HMT response to consultation on FCA powers under supervisory reform

General Features

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HM Treasury has issued its response to the consultation on ‘Anti-money laundering/counter terrorist-financing supervision reform: duties, powers and accountability’. The consultation considered various issues which would need to be addressed for the Financial Conduct Authority to become an effective anti-money laundering and counter terrorist-financing (AML/CTF) supervisor of professional services businesses.

In November, HM Treasury issued a consultation covering proposals for the key duties, powers and accountability mechanisms that the Financial Conduct Authority (FCA) will need to become an effective supervisor of professional services businesses, as well as the legislative changes required to implement these. It asked respondents whether the proposed changes were the right ones to make.

The CIOT and ATT responded to the consultation and HM Treasury has now issued its response to the feedback received (see tinyurl.com/bdes46wa). The response summarises the evidence and views received from stakeholders and clarifies government policy on several areas of supervisory reform, including:

- **Registration and gatekeeping**: The FCA will be responsible for registering tax and accountancy firms (together with other professional services firms from the legal sector) to carry out AML/CTF-regulated activities. It plans to maintain a public register of those firms.
- **Risk-based supervision and supervisory tools:** Existing duties relating to risk-based supervision would apply to the FCA's expanded role.
- **Guidance:** The responsibility for issuing and approving AML/CTF guidance for professional services firms will transfer to the FCA. The intention is that industry input will continue to play an important role in the development of guidance, ensuring that it remains practical and reflective of sector-specific expertise.
- **Information and intelligence**: Existing information-gathering, inspection and information-sharing powers within the Money Laundering Regulations will be extended to the FCA's supervision of professional services firms. This includes the requirement to provide firms with up-to-date information on money laundering and terrorist financing risks, and to apply existing information-sharing duties and gateways.
- **Enforcement and appeals**: The FCA will be able to exercise the existing range of enforcement powers available under the Money Laundering Regulations in relation to professional services firms.
- **Fees and funding**: The government intends for the FCA's AML/CTF supervisory activities to be funded on a cost-recovery basis through fees charged to supervised firms. Further consultation is due to take place in relation to fees.
- **Transition**: A range of transitional arrangements will be necessary to support a smooth and low-burden transfer to the new supervisory model. The government recognises the need to ensure continuity of supervision and minimise disruption for firms during the transition period.
- **Accountability, independence and wider legislative context**: During the transition period, the Office for Professional Body AML Supervision (OPBAS) will continue to oversee the performance of professional body supervisors, with its functions expected to cease once the FCA fully assumes AML/CTF supervisory responsibilities. No additional powers have been granted to OPBAS.

The response provides useful clarification about FCA powers following supervisory reform. The timetable for transition of supervision from bodies such as CIOT and ATT to the FCA is dependent on legislation and ongoing engagement on the practicalities of the transfer. We will keep members updated on the reform's progress.

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