



RECOVERING THE COSTS OF OPBAS: PROPOSED FEE RATES

Issued 10 April 2019

ICAEW welcomes the opportunity to comment on the consultation document *CP19/13 Recovering the costs of the Office for Professional Body Anti-money-laundering Supervision (OPBAS): further consultation on fees structure* published by the Financial Conduct Authority on 14 March 2019, a copy of which is available from this [link](#).

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ICAEW is a Supervisory Authority under The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, supervising approximately 11,000 firms.

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RESPONSES TO SPECIFIC QUESTIONS:

Q1: Do you agree that we should remove the minimum fee structure and charge all professional body supervisors (PBSs) a flat rate of £20.59 per supervised individual, subject to a minimum charge of £5,000? Please support your view with evidence demonstrating the impact on the viability of PBSs and on the individuals they supervise.

1. Yes, we agree. We set out our key arguments and support for this in our response to CP18/32 (appendix A).
2. We don't believe that this method should affect the viability of PBSs. PBSs should be able to recoup OPBAS fees from members via levies. ICAEW charges each of its UK PC holders (the equivalent of supervised individual) a levy to fund OPBAS. If OPBAS charges all PBSs the same flat rate per supervised individual, and each PBS passes this cost on to the supervised individuals, this should remove any competition issues between members of different professional bodies resulting from inequitable charges.
3. We would also observe that, while larger PBSs (and the larger firms they supervise) should quite correctly expect to pay considerably more towards the OPBAS's operating costs, even with this flat-rate allocation approach, the resulting charges to the largest PBSs are still disproportionately high.

Other comments

4. We note that you propose to consult on the 2019/20 rate in July or August 2019 and you intend to issue invoices in December 2019 or January 2020. Firstly, we ask you to remember that PBSs work on a prospective basis and will need a number of years to change their fee models and build up a fund to facilitate payment. To support the PBSs, can you please give an urgent indication of the 2019/20 budget? We would also like to remind you that ICAEW sets its fees in late summer and collects them from late autumn onwards and so request that you consult as soon as possible so that we can plan our collection of the OPBAS levy accordingly. We will need to discuss the timing of payments for 2019/20.
5. We also ask you to consult on the budget well ahead of the 2020/21 financial year. We need to know the financial targets as soon as possible to incorporate them into our own fee-setting timetable.



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Issued 14 December 2018

ICAEW welcomes the opportunity to comment on the consultation document *CP18/32 Recovering the costs of the Office for Professional Body Anti-money-laundering Supervision (OPBAS)*: proposed fee rates for 2018/19 published by the Financial Conduct Authority on 18 October 2018 (and updated 25 October 2018), a copy of which is available from this [link](#).

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RESPONSES TO SPECIFIC QUESTIONS:**Q1: Do you have any comments on our proposed variable fee of £41.03¹ per supervised individual?**

1. As we set out in our response to CP17/35, the current proposal unfairly disadvantages the largest professional body supervisors (PBSs) and therefore their members and their members' clients.
2. The rationale for using 'supervised individuals' is so that smaller professional bodies should not pay a disproportionate fee compared with their 'market share'. It is counter-intuitive to then cap the charge for smaller professional bodies so it is not calculated by reference to their true 'market share' and becomes a 'maximum' rather than a 'minimum' fee.
3. The professional body supervisors (PBSs) have shared the number of 'supervised individuals' they declared to OPBAS. Under the current basis, the threshold of 6,000 supervised individuals causes a significant disparity, and fundamental unfairness, in the fee allocation. A PBS with, say, 20 supervised individuals would pay £250 per supervised individual; one with 6,000 supervised individuals would pay 83p per supervised individual; and one with 25,000 supervised individuals would pay £31.38 per supervised individual. The proposed approach increasingly favours PBSs with numbers of supervised individuals approaching 6,000.
4. The consultation paper doesn't include a specific question on the fixed fee and threshold, which we think is intrinsic to the proposed variable fee of £41.03. And while we support the concept of a minimum fee for PBSs with very low numbers of supervised individuals – to reflect a minimum level of supervision that OPBAS will apply, irrespective of the size of the PBS - we disagree with setting an arbitrary threshold of 6,000 supervised individuals as this gives rise to an unacceptable disparity across the PBSs. Against all logic and without justification, several PBSs that should be contributing a greater share, based on the numbers of their supervised individuals, are benefiting from what is actually a 'maximum fee' of £5,000.
5. We are particularly concerned that OPBAS hasn't reconsidered the appropriate threshold for supervised individuals to reflect the significant changes in the total number across all PBSs since the publication of PS18/9. OPBAS should reconsider the threshold to achieve a fair and proportionate allocation of fees.
6. We would strongly urge the FCA to amend its approach by reducing the threshold for the minimum fee to PBSs with up to 250 supervised individuals. The variable fee per supervised individual should then be charged evenly across all PBSs for every supervised individual in excess of 250. We have set out our calculations at appendix A accordingly which shows that using a threshold of 250 would result in a more consistent fee of around £20-£21 per supervised individual for 18 of the 22 PBSs.
7. Nonetheless, as noted in previous consultation responses, we still believe a budget of £1.65million is excessive for oversight of 22 supervisors and allocating the costs against professionals, via their supervisors - while non-professionals make no contribution - has already established an unfair disadvantage for members of PBSs which is anti-competitive and ignores the higher risk posed by those providing regulated services without any professional standards or monitoring. The FCA's arbitrary and unjustifiable choice of a threshold of 6,000, further exacerbates this problem.

Q2: Do you agree that for fees purposes professional body supervisors should report the most recent count of supervised individuals in the 12 months ending 5 April each year and submit the figure to us by 31 October of the year preceding the relevant fee-year?

8. We agree that this is a fair and pragmatic approach.

¹ Original rate amended by FCA on 25 October 2018 at: <https://www.fca.org.uk/publications/consultation-papers/cp19-13-recovering-costs-office-professional-body-anti-money-laundering-supervision-opbas>

APPENDIX A

The following table illustrates how OPBAS could recover its costs from each of the PBSs if the fixed fee of £5,000 was for a threshold of 250 supervised individuals.

Professional Body	Supervised individuals	£ total	£ per head
Association of Accounting Technicians	4,100	82,655	£20.16
Association of Chartered Certified Accountants	8,803	177,514	£20.17
Association of International Accountants	366	7,340	£20.05
Chartered Institute of Legal Executives/ CILEX Regulation	19	5,000	£263.16
Chartered Institute of Management Accountants	2,000	40,298	£20.15
Council for Licensed Conveyancers	494	9,921	£20.08
Faculty of Advocates	431	8,651	£20.07
Faculty Office of the Archbishop of Canterbury	212	5,000	£23.58
General Council of the Bar of Northern Ireland	1	5,000	£5,000.00
Insolvency Practitioners Association	166	5,000	£30.12
Institute of Certified Bookkeepers	3,377	68,072	£20.16
Institute of Chartered Accountants in England and Wales	20,959	422,701	£20.17
Institute of Chartered Accountants in Ireland	798	16,053	£20.12
Institute of Financial Accountants	2,561	51,613	£20.15
International Association of Bookkeepers	763	15,347	£20.11
Law Society / Solicitors Regulation Authority	25,771	519,759	£20.17
Law Society of Northern Ireland	1,075	21,640	£20.13
Law Society of Scotland	2,583	52,057	£20.15
	74,479	£1,513,619	
Four undisclosed PBSs	6,737	£136,381	£20.24
TOTAL	81,216	£1,650,000	

On this basis, 18 of the 22 PBSs would pay between £20 and £21 per supervised individual, significantly reducing the volatility in the fee allocation.