAT's view that these individuals represent the biggest risk in the accountancy sector. Although AAT supports the proposal of an oversight body (OPBAS), AAT has concerns that by not including HMRC within the scope of oversight, the sector will remain as being inconsistent for supervisory purposes. As it stands those supervised by professional bodies are encompassed via the wider regulatory framework and are subject to additional scrutiny when applying for membership, higher standards and reporting requirements. This needs to extend to all service providers not only to ensure consistency, but to mitigate against risks.

- 3.45. AAT advocates that all accountants should be subject to some form of minimum qualification and professional standards and this could be achieved by creating some form of affiliate status for those wishing to practice.
- 3.46. It is AAT's opinion that should OPBAS be created and managed as proposed, fewer individuals will have the incentive to remain in professional membership due to costs and increased regulation, and will instead opt to register with HMRC as it will be considered 'less hassle'. This will in turn dilute the quality of accountants and in turn the credibility of the profession as a whole.

4. About AAT

- 4.1. AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide. Of the full and fellow members, there are over 4,250 licensed accountants who provide accountancy and taxation services to individuals, not-for-profit organisations and the full range of business types.
- 4.2. AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

5. Further information

If you have any questions or would like to discuss any of the points in more detail then please contact Adam Williamson, Head of Professional Standards, at:

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