Meeting: Legal Services Board

Date: 30 April 2024[1]

Item: Paper (24) 23

Title: Update on Economic Crime Regulatory Objective Project

Author(s): Suganya Suriyakumaran, Regulatory Policy Manager

Status: Official

Purpose of the paper

This paper provides an update on the Economic Crime Regulatory Objective Project and proposed next steps.

Recommendation(s)

1. The board is invited to:

    a. Discuss the LSB's proposed approach to developing expectations for regulators with respect to the new regulatory objective on economic crime that came into effect in March 2024.

    b. Agree that we should develop draft guidance outlining expectations of regulators in relation to the new regulatory objective on economic crime, ahead of a public consultation in Summer/Autumn 2024.

Background

2. *The Economic Crime and Corporate Transparency Act (*the ECCTA), which was passed on 26 October 2023, introduces a new economic crime-related regulatory objective under the *Legal Services Act 2007*, which requires the LSB, and the regulators we oversee, to promote the prevention and detection of economic crime.

3. The new regulatory objective puts beyond doubt that:

    a. regulators have a duty to prevent their regulated communities from facilitating economic crime; and,

    b. the LSB should be monitoring regulators' compliance with this duty.

[1] Circulated 23 April 2024

Project Update

4. The LSB has been conducting research and engaging with stakeholders to identify how best to ensure regulators respond appropriately to the new regulatory objective, as alluded to during debates surrounding the bill in parliament.

5. Our initial evidence gathering has focused on attaining clarity from regulators on what actions or planned activities they have put in place with respect to the implementation of the new regulatory objective.

6. Evidence from our engagement and research thus far indicates that regulators have taken steps to promote, and ensure compliance with, the new regulatory objective, but may benefit from further clarification on how this can best be achieved.

7. In their written responses to the LSB, regulators reported that they were supportive or were neutral on the introduction of the new economic crime objective and noted their support for working collaboratively to appropriately implement the new objective.

8. On the actions they have taken to date, regulators set out:

   a. Their intended or ongoing actions related to preventing the facilitation of money laundering within their regulated communities. While many regulators focused on work that was being undertaken as part of the Anti-money Laundering and Counter-terrorism Financing (AML/CTF) supervisory system, it is worth noting that the two regulators (IPReg and CLSB) not covered under the AML/ CTF regime nonetheless identified previous actions aimed at ensuring their regulated communities appropriately manage risks related to money laundering;

   b. Their actions to help ensure compliance with the economic sanctions regime amongst their regulated communities, which has changed considerably since March 2022; and,

   c. In a few instances, their activities related to fraud prevention or the acknowledgement that the new objective meant addressing economic crime more broadly.

9. Regulators' responses make it evident that they are all taking at least some action to detect and prevent the facilitation of economic crime amongst their regulated communities, however there are differences in the level of proactivity and breadth of approaches.

10. To support both the LSB and regulators to fulfil their obligations, we, in collaboration with regulators and other relevant stakeholders, intend to develop guidance on how regulators are expected to demonstrate they are acting in accordance with the new regulatory objective. This will also be informed by any additional evidence that may arise.

11. We have proposed guidance as the appropriate vehicle because it will allow for appropriate consistency of approach and monitoring across the regulators while also empowering regulators to take risk-based approaches that best meet the anticipated challenges within their respective regulated communities. In alignment with the principle of proportionality and the principles of better regulation, our view is that the introduction of a policy statement is not the appropriate response at this stage given that the evidence suggests that regulators are already taking action to fulfil their obligations.

Next steps

12. As we develop draft guidance, we will continue engaging with regulators and third sector organizations (i.e. Transparency International, Spotlight on Corruption, etc.), including by hosting a roundtable to discuss key areas of risks and concerns, in early Summer 2024.

13. We expect to consult on the guidance outlining expectations of regulators in Summer/Autumn 2024. We will also continue to engage with AML supervisory stakeholders, in order to ensure our activity is taken forward with an understanding of any wider developments. This includes remaining engaged on any developments arising from HM Treasury's AML/CTF Supervisory System Reform proposals, which were published in June 2023.

Risks and mitigations	
Financial:	N/A
Legal:	The LSB will work with legal colleagues to ensure that the developed guidance is in alignment with the LSA and the LSB's remit.
Communications and engagement:	We will continue to engage with relevant stakeholders to inform the development of guidance on the new regulatory objective. Once developed, we will also publish the draft guidance for consultation, so that stakeholders have the opportunity to comment before it is finalized.
Equality and diversity:	We will apply an equality lens to any guidance developed to help ensure that there are no equality implication arising from any new duties/ expectations that result from the guidance.
Resource:	N/A (no additional resource anticipated)
Environmental:	N/A

Freedom of Information Act 2000 (FoI)		
Para ref	**FoI exemption and summary**	**Expires**
None	N/A	N/A