HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Chair of the Treasury Committee
House of Commons
London
SW1A 0AA

17th October 2019

Dear Committee Members,

In response to the Treasury Select Committee's (TSC) March 2019 report on Economic Crime, the Treasury agreed to recommendations which required further detail to be provided to the Committee on the UK's anti-money laundering and counter-terrorist financing (AML/CTF) supervision regime.

HM Treasury response to an OPBAS recommendation

The TSC report recommended that Treasury set out its process for responding to a recommendation from the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) to remove a professional body's status as an AML/CTF supervisor.

When OPBAS recommend to HMT that a professional body should not remain an AML supervisor (as listed under Schedule 1 of the Money Laundering Regulations 2017 (MLRs)), HMT officials will check that the recommendation has been made in accordance with Regulation 17 of the OPBAS Regulations 2017. Once this is confirmed, HMT ministers will consider the recommendation.

If the recommendation is approved, HMT will notify the professional body of the decision. HMT will assess which supervisors would, based on their existing remit, assume supervisory responsibility for the population of the professional body being removed. If the removal creates a situation in which there are no supervisors able to take on the population, HMT will make arrangements for an appropriate authority to take on the responsibility. HMT will then decide on an appropriate transition period before removing the professional body from Schedule 1 of the MLRs. The length will be decided following discussion with those supervisors who will assume responsibility for the supervised population of the professional body being removed and will take into account the time required for necessary preparations. HMT will then notify the professional body being removed of the transition period length. The professional body being removed will retain its responsibilities during the transition period and will be expected to notify its supervised population of the need to register with a new supervisor before the end of the transition period.

HMRC's role as an AML/CTF supervisor

The TSC report asked that Treasury clarify HMRC's role as an AML/CTF supervisor. HMRC has a unique position as an AML supervisor, being able to use the full spectrum of criminal, civil and AML supervision powers together to deliver an effective system-wide response to money laundering relating to tax fraud or using businesses within its supervised sectors. HMRC's 19-20 business plan does, in line with the TSC's recommendation, contain a stand-alone objective focused on AML/CTF supervision. Action 35 of the Economic Crime Plan sets out HMRC's commitment to enhance its supervision:

"HMRC will deliver an enhanced risk-based approach to its AML/CTF supervision by March 2021, supported by the recent increase in charges to its supervised population. This will include tightened registration processes, greater use of behavioural science and educational material to increase compliance and an increase in interventions across their supervisory population which includes money service businesses, trust and company service providers, estate agents, high-value dealers and accountancy service providers. This will include a full review of HMRC's AML/CTF Supervision Operating model, recommendations to improve processes, and implementation of the new operating model and a new sanctions framework to ensure a robust approach that uses the full range of HMRC's powers effectively by April 2020."

Since the TSC report, HMRC has commenced a formal programme to deliver a more robust supervision function in line with this action and with FATF commitments. With the scale of change involved, the programme will take two years to deliver but key areas are being prioritised and implemented in a shorter timeframe and good progress is already being made:

- Interventions have increased - 2,200 interventions with businesses were carried out in 2018/19 compared with 1,600 in 2017/18.
- The value of individual penalties is going up – in 2018/19, 131 penalties worth over £1.2m were issued for regulatory breaches, with the average penalty value increasing to around £9,000 from £3,500 in the previous year. HMRC's largest ever penalty of £7.8m was recently issued to a London money remitter for failure to meet their obligations under the regulations. This gives a clear sign to businesses of the consequences of failing to meet their legal requirements.
- A greater range of civil measures is being used – the first prohibition of management has been issued and the details of non-compliant businesses are regularly published on gov.uk.

- Concerted weeks of action are being used as a tool to send a deterrent message - in February 2019, 50 Estate Agents suspected of trading whilst being unregistered were visited, with the publication of a penalty to one of the UK largest estate agencies – which had a clear impact across the sector. This was followed with a joint week of action with the Metropolitan Police Service and the Financial Conduct Authority in July, which included compliance, tax and law enforcement interventions with money service businesses in London.

HMRC's relationship with OPBAS

Treasury committed to respond to the committee on the future relationship between HMRC and OPBAS. Action 35 of the Economic Crime Plan sets out the basis for this relationship:

"HMRC will also carry out an annual self-assessment of its supervision's alignment to the OPBAS sourcebook standards. The first will begin in Autumn 2019 and the findings will be published in HMRC's 2020 supervision report. HMT will review and approve the self-assessment to ensure its comprehensiveness, consulting with OPBAS as part of this process. HMRC and OPBAS have formed a joint working group to strengthen HMRC's understanding of the OPBAS sourcebook and to support OPBAS' facilitation of collaboration and information-sharing between the professional body supervisors and statutory supervisors."

With very best regards

John

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