

### **Proposed Schedule 4 (12) Proportionality of Breach Reporting**

**Purpose of this note:** this is intended to make you aware of the requirement to report breaches under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended) (“the regulations”) and sets out the circumstances in which breaches must be reported.

Schedule 4 (12) of the regulations state that supervisors must collect information regarding “*the number of contraventions of these Regulations committed by supervised persons*”.

Legal sector AML supervisors collect this information for the purposes of reviewing and assessing breaches of the regulations building up an intelligence picture to enhance our risk-based approach to supervision.

Legal practices within scope of the regulations must therefore report such contraventions (or “breaches”) to their supervisor. The regulations do not however set out a *de-minimus* limit in terms of the types of breaches to be reported. We wish to receive information that is useful to us, either for building up an intelligence picture or because it may be a serious breach that we need to assess, and potentially investigate. We recognise the need to balance these requirements with the possible burden that reporting places on the regulated population. In line with a risk-based approach, this note will help you decide what information should report.

**You must report breaches of the regulations to your CILEx Regulation, where you have not complied with the requirements of the regulations and where the result of a breach has been serious.**

Non-exhaustive examples of serious breaches include:

- Intentional or wilfully negligent breaches of legal requirements in relation to applicable anti-money laundering legislation or regulation
- Repeated unintentional or repeated accidental breaches of legal requirements in relation to applicable anti-money laundering legislation or regulation
- Systemic breaches associated with a failure of AML-related policies, controls or procedures
- The facilitation of business activities which bear the hallmarks of money laundering activity (*this does not replace the legal requirement to file a SAR where appropriate*)

You must also report breaches of related legislation for which AML supervisors don’t have a direct regulatory responsibility but is still relevant to your ability to prevent financial crime (for example breaches of Financial Sanctions legislation).

You do not need to report one-off or non-systematic breaches of the regulations which are limited in scope and impact.

You should contact CILEx Regulation for details on how to report breaches and are advised to document your rationale for reporting decisions made.

Responsibility for the management of AML risk and ensuring regulatory compliance at all times remains with the supervised entity, including the duty to report such breaches as indicated above. If you are unsure over whether to report a breach, contact CILEx Regulation to discuss.