OPBAS
OFFICE FOR PROFESSIONAL BODY AML SUPERVISION
FINANCIAL CONDUCT AUTHORITY

FINANCIAL CONDUCT AUTHORITY

Multi-PBS review

Multi-PBS project on TCSP risk

March 2023

Contents

Moving around this document

Use your browser's bookmarks and tools to navigate.

To **search** on a PC use Ctrl+F or Command+F on MACs.

1 Executive summary

1.1 This review sets out the findings from our multi-Professional Body Supervisor (PBS) Trust and Company Service Providers (TCSP) review which looked at the PBS approach to TCSP risks.

What we found

1.2 Most PBSs have assessed the TCSP risk within their own supervised populations as being relatively low. This is contrary to the National Risk Assessment 2020 (NRA) which categorised TCSPs as higher risk. We are encouraged by the work undertaken by some PBSs specifically on TCSPs although we have identified gaps in the PBSs' approach that, once addressed, would challenge and inform the evidential basis for their conclusions on TCSP risk. While we would be surprised if PBSs found uniform low risk in their supervised population, we agree that a focus on the nuances of TCSP risk (e.g. across sector, service and professions) in the next NRA may better reflect the current diversity within the TCSP landscape and improve understanding.

1.3 We identified a common set of higher and lower risk indicators between the legal and accountancy sectors. However, there remain differences between HMRC and PBSs' assessment of risk indicators. We expect the PBS to engage further with HMRC to build on the common risk indicators identified (noting that PBSs will supplement where appropriate for local risks and circumstances) to agree consensus. Having an agreed baseline can support a more consistent and strengthened approach to TCSP supervision.

1.4 PBSs did not agree on a standardised definition of supply chain risk, but the accountancy sector PBSs proposed using scenarios instead. A strong and consistent understanding of supply chain risk (supplemented by individual definitions which identify and manage the risk from local supervision) is important to help ensure a robust approach to assessing TCSP risk. We expect PBSs to agree a more consistent understanding and approach to supply chain risk among themselves and suggest it would be sensible to align this with the HMRC approach.

1.5 Different PBSs use different data sets which impact on a consistent assessment of TCSP risk. Improvements in the PBS collection, and use of data to inform risk understanding, can strengthen their approach. We have tasked PBSs to work with HMRC to explore and agree a standardised core set of data on TCSPs which PBSs can supplement as appropriate to reflect local risks and circumstances. This data will enable trends to be tracked over time and support the effective utilisation of resources and enable cross-PBS and cross-sectoral comparisons to be made.

1.6 PBSs have varying levels of engagement with key stakeholders such as Companies House, the NECC and HMRC. Greater sharing of TCSP intelligence and relevant information between PBSs, law enforcement and other supervisors would support a better system-wide approach to TCSP supervision. We are following up with PBSs to understand how they will work effectively with key stakeholders under the new Reg 52 gateway (including post the Companies House reforms).

1.7 Most PBSs support making the HMRC register, as a key data source, public or at least accessible to the PBSs who can currently only access it via HMRC uploads or modifications. We agree this may lead to greater transparency, accountability, and accessibility for PBSs, their supervised population and for other stakeholders. We have facilitated ongoing discussions with PBSs and HMRC to explore future accessibility options.

1.8 PBSs are increasingly considering the use of technological solutions as part of their approach to risk, but this is at an early stage of implementation. OPBAS would be ready to support a TechSprint event between professional bodies and other national and international stakeholders to share expertise and best practice. This could support PBSs in assessing how data can be effectively used to underpin their approach and address money-laundering risks.

Next Steps

1.9 This work is part of OPBAS's focus on supporting a system-wide approach to tackling the abuse and exploitation of TCSPs by criminals. We will be using the information gathered through this project to inform our input into the next NRA so that it can inform wider government understanding of the risks posed, and ways to mitigate them.

1.10 We expect PBSs to review this update and consider whether changes are required in the way they operate to take into account these findings.

1.11 OPBAS will continue to monitor closely progress, especially around understanding of risk indicators, the supply chain risk and on the agreement, collection and use of key TCSP data.

1.12 Intelligence sharing, especially through the use of the new Reg 52 gateway is key to an effective AML system and we will continue to work closely with the PBS to understand and assess their plans for doing so.

1.13 We will continue to publish broader learnings from OPBAS's supervisory work in accordance with our broader commitment to doing so under our FCA strategy – so that we are able to clearly explain our standards and expectations, share best practice and contribute to the broader system wide economic crime agenda.

2 Overview

Why we conducted this review

2.1 OPBAS committed in the FCA's 2022/23 Business Plan that our work would contribute to reducing and preventing financial crime by improving the effectiveness of supervision by PBSs. We also identified in our 2020/21 OPBAS report that significant improvements were required in PBSs' risk-based approach and that this would be an area of ongoing focus for us.

2.2 Providing TCSP services is categorised as high risk for money laundering within the legal and accountancy sectors in the NRA 2020. This work is part of OPBAS's focus on supporting a system-wide approach to tackling the abuse and exploitation of TCSPs by criminals. The information gathered through this multi-PBS project will feed into the next NRA and directly inform OPBAS's supervisory approach. It is also highly relevant to the Economic Crime and Corporate Transparency Bill which includes reform to improve the transparency of corporate ownership by improving the accuracy of the companies' register, supported by proactive information sharing between Companies House and others, including law enforcement.

Who this applies to

2.3 The PBSs we supervise should read this as it sets out key findings and recommendations which may support them to meet their supervisory obligations under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs).

2.4 Other national and international stakeholders who are interested in anti-money laundering supervision may also wish to read this report. For example (this list is not exhaustive):

- Other supervisory authorities
- Government agencies
- Law enforcement agencies
- Policy groups and academics

Background to TCSPs

Definition and remit

2.5 TCSPs are defined by Regulation 12 (2) MLRs, as a firm/sole practitioner who provides the following services:

- forming a firm;
- provide a:
  - registered office
  - business address
  - correspondence address
  - administrative address for a company, partnership, other legal person or arrangement
- act or arrange for another person to act as a:
  - director or secretary of a company
  - partner (or a similar position) for other legal persons
  - trustee of an express trust or similar legal arrangement
  - nominee shareholder for another person, unless the other person is a company listed on a regulated market which is subject to acceptable disclosure requirements

2.6 TCSPs are subject to the provisions set out by the MLRs except for part 7 (which relates to Payment Service Providers). This includes requirements to take steps to identify, assess and address those money laundering and terrorist finance risks that the firm/sole practitioner may be subject to.

2.7 Under Regulation 7 of the MLRs, a firm or sole practitioner must not carry out TCSP services unless they have registered with HMRC, are an authorised firm under Financial Services and Markets Act 2000 and has notified the FCA that they are undertaking this activity or are overseen by an Accountancy Sector PBS or a Legal Sector PBS. A full list of PBSs can be found here. Under Regulation 54 of MLRs, HMRC must maintain a register of all relevant persons who provide TCSP services that are not in a register maintained by the FCA. Firms and/or sole practitioners that are not on a register are not permitted under the MLRs to provide TCSP services. PBSs do not have access to the HMRC register directly but instead submit updates where members of their supervised population need to be added, removed or have their details updated.

TCSP risk

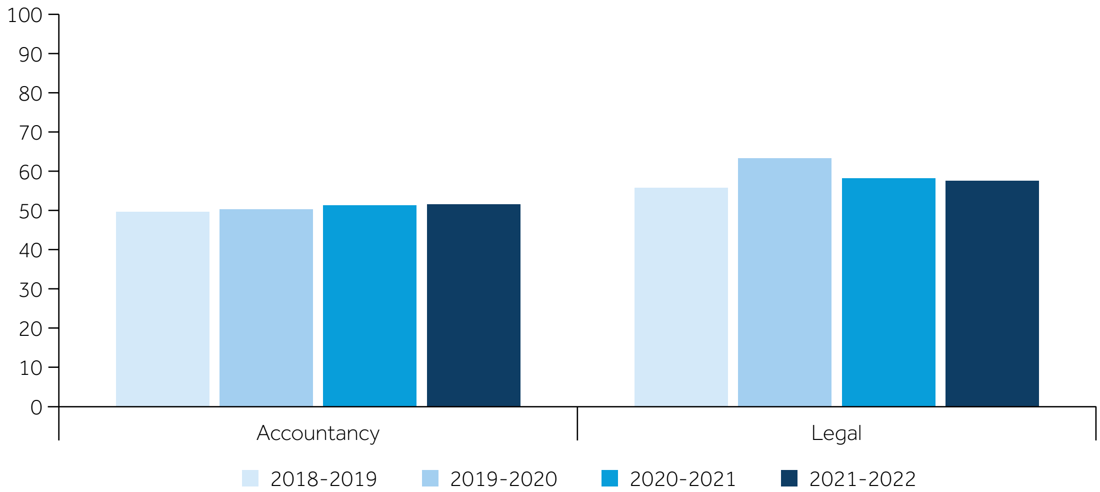
2.8 TCSPs can play a key role in the UK economy and aid their clients in the management of their financial affairs. As the Panama and Pandora papers have shown TCSPs can also be abused for illicit purposes with millions of pounds laundered through UK legal entities.

2.9 Consistent with the findings from previous NRAs, the NRA 2020 found that there is a risk that negligent or complicit accountancy sector and legal sector providers of TCSP services may be unwittingly or willingly facilitating money laundering and the money laundering risk from TCSPs was assessed as high.

PBS landscape

2.10 Data obtained from the HMT Annual returns (information submitted annually to HMT by PBSs and shared with OPBAS) shows that across the sectors there has been relative stability in the number of firms and sole practitioners providing TCSP services since the NRA 2020. As of 4 April 2022, the accountancy sector PBSs had the largest number of their supervised population providing TCSP services with 11,865 firms and 5,607 sole practitioners. Two of the largest accountancy sector PBSs had 64% of the total population providing TCSP services. The legal sector in comparison had 4,866 TCSP providers with 4,210 firms and 656 sole practitioners providing TCSP services. The largest legal sector PBS had 90% of the total population providing TCSP services. For context, HMRC supervised circa 1,724 firms and the FCA supervised 31 firms providing TCSP services.

Figure 1: % of the PBS population that provides TCSP services



2.11 Since the NRA 2020 we have seen a 12% overall decrease in the number of firms and/or sole practitioners providing TCSP services in the legal sector. There is also a slight trend towards the largest PBSs across both sectors having a decrease in their supervised population providing TCSP services, with a very slight increase in the populations of smaller PBSs. We do not know the cause of this slight shift in population between the larger and smaller PBSs although we are mindful it may be an indicator of displacement of risk. We will continue to monitor and explore the significance and implications of these trends as we build a standardised core set of data on TCSPs (as referenced in **section 9**).

2.12 PBSs confirmed that most PBSs' supervised population provide TCSP services as ancillary to other services. For example, in the accountancy sector a firm/sole practitioner may provide company formation services and prepare and file statutory accounts. In the legal sector, TCSP services may be considered during a range of work including probate, conveyancing and mergers and acquisitions. We found that smaller PBSs tend to view their supervised population as not having a complex supply chain, for example, providing company formation work and registered office address services for small local owner-managed businesses. Further information on the make-up of each PBS population can be found in **section 5**.

What we did

2.13 We created and issued a targeted questionnaire to 22 PBSs that perform regulatory functions to understand their approach to TCSP risks. We built on our findings from the questionnaire through a TCSP workshop, engagement with the Affinity Group chairs (that represent the members of the legal and accountancy sector PBSs) and direct engagement with the individual professional bodies. We evaluated our findings with reference to the MLRs and the OPBAS Sourcebook. Given our focus on a system-wide approach to tackling TCSP risk we have engaged throughout this process with key stakeholders including HMRC, Companies House, NECC, BEIS, NPCC and HMT.

3 Key findings

A: PBS understanding of TCSP risks and threats within their populations

3.1 An effective risk-based approach underpins all aspects of anti-money laundering supervision. It enables a PBS to identify, assess and understand the money laundering risks within its sector and its supervised population, and mitigate them on an ongoing basis. A risk-based approach includes focusing supervisory and enforcement efforts where the risks are higher, and we expect PBSs to ensure the measures they take are proportionate to the risks identified. It is therefore important that PBSs accurately assess and categorise the risks posed by their supervised population to drive targeted and proportionate supervisory action.

3.2 Our findings show that:

1) Most PBSs have assessed the TCSP risk within their own supervised populations as relatively low.

3.3 The reasons PBSs gave for TCSP risk being relatively low ranged from:

a. The nature of the services being ancillary (i.e. add-ons to other services being provided) rather than standalone (i.e. set up only to provide TCSP services).

b. The type of service provided e.g. less risky services such as providing a registered office address.

c. The lack of a complex supply chain e.g. sole traders with local clients.

3.4 As part of a risk-based approach, PBS assessment of TCSP risk should be seen comparatively within the context of other risks PBSs manage. For example, sanctions risk and covid fraud arising post the pandemic were viewed by some PBSs as posing a higher risk than TCSPs. We recognise that they are new risks and less understood and so require an increased focus by PBSs. We support relevant evidence-based changes in the risk landscape being accurately reflected within the next NRA. This is important given that Regulation 17 of the MLRs requires PBSs to consider the risks identified in the NRA when carrying out their risk assessments.

3.5 PBSs tended to view the relative risk of harm to be greater within HMRC's supervisory population than their own (HMRC supervise all firms/sole practitioners who provide TCSP services and are not regulated by a PBS or the FCA). This is because some PBSs view that the majority of HMRC supervised firms/sole practitioners provide standalone TCSP services which they see as providing a higher risk of ML than firms/sole practitioners providing TCSP services as an ancillary service. PBSs can view the risk as being lower because their supervised population has existing relationships with their clients and so have already been through a rigorous assessment and monitoring process. Equally, it could be argued that standalone TCSP providers would be specialists in their fields and therefore better able to mitigate potential TCSP risks. As set out in later sections of this statement, we identified some gaps and/or improvement in approach from PBSs' approach to data and information and intelligence sharing that we consider would challenge and inform some PBSs' evidential basis for the conclusions drawn.

3.6 A focus on the nuances of TCSP risk within the next NRA may better reflect the current diversity within the TCSP landscape although further examination of any respective difference in supervisory populations across supervisors, including that of HMRC, is required before drawing firm conclusions. This may include where TCSP risk was identified as particularly high in a sector, service or profession. The next NRA may also benefit from a separation between the inherent TCSP risk (i.e., which may be higher) and residual likelihood of the risk occurring after mitigations (i.e., which may be lower risk). Having this additional detail included may support a wider understanding and approach to TCSP risk.

Action on findings

3.7 The accountancy sector PBSs have already started considering their approach to the next NRA. To inform their understanding of TCSP risk within their supervised populations they undertook thematic reviews with a standardised questionnaire. Some PBSs in the legal sector have also undertaken their own thematic reviews. We encourage appropriate join-up across the two sectors and with other TCSP supervisors. This work will help ensure PBS insights, experience and evidence informs and aligns with the content of future NRAs and, more immediately, drives more effective risk-based AML supervision of TCSPs.

3.8 To support an informed NRA, we will apply the learnings, and underlying data, from this multi-PBS work.

2) PBSs' view company formation as a higher risk TCSP service.

3.9 In line with the NRA 2020, most PBSs viewed company formation as presenting the highest risk of money laundering from the TCSP services provided. One large legal sector PBS cited the lack of verification of identities via Companies House and their international equivalents. However, they viewed the Companies House reforms, including the registrar of foreign owners of UK property, as a key instrument that may reduce this risk in the future.

3.10 The provision of nominee directors/shareholder services came out as second highest in the accountancy sector whilst in the legal sector it was the provision of trust services. A large accountancy sector PBS assessed the nominee directors/shareholder services risk as high because it allows individuals to conceal the ownership of assets and makes it more difficult for authorities to identify the ultimate beneficial owners. We did not identify any significant trends in terms of high/low risk assessment across geographical location or size of PBS.

Figure 2: The TCSP services identified by legal and accountancy sector PBSs as providing a higher risk of money laundering

Action on findings

3.11 As set out in the OPBAS Sourcebook, PBSs should ensure that the measures taken to reduce money laundering are proportionate to the risks identified and are underpinned by a clear methodology. We expect PBSs to continuously evolve their risk-based approach as their understanding of risk changes and to adapt their approach in a timely manner when appropriate. For example, more effective PBSs will use their findings on the relative riskiness of the TCSP services provided to inform how resources are effectively targeted and applied. We encourage PBSs to share their findings in the preparations for the next NRA.

3.12 We will assess the PBSs to ensure this information is effectively applied to inform and strengthen their supervisory approach.

3) PBSs had different views on the higher-risk and lower-risk indicators of TCSP services.

3.13 We identified a range of responses from PBSs on higher-risk and lower-risk indicators across all TCSP services, with only a small proportion of PBSs selecting the same TCSP risk indicators, demonstrating that the individual PBS view of TCSP risk indicators differs. PBS responses also differed from HMRC's assessment of risk indicators, with some risk indicators not identified. In the absence of consensus between TCSP supervisors, this could lead to inconsistent approaches and inconsistent outcomes. **Table 1** shows the results of this work.

Table 1: OPBAS table of higher and lower risk indicators for TCSP services. Indicators in black text are factors selected by PBSs only. Where risk indicators between PBSs and HMRC overlap, they are in maroon text and where there is divergence, they are in blue text.

TCSP Service	Higher risk indicators	Lower risk indicators
Act or arrange for another person to act as a partner (or in a similar position) for other legal persons; Director services	• Lack of sector knowledge demonstrated by the individual. • Firm's risk assessment policies and procedure are weak. • Entities or trusts incorporated/ established overseas and/or clients from high-risk jurisdictions. • Offered in combination with higher risk accountancy services. • Multiple companies with the same owner. • Confidentiality to protect identity of actual owner or controlling interests.	• Services are provided to large private companies or public limited companies. • Used as an administrative tool to act until all legal requirements are completed and the company is handed to the customer. • Neutral party to provide separation from interested parties e.g. during merger negotiations.
Company formation	• Complex structures and/or the provision of the service would add further cloud the beneficial owner structures. • Weak risk assessment policy and procedures. • Supply offshore and outside of the UK. • Wholesale/volume type sales i.e. high number of company formations.	• Strong CDD, ongoing monitoring and ultimate beneficial owner identification. • Clearly documented rationale behind the company formation. • UK based client. • Retail sales to UK-based owner-managers.
Company secretarial services	• Services to companies with non-UK beneficial owners.	• Not for profit sector. • Provision of services to public limited companies (PLCs). • Provision of services to large private companies with multiple shareholders/subsidiaries.
Multiple (combining) services	• Customers may instruct firms on lower risk non-AML work and then instruct again on higher risk AML work where checks may not be renewed that would ordinarily verify identities, ownership, and sources of wealth in proportion to risk. • When a company is relying on a TCSP to provide multiple services as a long-term arrangement with little commercial basis, or a TCSP is being used to place layers between the company and the beneficial owners, and or is providing services to offshore beneficial owners and or intermediaries.	• Standard business practice where other higher risk services are sold to low-risk client e.g. residential conveyancing after will writing. • Short-term arrangements while management structures are put in place, providing services to UK-based owner-managed businesses.

TCSP Service	Higher risk indicators	Lower risk indicators
Provide a registered office address (also virtual office provision)	• Demonstrated lack of understanding of the nature of the business and/or no documented rationale for using the firm's address. • Work in high-risk industries or jurisdictions. • Provided as a standalone service. • **Regular forwarding of large volumes of mail.** • **Multiple addresses supplied to same and or connected businesses.**	• Strong CDD, ongoing monitoring and ultimate beneficial owner identification. • Provided with other services. • **Regular contact with customer(s), Collection of mail by known person(s).** • **Sole contact address.** • **Uses premises for meetings with clients.**
Shareholder services (act or provider for someone to act as a nominee shareholder)	• Demonstrated lack of sector knowledge. • Reason for the provision of shareholder services is unclear. • PEPs, High Net Worth individuals or foreign clients. • Work in high-risk industries or jurisdictions. • **Providing a degree of confidentiality to the actual owner or controlling interest of the company.**	• Larger firm providing lower risk services. • Firm's risk assessment policies and procedure are strong. • Strong client knowledge and engagement. • **Administrative purposes during the formation period and transferred when sold.** • **Management purposes – investment houses and stockbrokers may hold shares for discretionary portfolios.**
Trust services	• Complex or opaque structures shield the true beneficial ownership and/or trusts are based overseas. • Operating in higher risk jurisdictions, high risk industries. • **When the source of trust funds is not clear.** • **Where settlor, beneficiary, or other person(s) have significant control over the assets and or income of the trust.**	• Clearly documented rationale for the trust. • Provided alongside other services. • Trust only operates within the UK only and/or no PEPs, High Net Worth individual or foreign clients. • **Operate independently of the settlor.** • **Services to low-risk trusts when source of funds is clear, disabled persons, life interest, charities, share schemes and company pension funds.**

Action on findings

3.14 To build understanding and consensus we shared **Table 1** with the PBSs. PBS feedback was that a more nuanced table to reflect the risks across the sectors would be beneficial. The Accountancy AML Supervisors' (AASG) forum reflected on this discussion and provided OPBAS with an alternative table of the risk indicators and a table of aggravating and mitigating factors. Both tables are included in **Annex 1**.

3.15 We encourage the accountancy sector to engage further with the legal sector and other TCSP supervisors to share their work and to build consensus on key risk indicators. More effective PBSs will assess existing and new TCSP risk indicators and remain joined up across sectors and with other impacted supervisory authorities such as HMRC, and key stakeholders such as Companies House and the NECC. A greater awareness of TCSP risk characteristics can inform PBSs' approach to supervision, leading to greater efficiency and effectiveness in approach. Ensuring the effective use of key stakeholder relationships will support a more effective system-wide approach to tackling money laundering risks.

3.16 We will monitor PBS engagement in identifying core TCSP risk indicators within and across sectors and assess how they have used these indicators, while supplementing as appropriate to reflect local risks and circumstances, to inform and strengthen their supervisory approach.

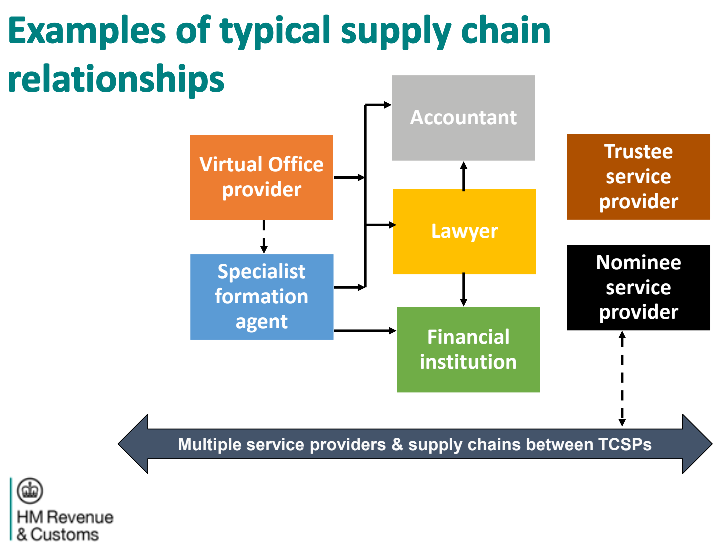
4) PBSs did not demonstrate a consistent understanding of TCSP 'supply chain' risk.

3.17 Some PBSs viewed TCSPs as being lower risk within their supervised population due to a lack of risk present within the supply chain (in the OPBAS questionnaire, we defined 'supply chain' to mean the end-to-end activities/actions involved in the provision of the service/product to the end customer or beneficiary).

3.18 We identified a range of responses on how PBSs understand and assess TCSP supply chain risk preventing a clear assessment of the depth of PBS understanding. Some PBSs focus on their analysis of a wide range of internal and external data sources, others focused on internal processes such as their ongoing monitoring activity of their supervised population. A small proportion of PBSs did not assess or view supply chain risk as an issue at all. For example, some smaller accountancy sector PBSs stated that it would be difficult to imagine a relevant supply chain as most of its firms were sole traders with local clients e.g. providing company formation work and registered office address services for small local owner-managed businesses. We are following up for further information from these PBSs to evidence this position.

3.19 Understanding the purpose of the service and who is ultimately benefiting from it is important in identifying and managing related risk. Narrow interpretations or definitions can risk undermining a whole system approach. We recognise there are challenges in considering supply chains, but their complexity can add risk in our view. There is a real potential for companies being formed, then onward sold or transferred several times and ending up in criminal hands or being used for illicit purposes. Effective mitigation of this risk requires a system-wide understanding and approach.

3.20 HMRC provided the following diagram to illustrate supply chain risk in an OPBAS facilitated workshop with the PBSs.



Action on findings

3.21 Following the OPBAS workshop, we tasked the legal and accountancy sectors to agree a consistent definition of supply chain risk. The accountancy sector through the AASG did not provide a definition but did identify certain scenarios which they viewed as being supply chain risk. AASG responses viewed this risk as 'environment risk' or 'structural risk'. The examples provided by AASG can be found in **Annex 2**.

3.22 Whilst we are encouraged by the work completed by the AASG, we view this as a starting point, with further work required across sectors and supervisors to agree a consistent understanding and approach where possible. We support continued focused engagement with stakeholders such as law enforcement to utilise the data held when understanding actual and potential supply chain risks. Further information on information sharing is contained in **section 7**.

3.23 Having a strong and consistent understanding of 'supply chain risk' (supplemented by PBSs' own definitions which identify and manage the risk from their supervision) will contribute to a robust approach to assessing TCSP risk leading to more informed supervisory action. We would encourage active engagement with key stakeholders such as HMRC and law enforcement agencies that can support this and can reduce the potential for gaps in understanding around existing and new supply chain risks.

3.24 We expect PBSs to agree a more consistent understanding and approach to supply chain risk which aligns with the HMRC approach. We look forward to seeing how this informs the PBSs' approaches to supervision, and guidance for members, leading to greater efficiency and effectiveness in tackling money-laundering risks.

5) PBSs have undertaken proactive work to increase their understanding of TCSP risks and verify TCSP services provided.

3.25 Most PBSs across both sectors have conducted some form of thematic/targeted reviews of their supervised population providing TCSP services. We look forward to seeing evidence of any improved outcomes because of that work.

Table 2: A list of published thematic reviews completed by PBSs.

Accountancy Sector	Legal Sector
ICAEW Thematic review on TCSPs	SRA Thematic review on TCSPs
AIA Thematic review on TCSPs	LSS Thematic review on TCSPs
AAT Thematic review on TCSPs	CLC Thematic review on TCSPs
ACCA Thematic review on TCSPs	

3.26 We identified instances where some PBSs overly rely on external data sources, such as the NRA 2020 and less on analysis of specific populations, when determining and verifying TCSP risk. In one instance the PBS's supervised population providing TCSP services remained high risk despite contrary evidence based on a recent assessment of that population. This showed the supervised population consisted of firms' sole practitioners that maintained an existing relationship with their clients, TCSP services were ancillary and there were no complex supply chains.

Action on findings

3.27 While risks may vary across populations, and there is significant inherent diversity across PBSs, an inconsistent understanding of risk can result in inconsistent outcomes. It is encouraging that PBSs across both sectors are proactively seeking to better understand TCSP risk within their supervised population. Undertaking quality proactive work may limit the potential for an inaccurate assessment of risk by reducing the risk of an overreliance on external sources without appropriately considering local evidence.

3.28 More effective PBSs ensure when undertaking work such as thematic reviews that the purpose, scope and intended outcomes/success measures are clear. This includes for example that sample sizes are statistically significant if they are to provide the data necessary for a credible evidential basis and to inform high-quality decision making on supervision strategy. This has not always been the case to date.

3.29 We will continue to engage with PBSs to assess the methods, outputs and follow-up from the proactive work they have undertaken.

6) Technological solutions are increasingly being considered by PBSs as part of their approach to identifying and assessing risk.

3.30 We identified PBSs that are using or exploring the use of technology such as using web scraping tools to proactively verify if TCSP services are provided by their supervised population. However, this work is at an early stage. Used appropriately, technology can leverage data science and advanced analytics to inform real-time decision-making, support some PBSs to regulate at scale (for example, by requiring less manual intervention) and result in more effective AML supervision. Using technology effectively to make informed judgements requires good quality data inputs.

Action on findings

3.31 We are encouraged that more effective PBSs are looking at new and innovative ways to verify the activities of their supervised population. We recognise that the methods used by PBSs can carry a cost overhead, and a one size fits all approach is not appropriate. We therefore encourage PBSs to ensure proportionate verification of their supervised population's activities on an ongoing basis and in a timely manner.

3.32 We will facilitate a TechSprint event between Professional bodies and other national and international stakeholders to share expertise and best practice which could support PBSs in assessing how data analytics can be effectively used to support their approach and address money-laundering risks.

7) Greater sharing of TCSP intelligence and relevant information between PBSs, law enforcement and other supervisors would support a better system-wide approach to TCSP supervision.

3.33 Some PBSs, including the largest PBSs across the legal and accountancy sectors, felt increasing the awareness of the risks around TCSPs could help validate or challenge their supervised populations' view of TCSPs as being lower risk. For example, by showing real-life examples of risks. Most PBSs viewed their supervised population's understanding of TCSP risk as weak, particularly citing a lack of understanding of the MLR definition of TCSPs.

3.34 Some PBSs reflected the challenges around getting their supervised populations to understand and engage with the risks despite using various methods of communication. This can be particularly challenging for sole practitioners or small practices. In addition to definitions, other reasons provided included difficulty in getting engagement on TCSP risk because their supervised population were not identifying the provision of TCSPs in their work as being high risk. Some PBSs would welcome further information on typologies and best practice to share with their supervised populations.

Action on findings

3.35 As set out in the OPBAS Sourcebook, we expect PBSs to demonstrate that they are taking proactive, practical and appropriate steps to circulate information that can support their supervised population's understanding of risk. Obtaining feedback from guidance to see if this has led to increased understanding can be helpful to check that their supervised populations are being provided with the information and guidance needed to improve their approach to AML compliance. Ensuring that their supervised populations' views on the money laundering risks are appropriately collected and embedded into supervisory follow up in a timely manner is also beneficial.

3.36 Sharing information and intelligence, particularly between the public and private sectors, supports a whole system approach to preventing and pursuing persons seeking to exploit the UK for criminal purposes. As set out in the OPBAS Sourcebook, PBSs should participate in existing intelligence and information inter-organisational sharing arrangements including FIN-NET and the SIS or demonstrate they can meet the same outcomes via alternative mechanisms. We also expect PBSs to ensure high quality and timely SAR submissions are reported to the NCA. We encourage PBSs to ensure they are proactively leveraging the relationships they have with other stakeholders through existing forums such as the Intelligence Sharing Expert Working Groups (ISEWGs) to inform their view on TCSP risk, as well as sharing their own unique insights and sector expertise. OPBAS is an important part of that, but we need and encourage PBSs to act on their own initiative too.

3.37 Regulation 52 of the MLRs now allows for reciprocal sharing between relevant authorities (including law enforcement, Companies House and HM Treasury) and supervisory authorities (which includes statutory supervisors and PBSs). We will continue to monitor the implementation of the new Reg 52 information sharing gateway from and to supervisory authorities, particularly on areas with information gaps such as TCSPs, to support the sharing of intelligence and information.

3.38 We will facilitate through the ISEWGs and the NECC Professional Enablers Cell, a public-private sector action to support the understanding of TCSP risks by creating TCSP case studies, with engagement from key stakeholders including PBSs, HMRC and law enforcement. This will provide PBSs with clear, relevant examples to illustrate the risk of TCSPs and to use to support their supervised population's understanding and engagement, leading to improved AML supervision.

B: Use of data on assessing and monitoring risk

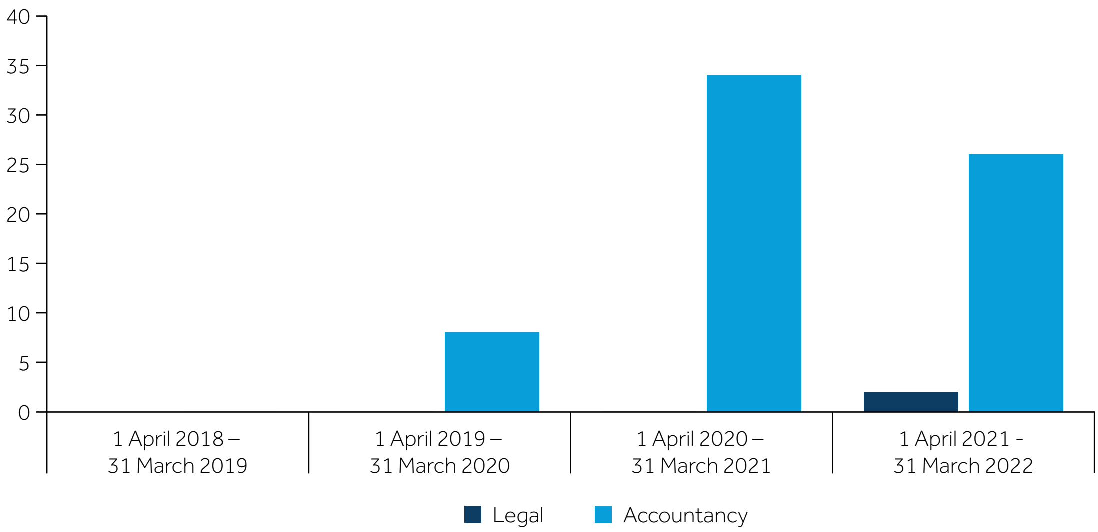
3.39 We do not prescribe what data the PBSs need to collect to be effective, but we do expect the data held to be adequate, relevant, accurate and useful. Having and using appropriate data supports well-informed and high-quality decision-making which underpins an effective risk-based approach. We identified examples where an improved approach to utilising data could better support PBSs' assessment and management of risk as well as contributing more broadly to a better system-wide approach to TCSP supervision.

3.40 Our findings show that:

8) Some PBSs do not (or could not readily) analyse their enforcement or SAR data to extract TCSP specific insights.

3.41 A small proportion of PBSs have taken enforcement action, submitted information on SIS/FIN-NET or submitted Suspicious Activity Reports (SARs) specifically in relation to TCSPs. Most PBSs view their existing powers as sufficient to act against firms and/or sole practitioners providing inappropriate TCSP services. When enforcement action was taken, it was concentrated in two medium-sized and one small accountancy sector PBS. Only one small legal sector PBS, had taken enforcement action. Individual fine amounts were below £7k in all cases with seven cases of individuals in the supervised population subject to reprimands/severe reprimands between 1 April 2019 to 31 March 2022.

Figure 3: No. of enforcement actions taken by PBSs related to TCSP services



3.42 We identified some potentially significant gaps in the data held by some PBSs in relation to enforcement action and SAR activity. For example, some PBSs could not confirm whether their supervised population had been sanctioned or fined specifically in relation to TCSPs. One large accountancy PBS stated this was because data is broken down at firm level not service level. Only three PBSs confirmed that SARs including a reference to TCSPs had been submitted between April 2018 to April 2022 (all were accountancy sector PBSs), two of those PBSs were unable to confirm if the SAR submissions related specifically to TCSP services. We are following this up with the impacted PBSs.

Action on findings

3.43 Whilst we recognise challenges and limitations within systems, if PBSs could evidence what enforcement action or intelligence sharing activity was linked to TCSPs (where relevant), this could help validate risk assessments and build an understanding of trends. Its absence is a potentially significant gap. PBSs holding data to allow them to assess the action taken linked to the services provided by a firm and/or sole practitioner would improve the effectiveness of PBSs in identifying and understanding the risks present within their supervisory population and strengthen their supervisory approach. We are encouraged that this was self-identified as a weakness by some PBSs.

3.44 We continue to engage with PBSs on the depth, quality and the analysis they complete on their data sources via our engagement and assessment program. We expect to see improvements in this area.

9) The depth of data PBSs requested relating to TCSP services from their supervised populations varied.

3.45 We found significant variation in the depth of TCSP-relevant data requested from the PBSs' supervised populations (although this was not a question we asked directly). For example, some PBSs ask for data on the type of TCSP services provided. However, others included more detailed questions to help inform their supervisory approach on, for example, the % of turnover for TCSP services, the number of companies formed, the number of practices that provide TCSP services with a nexus to secretive jurisdictions, how often they act as a registered office and whether they act as nominee directors/shareholders. We welcome those who have taken this more detailed approach but note there is inconsistency across PBSs.

Action on findings

3.46 Improved data on TCSP services provided can support PBSs in understanding and monitoring the TCSP risks within supervised populations. Using a range of methods in addition to annual returns such as thematic work to understand the services provided could be beneficial. More effective PBSs would ensure that they obtain a sufficient level of granularity to understand the services provided to identify and manage the related risk. We recommend that PBSs should have a more standardised core set of data on TCSPs which they may supplement as appropriate to reflect their local risks and circumstances. This will inform their supervisory approach and allow for cross-PBS and cross-sectoral comparisons to be made. Obtaining relevant, accurate and timely data will enable PBSs to track trends and appropriately direct resources more effectively.

3.47 We will task PBSs, encouraging engagement with HMRC and the FCA, to generate and agree a core set of standardised questions on TCSPs to be asked of their supervised population on an annual basis. This should include a breakdown of firm/sole practitioners' SARs and enforcement data where TCSPs are involved. This could inform the PBSs' supervisory approach and could be used, for example, in HMT's annual report or in a future NRA to enable trends, emerging risks and cross-sectoral comparisons to be made.

10) PBS use of Companies House data varied when assessing potential TCSP risks.

3.48 Most PBSs check their supervised population's details through Companies House and some PBSs carried out random spot checks. When checking Companies House, PBS actions ranged from engagement in all aspects of their supervisory approach to single use as part of the assessment process. More effective PBSs may use Companies House to provide proactive alerts e.g., one small legal sector PBS that proactively receives alerts from Companies House for all its supervised members that are incorporated Limited Liability Partnerships and Limited Companies allowing the PBS to react promptly to any suspicious activity.

3.49 Most PBSs conduct discrepancy reporting checks as part of their monitoring processes (discrepancy reporting is important when the information that an obliged entity holds about a beneficial owner is different to the information that is flagged and reported to Companies House). Of those PBSs, most described their role in relation to discrepancy reporting as monitoring their supervised population's responses, and others as educational. In some cases, discrepancies may not be reported by PBSs and instead feedback is given to the relevant firm/sole practitioner with the expectation that the firm/sole practitioner provides the update. Proactively and promptly reporting discrepancies, when identified, to Companies House is important. More effective PBSs will also check further files for discrepancies.

3.50 Some PBSs consider the lack of accessible, up to date Companies House data as a key obstacle in TCSP supervision. We expect PBSs to be conducting their own checks to ensure the accuracy of data held on Companies House. More effective PBSs may conduct spot checks on the client files of their supervised population to assess the accuracy of information.

3.51 PBSs commented on the opportunity to leverage any future enhancements or improvements as part of the Companies House reforms. Some PBSs identified the following improvements that they would like to see:

- Companies House to complete its own verification checks.
- Greater insight from Companies House on the services provided by PBSs' supervised population e.g. volume, impact and risk.

3.52 PBS responses demonstrated that they expect the current Companies House reforms will significantly benefit their approach to TCSP supervision and address some of the points raised above. We want to explore this further so that the benefits of the reforms can be fully realised.

Action on findings

3.53 Effective use of Companies House data may support early identification and mitigation of risk and ensure discrepancies are appropriately identified and reported. We encourage PBSs to proactively identify opportunities to fully leverage the relationship held with Companies House and to play their role in fully realising the potential benefits of the reforms. For example, in proactively assisting Companies House in the investigation of false verification offences under the forthcoming Economic Crime and Corporate Transparency Act.

3.54 We will task PBSs to set out to OPBAS how they propose to use Companies House data post reform to improve their supervision of their supervised population offering TCSP services.

11) Frequency of engagement with HMRC's register appears to vary significantly across individual PBSs.

3.55 Tackling TCSP risk requires a whole system response including PBS engagement with HMRC, which holds the TCSP register. PBS engagement with HMRC varied significantly with updates to the TCSP register submitted on a weekly, quarterly, or bi-annual basis. Under Regulation 54 of MLRs, HMRC must maintain a register of all relevant persons who provide TCSP services that are not already registered with the FCA. Firms and/or sole practitioners that are not on the register are not permitted under Regulation 56 of the MLRs to provide TCSP services.

3.56 Most PBSs support the idea of HMRC's register, as a key data source, being made public or at least accessible to the PBSs who can currently only access it via HMRC uploads or modifications. Benefits included greater transparency, accountability, and accessibility for themselves, their supervised population and for other stakeholders. Concerns around a publicly accessible HMRC register included the use of personal contact details such as addresses where individuals may use their home as an office, and these would need to be appropriately considered.

Action on findings

3.57 It is important that PBSs provide HMRC with accurate and up to date data in a timely manner. Having regular engagement with HMRC, remaining aligned in the approach to TCSP supervision when appropriate, will support a whole-system approach to tackling TCSP risks.

3.58 We have facilitated discussion between the PBSs and HMRC to explore the future accessibility options for the HMRC register.

4 Conclusions and next steps

4.1 Our focus remains supporting a system-wide approach to tackling the abuse and exploitation of TCSPs by criminals. We will continue to engage with PBSs and other key stakeholders beyond the immediate actions identified in this statement.

4.2 We continue to actively review and scrutinise PBSs' approach to TCSP risk. We expect PBSs to have considered the content, and where relevant, to make necessary improvements to address issues identified in our findings. Where we see PBSs failing to meet their obligations, we will act using the full range of regulatory tools available to us.

Annex 1
Assessment of risk indicators by AASG

Table 1: AASG table of higher and lower risk indicators for TCSP services. Where risk indicators between the accountancy sector PBSs and HMRC overlap, they are in maroon text.

TCSP service	Higher risk indicators	Lower risk indicators
Act or arrange for another person to act as a partner (or in a similar position) for other legal persons; Director services or Trustee services	• Service is providing confidentiality to protect identity of actual owner or controlling interests. • No logical reason for accountants' role as director or trustee. • Service is being used as an administrative tool acting until all legal requirements are completed and the company/trust is handed to the client with no ongoing relationship.	• Services are provided to large private companies or public limited companies. • Service is to act as a neutral party to provide separation from interested parties e.g. during merger negotiations. • Service is to act as an 'alternate' or to safeguard sole-director or sole-trustee.
Company formation or trust formation	• Forming the company, or trust, creates or contributes to complex structures which would further cloud the beneficial owner structure. • Company formation is offered as a stand-alone service with no ongoing relationship. • Accountant forms discretionary trusts. • Company formation is provided as volume activity.	• Forming the company for clearly documented reasons, which make commercial sense. • Company, or trust, formed for a client where there is ongoing relationship. • Accountancy firm forms trusts where source of funds is clear, the trust is protecting the vulnerable, where there is a life interest, or where the client is a charity.
Company secretarial services or trust management	• Service is providing confidentiality to protect identity of actual owner or controlling interests. • No logical reason for accountants' role as company secretary or trust manager.	• Acting as company secretary for not-for-profit sector. • Acting as company secretary for public limited companies (PLCs). • Acting as company secretary for large private companies with multiple shareholders/subsidiaries. • Providing trust management services for trusts where the trust is protecting the vulnerable, where there is a life interest, or where the client is a charity.

TCSP service	Higher risk indicators	Lower risk indicators
Provide a registered office address (also virtual office provision) (to either a corporate or a trust)	• Provided as a standalone service, with no ongoing relationship, or in conjunction with only TCSP services. • **Regular forwarding of large volumes of mail.** • **Disproportionate number of businesses using firm's address as registered office.** • Client using firm's offices to create an air of legitimacy.	• Provided with other accountancy services and on an ongoing basis. • **Regular contact with client(s) and collection of mail by clients.** • **Sole contact address for the client.** • Client is sole-trader operating from their own home – seeking privacy for home address.
Shareholder services (act or provider for someone to act as a nominee shareholder)	• **Providing a degree of confidentiality to the actual owner or controlling interest of the company.** • Acting in contravention of relevant ethical codes or standards. • Used as an administrative tool acting until all legal requirements are completed and the company is handed to the customer with no ongoing relationship.	

Table 2: AASG list of aggravating and mitigating factors when assessing TCSP risk

Aggravating factors	Mitigating factors
• Lack of sector knowledge demonstrated by the firm. • Firm's risk assessment policies and procedure are weak. • PEPs. • High Net Worth Individuals.	• Strong CDD – both for Beneficial Ownership and ongoing monitoring. • UK based clients.

Annex 2
AASG approach to TCSP supply chain risk

Instead of a definition for supply chain risk, AASG provided two scenarios of risk and mitigation:

a. **Risk:** Accountant accepts a client where the body corporate is formed by a formation agent, which has not performed the appropriate customer due diligence.

   Mitigation: Accountant will perform own customer due diligence checks on the client and will verify any information relating to beneficial ownership, or where the assessed risk is high. Supervisory Bodies, through their monitoring activity, will check whether firms in their supervised population are compliant with MLRs.

b. **Risk:** Accountant forms a company for a client, which is high-risk, but doesn't perform appropriate checks.

   Mitigation: Accountant will perform customer due diligence checks on the client. Supervisory Bodies, through their monitoring activity, will check whether firms in their supervised population are compliant with MLRs.

Pub ref: 008011

FINANCIAL
CONDUCT
AUTHORITY

12 Endeavour Square London E20 1JN
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk