



Economic Crime Levy Consultation Response Document

Responding to the consultation

The government recognises that the economic crime levy is novel, both in approach and motivation, and is therefore committed to working with stakeholders to ensure it operates as intended.

The government would welcome comments on this consultation by 13 October 2020. However, we would encourage responses before this date where possible.

Responses can be sent by email to: ECLevyconsultation@hmtreasury.gov.uk

As the team is currently working from home due to the Covid-19 pandemic, we would request – where possible – responses are sent electronically. However, if needed, responses can be sent by post to:

EC Levy Consultation
Sanctions & Illicit Finance Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

For the full consultation disclosure notice please refer to Chapter 8 of the consultation document itself.

Basic Information

About you	
What is your name?	David Potts
What is your email address?	david.potts@aiaworldwide.com
If applicable, what is the name of your organisation?	Association of International Accountants
What size is your organisation for the purpose of the Companies Act 2006? (see: definitions)	<input type="checkbox"/> Large <input type="checkbox"/> Medium <input checked="" type="checkbox"/> Small <input type="checkbox"/> Micro <input type="checkbox"/> N/A
If applicable, what type of AML-regulated business is your organisation? (see: MLR definitions)	<input type="checkbox"/> credit institution; <input type="checkbox"/> financial institution; <input type="checkbox"/> auditor, insolvency practitioner, external accountant and tax adviser; <input type="checkbox"/> independent legal professional; <input type="checkbox"/> trust or company service provider; <input type="checkbox"/> estate agents and letting agent; <input type="checkbox"/> high value dealer; <input type="checkbox"/> casino;



	<input type="checkbox"/> art market participant; <input type="checkbox"/> cryptoasset exchange provider; <input type="checkbox"/> custodian wallet provider
If your organisation is not an AML-regulated business, in what capacity is it responding to this consultation? (for example: as a civil society organisation, other type of business etc) _	Professional body supervisor under Schedule 1 MLR 2017.
If applicable, who is your AML-supervisor?	Click or tap here to enter text.
For the purposes of the call for evidence on the fraud response, to what sector(s) does your organisation most closely belong?	Click or tap here to enter text.
Would you like your response to be confidential and, if so, why?	No

Consultation Responses

Levy Principles

Question 1: Do you agree with the design principles as set out above? Should the government consider any further criteria?

AIA agrees with the broad principles set out regarding the operation of any levy within the guidance and principles set out in Managing Public Money.

Spending the levy funds

Question 2: What do you believe the levy should fund? Are there any other activities the levy should fund in its first five years?

AIA broadly supports the measures set out within the consultation to fund the prevention and detection of economic crime. However, it would be useful to note that AML activity is most effective as a public-private partnership and in particular with regard to ‘awareness raising campaigns’ the channel through which this is most effective for the regulated sector is directly through supervisory bodies. The government should consider allocating funding to strengthen AML supervision within the regulated sector and provide access to services which supervisory bodies are currently obliged to fund (such as the Shared Intelligence Service) or other supervisory activity. In addition, should the levy rely on a supervisor collection model it should be recognised that this will result in increased costs and administration for supervisors and so consideration should be given to covering the need for increased or redirected resources.

Question 3: Do you agree with the government’s approach to publish a report on an annual basis? What do you think this report should cover other than how the levy has been spent?



AIA agrees that the government should publish a report on an annual basis in order to increase transparency and acceptance of the allocation and impact of the levy on the fight against economic crime. It would be useful for any such report to include the quantifiable impact of the allocation of funding and how this has resulted in recouped assets, convictions, or other economic identifiers. The report should break down the levy spend into its constituent parts and ensure that, due to the levy being funded publicly, there is a public acceptance of the proportionality and adequacy of the levy raised. Failing to provide transparent details of the allocation of resources will lead to an erosion of confidence in the levy and should information not be included on how the levy has impacted on the fight against economic crime then this will undermine the relationship between government and the regulated sector.

Question 4: What are your views on what the proposed levy review should consider and when it should take place?

A review of the levy should indicate the impact that focussed action has had on the prevention and detection of economic crime. Whilst the annual reporting timeline is a useful tool, AIA agrees that the levy should be reviewed after a period of five years. This would give an opportunity to review economic crime trends and ascertain whether the measures taken using the accumulated levy have made a demonstrable difference and provide reassurance to the regulated sector that the levy collection remains to be in the public interest.

Levy calculation

Question 5: Do you agree with our proposal that revenue from UK business should form the basis of the levy calculation? Please explain your reasoning.

AIA agrees with the proposal that revenue from UK business should form the basis of the levy calculation as, although the UK is undertaking an initial levy collection this does not preclude other jurisdictions from collecting a levy which may, in a small number of incidents, result in double payment of a levy to distinct jurisdictions.

Question 6: Are there any sectors that would be disproportionately impacted if revenue is used as a metric, or where revenue would be disproportionate to level of risk?

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Question 7: Do you believe other levy bases would provide a better basis for the levy calculation? These could be the ones outlined in Table 4.A or those not considered in the consultation document.

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Question 8: Should a fixed percentage or banded approach be taken to utilising revenue as a metric? Please explain your reasoning.



A single fixed percentage would ensure that businesses who sat slightly above a threshold cut-off were not disproportionately affected.

Question 9: What are your views on the principle of exempting small businesses from paying the levy, and on the level of a potential threshold?

Insofar as the government should be implementing an economic crime levy AIA would argue strongly that a threshold should be implemented which exempts small businesses from any burden of payment and would support the threshold being set at £10.2m revenue in line with the small business regime.

Question 10: What are your views on having businesses below the threshold subject to a small flat fee?

In determining the impact of money laundering the government should consider whether the revenue gathered from small firms (who may in the majority of cases be sole practitioners or micro-businesses) can offset the additional administrative burden placed upon these smaller firms. AIA does not agree that small business who operate below the threshold should be subject to a smaller flat fee.

Question 11: Do you believe the small business threshold should be determined by reference to revenue alone or to all three of the Companies Act 2006 criteria? Please explain your reasoning.

AIA would support either measure as this results in the smallest burden placed upon its supervised population.

Question 12: For businesses not exempted by a threshold, how should their revenue below the level the threshold is set at be treated – as an allowance, levied at the same level as the main levy rate, or levied through a fixed amount?

AIA would argue that revenue under the threshold should be levied at a fixed rate meaning that any revenue subsequent to the threshold could be calculated using an approved formula.

Question 13: How do you think money laundering risk should be accounted for in the levy calculation?



AIA does not agree that any of the three options posed by the consultation provide an accurate or robust method of calculating the levy for a number of reasons. Firstly the number of SARs submitted option would have a negative impact on reporting standards as firms would seek to reduce their liability to the levy by under reporting. Secondly the National Risk Assessment does not allow a degree of flexibility in assessing the risk of a firm's business as although many accountancy firms could be deemed higher risk due to the classification within the NRA in practice they may be undertaking various levels of work or at different percentages of their overall revenue. Determining an accurate feedback process for this information would be unnecessarily complicated in comparison to calculating based upon regulated revenue. Finally, although supervisor risk assessments provide a more in-depth assessment of the work undertaken by regulated firms it should be noted that separate supervisors may use differing calculations to provide a final risk score which could affect risk rating and therefore the levy calculation may be more inaccurate and time consuming.

Question 14: Do you believe using number of SARs reported as a metric through a banded approach would be an appropriate means of achieving this objective? Please explain your reasoning.

Please see the answer to Question 13.

Applying the levy calculation

Question 15: Do you believe there should be a periodic or annual process for setting the levy rate? If periodic, what would an appropriate period be?

It would be more efficient to set the levy rate on an annual basis as this can take into account economic fluctuations and provide greater flexibility in terms of operational expenditure when planning for allocation. In general, this should allow for a more accurate collection as, particularly as we have seen over recent times, businesses may suffer temporary setback which may be exacerbated if the levy calculation and review period was set for a longer timescale.

Question 16: Would you prefer to calculate the levy based on total revenue or revenue from AML-regulated activity only? Please explain why.

For firms supervised by AIA the majority of work undertaken is regulated under the MLR and in only certain cases is specialist work undertaken. It would be more efficient to calculate levy rates by calculating based on the total revenue of the firm as to undertake a review or partition of AML-regulated activity would be costly and would not provide a demonstrable benefit for the majority of accountancy firms who would fall beneath the proposed threshold. Restructuring of smaller firms to avoid a levy would not, in our opinion, be likely, however HMT should consider the possibility of a wider restructuring of larger firms who may be making plans to firewall consultancy and audit work.

Question 17: If applicable, what is your initial estimate of the proportion of your UK business which is AML-regulated (in revenue terms)? How many labour hours would initially be required to enable your business to robustly calculate the proportion of regulated business on an ongoing basis?



Not applicable.

Question 18: Which is your preferred option for defining revenue?

Insofar as the definitions will result in significant divergence between revenue/turnover calculated for smaller firms AIA is of the opinion that revenue should be defined as per the UK Financial Reporting Standards definition.

Question 19: Do you agree the levy should be based on UK revenue only? How easy would it be to split out your UK revenue from your total global revenue?

The majority of smaller firms undertake domestic accountancy services and additional overseas work, or client base, would consequently make up a smaller share of total revenue. Reporting on revenue received in the course of overseas business would add additional administrative burdens on to smaller firms and require corroboration in reporting.

Question 20: Do you think it would more appropriate to use total income or net operating income as a metric for calculating levy liability for deposit-taking institutions, and if so, which metric would be the most appropriate?

AIA does not supervise deposit-taking institutions.

Question 21: Do you agree that the reference period for the levy calculation should be a business's accounting period? Please explain your reasoning.

AIA agrees that the reference period for the levy calculation should be a business's accounting period as this will allow for the most efficient collection model. However, provision must be considered for business's whose accounting periods may have fluctuated in advance of the levy's implementation where 12 months of data may not be available and a nuanced view may be required.

Question 22: Do you agree that the levy should apply to activity carried out from the date from which the activity is regulated? Please explain your reasoning.

Yes, as this reinforces the late registration payments regime.

Question 23: Do you believe levy liability should be calculated and invoiced at entity or group level? Please explain your reasoning.



AIA would argue that the levy liability should be calculated separately for each leviable regulated entity in a group and that a separate invoice should be issued to each entity. This will enable a clearer calculation of revenue and levy cost and provide a more streamlined process. In addition groups may split regulated and non-regulated activity and therefore there is a danger of firms being charged a greater levy which includes non-regulated work within the calculation.

Question 24: Do you agree limited partnerships should pay the levy at partnership level? Do you have any other views on how partnerships should be treated for the purposes of the economic crime levy?

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Collecting the levy

Question 25: Do you think the agency should issue a notice to file or that businesses should be required to submit a return proactively? Please explain your reasoning.

It is vital to reduce the burden on business, particularly at a time of greater pressure, therefore the government should consider that it would be more efficient for an agency to issue a notice to file as this is a generally accepted and understood process e.g. through Companies House filings notifications.

Question 26: Do you think all businesses should report their levy liability to the agency? If not, do you think small businesses should report a nil declaration or nothing at all?

Government should be looking to avoid imposing additional administrative burden on small business and therefore AIA would not advocate small business or firms being mandated to make a nil declaration and instead should not be required to make any additional declaration. The agency should work with supervisors to ensure accuracy of information and could confirm their proposed notifications to business.

Question 27: Do you agree with the proposed approach for calculating the levy rate, invoicing, and payment of the levy? If not, please explain why.

Insofar as determining how the levy should be initially calculated AIA agrees with the proposed approach for invoicing and paying the levy.

Question 28: What are your views on the proposed compliance framework in a single agency model?



AIA would support the undertaking of the levy collection by a single agency and relating to penalty charges has already undertaken itself a number of late registration penalties. However, any additional penalty charges outside of the scope of this document will require additional consultation.

Question 29: Do you agree that supervisors should be able to determine the frequency of reporting and payment, provided they transfer levy payments to the government a maximum of a year after the end of a business' accounting period?

AIA does not agree that the Economic Crime Levy should be collected by supervisors.

Question 30: What are your views on the supervisor carrying out compliance activity as set out above?

As a supervisor AIA currently undertakes compliance work on its supervised population, including the collection of subscription and certificate fees. However, professional supervisory bodies should not be responsible for collecting the levy and engaging in debt collection from the regulated population. Supervisory bodies currently pay an annual regulatory fee to the Office for Professional Body AML Supervision (OPBAS) and in addition, it should be noted that compliance activity in itself is both time consuming and costly resource-wise.

Question 31: Which model do you prefer? Please explain why. Do you have suggestions for any other models that could be used?

AIA would argue that should a levy be required to be collected then this should be undertaken by a single agency independent from professional body supervisors. Requiring supervisors to undertake the levy collection could create additional confusion regarding the current supervisor of an entity at any particular point.

Question 32: If you are a supervisor, what do you estimate your costs would be in each model?

It is difficult to estimate additional resource required to collect and administer the levy, however additional costs would be accrued.

Funding for fraud

Question 33: How much did your organisation spend on countering fraud in 2019? What are these funds spent on, in high level terms?

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Question 34: What additional financial contribution should the private sector contribute towards improving fraud outcomes?



HM Treasury

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Question 35: Which sectors do you think should be involved in countering the system-wide fraud risk? Please explain your rationale – for example whether you believe that those included should be included based on benefit, or risk?

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Question 36: What mechanism would you recommend in order to collect additional funding?

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Other

Question 37: Is there anything you have not already included in your response that you would like us to note?

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