

**Memorandum of Understanding (Process)
Between
HMRC (Anti-Money Laundering Supervision) and
The Bar Standards Board (BSB)**

**Information sharing and co-operation in relation to the
Register of Trust or Company Service Providers (TCSPs)**

The reference number of the related Umbrella MoU is: MoU-U-IR

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1. Introduction and Purpose of Memorandum of Understanding

- The parties to this MOU are HMRC and the Bar Standards Board.
- Regulation 56 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) requires that all relevant persons acting as Trust or Company Service Providers (TCSPs) must be registered with either HM Revenue and Customs (HMRC) or the Financial Conduct Authority (FCA).
- This Memorandum of Understanding (MOU) is to set out agreed ground rules for cooperation between HMRC and the BSB to ensure compliance with the law regarding registration of TCSPs and associated procedures, including safeguards for disclosure of information from the BSB to HMRC and - where permitted - onward disclosure.
- The relevant information received will allow HMRC to fulfil a legal requirement and a function under MLR 2017 to maintain a register of relevant persons acting as TCSPs that are not supervised by the FCA, in the UK. It will also fulfil the legal requirement for relevant persons acting as TCSPs to register with a registering authority set out in Regulation 56 of the MLR.
- The agreement also sets out what HMRC will do with the relevant information and how it intends to process under the Regulations set out below.
- Under the terms of this MOU, the BSB will provide to HMRC the relevant information identified in Appendix 1 of those relevant persons it supervises that act as TCSPs and which are not registered with the FCA.

2. Legal Basis

- Reg 54 (2) (MLR 2017) mandates that the Commissioners must maintain a register of those relevant persons who are not included in the register maintained by the FCA. TCSPs are relevant persons.
- Reg 58 also mandates that HMRC must refuse to register an applicant for registration in a register that they maintain under Reg 54 as a TCSP if it is satisfied that the applicant, a beneficial owner, officer or manager (BOOM) of the applicant is not a fit and proper person to carry on that business.
- Reg 58(6) requires HMRC, as the registering authority (when it is not also the supervisory authority), to consult the supervisory authority (in this case the BSB) as to whether or not the applicant for registration is a fit and proper person. It also permits HMRC to rely on the supervisory authority's opinion as to whether or not the applicant is a fit and proper person to carry on business as a TCSP.
- Reg 52 (MLR 2017) permits the BSB to share with HMRC information it holds relevant to its supervisory functions for the effective exercise of HMRC's functions under MLR 2017.
- Reg 52 therefore provides a legal gateway for the BSB to share information it holds relevant to its supervisory functions in relation to TCSPs with HMRC so that HMRC can carry out its function under Reg 54(2) to maintain a register for TCSPs that are not registered with the FCA.
- Reg 52(2)(a) of MLR 2017 permits onward disclosure of information received by HMRC under Reg 52 for the effective exercise of the functions of a law enforcement authority. It also permits onward disclosure in specific circumstances as set out in Reg 52(2)(a) to (e).

- Reg 56 prohibits a relevant person from acting as a TCSP if not included in the appropriate register maintained by HMRC or the FCA.

3. Procedure

3.1 General

- HMRC will maintain the register of TCSPs using a Shared Workspace. This is a secure environment that allows access only to those assigned to a “room” within it.
- The BSB will provide for registration purposes details of the TCSPs it supervises through a Shared Workspace room hosted by HMRC.
- The BSB will provide HMRC with the details of a contact within BSB with responsibility for liaising with HMRC on the upload of information in to the Shared Workspace.
- The BSB will inform HMRC if this contact changes and provide a new contact for HMRC to liaise with as required.
- HMRC will provide the BSB with information and guidance on using the Shared Workspace.

3.2 Relevant information

- The relevant information that will be shared with HMRC Anti-Money Laundering Supervision is set out in Appendix 1 below.
- The BSB agrees to share the relevant information with HMRC.
- The BSB will only include in the list that is shared with HMRC details of applicants and persons it deems to be “fit and proper” as set out in Regulation 58 of the Regulations. HMRC will rely on the BSB’s opinion that applicable individuals in accordance with MLR 2017 within the business of each relevant person is fit and proper as allowed for by Regulation 58 (6).
- All mandatory fields in the register (see Appendix 1) must be completed or the relevant person will not be registered.

3.3 Frequency

- Uploading of data will commence when the BSB is ready, and in any case by 26 June 2018.
- The BSB will decide how often it updates the applicant information in the Shared Workspace, and will be responsible for ensuring that all relevant persons it supervises under the MLR 2017 that act as TCSPs are on the register. Applicants whose details have not been added to the Shared Workspace by 26 June 2018 will need to wait and not act as a TCSP until registered.
- The BSB will remove the details of relevant persons it knows will no longer be acting as TCSPs without undue delay. This includes all relevant persons that cease to be supervised for under the MLR by the BSB.
- The BSB will correct inaccurate information in the Shared Workspace without undue delay on notice of any change or correction. This includes changes to the details of relevant persons and errors.
- If the BSB finds that it no longer deems a relevant person listed in the Shared Workspace to be fit and proper, it will immediately inform HMRC, in addition to taking necessary actions as set out elsewhere in this MOU.
- The BSB will observe a duty of care to ensure that the information in the Shared Workspace is accurate and in line with the provisions set out in this MOU.

- HMRC will hold the register information for the duration of a relevant person's registration as a TCSP, then for a further five years, in accordance with HMRC's data retention policy.

3.4 Transfer of Data

- The BSB will transfer the data to the Shared Workspace room set up by HMRC.
- The BSB will decide how to initially populate the Shared Workspace, which can be done manually or by a bulk upload.
- The BSB will be responsible for ensuring the information on the register is accurate and up-to-date.
- The BSB will decide its own approach to keeping the register information for its supervised relevant persons up-to-date as regards contact with them.
- HMRC will receive the data in the Shared Workspace room, which will in turn be uploaded to a database including the data from all supervisors of TCSPs except for the FCA. All references and requirements in this MOU apply equally to this database.
- Relevant persons are registered with HMRC once all the data fields have been completed and PBS has confirmed fit and proper status.
- HMRC will not respond to the BSB when a relevant person is registered or when changes are made to the data unless it does not approve the registration. If HMRC does not approve the registration of a relevant person, it will inform the BSB, which will arrange for the applicant business to be informed within 45 calendar days of receipt of notification by HMRC. In other cases, the BSB will confirm that the details have been provided to HMRC within 45 calendar days of registering the relevant person.

3.5 Security and access

- The information supplied will be held in a Shared Workspace and then uploaded along with registration details from other supervisors to one of HMRC's internal databases.
- The data provided by the BSB for the purposes of the register will be made available to HMRC systems to the extent permitted under MLR 2017 and applicable law.
- The Shared Workspace is a secure environment so the BSB does not need to encrypt the data before transferring it.
- It is HMRC's responsibility to ensure information on the register is held securely. If there is an issue with the Shared Workspace, it will be HMRC's responsibility to fix this.
- HMRC intends to make the register accessible to Law Enforcement Agencies on request to the extent permitted by the regulations and this may involve direct access.
- Section 17 of the Commissioners for Revenue and Customs Act 2005 permits HMRC to make a disclosure of information held by HMRC in connection with one function of HMRC for the purposes of another function of HMRC.
- Details from the register may be used by HMRC to inform their response to requests from other UK or overseas supervisors or other authorities seeking to identify the supervisor of one or more persons to the extent permitted under MLRs 2017
- Details from the register may be used by HMRC to inform their response to requests from other agencies and government departments to the extent permitted by the regulations and applicable law.
- HMRC will consult with the BSB prior to entering in to formal arrangements with agencies and government departments for information exchange or data requests.

6. Freedom of Information (FOI) Act 2000

HMRC is subject to the requirements of the Freedom of Information Act 2000 (FOI). The BSB will assist and co-operate with HMRC to facilitate compliance with information disclosure obligations.

In the event of the BSB receiving a request for disclosure of information which it believes to be proper to HMRC, the BSB will forward the request to HMRC promptly and assist where appropriate in preparing a response after informing the requester.

7. Costs/charges

HMRC will not charge the BSB to register the businesses supervised by the BSB.

This MoU will require review in the event of a change to this policy.

8. Reporting and review arrangements

HMRC and the BSB will review this MoU at the request of either party or every five years. In the event of organisational changes, name changes, machinery of government changes affecting HMRC or mergers or acquisitions affecting the BSB, it will be assumed that this MOU continues to apply unless or until a review is considered necessary by either party.

9. Resolving issues

Any complaints, problems, issues etc. that are specific to the information sharing or exchanges covered by this MoU should immediately be referred to the contacts named in Appendix 2. If these cannot be resolved they should be reported, in writing to:

	For HMRC	For the BSB
Name	John Linnett	Dr Vanessa Davies
Job Title	Data Exchange Champion	Director General
Team	CSIR	The Bar Standards Board
GSI Email	john.linnett@hmrc.gsi.gov.uk	BSBDirector@BarStandardsBoard.org.uk

10. Signatories

delegate to sign on their behalf e.g. the SIBP team.

For HMRC

(name)
DOUGLAS STONEHAM

ASSISTANT DIRECTOR AMLS(role)
POLICY & STRATEGY

4/7/18(date)

For BSB

(name)
Dr Vanessa Davies

Director General(role)

22. 6. 18(date)

11. Document Control Personnel

Key personnel	Name & role	Organisation (Team)
Author	David Haggren, Senior Policy Advisor	HMRC (Anti-Money Laundering Supervision)
Approvers	Helen Noonan Senior Policy Advisor	HMRC (Anti-Money Laundering Supervision)
	Anna Rowlands AMLS Policy Team Leader	HMRC (Anti-Money Laundering Supervision)
	Julia Witting Head of Supervision	Supervision, Regulatory Assurance Department, The Bar Standards Board

12. Version History

Version	Date	Summary of changes	Changes marked
0.1	16/01/2018	Draft for professional bodies	No
0.2	23/02/2018	Final draft for signature	No
2.6.4	21/06/2018	Updated for GDPR	No

13. Review dates

Version	Publication date	Review date

14. Glossary of Terms and Abbreviations

Definition	Interpretation
Data Controller	has the meaning set out in section 1 of the Data Protection Act 2018, i.e. 'a [natural or legal] person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed'
Data Processor	has the meaning set out in section 1 of the Data Protection Act 2018, i.e. 'in relation to personal data, any [natural or legal] person who processes the data on behalf of the data controller'
Data Protection Legislation	means the Data Protection Act 2018, the EU Data Protection Regulation (EU) 2016/679, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner
Direct Access	Covers an information sharing instance where the receiving Department accesses the Information via direct, or browser, access to the source system rather than as an extracted information transfer. This agreement will require specific terms and conditions ensuring that access is appropriate and correctly applied, managed and recorded.
FoIA	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act together with any guidance and/or codes of practice issued by the Information Commissioner or Ministry of Justice in relation to such legislation.
Granting Access	The governance and authority surrounding the authorisation of a person to have access to a system.
Information Asset Owner (IAO)	means the individual within a directorate, normally the Director, responsible for ensuring that information is handled and managed appropriately
Law	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body
Provisioning Access	The technical channels through which access is made possible, including the request tools associated with this.

Abbreviation	Description
CRCA	The Commissioners for Revenue and Customs Act
MoU	Memorandum of Understanding

FOIA	Freedom of Information Act
FOI	Freedom of Information
GDPR	General Data Protection Regulation
HMRC	Her Majesty's Revenue and Customs
MLR	Money Laundering Regulations
SPF	Security Policy Framework

15. Appendix 1 – Relevant information

The data fields the BSB will share with HMRC are:

- Name of the BSB entity or self-employed barrister acting as a TCSP
- Registered address of the BSB entity or practising address where they can be contacted.
- Confirmation that the relevant persons in the supervised business or the self-employed barrister are fit and proper with regard to Regulation 58.

16. Appendix 2. Contact details

	For HMRC	For the BSB
Name	David Hageen	Julia Witting
Job Title	Senior Policy Advisor	Head of Supervision
Team	Anti-Money Laundering Supervision	Supervision
GSI email	david.hageen@hmrc.gsi.gov.uk	jwitting@barstandardsboard.org.uk aml@barstandardsboard.org.uk
Telephone	03000 535 696	020 7611 1468
Deputy's name	Helen Noonan	Sarmad Majid
Deputy's GSI email	helen.noonan@hmrc.gsi.gov.uk	smajid@barstandardsboard.org.uk aml@barstandardsboard.org.uk
Deputy's telephone	03000 585 835	020 7611 1437

