The City of London Law Society

Furniture Makers' Hall
12 Austin Friars
London
EC2N 2HE

enquiries@clls.org
www.clls.org

**Anti-money laundering/counter terrorist-financing (AML/CFT) supervision reform: duties, powers and accountability consultation**

**A response by the City of London Law Society (CLLS)**

*Legal services are one of the UK's great success stories - a vital national asset that underpins our economy, supports the rule of law, and extends the UK's global influence. In 2023 alone, the sector contributed over £37bn to the UK economy, representing 1.6% of total Gross Value Added, and posted a trade surplus of £7.6bn, making it one of the UK's strongest exporting professional services sectors. The strength of the sector has been built over decades through our liberal, competitive, and high-quality legal market, the global appeal of English and Welsh Law, and the integrity of our independent judiciary. The exceptional contribution of those working across the legal services ecosystem - from law firms and chambers, to regulators, academics, innovators and the judiciary - positions the UK as a global leader in legal services.*

The Rt Hon Sarah Sackman KC MP

Minister of State for Courts and Legal Services

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## Introduction

1. The CLLS represents City lawyers through individual and corporate membership, including some of the largest international law firms in the world. The CLLS represents over 21,000 solicitors who are members of the profession in the City of London. They represent 12% of all practising solicitors. The CLLS responds to a variety of consultations on issues of importance to its members through its specialist committees. This response has been prepared jointly by the CLLS Professional Rules and Regulation Committee and its Corporate Crime and Corruption Committee.

2. Legal services is a crucial part of the UK economy generating £44bn in turnover and employing more than 311,000 across the UK[1] in 2022. The services that lawyers provide span a multitude of areas from supporting families through divorce, facilitating multi-million pound mergers and acquisitions, settling disputes and buying and selling houses. Lawyers provide crucial services to consumers, helping people at times of trauma and often when they are at their most vulnerable. Legal service regulators have regulatory objectives to promote access to justice through a diverse and vibrant legal services sector. The FCA has no such objective. The value of legal services to the UK economy is clear from the

[1] The economic contribution of legal services 2024 | The Law Society

quotation at the beginning of this response, as well as in other recently published reports (including the TheCityUK's report on UK Legal Services 2025)[2].

3. The Government's decision to transfer AML supervision of legal services to the FCA raises significant and important issues for the UK economy, the reality of legal practice and the rule of law. Whilst such an arrangement can, in principle, work, there are both substantive and practical difficulties with effective implementation. An inadequately planned scheme could cause damage to the economy in excess of any benefits associated with establishing a more cohesive regime for the supervision of AML. It could also damage the UK's competitive position vis-à-vis other jurisdictions by driving work offshore. The government needs to proceed with caution and care if it is to get this right. It will also need to engage extensively with relevant stakeholders. The CLLS would welcome the opportunity to input further into the consideration of the scheme.

**Our key concerns are:**

4. **Impact on Legal Services and Access to Justice**

4.1. Moving AML supervision to the FCA risks harming the UK economy, increasing costs for consumers, and reducing access to justice.

4.2. Legal service regulators are required to comply with the regulatory principles set out in Section 1 of the Legal Services Act 2007 ("LSA") which ensure that regulation of the legal professions reflects the role of law in society. These include supporting the constitutional principle of the rule of law and improving access to justice. The FCA is not bound by any of these.

4.3. By essentially forcing the design of a scheme that applies across all professional bodies (legal and non-legal) and across the entire United Kingdom it is difficult to see how a scheme can have both uniformity and adequately protect the public interest in the role of lawyers in society.

4.4. The legal sector is predominantly made up of small firms (fewer than 5 partners) which may struggle to cope with the transition (e.g. data and systems demands placed on them by FCA supervision), and as a result, may cease operations – thus reducing the number of law firms and impacting access to justice and the diversity of the legal sector.

5. **Duplication and Regulatory Burden**

5.1. The proposals include additional "fit and proper" tests for solicitors which are unnecessary, not risk-based, duplicative and disproportionate because the legal profession already has rigorous entry and ongoing character and suitability checks. Multiple, overlapping registrations ought to be avoided for firms that are already regulated by the SRA.

5.2. The scheme effectively introduces dual regulation of the legal profession, leading to the risk of double fees, overlapping investigations, and excessive data requests. These costs will have an impact on the market by increasing costs to consumers (thereby inhibiting access to justice) and/or undermining viability of legal services providers causing wider economic damage. In the global legal services market, there is a very real risk that this could cause firms to consider moving services offshore. Many CLLS members also have the substantial burden of paying the Economic Crime Levy, which has increased substantially this year without any prior notification or consultation.

5.3. More generally, it does not appear that there has been any regulatory impact assessment to demonstrate what benefits, if any, will be produced by moving AML supervision to the FCA and whether these will outweigh the inevitable additional costs and regulatory burdens. This exercise, which should be undertaken without delay, would provide clarity around those areas most at risk of being exposed to unnecessary and disproportionate regulatory burden (which we expect will include those identified in this consultation response).

[2] https://www.thecityuk.com/media/k3ldlq22/uk-legal-services-2025-legal-excellence-internationally-renowned.pdf

## 6. Transition Risks

6.1. A poorly managed transition would cause significant disruption and costs to the legal sector.

6.2. There is a need for clear guidance on fees, registration, supervision approach, demarcation of roles and responsibility between the regulators and handling of open investigations.

## 7. Operational Challenges

7.1. Coordination between the FCA and the SRA is essential to avoid conflicting requirements. However, the risk of conflicting requirements is exacerbated by the fact that the scheme needs to encompass 21 professional body supervisors in addition to the SRA.

7.2. Crucially, the position of Legal Professional Privilege ("LPP") is central to the regulation of lawyers but different considerations apply in respect of other professional services.

## 8. Guidance and Governance

8.1. The development of sector-specific AML guidance must involve legal practitioners to properly take into account the unique and particular needs of the sector.

8.2. The FCA should have sign-off authority over the guidance (subject to HM Treasury's right of veto) but the governance arrangements for such guidance must include legal sector input of the sort historically supplied through the Legal Sector Affinity Group.

## 9. Information Sharing

9.1. There is a strong need for an efficient information-sharing regime between the FCA and the SRA to minimise duplication. not least because the SRA is only one of 22 professional bodies intended to be covered by the FCA. An effective information-sharing framework will clearly be complex and require careful consideration.

9.2. Data requests should be reasonable and proportionate and should not require firms to effectively provide the same or similar information in different formats. Requests should be scheduled to avoid clashes with other regulatory deadlines and co-ordinated with all relevant regulators. Data requests should also reflect the fact that the vast majority of legal sector firms do not use data/recordkeeping systems featuring the same level of sophistication and complexity used by many financial services firms (as the unique nature of the legal business often does not justify such systems).

## 10. Investigations and Enforcement

10.1. Consideration needs to be given about how to handle open AML investigations at the point of transition. A conclusion will need to be reached as to whether they should be closed, or whether an enforcement action should still be pursued by the SRA but not transferred to the FCA.

10.2. On a practical level many investigations initiated by the SRA are wider than just related to AML compliance. AML breaches are often associated with other misconduct such as breaches of the SRA Accounts Rules. In addition, where the conduct involves a lack of integrity or dishonesty, only the Solicitors Disciplinary Tribunal ("SDT") has the power to strike off or suspend a solicitor. There is a real risk that an overlapping and complex enforcement regime will lead to excessive delays and disproportionate cost and not operate in the public interest. It is not clear how the regulatory position for a firm would be reconciled, for example, in the scenario where the FCA cancelled its registration but primary regulation of the firm and its individual lawyers remained with the SRA.

11. **Alignment with Economic Crime Objectives**

11.1. AML supervision should align with broader economic crime supervision (fraud, sanctions evasion) to avoid yet further duplication and potential inconsistency.

**RESPONSE TO INDIVIDUAL QUESTIONS**

**1. Do you agree with our proposal to amend the MLRs to require the FCA to maintain registers of the professional services firms (legal, accountancy and TCSPs) it supervises? Are there any practical challenges or unintended consequences we should consider?**

As stated above, in order to avoid this reform introducing additional and unnecessary administrative burdens, a mechanism is needed to avoid the need for firms currently subject to SRA supervision to re-register with the FCA. We understand that this is intended, but clarity will be needed on the intended grandfathering mechanism (which should, for the avoidance of doubt, involve information-sharing by the SRA and FCA rather than the need for firms to submit a duplicative application). There will need to be clear guidance put in place to facilitate this transition.

Consideration will also need to be given to how the purpose of the register is communicated to consumers, in order to avoid confusion both regarding the different registers maintained by the FCA and their interaction with established registers maintained by professional bodies in relation to those bodies' supervision of their members.

**2. Do you agree with our proposal to grant supervisors the explicit ability to cancel a business' registration when it no longer carries out regulated activities? How might these changes affect firms of different sizes or structures?**

Yes, providing a mechanism exists to ensure that registrations are only cancelled (other than for businesses which have ceased to operate entirely) where the firm has confirmed it has ceased to conduct the relevant activity and no longer wishes to maintain its registration. Law firms may conduct AML-regulated activity on an infrequent basis so the fact that a firm is not currently conducting AML-regulated activity does not support an assumption that it would not wish to maintain a registration.

Current regulation 60 provides for notice of cancellation, a right to make representations, and a right to appeal; it is not clear whether any equivalent rights are envisaged in relation to the current cancellation proposal and, if not, how the FCA would "satisfy" itself that the firm is no longer conducting relevant activities. It is also not clear how this would link the position of other regulators.

**3. Do you support the application of regulation 58 "fit and proper" tests to legal, accountancy, and trust & company service providers? Please explain your reasoning.**

Whilst we agree with the need to apply fit and proper tests to new entrants to the industry and to non-lawyers, we do not support the blanket application of "fit and proper" tests to the legal service industry given that it is already highly regulated with significant barriers to entry. Solicitors must go through a qualification and training process and a rigorous character and suitability assessment which includes:

- criminal conduct
- behaviour which has a bearing on integrity and independence
- education assessment offences
- financial conduct and events
- regulatory or disciplinary findings; and
- health conditions.

There are also existing extensive regulatory reporting requirements that ensure ongoing monitoring of character and suitability. To apply an additional fit and proper check to solicitors would be expensive, duplicative and unnecessary as there is no regulatory or other benefit to it.

**4. What are your views on the proposed changes to regulation 58, including the requirement for BOOMs to pass the fit and proper test before acting, mandatory disclosure of relevant convictions, and the introduction of an enforcement power similar to those under regulation 26?**

As set out above, we do not agree with the application of fit and proper tests to lawyers. If these tests are to be applied, serious consideration needs to be given to transitional arrangements so that there is a phased approach to checks, rather than an immediate day-one requirement for all BOOMs currently regulated by the SRA to undergo FCA-approved fit & proper checks. Given that the SRA currently authorises around 120,000 BOOMs and the fact that many law firms apply to authorise all of their partners as BOOMs, the volume of checks would be difficult to manage by the Disclosure and Barring Service, the FCA and firms themselves, and a delay in approvals would cause significant disruption to the provision of legal services. Unless the scheme to require BOOMs to pass the fit and proper test is carefully considered and limited to steps that are necessary and proportionate, significant disruption will likely occur to the sector. We think that it is important existing BOOMs are grandfathered into supervision, and that any additional checks which are considered necessary are introduced through a phased approach.

**5. Should the FCA be granted any extra powers or responsibilities with regards to "policing the perimeter" beyond those currently in the MLRs?**

We agree that there should be a body with powers and a responsibility to identify and tackle firms that should be supervised for AML purposes and it is sensible for the FCA to have this remit. It will be important for any such activity to be risk-based, and we note that the Consultation provides no detail as to how the FCA's proposed perimeter role will be taken forward. The only example of 'policing the perimeter' given in the Consultation is that of patent attorneys – because such powers and proposals for their trade associations have self-identified and highlighted to their members the need to comply with the MLRs in the limited circumstances in which they may apply. We would suggest that the highest priority 'policing the perimeter' activity should be in respect of firms which are not registered and not complying with the MLR, particularly where they are conducting high risk activities.

**6. Do you foresee any issues or risks with the extension of regulations 17 and 46 to the FCA in carrying out its extended remit, particularly in relation to how these powers will interact with the FCA's proposed enforcement toolkit (as outlined in Chapter 6)?**

In relation to regulation 17, we support the need for the FCA to prepare sectoral risk assessments – and indeed it will be essential for the FCA to develop a nuanced understanding of risk in the sector. However, the complexity of doing so in the legal sector should not be underestimated, given the very divergent activity which it encompasses. It is also important to recognise that data availability will be very different as between the financial sector and the legal sector. The Consultation refers to the FCA's "data-led supervisory approach", but this is unlikely to map across easily to lawyers. If the FCA's

supervisory approach depends on firms producing data to it, this is likely to raise the cost and duplication concerns we highlight above.

However, our primary concern relates to law firms facing different and overlapping supervision and enforcement regimes in relation to their activities. They are already regulated by the SRA who has its own extensive supervisory powers, and an enforcement approach that includes, for example, forensic investigations undertaken by the SRA. There is a risk that a law firm may be required to comply with a forensic investigation by the SRA whilst at the same time being required to appoint a skilled person to review the same or similar facts or processes, in cases where there are both concerns about AML compliance and potential professional conduct issues such as concerns regarding lack of integrity or compliance with the SRA Accounts Rules.

More generally, skilled persons' reviews can be very costly for firms and the rationale for their use in the legal sector has not been clearly articulated or evidenced. Depending on the subject-matter of the review, there may also be considerable difficulties raised regarding LPP (as is also the case in relation to enforcement, as discussed at Q16 below). Powers to give directions (which we assume are likely to encompass directions not to act for particular types of clients, or on particular types of matters), may also give rise to access to justice issues, and may have disproportionate impacts. In short, the proposed supervision 'toolkit' has not been justified and has material downside risks and impacts in the legal sector.

**7. What are your views on introducing new supervisory powers to make directions and appoint a skilled person? If this power is introduced for the FCA, should it also be available to HMRC and the Gambling Commission?**

See above. We would also question whether smaller providers could bear the cost of a skilled person.

**8. Do you agree with our proposal to extend the information gathering and inspection powers in the MLRs to the new sectors within FCA supervision?**

Our concerns as to overlapping and disproportionate powers also apply here as the SRA has similar powers to compel production of material.

Another relevant consideration is LPP.The FCA does not have an express statutory power to see material that is subject to LPP; to the contrary, section 413 of the Financial Services and Markets Act 2000 (FSMA) expressly protects LPP. Any extension of the FCA's supervisory and enforcement powers must recognise and safeguard LPP – which belongs to clients, not to the law firm in question. We note the following in particular:

– LPP is a "fundamental human right long established in the common law" (*R (Morgan Grenfell & Co Ltd) v* Special *Commissioners of Income Tax* [2002] UKHL 21) and should not be overridden for administrative convenience in AML supervision.

– Any steps to undermine LPP would raise significant complexities where this would result in the FCA accessing communications between lawyers and clients where those clients are separately part of the FCA's regulated or supervised population. This would raise significant conflict of interest considerations. We do not suggest that this would very frequently be the case, given the nature of the services which are AML-regulated, but we expect that there will be cases where a law firm's AML-regulated advice to a financial services firm, or another professional firm, or a UK listed company, is likely to form part of the FCA's scrutiny of the law firm's AML compliance.

– More prosaically, if a client is aware that there is a prospect that if it instructs a UK law firm then its privileged communications would be accessible to the FCA, this raises a very real risk that they will seek legal advice elsewhere. Whilst the SRA is, subject to certain safeguards, able to review information which is subject to LPP, the accessibility of such information to a legal services regulator is materially different from a client perspective to information being available to the FCA – given the FCA's much broader role. This is a particular issue for international firms whose international clients will have a wide range of options, both in the firms they instruct and in the law they choose to govern their relationships with counterparties. For the avoidance of doubt, the concern arises in respect of entirely legitimate, even mundane advice; in general, clients will want absolute assurance that their LPP will be respected and the advice they seek and receive will not be produced to regulatory agencies. Any contrary position may have a negative impact on the UK legal sector's growth and competitiveness.

– We also note that many CLLS member firms have a US presence and/or clients based in the US. A limited waiver of LPP in the UK, even to regulators, may well result in a loss of LPP for US purposes – and there will of course be similar considerations in other jurisdictions. This point is increasingly relevant in enforcement work. Any suggestion that LPP material might be shared on a limited basis could therefore create material difficulties for US clients and for the reasons above we expect it will ultimately be a deterrent for US clients in instructing UK law firms.

It is extremely surprising that the Consultation contains no discussion of LPP, other than noting that regulation 72 sets out limits on supervisory authorities' information-gathering powers. It is essential, including for the reasons given above, that LPP remains protected, and that regulation 72 continues to apply to any additional supervisory or enforcement powers conferred on the FCA. Equally, that raises some questions as to how the FCA will take effective supervisory and enforcement action where the nature of the law firm's advice is relevant to an assessment of (for example) the nature and purpose of a business relationship, or the firm's application of its ongoing monitoring obligations (for the purposes of regulation 28). This challenge is inherent in the decision to move AML supervision of law firms from the SRA to the FCA. As with the supervision and enforcement complexities raised by dual regulation, this will need to be further explored and consulted upon.

**9. Do you believe any changes are needed to the information-gathering and inspection powers in the MLRs beyond extending them to the FCA in supervising accountancy, legal and trust and company service providers for AML/CTF matters?**

We accept the extension of these powers providing they are proportionately applied and do not overlap with the SRA's existing powers, at the very least these must be closely coordinated with intelligence and information shared in both directions. The critical consideration here has to be confidentiality and LPP, and the powers the FCA has and the manner in which they are exercised must take account of and protect these critical protections. It is also of critical importance to have sectoral knowledge in the exercise and application of these powers.

**10. Do you agree that responsibility for issuing AML/CTF guidance for the legal, accountancy and trust and company service provider sectors should be transferred to the FCA?**

Given the broad scope of the MLRs (which were originally drafted with the financial sector in mind), having carefully drafted sector-specific guidance in place is essential to enabling law firms to pragmatically interpret and apply broad-brush legislation to the provision of legal services. We agree

that there should be a single guidance document for legal professionals and that this should be aligned, where relevant, with guidance for other sectors. Responsibility for guidance should not be transferred to the FCA until there is a clear plan which demonstrates how sector-specific knowledge (e.g. that currently provided by the LSAG) will be replicated.

We further agree that the FCA should have ultimate sign off for the guidance, however we do not believe that the FCA should draft the guidance. Instead, there needs to be a governance structure around the guidance which includes input from legal practitioners who understand the nuances of the legal services. The current financial sector model does not involve the FCA drafting the main industry guidance – instead, the JMLSG guidance is written by industry bodies, commented on by the FCA, and approved by HM Treasury. Similarly, as noted in the Consultation, LSAG prepares the legal sector guidance and the CCAB prepares the accountancy sector guidance. It is unclear why the Consultation is proposing a model which appears to have less industry input than the current model applicable to either the professions or the financial sector. This approach is also likely to exacerbate the difficulties which will be presented by the FCA's lack of familiarity with the legal sector as it takes over supervision.

We believe that there needs to be a formal committee with a remit to produce, amend and update guidance which includes representatives from legal services to ensure that the guidance takes into account the specialist ways in which lawyers practice, and, for example, the nuances of the application of LPP.

**11. Do you agree that the MLRs should be amended to transfer responsibility for approving AML/CTF guidance to the relevant public sector supervisor, with HM Treasury retaining a 'right of veto' but not having responsibility for approving entire guidance documents?**

Yes, but as set out above the guidance should incorporate industry expertise.

**12. Do you agree to the extension of requirements under regulation 47 to the FCA in relation to accountancy, legal and trust and company service providers?**

Regulation 47 sets out supervisors' responsibilities for providing information to those they supervise to help them to comply with the regulations and supervisors' expectations. This is a crucial aspect of AML supervision and we strongly encourage the FCA to provide appropriate and timely information to law firms and to maintain an open dialogue about its expectations and approach. It will be important for any such information to support proportionate, risk-based compliance activity, and for the FCA to ensure that information is coordinated with the SRA in areas of regulatory overlap.

**13. Do you see any issues with the FCA's information sharing duties and powers in regulations 46, 50 and 52 applying to the professional services firms it supervises for AML/CTF purposes?**

We do not object to this in principle but safeguards will need to be put in place in relation to client confidential information. As noted above, material subject to LPP should not be accessible to the FCA and should not be subject to any information-sharing. Care also be taken to prevent duplication of information requests to firms from the FCA and SRA.

**14. Do you agree that the MLRs should be amended to require the NCA to share SARs with the FCA and other public sector supervisors, where these have been submitted by or relate to firms within their supervisory population?**

We agree that the sharing of SARs with the appropriate regulator for the purposes of effective supervisory functions of that regulator, as provided for in Reg 52, is not objectionable subject to having the correct restrictions in place. However, we are concerned that this contemplates a wider application The SARs regime is for intelligence gathering. Allowing any supervisor full access to the SARs relating to their supervisory population would be disproportionate and would put confidentiality and LPP at serious risk.

**15. Do you agree that these existing whistleblowing protections are sufficient and appropriate?**

Yes but whistleblowing in the legal regulation context is more complex given the duty of regulated individuals to weigh the public interest against their client's best interests.

**16. Do you foresee any issues with our proposal for the FCA to exercise the same enforcement powers already exercised by it in relation to the financial services firms for professional services firms too?**

See above. We consider this to be one of the main challenges presented by the proposal to move AML supervision to the FCA, and it is one which is not explored in the Consultation.

Further consideration and consultation will be needed to address a large number of issues raised in this area, including: how enforcement will avoid duplication and unnecessary burdens where the FCA takes enforcement action in respect of a matter which the SRA also considers raises conduct concerns; how inconsistency will be avoided where the same controls might be reviewed by the FCA or by the SRA depending on the nature of the advice to which they are applied (i.e. whether or not it is AML-regulated); how the FCA will review controls which are relevant to AML but grounded in other non-AML regulatory requirements (e.g. the Solicitors Accounts Rules); how LPP will be protected; and how proportionate outcomes which do not fetter access to justice will be achieved. As noted in our introduction, there is a real risk that an overlapping and complex enforcement regime will lead to excessive delays, disproportionate cost and not operate in the public interest.

**17. Are there any additional enforcement powers that you feel the FCA should be equipped with to ensure non-compliance is disincentivised effectively?**

No.

**18. Do you think any amendments to regulations 81 and 82 would help the FCA issue minor fines for more routine instances of non-compliance such as failure to register?**

No. We also note that it is entirely unclear what amendments are envisaged – the Consultation states that "*it might be useful* to *make some amendments to the provisions which set out the procedures the FCA follows when taking enforcement action*…", without specifying what those amendments might be. We would be happy to comment further in relation to any concrete proposals.

**19. Do you have any issues with our intention that decisions made by the FCA in relation to their AML/CTF supervision of professional services firms be appealable to public tribunals, in line with the existing system?**

This is another aspect of the regulatory maze created by the proposals. Enforcement by the SRA is dealt with either by fines by the SRA or by the SRA making an application to the SDT. Decisions of the SRA are appealable to the SDT and decisions of the SDT are appealable to the High Court. What is proposed leads to a multiplicity of fora determining either the same or similar issues with the risk of inconsistency. We consider that the continued involvement of the SDT in AML cases, given its familiarity with the legal sector, would be more likely to increase consistency in decision-making as opposed to a bifurcation in appeals depending on subject-matter.

**20. Do you have any comments regarding the FCA charging fees, under regulation 102, noting the possible proposed amendments?**

The MLRs place a financial burden on firms through requiring investment in processes, systems, record-keeping and personnel. The costs of regulation are normally passed on to consumers, either directly or indirectly. Bearing in mind that there are significant concerns about access to justice and legal services for consumers, we would urge the FCA not to add to lawyers' financial burdens through a large AML supervision fee. We would also urge the SRA to reduce its practising certificate fee to reflect the removal of a large part of its supervision activities. The shift in supervision should not lead to a net increase in the burden placed on law firms (other than the burden which is already envisaged by virtue of the Economic Crime Levy being increased and its diversion to fund the transition).

In relation to possible amendments to regulation 102, the Consultation states that these may relate to FCA information-gathering powers and/or to consequences for firms that do not pay their fees or provide information to enable fees to be calculated. As noted below, where data collection is necessary, firms should have ample time to prepare by building systems, gathering data and quality checking information. Limitations in the type of data which firms will be able to produce will need to be borne in mind in the design of fee structures and the application of any new regulation 102 powers.

We agree that the FCA should be able to deduct its enforcement costs from penalty receipts transmitted to HM Treasury, so that the cost of investigations and enforcement are borne by those firms which are not in compliance, rather than placing a greater burden on firms which are complying through increased fees.

**21. Are there any specific powers or transitional arrangements that you believe would help the FCA, current supervisors, or HM Treasury support a smooth and low-burden transition for firms already supervised under the MLRs?**

Care needs to be paid to the transition of AML supervision, including in the lead up to the transfer of powers and for a period afterwards. Grandfathering of existing regulated firms and individuals will be essential to the smooth transition. An ill-coordinated transition could lead to unnecessary costs for firms if changes have to be made at short notice, rather than in a managed way. We urge the SRA and the FCA to engage with firms to provide clarity as soon as possible around:

- Fees
- Registration
- Fit and proper tests
- Approach to proactive supervision
- Data collection

- Investigations
- Changes in guidance.

In particular, firms will need clarity around open investigations by the SRA and how these are to be resolved. The SRA will inevitably have several hundred ongoing investigations into AML matters, or where AML matters form part of a wider investigation. We believe that open investigations at the point of handover should be wound down and closed with appropriate enforcement action by the SRA under its existing powers, rather than being passed to the FCA for resolution under a new enforcement regime.

**22. Do you agree that a requirement should be placed on the FCA and existing professional bodies and regulators to create an information-sharing regime that minimises burdens on firms?**

The SRA and the FCA will have major hurdles to overcome in managing a dual-regulatory regime without putting unnecessary burdens on lawyers and firms. Key to running two proportionate regulatory regimes will be managing data requests and sharing information.

Information should be collected from firms only where necessary for supervision, and should not be duplicated by both supervisors. Where data collection is necessary, firms should have ample time to prepare by building systems, gathering data and quality checking information. Key dates should be managed so that firms are not receiving multiple requests during, for example, practising certificate renewal, professional indemnity insurance renewal or financial year end. Where possible, information should be collected once, by one supervisor and shared with the other supervisor as necessary.

On an ongoing basis, there should be appropriate information about firms and individuals shared between supervisors, for example where one uncovers information which points to a breach of the other's requirements. Managing investigations where there are multiple issues which span both supervisors will need to be carefully considered and coordinated. We cover this point in more detail below.

**23. Are there other legislative measures that would prevent additional regulatory burdens arising?**

We have significant concerns about the transfer of AML supervision from the SRA to the FCA and, in particular, the burden that dual supervision and investigations will place upon lawyers. If poorly implemented, the transfer of supervision could create a regime whereby overlapping and duplicate information requests, fees, investigations and enforcement actions are imposed on the legal sector.

Investigations which span both conduct and AML issues will be an intractable problem of the new regime. Many AML issues investigated by the SRA include breaches of the SRA Accounts Rules or allegations of a lack of integrity.

Please also see our response to question 21 above: consideration should be given to whether any additional measures are needed to facilitate the grandfathering of existing registrations, recognising SRA fit and proper checks, to delineate responsibilities in areas of overlap, to ensure proportionality in the use of powers, to safeguard clients' LPP, to facilitate information-sharing between supervisors and the FCA (to avoid overlapping data requests), and so on.

**24. Are there any additional powers that would support OPBAS to provide effective oversight of the PBSs during the transition? If so, please provide an overview.**

OPBAS is directly funded by a levy on lawyers collected by professional body supervisors. In our view, OPBAS is now an unnecessary expense given there will no longer be a remit to ensure consistency and effectiveness of professional body AML supervision, and it should be disbanded immediately and any unused budget returned to supervisors.

**25. Are there any wider legislative changes that may be necessary to support the effective implementation of this policy, including alignment with existing statutory frameworks governing professional services?**

See above, in particular at questions 21 to 23.

**26. Should any changes be made to the economic crime objective introduced for legal regulators by the Economic Crime and Corporate Transparency Act?**

Yes. Effective supervision of anti-money laundering requires close alignment with other economic crime controls. Many firms will have overlapping risk assessments, procedures and controls to prevent a variety of different economic crimes including money laundering, proliferation financing, terrorist financing, sanctions evasion and fraud. Separating AML supervision from the SRA's duty to promote the prevention and detection of economic crime is impractical and duplicative. It also risks creating different standards and requirements for similar issues, thus increasing the regulatory burden for firms. This difficulty is inherent in the FCA taking the role of SPSS and does not appear to have an easy solution. However, if the FCA is to take on AML/CTF supervision, we would in the first instance suggest that there is an opportunity to review the proportionality of, and the SRA's approach to, its economic crime objective, the significance and risk-profile of which will be considerably more limited if AML/CTF is removed from scope. We suggest that the regulatory objective to promote the prevention and detection of economic crime be repealed in light of the proposed reforms

**27. Do you have any issues with our intention to apply the FCA's existing accountability mechanisms in carrying out its additional supervisory duties?**

It is an essential feature of the rule of law that the legal profession is independent of government and that extends to the regulators of the legal professions. The position of the legal profession globally is likely to be undermined if questions are raised as to its independence, particularly by other jurisdictions. This may also impact on treaty obligations. Similar issues arose with the creation of the Legal Services Board under the Legal Services Act 2007. Whilst we note the observations made in the consultation about the role of the FCA we consider that a full assessment should be undertaken to ensure that any issues are identified and resolved.

**28. What measures do you think should be taken to ensure a proportionate overall approach to supervision, including prioritising growth?**

A good start would be to produce a regulatory impact assessment demonstrating what benefits, if any, will be produced by moving AML supervision to the FCA and whether these will outweigh the inevitable additional costs and regulatory burdens.

We urge the FCA to undertake AML supervision of lawyers in a way which enables the sector's continued growth, maintains access to justice and preserves a vibrant and diverse legal services industry. It can achieve this by working with the SRA and other legal supervisors to reduce the burden of double-regulation and embed a risk-based approach, ensuring that data requests are proportionate and with appropriate lead time, and that costs – both direct in terms of fees, and indirect in terms of regulatory requirements – are kept as low as possible.

Finally, we stress the critical importance of demarking and preserving the responsibilities of the FCA and SRA.

**Further information and contact**

If you would like further information or to discuss the content of this submission please contact Iain Miller (imiller@kingsleynapley.co.uk)