

# Association of Accounting Technicians (AAT) response to the FCA consultation CP19/13: Recovering the costs of the Office for Professional Body Anti-Money Laundering supervision (OPBAS): further consultation on fees structure

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### 1. Introduction

- 1.1. The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to the FCA consultation paper on Recovering the costs of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS): further consultation on fees structure, published on 14 March 2019.
- 1.2. AAT is submitting this response on behalf of our membership and for the wider public benefit.
- 1.3. AAT has added comment in order to add value or highlight aspects that may need to be considered further.
- 1.4. AAT has focussed on the operational elements of the proposals and has provided opinion on the practicalities of implementing the measures outlined.

### 2. Executive summary

- 2.1. **AAT strongly supports the UK's drive to combat money laundering and terrorist financing.**  
AAT also recognises that establishing consistency within the AML regime in the UK is paramount.
- 2.2. **AAT is disappointed by the further delays the PBSs are encountering in being finally advised as to the fees due, relating to OPBAS supervision.**  
Having been previously advised that the invoices for 2018/19 would be issued in Q1 2019, to now be advised that they will not be issued until August 2019 at the earliest, to be shortly followed by the 2019/20 invoices, represents what should have been an avoidable burden on all PBSs.
- 2.3. **The basis for this consultation paper appears to be that there is a fundamental divide in the opinions of those PBSs that fall above the minimum fee threshold of 6,000 supervised individuals and those that fall below it.**  
AAT contends that this was always likely to be the stance taken by the PBSs according to their relationship with the threshold and is therefore unsure as to why the FCA would not have anticipated this. The need for two further consultations on this (CP19/13 and a subsequent consultation due in July 2019) and the further delay this is causing is questionable in AAT's view.
- 2.4. **AAT does not agree with the removal of the minimum fee structure.**  
Given that the FCA has engaged an internal review on the OPBAS fees consultations conducted since 2017, concluding that the tariff measure of supervised individuals remains the most suitable, and that the 6,000 supervised individuals is a reasonable point at which to set the minimum fee threshold, AAT sees no reason to challenge those conclusions.
- 2.5. **The direct impact on AAT of removal of the minimum fee threshold would see a real terms increase in the 2019/20 financial year of 77% relating to AAT's spend on AML supervision.**  
On an annual basis this percentage increase is reduced to 38%, nevertheless there is no realistic scope to recover this from the licensed membership that AAT supervises for AML purposes in the current year.

### 3. AAT response to the consultation paper

- 3.1. The following paragraphs set out AAT's response to the question outlined in the consultation paper. In support of this response AAT has also reflected on the feedback commentary provided in CP19/13 and the reflection shared on the responses to the previous OPBAS fees consultation paper (CP18/32).
- 3.2. AAT notes at 2.8 in the consultation paper that the FCA has clarity around the size of the supervised population having received data from the Professional Body Supervisors (PBSs) under the revised definition of supervised individuals. AAT acknowledges that this clarity has further assisted in the consideration around the appropriateness of the proposed approach to OPBAS fees.
- 3.3. AAT considers that the minimum fee structure as previously proposed in CP18/32 was always likely to result in polarising the views between those bodies that fall below the minimum fee threshold of 6,000 supervised individuals and those that are above the threshold. In fact, irrespective of where the threshold is set, this was always going to be the case. AAT also considers that it is reasonable to assume that the FCA would similarly have expected this to be the likely outcome of the proposed approach.
- 3.4. Further to the above, it was not surprising to see in the summary of responses to CP18/32 that the 3 PBSs that fall above the fee threshold have suggested that reducing the threshold would represent a more equitable distribution of the fees. Likewise, it was not surprising to note that those bodies below the threshold highlighted that without the minimum fee the cost recovery would be weighted against the smaller PBSs as they supervise more sole practitioners.
- 3.5. Given that this was always going to be the likely nature of responses received, AAT is unclear as to why this wasn't already anticipated by the FCA and therefore why there is a need for further delays on the decision-making process on fees through the latest iteration in the consultation process.
- 3.6. AAT observes that there is likely to be no real change in the stances taken by the PBSs in response to the question detailed in CP19/13. AAT does acknowledge however that, by requesting evidence of the impact that the removal of the minimum fee structure will have on the PBSs, a richer picture will be provided to aid in arriving at a final decision. However, it is also reasonable to assume that in providing this evidence as requested, the PBSs will seek to demonstrate how the evidence further supports their respective existing views.
- 3.7. The next steps as identified at 2.18 in CP18/32 were clear in asserting that invoices for 2018/19 would be issued in the first quarter of 2019. At 4.1 in CP19/13 it now appears that the invoices for 2018/19 will not be issued until August 2019, moreover AAT notes that the invoices for 2019/20 are to be subsequently issued from December 2019. AAT notes that it is the FCA's intention to consult on the OPBAS fees again in July and would like to stress its disappointment that the process is being further prolonged and, in taking this long to resolve, that there will be two years' worth of fees due in such short succession.

**Q3: Do you agree that we should remove the minimum fee structure and charge all PBSs a flat rate of £20.59 per supervised individual, subject to a minimum charge of £5,000? Please support your view with evidence demonstrating the impact on the viability of professional body supervisors and on the individuals that they supervise.**

- 3.8. AAT has noted that the FCA has carried out an internal review of the OPBAS fees consultations conducted since 2017, which included the suitability of supervised individuals as the tariff measure from which to calculate fees. It has similarly been noted that the conclusions of this internal review, as detailed at 2.22 in the consultation paper, are that:
  - the metric of supervised individuals is a fair indicator of the scale of regulatory activities of PBSs; and
  - that the FCA is satisfied that the threshold of 6,000 supervised individuals is a reasonable demarcation point.

- 3.9. Given that these conclusions are the FCA's own, it is difficult for AAT to challenge them, and as such why should the conclusions change any of the PBSs existing views on the application of a minimum fee structure, assuming that it ensures that through its application the operation costs for OPBAS are appropriately covered.
- 3.10. From AAT's perspective, under the minimum fee structure AAT would be invoiced for £5,000 per annum. This cost would be borne by AAT without the need to consider adjusting the existing level of subscriptions for licensed members (those that AAT supervises for AML purposes).
- 3.11. The financial implications for AAT of the removal of the minimum fee structure and applying the flat rate of £20.59 per supervised individual would be an invoice for approximately £86,000 per annum. Given the point made above at 3.7, this would mean that in the current financial year AAT would be required to pay a total of approximately £175,000.
- 3.12. This would result in the need to consider adjustment to the level of subscriptions for licensed members, but in that the OPBAS fees are to be issued retrospectively for 2018/19 and midway through 2019/20 there is no scope for AAT to revise the current licensed subscriptions for either of those periods given that the fees need to be set and communicated to members in advance of them becoming applicable for each subscriptions year.
- 3.13. In AAT's annual return on AML supervision to HM Treasury for 2017/2018 it was stated that there was an estimated spend on AML supervisory activities for that period of £228,283.20. The potential annual fee of approximately £86,000 for 2018/19 represents a 38% increase in costs in that year, with the percentage increasing to 77% in real terms given that in the 2019/20 financial year AAT would be required to cover the 2018/19 and 2019/20 OPBAS fees.
- 3.14. Whilst finally having clarity on the position for subsequent years, the lengthy deliberation that FCA has expended on this matter could potentially place the smaller PBSs at an immediate disadvantage in terms of the financial impact of receiving the abovementioned invoices at a point in the year where it is too late to be able to pass some or all of the cost of supervision for those years on to the supervised population. In some instances it could result in smaller PBSs opting to withdraw from being a supervisor, potentially requiring members of those bodies to be supervised by the statutory supervisor (HMRC). This brings to the fore the issues that AAT and other PBSs have raised in previous consultations about the risk that has on the consistency of AML supervision.
- 3.15. The recent HM Treasury Select Committee on Economic Crime report (Anti-money laundering supervision and sanctions implementation) references concerns about HMRC's role in AML supervision. The report is supportive of the review that HMRC indicated it was to conduct, under the 2019 spending review, as to whether it should retain its role as an AML supervisor. Given the potential for uncertainty around HMRC's role as the default supervisor, and the broadly held concerns surfaced by the Select Committee around how HMRC has been dispensing its AML responsibilities, any further increase in the number of individuals it supervises seems counter-intuitive to the drive to combat money laundering and terrorist financing.

#### **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 more than 4,250 licensed accountants who provide accountancy and taxation services to over 400,000 British businesses.
- 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

- 5.1. If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Adam Williamson, AAT Head of Professional Standards:
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