Advocacy in Action: Summary of CIMA's response to HM Treasury Consultation on AML Supervision in the UK.

CIMA welcomes the opportunity to contribute to the HM Treasury consultation on reform of the UK Anti-Money Laundering and Counter Terrorism Financing Regime. CIMA is a Professional Body Supervisor in the UK, with responsibility for the supervision and regulation of over 1600 members in practice, comprised of Sole Practitioners and members who are principals of Firms in the regulated sector.

In June 2023, the UK Government consulted on two issues:

1. Government's Objectives for AML Supervision,
2. Four new regulatory models for AML Supervision.

CIMA recognise that HM Treasury is looking to make changes to the current regulatory landscape, having concluded that the status quo is not delivering optimal results. We all want to see the UK being recognised for its commitment to AML/CFT, so that the ongoing threats posed in the UK by money laundering and terrorism financing can be mitigated. However, in our latest consultation response (lodged September 2023), CIMA has challenged HM Treasury's proposals to overhaul the AML supervisory regime in the UK, calling on Treasury to reflect not only on the feasibility of some of the structural changes required to the regulatory framework, but also the potential risk to the effectiveness of the regime during any transitional period.

We have also offered suggestions and insight into how the Office for Professional Body AML Supervision (OPBAS) could be more effective, and drive greater consistency across the AML supervisory landscape without the need for substantive new general rule making powers.

The consultation sets out four new models. Many involve substantial changes to the structure of the AML regulatory framework. No Impact Assessment accompanied this consultation paper, which is a major cause for concern and has impaired our ability to comment fully on many of the proposals. It is important that government does not consider the new models based on their structural design alone. There will likely be significant cost, and unintended consequences for the sector's ability to maintain the current levels of effectiveness if government opts for major regulatory change.

Government Objectives

The UK is likely to receive a Financial Actions Task Force (FATF) inspection over the next few years. It is important that the UK maintains a robust AML/CFT regulatory regime in anticipation of that inspection. To that end, CIMA agrees that government's objectives for the UK AML/CTF regime are appropriate and proportionate, namely that they delivery supervisory effectiveness, improved system coordination and are feasible.

In terms of priority, there is a balance to be struck between the government's three objectives, as they do not operate independently. For example, **supervisory effectiveness** will never be optimal without **better systems' co-ordination**. Likewise with **feasibility**, and affordability.

For many professionals, their AML obligations stem from the accounting or legal services which they provide to clients. Feasibility may be the main concern of policy makers, but affordability also needs to be factored into any future proposal, and due regard must be given to the impact on the regulatory landscape for individuals, firms and professional body supervisors, but also the UK's reputation for setting high standards designed to combat AML/CTF.

Four new models under consultation

The consultation sought stakeholder views on four potential new models for the supervision of AML activities.

- OPBAS+
- Consolidated Professional Body Supervisors for the Accountancy and Legal Sectors,
- Single Professional Services Supervisor
- Single AML Supervisor

Note: CIMA's Preferred Model is OPBAS+ .

Model 1: OPBAS+

The current Professional Body Supervisors (PBSs) have in place AML/CTF frameworks which are subject to OPBAS oversight. The consultation sets out a proposal to enhance the powers of OPBAS and in particular, to provide a general rule-making power, similar to the Financial Conduct Authority (within which OPBAS sits). OPBAS also wishes to focus on greater use of enforcement powers rather than rely upon cooperation.

OPBAS already has a suite of powers designed to enable it to be an effective oversight regulator. It may be that it has not exercised those regulatory powers optimally in the past. For example, CIMA is not aware of OPBAS having used any of its current powers to demonstrably improve PBS effectiveness over the period covered by its most recent report. Before government yields to a request for more rule making powers, we would encourage OPBAS to reflect on how its current regulatory arrangements could be used to best effect in the future, and what improvement regulatory measures could be introduced.

There are merits to the OPBAS+ model, and there are some regulatory powers that we agree it would be helpful to grant under the OPBAS+ model, including publicity in certain circumstances, and any outstanding regulatory sanctions that are consistent with those granted to other accountancy sector oversight regulators, such as the Financial Reporting Council and the Insolvency Service. The comparison with the FCA is not always helpful in the context of the accounting profession.

OPBAS+ is certainly a feasible model but it will require a recalibration of OPBAS's governance arrangements including independently appointed panels to oversee all regulatory decision-making . Regulatory powers carry responsibility, and it will be very important for any OPBAS+ model to not only ensure robust, fair and transparent decision-making, but also provide PBSs with a formal right of appeal process.

Model 2: Consolidated Professional Body Supervisor (PBS)

CIMA does not believe a devolved model which would retain PBS status for up to three professional accountancy bodies based on their geography (Scotland, Northern Ireland and England/Wales), and therefore favour them to the detriment of all remaining PBSs, including CIMA.

CIMA would be equally concerned about a single accountancy PBS with a UK wide remit. This would pose significant risks to the UK's accountancy professional body (PB) model, and undermines the legal and constitutional objectives of those bodies which are established by Royal Charter, diluting the value of professional body membership. Any steps which Treasury take in relation to the consolidation of PBSs to a single UK wide regulator, could have unintended consequences for the profession and any such decision would need to reached holistically, following an extensive engagement with the Department for Business and Trade (DBT). Duplicate regulation is contrary to the principles of good regulation.

Any consolidated PBS model (whether it is a single entity, or five or six based on devolved regions) could drive consistency, but there is a high risk that it would not be fully effective for several years. There is a risk to the effectiveness of the regime in the interim period.

If Government is minded to establish a single regulator for AML supervision of qualified, and non-qualified accountants then due regard needs to be given to the public interest. Not all accountants are qualified and regulated. It is a real concern that the public may misunderstand the AML supervisory model and believe all accountants are qualified just because they are subject to supervision by the same regulator. CIMA members in practice, and indeed all members of a chartered accountancy body hold a professional qualification and adhere to robust professional and ethical standards and undertake ongoing CPD. Government needs to reflect on how the public interest can be upheld.

Single Professional Services Supervisor (SPSS)

A SPSS model could have some positive impacts upon supervisory effectiveness in the long term, but it is highly likely to create unnecessary consequences for the professions (and for AML regulation) over the short term. This might have been worthy of consideration when the UK regulatory framework was being first designed but the landscape has matured and a single supervisor is now a substantive change of direction. Certainly, a SPSS would allow for greater consistency between sectors in the future, and it would be easier for government to introduce new sectors into the scope of the AML regime, under the auspices of the SPSS. There could be a reduced need for a public/private sharing gateway which could help eliminate information sharing gaps between the various public/private bodies.

CIMA's main concern around the feasibility of the SPSS model is that there has been no impact assessment to enable respondents to make a more informed decision on its merits. As well as direct costs, there are the indirect costs and elevated risks associated with a fundamental re-design of the regulatory framework. It is impossible for any party to comment fully on the feasibility of the SPSS mode without full sight of an impact assessment.

SAS model

Similar to the SPSS model, the SAS model might have been worthy of consideration when the UK regulatory framework was being first designed. It is a simple approach, and allows all AML supervision to vest in a single public body. A SAS model could have some positive impacts upon supervisory effectiveness in the long term, but it is likely to create significant consequences over the short term.

CIMA believes that a single AML supervisory model could have had a significant impact on the effectiveness of AML supervision but it is difficult to appreciate the costs and benefits without a fully detailed impact assessment to support the proposal. Consultation responses are being invited based on the conceptual framework of the model, and we remain concerned over the short to medium term feasibility of the model, and the unintended consequences for the sector, and our profession. In principle, a single regulator can drive consistency, but there is limited scope for failure once everything is channelled through one entity (and its approach to risk based regulation often changes too due to the scale of the population under its remit. Significant additional funding and resources would be required to support the SAS model.

This month, the professional accountancy bodies have written to Baroness Penn. Overall, we share the government's ambition to reform the regime in a way that better tackles economic crime but there is perhaps only one of the four models would support that ambition within a reasonable timescale, and without incurring significant risk or cost. We believe that to be the OPBAS+ model. We hope that Government recognises the merits of OPBAS being operationally set up to deliver on an enhanced mandate, with stronger governance arrangements and accountability to government, a cultural focus on improvement regulation, fair and proportionate regulatory processes and investment in being an attractive employer for experienced staff.