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Dear Paul and Paul,

Anti-money laundering supervision

The SRA has asked our view as to whether the function of being a supervisor under the anti-money laundering (AML) regulations is a regulatory function. We set out our view in this letter, which we intend to publish. [DR1]

We have concluded that it is a regulatory function to undertake those elements of the AML supervisor role that deliver compliance with the requirements of the anti-money laundering (AML) regulations. As a consequence, some elements of the supervisor role will not amount to the performance of regulatory functions.

In forming our view we have taken into account the structures and functions that Office for Professional Body Anti-Money Laundering Supervision (OPBAS) expects AML supervisory bodies to have in place and deliver, based on the proposals in the draft Sourcebook for professional AML supervisors.

The key points that were considered were:

- OPBAS expects AML supervisors to keep the advocacy function it performs (that promote the interests of members) functionally separate from the inspection and investigation functions
- AML supervisors are expected to develop a risk based means to identify which members or clusters of members are at greatest risk of being used by criminals to launder the proceeds of crime
- Supervision activity includes
 - "gatekeeper role" – does a member meet the ongoing requirements for participation in the profession
 - Supervision through a range of tools

- Meeting senior management
 - Questionnaires
 - Information requests – periodic and adhoc
 - Provision of guidance and other communications
- Supervisors should have sufficient information gathering and investigative powers
 - Enforcement action should be effective and proportionate, removing the benefit from non-compliance and deterring future non-compliance

As can be seen from the above list there is strong correlation between the expectations of OFBAS of AML supervisory bodies and what the regulatory bodies for legal service deliver. Although it would be possible for a professional body to set up a separate regime for AML supervision (so meeting the separation requirements of OFBAS), it is likely to be more cost effective for these activities to be delegated to the existing regulatory bodies.

We have also specifically considered the question of whether the Anti-money Laundering Guidance for the Legal Sector produced by the Legal Sector Affinity Group (and which is to be approved by HM Treasury) falls within the definition of regulatory arrangements and concluded that it does not.

Section 1.5 of the draft Guidance states that legal professionals are not required to follow the guidance. While it will no doubt be of value to the SRA in delivering its regulatory role, since compliance with the Guidance is not compulsory, our view is that it is not a regulatory arrangement within the Legal Services Act 2007.

As noted above, we plan to publish this letter on our website so that the other approved regulators are aware of our position.

Yours sincerely



Neil Buckley
Chief Executive

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Cc: Enid Rowlands, Chair of the Solicitors Regulation Authority