By email only

LEGAL SERVICES BOARD

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Dear colleague

IMPLEMENTATION OF THE FINANCIAL SANCTIONS REGIME IN THE LEGAL SERVICES SECTOR: *FEES FOR THE PROVISION OF LEGAL SERVICES AND ASSOCIATED LICENSING ARRANGEMENTS*

Thank you for your contribution at the roundtable held on Friday 1 April 2022. I am very grateful for the further constructive discussions we had concerning how we as a regulatory community should support the financial sanctions regime as it applies to legal services.

As promised, I am writing to set out our view of the central expectations of all regulators. This view is informed by the discussions we have all been having over the last few weeks.

Remit

Our starting point is that all legal services regulators have a role in ensuring that the sector does not act as an enabler when it comes to financial crime, sanctions or similar. We consider that the regulatory objectives set out in the Legal Services Act 2007 together provide a compelling mandate in this area. In particular, the objectives relating to supporting the rule of law, ensuring a strong, diverse, independent and effective sector, and upholding the professional principles work together to set a clear remit.

As you know, we have also suggested to Government that it might be helpful to put the remit beyond doubt for third parties; in the meantime, the Act provides sufficient cover as it stands.

Understanding

All regulators should have a good understanding of the financial sanctions regime and in particular the elements that apply specifically to legal services. As we discussed at the last roundtable, there are some common misconceptions of the regime that regulators will want to address. Among them is a perception that work on AML might automatically provide cover in relation to sanctions. In fact, the sanctions and AML regimes are distinct, both are important, and the distinction will need to be better reflected in regulators' approaches. A further misconception seems to be that the regime can be clearly connected to a particular country. The sanctions regime has a UK nexus and again regulators will need to reflect that in their approaches.

Risk assessment

We expect regulators to exercise diligence, analysis and enquiry in forming a view of risk/exposure in their parts of the sector. As above, it is unlikely to be enough to focus on the absence of clients with Russian business addresses; nor will it be enough to rely on AML risk assessments. It will also be necessary to keep risk assessments under review as circumstances change.

Regulators, as the experts in their parts of the sector, will no doubt wish to analyse the range of transactions carried out by professionals and firms within their footprint and establish the risks involved. There is likely to be a wide range of activity potentially carried out on behalf of sanctioned entities, often relating to the transfer of assets but also including advice on the sanctions regime and how it is applied.

We would also expect regulators to work with other authorities (including OFSI) to understand emerging themes and typologies and how they might play out in different settings.

Raising and testing awareness

The legal services regulators play a key role in raising awareness among their regulated communities as to the various obligations that apply to them. Codes of conduct, handbooks and similar should make clear the expectation that legal professionals and firms should uphold the law and comply with all obligations placed upon them.

In the specific example of the sanctions regime, where we have reason to believe that awareness may be generally low, we would expect regulators to ensure that clear and specific messaging is displayed in a prominent place on your websites on how the financial regime applies to legal services, and in particular the requirement to apply for a licence where payment is sought for legal services from a designated person or entity subject to financial sanctions in the UK.

It is unlikely to be fully effective simply to link through to OFSI guidance, as the legal services specific elements of the regime are part of a much broader set of requirements. In addition, regulators will wish to ensure that messaging on the sanctions regime is not drowned out by (also important but distinct) messaging on AML.

Regulators that are likely to have the greatest exposure will no doubt wish to test the effectiveness of their messaging using surveys or other tools.

Compliance, enforcement etc

While we recognise that the primary responsibility for the sanctions regime rests with OFSI, we expect legal services regulators to take active steps in support. Non-compliance with the sanctions regime is likely to impact on compliance with the legal services regulatory regime, and ought to attract appropriate consequences for authorised persons and/or firms.

I hope this is helpful as a starting point. We appreciate that many of you will have views on what we have set out. I would be grateful to receive those views over the next two weeks (**by [DATE]**) to help us refine our understanding and expectations. We will be in touch after that to arrange a date for the next round table.

On a related matter, I enclose a copy of the LSB's response to the DPM's recent letter on this topic.

I am copying this letter to all legal services regulatory bodies and to MoJ, OFSI and OPBAS. We will also make the correspondence available to Approved Regulators where applicable.

Yours sincerely

Matthew Hill
Chief Executive